



**Testimony of Peter Zamora
Washington, D.C. Regional Counsel, MALDEF
Co-Chair, Hispanic Education Coalition**

**House Education and Labor Committee,
Early Childhood, Elementary and Secondary Education Subcommittee**

“Impact of NCLB on English Language Learners”

March 23, 2007

Chairman Kildee, Ranking Member Castle, I am Peter Zamora, Washington D.C. Regional Counsel for the Mexican American Legal Defense and Educational Fund (MALDEF). I serve as Co-Chair of the Hispanic Education Coalition, which unites 25 national and local organizations in support of improved educational outcomes for Latino students and families. I appreciate the invitation to testify today regarding English language learners (ELLs) and the No Child Left Behind Act (NCLB).

ELL Student Demographics

There are currently between 5 and 6 million English language learners enrolled in U.S. public schools, constituting over 10% of our total public school population.¹ Over the past fifteen years, ELL student enrollment has nearly doubled, and experts predict that one-quarter of the total U.S. public school population will be made up of ELLs by 2025.²

ELLs’ academic performance levels are significantly below those of their peers in nearly every measure of academic performance. In the 2005 National Assessment of Educational Progress, for example, only 29% of ELLs scored at or above the basic level in reading, compared with 75% of non-ELLs.³ ELLs drop out of school at very high rates: Latino ELLs aged 16-19, for example, have a 59% dropout rate.⁴ In order to optimize the skills of our future workforce, our public schools clearly must do a better job in meeting the needs of our large and growing ELL student population.

¹ See, e.g., <http://www.nclb.gov/expert/faq/08leps.html>.

² See <http://www.nclb.gov/expert/faq/08leps.html>;
<http://www.ed.gov/nclb/methods/english/lepfactsheet.html>.

³ National Center for Education Statistics, *National Assessment of Educational Progress (NAEP): Reading and Mathematics*, Washington, DC (available at http://nces.ed.gov/nationsreportcard/nrc/reading_math_2005/).

⁴ See Fry, R., *Hispanic Youths Dropping Out of Schools: Measuring the Problem*, Washington, DC: Pew Hispanic Center (2003), p8.

Despite common assumptions to the contrary, native-born U.S. citizens predominate in the ELL student population: 76% of elementary school and 56% of secondary school ELLs are citizens, and over one-half of the ELLs in public secondary schools are second- or third-generation citizens.⁵ The stereotype of ELLs as foreign-born immigrants is, therefore, inaccurate: the majority are, in fact, long-term ELLs whose academic and linguistic needs are not being met by our public school system. Two-thirds of ELLs come from low-income families.⁶ Over three-quarters of ELLs are Spanish-speaking, and nearly half of K-12 Latino students are ELLs.⁷

Inappropriate Assessments Hinder the Effective Operation of No Child Left Behind for English Language Learners

No Child Left Behind is perhaps the most significant federal education, integration, and civil rights statute for English language learners. NCLB promises ELLs a measure of academic parity with their peers and intends to address the effects of limited English proficiency upon academic performance.

As written, NCLB adopts a sound approach to improving ELL student achievement. ELLs face the dual challenge of learning English while simultaneously gaining academic knowledge in an unfamiliar language. NCLB addresses each aspect of this challenge: Title I requires accountability for the content knowledge of the ELL subgroup, while Title III requires accountability for English language acquisition.

Significant implementation failures by federal and state agencies have severely hindered the effectiveness of NCLB for ELLs, as described in the U.S. Government Accountability Office report that is the subject of Ms. Ashby's testimony today. Specifically, states have not yet implemented valid and reliable Title I or Title III assessments for ELLs, and the U.S. Department of Education has not yet provided sufficient technical assistance or guidance to the states in the development of appropriate assessment policies and practices.

Because current NCLB assessments do not yield sound data regarding ELL student achievement, schools and school districts face significant challenges both in demonstrating ELL academic proficiency and in designing interventions to raise ELL academic achievement levels to meet state performance targets. No Child Left Behind implementation has failed English language learners at the first step of standards-based accountability: that of effective data collection.

⁵ See, e.g., Capps, R., Fix, M., Murray, J., Ost, J., Passel, J., & Herwanto, S., *The New Demography of America's Schools: Immigration and the No Child Left Behind Act*, Washington, D.C.: The Urban Institute (2005), p18.

⁶ *Id.* at 25.

⁷ See <http://www.ncela.gwu.edu/expert/fastfaq/4.html>; see Lazarín, M., *Improving Assessment and Accountability for English Language Learners in the No Child Left Behind Act*, Washington, D.C.: National Council of La Raza (2006), p1.

Recent, Ongoing Measures to Improve Assessments for English Language Learners

In order for NCLB to be fully effective, ELL students require assessments tailored to their specific academic and linguistic needs. This is required not only by NCLB and by sound educational practice, but by the Supreme Court's decision in *Lau v. Nichols*.⁸ *Lau* held that Title VI of the Civil Rights Act of 1964 requires schools to deliver academic services to ELLs that are tailored to their linguistic abilities and academic needs.

Although the NCLB requirement for valid and reliable assessments for all students originated in the Improving America's Schools Act of 1994, the U.S. Department of Education (ED) has only recently begun to enforce these provisions as they relate to ELL students. ED has also recently embarked upon a long-overdue project to provide technical assistance to states in developing and implementing appropriate assessment policies and practices for ELL students. MALDEF has strongly supported ED's recent efforts to enforce NCLB for ELLs and to provide technical assistance to states.

In August of 2006, MALDEF, the National Council of La Raza, the U.S. Department of Education, and education officials from all 50 states launched the "LEP Partnership" to provide technical assistance in appropriate ELL assessment practices to the states. The LEP⁹ Partnership unites assessment experts, federal and state officials, and advocates in an unprecedented collaborative. Our focus is to improve assessment practices for the 2006-07 testing cycle and to support the best ELL assessment practices for future years. The next LEP Partnership meeting will be held in Washington, D.C. in July of 2007.

Our efforts are beginning to yield results, but Congress must provide additional support to states in the development and implementation of appropriate academic and linguistic assessments for ELLs. The Hispanic Education Coalition supports a dedicated funding stream under Title I to develop valid and reliable content assessments for ELLs.

The technical expertise needed to develop and implement sound assessments for ELLs exists, but thus far we have not generally seen the necessary will or resources at the state and federal levels. Both the federal government and the states must do much more to implement native language, simplified English, portfolio, and other assessments designed specifically to measure ELLs' academic knowledge and English proficiency.

The Hispanic Education Coalition strongly supports increased development and use of native language content assessments for ELLs, which are currently required under NCLB when practicable. Because over three-quarters of ELLs are Spanish-speaking, it is generally practicable for states to develop Spanish-language assessments to appropriately measure the academic achievement levels of the significant majority of ELLs who are Spanish-speaking.

⁸ 414 U.S. 563 (1974).

⁹ "LEP" is an acronym for "Limited English Proficient," which is synonymous with "English language learner."

The Impact of NCLB upon English Language Learners

Inaccurate data generated by state assessments make it difficult if not impossible to use assessment-based measures of academic performance to evaluate the general effectiveness of NCLB for ELLs. It is quite clear, however, that NCLB has focused increased attention upon the academic and linguistic concerns of ELLs. The poor academic achievement levels of ELLs were generally a well-kept secret prior to NCLB; this, thankfully, is no longer the case. NCLB has increased the pressure at every level of our education system to improve results for ELLs, and this is clearly a step in the right direction for a student population that has historically existed in the shadows of the U.S. public education system. NCLB has, in effect, empowered federal, state, and local officials charged with improving academic outcomes for ELLs.

NCLB has not, unfortunately, led to the universal implementation of the best research-based instructional practices for English language learners. A considerable body of education research on ELL student achievement demonstrates that 1) native language instruction significantly improves ELLs' academic achievement in English and 2) ELLs require specific instructional accommodations designed to minimize the effects of English proficiency upon academic achievement.¹⁰ Despite this body of research, ELLs nationwide are currently enrolled in a patchwork of instructional programs, many of which do not reflect the best instructional practices for this student population.¹¹

Oyster Bilingual Elementary School here in Washington, D.C. is a prime example of the effectiveness of dual-language immersion programs in helping both ELLs and non-ELLs reach academic proficiency. Oyster Elementary is the sole school in the District of Columbia to be designated a No Child Left Behind Blue Ribbon School by the U.S. Department of Education in 2006.¹² Far too often, misguided cultural and linguistic protectionism and a divisive political atmosphere inhibit the implementation of the best instructional practices for ELLs. Dual-language immersion programs do not encourage cultural or linguistic separatism in ELLs, who clearly understand the need to learn English in order to succeed in U.S. schools and society; rather, these programs reflect best instructional practices and speed ELLs' development of English language and academic skills and contribute to the integration of ELLs into mainstream U.S. society.

¹⁰ See, e.g., Goldenberg, C., *Improving Achievement for English Language Learners: What the Research Tells Us*, Education Week, Vol. 25, Issue 43, pp34-36 (July 26, 2006). Appropriate educational accommodations for ELLs include: strategic use of the native language; predictable, clear, and consistent instructions, expectations, and routines; identifying and clarifying difficult words and passages; paraphrasing students' remarks; and other measures designed to minimize the effect of limited English proficiency upon academic achievement.

¹¹ U.S. Government Accountability Office, *No Child Left Behind Act: Education's Data Improvement Efforts Could Strengthen the Basis for Distributing Title III Funds*, GAO-07-140, December 2006, p32 (available at <http://www.gao.gov/new.items/d07140.pdf>).

¹² The No Child Left Behind Blue Ribbon Schools Program honors public and private K-12 schools that are either academically superior in their states or that demonstrate dramatic gains in student achievement. See <http://www.ed.gov/programs/nclbbrs/2006/index.html>.

As Dr. Beverly Young from the California State University system has testified, ELL students require teachers trained to meet their particular academic needs in order to thrive in U.S. public schools. Unfortunately, a significant shortage of teachers trained to deliver dual-language and other tailored methods of instruction for ELL students persists. NCLB must do more to encourage the development of a teaching corps that is well trained to work effectively with our large and rising ELL student population.

Conclusion

For NCLB to reduce or eliminate academic achievement gaps, officials at all levels of government – federal, state, and local – must commit to better serving the ELL student population. If the large and growing population of English Language Learners in our public schools does not improve its academic achievement levels, NCLB will not meet its goals and our nation’s economic competitiveness will suffer.

MALDEF and the Hispanic Education Coalition advocate the following recommendations to address the No Child Left Behind Act implementation concerns described in my testimony today:

- 1) The U.S. Department of Education must fully enforce NCLB assessment provisions for ELLs and provide effective and ongoing technical assistance in the development of appropriate assessments to state education agencies;
- 2) States must focus attention and resources upon developing and implementing valid and reliable content assessments for ELLs, preferably in the native language;
- 3) A reauthorized NCLB should establish a separate funding stream to assist states in developing and implementing appropriate academic assessments for ELLs;
- 4) A reauthorized NCLB should require that states that have significant ELL populations from a single language group develop valid and reliable content assessments designed specifically for members of that language group;
- 5) States, schools and school districts must implement the best instructional practices that will provide ELL students with the best opportunities to develop both English proficiency and content area knowledge;
- 6) The federal government and states must allocate significant resources to support the certification of teachers trained in best instructional practices for ELLs;
- 7) The federal government, states, school districts, and schools must allocate resources for the professional development in the best instructional practices for ELLs for all teachers who teach ELL students;
- 8) The federal government must fund scientifically-based research and disseminate findings on best effective practices for ELL student instruction; and
- 9) Federal, state, and local school officials must ensure that ELLs are fully and appropriately included in NCLB accountability systems so that schools focus upon meeting the academic needs of ELLs.