



# Rights at Risk

Equality in an  
Age of Terrorism



Citizens' Commission  
on Civil Rights

# Rights at Risk:

## *Equality in an Age of Terrorism*

Dianne M. Piché, William L. Taylor, and Robin A. Reed, Editors

Report of the Citizens' Commission on Civil Rights  
2002

## Chapter 17

# Limited English Proficient Students and High-Stakes Accountability Systems

by Jorge Ruiz de Velasco and Michael Fix<sup>1</sup>

### Introduction

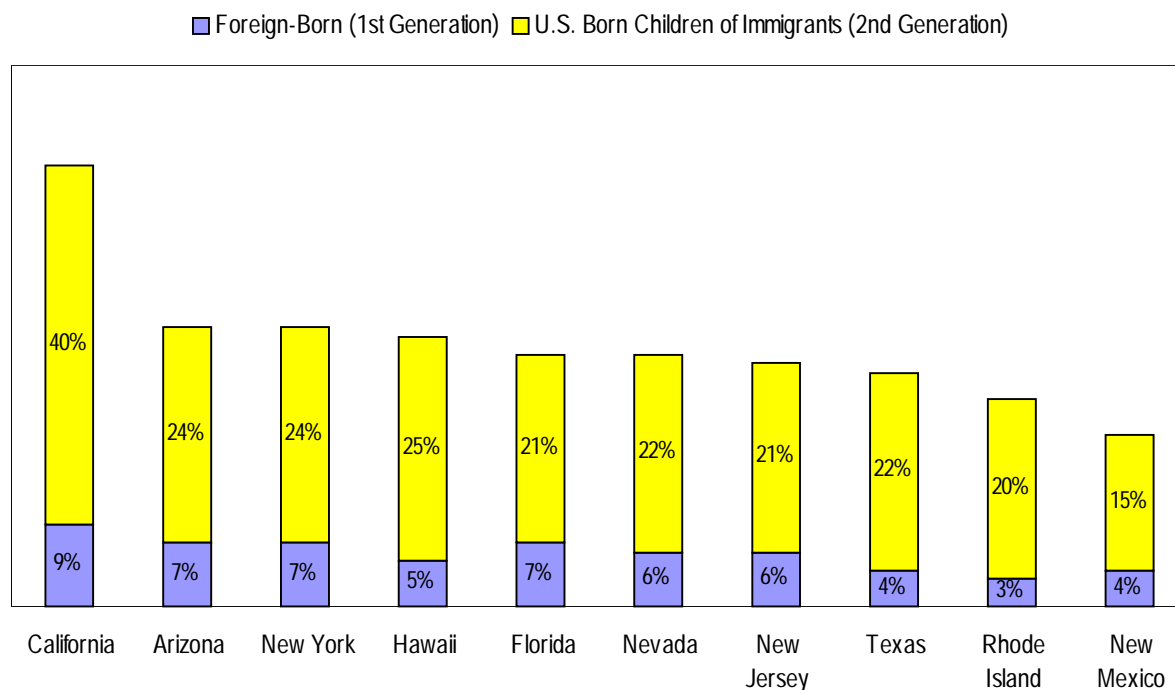
In 1994 Congress required all states to implement comprehensive accountability systems for schools receiving federal funds under the Elementary and Secondary Education Act (ESEA). This new federal requirement responded to civil rights advocates' concerns that schools serving large numbers of poor, minority, and limited English proficient (LEP) students set lower standards for their education and thus ratified lower expectations for their performance.<sup>2</sup> These changes in the ESEA made a dramatic break with past practice by requiring states to replace minimum standards for poor and academically disadvantaged children with challenging standards for all students. New accountability systems were to be based on state-established content standards for reading and math, include assessments aligned with those standards, and would require that states hold all students to the same performance standards.

In 2001, Congress again reauthorized the ESEA when it passed the No Child Left Behind Act (NCLB).<sup>3</sup> The NCLB mandates annual testing of every child in grades three to eight and strengthens requirements that states hold schools and districts accountable for student performance, including, specifically, minority students, poor students, and those with limited proficiency in English.

Studies by the Citizens' Commission on Civil Rights (1999 and 2001), however, have shown widespread noncompliance by states with the 1994 law and a reluctance by both the Clinton and Bush Administrations to enforce its provisions regarding the appropriate assessment of LEP students and consideration of their performance in Title I accountability systems.<sup>4</sup> Moreover, most states have failed to provide the resources needed by schools to effectively educate LEP students to high standards. Yet, despite these failures, some states have decided to use their assessments to visit high-stakes consequences on students (e.g., relying on test scores to determine student promotion and graduation). Such uses of tests, especially where the curriculum and instruction are not aligned with standards, can violate both accepted professional guidelines and federal civil rights law.

The bar for achievement is being raised in every state. Yet, there is now a growing body of evidence that the inclusion of limited-English speaking students into one-size-fits-all state accountability systems is proving problematic. Case study and early outcome data suggest that many schools continue to lack the capacity to help LEP students meet new standards. Wide language, literacy, and skill diversity among LEP students as well as continuing knowledge gaps within the education profession about how to best serve LEP students often leave teachers unprepared to

Figure 1:  
Percent of Children Who are Children of Immigrants, Top 10 States: 1996-1999



Source: Urban Institute tabulations of edited 1996-1999 March Current Population Survey (CPS)

help their students meet the same standards applied to all students. These challenges are increasingly complicated as the number of LEP students in U.S. schools grows and their families settle in communities with little experience or infrastructure to work effectively with language minority children. The problem is perhaps most daunting in secondary schools, many of which are failing to provide LEP students with language development services needed to move into mainstream instruction.

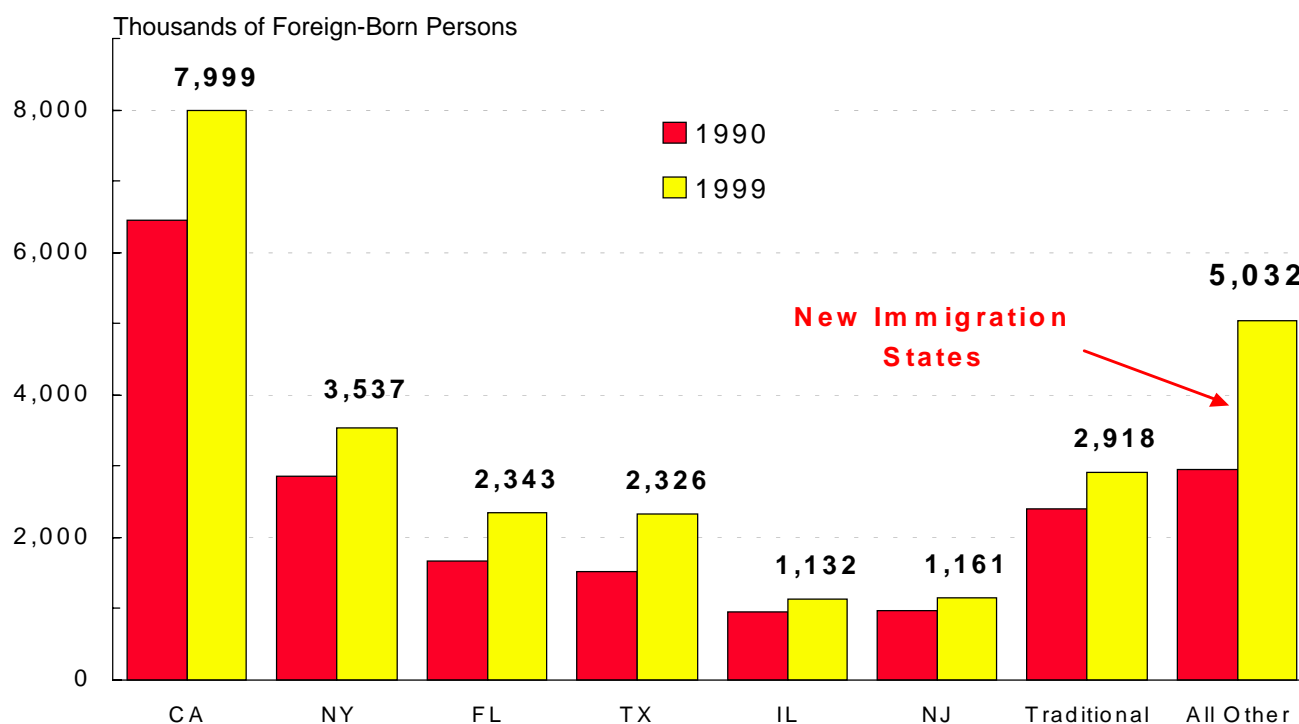
These developments have important implications for federal policies intended to support the education of LEP students. Rather than block granting most federal LEP funds directly to states on a formula basis

(as the recently reauthorized ESEA does), federal programs might better serve LEP students by targeting federal assistance to a discrete but critical set of concerns that remain unaddressed. A carefully targeted approach can draw attention to the unmet needs of LEP youth and build local capacity to meet those needs.

## I. Selected National Trends

To set our discussion in context, we begin by noting several powerful demographic trends that bear on the nation's schools. According to the Census, one in five children under 18 is the child of an immigrant – a

Figure 2:  
Foreign-Born Population for Selected States and Areas

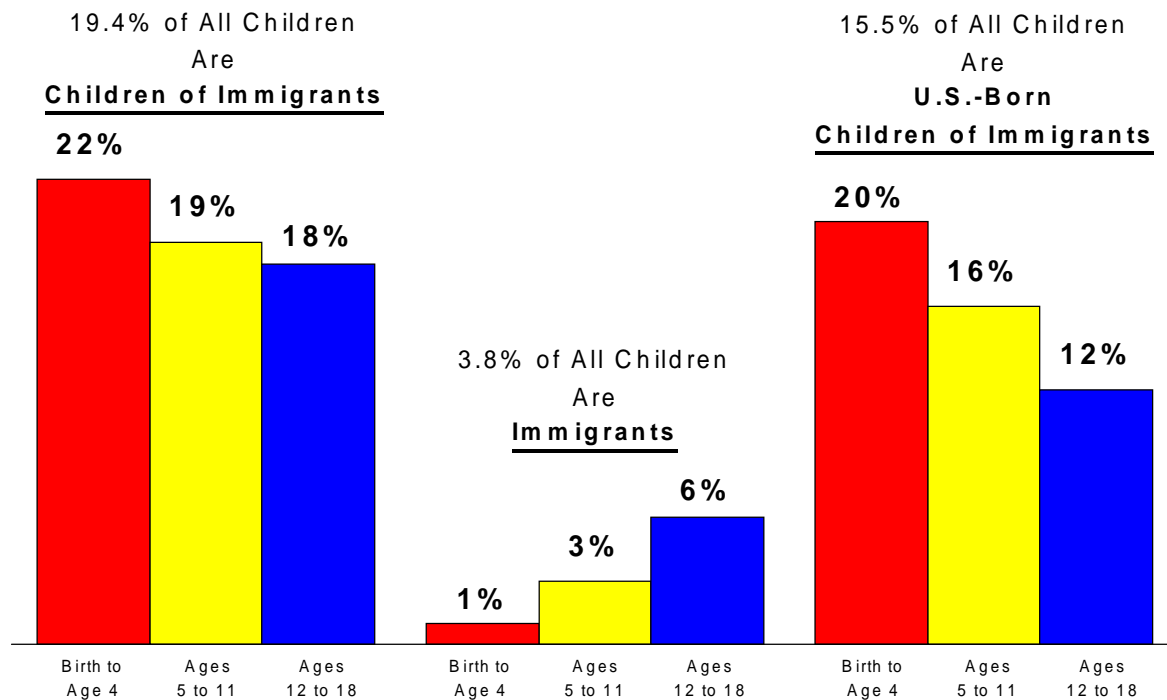


Source: 1990 Census and March 1999 CPS

share that has more than tripled within a generation and that will grow in the coming years (*Figure 3*). Over half of all children in New York City and 60% of all children in Los Angeles are the children of immigrants. Rapid growth has led to population dispersal in the nation as the communities with large shares of immigrant children are no longer confined to a few gateway cities or states. For example, during the 1990s the immigrant population grew twice as fast (61 versus 31%) in nontraditional receiving states as it did in the six states that receive the largest numbers of newcomers (*Figure 2*). School districts in these states are likely to have few staff who are experienced in educating immigrant children. Moreover the impact aid

they receive from the federal government is quite limited. Both challenges also confront communities that have not been destinations of immigrant flows in high immigrant states. Our research reveals that foreign born immigrant children represent a larger share of the total high school population (5.7%) than of the total elementary school population (3.5%). Recently arrived foreign born immigrants (i.e., those in the United States less than five years) also represent a larger share of the secondary than elementary school populations (2.7 versus 2.0%). These recently arrived students, in particular, are likely to require additional language and other services. Despite the fact that recently arrived immigrant children represent a

**Figure 3:**  
**Percentage of Children Who Are Children of Immigrants,**  
**By Age and Generation: 1996-1999**



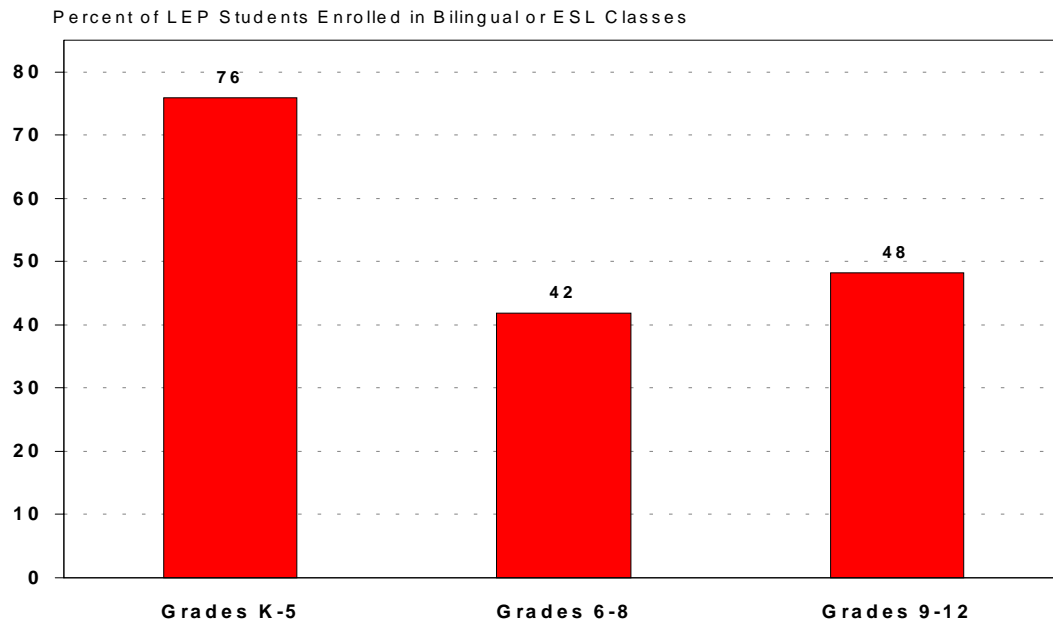
Source: Urban Institute tabulations of edited 1996-1999 March CPS

larger share of middle and high school than elementary school students, LEP secondary school students are less likely to be enrolled in English-as-a-Second-Language (ESL) or bilingual classes than LEP elementary school students (*Figure 4*). More recent data released by the U.S. Department of Education's Office for Civil Rights indicates that secondary schools are having difficulty providing large numbers of LEP students with *any* special instructional or support services tailored to meet their special language development needs (*Figure 5*). One set of explanations for these disparities is that ESEA funds flow disproportionately to elementary schools and that secondary schools have generally been slower to respond to reform pressures than elementary schools.<sup>5</sup>

### High Levels of LEP Segregation in Schools

One particularly troubling trend among children in immigrant families is their segregation within schools. One half of limited English proficient children (K-12) attend schools where a third or more of their fellow students also have difficulty speaking English (*Figure 6*). (By way of contrast only 2% of non-LEP students attend such schools.) This means that immigrant children are going to schools that are not just ethnically and economically segregated, but also linguistically isolated.

Figure 4:  
Bilingual/ESL Enrollment by Grade Level



Source: 1993 Schools and Staffing Survey (Student Surveys)

## II. LEP Students and Standards-Based Accountability Systems

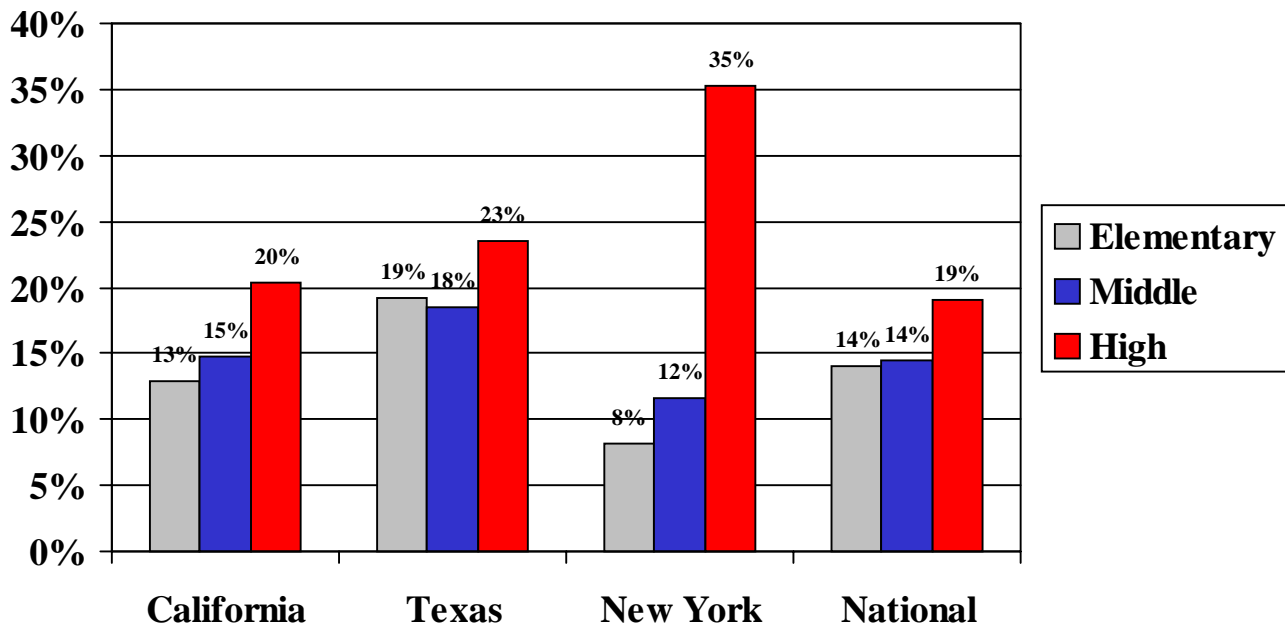
Many proponents of standards-based reforms envisioned that before implementing new curriculum and student performance standards, schools would have the support they need to meet new demands. At a minimum, this meant an adequate supply of high-quality textbooks, technological software, and other instructional materials that would promote learning to the new standards. Some advocates of standards-based reforms also assumed that pre-service and in-service professional development systems would serve the new curriculum standards.

Unfortunately for LEP students and their teachers, many states have put standards and high-stakes assessments in place ahead of the support and teacher preparation that are prerequisite for their success. To the contrary, many state accountability systems make two important assumptions about the classroom: first, that the basic elements for academic success (i.e., educators with appropriate resources and know-how) already exist in the classroom;<sup>6</sup> and second, that students are ready to perform at or near the desired performance level.<sup>7</sup>

With these assumptions as a point of departure, student test scores become in many states an exclusive measure of performance that drives rewards and penalties for students and school staff. All that is theoretic-



Figure 5:  
Proportion of Unserved LEP Students by State and School Type, 1998-1999



Source: Fall 1998 Elementary & Secondary School Civil Rights Compliance Report, Office for Civil Rights, U.S. Department of Education (excludes schools where students could not be disaggregated by grade spans K-6, 7-8, 9-12, about 4.5% of schools).

cally needed for success is for administrators, teachers, and students to be given clear signals about what is expected (performance standards) and the right set of incentives (accountability systems and high-stakes assessments) to get them to focus on production (meeting the standards).

There is some emergent evidence that however applicable these assumptions are to the typical classroom, they do not hold for immigrant and other language minority students and the teachers who work directly with them. In the sections that follow we examine why the inclusion of LEP students in effective accountability systems is a challenge and why it will likely remain so in the absence of better targeted state and federal

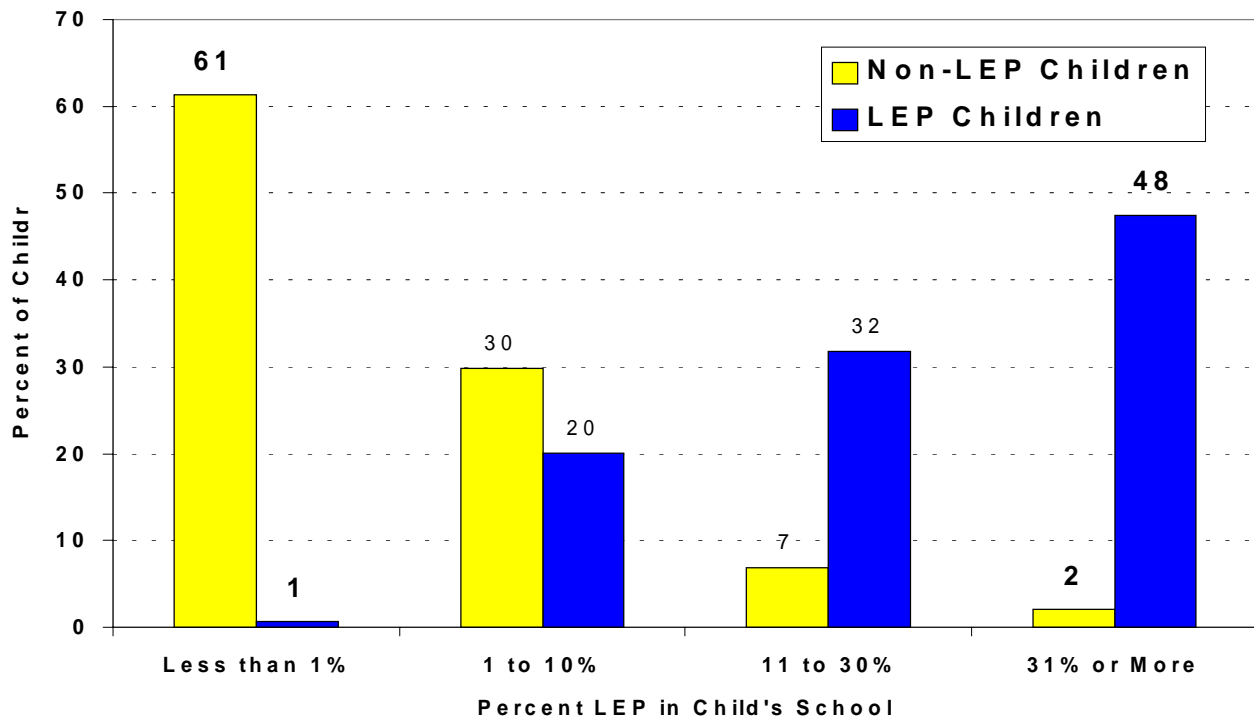
support to schools serving large numbers of LEP students.<sup>8</sup>

### A. Demographic Diversity: New Faces, New Challenges

One of the biggest challenges schools have in fitting LEP students into accountability regimes derives from their wide diversity and needs. Data from the 2000 Census are only now beginning to bring into sharp relief a basic fact about LEP students that teachers and administrators have known for a while: English language learners vary considerably with respect to the number of languages they speak, the level of prior schooling in their native languages, the level of



Figure 6:  
Comparison of Schools with Limited English Proficient Students



Source: *Schools and Staffing Surveys (School Surveys, 1993-94)*

parent education, and the nature of home literacy practices (e.g., whether students are read to at home) as well as in the degree to which they are linguistically isolated from English learning outside the classroom setting. All of these factors have been found to bear on classroom learning and may require different kinds of interventions, teaching strategies, and curricula. Indeed, some educators have questioned whether the level of diversity found among LEP immigrants might require that schools move away from offering one basic language development program to an approach similar to special education, in which schools develop an individualized education plan for each student. Some states, including Texas, have taken some steps in this direction.

Recent studies of immigrant secondary education programs have identified two LEP student subpopulations as being of special concern. One is the set of immigrant children who arrive as teenagers. The time available for these late-arriving secondary students to master a new language and pass subjects required for high school graduation is limited. As a result, language and content instruction must be offered simultaneously rather than sequentially. Our research reveals that little is known about how best to help late-arriving teens master language and content while also meeting new state standards.<sup>9</sup>

Another subgroup that concerns classroom teachers is the growing number of under-schooled newcomers who must overcome

critical literacy gaps and the effects of interrupted schooling in their home countries. Schools rarely collect data on the prior schooling of immigrant students, so their precise number in U.S. schools is not known. One estimate indicates that 20% of all LEP students at the high school level and 12% of LEP students in middle schools have missed two or more years of schooling since age six.<sup>10</sup> The basic predicament for schools is that underschooled LEP students most often arrive with a weak foundation for learning a second language and have difficulty working at age-appropriate levels in required subjects even when taught in their native or primary languages.<sup>11</sup> Moreover, because most ESL and bilingual education programs for secondary school youth assume some native language literacy as a foundation for second-language learning, they are not designed to develop the basic literacy that children would normally have acquired in elementary schools.<sup>12</sup>

## B. Continuing Low System Capacity

Another challenge to LEP student education is that even the best of schools often lack the capacity to meet student needs. Here the problem is not just about the need for *more* resources. The problem encompasses a critical need for *new*, and as yet undiscovered, resources.

### I. A Lack of Reliable Assessment Instruments

Chief among these capacity issues is a long-standing lack of reliable assessment instruments available for testing LEP students' content knowledge (e.g., mathematics, social studies, science) in Spanish and other native languages. Although some states have produced Spanish-language versions of the state content tests (e.g., Texas), others have determined that there is no ap-

propriate way to translate state achievement tests into other languages and some (e.g., Illinois) specifically prohibit local officials from doing so.<sup>13</sup> The lack of reliable content area assessments or information on appropriate assessment accommodations for LEP students is a challenge in all states developing standards-based accountability systems.

### 2. A Long-Term Shortage of Trained Teachers

Critical shortages of language development and other specially trained staff place special burdens on schools as they struggle to meet the needs of a growing number of LEP students. Consider these data from the last national Schools and Staffing Survey: only 30% of public school teachers instructing limited-English students nationwide reported receiving any special training for working with these students. Moreover, 27% of all schools with bilingual/ESL staff vacancies — and 33% in central city school districts — reported finding them “difficult” or “impossible” to fill.<sup>14</sup>

The long-term shortage of new teachers specially trained to work with LEP students underscores the importance of training *veteran* teachers to work more effectively with new populations of LEP immigrants. This imperative is especially strong in secondary schools, where LEP students are often in mainstream subject classes for at least part of their school day. Yet, training around LEP issues (e.g., language acquisition, LEP assessment, and multicultural awareness) is often focused on language development teachers while training for mainstream subject teachers and administrators lags.<sup>15</sup>

### C. Persistent Professional Uncertainty over LEP Curriculum and Instruction

While there appear to be a number of effective strategies for helping LEP students develop basic oral English speaking and comprehension skills, a review by the National Academy of Science (NAS) suggests that professional knowledge on how to help LEP students develop *academic* English literacy remains at an early stage of development. This problem is particularly acute in secondary schools where learning in mainstream content classes requires background knowledge and advanced literacy skills (both linguistic and cultural) that second-language learners may not possess.<sup>16</sup> In the typical social science class, for example, students must be able to construct arguments and discuss alternative solutions to social problems in English. In mathematics, students must work with English texts containing vocabulary specific to math (e.g., *integer*, *algebraic*), as well as everyday words that have different meanings in mathematics (e.g., *table*, *irrational*). The predicament for many LEP students is that this level of academic English may take 4 to 7 years to acquire under the best of circumstances,<sup>17</sup> while the window of time students have to master the subjects required for graduation is limited.<sup>18</sup>

The NAS study also identified continuing knowledge gaps respecting the way that student age, intelligence, and attitudes mediate language learning. Much also remains unknown about the specific relationship between the social and linguistic environments of schools and the linguistic attainments of students.<sup>19</sup> Immigrant residential patterns and ESL bilingual programming may, for example, combine to result in schools where LEP immigrant students are concentrated with other language minority students. Although research in this area remains thin, studies have found that immigrant LEPs may

encounter difficulties in language and subject matter learning because of limited exposure to English speakers in their home and peer-group settings. Such nonclassroom contact has been found to accelerate language and subject learning by exposing LEP students to novel word meanings and standard/academic discourse styles that are rewarded in classroom work.<sup>20</sup>

### D. School Organization Issues That Impede LEP Students in Secondary Schools

The organization of work and time in the typical secondary school is often incompatible with the needs of English language learners and tends to isolate them and their language development teachers from the mainstream school program.<sup>21</sup> These concerns are all the more important as LEP students are expected to meet the same content performance standards as all other students in order to graduate.

#### I. Organization of Secondary School Staff

The organization of secondary school staff into subject or functional departments (e.g., English and science departments or special education and ESL departments) often has problematic consequences for LEP students and their language development teachers. Organizational issues arise because preparing LEP students to participate in mainstream classrooms is viewed as a special activity outside the “normal” functions of the secondary school.<sup>22</sup>

The organization of secondary schools into departments based on subject matter often leads to the exclusion of ESL/bilingual teachers from functions, such as schoolwide curriculum planning and standards development that often occur within the regular academic departments. This may be especially true in high schools where larger student

enrollments and wider grade spans compel greater specialization among teachers.

In one study, departmentalization was found to encourage mainstream subject teachers to believe that addressing the language development needs of their LEP students is the responsibility of other school staff or departments. This belief is often reinforced by the fact that school administrators often do not support training for mainstream teachers that is specifically designed to help them incorporate language development strategies into their math, science, or history classes. Core subject teachers also reported that their lack of knowledge about LEP students' needs often led them to have low expectations of their performance.<sup>23</sup>

Ensuring effective access to the full range of a school's programs (e.g., libraries, computers, counseling, and health services) requires that key staff other than teachers be aware of LEP/immigrant student needs. Yet, principals, counselors, librarians, and other support staff are rarely trained to work with LEP youth. As a result, ESL and bilingual teachers often assume duties normally handled by administrative and support staff. ESL teachers in high schools are often charged with conducting library orientations, computer classes, counseling sessions, and handling discipline conferences with parents. LEP students in such schools have fewer adults who are specifically charged with their education.

## 2. Organization of Time in Secondary Schools

Teachers in schools with large numbers of language minority students often report that the typical school schedule (50-minute time blocks) and calendar (180 school days) are too discontinuous to promote the kind of sustained, interactive, and comprehensible instruction LEP secondary students need. Teachers cite two critical needs that go

unmet when these students and their teachers confront an inflexible schedule.

First, teen LEP students need to spend more time on all tasks that require English language proficiency in order to master the content required for graduation in the short time available. Accomplishing this often requires access to extended day programs, specially designed summer school, and after-school tutoring. But such extended programming requires district or state-level support that is frequently unavailable.

Second, teachers who work closely with LEP students need to devote more time to planning and collaboration when facing greater skill diversity in their classrooms. Yet the typical teaching schedule — 5 classes per day, 150 students, and a single 50-minute planning period — makes it exceedingly difficult for teachers to prepare for students with special needs, give struggling students individualized attention, and collaborate with other teachers. The complex task of teaching students at differing levels of language and literacy development, coupled with the limited body of professional knowledge about effective teaching strategies, make working in isolation an insuperable challenge. Collaboration *among* ESL/bilingual teachers is important because it allows them to learn the approaches that other teachers are taking with LEP youth. And collaboration *between* language development and mainstream subject teachers is essential for teachers to develop schoolwide strategies for helping LEP students make successful transitions to mainstream instruction. This collaboration requires flexible scheduling allowing for common planning periods and opportunities for team teaching that are too often not supported in secondary schools.

## E. Early Warning Signs

### I. Increasing Fail and Dropout Rates in the Wake of Standards-Based Reform

As states implement new performance standards some are finding troubling signs that reform efforts are not translating into improved outcomes for all students. This is particularly so where states attach consequences, such as promotion or graduation eligibility, to performance on state assessments. In Texas, for example, the Texas Education Agency has reported that only 20% of LEP tenth graders in the state met minimum qualifications on all three of the exit-level tests (reading, writing and math) required for graduation.<sup>24</sup> The other 80% will face steep challenges as they have only 2 years to master the English language and content skills required for a high school diploma. These numbers are troubling because recent studies confirm that low performing teens are the most likely to drop out of school absent special intervention by their teachers and schools.<sup>25</sup> For example, despite increases over time in the average performance of black and Latino children on the state assessment, there is also evidence that high school dropout rates in Texas have increased for black and Latino students as a result of state implementation of a high-stakes exit test for tenth graders.<sup>26</sup>

The relationship between higher standards and dropout rates is not hard to understand. Researchers have found that early disaffection with school programs that fail to meet their needs and subsequent poor school performance cause students and their families to look on early labor market entry as a rational alternative to continued schooling.<sup>27</sup> While some work during high school may

have positive effects on student outcomes,<sup>28</sup> it has also been found that students who work intensely at paid jobs tend to have lower grades and to dropout.<sup>29</sup> Thus, raising graduation standards (without first ensuring that students have the time and support they need to meet those standards) significantly changes short-term calculations of the relative payoffs between schooling and early entry to the labor market. The push to leave school before graduating is particularly acute among teen LEPs, who are often farther behind than others academically. They are also pronounced among undocumented students, whose path to postsecondary education is effectively blocked by limited access to financial aid and whose eligibility for higher paying jobs in the postsecondary job market is effectively barred by law.

Given these circumstances, what can federal policymakers do to promote accountability for student outcomes while creating reasonable and positive incentives for improving those outcomes?

## III. Potential Strategies and Policy Choices — The Federal Role in Helping State and Local Educators Respond to the Needs of Language Minority Students

The exclusion of LEP immigrant youth from standards-based accountability systems threatens to widen performance differences between LEP students and others. At the same time, applying a one-size-fits-all accountability system to an LEP population in schools with low capacity to meet their needs could lead to equally undesirable consequences. These include increased

grade retention and drop-out rates among language minority students and low morale among their teachers and administrators. The challenge is to extend accountability systems to LEP students in ways that realistically take into account the existing capacity among educators at the school level.

Some considerations follow:

### **A. Taking a Cautious Approach to “High-Stakes” Consequences with Respect to LEP Students**

As noted earlier, some states (e.g., Texas and New York) have begun to attach high-stakes consequences (i.e., student promotion or graduation) to student outcomes as measured by performance on state-administered tests. In others, teacher and/or administrator pay and promotion are linked to school-level test outcomes. The central question is whether it is appropriate to impose such high-stakes consequences on individual LEP students and the school-level staff who teach them given the capacity issues outlined earlier in this essay.<sup>30</sup>

### **B. Rethinking the Role of the Federal Office of Bilingual Education and Minority Language Affairs**

The U.S. Department of Education’s Office of Bilingual Education and Language Minority Affairs (OBEMLA) has been the federal government’s lead agency in developing policy and supporting state and local efforts to meet LEP student needs. In the past two decades the lion’s share of OBEMLA’s targeted grants have been focused on broad capacity building efforts to help individual schools or school districts mount comprehensive language development programs. An examination of OBEMLA’s most recent budgets indicates that roughly 60% of its funds go to support “general instructional ser-

vices” for LEP students.<sup>31</sup> The newly reauthorized ESEA expands this broad capacity-building role by essentially block-granting most OBEMLA funds directly to states on a formula basis.<sup>32</sup>

Our current assessment of LEP education suggests that the broad capacity-building function advanced by the new administration should instead be funded through the ESEA’s much larger Title I program (funded at nearly the \$8 billion level in FY2001). We believe the move to broaden the uses of OBEMLA funds will serve only to further blunt the potential effectiveness of federal leadership on a more discrete but critical set of concerns that remain persistently unaddressed at the state and local levels. The small amount of OBEMLA-administered funds (about \$310 million in FY2001)<sup>33</sup> should instead be more carefully targeted to critical unmet needs: (1) key research issues; (2) demonstration programs that might advance our understanding of promising new curricula, assessments, and innovative approaches; and (3) professional development programs that prepare new and veteran teachers to work with language minority youth. These priorities are outlined below in turn.

#### **I. The Research Needs**

##### **a. Expanding the Collection and Effective Use of LEP Student Data**

Data-driven reform can be the lynchpin of a sound accountability system. At the school level, data on how recently students have immigrated and on the level of previous education in the home country have been found to be helpful to teachers, although they are not often collected by schools. These data might also help school-level staff identify subpopulations of students (e.g., underschooled newcomers) who might have literacy needs that are not squarely met by standard ESL/Bilingual programming.

Currently, few states collect school-level data on the number of LEP students who are retained in grade (a factor that has been found to correlate with dropping out) nor do districts routinely collect and report school-level data on how many LEP students are served in support programs other than ESL/Bilingual (e.g., number also served in Title I or Special Education programs). This type of data would help state and district level educators measure local program effectiveness and identify unmet needs.

**b. Helping States Develop Assessment Instruments in the Core Subjects Appropriate for Use with English Language Learners**

State policymakers are struggling with how to include English language learners in accountability systems in the absence of reliable, field-tested assessment instruments for measuring their mastery of math, science, and social studies content. This problem is particularly acute in secondary schools. The Department of Education ought to help states develop assessment instruments in various primary languages and might also develop standards for assessing English language learners whose content knowledge in the core subjects might be validly assessed in English with appropriate accommodation. It should also help key states study the effects of their assessment systems on students with limited English proficiency.

**2. Demonstration Grants — Promising/ Exemplary Practices**

The challenges presented by the organizational features of the typical secondary school suggest that a narrow focus on improving language development programs will yield only limited success with LEP students. Several studies of LEP and immigrant-serving schools indicate that exem-

plary schools focus on linking LEP students to whole-school reforms and tend to share four overarching elements. They: (1) involve all school teachers, administrators, and counselors in reform; (2) focus on bringing language development and mainstream subject teachers together; (3) expand the amount of time LEP immigrants spend in direct instruction in English and the core subject areas; and (4) emphasize sustained, long-term professional development for all school professionals.<sup>34</sup>

Exemplary strategies that require further demonstration and attention included:

- Explorations in how to implement whole school reforms in ways that take the special needs of LEP students into account (e.g., schoolwide professional development efforts, and organizational changes including block scheduling, and extended day/year initiatives).
- Developing alternative courses of instruction for special needs populations (including underschooled youth, and newcomer immigrants).
- Innovations in identifying gifted/talented LEP immigrants and promoting their preparation for postsecondary education.
- Innovations in promoting parental involvement among language minority parents.

**3. Programs To Increase the Number of Teachers Who Are Prepared To Work with LEP Students**

In the past decade, OBEMLA has placed increasing emphasis on teacher recruitment and professional development initiatives. Further, and perhaps expanded, support should be encouraged for:



- Grants to help schools and districts train all teachers who work with LEP students. These grants should also extend LEP-related training to key nonteaching staff, including counselors, administrators, and technology specialists.
- Grants to fund innovative career ladder programs designed to upgrade the qualifications and skills of existing bilingual classroom aides and others so they can be certified as language development teachers and other instructional personnel serving LEP students; and
- Fellowships in bilingual education for graduate studies on research and teaching of LEP students.
- Long-term teacher shortages may require that OBEMLA work to improve college preparation programs in ESL and bilingual education.

### C. Ensure All Eligible LEP Students Participate in Title I

Roughly 60% of OBEMLA funds go to support general LEP instructional services — services that should otherwise be supported under the larger Title I program. State and local reliance on OBEMLA funds to support LEP instructional services has meant that fewer of the agency’s dollars have been available to support the research, demonstration, and professional development priorities outlined above. One reason for this reliance on OBEMLA for general program support is that LEP students in many states and localities have been historically excluded from Title I services.<sup>35</sup> Likewise, other studies by the Citizens’ Commission on Civil Rights have found that many states and school districts are continuing to fall short of fully incorporating LEP students into Title I programs.<sup>36</sup> Again, these findings support the need for requiring state and district Title I plans to spell out how eligible LEP students will be served with Title I funds.

## Endnotes

<sup>1</sup> This report was written, in part, with support from the Spencer Foundation and the U.S. Department of Education, Office of Educational Research and Improvement. Opinions expressed herein are those of the authors.

<sup>2</sup> See, e.g., Citizens' Commission on Civil Rights, *Title I in Midstream: The Fight to Improve Schools for Poor Kids* (Washington, D.C.: Citizens' Commission on Civil Rights 1999) ("Title I in Midstream").

<sup>3</sup> Public Law No. 107-110.

<sup>4</sup> See *Title I in Midstream; Citizens' Commission on Civil Rights, Closing the Deal: A Preliminary Report on State Compliance with Final Assessment and Accountability Requirements Under the Improving America's Schools Act of 1994* (Mar. 2001).

<sup>5</sup> Ruiz-de-Velasco, Jorge and Michael Fix, *Overlooked and Underserved: Immigrant Students in U.S. Secondary Schools*, at 50-52 (Washington, D.C.: Urban Institute Press 2001), available online at: <<http://www.urban.org/pdfs/overlooked.pdf>> ("Overlooked and Underserved").

<sup>6</sup> Although Title I contains precatory language indicating that states are obligated to ensure that poor and disadvantaged students have the resources and assistance they need to meet new standards, the Citizens' Commission for Civil Rights has previously noted that these provisions are not enforced. See *Title I in Midstream*. Indeed, under the current Title I framework, states are required to direct additional help and resources to schools only *after* the accountability system has been implemented and *after* schools have demonstrated an inability to meet standards.

<sup>7</sup> While not all students are expected to meet the standards initially, the typical performance timetable suggests an expectation that all students who initially fail can be brought within the standards within a short period of time, usually one school year.

<sup>8</sup> These issues are treated in greater depth in *Overlooked and Underserved*.

<sup>9</sup> See, e.g., *Overlooked and Underserved*; Terrence G. Wiley, *Literacy and Language Diversity in the United States*, at 112-114 (Washington, D.C.: Center for Applied Linguistics 1996); *Improving Schooling for Language-Minority Children* (Diane August and Kenji Hakuta, eds., Washington, D.C.: National Academy Press 1997) ("Improving Schooling").

<sup>10</sup> Howard L. Fleishman and Paul Hopstock, *Descriptive Study of Services to Limited English Proficient Students* (Arlington, VA: Development Associates 1993).

<sup>11</sup> See, e.g., Ofelia Garcia, "Educating Latino High School Students with Limited Formal Schooling," in *So Much to Say: Adolescents, Bilingualism, and ESL in Secondary School* (Faltis and Wolfe, eds., New York: Teachers' College Press 1999) ("Educating Latino Students").

<sup>12</sup> "Educating Latino Students;" see also, Betty J. Mace-Matluck et al., *Through the Golden*

*Door: Educational Approaches for Immigrant Adolescents with Limited Schooling* (Washington, D.C.: Center for Applied Linguistics 1998); *Overlooked and Underserved*.

<sup>13</sup> Although Illinois has issued benchmarks for predicting how results from the state's language assessment test for LEP students (the IMAGE test) might translate to scores on the grade-appropriate ISAT language arts tests, there remains little guidance on how schools can help LEP immigrants meet the state standards in the other subjects. Illinois is not alone in this regard.

<sup>14</sup> U.S. Department of Education, National Center for Education Statistics, *Schools and Staffing Survey*, 1993–94.

<sup>15</sup> For example, Illinois does explicitly include mainstream teachers, administrators, and special education teachers in its LEP staff development programs and keeps track of their participation. Yet, while two-thirds of mainstream teachers in schools with bilingual education programs reported participating in multicultural awareness training, only about one-third of teachers in these high LEP-serving schools reported receiving training in language acquisition or other techniques for making their courses accessible to English language learners. ISBE, *Evaluation Report: Transitional Bilingual Education and Transitional Program of Instruction, Fiscal Year 2000* (ISBE Research Division Dec. 2000).

<sup>16</sup> *Improving Schooling* at 53–75.

<sup>17</sup> See Kenji Hakuta *et al.*, “How Long Does It Take English Learners to Attain Proficiency?,” in *Policy Report 2000-1* (Santa Barbara, CA: University of California Linguistic Minority Research Institute 2000), available at <<http://www.imrnet.ucsb.edu/RESDISS/hakuta.pdf>>; see also *Improving Schooling*; Wayne Thomas and Virginia Collier, *School Effectiveness for Language Minority Students* (Fairfax, VA: George Mason University Press 1997).

<sup>18</sup> See Kris Anstrom, *Academic Achievement for Secondary Language Minority Students: Standards, Measures and Promising Practices* (Washington, D.C.: National Clearinghouse for Bilingual Education 1997), a report to the U.S. Department of Education, available at <[www.ncbe.gwu/ncbepubs/reports/acadach.htm](http://www.ncbe.gwu/ncbepubs/reports/acadach.htm)>.

<sup>19</sup> *Improving Schooling* at 29–45.

<sup>20</sup> *Id.* at 53–75.

<sup>21</sup> The issues raised in this section are treated in greater depth in *Overlooked and Underserved* at 55–65.

<sup>22</sup> See, e.g., Carolyn Temple Adger and Joy Kreeft Peyton, “Enhancing the Education of Immigrant Students in Secondary School: Structural Challenges and Directions,” in *So Much to Say: Adolescents, Bilingualism, and ESL in Secondary School* (Faltis and Wolfe, eds., New York: Teachers’ College Press 1999), and authorities cited therein.

<sup>23</sup> *Overlooked and Underserved* at 56–60.

<sup>24</sup> Data source: Texas Education Agency, Office of Bilingual Education, Test Performance Summary Report, 10th Grade Exit Level administered Feb. 2001, for Limited English Proficient Students, reported Apr. 2001.

<sup>25</sup> See, e.g., Melissa Roderick and Mimi Engel, “The Grasshopper and the Ant: Motivational Responses of Low-Achieving Students to High-Stakes Testing,” 23 *Educational Evaluation and Policy Analysis* 197 (2001); Brian A. Jacob “Getting Tough? The Impact of High School Graduation Exams,” 23 *Educational Evaluation and Policy Analysis* 99 (2001).

<sup>26</sup> Walt Haney, “Revisiting the Myth of the Texas Miracle in Education: Lessons about Dropout Research and Dropout Prevention” (Jan. 13, 2001) (paper prepared for the Dropout Research: Accurate Counts and Positive Interventions Conference, Cambridge, MA). Likewise, a new study finds that stricter high school graduation requirements resulted in a 3 to 7% jump

in the overall dropout rate during the 1990s. The Cornell and University of Michigan economists who conducted the study suggest that, absent interventions to help students meet new standards, changes in graduation requirements may translate to between 26,000 and 65,000 more high school dropouts a year nationwide. See Dean R. Lillard and Philip P. DeCicca, "Higher Standards, More Dropouts? Evidence Within and Across Time," 20 *Economics of Education Review* 459 (2001).

<sup>27</sup> L.D. Steinberg, S. Fegley and S.M. Dornbusch, "Negative Impact of Part-time Work on Adolescent Adjustment: Evidence from a Longitudinal Study," 29 *Developmental Psychology* 171-180 (1993).

<sup>28</sup> S. Graskey, "Exploring the Effects of Childhood Family Structure on Teenage and Young Adult Labor Force Participation," 1111-96 *IRP Discussion Papers* (Madison, WI: Institute for Research on Poverty 1996).

<sup>29</sup> Duncan Chaplin and Jane Hannaway, "High School Employment: Meaningful Connections for At-Risk Youth" (Apr. 1996) (paper presented at the Annual Meeting of the American Educational Research Association, New York).

<sup>30</sup> See, e.g., U.S. Department of Education, *The Use of Tests as Part of High-Stakes Decision-Making for Students: A Resource Guide for Educators and Policy-Makers* (2000).

<sup>31</sup> See, e.g., OBEMLA's FY2001 budget, exclusive of funds earmarked for distribution under the Emergency Immigrant Education Act. Here \$180 million of a \$310 million budget is allocated to support instructional services.

<sup>32</sup> See H.R. 1, the "No Child Left Behind Act of 2001, Title III," reauthorizing the ESEA and signed by President Bush on January 8, 2002.

<sup>33</sup> Not inclusive of an additional \$150 million in impact aid administered through the Emergency Immigrant Education Act to school districts with large numbers of newcomer students. These funds, though administered by OBEMLA, are not restricted for use in language development programs.

<sup>34</sup> See *Overlooked and Underserved* at 70-80.

<sup>35</sup> See, e.g., Michael Fix and Wendy Zimmermann, *Educating Immigrant Children: Chapter I in the Changing City* (Washington, D.C.: Urban Institute Press 1993).

<sup>36</sup> Citizens' Commission on Civil Rights, *The Test of Our Progress*, at 193-201 (Washington, D.C.: Citizens' Commission on Civil Rights 1999).