

**Virginia Department of Education
Office of Program Administration and Accountability**

Classifying and reporting English language learners (ELs) and Immigrant Students

Understanding the federal definitions (as described in the *Elementary and Secondary Education Act of 1965* [ESEA]), for Limited English Proficient (LEP) or English language learners (ELLs), as well as immigrant and youth (IY) students, is essential to:

- Identifying these students in order to ensure they are provided full and equal access to the same curriculum and educational opportunities as all students; and
- Determining the Title III, Part A, allocations to school divisions based on an accurate count of ELLs and immigrant students.

Federal Definition of Limited English Proficient (LEP) Students

An LEP student is classified according to the federal definition as described in the ESEA, Section 9101(25).

An LEP student or ELL is classified as one:

(A.) who is aged 3 through 21;
(B.) who is enrolled or preparing to enroll in an elementary school or secondary school;
(C.) (i.) who was not born in the United States or whose native language is a language other than English; and who comes from an environment where a language other than English is dominant;
<i>OR</i>
(ii.) (I.) who is a Native American or Alaska Native, or a native resident of outlying areas; and
(II.) who comes from an environment where a language other than English has had a significant impact on the individual’s level of English language proficiency;
<i>OR</i>
(iii.) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant;
<i>AND</i>
(D.) whose difficulties speaking, reading, writing, or understanding the English language may be sufficient to deny the individual –
(i.) the ability to meet the state’s proficient level of achievement on state assessments described in Section 1111(b)(3);
(ii.) the ability to achieve successfully in classrooms where the language of instruction is English; or
(iii.) the opportunity to participate fully in society.

Further Clarification on High School Exchange Students

For students on J-1 (Exchange Visitor) visas and F-1 (Exchange High School Student) visas, the standard identification, screening, and placement process must be followed as required by Title VI of the *Civil Rights Act of 1964* to determine if the student is LEP. If a school division has followed this process and determined that the exchange student is not LEP, this determination should be documented in the student’s educational record.

Federal Definition of Immigrant Children and Youth (IY)

An immigrant and youth (IY) student is classified according to the federal definition as described in the ESEA, Section 3301(6). IY students:

- are aged 3 through 21;
- were not born in any state; and
- have not been attending one or more schools in any one or more states for more than three full academic years*.

*The “**three full academic years**” requirement must be applied on a **cumulative** basis. It is also important to note that immigrant students may or may not be English language learners.

Further Clarification on the Definition of Immigrant Children and Youth (IY)

Under Section 3101(14) of the ESEA, the term “state” means each of the 50 states, the District of Columbia, and the Commonwealth of Puerto Rico. Therefore, students born in Puerto Rico are not considered immigrant. Students born in U.S. territories other than Puerto Rico, such as Guam, American Samoa, or the U.S. Virgin Islands, may be considered immigrant.

The following students may be considered as immigrant if they meet all of the criteria in the federal definition of immigrant children and youth:

- Children of U.S. military personnel;
- Children of NATO families;
- Children of visiting faculty;
- Children who are temporarily residing in the U.S. because of parental employment; and
- Students on Exchange Visitor (J-1) visas or Exchange High School Student (F-1) visas.

Reporting ELLs and Immigrant Students

Title III, Part A, funding to school divisions is based on the annual fall Student Record Collection (SRC). ELLs and immigrant students are reported separately in the fall SRC. The state reporting codes for ELLs are:

- 1 = Identified as LEP and receives ESL Services (*Students at ELP Levels 1-5*)
- 2 = Identified as LEP but has refused ESL services (*Students at ELP Levels 1-5*)
- 3 = Identified as formerly LEP for each of the two years after exiting ESL services (*Students at ELP Level 6 Year 1 and ELP Level 6 Year 2*)

More information on the annual fall SRC is provided on the Virginia Department of Education Web page at the following link:

http://www.doe.virginia.gov/info_management/data_collection/student_record_collection/index.shtml.

The Virginia Department of Social Services collects data about refugee students. For more information about refugee students, please contact:

Office of Newcomer Services
(804) 726-7935

<http://www.dss.virginia.gov/family/ons/>

For further assistance, please contact Stacy Freeman, Title III specialist, at (804) 371-0778 or Stacy.Freeman@doe.virginia.gov.

**English language learners (ELLs) and Immigrant and Youth (IY) students within
the General Student Population**

