Selected Recommendations on ESEA Reauthorization Regarding English Language Learners

Working Group on ELL Policy

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Guiding Principles

English Language Learners (ELLs) comprise almost 10% of the U.S. student population at any given time. Many more students have been ELLs at some point in their schooling. In four states (Texas, New Mexico, Nevada, and California) the percentages are significantly higher, ranging from 15 to 24% of the state’s students. Moreover, many states in the Southeast and Midwest have experienced explosive ELL growth. Since the last re-authorization of ESEA, the numbers of ELLs have increased substantially, and growth is more broadly distributed across the nation. The No Child Left Behind Act of 2001 fostered greater inclusion of ELLs in standards-based instruction, assessment, and accountability, and drew attention to ELLs’ language and academic needs, particularly by introducing English language proficiency (ELP) standards and accountability under Title III. However, the law’s test-based accountability and status-bar proficiency targets under Title I were blunt instruments that created perverse incentives and unintended negative consequences. Moreover, the accountability provisions under Title I ignored the relationship between ELLs’ progress in developing English language proficiency and their academic performance as measured by content assessments administered in English.

The national movement toward more rigorous college- and career-ready standards has helped educators realize that attaining these standards requires all students to engage in demanding uses of language and literacy needed for deeper learning – which increases the challenge for ELLs. Acknowledging the challenge, most educators have welcomed a shift in language instruction educational programs to focus on developing ELLs’ use of language and literacy to learn rigorous academic content and practices.

The Working Group embraces the challenge of the new standards, and believes that they provide an incentive for states, districts, and schools to support English Language Learners to learn to their full potential. Our guiding principles for federal and state policy in this arena are:

- ELLs must be provided with equal opportunities to develop the same conceptual understandings, content area practices, and sophisticated uses of language that college- and career-readiness requires of all students.
- Federal and state policy must respond to the diversity of this population such that ELLs from differing educational backgrounds, contexts, and needs receive not only appropriate high-quality instruction, but also other supports necessary to ensure success in school and in life.

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1 The Working Group on ELL Policy brings a research perspective to developing recommendations, sharing information, and fostering dialogue among educators, policymakers, and other stakeholders about current policy issues affecting English Language Learners. This draft was prepared by Diane August (AIR), Patricia Gándara (UCLA), Kenji Hakuta (Stanford University), Robert Linquanti (WestEd), and Jennifer O’Day (AIR).
• **Proficiency in two or more languages** should be promoted for all students in the U.S., and accountability provisions should not undermine this goal. Multilingualism enhances cognitive and social growth, development of literacy in English, competitiveness in a global marketplace, national security, and understanding of diverse peoples and cultures.

• Federal and state policy has an important role to play in developing the capacity of educators and systems to ensure academic success for all ELLs, and in fostering the will to do so. Accountability in this context becomes meaningful when it supports capacities, policies, and behaviors that enable this success and reflects the developmental nature of language learning.

Our earlier recommendations, issued in 2011, addressed a broad set of areas that remain critical for ELLs. In the current context of accelerated ESEA reauthorization negotiations, we are moved to comment here on Title I and Title III with respect to: 1) building the capacity of educators and systems to serve ELLs effectively, and the role of OELA in doing so; and (2) fostering appropriate assessment, reporting and accountability regarding ELLs.

**Building Capacity to Support the Achievement of ELLs**

In order for ELLs to engage in the rich language-learning and content-learning signaled in the new content and corresponding ELP standards, their teachers must develop the pedagogical capacity to guide and support ELL students toward deeper conceptual understandings, sophisticated uses of language, and strong analytical practices. All teachers of ELLs – in ESL and in academic subject areas – therefore need support and time to build their practice toward these new expectations. Our recommendations for Title III address these needs in three ways: Through formula grants for local capacity-building; national activities to strengthen the pipeline of professional capital; and the role of the Office of English Language Acquisition (OELA) to build state and local capacity.

**State formula grants should be used to:**

1. **Improve the knowledge and skills of all teachers who serve ELLs in language instruction educational programs and content area instruction.** Improving teacher capacity requires appropriate funding, supports, and time for teachers to learn and implement new practices. It is particularly important to provide incentives to districts to recruit teachers and school personnel with the knowledge and skills to support students and their families where the primary language is not English.

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2 See: [http://ellpolicy.org/esea/](http://ellpolicy.org/esea/)

3 States are increasingly attending to the need for language development to take place within ESL and within subject area instruction. For example, California distinguishes between “integrated” and “designated” English language development instruction, and is fostering an unprecedented level of collaboration between mainstream and ELD teachers. See: [http://www.cde.ca.gov/cf/rl/cf/elaeldfrmwrksbeadopted.asp](http://www.cde.ca.gov/cf/rl/cf/elaeldfrmwrksbeadopted.asp). Also, New York State in its revised regulations for ELLs (Part 154) distinguishes “integrated ENL/ESL” from “stand-alone ENL/ESL.” See: [http://www.nysut.org/~media/files/nysut/resources/2015/january/factsheet_1420_updatedjanuary2015onpart154amendments.pdf?la=en](http://www.nysut.org/~media/files/nysut/resources/2015/january/factsheet_1420_updatedjanuary2015onpart154amendments.pdf?la=en)
2. **Enhance the quality of educational programming to address the differentiated needs of ELLs.** This includes recognizing and attending to the varying needs of newcomers, ELL students living in poverty, ELL students with interrupted formal education (SIFEs), long-term ELLs (LTEls), former ELLs, ELLs with disabilities, and gifted and talented ELLs.

3. **Address the new data and research needs of states, districts, and teachers** by developing sound practices and instruments for assessing growth and attainment in English language proficiency and content area knowledge of ELLs as well as for analyzing and reporting these outcomes. Sound practices and instruments will also have to be developed to assess student’s growth and attainment in non-English second languages.

4. **Support bilingual development/dual immersion programs to enhance the multilingual capacities of all students.** Increasingly, parents of all backgrounds are seeking multilingual education for their children to increase their preparedness in a globalized economy. The federal government can play a key role in supporting the development of highly qualified personnel to staff these schools, most directly through incentivizing the recruitment of teachers and other school personnel with the cultural and linguistic skills to help build these programs.

_National activities should be undertaken with federal support to:_

1. **Develop the capacity of faculty at institutions of higher education (IHEs) to train educators and conduct research to help inform effective policies and practices for ELLs.** State, district and school capacity must be supported by a professional corps prepared to instruct ELLs, lead schools and school systems serving ELLs, provide professional learning supports, and prepare students for careers in teacher education, policy analysis, program evaluation and educational measurement and assessment relevant to this population.

2. **Develop a program of research that informs better instructional practices for ELLs, and school and system improvement in fostering those practices.** The Institute of Education Sciences places ELLs among its 10 priorities for research support, and encourages researcher-practitioner partnerships as part of this emphasis. An explicit role for the Office of English Language Acquisition should be created to provide meaningful input and participation in the implementation of these programs, in particular through authority to convene Title III grantees and sub-grantees for purposes of determining their research needs.

3. **Foster collaborations among schools, other child serving agencies, and parents to support the multiple needs of ELLs.** As a group, ELLs are among the most socially and economically disadvantaged students in our schools and their parents are among the most marginalized and isolated. Narrowing achievement gaps is dependent on meeting acute out-of-school needs that

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4 In previous versions of ESEA, the Title VII Fellowship Program provided support to IHEs in creating a corps of educators focused on ELLs.
impede learning and better connecting parents to their children’s schools. Better informed parents can provide support for school goals and motivate their children toward higher achievement. This is most effectively done by personnel who can communicate and build trust with families.

**Fostering Appropriate Assessment, Reporting and Accountability**

Effective accountability entails more than reporting outcomes. It must also trigger the mobilization of resources for building educator capacity and improving educational outcomes for students. Accountability must therefore be reciprocal: Improving performance requires capacity, which in turn requires appropriate funding, supports, and time to improve. In addition, accountability for ELLs must provide meaningful and helpful information to students, parents, and educators.

To support these ends, we recommend the following for ESEA reauthorization:

1. **Support the development of instruments and testing policies that validly and reliably assess the progress and achievement of ELLs.** Validity and reliability of assessments in English for ELL students will probably never be equivalent to that of English speakers, but they can approach a reasonable equivalence for more advanced ELLs with accommodations appropriate for the student’s ELP level. Some measurement error is associated with all assessments in whatever language they are administered, but the error should not be substantially greater for ELLs assessed in English than it is for English speakers. If it is, the assessment should not be conducted in English until the test can be shown to be valid for these ELLs or they have gained sufficient English proficiency to benefit from appropriate accommodations. Standards for validity equivalence should be set by a panel of second language acquisition and psychometric experts.

2. **Move the accountability provisions currently in Title III into Title I.** At present, accountability for ELLs’ academic progress and language proficiency is split between Title I and Title III, respectively. This separation ignores the connection between ELLs’ expected progress in developing English language proficiency under Title III and their expected academic progress and proficiency under Title I while they learn English. Moving accountability for ELLs’ English language progress and proficiency into Title I and relating it to ELLs’ academic progress and proficiency makes their interconnection more transparent and explicit (see below). As indicated above, Title III should focus on developing the capacity of districts and schools to improve educational outcomes for ELLs.

3. **Require states to set their ELP performance standards so that ELLs who are designated as English proficient are clearly able to manage the language demands of grade-level course content presented in English.** An English-proficient performance standard on an ELP assessment (i.e., what defines English proficiency on ELP assessments) should be set in relation to academic content assessment performance. This provides assurance that declarations of English
proficiency on ELP assessments reflect the contribution of language to an understood performance level on academic content assessments.

4. **Require states to set timeframes for expected attainment of English language proficiency.** It takes ELLs time to learn English for academic purposes. States should define expectations for and monitor ELL students’ annual progress in learning English, so that increasing percentages of students attain the state’s English-proficient performance standard on the ELP assessment within a reasonable timeframe (e.g., 5 years for students entering the state school system at the lowest English proficiency levels and shorter time periods for students with higher initial English language proficiency). Time frames should also be reflective of instructional program goals, particularly as developing linguistic and academic skills in more than one language may affect these time frames.

5. **Require states to set achievement expectations reflective of English language proficiency level and time in the system.** Appropriate accountability considers ELL students’ time in the state school system and their initial English-language proficiency (starting point) when setting expectations for academic performance and progress. As time passes and/or English proficiency advances, ELLs’ academic performance expectations should grow to match those of non-ELLS\(^5\).

Content area performance expectations to which an ELL is held in a given year should be a function of their school grade level and either their expected level of English language proficiency, or their current level if higher. This can be accomplished in at least two ways. For example, Title III requirements for progress in learning English and attaining the English-proficient level (currently AMAOs 1 and 2, respectively) could be moved into Title I and related to Title I academic progress and achievement criteria. Alternatively, Title I accountability provisions could require states to utilize ELP progress and attainment data derived from the English language proficiency assessment currently mandated under Title I (Section 1111 (b)(7)) in establishing academic progress and achievement expectations for ELLs.

6. **Require states to monitor the progress of current and former ELLs.** Fully accounting for the ELL subgroup’s academic progress and performance requires that group membership be stabilized, which in turn requires establishing a “total English learner subgroup” to increase fairness and accuracy in examining long-term outcomes. Once students are identified as ELL, they should be accounted for in this total ELL subgroup even after they have attained English proficiency and are no longer receiving English language development services. Failure to account for the ELL subgroup this way perpetuates the appearance of academic underperformance for those designated as ELLs because language proficiency is so strongly related to content performance on assessments in English. States should further disaggregate the academic performance of the

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\(^5\) For an example of a state system that incorporates individual ELL student time in the U.S. and ELP level in setting academic progress and proficiency expectations, see Texas’s “ELL Progress Measure” system [(http://tea.texas.gov/student.assessment/ell/)](http://tea.texas.gov/student.assessment/ell/) under “general resources”). Aspects of Oregon’s accountability system are also sensitive to ELP level and years in program.
total ELL group, separating out English-proficient learners from current ELLs, for reporting and LEA planning and instructional purposes.

7. **Require states to address the needs of students who are not progressing in their development of English language proficiency.** States and districts should report the percentage of long-term ELLs (i.e., students still not English proficient after 5 years designated English language support services), set annual expectations for reducing this percentage, and (in the case of districts) develop individual acceleration plans and high-quality supports for students who are not progressing in their English language proficiency.

8. **Require states to demonstrate that their ELL programs and their ELL accountability systems are (1) based on sound theory and research that support appropriate educational services; (2) implemented with adequate resources and time; and (3) evaluated regularly to determine their effectiveness and to make improvements accordingly.** The U.S. Department of Justice and U.S. Department of Education’s Office for Civil Rights recently issued a detailed reaffirmation of their long-standing interpretation of *Lau v. Nichols*, and described how states and districts can meet its expectations through this three-pronged framework and its determinations. We believe that these standards apply not just to ELL educational programs, but to systems of ELL assessment and accountability as well. For example, states should demonstrate that reporting of ELL student educational status and progress be based on state standards and on assessment programs that provide the most valid and reliable information in accordance with current professional standards of educational measurement. Legislation should require that Federal peer review processes for Title I and Title III ELL-related standards, assessment, and accountability be consistent with these principles.

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See [http://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf).