

K-12 Education: How States Identify English Learners, Including Those with Disabilities

GAO-24-107376

Q&A Report to Congressional Requesters

May 15, 2024

Why This Matters

Federal law requires states to ensure that school districts take appropriate action to overcome language barriers that impede equal participation by their students in their instructional programs.¹ School districts generally begin the process of identifying English learners by administering a home language survey to families when children first enroll in a school. Students identified through this survey are referred for an English language proficiency screener to determine eligibility for services.

Investigations by the Departments of Education and Justice have found that some state surveys did not identify English learners who were eligible for language services. In 2017, Education and Justice approved three survey questions states can use. Using these questions, in addition to testing a student based on the responses to the survey, is considered “minimally compliant” with federal requirements.

States are also required to ensure that all children with disabilities residing in a state are identified, located, and evaluated for special education and related services. Research shows that it can be difficult to determine whether a specific educational challenge is related to a student’s disability, their English-language acquisition, or both, according to Education guidance.

We were asked to examine how states and districts identify English learners and how they ensure that they are accurately identifying English learners with disabilities. We surveyed all 50 states and the District of Columbia (50 responded) on how they ensure the effectiveness of their home language surveys and the extent to which they assist school districts in identifying English learners who have disabilities. Throughout this report, we refer to all survey respondents as states.

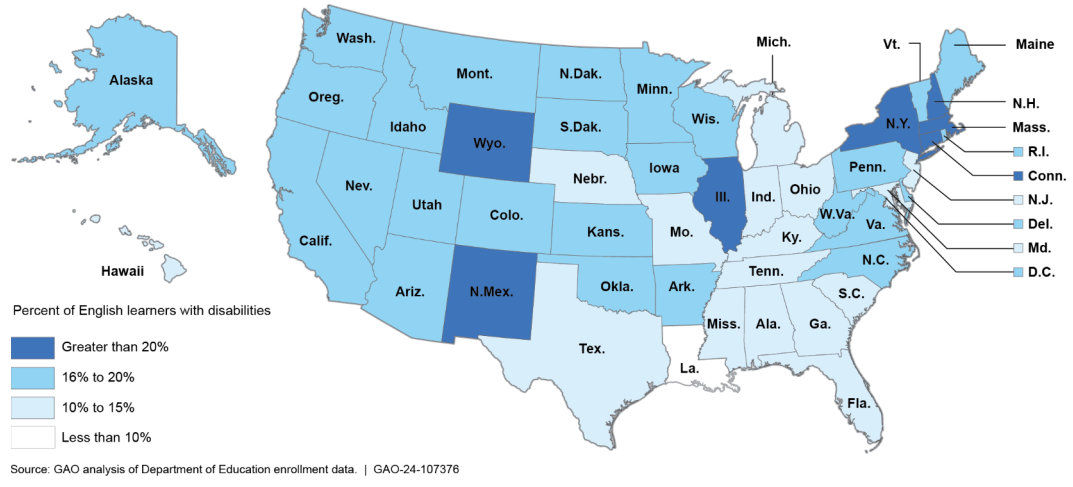
Key Takeaways

- In our state survey, 48 states reported using Education’s three suggested questions in their home language surveys to some extent.
- Thirty-two states reported taking steps to assess the quality of their English learner identification process. The most common step states took was to assess the policies, procedures, and guidelines related to identification.
- Forty-one states reported providing recent assistance to schools, districts, or both to help them distinguish between language acquisition issues, specific learning disabilities, or speech-language impairment. Of these, 17 states reported taking steps to determine how well schools and districts did so.

How many students are English learners, and how many have disabilities?

English learners accounted for about 10.1 percent of all K-12 public school students,² and 15.8 percent of English learners had one or more disabilities, according to Education data.³ English learners with disabilities ranged from 23.8 percent of English learners in Wyoming to 5.6 percent in Louisiana (see fig. 1).

Figure 1: Percentage of English Learners with Disabilities by State, School Year 2021–2022 (K-12 Enrollment)



How do school districts identify English learners, including those with disabilities?

The process of identifying an English learner student typically begins with the school district administering a home language survey to families when a student first enrolls in a new school. Based on a family’s responses to the home language survey, if a district determines that a student may qualify for services as an English learner, the district refers the student for a screening assessment of their English language proficiency. The assessment must evaluate proficiency in all four language domains (speaking, listening, reading, and writing). Each school year, the district must revisit students’ needs for English learner services. In general, an “English learner” is an individual born outside of the United States or whose native language is not English, and whose difficulties in speaking, reading, writing, or understanding English may affect their academic success.⁴

To identify if English learners have disabilities, school districts are required to administer evaluations in accordance with their state’s policy. These evaluations are used to determine whether students have certain disabilities and need special education and related services. It is important for school districts to consider the student’s English language proficiency in determining appropriate assessments and other evaluation materials, according to an Education technical assistance document.⁵ For example, school districts are required to administer the special education evaluation in the student’s native language.⁶

Because accurately identifying English learners can be challenging, school districts may under- or over-identify them. Under-identification happens when a district fails to appropriately identify all students who are English learners. As a result, some students may not receive services necessary to acquire language skills that help them achieve on grade level. Over-identification happens when a district identifies some students as English learners who do not need English language services.

It can also be challenging for school districts to distinguish whether an English learner’s educational needs are disability related, language acquisition related, or both. This can result in English learners not being placed appropriately and according to their educational needs (e.g., in special education), which can slow learning and academic achievement. It can also result in under- or over-representation of English learners in special education.⁷

How have states used Education’s suggested questions in home language surveys?

All states responding to this question on our state survey (48 states) reported using Education’s suggested questions although most (40 states) modified the questions, added questions, or did both (see textbox).⁸

Department of Education’s Home Language Survey Suggested Questions

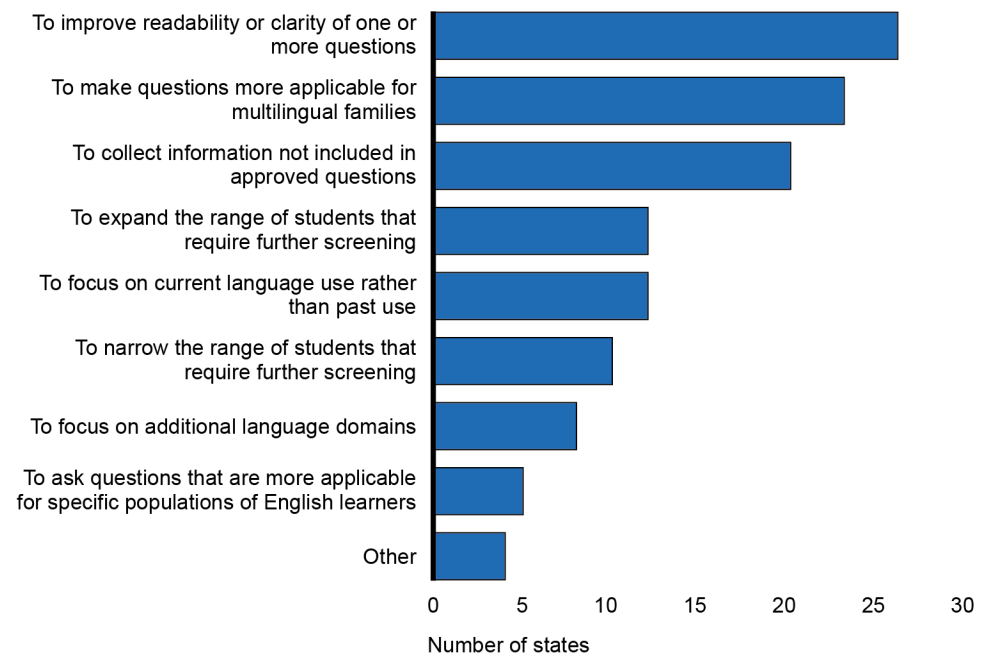
To assist states in developing their home language surveys, in their compliance work under Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act of 1974, the Department of Education, Office for Civil Rights and the Department of Justice, approved three questions states can use in their surveys. Using these questions, in addition to assessing potential English learners identified by the survey, is considered “minimally compliant” with federal requirements.

- 1) What is the primary language used in the home, regardless of the language spoken by the student?
- 2) What is the language most often spoken by the student?
- 3) What is the language that the student first acquired?

Source: Department of Education English Learner Toolkit for State and Local Education Agencies (SEAs and LEAs). | GAO-24-107376

States provided multiple reasons for why they modified or added additional questions (see fig. 2).

Figure 2: States’ Reasons for Modifying or Adding Questions to Their Home Language Surveys



Source: GAO survey of state educational agencies. | GAO-24-107376

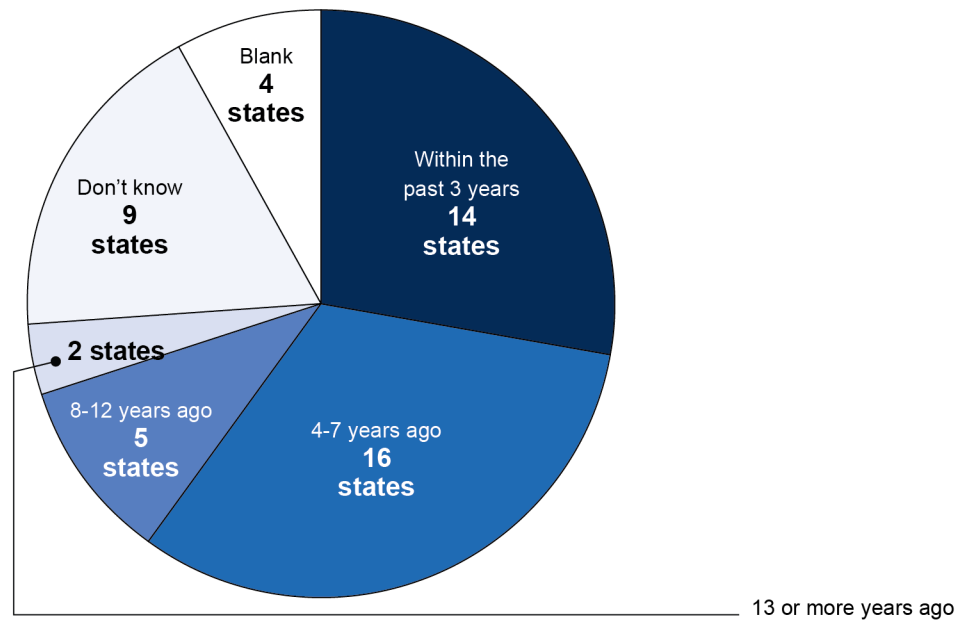
How long are states’ home language surveys?

Almost all states responding to this question on our survey (43 of 46 states) reported having 10 or fewer questions in their home language survey. Survey length ranged from two questions in Michigan to 20 questions in North Dakota.

When did states last update their home language surveys?

About two-thirds of states (30 of 50 states) reported that they had modified their home language surveys within the last 7 years (between 2016 and when we surveyed states in 2023). States most commonly reported updating their home language surveys between 4 and 7 years ago. About one-quarter of states either said they did not know when their state’s home language survey was last updated or did not answer this question (see fig. 3).

Figure 3: When States Last Modified Their Home Language Surveys



Source: GAO survey of state educational agencies. | GAO-24-107376

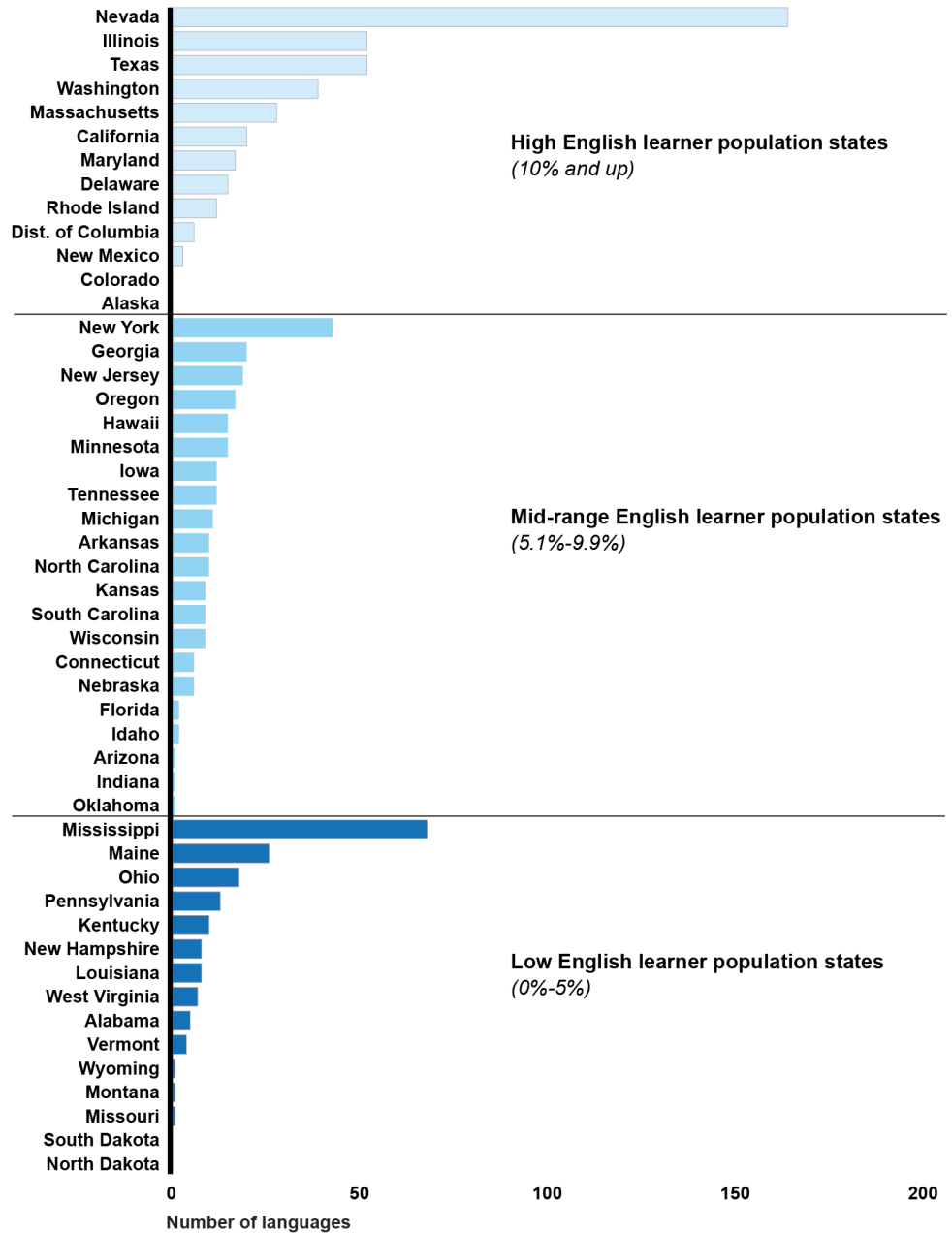
How many different languages have states translated their home language surveys into?

States varied in how many different languages they translated their home language surveys into (see fig. 4). Some of the states that reported only providing the home language survey in English told us that individual districts may translate the survey into additional languages as needed.

On average, states with high English learner populations offered the survey in 31 different languages. The states with low English learner populations offered an average of approximately 11 different languages.⁹

Forty-six states listed Spanish/Castilian as the language most commonly spoken by English learners in the state, according to an Education report.¹⁰ Other commonly used languages included Arabic and Chinese.

Figure 4: Number of Languages That States Translate Their Home Language Surveys Into



Source: GAO survey of state educational agencies and GAO analysis of Department of Education enrollment data. | GAO-24-107376

Note: Virginia and Utah are not included in the figure. Virginia did not provide a response to this survey question. We did not receive a survey from Utah. We used the Department of Education's most recent available Common Core of Data, which was from fall 2020 enrollment, to group the states into high, mid-range, and low English learner population buckets.

What expertise and resources do states use to develop their home language surveys?

To develop the content and format of home language surveys, states reported that they most commonly relied on expertise from

- a state educational agency department focused on English learners (42 states),
- school district English language acquisition program staff (30 states), or
- school-based English language specialists (29 states).

States also commonly reported using other states' surveys or related documents to develop their home language surveys (32 states).

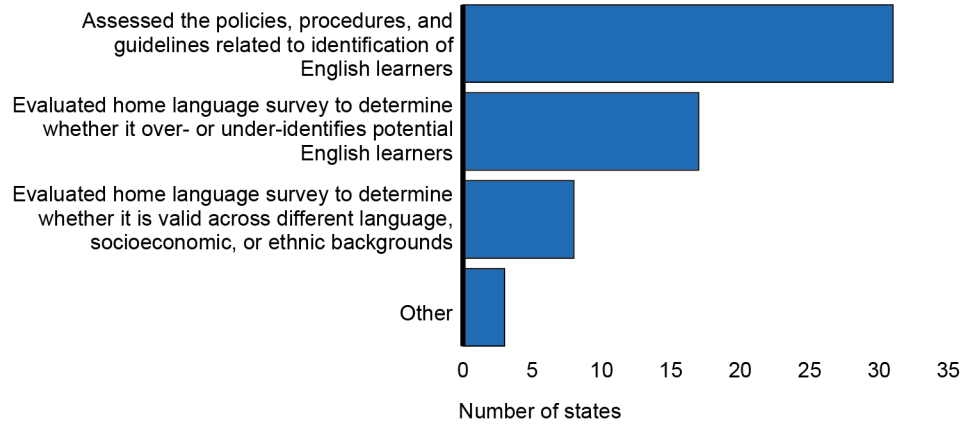
How have states assessed the quality of their English learner identification process?

On our survey:

- Thirty-two states reported that they had taken steps to assess the quality of their English learner identification process;
- Eight states reported that they had not taken any steps; and
- Ten states reported that they did not know or had no response, or they did not answer the question.

The most common step states reported taking was to assess the policies, procedures, and guidelines related to English learner identification (see fig. 5). In other words, states determine whether their policies, procedures, and guidelines are effective for appropriately identifying English learners and then adjust as needed. Officials from one state told us that they brought special education coordinators and multilingual learner specialists together to assess their procedures. They said that this led to an improved plan for multilingual learners.

Figure 5: Steps States Have Taken to Assess the Quality of Their English Learner Identification Process



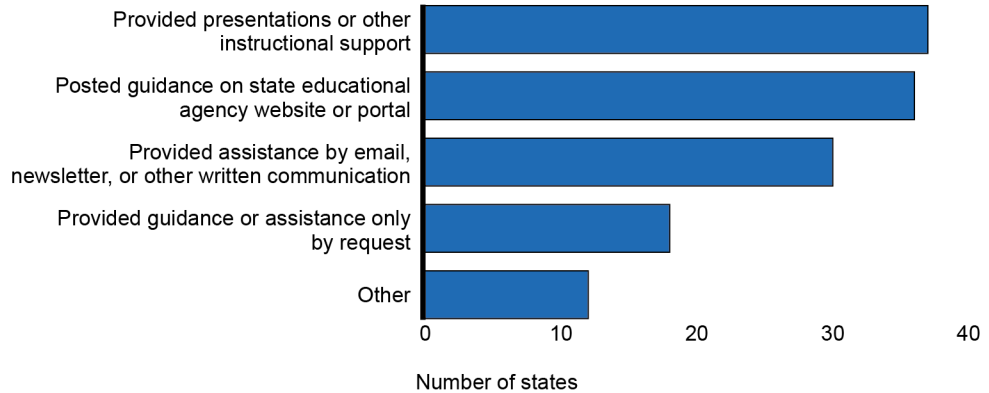
Source: GAO survey of state educational agencies. | GAO-24-107376

How have states assisted schools and districts in identifying English learners with disabilities?

Most states (41 states) reported that, within the last 3 years, they had provided assistance to schools, districts, or both to help them distinguish between language acquisition issues and specific learning disabilities or speech-language impairments for English learners. Four states reported that they did not offer this assistance, and five states either reported that they did not know or they had no response to this question.

The methods states used to provide schools and school districts with assistance commonly included posting guidance and providing instructional support (see fig. 6 and textbox).

Figure 6: Methods States Have Used to Help Schools and School Districts Distinguish between Language Acquisition and Disabilities



Source: GAO survey of state educational agencies. | GAO-24-107376

Examples of Four States' Assistance and Guidance

Two states we interviewed reported on our state survey that they provide guidance or assistance to schools and districts upon request. Officials from one of these states told us that districts and schools can email their questions to a special email address the state set up for this purpose. In addition, they said they survey school districts about topics they need assistance with and have regular meetings based on the feedback they receive from districts.

We also asked officials from the four states we interviewed about resources and guidance they have found useful in addressing identification issues. Officials from all four states said they find it helpful to collaborate with other states through working groups.

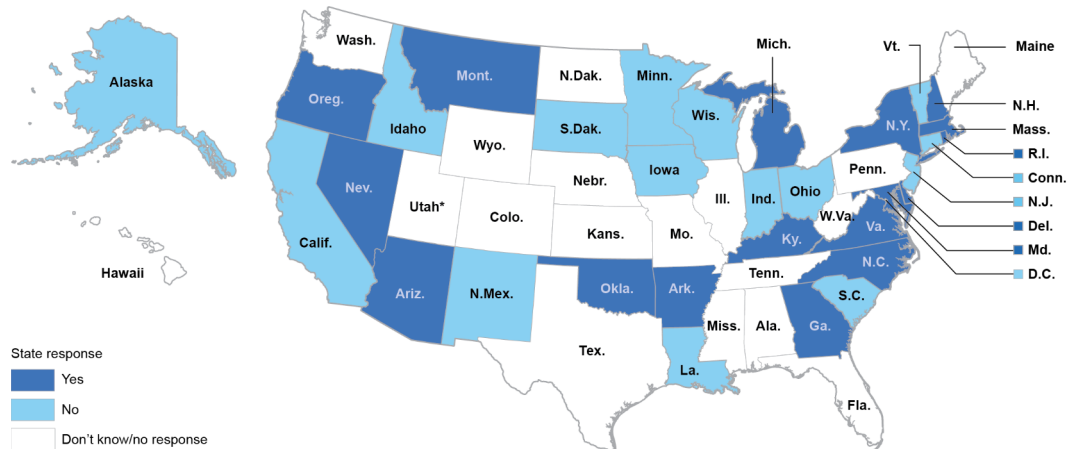
We also asked these four states about their use of federal guidance. Officials from one state said they found particularly helpful the recently updated Newcomer Toolkit (June 2023) and a September 2023 Dear Colleague Letter on services for immigrant students. In contrast, officials from another state noted that the 2015 Dear Colleague Letter on English learner students and the English Learner Toolkit (most recently updated in 2017) are somewhat dated and it may be helpful if Education updated these resources.

Source: GAO interview information. | GAO-24-107376

How have states assessed how well school districts identify English learners with disabilities?

On our survey, 17 states reported that they had taken steps to determine how well school districts or schools distinguish between English learners who are struggling with language proficiency and those who have specific learning disabilities or a speech or language impairment (see fig. 7 and textbox).

Figure 7: States that Have Taken Steps to Assess How Well School Districts and Schools Distinguish between Language Acquisition and Disabilities



Source: GAO survey of state educational agencies. | GAO-24-107376

Note: We did not receive a survey from Utah.

How Selected States with High English Learner Populations Reported Helping Districts and Schools Distinguish between English Learners and Students with Disabilities

Delaware: Reported that the state holds focus groups with school districts, develops guidance documents, works collaboratively with state educational office colleagues to monitor disproportionality issues, and works with experts in the field to provide professional learning opportunities to school districts. Officials told us that they have developed a multilingual learner success plan, which includes multitiered support systems and collects background information on students, such as prior schooling, literacy experiences, and family background. This plan allows different support providers (such as special education coordinators and multilingual learner specialists) to share information and integrate their services.

Maryland: Reported that the state offers professional learning to school districts and schools, collaborates with the special education department to guide school districts, and provides technical assistance.

Massachusetts: Reported that the state checks the data related to English learners with disabilities, and when over- or under-identification occurs in a district, it triggers a finding or technical assistance. Officials told us that they compare a district's percentage of English learners with disabilities to the state average, and if the percentages are different, they may focus on that in their compliance review of the district.

Nevada: Reported that staff who oversee services for students with disabilities and staff who oversee services for English learners collaboratively develop resources.

Rhode Island: Reported that the state provides technical assistance to school districts that need support and to new school district hires in English learner and special education positions.

Source: GAO survey of state educational agencies and interviews with state officials. | GAO-24-107376

In addition, states we interviewed pointed to some challenges that may hamper the effectiveness of how school districts identify English learners with disabilities. For example, officials in one state said they use the same proficiency screener for all students, including those with disabilities. However, the screener assesses students in all four language domains (speaking, reading, writing, and listening) to arrive at an overall score, which is not possible to do for students who are blind, deaf, or non-speaking.

Agency Comments

We provided a draft of this report to the Department of Education for review and comment. The Department of Education provided technical comments, which we incorporated as appropriate.

How GAO Did This Study

To examine the characteristics and effectiveness of state screening tools that school districts use to identify English learners and what assistance states provide to help school districts identify English learners who have disabilities, we surveyed all 50 state educational agencies and the District of Columbia about

- their home language survey development and implementation, and
- how they help school districts distinguish English learners struggling with language proficiency from those who also have specific learning disabilities or speech or language impairment (the two disability categories for which misdiagnosis is most prevalent).

To ensure the validity and reliability of our survey, we pretested it with relevant officials and made revisions as appropriate. We received survey responses from the District of Columbia and all but one state (Utah).

We also interviewed representatives of four states—California, Delaware, Massachusetts, and Nevada—as well as experts on English learners to obtain additional information about the identification of English learners, including those who have disabilities. We selected these states because they have relatively large English learner populations (greater than 10 percent out of total K-12 public school student enrollment in 2020). We also considered factors such as the size of the population of students with disabilities in the state and the state's responses to our state survey.

We conducted this performance audit from November 2022 to May 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

List of Addressees

The Honorable Robert C. “Bobby” Scott
Ranking Member
Committee on Education and the Workforce
House of Representatives

The Honorable Adriano Espaillat
House of Representatives

The Honorable Raul M. Grijalva
House of Representatives

We are sending copies of this report to the appropriate congressional committees and the Secretary of Education.

GAO Contact Information

For more information, contact: Jacqueline M. Nowicki, Director, Education, Workforce, and Income Security Issues, at NowickiJ@gao.gov, (202) 512-7215.

Chuck Young, Managing Director, Public Affairs, YoungC1@gao.gov, (202) 512-4800.

A. Nicole Clowers, Managing Director, Congressional Relations, ClowersA@gao.gov, (202) 512-4400.

Staff Acknowledgments: Sherri Doughty (Assistant Director), Lara Laufer (Analyst-in-Charge), Elizabeth Calderon, Wes Cooper, Kirsten Lauber, John Mingus, Sara Rizik, Meg Sommerfeld, and Curtia Taylor.

Connect with GAO on [Facebook](#), [Flickr](#), [Twitter](#), and [YouTube](#). Subscribe to our [RSS Feeds](#) or [Email Updates](#). Listen to our [Podcasts](#).

Visit GAO on the web at <https://www.gao.gov>.

This work of the United States may include copyrighted material, details at <https://www.gao.gov/copyright>.

Endnotes

¹20 U.S.C. § 1703(f). Furthermore, Title VI of the Civil Rights Act of 1964 prohibits (Title VI) discrimination on the basis of race, color, or national origin in any program or activity that receives federal financial assistance. 42 U.S.C. § 2000d. To comply with Title VI, school districts must take affirmative steps to ensure that students with limited English proficiency can meaningfully participate in the district’s educational programs and services. *Lau v. Nichols*, 414 U.S. 563 (1974).

²These data are as of fall 2020. U.S. Department of Education, National Center for Education Statistics, *English learner (EL) students enrolled in public elementary and secondary schools, by home language, grade, and selected student characteristics: Selected school years, 2008-09 through fall 2020*, Digest of Education Statistics, accessed March 19, 2024, https://nces.ed.gov/programs/digest/d22/tables/dt22_204.27.asp.

³These data are for school year 2021–2022. U.S. Department of Education, *FILE 141 (DG678) – EL Enrolled – V18.1* (SY 2021-22), Washington, D.C.: *EDFacts*.

⁴See 20 U.S.C. § 7801(20) for the definition of an English learner under the Elementary and Secondary Education Act of 1965, as amended.

⁵U.S. Department of Education, Office of English Language Acquisition, *English Learner Toolkit for State and Local Education Agencies (SEAs and LEAs)*, ED-ELA-12-C-0092 (Washington, D.C.: October 2017).

⁶34 C.F.R. § 300.304(c)(1)(ii).

⁷For more information on this, see Megan Mikutis, *The Disproportionate Representation of Limited English Proficiency (LEP) Students In Special Education Programs* (Center for Children, Law & Policy at the University of Houston Law Center, 2013).

⁸Two states that completed the survey did not provide a response to this question.

⁹In some cases, we analyzed survey responses broken out by high, medium, and low English learner population states. We considered low-percentage states to be those with English learner students representing 0–5 percent of total enrollment, medium percentage to be those with 5.1–9.9 percent, and high percentage to be those with 10 percent or higher. We used Education’s most recent available Common Core of Data (CCD), which was from fall 2020 enrollment.

¹⁰These data are for school year 2019–2020. U.S. Department of Education, Office of English Language Acquisition, *The Biennial Report to Congress On the Implementation of the Title III State Formula Grant Program, School Years 2018-2020*, GS-10F-0201T (Washington, D.C.: May 2023).