

English Language Learners' Provisions of the No Child Left Behind Act:

Summary of a Roundtable Discussion

March 20, 2007

On March 20, 2007, the Center on Education Policy (CEP) convened representatives from about two dozen organizations in Washington, D.C. for a roundtable discussion on issues surrounding the reauthorization of the English language learners' provisions of the No Child Left Behind Act (NCLB). This was the third of a series of meetings convened by CEP. The first two meetings addressed the teacher provisions of the Elementary and Secondary Education Act as amended by NCLB. The fourth meeting, held in early May, focused on issues surrounding accountability for students with disabilities under NCLB. CEP is uniquely positioned to sponsor these meetings since we have been monitoring and reporting on state and local implementation of NCLB since 2002.

The goal of the meeting was to discuss an inherent tension in NCLB, namely that NCLB has focused attention on the academic achievement of English language learners, but uses a system for holding schools and districts accountable for improving achievement for these students that some say is unfair and invalid. Advocates for English language learners argue that NCLB has brought attention to the need to integrate the academic achievement of these students, whereas previous federal efforts were mostly aimed at funding language acquisition programs for these students. However, many state education agency and district officials have voiced concerns about assessing English language learners in academic content areas before they are proficient in English, and that current NCLB requirements result in a problematic measure of academic achievement. Further, state and district officials believe this problem is compounded by holding schools and districts accountable for the achievement of English language learners based on these measures. Participants at the meeting began by discussing these issues, and then turned to a discussion of possible solutions to the problem.

To structure the roundtable session, the Center invited two experts in the field, [Dr. Diane August](#), a consultant to the Center for Applied Linguistics, and [Dr. Stanley Rabinowitz](#) from WestEd, to summarize the key issues surrounding English language learners and NCLB. Below is a

summary of Dr. August's and Dr. Rabinowit's presentations, followed by a summary of our discussion and some suggested possible solutions to consider for the reauthorization of the NCLB. More detailed descriptions of NCLB's current provisions for English language learners can be found in a paper written by Diane August and a PowerPoint presentation developed by Stanley Rabinowitz specifically for this meeting and available on our website, www.cep-dc.org.

Organizations Participating in the March 20, 2007, Roundtable Discussion

1. Alliance for Excellent Education
2. American Association of Colleges for Teacher Education
3. American Federation of Teachers
4. Association for Supervision and Curriculum Development
5. Campaign for Educational Equity, Teachers College
6. Center for American Progress
7. Center for Applied Linguistics
8. Center for Law and Education
9. Citizens' Commission on Civil Rights
10. Council of Chief State School Officers
11. Education Trust
12. GW Center for Equity and Excellence in Education
13. Internationals Network for Public Schools
14. MALDEF
15. National Association of Secondary School Principals
16. National Association for Bilingual Education
17. National Center on Immigrant Integration Policy
18. National Conference of State Legislatures
19. National Council of La Raza
20. National Education Association
21. National PTA
22. Phi Delta Kappa International
23. Second Language Testing, Inc
24. Senator Clinton's (Dem. N.Y) Representative
25. Teachers of English to Speakers of Other Languages

The Issues

Language Proficiency Assessment

Under Title III, NCLB requires that state education agencies receiving funds establish English language proficiency standards, administer English language proficiency assessments that are

aligned with state standards, and define annual measurable achievement objectives (AMAOs) for students' development and attainment of English language proficiency. Students must be assessed each year in speaking, reading, writing, listening, and comprehending English. However, states have had to face many challenges with these assessments, including: (1) the degree to which off the shelf tests are aligned with state English language proficiency standards; (2) the feasibility and practicality of giving an individually administered assessment that requires a substantial amount of time to administer; (3) how well any one assessment can meet the needs of students from diverse language backgrounds; (4) the level of resources (both financial and technical) available to states for development, validation, and technical assistance in the use of the assessments; (5) how well the English proficiency standards define proficiency levels that will help English-language learners acquire the language skills necessary to meet academic content and achievement standards; and (6) how we conceptualize language arts and language proficiency, especially in the areas of reading and writing.

Academic Content Assessment

Under both Title I and Title III of NCLB, states are required to administer academic content assessments in reading/English language arts and math to all students, including English language learners, in grades 3-8 and one time in high school. However, recent arrivals to the United States who have been in the country for one year or less are not required to be assessed. These assessment requirements have yielded a number of challenges for states. First, states are allowed to use accommodations for English language learners in the first 3-5 years when students are beginning to learn English. However, there is a lack of specific research on accommodations for English language learners and currently used accommodations are questionable because they are primarily based on accommodations developed for students with disabilities and may not be appropriate for English language learners. Second, after the 3 or 5 year window (depending on the state), states are required to assess their academic standards of reading/English language arts using a test written in English. One solution to this is the development of an assessment that uses simplified language easily understood by all test takers. This English assessment, according to Stanley Rabinowitz, would be consistent with the Universal Design movement already underway. However, he also stated that it is difficult to simplify language without simplifying construct and some content may not be amenable to

simplification. Furthermore, Diane August explained, the validity and reliability of assessments administered in English may be seriously compromised when the students are not sufficiently proficient in English. And, if schools and districts are going to be held accountable on the basis of this exam they will tend to educate students solely in English.

Accountability

NCLB's accountability requirements for English language learners have highlighted several issues. For example, states and districts use different criteria to classify students as English language learners, which effects the accuracy of reporting adequate yearly progress for this subgroup. Also, membership in this subgroup is temporary because when students attain English proficiency, they leave this subgroup. When the more proficient students leave the subgroup and less proficient students enter the subgroup, academic progress of these students is underestimated. Another issue is that English language learners are frequently members of a racial/ethnic subgroup and oftentimes also members of the low-income subgroup, thus their performance effects AYP for multiple subgroups. Furthermore, states have been slow at establishing their AMAOs and many states' AMAOs are vague about how progress or proficiency would be measured.

The Discussion

Benefits and Challenges of NCLB

The discussion began with a brief reflection on the benefits of NCLB for English language learners. There was a general consensus that the fact that these students are taking the same assessments as everyone else and that results of these assessments are available by subgroup have been the most beneficial outcomes for English language learners. Having the same assessments allows us to compare their scores to the scores of other students and this has brought about visibility for the need to improve the academic performance of English language learners. Local groups have been able to use these data as a tool to advocate for improvement, demand changes in schools, and educate the community. Availability of data has brought practitioners and parents to the table.

NCLB has also demonstrated certain weaknesses in practice. For example, the law has a strong focus on teaching literacy and practitioners have relied on the same strategies used to teach English monolinguals. Although research shows that using research-based strategies effective with monolingual students is a good starting place, the reason why these students fail in school goes well beyond teaching strategies. As addressed by Dr. August, these students tend to be poor and concentrated in schools with large numbers of other poor kids so they often do not have access to resources found in schools that have fewer poor kids.

However, no one attending the meeting had data or knew of studies that showed the achievement of English language learners had increased as a result of the NCLB. Participants agreed that there is a lack of hard evidence on the impact that NCLB has had on the achievement of English language learners. As one participant stated, “There is a lot of data, but we don’t know what they mean.” Furthermore, it will be difficult to know what effect NCLB has had on any group of children because there is not a control group of similar children who did not get NCLB. Students’ progress may be due to factors other than NCLB, like a reduction in class size.

Proposed solutions

The goal of our roundtable discussion was to initiate a discussion of possible solutions. No one solution proposed in this meeting may be the “silver bullet” that resolves all the issues regarding the English language learners’ provisions of NCLB. However, the proposed solutions that follow highlight the complexity of developing fair and accurate assessments of these students’ achievement. Most importantly, we hope that these proposed solutions help initiate and guide a discussion that will continue to promote an inclusive system that helps to ensure that English language learners receive the attention and services they need, as well as addressing the states’ and districts’ concerns regarding the current use of invalid practices and assessments for these students.

Weighted Assessment Results

A solution, proposed by Dr. David Francis from the University of Houston, was raised in our discussion by Diane August. According to Dr. August, Dr. Francis has proposed the use of an

assessment system that would incorporate both the English language proficiency assessment and the content area assessment to gauge the progress of English language learners in meeting the content standards. Under Dr. Francis, proposal, more weight would be given to language proficiency assessment when the children first enter a state's schools and are less proficient in English. As they spend more time in the state's schools and become more proficient in English, more weight would be given to the content area score. Every state would have the components to develop such a weighted index because they are required to have both types of tests for their English language learners. The index is tied to time as well as to language proficiency in order to increase focus on developing both language proficiency and content knowledge from the day children enter school, and to eliminate the possibility that students would be mostly evaluated on the basis of the development of second language proficiency for extended periods of time. An important element of the model is that the provision of language services for students is dependent on their score on the language proficiency assessment, not on the weight assigned to that score in determining student success. Similarly, the weights to be assigned to the language and content scores would be set based on the student's results from the prior year so that the student and the school would know the language and content targets for the student at the beginning of the academic year.

Dr. Francis' solution addresses several key accountability issues for ELL students in that it allows states, districts and schools to demonstrate that they are helping students develop English language proficiency while holding states, districts and schools responsible for teaching these students content. This system would ensure that students continue to receive solid content area instruction, but their performance on these assessments would not penalize the schools or the students. As proposed, this system does not address the problem of reporting bias that results from students being removed from the reporting category once they have become proficient in English. However, nothing in this system is incompatible with potential solutions to the reporting problem.

Opportunity to Learn

Another possible solution, proposed by Stanley Rabinowitz, is meant to foster discussion of ways to improve the ELL assessment and accountability provisions of NCLB. There are several

technical and implementation issues that would need to be worked out; thus, this proposal is not ready for implementation, as presented.

Dr. Rabinowitz explained that an ongoing tension in the accountability of English language learners under NCLB Title I is balancing the competing requirements of valid assessment with a time-based inclusion process. Research demonstrates that not all students learn English at identical rates and complex social, cultural, and linguistic factors affect the rate and timing of language proficiency. Adding to the dilemma is incomplete evidence as to the validity of content assessments for various ELL student populations, both in their original and accommodated forms.

In order to ensure fairness without compromising the important goal of full inclusion of all student populations in determining school AYP status, the NCLB reauthorization may consider the following multi-phase accountability model for English language learners:

Phase I: Evaluate whether a state education agency has implemented a valid assessment system for English language learners (including empirically-based accommodations), with evidence detailing the conditions under which scores are expected to be valid.

Phase II: Determine if school districts/schools can demonstrate that instructional practices for English language learners are consistent with research findings and services are geared towards the language needs of various ELL student populations.

Phase III: Adequate Yearly Progress decisions should be based on ability to demonstrate that English language learners receive appropriate instruction and are tested on a valid assessment instrument.

This way, schools, districts, and states would be held accountable through a system that is independent of student performance. The system would remove student test results as the accountability piece and substitute it with a measure of ability to demonstrate opportunity to

learn. It is a more concrete system because it helps us ensure that students truly receive the services they need.

Permanent Membership in the Subgroup

Another proposal addresses the fact that membership in the English language learner subgroup is temporary. This idea proposed that students should be given a particular label and be identified by that label permanently. For example, California uses *Fluent English Speaking* (FEP) to identify students who were English language learners and have achieved English proficiency. Permanent membership in the subgroup would address the accountability challenge that the more proficient students leave the subgroup and would allow for the subgroup's true progress to be demonstrated for accountability requirements. Furthermore, we know that even after these students reach English language proficiency, they still require additional support. Having a label such as FEP allows even high school teachers to know that these students were in an English learning program and transitioned out of the program. This would also allow teachers to know that these students are most likely bilingual and creative teachers may find ways to use their bilingual skills as an asset rather than a deficit in the classroom.

Accommodations

One of the participants proposed a reconsideration of the definition of accommodations. Currently, an accommodation is considered valid if it aids only the targeted group, meaning it does not improve the performance of other subgroups at the same time. The participant proposed that an accommodation be valid as long as it aids the targeted group in demonstrating academic progress.

Developing Individualized Academic Plans

Another proposed solution was to make an NCLB requirement the development of individualized academic plans for English language learners. This solution takes into account the diversity within this subgroup. It is difficult to define a single instructional approach or assessment for a group of students who come from diverse language and educational backgrounds. A committee designated to develop the individualized academic plan would be

better able to identify the learning needs and determine the appropriate assessments for each individual student.