



MALDEF

Mexican American Legal Defense and Educational Fund

ESEA is a key federal civil rights statute for the Latino community, which has traditionally faced extreme educational inequalities in our nation's public schools. The 2001 reauthorization of ESEA, commonly known as the No Child Left Behind Act (NCLB), greatly strengthened the law for Latino students by holding states, local school districts, and individual schools accountable for the academic success of all students. By disaggregating data for racial and ethnic minorities, the limited English proficient, low-income students, migrant students, and students with disabilities, ESEA ensured that schools could not prioritize the education of certain student populations at the expense of other student groupings.

The current plan to reauthorize ESEA presents an historic opportunity to build upon the achievements of the 2001 reauthorization while remedying defects that have limited the law's promise for and effectiveness in eliminating educational inequalities.

English Language Learners and the Reauthorization of ESEA

While ESEA has greatly affected the entire Latino student community, its effects have been particularly significant for English language learner (ELL) students, who often face educational inequalities that are particularly acute.

The nation's 5.5 million English language learner (ELL) students significantly underperform on nearly every measure of academic performance. The academic success of the ELL population is critical to the academic success of the Latino community and the U.S. student population overall. Over the past fifteen years, ELL student enrollment has nearly doubled, and experts predict that one-quarter of the total U.S. public school population will be made up of ELLs by 2025. Over three-quarters of ELLs are Latino, and nearly half of K-12 Latino students are ELL.

Despite common assumptions to the contrary, native-born U.S. citizens predominate in the ELL student population: 76% of elementary school and 56% of secondary school ELLs are citizens, and over one-half of the ELLs in public secondary schools are second- or third-generation citizens. The stereotype of ELLs as foreign-born immigrants is, therefore, inaccurate; the majority are, in fact, long-term ELLs whose academic and linguistic needs are not being met by our public school system.

ELLs face the dual challenge of learning English while simultaneously gaining academic knowledge in an unfamiliar language. The 2001 reauthorization of ESEA adopted a sound approach to improving ELL student achievement by requiring *both* accountability for the content knowledge of the ELL subgroup and accountability for English language acquisition.

Significant implementation failures by federal and state agencies, however, have severely hindered the effectiveness of ESEA for ELLs. Specifically, states have not yet implemented valid and reliable content or language proficiency assessments for ELLs, and the U.S. Department of Education (the

Department) has not yet provided sufficient technical assistance or guidance to the states in the development of appropriate assessment policies and practices. Accordingly, encouraging progress on these dual fronts of assessment should be a priority for this ESEA reauthorization.

The Department, through their Blueprint for Reform (Blueprint), has provided information on what it proposes to do to continue their commitment of serving ELLs: provide formula funded grants and competitive grants for the development of innovative ELL programs. While MALDEF is in support of increasing funding for ELLs to include competitive grants, formula funding must also be increased. If formula funding remains at the same amount there will be a decrease in services to ELLs due to the increase in the ELL population that is occurring on an annual basis and does not show signs of slowing. In addition, MALDEF encourages Congress to consider the following recommendations and priorities when reauthorizing ESEA as they pertain to ELLs:

General

- Increase funding to provide the full range of programs needed to assist in ELL instruction including adequate funding (1) for teacher training programs, (2) to ensure quality instructional materials, (3) for program evaluation at the district and school level, (4) for specialized staffing, (5) for technical assistance, and (6) to support alignment of curriculum standards based on English Language Proficiency Standards for English as a Second Language for *all* core content areas, with a priority placed at the secondary level.
- Enhance assessment and instruction of ELLs by providing native language assessments in content areas.
- Require bilingual education or English as a second language (ESL) certification, through an accredited program for all teachers working directly with ELLs through bilingual, ESL, and other language proficiency programs and require additional training for teachers teaching the content areas to ELLs.
- Maintain a state's reading/language arts testing exemption at a one year exemption, but measure language and literacy per the year of instruction in the student's native language and by linguistically accommodated assessments that are tested for validity and reliability.
- Mandate that Local Education Agencies (LEAs) develop special education policies and procedures that are harmonized with language proficiency screening to ensure that ELLs are neither needlessly placed in special education when no disability is present nor underserved by the Individuals with Disability in Education Act when special education is warranted in the case of a special education, limited English proficient (SPED-LEP) student.
- Require tailored intervention by states and LEAs in districts or schools identified as low performing (in program improvement) partly due to the performance of ELLs, such as through teacher training, specialized staffing, technical assistance, and development/use of tailored assessments.

- Regulate the unnecessary clustering and segregation of ELL students away from their neighborhood schools, unless necessary due to the small number of ELL students found in an LEA.

Parental Engagement by Addressing Linguistic Diversity

- Improve communication with parents of ELLs through taking into account linguistic diversity by having states and school districts create a plan and a framework for adequate translation and interpretation services at the school and district level to meet the specific needs of the students and families in the community; and provide training and resources to schools and districts for translations and interpretation services.
- Use community interpreter models and expand the models to create linguistic accessibility.
- Build incentives to encourage staff to learn an additional language(s) and provide institutional support training such as culture competency that will assist school staff to prepare them to work with a diverse group of parents.
- Require schools to educate parents of ELLs about the programs available for students to learn English, the process to exit out of an ELL program, ways to monitor progress in learning the language, and an expected timeline of when the student should exit out.

Conclusion

The 2001 reauthorization of ESEA focused increased attention upon the academic and linguistic concerns of the Latino population, and especially ELLs. The poor academic achievement levels of Latinos and ELLs were generally a well-kept secret prior to the 2001 reauthorization; this, thankfully, is no longer the case. ESEA has increased the pressure at every level of our education system to improve results for underperforming students, and this is clearly a step in the right direction for student populations that have historically existed in the shadows of the U.S. public education system.

MALDEF looks forward to continuing to work with Congress to ensure the timely reauthorization of this critical civil rights legislation.

Founded in 1968, MALDEF is the nation's leading Latino legal civil rights organization. Often described as the "law firm of the Latino community," MALDEF promotes social change through advocacy, communications, community education, and litigation in the areas of education, employment, immigrant rights, and political access. For more information on MALDEF, please visit: www.maldef.org.