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# INSTITUTE FOR LANGUAGE AND EDUCATION POLICY

P.O. Box 5960

TAKOMA PARK, MD 20913

BILINGUALED@STARPOWER.NET

WWW.ELLADVOCATES.ORG

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December 15, 2008

President-Elect Barack Obama  
Washington, DC

Dear President-Elect Obama:

We are writing today on behalf of an overlooked and underserved group of children in our elementary and secondary schools. The nation's 5.1 million English language learners (ELLs) "represent the fastest-growing student population, expected to make up one of every four students by 2025," according to the U.S. Department of Education (2006). Yet, notwithstanding the prevailing rhetoric about holding schools accountable for the achievement of "all children," the unique needs of *these* children have all too often been ignored or treated as an afterthought by policymakers.

Neglect is evident at all levels: federal, state, and local. Far too little is being done to ensure that ELLs are provided an adequate share of school funding, appropriately trained teachers, valid assessments, and research-based programs to promote English acquisition and academic achievement.

Failure to address these needs has perpetuated a shameful, inequitable, *two-tier* system of public education. The Urban Institute (Cosentino de Cohen et al., 2005) reports that 70 percent of ELLs are now concentrated in majority-minority, under-resourced schools and in classrooms where teachers have considerably less experience and fewer credentials than those serving English-proficient students. A comprehensive "costing-out" study, released last month by the New York Immigration Coalition (2008), found that an adequate education for these students "requires an extra funding weight of approximately twice that of regular education students." The most generous state formulas for supporting ELL programs currently provide only half that amount; a majority provide far less.

As a result, ELLs have among the highest failure and dropout rates of American students. Data from the National Assessment of Educational Progress show they have made little or no appreciable gains under the No Child Left Behind Act of 2001. In fact, there are indications that the law's test-and-punish approach to accountability has done them more harm than good. NCLB has impoverished the educational experience of ELLs – as it has for other underachieving "subgroups" – by creating incentives to narrow the curriculum to the two tested subjects and to stress rote instruction in basic skills rather than foster critical or creative thinking.

The impact has been doubly damaging for ELLs, whose academic achievement is usually assessed in English, a language the children have yet to master. In most cases, native-language assessments are either unavailable, inappropriate (where children are taught only in English), or disapproved by federal officials as instruments to gauge “adequate yearly progress.” Thus, where ELLs are concerned, NCLB’s approach to accountability is especially problematic. Although no one seriously argues that standardized tests designed and normed for fluent English speakers are valid or reliable for students who are still struggling with English, such assessments are nevertheless used for high-stakes purposes: to identify and sanction schools for “failure.” Moreover, ELLs – defined by NCLB (Sec. 9101) as students likely to score below the “proficient level of achievement” because of language barriers – are still expected to attain the same proficiency levels as English-proficient children. These policies defy basic standards of fairness and, indeed, of rationality if our goal is to improve student achievement. Yet they have the force of law and thereby exert enormous pressure on schools. The perverse effects are well documented, from the demoralization of dedicated educators unable to achieve the impossible to the dismantling of native-language programs out of an urgency to prep for English-language tests.

Fortunately, the Elementary and Secondary Education Act (ESEA) is scheduled to be reauthorized by the 111th Congress. This legislation should offer both an opportunity to correct the abuses inflicted by NCLB and a vehicle for long-overdue changes that would promote greater equity and excellence in our education system. Here are a few proposals that we believe would benefit American students in general and ELLs in particular:

- **Stress school improvement and support, not blaming and shaming.** Some supporters of NCLB have argued that its test-based accountability system, combined with the threat of severe sanctions for failure by ELLs and other subgroups, has brought increased “attention” to such students. No doubt that is true. Unfortunately, this punishment-based approach has done little to enhance student learning, because it offers educators no guidance whatsoever on how to improve instruction. The enormous resources currently devoted to test development, test preparation, test administration, test scoring, test procedures, etc., could be better spent on *building schools’ capacity* to educate ELL students. State education agencies – especially if freed from administering a highly prescriptive accountability system – would be well situated to coordinate training and technical assistance for school districts, with additional funding provided under ESEA, Title III, state grants.
- **Invest in professional development.** Nearly 1.3 million – 43 percent – of U.S. teachers had ELLs in their classrooms in 2002; yet only 11 percent of them were certified in bilingual education and 18 percent in English as a second language. Over the previous five years, teachers who worked with three or more ELLs had averaged just four hours of inservice training in how to serve them (Zehler et al., 2003). In other words, expertise in second-language acquisition, multicultural awareness, and effective classroom practices are largely lacking among staff responsible for educating these students. Rectifying this situation would be perhaps the single most important step that policymakers could take to remedy ELLs’ educational neglect. Accordingly, we propose to eliminate the arbitrary cap on funding for the National

Professional Development Project under NCLB, Title III (which was cut by more than half from the FY 2001 level). To meet the needs of a rapidly growing population, at least 15 percent of Title III appropriations should be set aside for this purpose. In addition to funding preservice programs and scholarships for ELL teachers in training, the Project should restore fellowships for graduate study (as awarded under previous versions of ESEA) in the fields of bilingual education and English as a second language.

- **Encourage innovation and experimentation.** As formulated by Congress in 1968, the original purpose of the Bilingual Education Act was to help “develop and carry out new and imaginative elementary and secondary school programs” designed to meet the unique needs of ELLs. For more than 30 years, the law authorized a competitive grant program that enabled school districts to experiment with pedagogical approaches. The most successful of these models were popularized and adopted elsewhere, vastly increasing the knowledge base on effective practices. Unfortunately, when NCLB replaced the Bilingual Education Act with a system of formula grants – funds that are distributed more widely but much more thinly – the goals of innovation and dissemination were abandoned. School districts are now largely on their own in developing new programs or adapting existing models to their own students and communities; often they lack sufficient resources to do so. While it would be politically difficult to eliminate formula grants under ESEA, Title III, we propose to supplement them with an Academic Excellence Demonstration Project. It would set aside at least 15 percent of Title III appropriations to design, implement, and disseminate ELL program models, emphasizing such areas as math and science, bilingualism and biliteracy, dual language, newcomer schools, and secondary education. Grants would be awarded to local educational agencies, state education agencies, and institutions of higher education on a competitive basis, using a peer-review process to ensure quality control. We think this would be a highly cost-effective approach to building schools’ capacity to provide programs for ELLs that reflect the state of the art in scientific research and practitioner experience.
- **Ensure a range of program options.** Parents should continue to have a strong say in the assignment of their children to a variety of ELL program alternatives. Correctly, in our view, NCLB forbids the federal government from mandating any particular pedagogical approach. But parental choice is an empty slogan if only one option is offered – as often happens in states where politically motivated restrictions have been imposed on native-language instruction. Such “English only” mandates are misguided and inconsistent with what is known about best practices for teaching ELLs. Reviews of the research literature have consistently shown bilingual program models to be superior in promoting academic achievement *in English* (Rolstad, Mahoney & Glass, 2005; Francis, Leseaux & August, 2006; Slavin & Cheung, 2005). Conversely, research has shown no improvement in ELL achievement in states such as California and Arizona that have enacted English-only instruction laws (Parrish et al., 2006; Mahoney, MacSwan & Thompson, 2005; Wright & Pu, 2005). In our view, the best way to promote educational excellence for ELLs is to ensure that parents have meaningful choices and that educators are free to apply their professional judgment. We propose that, as a condition of receiving funding under ESEA, Title III, all school

districts be required to offer a range of research-based options for educating ELLs, including bilingual program models where practicable, without arbitrary time limits for student enrollment. They should also be encouraged to offer dual language programs, which enable both English-proficient and limited-English-proficient students to become bilingual and biliterate.

- **Revitalize and broaden the federal research agenda.** While the understanding of second-language acquisition has advanced substantially over the past generation, much remains to be learned. Under NCLB, the federal research agenda in education has emphasized assessment and initial literacy, virtually to the exclusion of other pedagogical issues affecting ELLs. We propose to revive the research grant program previously authorized under the Bilingual Education Act, with a special emphasis in such areas as second-language acquisition, program design, effective practices, heritage-language development, diverse student needs, dual language pedagogy, and field-initiated studies.
- **Require adequate, equitable funding for ELLs.** It's a sad commentary on the American education system that the students most in need of special help are usually those provided the least qualified teachers, the most segregated schools by race and class, the shoddiest facilities, and the smallest share of resources. And these shocking inequities occur in our *public* schools, to which all taxpayers contribute! While some states have tried to mitigate disparities between rich and poor districts, these "equalization" formulas leave many stakeholders unsatisfied – as indicated by the prevalence of litigation on school finance. Perhaps the most contentious issue here for ELLs involves incremental costs: what is the extra expense of educating these students? Rather than wait for such questions to be fought out in 50 state court systems, Congress should step in, commission the needed research, and set criteria for equitable funding by states and localities. The threat of withholding Title I funds would be powerful leverage to force states to honor their civil-rights obligations.
- **Guarantee equity and accuracy in testing.** Assessment serves a number of important functions in educating ELLs. These include: identifying students with limited English proficiency, placing them in appropriate programs, and determining when they are ready to be reassigned to mainstream classrooms; diagnosing student strengths and weaknesses in order to assist educators in improving instruction; evaluating alternative program models to compare their effectiveness; tracking long-term trends of student achievement in various contexts; and holding schools accountable for student performance. Unfortunately, NCLB has stressed only the last of these functions while ignoring the rest. This, in turn, has led to an undue emphasis on standardized achievement tests to enforce "reform" and a tendency for policy-makers to overlook their serious limitations. As noted above, because most of these tests are designed for proficient English speakers, they are neither valid nor reliable for ELLs – who, not surprisingly, tend to score poorly on tests they cannot understand (AERA, APA & NCME, 2000; Thompson, DiCerbo, Mahoney & MacSwan, 2002). Such assessments simply cannot measure what ELLs have learned and are unable to generate meaningful results by which to gauge "adequate yearly progress" under

NCLB, Title I. Nevertheless they are being used – indeed, mandated by the U.S. Department of Education – to make judgments and decisions about ELLs and their schools. If the aim is truly to reform (rather than, say, discredit) public education, how could anyone justify a reliance on inaccurate and inequitable assessments? We offer two proposals to address the situation: (1) prohibit the use for “high-stakes” purposes of any assessment not proven valid and reliable for the students involved, and (2) require that students who receive academic instruction in their native language be academically assessed in their native language, if at all possible.

- **Require appropriate language proficiency assessments.** NCLB’s requirement that states must assess ELLs’ English proficiency on an annual basis has brought some benefits. But it has also led to tests that are tied to school-based academic standards, blurring the important distinction between language proficiency and academic skills such as literacy. While both types of assessment are informative when considering reassignment of ELLs to the regular academic program, initial identification of students as limited-English-proficient requires an assessment of language as a separate construct, based on tests or other criteria that reflect a linguistically sound theory of language proficiency. Otherwise, over-identification of students as ELLs is likely to occur. In addition, many states and districts have long required or recommended assessments of ELLs’ oral proficiency in their native language. This practice is now known to generate inaccurate information (such as classifying ELLs as “non-non,” or not proficient in any language) and is potentially harmful to children (MacSwan & Rolstad, 2006; MacSwan & Mahoney, 2008). To ensure appropriate testing in this area, we offer two proposals: (1) prohibit states and districts from routinely using oral native-language assessments for ELLs, and (2) require that initial identification of ELLs be done using assessments developed according to a research-based theory of language proficiency.
- **Restore sanity to accountability.** There is no evidence that scores from a single battery of standardized tests can provide an accurate measure of school quality, or that 100 percent of American students can reach arbitrary “proficiency” targets in language arts and math by the year 2014. Yet these are the premises of NCLB’s accountability system. They become especially detached from reality when applied to ELLs, who are *by definition* unlikely to perform at proficient levels because of language barriers. (When ELLs become proficient in English language arts, they are no longer classed as ELLs. Removing high scorers from the subgroup naturally lowers average scores; so does the arrival of newcomers with limited English. This creates a “treadmill” effect in which the subgroup can never make much progress even if individuals do.) We propose to substitute a broader approach to accountability that would encompass multiple measures of student progress, including alternative, native-language, performance-based, and locally developed assessments. We would also expand the system to consider *inputs* as well as outputs – that is, the adequacy of resources, program designs, curriculum quality, teacher qualifications, appropriate materials, and so forth. We note that such an approach already exists: the *Castañeda*\* standard used as an enforcement tool by the U.S. Office for Civil Rights for more than 20 years. It would require a corps of state-level inspectors to visit districts,

observe classrooms, and identify problem areas – again, with an emphasis on school improvement and the use of sanctions as a last resort. We believe that such an approach would benefit not only ELLs but all students who are currently underachieving and underserved.

Thank you for considering our ideas. We look forward to working with your transition team on these issues and would be happy to provide further assistance. So please do not hesitate to contact us. And congratulations, Mr. Obama, on your historic victory.

Sincerely,

James Crawford, President  
Institute for Language and Education Policy  
Washington, DC

Jeff MacSwan, Associate Professor  
Arizona State University College of Education  
Tempe, AZ

*The Institute for Language and Education Policy is a nonprofit, 501(c)(3) organization founded in 2006 to promote research-based policies in serving English language learners. Our members include K-12 educators, researchers, teacher-trainers, parents, students, and other advocates in 37 states and several foreign countries.*

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\* This “three-prong test” comes from a federal appeals court decision in *Castañeda v. Pickard* (1981), involving a lawsuit against the school board of Raymondville, Texas. A “good faith” effort to serve ELL students was insufficient, the court ruled. Rather, a district’s program must meet certain objective standards. First, the pedagogy must be research-based – or at least be based on a theory with some expert support. Second, it must be provided sufficient resources and personnel to give the theory a chance to work. Third, it must be periodically evaluated and, if necessary, restructured to ensure that students are progressing.