

No Child Left Behind: A Failure for English Language Learners

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1. Five years after passage of the No Child Left Behind Act, it's clear that the law is failing English language learners (ELLs). While NCLB's system of "holding schools accountable" has brought increased "attention" to these students, the effects have been more harmful than beneficial. By relying on arbitrary achievement targets and invalid assessments, the law cannot make accurate determinations about school quality. Moreover, the high-stakes nature of its accountability system has had perverse effects that contradict everything we know about best practices for ELLs.
2. Though portrayed as a "civil rights" measure by some, NCLB has proven to be the exact opposite. Its one-size-fits-all approach ignores what is unique about ELLs, contradicting the basic principles established by the U.S. Supreme Court in *Lau v. Nichols* (1974). In practice, NCLB has resulted in a two-tier educational system, in which ELLs are taught a substandard curriculum that stresses basic skills in just two subjects while more privileged students receive a challenging, all-round education that encourages the critical thinking needed in college and professional careers.
3. NCLB's accountability framework depends on standardized test scores to make high-stakes decisions about schools. But valid and reliable assessments of academic achievement are not widely available for students whose English is limited. And it's unlikely they ever will be, considering the diversity of ELLs in levels of English proficiency.
 - No one even pretends that achievement tests designed and normed for English speakers are valid or reliable for ELLs. Simply put, when children don't understand the language of the test, they are unable to demonstrate what they have learned.
 - "Accommodations" (such as allowing extra time or using bilingual dictionaries) can raise ELL scores, but English-language tests with accommodations have not been proven valid or reliable in measuring what students know.
 - Native-language assessments are sometimes a solution, but only in a minority of cases. Currently, such tests are unavailable in most languages other than Spanish and are rarely aligned to state standards. Some are simply translations of English-language tests, which are neither valid nor reliable. Native-language assessments are also inappropriate for the majority of ELLs today who are being taught academic concepts and knowledge in all-English programs.

4. NCLB requires states to set targets for “adequate yearly progress” (AYP) that are the same for all students, regardless of the educational challenges they may face. This approach, which has no basis in research or practice, makes no sense for students in general and for ELLs in particular.
 - Students in the ELL “subgroup” are highly diverse in language and cultural background, socioeconomic status, amount of prior schooling, initial level of English, and other factors that determine how long it takes them to acquire English and transfer to mainstream classrooms.
 - As a result, there are wide variations in their academic progress. Research has shown that it can take from one to six years for ELLs to become proficient in oral English and four to nine years to become proficient in academic English.
 - Judging ELLs against arbitrary and unreasonable AYP standards only sets them and their schools up for failure. In effect, NCLB “holds schools accountable” for the demographic profile of their students – not for the quality of instruction.
5. The ELL subgroup, as currently conceived, is an inappropriate category for accountability purposes. By NCLB’s own definition, the subgroup is composed of students who have difficulties reaching the proficient level on state standards because of the language barrier. Sooner or later, all schools with an ELL subgroup are destined to be labeled failures and subjected to punitive sanctions. Here’s why:
 - The subgroup’s composition is constantly changing, creating a “treadmill effect” in which ELLs’ performance, on average, can never advance very far. As new students arrive speaking limited English, the effect is to pull down average scores. As students acquire English and leave the subgroup, again the effect is to pull down average scores.
 - Thus NCLB “holds schools accountable” for failing to achieve what is mathematically impossible – not for the quality of instruction.
6. The Bush administration has acknowledged some of these problems, but its regulations allowing schools some “flexibility” in ELL assessment rules and AYP calculations do not come close to solving them. To be specific:
 - Exempting newly arrived ELLs from language-arts assessments for 12 months has no scientific support, i.e., no research evidence to indicate that all-English assessments will be valid or reliable after that point.
 - Counting former ELLs for up to 2 years in calculating AYP is equally arbitrary and unscientific. At best, it will slightly postpone a school being labeled “needs improvement” on the basis of inaccurate information.
7. Despite NCLB’s emphasis on “scientifically based” instruction, the law’s flawed accountability system creates incentives for schools to abandon best practices as developed through research findings as well as practitioner experience. Instead, it has encouraged practices known to be harmful for ELLs. These include:

- dismantling bilingual education programs and otherwise limiting native-language instruction because of pressures to raise ELL scores on English-language tests;
 - narrowing the curriculum to language arts and math, the two subjects that count for AYP, at the expense of everything else in the school day;
 - emphasizing test preparation and other drills that stress remediation in low-level skills instead of the enrichment opportunities open to more privileged students;
 - replacing sound strategies for second-language acquisition with an inappropriate focus on English language arts instruction;
 - promoting a heavily phonics-based approach to win Reading First funding, even though it is neither supported by research nor tailored to ELLs' needs;
 - discouraging school administrators from enrolling ELLs at all, because they are seen as a downward drag on test scores that could lead to punitive sanctions;
 - demoralizing dedicated educators and, all too often, driving them from the profession by the unfairness and irrationality of NCLB's accountability system.
8. What's the alternative? Schools be held accountable for serving ELLs using a system that is accurate, equitable, flexible, and tailored to the unique needs of these students. It should also be based on long-established principles of ensuring equal educational opportunity, that is:
- An appropriate accountability system would consider "inputs" as well as "outputs" – not just test scores but also financial resources, ELL program designs, qualified teachers, appropriate materials, challenging curricula, state-of-the-art instructional methods, and so forth.
 - Such a system already exists. The *Castañeda v. Pickard* test, designed to determine whether school districts are meeting their obligations to ELLs, has been a cornerstone of federal civil-rights enforcement for more than 20 years. It provides that:
 - Programs for ELLs must be based on an educational theory recognized as sound by experts.
 - Resources personnel, and practices must be reasonably calculated to implement the program effectively.
 - Programs must be evaluated and restructured, if necessary, to ensure that language barriers are being overcome.
 - NCLB explicitly avoids requiring any particular instructional approach for ELLs. Thus it provides no guidance whatsoever about appropriate "inputs." *Castañeda* addresses this question – not through prescriptive requirements but through a set of criteria for decision-making. It could be effectively incorporated into a state-administered accountability framework that would offer districts flexibility while ensuring that ELLs receive the appropriate services they need and deserve.