

**Implementing the Every Student Succeeds Act:  
A Civil Rights Perspective**

Presented at

“ESSA Implementation: Perspectives from Education Stakeholders”

Submitted to

**U.S. Senate Committee on Health, Education, Labor and Pensions**

Submitted by

**Janet Murguía**  
**President and CEO**  
**National Council of La Raza**  
Raul Yzaguirre Building  
1126 16th Street, NW, Suite 600  
Washington, DC 20036-4845

May 18, 2016

## **Introduction**

Chairman Alexander, Ranking Member Murray, and distinguished members of the Committee, thank you for inviting me to appear this morning on behalf of the National Council of La Raza (NCLR), where for more than a decade I have served as the president and CEO. I thank you for your leadership to enact bipartisan, comprehensive education reforms and I appreciate the opportunity to provide expert testimony today on the implementation of landmark civil rights legislation, the newly reauthorized Elementary and Secondary Education Act. This law is a top priority for the nation's 55 million Latinos and its successful implementation is vital to the nation's future.

NCLR is the largest national Hispanic civil rights and advocacy organization in the United States, an American institution recognized in the book *Forces for Good* as one of the leading nonprofits in the nation. We have a network of more than 250 Affiliates—local, community-based organizations in 41 states and the District of Columbia that provide education, health, housing, workforce development, and other services to millions of Americans and immigrants annually.

Many of these Affiliates operate as charter schools, provide early education, or offer after-school programming or family literacy services. The programmatic efforts of our Affiliates helps to inform NCLR's national policy agenda.

As many of you know, NCLR was on the forefront of embracing standards-based education reforms and has a record of supporting policy grounded in student-based outcomes that will result in equality of opportunity for all children, regardless of circumstance. We applauded the passage of the Every Student Succeeds Act as a much-needed update to our federal education law, but recognize that passage was just the first step. It is critical that ESSA be implemented in a manner consistent with the original Elementary and Secondary Education Act to ensure its promise for all students.

My testimony today will focus on the importance of ESSA in closing the achievement gap for students of color, and the ways in which implementation can further this goal. I strongly believe that if implemented appropriately, ESSA has the opportunity to prepare a new generation of students, including English learners, for a changing and competitive U.S. workforce.

## **Closing the Achievement Gap**

Last year, American schools reached a significant demographic milestone: a majority of students in our classrooms were students of color. As schools across the country have become increasingly diverse, much of the shift can be attributed to the Latino students who account for 25% of our K–12 enrollments and represent the second-largest group of students in schools after White students. In 2013, Hispanic three- and four-year-olds alone made up nearly 40% of our current pre-K enrollment.<sup>1</sup> This fact has prompted the U.S. Department of Education to project that by 2024, Hispanic students will account for nearly one-third of total enrollments, from early childhood through grade 12.<sup>2</sup>

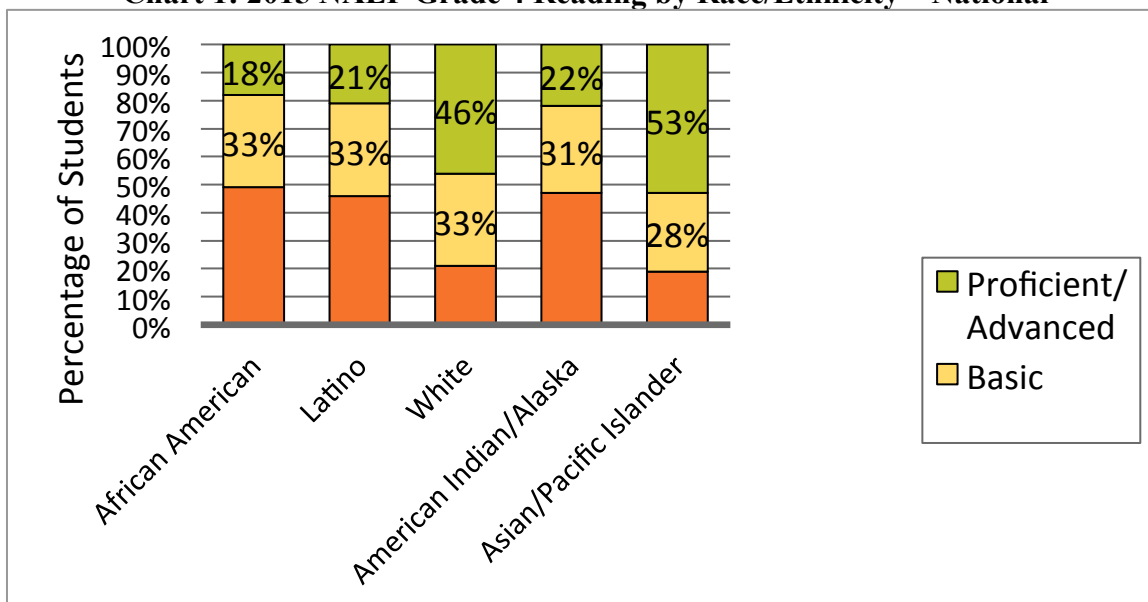
In addition to overall population growth, the Latino population is no longer concentrated in a few states. In 2012, every region in the United States experienced growth in the share of Latino students in schools.<sup>3</sup> In fact, according to a report from Pew Hispanic Center, in 2012, Hispanics made up more than 20% of kindergarten classes in 17 states. As a result, policymakers and other leaders in education must work to ensure that our educational system prepares all children, including the growing Latino population, for academic success.

As the number of Latino students has increased in recent years, the number of English learner (EL) students has also grown. Currently, there are nearly five million ELs enrolled in schools across the country.<sup>4</sup> Nearly 80% of EL students are from a Spanish-speaking background.<sup>5</sup> In the last decade, the EL population has increased by 7.1%,<sup>6</sup> predominately in states in the Midwest and Southeast that traditionally have not had significant EL populations.<sup>7</sup>

In part as a result of comparable standardized assessments and college- and career-oriented curricula, Latino students are now graduating from high school at higher rates than ever,<sup>8</sup> their high school dropout rate is the lowest it has ever been, and they are enrolling in postsecondary institutions in record numbers.<sup>9</sup> However, despite improvements in key areas, inequities in access and achievement between Latinos and their peers remain.

According to the 2015 National Assessment of Educational Progress (NAEP), nearly half of Latino fourth graders were reading at below basic levels compared to only 21% of Whites (Chart 1).<sup>10</sup> These disparities are even starker for Black students: only 18% of such students scored proficient in fourth-grade reading compared to 46% of Whites in the same year.<sup>11</sup> Scores for math show similar data in disparities among students of color and their White counterparts. Fewer than one-third of Black, Latino, and Native American students scored proficient in eighth-grade math,<sup>12</sup> a startling statistic given the increased demand for high-skilled jobs in our nation's workforce.

**Chart 1: 2015 NAEP Grade 4 Reading by Race/Ethnicity—National**



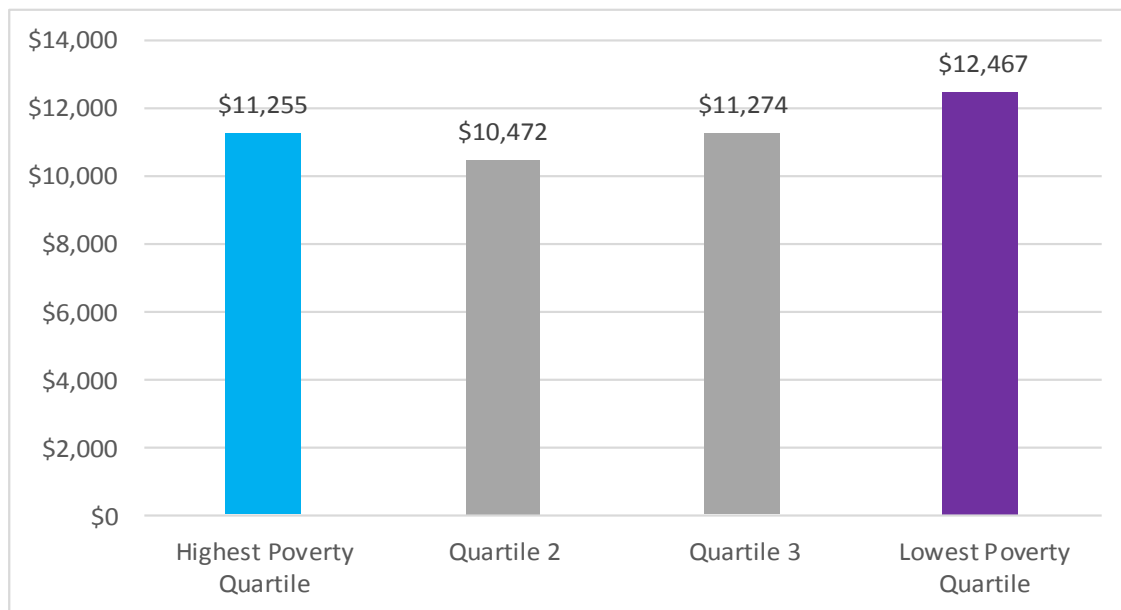
Source: National Center for Education Statistics, NAEP Data Explorer, <http://nces.ed.gov/nationsreportcard/nde/>

As diversity increasingly becomes a fact of our nation’s education system, it is important that policymakers at all levels of government assess current supports and services to ensure that the instructional needs of Latino students and their families are met. Schools must be prepared to teach a changing population of students, including more ELs. To address this reality, schools need financial resources to provide essential professional development for personnel and educational supports to create an inclusive environment that attends to the cultural and linguistic needs of Latino and EL students. Teachers, administrators, and others must have the tools necessary to help these students achieve college- or career-readiness.

### Addressing Resource Inequities

The Elementary and Secondary Education Act was enacted in 1965 to provide resources for our nation’s most vulnerable children—children living in poverty with few opportunities available. Consistent with this goal, it is imperative that federal funds are used to supplement state and local resources for those most in need. Yet, a recent analysis from the Education Trust found that students in high-poverty districts receive nearly 10% less in state and local funds per student than those in the lowest-poverty districts (Chart 2).<sup>13</sup> Students in districts most in need of supplemental funds are literally being short-changed.

**Chart 2: Average State and Local Revenues Per Student, by Poverty Quartile**



Source: Education Trust. 2015, Funding Gaps 2015, [http://edtrust.org/wpcontent/uploads/2014/09/FundingGaps2015\\_TheEducationTrust1.pdf](http://edtrust.org/wpcontent/uploads/2014/09/FundingGaps2015_TheEducationTrust1.pdf)

When the data is disaggregated by race, patterns emerge wherein school districts with high numbers of students of color receive less in local funding than districts serving few students of

color. Nationally, districts serving the most students of color receive roughly \$2,000 or 15% less in state and local funding per student than districts serving the fewest.<sup>14</sup>

As enacted, ESSA requires that federal funds, including funds for Titles I and III, *supplement* rather than *supplant* dedicated state and local funding. At its core, this provision is designed to provide eligible students in high-poverty districts with extra services, staff, or educational supports, including English language instruction, that would not otherwise be available to them.

However, there is a pattern of unequal access to educational resources for students of color and ELs:

- English learners represent 5% of high school students, but only 2% of Advanced Placement course enrollment.<sup>15</sup>
- Latino students represent 21% of high school enrollments, but only 12% of students enrolled in calculus.<sup>16</sup>
- Black and Latino students are 1.5 times more likely to be taught by novice teachers compared to schools with lower Black and Latino enrollments.<sup>17</sup>

Lack of access to rigorous coursework and effective teacher supports inhibit students from reaching their full potential. Unequal educational resources for students of color undermine the goals of our civil rights and K–12 law—to provide each student with a high-quality education regardless of race, ZIP code, or national origin.<sup>18, 19</sup>

### **Fulfilling ESSA’s Promise**

As a result of the leadership on this committee, Congress, and stakeholders in the civil rights community, ESSA includes landmark provisions for EL students. For the first time, states must include EL students in their accountability systems. Moving forward, advocates must solidify these hard-fought policy victories through extensive state-level engagement. State plans must include challenging goals for English language proficiency and find appropriate ways to include English language proficiency in school ratings systems. States must also report on ELs with disabilities and long-term ELs so parents and stakeholders can ensure these students receive needed supports. Additional resources authorized under the law should be appropriated to help improve outcomes for EL students. For too long, programs for EL students, especially in high-poverty districts, have not been adequately supported.

ESSA provides the federal government with appropriate authority to pursue an education agenda strongly rooted in distributional equity to improve the educational outcomes for children. For example:

- The law requires states to adopt high standards aligned with credit-bearing coursework at state systems of public higher education to ensure students are receiving a 21-st century education.
- States must annually assess students in reading and math in grades three through eight and once in high school and issue a science test at each grade span to ensure students are meeting challenging academic standards.

- Critically, the law requires targeted supports and interventions, including additional resources, for schools if a subgroup of students is consistently underperforming. This hard-fought victory for the civil rights and business communities ensures that all students, regardless of income-level or race or ethnicity, will have the opportunity for success.

The U.S. Department of Education has an obligation grounded in ESSA’s legislative intent to promulgate robust regulations related to accountability. Likely, without strong federal oversight, progress for students of color seen over the last decade will erode. While the law cedes significant discretion to states and districts in the design of their accountability plans, as a counter-measure it also mandates consultation with key stakeholders including the civil rights community, the business community, and community-based organizations, like NCLR Affiliates. For example, Conexión Américas, a Nashville-based Affiliate, has proactively engaged the Tennessee Department of Education on the state’s accountability and equity plans, making the case for needs of Latino and immigrant students. Other states and districts may benefit from this type of stakeholder input.

In addition, the U.S. Department of Education has ample authority to regulate elements of ESSA to promote the educational advancement of low-income students. Beyond resource-based rulemaking, the Department of Education should examine the following:

- Making systems work for low-income kids through strong accountability guidance.
- Providing timely interventions for students who are falling behind academically.
- Addressing resource inequities for students in high-poverty schools and ensuring that students who need additional supports, like English learners and students with disabilities, can reach their full potential.

As the department begins its regulatory process, the goal is always to ensure a thoughtful focus on educational equity and advancing the educational achievement for all kids, especially those in vulnerable situations.

## **Conclusion**

Despite clear gains, barriers remain for students of color in achieving academic success. NCLR believes that poverty and other barriers to economic mobility will never be eradicated unless children from communities of color are thriving in our classrooms. Composing more than 50% of today’s public school students,<sup>20</sup> students of color are a significant presence in the K–12 system. The success of our nation’s workforce is intrinsically tied to the academic success of these students. As a result, it is in our nation’s interest to ensure that all children have the opportunity to obtain an excellent education, irrespective of the neighborhoods in which they live, their parents’ education level, and their family’s income. Targeted federal intervention is necessary to set guardrails on state and district actions to achieve this. Our nation’s students deserve nothing less.

- 
- <sup>1</sup> U.S. Department of Education, “Digest of Education Statistics 2014,” Table 202.25, [http://nces.ed.gov/programs/digest/d14/tables/dt14\\_202.25.asp?current=yes](http://nces.ed.gov/programs/digest/d14/tables/dt14_202.25.asp?current=yes) (accessed May 15, 2016).
- <sup>2</sup> U.S. Department of Education, “Digest of Education Statistics 2013,” Table 203.60, [http://nces.ed.gov/programs/digest/d13/tables/dt13\\_203.60.asp](http://nces.ed.gov/programs/digest/d13/tables/dt13_203.60.asp) (accessed May 15, 2016).
- <sup>3</sup> U.S. Department of Education, “Digest of Education Statistics 2014,” Table 203.50, [http://nces.ed.gov/programs/digest/d14/tables/dt14\\_203.50.asp](http://nces.ed.gov/programs/digest/d14/tables/dt14_203.50.asp) (accessed May 15, 2016).
- <sup>4</sup> U.S. Department of Education, *The Biennial Report to Congress On the Implementation of the Title III State Formula Grant Program*. Washington, DC, 2012, [http://www.ncler.us/files/uploads/3/Biennial\\_Report\\_0810.pdf](http://www.ncler.us/files/uploads/3/Biennial_Report_0810.pdf) (accessed May 15, 2016).
- <sup>5</sup> Ibid.
- <sup>6</sup> Ibid.
- <sup>7</sup> NCLR calculation using U.S. Department of Education, “Digest of Education Statistics 2013,” Table 203.50, [http://nces.ed.gov/programs/digest/d13/tables/dt13\\_203.50.asp](http://nces.ed.gov/programs/digest/d13/tables/dt13_203.50.asp) (accessed May 15, 2016).
- <sup>8</sup> U.S. Department of Education, “Digest of Education Statistics 2013,” Table 219.70, [http://nces.ed.gov/programs/digest/d13/tables/dt13\\_219.70.asp](http://nces.ed.gov/programs/digest/d13/tables/dt13_219.70.asp) (accessed May 15, 2016).
- <sup>9</sup> U.S. Department of Education, “Digest of Education Statistics 2013,” Table 302.60, [http://nces.ed.gov/programs/digest/d13/tables/dt13\\_302.60.asp](http://nces.ed.gov/programs/digest/d13/tables/dt13_302.60.asp) (accessed May 15, 2016).
- <sup>10</sup> Daria Hall, “The Every Student Succeeds Act: Implications for State and Local Policymakers” (presentation, The Education Trust, Washington, DC, March 2016).
- <sup>11</sup> Ibid.
- <sup>12</sup> Ibid.
- <sup>13</sup> Natasha Ushomirsky and David Williams, “Funding Gaps 2015: Too Many States Still Spend Less on Educating Students Who Need the Most,” (Washington, DC, The Education Trust, 2015), [http://edtrust.org/wp-content/uploads/2014/09/FundingGaps2015\\_TheEducationTrust1.pdf](http://edtrust.org/wp-content/uploads/2014/09/FundingGaps2015_TheEducationTrust1.pdf)
- <sup>14</sup> Ibid.
- <sup>15</sup> Letter from Catherine E. Lhamon, Assistant Secretary for Civil Rights, U.S. Department of Education, Office for Civil Rights, “Dear Colleague Letter: Resource Comparability,” <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-resourcecomp-201410.pdf>.
- <sup>16</sup> Ibid.
- <sup>17</sup> Ibid.
- <sup>18</sup> *Every Student Succeeds Act*, Public Law 114-95, 114th Cong., 2nd sess. (December 10, 2015).
- <sup>19</sup> *Civil Rights Act of 1964*, Public Law 88-352, 78 Stat. 241 (July 7, 1964), Title VI.
- <sup>20</sup> Jens Manuel Krogstad and Richard Fry, “Dept. of Ed. projects public schools will be ‘majority-minority’ this fall,” *Pew Research Center*, August 18, 2014, <http://www.pewresearch.org/fact-tank/2014/08/18/u-s-public-schools-expected-to-be-majority-minority-starting-this-fall/> (accessed May 15, 2016).