

# POLICY BRIEF

## Limited English Proficient Students: Increased Accountability Under NCLB

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THE CIVIL RIGHTS PROJECT AT HARVARD UNIVERSITY

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### Introduction

On January 8, 2002, President George Bush signed the No Child Left Behind Act of 2001 (NCLB) into law and thus initiated “the most sweeping change in [federal] education policy in three decades” (Malico & Langan, 2003). NCLB requires schools, districts, and states to collect an unprecedented amount of data on the achievement of public school students in the U.S., a move praised by some for encouraging accountability at all levels and higher standards for all students. However, the law has also faced resistance from many policymakers and practitioners who find several of its mandates unrealistic. Some have argued that the law’s requirement that all students in grades three through eight achieve proficiency in reading and mathematics by 2013-2014 is unfair and in some cases impossible. For example, one group of students that might find it particularly difficult to achieve 100% proficiency at any point is the limited English proficient (LEP) subgroup.<sup>1</sup>

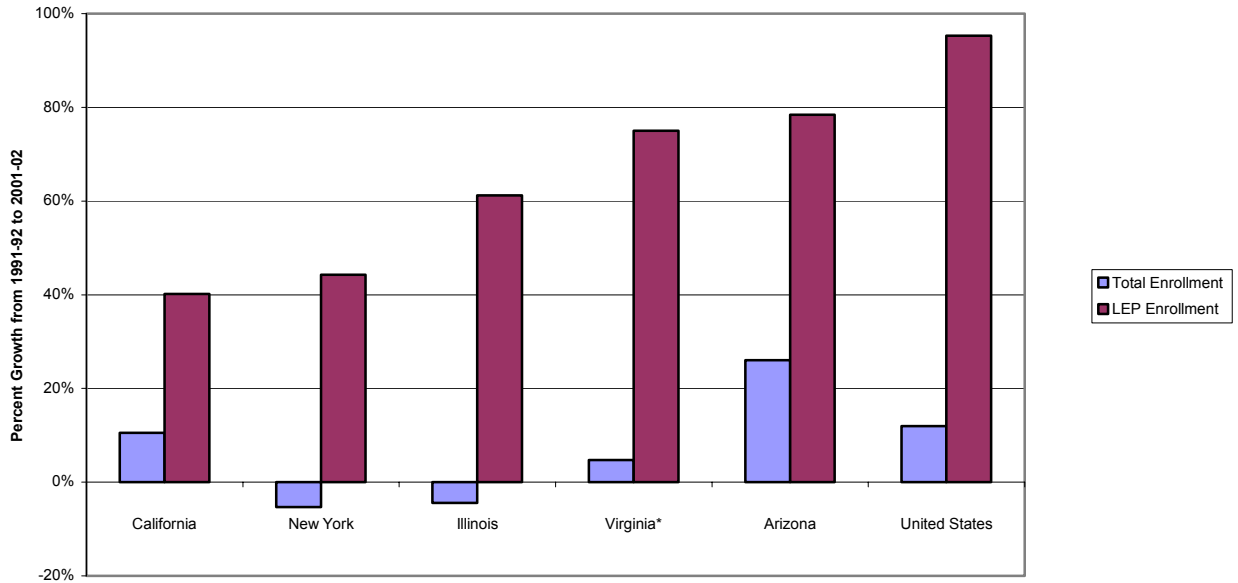
The LEP subgroup deserves special attention for two reasons. First, LEP students comprise one of the fastest growing subgroups in the country. As shown in Figure 1, the LEP student enrollment in U.S. schools increased by 95% from 1991 to 2001 while the total school enrollment grew by only 12% (Padolsky, 2002). Five geographically diverse states experienced 40-80% increases in their LEP populations between 1991 and 2001. Moreover, some states such as Georgia experienced LEP population increases of more than 650% during the same time period.<sup>2</sup>

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<sup>1</sup> Other terms commonly used to refer to this subgroup of students include English language learners (ELL) and English as a Second or Other Language (ESOL). Limited English proficient (LEP) is used in this brief to be consistent with the language of NCLB and other state and federal legislation. The NCLB subgroup categories include students from major racial and ethnic groups, economically disadvantaged students, students with disabilities, and limited English proficient (LEP) students.

<sup>2</sup> The five states shown in Figure 1, along with Georgia, are part of a larger study on NCLB conducted by The Civil Rights Project.

Figure 1: Growth in LEP Enrollment and in Total K-12 Enrollment in Selected States and U.S. Schools, 1991-92 to 2001-02.



\*Virginia, percentage growth from 1997-98 to 2001-02.  
 Source: Padolsky (2002). See Appendix 1 for additional data sources.

Second, these students are at a disadvantage compared to students in other subgroups because by definition they are considered to have limited proficiency in English, the language of nearly all standardized tests. Some researchers have argued that standardized tests designed for English-speaking students tend to reflect LEP students' language proficiency without accurately assessing their content knowledge (Menken, 2000). However, NCLB requires that LEP students' standardized test scores be used for accountability purposes regardless of language or accuracy problems. For this reason, schools with large numbers of LEP students will likely face great difficulty in achieving Adequate Yearly Progress (AYP) as it is currently defined under the law.

This policy brief provides information for practitioners and policymakers on how the NCLB requirements affect LEP students and their schools and explores some of the unintended consequences of the legislation. Although both Title I<sup>3</sup> and Title III<sup>4</sup> of NCLB apply to LEP students, this brief focuses on the accountability provisions outlined in Title I, which have generated the most controversy. The brief is divided into three sections. The first section summarizes the NCLB Title I accountability requirements that specifically affect LEP students. The next section answers commonly asked questions

<sup>3</sup> Title I includes information about the language and academic assessments required for LEP students. Related parental notification procedures are summarized in Appendix 2.

<sup>4</sup> Title III provides detailed information on LEP program grant allocations as well as new state accountability requirements for LEP students in the area of English language proficiency. See Appendices 3 and 4 for highlights of important aspects of Title III.

about the legislation and LEP students. A final section defines issues that need to be considered as the conversation about NCLB and LEP students continues.

### **NCLB Title I Accountability Requirements for LEP Students**

No Child Left Behind establishes district and school accountability for the academic performance of LEP students. States are required to include in their accountability plans a system for evaluating the academic performance of these students. The law includes provisions intended to guide state and local implementation of such a system. It specifically requires that states and local education agencies (LEAs)<sup>5</sup>:

- **Identify student languages.** States must identify the languages other than English present in their student population.
- **Develop appropriate academic assessments.** States must identify the languages for which yearly academic assessments are not available, and must work to develop appropriate linguistically accessible assessments for each language as needed. The U.S. Secretary of Education will assist in this process but will not mandate a specific academic assessment or mode of instruction.
- **Develop English proficiency assessment and use it to annually assess language skills of LEP students.** By the 2002-2003 school year, LEAs must provide an annual assessment of English proficiency that measures limited English proficient students' oral language, reading, and writing skills.
- **Include LEP students in academic assessments.** Reading and mathematics content assessments for all students in grades three through eight must include limited English proficient students. The assessments should be given "in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency." Students must also receive appropriate accommodations.
- **Administer reading content assessment in English to students who have been in U.S. schools for at least three years.** All LEP students who have attended school in the U.S. for three or more consecutive school years must take the reading content assessment in English. On a case-by-case basis, LEAs can determine whether assessing a student in another language or form "would likely yield more accurate and reliable information" about the academic abilities of that student, and if so can test the student in an alternative manner for up to two additional consecutive years.

In February 2004, the U.S. Department of Education announced two changes to the NCLB accountability requirements for LEP students. These changes were intended to provide increased flexibility to states and LEAs as they implement accountability plans and to address concerns regarding the effect of LEP subgroup instability on AYP determinations. The new requirements:

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<sup>5</sup>Source: No Child Left Behind Act of 2001 (2002), P.L. 107-110 *Section 1111(b)(6), 1111(b)(7), 1111(b)(3)(c)(ix)(III), and 1111(b)(3)(c)(x).*

- **Allow LEP students a one-year exemption from the reading content assessment.** States are now allowed to exempt LEP students from taking the reading content assessment during their first year of enrollment in U.S. schools; LEP students must still take the English language proficiency assessment as well as the mathematics assessment, with accommodations as appropriate. States have the flexibility to decide whether or not to include results from the mathematics assessments and the reading content assessments (if given) when calculating AYP. LEP students are included in the 95% participation requirement needed to achieve AYP.
- **Allow greater flexibility in LEP subgroup definition.** States are now allowed to include former LEP students in the LEP subgroup for AYP calculations up to two years after they have achieved English proficiency (U.S. Department of Education, 2004b).

## **Questions and Answers about NCLB and LEP students**

### ***1.) What are the general accountability requirements of Title I?***

NCLB requires that all children in grades three through eight take a state-determined standardized test in reading and mathematics each year. States are required to report results for different subgroups including all of the major racial and ethnic categories as well as students with disabilities, economically disadvantaged students, and limited English proficient students. Schools, districts, and states are evaluated on the percentage of their students who score at or above a state-determined proficiency level. Schools must increase the percentage of students achieving proficiency until 2014 when 100% of the students are required to be proficient. States set intermediate goals along the climb to 100% proficiency, called Annual Measurable Objectives (AMOs). A school that meets all of the AMOs<sup>6</sup> for a given year and tests at least 95% of the students in each subgroup is successful in making Adequate Yearly Progress (AYP) for that year.

### ***2.) What happens to a school that does not make AYP?***

A school in which one or more subgroups fail to make AYP is considered “in need of improvement” under NCLB. Schools that receive Title I funding face a variety of sanctions depending on how many years they fail to make AYP.

- A Title I school that has not made AYP for two consecutive years must develop an improvement plan and must offer students the option of transferring to another public school within the district that has made AYP. The law includes the possibility of transfers between districts.
- After three consecutive years of not making AYP, a Title I school must continue to offer public-school choice and also must offer low-income students access to state-approved supplemental educational services. The law defines supplemental educational services as tutoring provided outside the regular school day.

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<sup>6</sup> AMOs exist in other categories besides academic achievement (e.g., attendance rate and graduation rate).

- A Title I school that fails to make AYP for four years must continue with the provisions listed for year three; additionally, the district must take “corrective action,” which may include replacing some staff members at the school or requiring the implementation of a new curriculum.
- A Title I school that fails to make AYP for five consecutive years faces restructuring that could include the replacement of most or all of the staff members, a state takeover, or reopening the school as a charter school.

### **3.) How does the LEP subgroup fit into the Title I accountability requirements?**

- Any school that enrolls enough LEP students to constitute a subgroup<sup>7</sup> must calculate AYP separately for these students in both reading and mathematics. As with any other subgroup, if the LEP subgroup fails to meet the state’s proficiency goals in either reading or mathematics the entire school fails to make AYP.

### **4.) What are the potential benefits of NCLB for LEP students?**

NCLB has the potential to benefit LEP students because it brings added attention to the LEP subgroup, increases accountability for their performance, and provides additional resources for schools serving LEP students.

- Disaggregated data collection allows schools, districts, and states to assess the progress of their LEP students. If LEP students are performing poorly and their achievement results are made public, officials might take necessary steps to help them achieve at higher levels. For example, in 2003-04, a district in Arizona did not make AYP solely due to the poor performance of its fifth-grade LEP students. District officials have since stated that they will focus more resources on supporting their LEP students by offering a greater range of academic after-school and summer programs (Sparks, 2004).
- NCLB marks the first time that schools will be federally accountable for reporting LEP academic achievement. Because LEP students have typically been excluded from standardized tests in the past, some believe that the requirements of high-stakes policies such as NCLB might raise standards for their learning (Coltrane, 2002).
- NCLB may bring more resources to these students. For example, the federal government allocated \$681 million during fiscal year 2004 for programs to help LEP students learn English and improve their academic achievement (U.S. Department of Education, 2005).

### **5.) What are the challenges of NCLB for LEP students?**

NCLB poses a number of challenges for LEP students and the schools they attend. These challenges include the instability of the LEP subgroup, the failure of standardized test scores to accurately reflect what LEP students understand, and the lack of proven

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<sup>7</sup> Each state is allowed to determine the number of students required to form a subgroup for statistically reliable reporting purposes; most states set their subgroup sizes between 20 and 50 students. States have the option of setting a higher number for the LEP and students with disabilities subgroups than for other subgroups (U.S. Department of Education, 2004b).

accommodations that would make these scores more reliable. In addition, the law does not adequately address the resource inequities that exist between schools and across districts and it fails to acknowledge the heterogeneity of the LEP subgroup. Finally, the teacher quality and paraprofessional requirements may make it difficult to retain bilingual teachers and aides.

- *Instability of the LEP subgroup:* The instability of the LEP subgroup is a major challenge to the NCLB accountability requirements. Although NCLB allows schools and districts 12 years for all students to become proficient, this does not take into account the fact that the LEP subgroup population is not constant over that time period. Students who achieve English proficiency are generally moved out of the subgroup while new students who have very low levels of English proficiency are continually added to the subgroup. Schools with large numbers of LEP students are thus dealing with a moving target. This instability greatly diminishes the chances that such schools will steadily improve their AYP results for the LEP subgroup over the mandated 12-year period (Abedi, 2004).
- *Inconsistent LEP definitions across and within states:* Even though NCLB includes a definition of the LEP subgroup, states, and sometimes districts, use different criteria to classify LEP students. For example, North Carolina defines LEP students as only those students who receive direct LEP services (U.S. Department of Education, 2004a) whereas California includes students in the LEP category who no longer receive LEP services (Council of Chief State School Officers, 2003). These different definitions make it difficult to compare the progress of LEP students across states and affect the accuracy of AYP reporting for the LEP subgroup (Abedi, 2004).
- *Heterogeneity of the LEP subgroup:* The LEP subgroup is not a well-defined, homogeneous group of students. Researchers have found that LEP achievement test scores vary depending on family and cultural background characteristics (Abedi, Leon, & Mirocha, 2003). These cultural background characteristics and the English language proficiency of students vary widely across the country. The number of LEP students varies regionally as well; some areas of the country have large numbers of LEP students while other areas have relatively sparse LEP student populations. These differences among LEP groups make it difficult to meaningfully measure their achievement for accountability purposes. Yet under NCLB, all LEP students are categorized as one subgroup.
- *Measurement quality of tests for LEP students:* Standardized tests may not accurately reflect what LEP students know. Sterba (2004) writes that “schools with high numbers of students learning English have typically not been able to meet federal testing requirements” (p. 8). One reason is that standardized tests tend to reflect not only content knowledge but also language and cultural knowledge (Abedi, 2004). Questions might be unnecessarily linguistically complex or might assume cultural knowledge that is unfamiliar for newcomers to this country. Since standardized tests are constructed and normed for native English speakers, they have low reliability and validity when used with LEP students.
- *Appropriate testing accommodations:* There are few appropriate testing accommodations designed to specifically help LEP students. Many testing accommodations and modifications currently offered to LEP students are adapted from special education practices and are not appropriate for the unique needs of LEP

students (Coltrane, 2002). For example, extra time on a mathematics test may not help a child who is strong in content but too weak in academic English reading skills to interpret that content on a standardized test.

- *Resource inequities:* The law does little to address the resource inequities that exist between schools and districts, yet it requires all schools to meet the same achievement goals. Schools serving large numbers of LEP students often do not have adequate instructional materials for LEP students or enough properly trained teachers to serve these students.
- *Risk of loss of fluent bilingual teachers and native language-speaking aides:* The law requires all teachers to meet a technical definition of “highly qualified” and all aides to have the equivalent of a two-year degree. These requirements increase the risk that schools will lose valuable talent critical for relating to LEP students and communicating with non-English-speaking parents, qualities that are very important for success in these schools and communities.

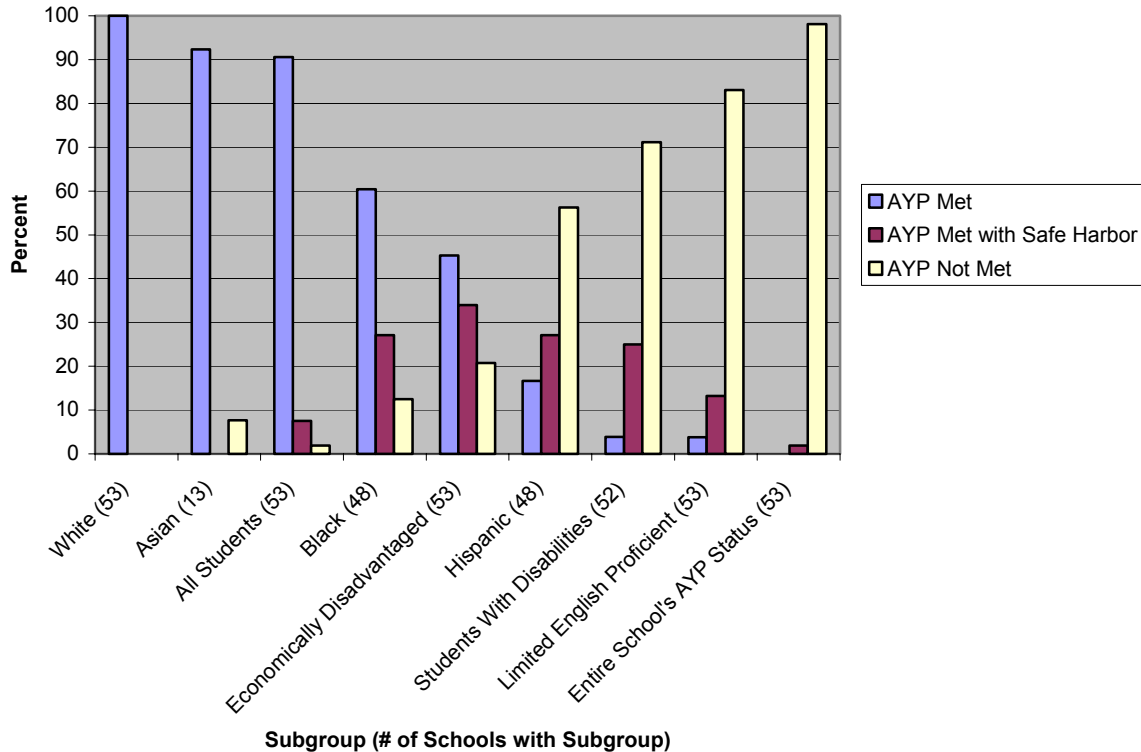
#### **6.) What are the unintended consequences of NCLB for schools serving LEP students?**

- *Larger yearly progress gains expected for some schools:* In 2002, each state had to define a baseline, or starting point for AYP that was based on student achievement scores on state reading and mathematics tests. Even though there is a common statewide baseline, schools began the climb towards the 100% proficiency goal at very different starting points. In general, schools with larger numbers of LEP students started with lower scores. Since all schools must reach the same yearly goals, the schools that began further behind will have to make larger yearly improvements than higher performing schools in order to make AYP.
- *Disparate impact of AYP:* A school with an LEP subgroup is very likely to be labeled as needing improvement. For example, Figure 2 shows the disaggregated AYP results for the 53 middle schools in North Carolina that reported an LEP subgroup for the 2002-03 school year. It shows that schools with an LEP subgroup were quite diverse; 45 out of 53 schools (85%) reported all six of these subgroups.<sup>8</sup> Most significantly, it shows that 98% of the schools reporting an LEP subgroup failed to make AYP. It also shows that the white and Asian subgroups were most likely to make AYP (100% of white subgroup and 92% of Asian subgroup made AYP) and the LEP subgroup was least likely to make AYP (83% did not make AYP).

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<sup>8</sup> Out of the 53 LEP schools, 53 also reported a white subgroup, 48 reported a black subgroup, 53 an economically disadvantaged subgroup, 48 a Hispanic subgroup, and 52 reported a students with disabilities subgroup.

Figure 2: Percentage of Schools Meeting Adequate Yearly Progress (AYP) Goals for Each Subgroup in 53 North Carolina Middle Schools Reporting a Limited English Proficient Subgroup, N=53, 2002-03.



Source: North Carolina Department of Public Instruction (2003a); calculations are our own. Data is based on 2002-03 North Carolina middle school End of Grade (EOG) reading test scores

Note: Under the "Safe Harbor" provision of NCLB, schools in which one or more subgroups fail to meet AYP performance goals can still make AYP if the subgroup not meeting the performance goals (1) shows a decrease of at least 10% in the number of non-proficient students, and (2) shows progress on another academic indicator (i.e., attendance or graduation rates).

- Subgroups are not mutually exclusive:* It is also important to remember that the NCLB subgroups are not mutually exclusive. That is, a student who belongs to the LEP subgroup could also belong to multiple other subgroups. For example, a low-income Asian student learning English would belong to at least three different subgroups and would contribute academic achievement scores to the AYP calculation for each subgroup (Kim & Sunderman, 2004). Thus, NCLB could unintentionally punish schools whose LEP populations overlap with several other subgroups; a failing score for an LEP student could be double or triple counted when calculating a school's AYP status.



**7.) What is the policy on “native language assessments” for LEP students and how have different states dealt with this policy?**

- NCLB allows states to assess LEP students in their native language for up to three years in reading. These “native language assessments” can be used to meet the NCLB accountability requirements.
- Some states have developed native language assessments. For instance, New York translated its Regents exams into Spanish, Haitian-Creole, Russian, Chinese and Korean for all subjects except English and language arts (U.S. Department of Education, 2004a).
- Most states, however, have not yet developed native language assessments. Some of these states do not have the capacity to create exams for all of the different languages present in their diverse LEP populations. Other states do not offer any native language instruction to their LEP students and have seen this as grounds to ask for a variety of exemptions. For instance, Arizona successfully petitioned the federal government for a waiver to exempt LEP students from the accountability provisions for three years. In their request, they argued that their statewide Structured English Immersion program needed time to help students attain a high enough level of English proficiency to succeed on the state’s English-only tests (Dodge, 2004).
- The majority of states lack native language assessments and do not have waivers. Schools in these states face what research has deemed a near-impossible task: ensuring that all LEP students become proficient in academic English within two years. Although LEP students often learn social English quickly, they usually require between five and seven years to learn the academic English that appears on standardized tests (August & Hakuta, 1997). Although NCLB tries to accommodate this extended timeline by allowing some native language testing, most states have not taken full advantage of this option.

**8.) In addition to native language assessments, what other types of alternative assessments are used to test LEP students?**

- Some states have developed alternative assessments in English to use with their LEP students. For example, Illinois designed a “plain language” version of its mathematics assessment that simplifies the language of the exam without altering the mathematical content (U.S. Department of Education, 2004a). The state also utilizes the Illinois Measure of Annual Growth in English (IMAGE), an alternative assessment that measures LEP students’ reading and writing progress. LEP students are allowed to take the IMAGE for up to five years if their scores on an English language proficiency test indicate that they might not understand the standard state reading test.
- Other states allow LEP students to use previously designed alternative assessments. For instance, North Carolina allows some LEP students to take the North Carolina Alternate Assessment Academic Inventory (NCAAAI), an assessment that was originally designed for students with disabilities (North Carolina Department of Public Instruction, 2003b). The NCAAAI uses checklists and portfolios to determine LEP

students' academic progress; students must be tested on grade level and their scores on this alternative assessment are reported for NCLB accountability purposes.

- Most states currently do not offer alternative assessments for LEP students due to the high cost of developing them and a lack of technical capacity. Many states are struggling simply to implement standard reading and mathematics content assessments in grades three through eight. More than a dozen states currently assess students in reading and mathematics in only three or four grades (Education Commission of the States, 2003). Most of these states plan to test all students in grades three through eight by 2005-2006.

**9.) What types of accommodations are LEP students allowed to use for standard assessments?**

- States are authorized to determine the types of accommodations that are appropriate for their LEP students (U.S. Department of Education, 2004a). Common accommodations allow LEP students to use bilingual dictionaries or to receive extra time on standard reading and mathematics content assessments.<sup>9</sup>
- Researchers have grouped LEP accommodations into two categories: modifications of the test procedure and modifications of the test (Butler & Stevens, 1997). Virginia uses both modification types and refers to them as standard and nonstandard accommodations (Virginia Department of Education, n.d.). Standard accommodations may change the timing, setting or presentation of the test without significantly changing what the test measures; examples include allowing multiple test sessions, assigning preferential seating, and reading directions aloud in English. Nonstandard accommodations significantly change what a test measures; examples include reading test items aloud in English on the state reading test and allowing bilingual dictionaries.

**10.) How can Title III grant money be used to help states and districts meet the NCLB requirements for LEP students?**

Title III grant money can be used in a variety of ways to help states and districts meet the requirements for LEP students. For example, the money can be used to develop assessments appropriate for LEP students, reach out to parents, fund innovative programming, and support professional development opportunities. However, as mentioned before, even states and districts with increased resources may find it very difficult to meet AYP for their LEP subgroups due to the unstable nature of the group and the unreliability of current assessment techniques.

**11.) How do the new NCLB requirements for paraprofessionals affect LEP students?**

- NCLB (Section 1119(c)) requires paraprofessionals<sup>10</sup> in Title I schools to have a high school diploma or its equivalent and to meet one of the following criteria:

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<sup>9</sup> See Abedi (2001) for a comprehensive analysis of LEP accommodation issues for large-scale assessments.

<sup>10</sup> Paraprofessionals are also known as teacher aides, instructional aides, or paraeducators.

- Complete at least two years of study at an institution of higher education
- Obtain an associate's (or higher) degree
- Demonstrate, through a formal state or local academic assessment
  - knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or
  - knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate
- Paraprofessionals play multiple roles in schools with large numbers of LEP students. They not only assist with instruction but also serve as community liaisons and often provide students with cultural and linguistic support. Advocates worry that the NCLB requirements may inadvertently hurt LEP students if paraprofessionals are unable to meet the requirements, lose their positions, and cannot be replaced (Thao, 2003).

**12.) How can I find out how LEP students are doing in my school, district, or state?**

NCLB makes it optional for states to include information about LEP academic progress on their school accountability report cards (Section 1111(h)(1)(D)(iii)). Many states, including Illinois and Virginia, do report this information for each school; however, some states, such as Arizona, do not. You can always try contacting your school, district office, or state department of education to find out specific information about the performance of LEP students in your area.

### **Questions to Consider**

Clearly, NCLB has increased accountability for LEP students and their schools. Unfortunately, the law has unintended consequences that could label a school as needing improvement simply for enrolling a large LEP population. Researchers, policymakers, and practitioners all want LEP students to become proficient in English and to master academic content. However, limited research exists on how to appropriately and fairly include LEP students in accountability systems. Nevertheless, many states test LEP students using existing systems that are principally designed for English speakers. Until this research-policy schism is bridged, LEP students' achievement test scores should not be used to deliver high-stakes sanctions but rather to make diagnostic decisions about how to better support these students.

The following questions are important to consider as the conversation about NCLB and LEP students continues:

- What types of alternative or modified assessments are needed to help LEP students better demonstrate their content knowledge?
- How can the federal government help states develop native language and alternative assessments?
- What are the most appropriate accommodations for LEP students taking traditional standardized tests? How do these accommodations meet the unique needs of LEP students?
- Is the federal NCLB appropriation adequate to support states, districts, and schools in meeting the existing federal requirements for LEP students?

- How should policymakers adjust NCLB requirements to avoid punishing schools for simply enrolling LEP students?
- Regardless of policy decisions, how should schools, districts, and states be held accountable for helping their LEP students make progress in both English language proficiency and academic content knowledge?

## References

- Abedi, J. (2004). The No Child Left Behind Act and English language learners: Assessment and accountability issues. *Educational Researcher*, 33(1), p. 4-14.
- Abedi, J. (2001). *Assessment and accommodations for English language learners: Issues and recommendations*. Retrieved June 14, 2004, from National Center for Research on Evaluation, Standards, and Student Testing Web site: <http://cresst.org/products/newsletters/polbrf4web.pdf>
- Abedi, J., Leon, S., & Mirocha, J. (2003). *Impact of students' language background on content-based assessment: Analyses of extant data* (CSE Tech. Rep. No. 603). Los Angeles: University of California, National Center for Research on Evaluation, Standards, and Student Testing.
- August, D. and Hakuta, K. (Eds.). (1997). *Improving Schooling for Language Minority Children: A Research Agenda*. Washington, DC: National Academy Press.
- Butler, F. A., & Stevens, R. (1997). *Accommodation strategies for English language learners on large-scale assessments: Student characteristics and other considerations*. Los Angeles: University of California, National Center for Research on Evaluation, Standards, and Student Testing.
- Coltrane, B. (2002, November). *English language learners and high-stakes tests: An overview of the issues*. *ERIC Digest*. Retrieved May 13, 2004, from Center for Applied Linguistics Web site: <http://www.cal.org/ericcl/DIGEST>
- Council of Chief State School Officers. (2003, August 7). *State plan summaries*. Retrieved March 4, 2004, from Council of Chief State School Officers Web site: <http://www.ccsso.org/content/pdfs/StatePlanSummaries.pdf>
- Dodge, R. (2004, February 20). *Feds tweak No Child Left Behind rules to aid schools*. Retrieved May 18, 2004, from Arizona Central Web site: <http://www.azcentral.com/families/education/articles/0220education20.html#>
- Education Commission of the States. (2003). *No Child Left Behind database*. Retrieved February , 2005, from Education Commission of the States Web site: [http://nclb.ecs.org/nclb/rpt\\_details.asp?survey=446](http://nclb.ecs.org/nclb/rpt_details.asp?survey=446)
- Kim, J. & Sunderman, G. L. (2004). *Large Mandates and Limited Resources: State Responses to the No Child Left Behind Act and Implications for Accountability*. Cambridge, MA: The Civil Rights Project at Harvard University.
- Malico, M., & Langan, D. (2003, July 9). *Paige focuses on reading during No Child Left Behind tour across America*. Retrieved November 11, 2003, from Department of Education Web site: <http://www.ed.gov/news/pressreleases/2002/07/07092002b.html>
- Menken, K. (2000, September). *What are the critical issues in wide-scale assessment of English language learners?* Retrieved May 30, 2004, from National Clearinghouse for English Language Acquisition & Language Instruction Educational Programs Web site: <http://www.ncela.gwu.edu/pubs/issuebriefs/ib6.htm>

- Mosteller, F. (1995, Summer/Fall). The Tennessee study of class size in the early grades. [Electronic version] *The Future of Children*, 5(2), 369-378.
- No Child Left Behind Act of 2001 (2002). P.L. 107-110. Retrieved November 11, 2003, from <http://www.ed.gov/policy/elsec/leg/esea02/107-110.pdf>
- North Carolina Department of Public Instruction (2003a). *Adequate Yearly Progress (AYP) reports for 2002 – 2003*. Retrieved September 30, 2003, from North Carolina Department of Public Instruction Web site: <http://ayp.ncpublicschools.org/>
- North Carolina Department of Public Instruction (2003b). *Frequently Asked Questions (FAQ): Using the North Carolina Alternate Assessment Academic Inventory (NCAAAI) for students identified as Limited English Proficient (LEP)*. Retrieved December 14, 2003, from North Carolina Department of Public Instruction Web site: [http://www.learnnc.org/DPI/instserv.nsf/0/6cf425a6f68a6bdf85256d96006abe6c/\\$FILE/\\_385qmechg60pi0k9684g4sgq1850ki82c8l80\\_.doc](http://www.learnnc.org/DPI/instserv.nsf/0/6cf425a6f68a6bdf85256d96006abe6c/$FILE/_385qmechg60pi0k9684g4sgq1850ki82c8l80_.doc)
- Padolsky, D. (2002). *How has the limited English proficient student population changed in recent years?* Retrieved May 30, 2004, from National Clearinghouse for English Language Acquisition & Language Instruction Educational Programs Web site: <http://www.ncela.gwu.edu/expert/faq/08leps.htm>
- Sparks, C. (2004, February 26). *Amphi moves to aid non-English speakers*. Retrieved April 15, 2004, from Arizona Daily Star Web site: <http://www.azstarnet.com/dailystar/printDS/11399.php>
- Sterba, J. (2004, February 20). *Limited-English school deadline may gain a year*. Retrieved May 15, 2004, from Arizona Daily Star Web site: <http://www.dailystar.com/dailystar/relatedarticles/10740.php>
- Thao, B. (2003, June 17). *Reality check - How Hmong American students are doing in K-12 education*. Retrieved April 8, 2004, from Hmong National Development, Inc. Web site: <http://www.hndlink.org/Education.6.17.03%20testimony.htm>
- U. S. Department of Education. (n.d.). *Outline of programs and selected changes in the No Child Left Behind Act of 2001*. Retrieved March 11, 2004, from Department of Education Web site: [http://www.ed.gov/nclb/overview/intro/progsum/sum\\_pg8.html](http://www.ed.gov/nclb/overview/intro/progsum/sum_pg8.html)
- U. S. Department of Education. (2004a, January 14). *Charting the Course: States Decide Major Provisions Under No Child Left Behind*. Retrieved May 27, 2004, from U.S. Department of Education Web site: <http://www.ed.gov/news/pressreleases/2004/01/01142004.html?exp=7>
- U. S. Department of Education. (2004b). *Fact sheet: NCLB provisions ensure flexibility and accountability for Limited English Proficient students*. Retrieved March 4, 2004, from U.S. Department of Education Web site: <http://www.ed.gov/print/nclb/accountability/schools/factsheet-english.html>

U. S. Department of Education. (2005). *Language acquisition state grants*. Retrieved February 24, 2005 from [www.ed.gov/about/overview/budget/state/tables/06stbyprogram.pdf](http://www.ed.gov/about/overview/budget/state/tables/06stbyprogram.pdf)

Virginia Department of Education. (n.d.). *Limited English Proficient students: Guidelines for participating in the Standards of Learning assessments*. Retrieved June 14, 2004, from Virginia Department of Education Web site: <http://www.pen.k12.va.us/VDOE/Assessment/LEPsol.html>

**Appendix 1: Relative Growth in Total Enrollment and LEP Enrollment  
1991-92 to 2001-02.**

<b>State</b>	<b>Total Enrollment Growth</b>	<b>LEP Enrollment Growth</b>
Arizona (Source)	26.0% <a href="http://www.ncela.gwu.edu/policy/states/reports/statedata/2001/pdffiles/Arizona-Comp.pdf">http://www.ncela.gwu.edu/policy/states/reports/statedata/2001/pdffiles/Arizona-Comp.pdf</a>	78.4%
California (Source)	10.5% <a href="http://www.ncela.gwu.edu/policy/states/reports/statedata/2001/pdffiles/California-Comp.pdf">http://www.ncela.gwu.edu/policy/states/reports/statedata/2001/pdffiles/California-Comp.pdf</a>	40.2%
Georgia (Source)	17.7% <a href="http://www.ncela.gwu.edu/policy/states/reports/statedata/2001/pdffiles/Georgia-Comp.pdf">http://www.ncela.gwu.edu/policy/states/reports/statedata/2001/pdffiles/Georgia-Comp.pdf</a>	670.7%
Illinois (Source)	-4.4% <a href="http://www.ncela.gwu.edu/policy/states/reports/statedata/2001/pdffiles/Illinois-Comp.pdf">http://www.ncela.gwu.edu/policy/states/reports/statedata/2001/pdffiles/Illinois-Comp.pdf</a>	61.2%
New York (Source)	-5.3% <a href="http://www.ncela.gwu.edu/policy/states/reports/statedata/2001/pdffiles/NewYork-Comp.pdf">http://www.ncela.gwu.edu/policy/states/reports/statedata/2001/pdffiles/NewYork-Comp.pdf</a>	44.3%
Virginia* (Source)	4.7% <a href="http://www.ncela.gwu.edu/policy/states/reports/statedata/2001/pdffiles/Virginia-Comp.pdf">http://www.ncela.gwu.edu/policy/states/reports/statedata/2001/pdffiles/Virginia-Comp.pdf</a>	75.0%

\*Virginia percent growth from 1997-98 to 2001-02.

Note: All source documents were updated October 2002 and were accessed May 28, 2004, from the National Clearinghouse for English Language Acquisition & Language Instruction Educational Programs Web site: <http://www.ncela.gwu.edu>.



## Appendix 2: Title I: Parental Notification Procedures

- **Notify parents of details regarding language instruction educational program for LEP students.** LEAs must notify parents of an LEP student within 30 days of the beginning of the school year that their child is participating in a language instruction educational program. LEAs must include the following information:
  - the reason the child has been identified as an LEP student
  - the child's level of English proficiency and how this level was assessed
  - the status of the child's academic achievement
  - the available methods of instruction for the child
  - how the program in which the child is participating meets the educational strengths and needs of the child
  - how the program will help the child learn English as well as meet academic and graduation standards
  - the requirements to exit the program and how long students typically take to transition into a mainstream classroom
  - how the program will meet the needs of a child who has a disability
  - written guidance of specific parental rights such as the ability to remove the child from a program upon request, to decline to enroll the child in a program, or to opt for another available program or instructional method
  - written guidance assisting parents in choosing among available program options
  
- **Notify parents if school fails to meet AMOs.** Parents of LEP students must also be notified if their child's school has failed to make progress on the annual measurable objectives described in Title III, Section 3122.
  
- **Ensure that parents are notified in an understandable format.** Parental notifications "shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand."
  
- **Notify parents of LEP students identified during the school year.** Parents of students who have not been identified as LEP at the beginning of the school year must be notified within two weeks of their child being placed in a language instruction educational program.

Source: No Child Left Behind Act of 2001 (2002). P.L. 107-110 *Sections 1112(g)(1)(A)(i-viii), 1112(g)(1)(B), 1112(g)(2), and 1112(g)(3).*

### Appendix 3: Title III: LEP Program Grant Allocations

- **Federal-to-state grants based on shares of LEP students and recent immigrant students.** Grants supporting LEP programs are formula-funded under NCLB. The formula allocations are based on a state's share of LEP students (80%) and recent immigrant students (20%).
- **State-to-local subgrants based on share of LEP students and increase in share of immigrant students:** States issue subgrants to Local Education Agencies (LEAs) based on their share of LEP students. States may set aside up to 15% of their Title III funds for LEAs that need extra assistance due to their inexperience with serving immigrant students or large increases in their share or number of immigrant students.

Source: No Child Left Behind Act of 2001 (2002). P.L. 107-110 *Sections 3111(c)(3)(A)(i-ii), 3114(a), and 3114(d)*.

#### **Appendix 4: Title III English Language Proficiency Accountability Requirements**

- **Develop annual language achievement objectives aligned with state content standards.** States must establish annual achievement objectives for LEP students that measure gains in English proficiency as well as progress towards meeting challenging academic standards. These objectives must also align with Title I achievement standards.
- **LEAs receiving Title III funding must be held accountable for meeting NCLB requirements.** States must ensure that subgrantee LEAs administer annual assessments in English to children who have been in the U.S. for three or more consecutive years. These LEAs must also be held accountable for making AYP and meeting all annual achievement objectives.

Source: No Child Left Behind Act, P.L. 107-110. (2001). *Sections 3113(b)(2) and 3113(b)(5)*.