



2015-2016

# AUDIT OF LIMITED ENGLISH PROFICIENT (LEP) DOCUMENTATION

Results were satisfactory for all but three of 20 tests performed. Of the three tests, two have the potential to affect the District's bilingual/English as a second language (ESL) state funds if not timely corrected.



# Contents

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<b>EXECUTIVE SUMMARY (AR01)</b> .....	<b>2</b>
Background.....	2
Objective(s) and Scope .....	2
Limitations.....	2
Commendation.....	2
Summary of Findings.....	2
Summary of Recommendations .....	3
Summary of Observation and Recommendation .....	4
Summary of Corrective Action .....	4
Conclusion.....	4
<b>EXHIBIT A –REPORT CRITERIA</b> .....	<b>5</b>

## ABBREVIATIONS LIST

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AAR/CUM	Academic Achievement Record/Cumulative Record
CAP	Corrective Action Plan
ELL	English Language Learners
ELPS	English Language Proficiency Standards (found within the Texas Administrative Code)
ESL	English as a Second Language
FY	Fiscal Year
LEP	Limited English Proficient
LPAC	Language Proficiency Assessment Committee
PBM	Performance Based Monitoring
PEIMS	Public Education Information Management System ( <i>encompasses all electronic data requested and received by TEA about public education</i> )
TAC	Texas Administrative Code
TEA	Texas Education Agency
TEC	Texas Education Code
TEAMS	Total Education Administrative Management Solution, also referred to as Student Systems
TS	Technology Services Department

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## Executive Summary (AR01)

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### Background

The timely identification and placement of limited English proficient (LEP)/English language learners (hereinafter referred to as ELL) is important to ensure resources and services are provided to assist in developing their English language skills and provide meaningful participation in the District's academic programs. This will help enable ELLs to meet the same academic standards and content all students are expected to meet.

In accordance with the Board approved 2015-2016 Internal Audit Plan, our department performed the Limited English Proficient (LEP) Documentation Audit. This area was identified as high risk during Internal Audit's 2014-2015 risk assessment and identified by Administration as an area of concern.

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### Objective(s) and Scope

The objective of the audit was to determine whether the District is in compliance with federal, state, local policies and guidelines for the Language Proficiency Assessment Committees' (LPAC) ELL identification and placement procedures and processes.

The scope of the audit was students coded as "LEP" at 20 campuses enrolled as of August 24, 2015 through December 18, 2015.

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### Limitations

Because of the inherent limitations of internal control, there is a risk errors or irregularities occurred and were not detected. In addition, because of the nature of audit evidence and the characteristics of fraud, an auditor is able to obtain reasonable, but not absolute assurance, procedures and internal controls are followed and adhered to in accordance with the federal, state, local policies and guidelines.

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### Commendation

We would like to commend Armendariz Middle School as they had no findings/errors in the samples tested.

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### Summary of Findings

1. We found 36% (24 of 67) of ELL students were **not** identified, tested, and/or classified LEP within the 20 school day timeline as required by state law. This affects the District's ability to earn bilingual/English as a second language (ESL) state funds.

Reasons for not meeting the timeline include:

- a. Insufficient number of trained staff to conduct testing due to an increase in the number of students tested (resulting from a change in Texas Education Agency (TEA) guidance outlined in TEA LPAC training materials),
  - b. Delays due to timing/frequency of LPAC meetings,
  - c. Missing the required parent member, and/or
  - d. Parent approvals/denials were not received on a timely basis.
2. We found 21% (14 of 67) of students' files audited had an incorrect bilingual/ESL contact hours start date. The start date assigned was prior to all documentation and LPAC activities being completed. According to TEA requirements, the date the school district has received all documentation is the date when the student's Public

Education Information Management System (PEIMS) status can be coded as being eligible for ELL funding.

*Note: A draft interim audit report was issued in April to notify the data-process owner about the incorrect bilingual/ESL contact hours start date. See Summary of Corrective Action for action taken by administration.*

Reasons for the incorrect bilingual/ESL contact hours start date include:

- a. Campuses and/or LPAC members did **not** follow the correct sequence of LPAC activities.
- b. The *Bilingual/ESL Data Entry Form* directions, in use during the 2014-2015 school year and fall 2015-2016, stated the contact hours start date was, "Date Parent signs Parental Notification-Identification." As such, not all documentation was in place as required by TEA's, *Student Attendance Accounting Handbook (SAAH)* (official source) which states, "Funds for bilingual/ESL students must not be claimed until all documentation is in place."

*Note: The directions, "Date Parent signs....", were based on guidance provided through TEA LPAC training materials and taken out of context. If the proper sequence of events is followed, then parental approval is the last step; however, as noted in (a.) above, the correct sequence was not always followed.*

3. We found 51% (89 of 174) of ELL students' *Student History Worksheets* (SHW) [TEA's *Years in U.S. Schools Data Collection* document] were not up to date for 2014-2015 and/or fall semester of the 2015-2016 school year(s). In addition, 4% (7 of 174) were not in the student's permanent record file as required in TEA's Student Assessment Division's *Instructions for Years in U.S. Schools Data Collection*.

It appears the high error rate was due to a prior data-owner's misinterpretation of state guidance and subsequent communication sent to campus staff during the 2014-2015 school year.

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## Summary of Recommendations

We recommend Languages and Learning Department administration:

1. Compare TEA's LPAC training materials to the official source, TEA's SAAH, and consult with TEA whenever there is a conflict between the different requirements.
2. Train additional campus/District staff to conduct the *Iowa Test of Basic Skills (ITBS)*, EPISD's TEA approved English proficiency test, to ensure students are tested on a timely basis.
3. At campuses with a high population of ELLs, recommend the principal
  - a. consider having more than one LPAC (committee),
  - b. attempt to recruit more than one parent member, and
  - c. require the LPAC meet as necessary (more frequently than monthly) to ensure the 20 school days' requirement is met.
4. Consider recommending campus staff conduct home visits to obtain the parent approval/denial, **if** three school days lapse without receiving the parental approval/denial, and calls go unanswered.
5. Take the necessary steps to have campuses correct the contact hours start date prior to the 2016 summer PEIMS clearing process.

6. Ensure principals and LPAC members/clerks understand applicable state requirements and follow the proper sequence of activities within the 20 school days as depicted in TEA's SAAH and LPAC Framework Manual flow chart. If necessary, request support and assistance from the Area Superintendents.
7. Consider developing/posting an online LPAC/ELL frequently asked questions to ensure **consistent** District procedural directions are in writing, available to all District employees, and references to the applicable federal and/or state law, and/or TEA requirements are included as part of the basis for the answer(s) where applicable.
8. Require LPAC members/clerks to resume the use of the *Student History Worksheet* (SHW) in writing. The SHW should be added to the checklist of documents required in the student's permanent folder.

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### Summary of Observation and Recommendation

We found the District does not have procedures in place for campuses to obtain or document the attempt to obtain missing LPAC documents from a student's in-District transfer campus or from other Districts.

We recommend the Languages and Learning Department administration develop official written procedures for campuses on how to obtain, document, or produce missing LPAC documents required by state law to be in the student's permanent folder (e.g. hold an LPAC, obtain a new parent permission/exit, etc.).

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### Summary of Corrective Action

- In April, the data-process owner created a self-audit template and directed campuses to conduct self-audits on all newly identified ELLs enrolled during 2015-2016. Results were turned in to and analyzed by the department and corrective action taken to ensure the contact hours start date was correct or corrected prior to the 2016 summer PEIMS clearing process.
- The process of transitioning to an online English proficiency test (ITBS) has begun for the 2016-2017 school year and includes training the campus staff who provides the oral language proficiency testing (OLPT) to administer the ITBS as well. Previously, campuses had to wait until a District tester was available for the ITBS to be administered. According to administration, this will streamline the testing process and placement of students, as well as provide campuses with test results immediately.
- During training in spring of 2016, campuses were provided an updated *Student History Worksheet* and instructed to resume the use and annual updating of the worksheet.
- In addition, a corrective action plan was provided and found sufficient to address the findings in the report.

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### Conclusion

It is important to note there have been several changes in leadership over the ELL/LPAC area the past three years. The current data-process owner going forward should ensure consistency and due diligence regarding compliance with state and TEA regulations. The data-process owner must ensure directives to their staff and campus LPAC members/clerks are up to date and in writing before a school year starts, and should reference the original source for the basis of the directive in state law and/or TEA regulations to correct the deficiencies found in our audit.

## Exhibit A –Report Criteria

Criteria No.	Finding	Criteria Source	Criteria Details
1	1	Texas Administrative Code Title 19 Chapter 89 Subchapter BB Commissioner's Rules Concerning State Plan for Educating English Language Learners; Section §89.1225. Testing and Classification of Students (g)	"Within 20 school days of their initial enrollment in the school district, students shall be identified as English language learners and enrolled into the required bilingual education or English as a second language program."
2	1	Texas Administrative Code 19 Chapter 89 Adaptations for Special Populations Subchapter BB. Commissioner's Rules Concerning State Plan for Educating English Language Learners; Section §89.1220 Language Proficiency Assessment Committee (e) and District Policy EHBE (Legal) Special Programs –Bilingual Education/ESL: Language Proficiency Assessment Committees	"A school district shall establish and operate a sufficient number of LPACs to enable them to discharge their duties within 20 school days of the enrollment of ELLs."
3	1	Texas Education Code Title 2. Chapter 29. Educational Programs; Subchapter B. Bilingual Education and Special Language Program; Section §89.1225. Testing and Classification of Students	"Students with a language other than English shall be administered the required oral language proficiency test in prekindergarten through Grade 12 and norm-referenced standardized achievement instrument in Grades 2-12 within 20 school days of their enrollment."
4	1	U.S. Department of Justice and U.S. Department of Education's Office of Civil Rights' Dear Colleague Letter: English Learner Students and Limited English Proficient Parents II. Common Civil Rights Issues, page 8, January 7, 2015 <a href="http://www2.ed.gov/about/offices/list/ocr/letter/s/colleague-el-201501.pdf">http://www2.ed.gov/about/offices/list/ocr/letter/s/colleague-el-201501.pdf</a>	The Office of Civil Rights and Department of Justice, "...identified several areas that frequently result in noncompliance by school districts...."  "A. Identify and assess EL students in need of language assistance in a timely, valid, and reliable manner...."
5	1	U.S. Department of Justice - Civil Rights Division and U.S. Department of Education's Office of Civil Rights' Dear Colleague Letter: English Learner Students and Limited English Proficient Parents; Section II. Common Civil Rights Issues, A. Identifying and Assessing All Potential EL Students, page 10, January 7, 2015 <a href="http://www2.ed.gov/about/offices/list/ocr/letter/s/colleague-el-201501.pdf">http://www2.ed.gov/about/offices/list/ocr/letter/s/colleague-el-201501.pdf</a>	"One of the most critical "affirmative steps" and "appropriate action[s] that school districts must take to open instructional programs to EL students and to address their limited English proficiency is to first identify EL students in need of language assistance services in a timely manner."
6	1	U.S. Department of Justice - Civil Rights Division and U.S. Department of Education's Office of Civil Rights' Dear Colleague Letter: English Learner Students and Limited English Proficient Parents; Section II. Common Civil Rights Issues, A. Identifying and Assessing All Potential EL Students, page 11, January 7, 2015 <a href="http://www2.ed.gov/about/offices/list/ocr/letter/s/colleague-el-201501.pdf">http://www2.ed.gov/about/offices/list/ocr/letter/s/colleague-el-201501.pdf</a>	"Some examples of when the Departments (DOJ/USDE/OCR) have identified compliance issues in the areas of EL student identification and assessment include when school districts: ... (4) delay the assessment of incoming PHLOTE students in a manner that results in a denial of language assistance services;...." (PHLOTE = Primary Home Language Other than English)

Criteria No.	Finding	Criteria Source	Criteria Details
7	2 & Obv. 1	<p>Texas Education Agency's 2012-2013 - 2015-2016 Student Attendance Accounting Handbook Section 6: Bilingual/English as a Second Language (ESL); Subsection 6.3 Enrollment Procedures page 179Also subsection 6.3.1 Students Who Move to Your District page 180/181 (2014-2015 and 2015-2016)</p> <p>Note: 6.3.1's first paragraph was modified in 2014-2015 from "...cannot be claimed...." in 2013-2014, to "...must not be claimed...."</p> <p>The sentence, <i>"To be eligible for state bilingual/ESL funding, the district must have all required documentation for each eligible student on file."</i> was added in 2015-2016.</p>	<p>"6.3 Enrollment Procedures: .. (3) <u>The LPAC recommends placement</u> of the student in either the bilingual or ESL education program, but district personnel do not yet assign the student a bilingual or ESL program type code in the attendance accounting system."</p> <p>"(4) <u>The LPAC must</u> give written notice to the student's parents informing them that the student has been classified as LEP and requesting approval (through completion of an approval form) to place the student in the required bilingual or ESL education program."</p> <p>"(5) Once parental approval has been received, district personnel assign the student the appropriate bilingual or ESL program type code and parental permission code in the attendance accounting system. <u>To be eligible for state bilingual/ESL funding, the district must have all required documentation for each eligible student on file.</u>"</p> <p>"6.3.1 Students Who Move to Your District: <u>Within 4 weeks (20 school days) of his or her initial enrollment in the district</u>, a student must be identified as LEP and enrolled in the required bilingual or ESL education program. However, even though the student may be served in the bilingual or ESL education program, the student should not be coded with the bilingual or ESL program type code unless all documentation, including the signed and dated parental approval form, is on file. Funds for bilingual/ESL students <u>must not be claimed until all documentation is in place</u>. When a bilingual/ESL student moves to your school district, your district (the receiving district) should immediately begin serving the student in the bilingual or ESL education program while it waits for documentation (LPAC records and assessment information) from the sending district. If your district does not receive this documentation within 4 weeks (20 school days) of the student's enrollment in your district, your district must go through the standard identification and assessment procedures in order to code the student as LEP, ESL, and/or bilingual. <u>Your district should make diligent, documented attempts to get the required documentation from the sending district to avoid possible miscoding.</u> To be eligible for the state bilingual/ESL funding, the district must have all required documentation for each eligible student on file.</p>

Criteria No.	Finding	Criteria Source	Criteria Details
8	2 & Obv. 1	<p>Texas Education Agency's 2014-2015 and 2015-2016 Student Attendance Accounting Handbook Section 6: Bilingual/English as a Second Language (ESL); Subsection 6.11: Documentation, page 188 -189</p> <p>In 2012-2013, this was under Subsection 6.12</p>	<p>"6.11 Documentation: <b>For your district to claim bilingual/ESL eligible days present for funding, documentation must be complete. All documentation supporting student eligibility must be on file for every student accumulating eligible bilingual/ESL days present on the Student Detail Report.</b> Documentation requirements are as follows:"</p> <p>"6.11.1 Home Language Survey Requirements: "Your district must conduct only one home language survey for each student...."</p> <p>"6.11.2 Test Result Documentation Requirement: The following documentation must be on file for every student accumulating eligible bilingual/ESL days present: proof of a qualifying score on a TEA-approved OLPT, and/or qualifying scores on the English reading and English language arts sections of a TEA-approved norm-referenced measure. The official scores must be documented in the student's record."</p> <p>"6.11.3 LPAC Recommendation and Parental Approval Requirements: The following documentation must be on file for every student accumulating eligible bilingual/ESL days present:</p> <ol style="list-style-type: none"> <li>1. Written documentation of the recommendation for placement by the LPAC</li> <li>2. Written documentation of the annual review and recommendation of the LPAC</li> <li>3. <b>A record of parental approval to place the LEP student in a bilingual or ESL education program. This record must include the parent's signature and the date the parent signed the document indicating approval...."</b></li> </ol>
9	2 & Obv. 1	Texas Administrative Code Title 19 Chapter 89, Subchapter BB Commissioner's Rules Concerning State Plan for Educating English Language Learners; Section §89.1220 Language Proficiency Assessment Committee (5)(j)	"5(j) Pending parent approval of an English language learner's <u>entry into the bilingual education or English as a second language program recommended by the language proficiency assessment committee</u> , the school district shall place the student in the recommended program, <b>but may count only English language learners with parental approval for the bilingual education allotment.</b> "
10	2	Texas Administrative Code Title 19 Chapter 89. Adaptations for Special Populations Subchapter BB. Commissioner's Rules Concerning State Plan for Educating English Language Learners; Section §89.1225. Testing and Classification of Students	<p>"(a) For identifying English language learners, school districts shall administer to each student who has a language other than English as identified on the home language survey:</p> <ol style="list-style-type: none"> <li>(1) in prekindergarten through Grade 1, an oral language proficiency test approved by the Texas Education Agency (TEA); and</li> </ol>

Criteria No.	Finding	Criteria Source	Criteria Details
10	2	Continued from previous page...	<p>"(2) in Grades 2-12, a TEA-approved oral language proficiency test and the English reading and English language arts sections from a TEA-approved norm-referenced assessment, or another test approved by the TEA, <b>unless the norm-referenced standardized achievement instrument is not valid in accordance with subsection (f)(2)(C) of this section.</b>"</p> <p>"(f) For entry into a bilingual education or English as a second language program, a student shall be identified as an English language learner using the following criteria."</p> <p>"(1) In prekindergarten through Grade 1, the student's score on the English oral language proficiency test is below the level designated for indicating limited English proficiency under subsection (d) of this section."</p> <p>"(2) In Grades 2-12: (A) the student's score on the English oral language proficiency test is below the level designated for indicating limited English proficiency under subsection (d) of this section;...."</p> <p>"(B) the student's score on the English reading and/or English language arts sections of the TEA approved norm-referenced standardized achievement instrument at his or her grade level is below the 40th percentile; or"</p> <p>"(C) the student's ability in English is so limited that the administration, at his or her grade level, of the reading and language arts sections of a TEA approved norm-referenced standardized achievement instrument or other test approved by the TEA is not valid."</p>
11	2	Texas Education Agency's Student Attendance Accounting Handbook; Section 6: Bilingual/English as a Second Language (ESL); Subsection 6.6: Requirements to Serve Eligible Students, page 184	<p>"Your district must place the student in the bilingual or ESL education program on the date the LPAC recommends that service begin, <b>but may count the student for bilingual education funding only after parental approval is received (and all other requirements having to do with the home language survey, test scores, and documentation of the LPAC recommendation have been met)....</b>"</p>
12	2	Texas Education Agency's Student Attendance Accounting Handbook Section 6: Bilingual/English as a Second Language (ESL); Subsection 6.11.3: LPAC Recommendation and Parental Approval Requirements, page 189	<p>"The following documentation must be on file for every student accumulating eligible bilingual/ESL days present: 1. Written documentation of the recommendation for placement by the LPAC...."</p>

Criteria No.	Finding	Criteria Source	Criteria Details
13	2	<p>Texas Education Agency's Student Attendance Accounting Handbook Section 6: Bilingual/English as a Second Language (ESL); Subsection 6.12 Quality Control, page 192</p> <p><i>Note: This language has been included as far back as 2012-2013 under section 6.13 Quality Control page 188.</i></p>	<p>"Quality Control: Your district should record the appropriate bilingual or ESL program type code for a student in the attendance accounting system as soon as the student meets all eligibility requirements. <b>All documentation must be on file before the indicator is recorded.</b> The sooner documentation is on file, the sooner funds may be earned for serving the student."</p>
14	2	<p>Texas Education Code Title 2. Chapter 29. Educational Programs; Subchapter B. Bilingual Education and Special Language Program; Section. Sec. 29.063. Language Assessment Committees</p>	<p>"(a) Each school district that is required to offer bilingual education and special language programs shall establish a language proficiency assessment committee.  (b) Each committee shall include a professional bilingual educator, a professional transitional language educator, <b>a parent of a limited English proficiency student</b>, and a campus administrator.  (c) The language proficiency assessment committee shall:  (1) review all pertinent information on limited English proficiency students, including the home language survey, the language proficiency tests in English and the primary language, each student's achievement in content areas, and each student's emotional and social attainment;  (2) make recommendations concerning the most appropriate placement for the educational advancement of the limited English proficiency student after the elementary grades;...."</p>
15	2	<p>Texas Administrative Code Title 19 Chapter 89. Adaptations for Special Populations Subchapter BB. Commissioner's Rules Concerning State Plan for Educating English Language Learners; §89.1220. Language Proficiency Assessment Committee</p>	<p>"...(g) Upon their initial enrollment and at the end of each school year, the language proficiency assessment committee shall review all pertinent information on all English language learners identified in accordance with §89.1225(f) of this title (relating to Testing and Classification of Students), and shall: (1) designate the language proficiency level of each English language learner in accordance with 19 TAC Chapter 89, Subchapter ....; (2) designate the level of academic achievement of each English language learner; (3) designate, subject to parental approval, the initial instructional placement of each English language learner in the required program; (4) facilitate the participation of English language learners in other special programs.; (5) classify students as English proficient in accordance with the criteria described in §89.1225(h) of this title, and recommend their exit from the bilingual education or English as a second language program...."</p>

Criteria No.	Finding	Criteria Source	Criteria Details
16	3	Texas Education Agency Student Assessment Division's Instructions for Years in U.S. Schools Data Collection	<p>"The language proficiency assessment committee (LPAC) is required to determine and document the number of school years in which each ELL has been enrolled in a U.S. school. This information, which is reported to TEA through the Texas English Language Proficiency Assessment System (TELPAS), is used for TELPAS reporting and STAAR assessment decisions, and for defining accountability and performance-based monitoring measures."</p> <p>"It is important for LPACs to follow state-defined policies and procedures to determine and annually document this critical student data element. Steps must be taken to document the information in a manner that shows clear evidence of consistent and accurate annual updating. The information must be kept in the student's LPAC documentation file."</p> <p><i>Note: The student's LPAC documentation file is the District's blue LEP folder kept within the student's AAR/CUM.</i></p>
17	3	Texas Administrative Code Title 19 Chapter 101 Assessment; Subchapter AA. Commissioner's Rules Concerning the Participation of English Language Learners in State Assessments; Section §101.1001 Scope of Rules (c)	<p>"...(c) For purposes of this subchapter, a student who has been enrolled in a U.S. school for at least 60 consecutive days during a school year is considered to have been enrolled in a U.S. school for that school year."</p> <p><i>Note: LPAC clerks stated they use the Student History Worksheet (SHW) to calculate and document the 60 days as this information is used by the LPAC in determining the appropriate state assessment option for ELLs.</i></p>
18	3	Texas Administrative Code Title 19 Chapter 101 Assessment; Subchapter AA. Commissioner's Rules Concerning the Participation of English Language Learners in State Assessments; Section §101.1005 Assessments of Achievement in Academic Content Areas and Courses (a)	<p>"(a) The language proficiency assessment committee (LPAC) shall select the appropriate assessment option <u>for each</u> English language learner (ELL) in accordance with this subchapter. For each ELL who receives special education services, the student's admission, review, and dismissal (ARD) committee in conjunction with the student's LPAC shall select the appropriate assessments."</p> <p>"The LPAC shall document the decisions and justifications in the student's permanent record file, and the ARD committee shall document the decisions and justifications in the student's individualized education program. Assessment decisions shall be made on an individual student basis and in accordance with administrative procedures established by the Texas Education Agency."</p>

Criteria No.	Finding	Criteria Source	Criteria Details
18	3	Continued from previous page...	<i>Note: The Student History Worksheet (SWH) is one of the tools used by an LPAC to determine the appropriate assessment option and is required to be in the student's permanent record file.</i>
19	3	Elementary Secondary Education Act - TITLE III LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS; Section 3214 Applications (g) Contents(1)(A)(V) (20 USC 6914)	"SEC. 3214. APPLICATIONS (g) CONTENTS— Such application shall include documentation that—...(V) the previous schooling experiences of the children;...."