



Hon. John B. King, Jr.
Secretary
U.S. Department of Education
400 Maryland Avenue SW.
Washington, DC 20202

May 25, 2016

RE: ESSA Guidance on Title III

Dear Secretary King:

Thank you requesting input on areas of the law on which to provide non-regulatory guidance to assist states, districts and other grantees in understanding and implementing the new law. The National Council of La Raza (NCLR)—the nation’s largest Latino civil rights and advocacy organization—respectfully submits these comments in response to the April 26, 2016 bulletin on ESSA guidance. NCLR has an affiliate network of nearly 300 community based organizations across the country, half of which provide some type of educational service to students. We respectfully submit these comments to address areas of guidance for Title III: Language Instruction for English Learners, that stands to benefit the estimated 5 million English Learners (ELs) in the country.

Supplement not Supplant

States should be reminded that Title III funds (like most other federal education grant funds) must “supplement, not supplant” State and local educational funds that would have otherwise been expended for English learners and immigrant children and youth. Effective English language instruction programs must be provided to ELs under *Lau v. Nichols*, *Castaneda v. Pickard*, the Equal Educational Opportunities Act, and other federal, state, and local laws.

Dual Enrollment

The Every Student Succeeds Act (ESSA) allows states to use Title III dollars for early college high school or dual enrollment programs to help English Learners. States should be encouraged to prioritize enrollment of Late- Entrant English learners (ELs who arrived to the United States in 9th grade or later) to use this as an opportunity for additional English language services.

Standard Entrance and Exit Procedures

ESSA mandates all states adopt standardized entrance and exit procedures and that all students who may be English learners are assessed within 30 days of enrollment. NCLR recommends further specificity around the criteria used for the identifying and exiting ELs. The same criteria should be applied to students based on the procedures for identification- home language survey, screener, etc. as well as the exit procedures- English language proficiency test, teacher evaluation, etc. Having set criteria will ensure consistency with the intent of the law, to make it easier to serve ELs so that they receive the supports they need to be English proficient.

Furthermore, regulations and guidance should specify how English learners with a disability will be exited from EL services. These requirements should incorporate recommendations from the Individualized Education Program (IEP) for the student. Reclassification for ELs with disabilities should be done in consultation with the student's IEP team and not exclusively based on the state's exit criteria.

Reporting

ESSA adds new reporting requirements on the progress of English learners with disabilities as well as reporting on the number and percentage of ELs who have not attained English proficiency within five years of initial classification. The Department should encourage making this information available through better data bases so that EL advocates have timely information to better advocate for these students. Additionally, states should be required through regulations to disaggregate current and former ELs in Title 1 accountability reporting.

NCLR hopes that the Department's guidance represents a serious effort to improve the educational achievement of our nation's EL students through technical assistance, guidance as well as enforcement of ESSA. We applaud EDs efforts on behalf of EL and Latino children, but we recognize more must be done to ensure the success of these young children. We thank you for considering our comments and look forward to working with ED as you continue to implement Every Student Succeeds Act. If you have questions please feel free to reach out to Brenda Calderon, Policy Analyst at bcalderon@nclr.org.

Thank you,

A handwritten signature in black ink, appearing to read 'Eric Rodriguez', written in a cursive style.

Eric Rodriguez
Vice President
Office of Research, Advocacy and Legislation