



Testimony of

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*ESSA Implementation in States and School Districts: Perspectives
from Education Leaders*

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Thank you Chairman Alexander, Ranking Member Murray and members of the Committee for providing me the opportunity to present testimony. My name is Delia Pompa; I am a Senior Fellow for Education Policy at the Migration Policy Institute (MPI), an independent, non-partisan, non-profit think tank in Washington, DC that analyzes U.S. and international migration trends and policies. Within MPI, the National Center on Immigrant Integration Policy (NCIIP) does significant work in the education arena, examining and analyzing the changing demographics of the U.S. PreK-12 student population and major challenges facing local, state and federal policymakers and program managers as they seek to respond to the needs of diverse immigrant and English Learner (EL) children.

My work in public school improvement has been shaped by many years of experience leading local, state and federal agencies and national and international organizations. I began my career as a kindergarten teacher in San Antonio and went on to serve as a district administrator in Houston and as Assistant Commissioner of the Texas Education Agency. I was formerly the Director of Education, Adolescent Pregnancy Prevention and Youth Development for the Children's Defense Fund and Director of the Office of Bilingual Education and Minority Language Affairs at the U.S. Department of Education. Immediately prior to my work at MPI, I was Senior Vice President for Programs at the National Council of La Raza.

I have deep respect for the bipartisan process led by Chairman Alexander and Ranking Member Murray that resulted in the Every Student Succeeds Act (ESSA), which promises to ensure equity while fostering innovation and excellence. The primary responsibility for making that promise a reality rests squarely on the shoulders of states and districts, which have been given

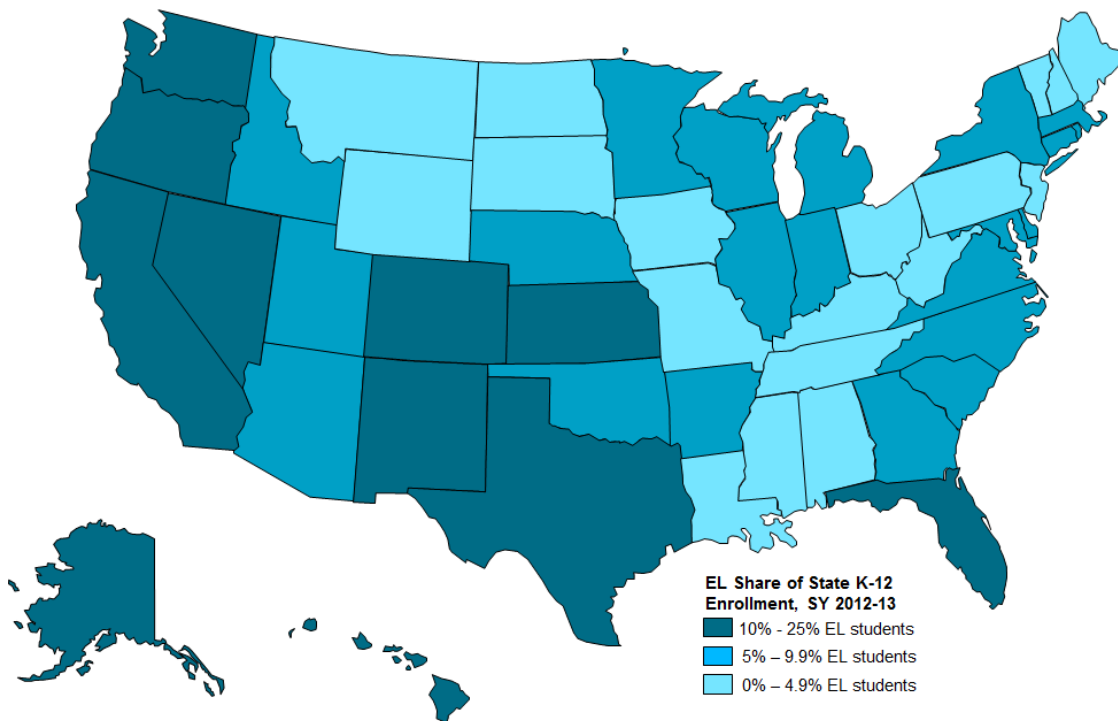
greater authority under ESSA to interpret the new mandates. But they can't do it alone. It is critical that the regulatory process ensure that states and districts keep equity, particularly accountability for the progress of all students, at the core of their work and ensure that states and districts engage a wide range of stakeholders in developing and implementing their new accountability and school improvement plans.

In addition, it is important to recognize the great advancement that ESSA could make with respect to English learners in K-12 classrooms. ESSA includes important policies that recognize the needs and diversity of ELs in an effort to close the ongoing achievement gap between them and other students. The bill also crucially improves accountability for how ELs are achieving—an expansion of the last reauthorization of the Elementary and Secondary Education Act (ESEA). ESSA responds to the reality that ELs are a large and growing part of the U.S. public school population. Given ESSA's overall thrust of reducing federal authority in education, however, ensuring that EL needs are met will be complicated by the fact that education agencies in 50 states and the District of Columbia will be interpreting the new mandates and perhaps implementing them differently.

Today one in four students in U.S. schools is the child of an immigrant; one in 10 is an English learner. Improvements in accountability and instruction provisions in ESSA will raise outcomes not just for these children, but also overall student achievement in the growing number of states and districts where they are a significant portion of the school population. In 2014 the Department of Education reported that nearly 5 million students in the U.S. K-12 system—or roughly 10 percent—were ELs. But their relative concentration ranges widely by state and district: fully 23 percent of

California’s students in 2014 were English learners, as were 40 percent of students in the Denver Public Schools. Consequently, provisions regarding EL students should be as clear as possible to the educators and communities who will implement them. As indicated in the charts below, the size and distribution of the EL population continues to grow. The numbers and their location are a clear indication of how many states and districts will be affected by changes for ELs in ESSA.

Map 1. States with the Highest English Learner Student Density, SY 2012-13



Source: Migration Policy Institute (MPI) calculations based on data obtained through the U.S. Department of Education, “ED Data Express Tool,” accessed February 23, 2015. Data on total student enrollment derive from the Common Core of Data (CCD). Data on enrollment of EL students by state derive from the “Consolidated State Performance Report” (CSPR).

Table 1. Top 15 States with Highest English Learner Student Enrollment in Public Schools, SY 2012-13

State	EL Enrollment	Total K-12 Enrollment	% ELs among K-12 Students
United States	4,851,527	49,474,030	9.8
California	1,521,772	6,213,194	24.5
Texas	773,732	5,077,507	15.2
Florida	277,802	2,692,143	10.3
New York	237,499	2,708,851	8.8
Illinois	190,172	2,055,502	9.3
Colorado	114,415	863,121	13.3
Washington	107,307	1,051,694	10.2
North Carolina	102,311	1,506,080	6.8
Virginia	99,897	1,263,660	7.9
Georgia	94,034	1,703,332	5.5
Arizona	91,382	1,087,697	8.4
Michigan	80,958	1,513,153	5.4
Nevada	77,559	445,017	17.4
Massachusetts	71,066	954,507	7.4
Minnesota	70,436	845,291	8.3

Notes: National EL enrollment totals do not include outlying territories such as Guam, American Samoa, the Marshall Islands or Puerto Rico. The share of ELs among K-12 students was calculated by dividing EL enrollment by total K-12 enrollment for all states and the nation.

Source: MPI calculations are based on data obtained through the U.S. Department of Education, “ED Data Express Tool,” <http://eddataexpress.ed.gov/index.cfm>. Data on total student enrollment derive from the Common Core of Data (CCD). Data on enrollment of EL students by state derive from the Consolidated State Performance Reports (CSPR).

Table 2. Top 25 School Districts by EL Enrollment, SY 2011-12

District/Agency Name	State	EL Enrollment	Total K-12 Enrollment	% ELs among K-12 Students
Los Angeles Unified	CA	152,592	659,639	23.1
New York City*	NY	142,572	968,143	14.7
Clark County	NV	68,577	313,398	21.9
Dade County	FL	66,497	350,239	19.0
Dallas Independent	TX	56,650	157,575	36.0
Houston Independent	TX	54,333	203,066	26.8
City of Chicago	IL	53,786	403,004	13.3
Fairfax County	VA	36,551	177,606	20.6
San Diego Unified	CA	36,453	131,044	27.8
Santa Ana Unified	CA	32,170	57,250	56.2
Orange County	FL	28,311	180,000	15.7
District 1 County of Denver	CO	25,417	80,890	31.4
Hawaii Department of Education	HI	24,750	182,706	13.5
Broward County	FL	24,143	258,478	9.3
Hillsborough County	FL	22,474	197,041	11.4
Fort Worth Independent	TX	21,913	83,109	26.4
Austin Independent	TX	21,751	86,528	25.1
Long Beach Unified	CA	20,746	83,691	24.8
Garden Grove Unified	CA	20,743	47,999	43.2
Montgomery County	MD	20,580	146,459	14.1
Gwinnett County	GA	18,968	162,370	11.7
Palm Beach County	FL	18,698	176,901	10.6
Fresno Unified	CA	17,536	74,235	23.6
San Bernardino City Unified	CA	17,488	54,379	32.2
San Francisco Unified	CA	17,083	56,310	30.3

Notes: Data are based on district or agency reports. "New York City" includes 32 districts across the city's five boroughs. The share of ELs among K-12 students was calculated by dividing EL enrollment by total K-12 enrollment for all districts or agencies.

Source: U.S. Department of Education, National Center for Education Statistics, Common Core of Data (CCD), "Local Education Agency (School District) Universe Survey," 2011-12 v. 1a; "State Nonfiscal Public Elementary/Secondary Education Survey," 2011-12 v. 1a, <http://nces.ed.gov/ccd/elsi/default.aspx>.

In order to get the results we all hope for—for every student to graduate high school prepared for college or career—we have to do more to support states in implementing the law. States will need the law clarified in many cases through regulation and they will need ongoing guidance and support in how to achieve improved results, including for ELs. My organization, MPI, has specific recommendations on how federal regulations could help guide states and districts onto a path for success, and we stand ready to help states develop successful plans that meet their individual states contexts.

Accountability for All Students

The focus of my remarks is on the need for effective implementation of provisions relating to ELs. But the bottom line is that the new, important EL policies I mentioned will not be effective if the overall accountability systems that states develop are not strong enough to ensure that schools are held accountable for the success of *all* children. The Department of Education should provide clarity through regulation that the clock cannot be turned back on progress for all kids. This country cannot go back to a time when the performance of subgroups of students was masked by high-performing students. It is my organization's hope that the regulations will be strong in this area.

Entry and Exit Criteria for English Learners

It is encouraging that ESSA is ushering in uniformity with regard to classification of students as ELs, and including English proficiency outcomes in states. ESSA requires states to have a standardized process for classifying

students as English learners as well as a standardized statewide process for how ELs exit special services (or how they are reclassified). Up until now, many states have had a hodge-podge of EL entry-and-exit criteria across districts within a state, resulting in inconsistent assessment of needs and provision of services for students. Under ESSA, the entry and exit of ELs from services will be consistent at least within states, thus allowing educators to better serve students with high rates of mobility and making the definition of an English learner consistent across the state. However, states will need guidelines for the parameters of their definition; they will need support for how to develop criteria for entry and exit. Given the complexity of new assessments, they will also need regulations for the inclusion of English proficiency in overall accountability as it relates to entry and exit. This will be a policy challenge for all states, particularly for those that do not currently have a standardized statewide process.

English Proficiency as an Indicator

This provision is an important example of where additional clarification and technical assistance are required from the Department of Education.

Regulations that define parameters for how English proficiency will figure into a state's academic indicators should take into account the size of the English learner population in a particular state, growth in proficiency levels in the EL population and EL grade level distribution. Certainly clarity on how to measure progress in English proficiency versus measuring English proficiency itself should be embedded in these regulations. Fortunately, there is a body of research from which to define these parameters and examples from states on how to operationalize this knowledge. The Department should define

parameters for ensuring that English proficiency outcomes are included in a manner that reflects analysis of existing data and best practice. Doing so is key to fulfilling the law’s intent to include the full spectrum of English learners’ performance in accountability.

Progress on English Proficiency

The newly required inclusion of English proficiency outcomes in states’ accountability systems is also encouraging. Yet states will need guidance regarding what “making progress” in developing English proficiency means. Requirements elsewhere in the law require reporting on EL students who have not reached proficiency within five years of their enrollment. Does that requirement signal that English proficiency should be reached within that timeframe and what increments should that reflect? How should grade level and level of English at entry be taken into account? The answers to these questions present a policy challenge to states without strong regulation from the Department of Education.

English Learner Subgroup

The law now permits states to include in the EL subgroup former English Learner students up to four years after they have exited special language services. Including former English learners in the EL subgroup allows states and districts to present a more robust picture of how well their English learner students are progressing after meeting exit criteria. However by including former English learners, overall scores for the subgroup will rise and may mask the performance of current English learners. The Department

should address this issue through the regulatory process, requiring states to carefully disaggregate and monitor achievement for current English learners and to address any downward trends in performance as soon as they are noted.

Parent, Family and Community Engagement

The federal role in education has been critical to safeguarding the civil and educational rights of English learners, and it is important to ensure that gains under federal law are not lost in state and local accountability plans. This will mean an increased need for broader and deeper dissemination of what research has yielded about this group of learners. It will also mean consultation with all stakeholders who count on this law to support an equitable and excellent education for all English learners.

Parent and family engagement are provided for in this law. Our experience has most often been that in most states this engagement has been perfunctory and superficial. Regulations articulating specific examples of meaningful parent, family and community engagement in policy development should further the cause of equity for English learners and all children.

MPI Implementation Efforts

While we think that there need to be regulations to clarify the law to increase the chances of successful implementation, we also know that regulations alone aren't enough—we all have to help states and districts succeed. Already at MPI, we have begun the process of supporting implementation of ESSA in a manner that engages diverse stakeholders along with educators. We began

this effort by publishing a summary of English learner provisions in ESSA through a variety of networks. MPI is also working in coalition with other groups to address ESSA implementation. Along with community stakeholders, educators and other national groups, MPI is implementing a strategy in two parts. First, we have analyzed the law to understand new provisions. That process will continue through development of guidance and regulation, culminating in providing examples for states to consider as they implement particular provisions of the law. In response to great interest and some uncertainty about some provisions, we have scheduled presentations to state directors and school board members. We will continue our work assessing the size, distribution and characteristics of the EL population, as well as key subpopulations including long-term ELs and those with disabilities.

The second stage of our work relies on partnerships with a variety of stakeholders in states. We will work with large coalitions of immigrant community groups to increase awareness of the new law and awareness of their right and responsibility to participate in shaping state policy. Leveraging MPI's expertise, strong dissemination capacities and ability to attract and work with a variety of stakeholders, we will be uniquely well-positioned to support the development of policies for ELs that yield improved outcomes and support for their champions to ensure that responsive policies are adopted. Immigrant and community groups have a natural interest in education. Education has long been viewed as the most critical element of integration into U.S. economic and civic life by immigrants.

As MPI moves forward helping states and districts implement ESSA, we share a commitment to smart regulation and guidance that allows for innovation and for local situations, but that also provides states with parameters built on

the framework of equity set out in the original Elementary and Secondary Education Act. MPI looks forward to working with you, with the Department of Education and with the breadth of stakeholders who believe in the promise of our school system. Thank you for this opportunity to share our experience and our aspirations for all children.