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September 20, 2013

Melissa Escalante  
Office of English  
Language Acquisition

Attention: Technical Assistance-NCELA RFI  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

RE: Technical Assistance – NCELA[Docket ID: ED–2013–OELA–0107]

Dear Ms. Escalante,

On behalf of the League of United Latin American Citizens (LULAC), the nation's preeminent defender of the civil rights of the Latino community, I write to submit our organization's comment in response to the Department of Education's request for information to inform the Title III Technical Assistance Agenda and the Future Activities and Services of the National Clearinghouse for English Language Acquisition (NCELA) - **Docket ID: ED–2013–OELA–0107.**

As the nation's largest and oldest Latino civil rights organization in the country, LULAC works to advance the economic condition, educational attainment, political influence, housing, health and civil rights of the Hispanic population of the United States. Our organization is glad to discuss these comments with the Department further and looks forward to working with you to provide our schools with adequate tools to ensure that English Language Learners (ELL) students have equitable access to supports and resources needed to succeed academically and beyond.

Please do not hesitate to contact Luis Torres, LULAC's Director of Education Policy, at 202-833-6130 or [latorres@lulac.org](mailto:latorres@lulac.org) should you have any questions or would like more information regarding these comments.

Sincerely,

Margaret Moran  
LULAC National President

Enclosures: 5

**Submitting Organization:** League of United Latin American Citizens

**Date:** 09.19.2013

English Language Learners (ELLs) are a large and widely dispersed group and the fastest growing set of students in American public schools yet their academic achievement remains among the lowest of all students. These conclusions are supported by the following facts that illustrate the growth of this student group, as reported in recent publications by the National Education Association (2012-2013), the American Institutes for Research (Dec. 2012), the National Clearinghouse for English Language Acquisition (Feb. 2011), the Council of Great City Schools (Oct. 2011), and the National Center for Research on Evaluation, Standards, and Student Testing (Wolf, Spring 2010).

The number of ELLs doubled in 23 states between 1995 and 2005 and exceeded in total 5.3 million students by 2008-2009. The enrollment of ELLs in prekindergarten through 12th grade in U.S. public schools grew by more than 51 percent while the growth of total student enrollment rose by just over 7 percent. Approximately 80 percent of all ELLs in the U.S. are Hispanic, the majority of whom were born in the U.S.A. Achievement gaps in reading, mathematics, and science between ELLs and their English proficient peers persist, with ELLs twice as likely to drop out of high school.

The improvement of education services to ELLs is important for the benefit of the students, their communities, and the nation.

**COMMENT:**

**Training and Technical Assistance Initiatives Needed to support Equal Educational Opportunity for English Language Learners**

LULAC requests attention to the following areas of training and technical assistance needed to support equal educational opportunity for English Language Learners (ELLs).

**1. Appointment of an Advisory Committee on the Education of English Language Learners to Advise the Secretary of Education, Congress, and Chief State School Officers**

LULAC recommends that ongoing advice from experts and advocates for ELLs be made available for the benefit of the U. S. Department of Education, Congress, and Chief State School Officers. Such a council would lend nimbleness to federal and state responses to rapidly changing situations that affect a large and growing group of our students and therefore our nation.

**2. Assistance to help states and districts develop evaluation and accountability policies that contribute to the goals of equal educational opportunity and college and career readiness for ELLs**

Help from the U.S. Department of Education is needed to address issues arising from the reclassification of ELLs in a way that is consistent with the Secretary of Education's Final Interpretation on exiting from the ELL Subgroup (Spellings, 2008). Reclassification is the process that transfers students from "ELL" to "former ELL" status. LULAC is gravely concerned about recommendations, most recently published by the Council of Chief State School Officers, to eliminate scores on state academic achievement tests from criteria for alternative program exit decisions.

Currently, a small set of 12 states consider only the English Language Proficiency (ELP) test score in reclassification decisions (Linquanti and Cook, 2013) whereas over 70 percent of districts and schools use achievement tests in addition to other measures to reclassify students from LEP status (Zehler et al., 1994). States that require state achievement test data in addition to ELP scores include California, Texas, and Florida. According to 2010-11 data from the National Center for Education Statistics, 52.6 percent of the nation's ELLs are enrolled in schools in those three states alone (with 28.9 percent enrolled in public schools in California, 15 percent in Texas, and 8.7 percent in Florida).

As stated in Linquanti and Cook (p.15), "Exit from English learners status is a high-stakes decision because a premature exit may place a student who still has linguistic needs at risk of academic failure, while unnecessary prolongation of English learner status particularly at the secondary level can limit educational opportunities, lower teacher expectations, and demoralize students)." Their summary of guidance on the topic emphasizes the goals enshrined in law: "Castaneda, interpreting the Equal Education Opportunity Act (1974), identified the need for educators to support English learners' linguistic and academic development so they acquire English-language proficiency, do not incur "irreparable academic deficits" while doing so and "attain parity of participation with other students " "within a reasonable length of time." Both Castaneda (1981) and the EEOA are relied on by the U. S. Department of Education's Office for Civil Rights and the Department of Justice in their compliance reviews.

The ESEA description of an ELL student also makes explicit the twin goals for programs serving their needs: to teach them the English language and to prepare them for success in school and in life after school ((NCLB, 2002).

LULAC recommends federal support for dramatic expansion of Dual Language and Developmental Bilingual programs as a way of addressing needs of long term ELLs, reducing the achievement gap for Hispanics, and preparing a bi-literate citizenry equipped to fully participate in a global economy. That expansion should be accompanied by greater flexibility in expectations for student progress and by additional indicators of student progress related to the Dual Language program goals.

LULAC maintains that the most direct way to be sure ELLs can meet the state's proficiency level of achievement on state assessments is to include their scores on those content examinations, along with their ELP scores, among the multiple measures that make up program exit criteria. Including both achievement and ELP results responds to mandates for language instruction and for instruction leading to success in school and life. Both areas must be addressed.

Linquanti and Cook voice concern about the validity of basing reclassification decisions on nonlinguistic performance criteria. They suggest instead a set of studies to provide answers to reclassification policy questions. One aim of the suggested studies is to find the "sweet spot" on ELP test scores that predicts success on state achievement tests. This is part of their rationale for reliance solely on ELP tests for reclassification decisions. However, they do not report that funding for these studies is available or that the necessary agreements have been reached to make these studies possible. Technical assistance from the Department is needed to provide momentum.

LULAC recommends that these studies compare the scores of ELLs on mature (i.e., not in the first three years of administration) state content assessments to those of White-Never-ELL students, the group that is traditionally best served by the public schools.

The acceptable risk of failure should be determined by the results of the same reference group, so that Reclassified ELLs run no higher risk of failure and no lesser probability of success in mainstream classes and on state achievement tests than do their White-Never-ELL peers. The goal of these studies should be to add information to reveal for whom, under which criteria, and under which settings reclassified ELL students

receive greater benefits and experience more success and what services should be offered to ELLs subsequent to reclassification (Kim, 2011).

LULAC considers it imperative that the results of such studies be completed, state by state and grade by grade, and thoroughly vetted, state by state and grade by grade, **before** scores on state achievement tests are removed from consideration for ELL reclassification decisions. It is important that teachers' organizations and associations be included in the review group since the performance of ELLs reclassified and placed in mainstream classes will affect teacher evaluations.

Appendix B of the CCSSO publication includes descriptions of statistical processes for identifying the range of ELP results that predict that 50% of ELLs scoring at that range would pass and 50% fail on state content assessments. Equal likelihood of success or failure is presumed to be evidence of English language proficiency. However, that is far higher than the level of risk confronted by the general student population. For example, for high school students, "The percentage of students who pass exit exams on the first try varies by state and by subject but generally ranges from 70% to 90% with few exceptions" (Center on Education Policy, 2012).

Similarly, for elementary school students, the percentage of students who pass Grade 4 Reading assessments for the majority of states generally ranges from 60% to 90% (NCES, 2009).

Unlike objective research and evaluation, policy decisions are explicitly constrained by law and informed by community values. LULAC cannot accept as just any policy that would precipitously deprive 50% of high ELP scoring ELLs of their right to instructional support and accommodations by using exit criteria certain to close the doors of opportunity for children and families across the country. LULAC would totally reject any effort to subject half of the reclassified ELL population to a risk of failure of that magnitude.

The Department's technical assistance efforts should not sacrifice equal education opportunity goals set in law for less important goals, such as deriving a common national definition of English Language Learners. While such a definition might contribute to equity goals, it is but a means to that goal, not an end in itself. Reduction to the least common denominator in specifying that common definition would be a disservice to our students and our nation.

LULAC also recommends training and technical assistance services that will lead to accountability policies for ELLs that yield accurate and fair results and inform flexibility guidance provided to states with ESEA waivers. The recommendations of the ELL Subcommittee of the Florida Commissioner's Task Force on Inclusion and Accountability are examples of the changes needed. Those recommendations are here (<https://www.fldoe.org/esea/>). LULAC has previously advocated for one of the recommendations that are also endorsed by the Task Force: wider use of state achievement tests in the home language for those students for whom it is appropriate.

### **3. Center Networks**

#### **Training and Advisory Services Equity Assistance Centers**

Equity Assistance Centers are funded by the Department to provide technical assistance and training, upon request, in the areas of race, sex, and national origin to public school districts and other responsible governmental agencies to promote equitable education opportunities. Each center addresses all three areas. LULAC recommends a return to networks of assistance centers for each of the three equity areas to permit specialization and in response to changing times, issues, and demographic trends. Greater specialization within the Department's Office for Civil Rights would also be desirable.

#### **Comprehensive Centers Program**

This program awards discretionary grants that support 22 comprehensive centers to help increase State capacity to assist districts and schools in meeting student achievement goals. This generalized approach to a myriad of issues leave scant resources for attention to the needs of ELLs. LULAC recommends that a network of Bilingual Education Centers be re-established to address the needs of ELLs at all levels that serve them, including pre-school, K-12, Career and Technical, Adult, and College. Assistance for ELLs in Heritage Language, International Studies, Dual Language, Dual Enrollment, Special Education, Foreign Language/Advanced Placement courses, as well as for programs in English for Speakers of Other Languages should be specifically included in the charge to the recommended network of centers.

Specialization of these two networks of technical assistance centers on National Origin Desegregation and on Bilingual Education, broadly defined, should permit expert attention to be directed to pressing areas, such as services needed for long term ELLs, impediments to the learning of migrant students, research based approaches to engagement of language minority parents, the special needs of secondary school students, drop-out prevention, and targeted provision of information to state, district and college education policy makers and parent and community based organizations on ELL status in relation to plans for career and college readiness.

#### **4. Restoration of the Bilingual Education Act**

The simplest way to strengthen training and technical assistance directed to ELLs is to substitute IASA's Title VII Bilingual Education Act for the current NCLB Title III in the reauthorization process. The restoration would expand training and technical assistance to support bi-literacy goals and instruction in more than one language. We recommend that the Department of Education address this goal.

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