June 18, 2015

The Honorable Lamar Alexander
Chairman
Senate Health, Education, Labor and Pensions Committee
United States Senate
Washington, DC 20510

The Honorable Patty Murray
Ranking Member
Senate Health, Education, Labor and Pensions Committee
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Washington, DC 20510

As representatives of the Working Group on English Language Learner (ELL) Policy\(^1\), we are writing to comment on the recent HELP Committee draft of SB 1177 (Every Child Achieves Act of 2015), which is intended to reauthorize the Elementary and Secondary Education Act (ESEA). We offer a research perspective to developing recommendations, sharing information, and fostering dialogue among educators, policymakers, and other stakeholders about current policy issues affecting ELLs, a large and fast-growing population of underserved students.

We are encouraged to see several strong provisions in the current draft bill that are critical to supporting coherent and effective policies and practices at state and local levels, and to correcting flaws in the current ESEA (known as No Child Left Behind). However, we are concerned by the absence of other provisions needed to ensure equitable opportunities for high-quality education for ELLs. We summarize these points below.

**Strengths and Concerns**

Among the proposed provisions, we note the following strengths and concerns:

**Title I:**

1. **Strength:** Maintains a commitment to rigorous English language proficiency (ELP) standards and assessments that explicitly address the language demands needed to meaningfully engage in challenging State academic standards, and requires the English proficient standard to indicate a sufficient knowledge of English in order to measure validly and reliably ELLs’ achievement on the State reading/language arts standards (s.1111(b)(1)(F); s.1111(b)(2)(G)).

**Concern:** It is equally important that these ELP standards and assessments ensure ELL students have sufficient knowledge of English to validly and reliably assess their achievement (i.e., without interference from their ELP level) in mathematics and science standards as well, as these are also among the

\(^1\) 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 Diane August, Patricia Gándara, Kenji Hakuta, Robert Linquanti*, Jennifer O’Day, Karen Thompson, and Ilana Umansky. (*primary author and contact).
challenging State academic standards referenced and have particular, discipline-
specific language demands that ELP standards should address.

2. **Strength:** Requires State and local education agencies, as part of the Title I, to 
   *annually measure and report the academic achievement and English language proficiency* 
   (including measures of growth) of all English learners 
   (s.1111(b)(3)(B)(ii)(III)).

   **Concern:** As ELLs' academic performance in English is affected by their level of 
   English proficiency, academic performance results should be disaggregated by 
   ELLs' ELP level and time in the state system; this reporting requirement would 
   provide greater accountability for ensuring that ELL students make reasonable 
   progress in ELP and academic performance over time. Indeed, this is suggested 
   in other parts of the legislation (see #4 below).

3. **Strength:** *Maintains a reasonable exception rule for assessing the academic performance of newly-entering English learners,* and for incorporating their 
   academic achievement results in a State-determined accountability system 
   ((s.1111(b)(4)).

   **Concern:** The "two-years-and-out" rule for counting the academic performance 
   of former ELLs in the ELL subgroup creates a catch-22 distortion, well-
   documented in research, that unnecessarily portrays the ELL subgroup as 
   perpetually underperforming, and undermines accountability for long-term 
   success indicators (e.g., college and career readiness) of the students who began 
   school in the State as ELLs. As with every other student subgroup, the ELL 
   subgroup should be kept whole for accountability purposes. This can be done 
   through use of a Total ELL group without risk of masking any long-term 
   underperformance of current ELLs thanks to other provisions in the draft bill 
   (see Title III, #’s 2 and 5, below).

4. **Strength:** Requires State plans to *describe the timelines and annual goals for ELL progress toward English language proficiency, based on the student’s initial English proficiency and considering time in program and grade level.* This 
   excellent provision reflects strong research evidence, and represents an 
   important step forward. Equally important is the specification for the State to 
   engage in timely and meaningful consultation with LEAs in determining these 
   progress goals (s.1111(c)(1)(K)).

**Title III.**

1. **Strength:** Requires State plans to *establish and implement standardized statewide ELL entrance and exit procedures.* This provision, well supported by 
   research, is *absolutely critical for ensuring ELL students are served in an equitable and consistent manner across LEAs within the State.* The issue this provision
addresses was first documented by the National Research Council in 2011\(^2\), and several states, school districts, state assessment consortia, researchers, and other stakeholders have been working to address it.\(^3\) Equally important is the specification for the State to engage in timely and meaningful consultation in establishing these procedures with LEAs representing the geographical diversity of the State (s.3111(b)(2); s.3113(b)(2)).

2. **Strength:** Requires States to *report on and describe how they will assist subgrantee LEAs to decrease the number of ELLs who have not acquired English proficiency within five years of their initial classification as an ELL* (long-term English learners) (s.3113(b)(7)). This reporting and assistance requirement is critical for identifying and serving ELLs that are not being effectively supported to make sufficient progress.

3. **Strength:** Requires States to describe how they will ensure the *unique needs of the State's ELLs and immigrant students* are being addressed (s.3113(b)(8)). This requirement reflects an important finding from research that ELLs are not a homogeneous population, and vary in important ways that must be understood and addressed by State and local educators.

4. **Strength:** Requires States to describe how they will *monitor and evaluate ELP progress and steps they will take to assist subgrantee LEAs that are not effective in supporting ELLs’ academic progress and ELP progress* (s.3113(b)(9)). This requirement is grounded in research and supported by existing civil rights case law that specifies appropriate action as required by the Equal Education Opportunities Act of 1974 (e.g., *Castaneda v. Pickard*).

5. **Strength:** Requires subgrantee LEAs to report biennially on the number and percentage of ELLs: a) meeting ELP progress goals; b) attaining English language proficiency; c) exiting language instruction educational programs based on attaining ELP; d) meeting state academic standards for 2 years after exit; and e) not attaining ELP within five years of initial classification, with (a) and (d) specifically disaggregated by long-term ELLs and ELLs with disabilities (s.3121(a)(2-6)). These important reporting requirements are needed to ensure the State and subgrantee LEAs discern patterns of progress as well as areas for focused improvement.

**Concern:** As we note in Title I point 3 above, States should be required to report the number and percentage of ELLs meeting state academic standards (and

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\(^3\) For example, see working papers, guidance, and policy briefs at: [http://www.ccsso.org/Resources/Programs/Supporting_English_Language_Learners-x2589.html](http://www.ccsso.org/Resources/Programs/Supporting_English_Language_Learners-x2589.html).
other key criteria indicating college and career readiness) after exit from current ELL status for as long as these students are in the state school system. Well supported by research evidence, this practice fully accounts for the population who began school in the State as ELLs, allowing for a complete picture of long-term effectiveness, and can be accomplished through establishing a Total ELL group as described above.

Concerns regarding building capacity of educators to support the achievement of ELLs.

1. The current draft bill lacks any reference to recruiting teachers who speak the home languages of ELL children or their families under the “effective teacher” and “school leader” sections or under the “parent engagement” sections of Title II. Given the growing demand for developing the multilingual capacity of our nation's students for a globalized economy (e.g., several states instituting "seals of biliteracy" for graduating students, burgeoning demand for two-way dual language immersion programs, etc.) and the increasing number of ELL students being served in our schools, we recommend incentives be added to encourage recruitment of teachers who speak the home languages of ELL students, and to support the development of teachers’ capacity to serve in multilingual education programs that enhance the multilingual capacity of all students.

2. The draft bill lacks any reference to developing the capacity of faculty at institutions of higher education (IHEs) to prepare preK-12 educators to engage in more rigorous pedagogical practices required by new college- and career-ready academic content standards and corresponding ELP standards. There is also no reference to supporting research to strengthen educational policies and practices for ELLs. Given the substantial research evidence of the need and expressed demand for pre-service preparation and professional development of current educators of ELLs, and need for research on effective methods for educating ELL students, we recommend that language be added that specifically targets and supports strengthening capacity in these areas.

We believe that protecting the strengths and addressing the concerns detailed above will improve the draft bill’s provisions for English Language Learners, and will help the reauthorization of the ESEA to ensure greater equity and outcomes for the nation’s ELLs, as well as foster support for current and future educators to effectively serve this large and growing student population.