Statement from the Working Group on ELL Policy
Re: Every Student Succeeds Act of 2015

January 8, 2016

With the reauthorization of the 1965 Elementary and Secondary Education Act (ESEA) as the Every Student Succeeds Act (ESSA) of 2015, the Working Group on English Language Learner (ELL) Policy recognizes the continuing evolution of this landmark federal legislation to more fully include English Learners. This evolution began with the 1994 Improving America’s Schools Act that introduced state academic standards into federal requirements and added provisions for the inclusion of English Learners in state assessment systems. The 2001 No Child Left Behind Act added important requirements for English language proficiency standards, assessment, and accountability through both Title I and Title III. Building on lessons from state ESEA flexibility waivers and the introduction of college- and career-ready standards, the new ESSA continues to advance the inclusion of English Learners in Federal legislation affecting state and local education agencies.

The Working Group holds to a number of important guiding principles that are reflected to varying degrees in the new law. These principles include:

- **Fostering academic achievement and language development.** 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.

- **Providing additional supports.** Federal and state policy must respond to the diversity of this population such that ELLs with differing educational backgrounds, contexts, strengths, and needs receive not only appropriate high-quality instruction, but also other supports necessary to ensure their success in school and in life.

- **Establishing meaningful accountability.** Federal and state policy plays an important role in developing the capacity of educators and systems to ensure language development and 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 and meaningfully measure this success and recognizes the developmental nature of language learning.

- **Valuing bilingualism and biliteracy.** Proficiency in two or more languages should be encouraged and 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.

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1 The Working Group on ELL Policy consists of researchers with extensive experience in educating ELL students and a substantial understanding of the research on strategies for effectively educating this population. We bring the combined knowledge of several leading universities and educational research organizations across the United States (see [http://ellpolicy.org/about/](http://ellpolicy.org/about/)). This document was prepared by Kenji Hakuta and Robert Linquanti, in consultation with Diane August, Donna Christian, Michael Fix, David Francis, Patricia Gándara, Claude Goldenberg, Megan Hopkins, Jennifer O’Day, Karen Thompson, and Ilana Umansky.
The following highlights key features of the new law for ELL educators related to the first three principles. The law is silent on the fourth.

**Title I:**

- Decision-making authority for accountability is moved to states and localities, and significantly limits secretarial authority in providing guidance and allowing exceptions.
- States must have rigorous college- and career-ready standards in mathematics, reading/language arts, and science. They must also have corresponding English language proficiency (ELP) standards that reflect the language skills and practices ELLs need to engage successfully with those academic standards.
- States must administer and report school performance on annual standards-based assessments of core academic subjects\(^2\) *as well as* of English language proficiency for ELs. That is, ELP assessment is now fully integrated in Title I.
- States must determine their own accountability systems by establishing "long-term goals" for student achievement that include measuring interim progress. For the first time this includes accountability for ELs’ English language proficiency under Title I.
- States must have a method for identifying schools that are in need of comprehensive or targeted assistance and a system of assistance that is evidence-based as determined by the state.
- Two options are offered for assessing, reporting, and including in accountability recently-arrived ELs. States may exclude recently-arrived ELs from one administration of the reading/language arts assessment and assess and incorporate these ELs’ test results after they have been enrolled in a U.S. school for one year, as was the case under No Child Left Behind. The second option requires states to test recently-arrived ELs and report results for the first two years, but allows states to exclude the results of these ELs from the state accountability system in the first year, include a measure of student growth in the second year, and include proficiency on the academic assessments beginning in the student’s third year in a U.S. school.
- Formerly EL-classified students are to be included in the EL subgroup for reporting and accountability purposes for a period of up to 4 years after they have been reclassified. This suggests that EL students exited at Grade 5 or beyond may be included in the base for the calculation of EL graduation rates.
- States are encouraged to be innovative in their assessment and accountability systems, including being allowed to use a variety of readiness and engagement indicators [Section (c)(4)(B)(v)] and encouraged to seek demonstration grants to use innovative performance-based assessments for state consortia.

\(^2\) In mathematics and reading/language arts in Grades 3-8 and once in high school, and in science once in each of grade spans 3-5, 6-9, and 10-12.
• Parent and family engagement is emphasized and authorized at a minimum of 1% of Subpart 2 through Sec. 1010 with provisions to remove barriers to participation for families of ELs.

Title II:

• Title II is more explicit in mentioning ELs regarding expectations of teacher development plans and programs. For example, the state application is required to show how teachers, principals and other school leaders can identify and provide appropriate instruction for ELs; and local activities must address the learning needs of ELs.

Title III:

• States are required to adopt standardized statewide procedures and criteria for entry into and exit from EL status that are consistent across districts within the state. This is to be done in close consultation with a geographically representative sample of school districts in the state.
• The U.S. Department of Education (ED) is allowed to determine the number of English learners in a state using a combination of the most accurate, up-to-date data from the American Community Survey and state counts of students being assessed on the state’s Title I ELP assessment.
• Several LEA biennial reporting requirements are specified, including ELs making progress in English language proficiency; attaining English language proficiency; exiting EL status based on their attainment of English language proficiency; meeting academic standards for each of four years after exit; and not attaining English language proficiency within five years of initial EL classification and first enrollment in a state’s LEA.
• Biennial reporting also requires disaggregation of the performance of ELs and former ELs (for up to four years after exit) with a disability.
• Individual states are explicitly empowered to address early childhood, which will likely contribute to considerable variation among the states in providing a sound primary education for children. The law moves these programs to Health and Human Services with the intention of encouraging coordination with other early childhood programs, as well as the political intention to limit authority of ED. This may generate challenges around ensuring consistency in EL student identification, appropriate language-related instruction, and data sharing across departments.

Title VIII (formerly Title IX)

• Of rhetorical significance, the law replaces “Limited-English Proficient” with “English Learner.”
Enduring Issues

Despite the advances noted above, ESSA remains silent in addressing the value of bilingualism and biliteracy not only for ELs but also for language-majority students. This is unfortunate given the surging commitment of states in recent years to foster both through initiatives such as the seal of biliteracy.\(^3\) The Working Group on ELL Policy will continue to call attention to the strong and growing evidence base for promoting bilingualism and biliteracy for all students in the United States. This goal is in no way incompatible with promoting high levels of English proficiency for English learners, which is clearly necessary for success in school and beyond.

The law also misses an opportunity to set expectations for states to establish systems of school and district support that promote improved achievement of ELs. Current research evidence points to several guidelines centered on focused, concerted, and goal-driven school- and district-wide efforts. For example, school-level variables associated with improved achievement for ELs include learning goals for all students—including ELs—that are understood and supported by all staff; assessment practices that provide real-time and actionable information on students’ current status and next steps relative to these goals; instructional resources aligned with learning goals; contextualized, ongoing support and professional development for teachers to interpret assessment evidence and pedagogically assist students in attaining learning goals; and effective school leadership that fosters accountability while supporting and encouraging teachers’ and students’ working toward learning goals.

Rule-Making

The rule-making process to implement the new law needs to occur before the law takes effect beginning in the 2017-2018 school year. Many details will be worked out during the regulatory process, in which research evidence can play a significant role. The Working Group plans to issue in-depth analyses—including data models of alternative interpretations of key reporting and accountability provisions—during the rule-making period.

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\(^3\) See [http://sealofbiliteracy.org/](http://sealofbiliteracy.org/).