

March 26, 2010

The Honorable George Miller
Chairman, House of Representatives Committee on Education and Labor
2181 Rayburn House Office Building
Washington, DC 20515

The Honorable John Kline
Ranking Member, House of Representatives Committee on Education and Labor
2181 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Miller and Ranking Member Kline:

On behalf of the National Council of La Raza (NCLR), the largest national Latino civil rights and advocacy organization in the United States, I thank you for extending the opportunity for us to share our recommendations for the reauthorization of the Elementary and Secondary Education Act (ESEA).

Increasing educational opportunities so that the education system prepares all students for college and careers is critical to improving the U.S. economy. A major element of improving ESEA is ensuring that it works for Latino students. Latinos represent a large and growing portion of the U.S. student population (20%) and, thus, the future of the American workforce. English language learners (ELLs) constitute 40% of the Latino student population, indelibly linking Latino student outcomes to ELL student achievement. As such, many of NCLR's recommendations for ESEA reauthorization focus on ensuring that ELLs are fully included in an authentic assessment and accountability system, served by teachers and school personnel that are prepared to meet their needs.

NCLR applauds your leadership in advancing education reform. I look forward to working with you as ESEA reauthorization moves forward in order to truly improve education for all students. Please do not hesitate to contact Josef Lukan, Policy Analyst, Education and Children's Policy Project, at (202) 776-1704 or jlukan@nclr.org with specific questions.

Sincerely,



Janet Murguía
President and CEO

cc: Members of the House of Representatives Committee on Education and Labor

Recommendations to the House of Representatives Committee on Education and
Labor

Reauthorization of the Elementary and Secondary Education Act as Amended by
the No Child Left Behind Act

National Council of La Raza (NCLR)
March 26, 2010

TITLE I RECOMMENDATIONS

Academic Assessments and Accommodations

- **Recommendation 1: Require the development and use of appropriate English language learner (ELL) assessments for two years after the renewed Elementary and Secondary Education Act (ESEA) is effective, with the use of appropriate interim measures for certain ELLs and with 25% withholding of funds for noncompliance.**

Rationale: Since implementation of the 1994 law, states have had the time to develop appropriate assessments. Over the past eight years, many states have made great progress toward complying with this aspect of the law and should be in a position to meet this requirement. States should be allowed to use interim measures for those ELLs at the lowest levels of English proficiency and use their progress in acquiring English as an interim accountability measure. This provides states with sufficient flexibility until they develop appropriate assessments. Principals, teachers, and students should not be asked to wait any longer for appropriate assessments.

- **Recommendation 2: Require states in which at least 25% percent of all ELL students share one language to offer native language assessments.**

Rationale: This provision is intended to provide local education agencies and schools with a significant number of ELLs from one language group with appropriate assessments for ELLs, in this case, a native language assessment. NCLR supports this provision because research has consistently shown that some standardized tests may not effectively assess the academic achievement of ELLs. The National Research Council found that some ELL test scores may be inaccurate if ELL students take tests in English, concluding that “when students are not proficient in the language of assessment (in this case, English), their scores on a test will not accurately reflect their knowledge of the subject being assessed (except for a test that measures only English proficiency).” NCLR also supports including a waiver for states in which there are less than 10,000 ELLs.

- **Recommendation 3: State plans should include the identification of any assessment accommodations that are offered to ELLs, including evidence of their effectiveness in yielding valid results for ELLs.**

Rationale: The most frequently used accommodations by states are not necessarily those that have been found to be the most effective in validly reducing the testing gap between ELLs and non-ELLs. In many states, the same accommodations are used in assessing both ELLs and students with disabilities, notwithstanding the differences in these populations. States should both ensure and demonstrate that the accommodations used for ELLs and students with disabilities are appropriate for each population.

- **Recommendation 4: State plans must describe how states will provide guidance to districts and schools regarding appropriate assessment accommodation practices.**

Rationale: Teachers and administrators do not currently receive adequate guidance and preparation in the administration of accommodations to ELLs and students with disabilities. In addition, some research indicates that accommodations are most effective when they have been integrated into daily classroom instruction, suggesting that training teachers in how to best incorporate such accommodations into their pedagogy is critical.

- **Recommendation 5: Require the inclusion in the state plan for professional development in the use of accommodations.**

Rationale: This provision ensures that teachers in states that use accommodations as part of their assessment system will be prepared to adjust their instruction accordingly and use accommodations appropriately.

- **Recommendation 6: Move toward an assessment and accountability system that weighs the English language proficiency and academic assessments for ELLs.**

Rationale: For accountability purposes, both the language proficiency assessment and academic assessments should be taken into consideration and weighed according to each student's level of language proficiency. For ELLs at the beginning levels of language proficiency, more weight should be given to language proficiency assessment results. As a learner becomes more proficient in English, gradually more weight can be given to the academic content assessment results. Currently, most states and districts do not have the data capacity to feasibly carry out this recommendation. Therefore, NCLR recommends that the Department provide the resources and technical assistance to states and districts to help develop their data systems, create a "Blue Ribbon Commission" made up of ELL assessment experts to provide further recommendations. States should be required to demonstrate the proper capacity to carry out the recommendation no more than two years after reauthorization of ESEA.

Accountability

- **Recommendation 1: Include former limited-English-proficient (LEP) students in the ELL category for three additional years.**

Rationale: This provision gives schools additional flexibility in allowing ELL students who have acquired English proficiency to be considered an ELL for an additional three years for accountability purposes. This increases the likelihood that students in the ELL category will meet accountability requirements and does not punish schools that are helping students acquire English.

- **Recommendation 2: Codify of the Department of Education’s regulation allowing a one-year exemption from the reading test on recently arrived ELLs.**

Rationale: This regulation represents commonsense policy. Schools should have one year to provide instruction and other academic supports for recently arrived ELLs to demonstrate whether or not their programming is effective. Any less time would be unfair to schools, and more time would place ELLs in jeopardy of falling through the cracks.

- **Recommendation 3: Require states and districts to set a consistent minimum subgroup size, or “n-size,” of 30 for all subgroups (e.g., economically disadvantaged, each racial/ethnic group, LEP students, students with disabilities) for accountability purposes.**

Rationale: Currently, some states have set distinct minimum subgroup sizes for certain groups of students instead of setting a consistent n-size for all subgroups. In particular, ELLs and students with disabilities, who are among the most vulnerable subgroups, are more likely to have a higher n-size than other subgroups. For example, Alaska and Minnesota use an n-size of 40 for ELLs and students with disabilities but an n-size of 20 for other subgroups. Other states that employ such disparate n-sizes include Missouri, New Jersey, Ohio, Oklahoma, South Carolina, Washington, and Wisconsin. Such practices allow for an alternative, less rigorous accountability system for such subgroups.

Graduation Rates

- **Recommendation 1: Codify the Department of Education’s regulation that requires all states to adopt a uniform four-year cohort graduation rate as a common formula, but rescind the regulation allowing schools to use a fifth-year cohort.**

Rationale: We strongly oppose allowing high schools to place students in a fifth-year cohort based on conditions beyond students’ control, including low academic achievement and limited English proficiency due to poor educational opportunities in elementary and middle schools. Simply put, the current regulation would allow high schools to place students in a fifth-year cohort because elementary and middle schools in the same school district or in

other school districts within the state have failed to adequately prepare these students for high school. We understand that certain students may need an extra year to graduate if they are recently arrived immigrant ELLs. However, all students who have been in public schools since kindergarten should be expected to graduate in four years. In addition, this would offer no protections for disproportionate placement of students from any subgroup in a fifth-year cohort and could provide an incentive for high schools to place minority and ELL students on a five-year track. While this may allow high schools to demonstrate that they have helped more students graduate, it is not the most effective strategy for increasing graduation rates. It would only serve to provide accountability relief for school districts that are not providing effective services in the grades preceding high school.

- **Recommendation 2: Codify the Department of Education’s regulation that requires states, districts, and schools to disaggregate graduation rates based on subgroup, including LEP status, for accountability.**

Rationale: In order to effectively monitor and reduce push-out and dropout rates, it is critical to calculate and include disaggregated graduation rates for accountability purposes. A successful high school should demonstrate progress in academic achievement as well as graduation rates. Tracking the graduation rates of Latinos and ELLs is especially significant given their disproportionately low graduation rates.

- **Recommendation 3: Codify the Department of Education’s regulation that requires states, districts, and schools to disaggregate graduation rates based on subgroup, including LEP status, for reporting purposes.**

Rationale: For reasons similar to those mentioned above, it is critical to publicly report disaggregated graduation rates for AYP purposes in order to effectively monitor and discourage push-outs and reduce rates. A successful high school should demonstrate progress in academic achievement as well as graduation rates. Tracking the graduation rates of Latinos and ELLs is especially significant given their disproportionately low graduation rates.

- **Recommendation 4: If ESEA reauthorization includes the use of growth models for accountability, all models must be applied to all students rather than to select subgroups and must lead to proficiency for all students.**

Rationale: Research shows that ELL students often make significant language development and English proficiency gains early on as they are exposed to reading instruction and the English language. However, there is little research on expected gains for ELLs in reading and math. Thus, we are not convinced that states have the technical expertise to set appropriate growth markers for ELL students. We would recommend approaching the use of growth models with caution and that Congress commission a study by the Government Accountability Office to examine the effectiveness of growth models.

- **Recommendation 5: If ESEA reauthorization includes the use of multiple measures of achievement to meeting accountability requirements, NCLR recommends that Congress commission a study by the Government Accountability Office (GAO) to examine the effectiveness of multiple measures.**

Rationale: We are deeply skeptical about the effectiveness of an accountability system that uses multiple measures, which may allow schools and local education agencies to be exempt from meeting accountability markers. The system could potentially complicate an already complex accountability system, confuse states and local education agencies as they implement it, and make it more difficult for parents and their communities to understand whether or not their local schools are closing achievement gaps. If multiple measures are included, we recommend that the GAO studies that system’s effectiveness. Specifically, we recommend that the study examines the particular measures used for ELLs, whether or not those measures are different from other students’, and changes in the number of schools identified as “in need of improvement.”

School Improvement

- **Recommendation 1: Require states to certify supplemental education services (SES) providers with demonstrable capacity in meeting the educational needs, including language acquisition needs, of ELLs. State Education Agencies (SEAs) must also ensure that appropriate SES providers operate in locations with high ELL populations.**

Rationale: Currently, most SES providers that are available to eligible students lack adequate capacity and expertise in serving ELLs. Particularly in districts and schools that serve a large ELL population, it is critical that SES providers have the capacity to serve a diverse population that includes ELLs.

- **Recommendation 2: Target SES only to low-income students in subgroups not meeting accountability requirements.**

Rationale: Title I dollars, which have traditionally been targeted to low-income students, currently support SES. To ensure that these scarce federal dollars continue to be targeted to low-income students, only such students should be eligible for SES. Additionally, SES should be targeted only to students who are in the subgroup that did not meet accountability requirements.

- **Recommendation 3: SES providers should be considered recipients of federal funds and abide by Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, ethnicity, and language status, among other categories.**

Rationale: Regulations released by the Department of Education state that SES providers would not be considered recipients of federal funds and therefore not be required to abide by Title VI of the Civil Rights Act of 1964. The effect is that few SES providers are held

accountable for serving subgroups of populations, such as ELLs. In order to ensure that every eligible student has the opportunity to receive SES, it is critical that states, which bear the responsibility of maintaining a list of providers, ensure that SES providers abide by Title VI of the Civil Rights Act.

- **Recommendation 4: Require SEAs and Local Education Agencies (LEAs) to conduct linguistically and culturally appropriate outreach, including partnering with community-based organizations (CBOs), to notify students and parents of student eligibility for SES and/or school choice.**

Rationale: Few parents are aware of the availability of SES. Parents of ELLs are particularly less likely to be sufficiently informed of such services. For example, a report by Advocates for Children found that letters informing New York City parents of SES are difficult to read and understand and outreach to parents varied from school to school. CBOs and other local partners can play a critical role in informing parents of ELLs.

Public Reporting and Parental Involvement

- **Recommendation 1: For the purpose of public reporting of student academic performance, the LEP category shall be disaggregated into the following:**

- 1) Students who have been identified as LEP for at least five years
- 2) LEP students who enter U.S. school system at ninth grade or above
- 3) Students who have exited the LEP category within the last two years
- 4) Recent arrivals who are ELLs and have been in the U.S. school system for less than 12 months

Rationale: The LEP category is diverse in its composition, and their academic achievement, as measured by state assessments, may vary as a result of the length of time in U.S. schools, as well as the grade in which the student first enrolled in a U.S. school. Moreover, recent federal regulations have allowed schools to include students who have been redesignated as fully English proficient within the last two years in the LEP category, further muddling the category. To ensure that parents can reliably evaluate the extent to which a school is effectively educating its ELLs, report card data should include disaggregated data of LEP students.

- **Recommendation 2: Provisions related to parental involvement and notification must comply with Title VI of the Civil Rights Act of 1964.**

Rationale: Schools and districts are required to provide information that will enable them to better participate in their children's education. This information is required to be sent to parents in a format and language the parents can understand. However, many schools and districts fail to fulfill this responsibility. Ensuring that all information complies with Title VI

of the Civil Rights Act of 1964 can help ensure that parents are receiving information in a format and language that is accessible.

Early Childhood Education

- **Recommendation 1: Promote the use of Title I funds for early learning programs by incentivizing states to provide full-day services to ensure that young children have access to programs that provide positive academic and social outcomes.**

Rationale: Although preschool is an allowable use of Title I funds, very few school districts utilize funds for this purpose. The Department should help states and districts develop outreach strategies targeting Latino, immigrant, ELL, and geographically isolated families to ensure equitable access to services. Furthermore, the use of Title I funds for early learning should provide for the establishment of a mixed-service delivery system (public/private, center-based, and home-based) that leverages the expertise of community-based organizations to provide and expand early childhood education (ECE) services, particularly those that are culturally and linguistically appropriate.

Family Literacy

- **Recommendation 1: Strengthen the William F. Goodling Even Start Family Literacy Program (Even Start) to ensure that ELL children and families have access to effective early childhood and adult education programs.**

Rationale: There is clear evidence that a child's academic success is directly linked to parental levels of education and income. Even Start serves the parents who are least prepared to take an active role in their children's education and gives them the skills they need to ensure that their children enter school ready to learn, helping Hispanic families across the country achieve the American Dream. Thousands of families have acquired literacy and job skills and have reached their educational goals through Even Start. ESEA reauthorization presents an opportunity to improve and expand the program to more vulnerable families.

TITLE II RECOMMENDATIONS

- **Recommendation 1: Provide supports at the SEA and LEA levels to recruit, retain, and reward excellent teachers and principals to work in high-need schools and shortage areas, including teachers working with ELLs.**

Rationale: The shortage of teachers adequately prepared to instruct the rapidly growing population of ELL students is undermining the education of ELLs, who make up 10% of the public school population. Teachers must be better prepared to meet the unique linguistic and academic needs of ELL students. Support must be provided to expand teacher preparation, program administration, research and evaluation, and curriculum development in the field of

language acquisition. In addition, we support policy rewarding teachers who make significant progress in student growth toward proficiency. If final ESEA language contains provisions allowing for a growth model, such provisions should allow states, districts, and schools to measure teacher effectiveness in helping students progress and reward exemplary teachers.

- **Recommendation 2: Increase the supply of teachers certified to provide instruction to ELLs, including those who teach science, technology, engineering, and mathematics (STEM), by providing financial support to encourage excellent teachers to enter the teaching profession.**

Rationale: Providing financial support to prospective teachers can help increase the pool of teachers and address shortage areas, such as math, science, special education, and English language acquisition.

- **Recommendation 3: Provide incentives to LEAs to develop career ladder programs targeted at developing the skills and qualifications of bilingual and English-as-a-second-language (ESL) educators.**

Rationale: The establishment of a career ladder can help prepare more teachers in effective instruction practices, including strategies in instructing ELLs, by building on the expertise of more experienced teachers. Concurrently, a career ladder can further elevate the teaching profession by allowing teachers to grow in their field as they assume more responsibility in supporting the professional development of other teachers.

Early Childhood Education

- **Recommendation 1: Ensure that early learning educators are trained to work with young ELL children and their families by promoting professional development, training, and technical assistance for ECE providers to meet the needs of Latino and ELL children.**

Rationale: The ECE workforce plays a pivotal role in the social and cognitive development of young children. The ability of the educator to build strong, trusting relationships with children and create a responsive learning environment in which children can thrive is one of the most important quality indicators of early learning programs. Through Title II of ESEA, the Department should also provide incentives to higher education programs to increase the pool of highly qualified bilingual teachers and personnel with expertise in working with Latinos and ELLs.

TITLE III RECOMMENDATIONS

NCLR recommends restructuring Title III by moving Annual Measurable Achievement Objective (AMAO) 3 out of Title III and maintain exclusively in Title I. Title III should provide support for professional development and technical assistance for teachers, administrators, and Title I accountability monitors related to effective ELL education. NCLR also supports the addition of a competitive grants component to improve English language learner education.

- **Recommendation 1: Move AMAO 3 from Title III to Title I.**

Rationale: The move to a state grants program was a significant policy shift. It is clear that states need more money and coordination with Title I to make the accountability system in Title III more effective. Specifically, in our conversations with Title III directors, we have learned that some school districts are not accepting Title III money to avoid the responsibilities under AMAOs required under Title III. Simply put, they would rather turn down the small Title III grant funding because it brings with it additional accountability. Furthermore, many districts have been inappropriately supplanting Title I funding with Title III funding rather than supplementing it as required under law.

- **Recommendation 2: Allow Title III to substantially fund professional development activities for teachers and administrators related to effective ELL education.**

Rationale: Even under the current structure of Title III, teachers of ELLs and administrators consistently complain of a lack of professional development support for those working with ELLs. This would also feed into a strategy to recruit and retain highly effective teachers in high-need areas.

- **Recommendation 3: Ensure that professionals in the Department implementing Title III programs include ELL experts in instruction and curriculum as well as ELL assessments, and require them to provide technical assistance to teachers, administrators, and accountability monitors in Title I.**

Rationale: It is not realistic for all Title I professionals to have robust expertise in ELL education. Therefore, Title III should serve as a source of technical assistance and work in coordination with teachers, administrators, and accountability monitors in Title I to ensure excellence in ELL student learning as well as demonstrate effective practices in ELL education, particularly with newly arrived ELLs and late-entrant ELLs.

- **Recommendation 4: Increase the authorization of appropriations to \$2 billion.**

Rationale: The ELL student population is large (ten percent) and growing—including in states that have seen more than 200% growth of this population in the past ten years. Thus, it is critical to ensure that federal funding increases to meet this demand. This recommendation would increase the amount of money spent per ELL student from the current \$90 per student

to approximately \$250 per student, supplementing state and local funds needed to adequately educate ELLs.

- **Recommendation 5: Develop competitive grants to SEAs for innovative programs to serve ELLs. Programs supported by competitive grants would be in addition to already existing English language acquisition programs in the states.**

Rationale: Adding a competitive grants element to ELL education programs may achieve the following goals:

- Ensure that teachers of ELLs have the supports and resources necessary to provide high-quality instruction
- Ensure that programs for ELLs are high quality and result in high academic achievement
- Ensure that special populations of ELLs (e.g., late-entrant ELLs) receive appropriate attention
- Improve state and district data management capacity
- Increase state investments in the education of ELLs
- Ensure that students are taught to high academic standards

In order to be eligible for funding, NCLR recommends that states must meet the following preconditions:

- A state shall provide evidence that it has complied with the “supplement, not supplant” provision currently in the law to fund services for ELL students.
- A state shall have a certification system for ESL or bilingual education teachers.
- English language development standards shall be aligned to state English language arts standards or the state shall have a plan for such alignment.
- A state’s English language proficiency test must be reviewed and approved by the U.S. Department of Education.
- A program of instruction shall meet the Castañeda test.
- A state shall allow for multiple instructional methods for ELLs (e.g., dual language instruction).
- A state shall have a comprehensive professional development plan for teachers of ELLs.

TITLE V RECOMMENDATIONS

- **Recommendation 1: Parent Information and Resource Centers (PIRCs) and Local Family Information Centers (LFICs) should be retained and improved for ELL students and their parents by allowing translation of supplementary education materials.**

Rationale: The law must clarify that PIRC should serve parents of ELLs and add the translation of materials to LEP parents as an allowable use of funds for the PIRC and LFICs.

- **Recommendation 2: Title V should include Immigrant Parent Integration and Support Programs to support immigrant parents of students in Title I schools. The Secretary shall make grants to, and enter into contracts and cooperative agreements with, local nonprofit organizations to enable the organizations to help ensure that immigrant parents of students in schools assisted under Title I, Part A have the training, information, and support they need to understand the United States public school system and participate effectively in helping their children meet challenging state standards.**

Rationale: This recommendation seeks to ensure that immigrant parents understand the U.S. school system, particularly their roles and responsibilities under ESEA.

TITLE VI RECOMMENDATIONS

- **Recommendation 1: Establish a separate funding stream for the development of content area assessments for ELLs, with priority given to states with the highest numbers and largest percentage growth of ELL students.**

Rationale: To ensure that schools are being held accountable based on valid performance data, increased development of content area assessments for ELLs is critical. Although assessment of ELLs has been required since the Improving America's Schools Act of 1994, few states have made progress in the development and availability of valid assessments for ELLs.