NCLB and California’s English Language Learners: The Perfect Storm

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NCLB is not without its merits. It has brought much needed attention to the plight of English Learners and shone a spotlight on their serious underachievement. Others have noted this. But it has also has had some profoundly negative effects not just because of flawed policy—which I will comment on in a moment, but in the impact of what it either does not say or does not enforce.

What is less often mentioned is that NCLB actually holds language that can and should protect many EL students, if it were taken seriously and if there were actually an attempt to enforce these provisions. Note the language in Title I that says. . . . . “the inclusion of limited English proficient students, who shall be assessed in a valid and reliable manner and provided reasonable accommodations on assessments administered, and . . . .to the extent practicable assessments in the language and form most likely to yield accurate data on what students know and can do in academic content areas. . .

Title I requires that students should be tested in English for reading and language arts for “any student who has attended school in the United States (not including Puerto Rico) for 3 or more consecutive school years, except that if the local educational agency determines, on a case-by-case basis that academic assessments in another language or form would likely yield more accurate and reliable information on what such students knows and can do, the local educational agency may make a determination to assess such student in the appropriate language other than English for a period that does not exceed two additional consecutive years. . .” Notice that there is no mention in the law about testing students’ knowledge of math, science, or anything else in English. And some states have allowed students to test in these subjects in their primary language.

And yet, California assesses all of its EL students, whether they are in bilingual programs, have been educated in another language outside the country, or only speak a non-English language in English only and provides no systematic accommodations for these students. A recent survey of districts found that only 3% of students are actually provided with accommodations, and most accommodations provided to EL students are not of a kind that have been shown to have any particular impact on their ability to perform in a test they do not fully understand. NCLB provisions notwithstanding, California has been given the green light to continue this practice.

Ten school districts in California have banded together under the lead district, Coachella, to sue the state of California for failing to comply with the provisions of NCLB, even though the federal government does not enforce them. The case will be heard later this month in San Francisco Superior Court. The decision will have important
implications for the assessment of EL students not only in California, but beyond. The remedies that suit seeks are the use of primary language tests where appropriate and the use of accommodations, in particular, reduced linguistic complexity of the tests, for all EL students. Of course, other alternatives to current testing practice could and should be considered if the courts decide in Coachella et al’s favor.

Because California educates one-third of all the nation’s EL students, the stakes are high for this case. Many of the nation’s EL students would be directly affected, and many more could feel the effects indirectly, as other states and locales would no doubt use the ruling to bolster their own cases. If the provisions in NCLB allow us to re-examine what constitutes valid and reliable assessment, it will have provided a real service. On the other hand, NCLB has also created the conditions under which such testing has become so onerous.

To begin with, it is critical to note that NCLB was the instrument that finally killed the Bilingual Education Act and removed all references within the Department of Education to Bilingual Education. While this happened with little fanfare, and seemingly little immediate impact, in fact, the refusal to use the language of bilingualism sets a tone that is pervasive across the nation and reinforces what some would consider misguided policies in the Golden State.

As others have noted, California’s EL students have suffered from extraordinary narrowing of the curriculum as the challenge to get them to meet state standards in math and English language arts is so great, given their lack of English proficiency, that in many classrooms there is little time devoted to anything else.

We have seen in a recent survey of 5300 educators we conducted in the state that our teachers are not prepared to teach EL students, and even while NCLB requires that schools have “qualified” teachers, there is no mention in the law about the qualifications necessary to teach EL students. Our teachers say they don’t have the necessary skills, but there is little attention given to providing these skills for the 80% of California teachers who are now expected to have one or more EL students in their classes. Our data show that the typical teacher of EL students in California receives no more than 2 hours of professional development on how to teach EL students over a 3 year period, and that even this is of uneven quality. If EL students are going to be rapidly mainstreamed, as is happening under proposition 227, they must be placed with teachers who know how to address their needs.

The specific needs of secondary students – the fastest growing portion of the EL population – are ignored in allowing the state to use an exit exam developed for English speakers that bars many EL students from receiving a diploma even when they have taken and passed all classes required for graduation. While NCLB does not require the state to use an exit exam in high school, or to use one that is in English only. The fact that it permits it allows this practice to continue, much to the detriment of EL students. Studies are being conducted attempting to track the fates of those EL students caught in the exit test dilemma. Indications are that it exacerbates the already high drop out rate among secondary EL students.