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## Policy Recommendations:

### **EFFECTIVE ACCOUNTABILITY MECHANISMS FOR NEW YORK STATE'S ENGLISH LANGUAGE LEARNERS**

**Issued by:**

**Asian American Legal Defense and Education Fund (AALDEF) and  
Advocates for Children of New York (AFC)**

## **The Asian American Legal Defense and Education Fund**

Founded in 1974, the Asian American Legal Defense and Education Fund (AALDEF) is a national organization that protects and promotes the civil rights of Asian Americans. By combining litigation, advocacy, education, and organizing, AALDEF works with Asian American communities across the country to secure human rights for all.

Realizing that education is the road to a better life for immigrants from all countries, AALDEF provides legal assistance to parents and students asserting their rights to equal educational opportunities. We also conduct extensive community education and community organizing support across the country. Our educational equity work is conducted in tandem with local community groups with whom we partner to build capacity and who help us keep abreast of local developments and movements for social change. The issues we focus on reflect the diversity of Asian American communities and the broad range of issues affecting these communities. Some of our priority areas include bilingual education, language access, racial profiling, anti-Asian harassment, school pushout, and juvenile justice.

## **Advocates for Children of New York**

Since 1971, Advocates for Children of New York (AFC) has been speaking out for the children and youth who are most likely to experience failure or discrimination in school because of their poverty, race, disability, language barriers, homelessness, or involvement in the foster care or juvenile justice systems. No other city-wide organization is like AFC: working in the trenches to provide these vulnerable students and their families with urgently needed guidance and advocacy, while at the same time, pressing for systemic reforms that benefit all students, even those who are most challenging to educate. Our efforts on the individual and policy levels inform and strengthen each other, further increasing our effectiveness for the communities we serve.

## Introduction

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In September 2011, the New York State Department of Education convened a School and District Accountability Think Tank to provide public input regarding the creation of a second generation educational accountability system for the State's Elementary and Secondary Education Act waiver application. The Asian American Legal Defense and Education Fund (AALDEF) and Advocates for Children of New York (AFC) participated in the Think Tank and submitted a set of comprehensive recommendations regarding sound accountability practices for English Language Learners (ELLs).

In May 2012, the U.S. Department of Education granted New York's waiver application, which included several of AALDEF's and AFC's recommendations. We believe our ELL accountability recommendations have relevance beyond the ESEA waiver, and now release this paper which sets forth key principles for a sound ELL accountability framework in New York State.

According to New York State Education Department statistics, there are currently 238,792 ELLs enrolled in the State's public schools. The overwhelming majority of them are in New York City, Long Island, and other urban areas. Approximately 2/3 of New York State ELLs are Spanish speaking, and other common languages include Chinese, Arabic, Bengali, Haitian Creole, Urdu, Russian, French, Korean, and Karen (a Burmese dialect).<sup>1</sup>

A sound educational accountability system for New York State must take into account the needs of this large ELL population. As of the start of the 2012-13 school year, our current accountability system is falling far short on this endeavor. As a result, New York lacks an accurate picture of whether its ELLs are making progress in terms of academic achievement, Native Language Arts, and/or English proficiency. Currently, there is a total lack of content alignment between our English As a Second Language (ESL) and English Language Arts (ELA) standards, as well as between our ESL curriculum and ELL accountability assessments. We must tailor language arts standards for ELLs to take into account all elements of language development, including both ESL and ELA and native language arts for bilingual education students. We also need to build better assessments for ELL accountability with an eye toward content validity and the use of research- and evidence- based evaluation methods. Finally, we must expand professional development for all teachers on ESL and native language methodologies, as well as improve data collection and dispersal systems.

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<sup>1</sup> These statistics are drawn from the New York State Education Department at: <http://www.regents.nysed.gov/meetings/2011Meetings/November2011/1111p12d1.pdf>.

We recommend a revised accountability framework for ELLs, which would take a nuanced look at both proficiency (measured by ESL standards and assessments) and language arts achievement (measured by ELA or Native Language Arts (NLA) standards and assessments as appropriate by program type and proficiency level). As we have now adopted Common Core ELA standards, we should also align our ESL and NLA standards and curricula. Finally, we must revise the New York State English as a Second Language Achievement Test (NYSESLAT) and develop new native language arts assessments to achieve full alignment of standards, curricula, and assessments.

Our current system does not provide ELL teachers with standards and curricula to prepare ELLs for ELA classrooms, and our current ELL assessment does not measure ELLs' English proficiency against the requirements of Common Core ELA standards and content. Under the current system, ELLs can be set up to fail. While our organizations have general concerns about the trend toward test-driven accountability in education, we strongly believe a research- and evidence- based accountability system tailored to ELL needs would greatly reduce current inaccuracies in accountability for ELLs.

# Proposals

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## **I. ELL Language Arts Accountability Components**

Currently, ELLs in grades 3-8 who are enrolled for less than one year may take the NYSESLAT instead of the ELA test for accountability purposes. This accommodation is available for one academic year. All other ELLs are subjected to standard ELA accountability measures.

We recommend the creation and phasing in of a more nuanced language arts accountability system for ELLs that takes into account both language arts achievement and English proficiency, and reflects content actually learned in the classroom. For high school ELLs specifically, it may also be appropriate to include an accountability measure related to language arts requirements for graduation, with appropriate accommodations for proficiency level. We suggest the retention of ELL instruction experts (including but not limited to ESL specialists and NLA specialists) to assist in developing an appropriate measure and to refine the recommendations herein.

### **A. Beginner and Intermediate ELLs**

Language arts accountability for Beginner and Intermediate ELLs should reflect their actual curricula and the respective standards aligned with those curricula. Beginner ELLs currently receive 3 credit hours of ESL, and Intermediate ELLs receive 2 credit hours of ESL. Beginner and Intermediate ELLs are not currently enrolled in ELA. However, if they are enrolled in a bilingual education curriculum, they also receive 1 credit hour of NLA.<sup>2</sup>

Beginner and Intermediate ELLs in grades 3-8 should only be subjected to accountability measures regarding their progress toward English proficiency, not ELA. These students are not fluent enough in English for the ELA assessment to be an accurate measure of their language arts achievement, nor is it fair to hold them accountable for instruction from courses in which they are not enrolled. A revised version of the NYSESLAT, which is currently used as the accountability assessment instrument for ELLs who have been enrolled for less than one year, could be used for accountability assessment of all Beginner and Intermediate ELLs in grades 3-8. However, it would have to be revised for content alignment as well as scaled differently as appropriate for accountability (the NYSESLAT is currently scaled for placement purposes and would need to be rescaled for this use).

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<sup>2</sup> While these are current ELL credit requirements as of the time of writing, the New York State Department of Education is currently reviewing Part 154 of the New York State Education Commissioner's Regulations which spells out standards and requirements for the education of ELLs. A revised version of Part 154 is expected to be released in Fall 2012 or later.

Language arts accountability for Beginner and Intermediate high school ELLs is more complicated. In addition to measuring progress toward English proficiency, meaningful accountability should also take into account progress toward language arts graduation requirements. One possibility – which we describe in greater detail below – would be for ESL experts to develop a weighted combination of a rescaled and content-aligned NYSESLAT along with a measure related to language arts requirements for graduation with appropriate accommodations.

It would also be appropriate to include a NLA accountability component for Beginner and Intermediate ELLs who are enrolled in a bilingual education program. Because NLA accountability assessments don't currently exist, such tests would have to be developed and phased in over time. Accountability measures for Beginner and Intermediate ELLs in bilingual education could include an appropriately weighted combination of their NYSESLAT and NLA scores (and, for ELLs in high school, a measure related to language arts graduation requirements).

### **B. Advanced ELLs**

Advanced ELLs receive 1 credit hour each of ESL and ELA. As such, language arts accountability for Advanced ELLs could be an appropriate weighted combination of ESL assessment (most likely the NYSESLAT, if revised to align with ESL standards and curricula) and ELA assessment. For Advanced ELLs in high school, the ELA assessment would also be related to graduation requirements.

Advanced ELLs enrolled in bilingual education could also include a NLA accountability component, provided that appropriate, aligned NLA assessments are developed and phased in.

## **II. Content Alignment**

As New York State creates curricula and assessments aligned to the new Common Core ELA standards, we have an ideal opportunity to update and align its ESL and NLA standards, curricula, and assessments as well.

### **A. Alignment of Standards**

Our current New York State ESL standards were released in 2004, and are aligned with then-existing ELA standards. However, our ELA standards were revised one year later in 2005. Unfortunately, the ESL standards were not subsequently revised to bring them into alignment with the newer ELA standards. This is poor education policy and may violate the federal Elementary and Secondary Education Act (ESEA). As we update our ELA standards to Common Core, we must update and align our ESL standards as well.

Our NLA standards are also out of alignment with ELA standards. Like the ESL standards, the NLA standards were released in 2004, prior to the latest revision of our ELA standards. Our NLA standards should be tailored for use with all languages in which NLA instruction is available, and aligned with Common Core ELA standards.

## **B. Alignment of Curricula**

As the ELA curriculum is brought into accordance with the Common Core, ELA curricular resources tailored to ELL needs must be developed with the assistance of an ELL expert. Further, specific tools and resources must be developed for subpopulations with specific needs like long-term ELLs and Students with Interrupted Formal Education (SIFE).

The ESL curriculum and NLA curricula must also be brought into accordance with the Common Core ELA standards. NLA experts must be retained to develop and align NLA curricula in all available languages with the updated NLA standards.

## **C. Alignment of Assessment Instruments**

The accountability assessments currently used to test ELLs are neither aligned with the correct standards nor with appropriate curricula.

The NYSESLAT is used for accountability assessment of eligible ELLs in grades 3-8 who have been enrolled for less than one year. However, the NYSESLAT is aligned to our current ESL standards, which are out of alignment with both our current ELA standards as well as ELA curricula.<sup>3</sup>

The ELA state assessments are utilized for accountability assessments of all ELLs enrolled for over one year, regardless of level. These tests are aligned to ELA standards and curricula. However, Beginner and Intermediate ELLs receive no ELA instruction whatsoever. Instead, these students receive ESL instruction which is neither reflected in nor aligned with the ELA standards, curricula, and assessments. Advanced ELLs do receive 1 credit hour of ELA instruction in addition to ESL, but the ESL curricular component is not reflected in the ELA assessment.

As discussed above, we recommend a more nuanced ELL accountability framework taking into account language arts achievement as well as language proficiency. We recommend the development or revision of ELA, ESL (the NYSESLAT), and NLA assessments in accordance with our framework, and for these assessments to be

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<sup>3</sup> Further, the NYSESLAT is not aligned with the LAB-R, which is used for initial assessment and placement of ELLs at enrollment. Currently, it is possible for a new ELL who is designated as an Intermediate or even Advanced student by the LAB-R to be re-designated as a Beginner by the NYSESLAT at the end of the school year. As such, the NYSESLAT and LAB-R must also be aligned to avoid erroneous placements and ensure students receive appropriate instruction immediately upon enrollment.

aligned with their respective standards and curricula. An updated version of the NYSESLAT that is reviewed by ELL experts and aligned with the Common Core as well as classroom instruction could be a promising ESL assessment mechanism. NLA assessments, however, would have to be developed as there are currently no NLA accountability assessments in existence.

### **III. Assessments**

#### **A. Content Validity of Assessments in English**

All assessments used for ELL accountability (including ELA and content assessments in other subjects like science and math, to the extent that English text is used) must be content validated to ensure accurate measurement of achievement and growth. Many accountability assessments are content validated for black/white cultural bias, but it is also crucial to implement content validity studies for ELLs to ensure assessments are appropriate based on research on language acquisition, bilingualism, and cultural competency. These studies should be normed on a population representative of the home languages spoken by New York State's ELL population.

New York State's timeline to align state assessments with Common Core by 2013-14, and the Partnership for Assessment of Readiness for College and Careers (PARCC) timeline to develop assessments by 2014-15 both allow sufficient time to incorporate ELL-focused content validity studies.

#### **B. Proficiency Assessment**

The NYSESLAT – if revised appropriately and brought into alignment with the Common Core as well as New York State ESL standards and curricula - may be an appropriate assessment instrument for the English proficiency component of ELL language arts accountability in grades 3-8. However, ESL experts must first be consulted to revise its content as well as its scoring scale. The NYSESLAT is currently designed for placement purposes only, not accountability, even though it is used as an accountability instrument for K-8 ELLs with less than one year of enrollment.

Further, under the current scoring system, the NYSESLAT is very exacting at the high school level. Students must score close to 100% correct in order to pass. In fact, many students pass the ELA Regents and graduate high school without ever passing the NYSESLAT, and even some native English speakers may not be able to pass it under the current high school score cutoffs. The NYSESLAT's scoring system needs to be recalibrated to accurately measure English proficiency at the high school level.



In addition, a meaningful accountability system for high school students should take into account progress toward graduation requirements. Therefore, at the high school level, we recommend working with ESL experts to develop two appropriately weighted accountability components: 1) a version of the NYSESLAT that is revised for accountability purposes, as described above, to measure English proficiency; and 2) a measure that takes into account progress toward graduation requirements in language arts, with appropriate accommodations.

### **C. Native Language Assessments**

As discussed above, a NLA component should be incorporated for language arts accountability of bilingual education students. Since NLA accountability assessments do not currently exist, this would be a significant undertaking. NLA experts would have to be retained to examine the feasibility and benefits of such a scheme, as well as determine how to incorporate NLA scores into a weighted combination score for language arts accountability. If the State moves forward with this plan, NLA assessments aligned with standards and curricula could be developed in languages for which bilingual programs are offered.

## **IV. Professional Development**

The above recommendations must be paired with appropriate professional development in order to succeed. ELL, ESL, and NLA content specialists must be retained to develop and provide the needed training. All ESL teachers will need training on the revised ESL standards, curricula, and assessments. Similarly, all ELA teachers - whether or not they work exclusively with ELLs - will need more training to work effectively with Advanced ELLs (who, as discussed above, receive 1 credit hour of ELA instruction). NLA teachers in both bilingual programs and ELL-focused schools with native language support (such as the Internationals Network For Public Schools in New York City) need more NLA-focused professional development, regardless of whether a NLA component of accountability is phased in. Such training will generally improve ELLs' language arts learning, which in turn could boost their ELA scores once they are eligible for ELA assessment.

Also, all teachers in all content areas require more training in ESL methodologies. Almost all ELLs, regardless of whether they are in bilingual education, take some mainstream content classes that are taught in English.

Finally, the State should work with institutions of higher education to enhance joint certification and preparation programs for graduates to work with ELLs, as well as develop curricula and resources for the above professional development trainings.

## Conclusion

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Without content-validated, curriculum-aligned assessments, our accountability system will never accurately measure the academic achievement and growth of ELLs. Under our current accountability system, the ESL and ELA standards are completely out of alignment with existing curricula and assessments for these students. Given our large ELL population, it is risky and inaccurate to classify, penalize, and reward schools, as well as evaluate teachers, under this flawed ELL accountability system. As we move forward to develop and implement new aligned standards and improved educational assessments for the student body as a whole, we must take the time and expense to develop and phase in a more accurate, well-calibrated system of accountability for ELLs. If we fail to take on this important endeavor, we will only exacerbate current accountability distortions for ELLs.

This report was written by Khin Mai Aung, Director of the Educational Equity Program at the Asian American Legal Defense and Education Fund (AALDEF), and Gisela Alvarez, Senior Project Director at Advocates for Children of New York (AFC).

An earlier version of this report was submitted to the New York State Department of Education on December 9, 2011 as part of the authors' work on the New York State School and District Accountability Think Tank, which provided input to the State Department of Education on the creation of a revised school accountability system for its application for waiver from the No Child Left Behind Act.

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