



Using No Child Left Behind Waivers to Improve English Language Learner Education

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Introduction

The No Child Left Behind law fundamentally changed the expectations and data that schools should have for their English language learner students. The landmark 1974 *Lau v. Nichols* Supreme Court case concluded that students who speak English as a second language have a right to a “meaningful education.” But No Child Left Behind—a reauthorization of the Elementary and Secondary Education Act—was the first law to hold schools and districts accountable for the achievement of their English language learner students. The law requires districts and schools to disaggregate and report data by student subgroups, including English language learners, and to take action if they do not make sufficient academic progress. A decade after No Child Left Behind became law, there is still a large achievement gap between English language learner students and their English-proficient peers. More than three times as many English language learner students score below the basic level on eighth-grade national math and reading exams as their white, English-proficient peers.¹

In September 2011 President Barack Obama announced that his administration would waive certain Elementary and Secondary Education Act requirements in exchange for reforms proposed by states in four principle areas:

- **Principle 1:** Meeting college- and career-ready expectations for all students
- **Principle 2:** Creating state-developed differentiated recognition, accountability, and support
- **Principle 3:** Supporting effective leadership and instruction
- **Principle 4:** Reducing duplication and unnecessary burden²

The Obama administration is targeting several improvements related to English language learners through its process for granting Elementary and Secondary Education Act waivers. Specifically, those reviewing states’ waiver applications have been encour-

aged to consider the manner in which states address the needs of English language learners in each of these principle areas, with the exception of principle four.³

Eleven states applied for and received waivers in early February 2012 as part of the first round of applications. Twenty-six states plus the District of Columbia applied for the next round of waivers.⁴ The U.S. Department of Education is currently reviewing those applications and had approved waivers for 23 states at the time of publication.

In this column we consider the significance of improving instruction for English language learners. In addition, we outline the ways in which the waiver application review process encourages states to address the needs of English language learner students as part of the first and third principles related to college- and career-ready expectations and to leadership and instruction—the issues related to principle 2 are too extensive to delve into in this column and therefore are not discussed at length.⁵ Finally, we highlight the state of New York, which submitted a very detailed and thoughtful waiver application with respect to meeting the needs of its English language learners. As part of our review, we examined all second-round applications to analyze how well they addressed the needs of English language learners related to principles one and three, though we found that most states lacked detailed plans. Thus, we focus on New York in this paper, which stood out for its comprehensive approach to the issue.

The need for improving instruction for English language learners

There is little question that all teachers will soon need to have the skills to be successful with English language learner students. In the decade from 1998 to 2008, the number of English language learner students increased from 3.5 million to 5.3 million, and researchers estimate that 1 in 10 public school students in the United States is an English language learner student.⁶ This means that general education classroom teachers, who may be accustomed to working primarily with students who speak English fluently, will need to adapt their teaching techniques to reach students who have varying levels of English language proficiency.

A recent study found that teachers who received specialized instructional training for teaching English language learners made a significant impact on their students' learning.⁷ Yet few teachers actually receive this kind of support. Nationally, teacher preparation programs vary widely in terms of providing in-depth training on instructional strategies for English language learners and methods of addressing the needs of students with varying levels of language proficiency.⁸ Once in the classroom, teachers often find that their districts and schools do not include the professional development that is specifically designed to address the needs of English language learner students. Furthermore, there are inconsistencies across state certification requirements when it comes to the required knowledge and skills that all teachers should have for teaching

English language learners. Teacher observation systems, which are increasingly used to measure teacher effectiveness, also tend to vary in how they assess teachers in meeting the needs of English language learner students.⁹

The Elementary and Secondary Education Act waivers offer states an opportunity to press ahead with efforts that improve instruction for English language learners. The waiver application and review process encourages states to consider how their state standards can support learning and instruction for English language learners and how teacher and leader evaluation systems can improve the quality of instruction for these students. Accountability, too, plays an important role in improving instruction and is a key area that states must address in their waiver applications. For the purposes of this column, however, we focus solely on the principles related to state standards and leadership and instruction. Elsewhere we have examined state plans for their accountability systems.¹⁰

What makes a high-quality waiver application for English language learners and their teachers?

The U.S. Department of Education issued guidance to direct reviewers as they considered states' waiver applications and to help states develop "high-quality requests" for waivers.¹¹ The Education Department defines a high-quality request as being "comprehensive and coherent in its approach and ... clearly indicates how this flexibility will help ... improve student achievement and the quality of instruction for students."¹² The review guidance prompts reviewers and states to consider how the needs of English language learners are being addressed under each principle.

Principle 1: Meeting college- and career-ready expectations for all students

States are encouraged to ensure that English language learners have the opportunity to achieve state college- and career-ready standards at a minimum by:

- Analyzing the linguistic demands of their college- and career-ready standards and using results to develop or revise existing English language proficiency standards
- Providing professional development and other support to prepare incoming and current teachers to help all students, including English language learners, meet expectations set by the standards
- Developing and disseminating high-quality instructional materials aligned to the new standards that support the teaching and learning of all students, including English language learners
- Working with institutions of higher education and other teacher and leader preparation programs to better prepare new teachers and leaders to teach all students, including English language learners

Principle 3: Supporting effective instruction and leadership

States are encouraged to improve instruction and leadership for all students, including English language learners, by:

- Developing processes and guidelines for teacher evaluation systems to ensure they include and support all teachers, including those working with English language learners and other specific populations of students
- Employing multiple valid measures in determining student performance levels and incorporating data on growth for all students, including English language learners, as a significant factor in teacher evaluation systems

Why New York is a strong example

New York is one state that stood out in the waiver application process for submitting detailed and comprehensive information about its plans to teach English language learner students in both its move to college- and career-ready standards and its efforts to improve leadership and instruction. The U.S. Department of Education granted New York a waiver, and the following analysis is based on that state's revised application.

Only 13 percent of New York's English language learners met the proficiency bar in English during the 2010–11 school year. English language learner students are not faring any better in math—only about one-third, 32 percent, met the proficiency bar. As a result, New York is taking serious steps to include English language learner students in its efforts to improve achievement outcomes.¹³

New York is preparing all teachers for implementing college- and career-ready standards—in this case, the Common Core State Standards—by ensuring that the Common Core has modifications that allow teachers to provide language support to English language learners and to make the same curricular content accessible to them.¹⁴ These modifications are designed to support different subgroups of English language learner students, including students with interrupted formal education, English language learners with disabilities, and long-term English language learners who have received English as a second language instruction for seven or more years but have never achieved fluency in English. New York is also planning to align its English language proficiency exam with the Common Core by spring 2013 in order to ensure that there is continuity between the two.

Further, New York is simultaneously developing English as a second language and language arts standards in students' native languages for release in 2013. These standards will be aligned to the Common Core and will be piloted in schools with significant English language learner populations during the 2013–14 school year. The state recently launched a Bilingual Common Core Initiative to analyze the language requirements of

the Common Core and to develop bilingual performance indicators and achievement benchmarks for English language learner students at varying proficiency levels, as well as curriculum modules in the top five languages spoken in the state.¹⁵

In order to support districts and schools through these transitions, New York created Network Teams to provide technical assistance:

Network Teams generally consist of three persons with expertise in curriculum, data analysis, and instruction that serve approximately 25 schools. The purpose of the Network teams is to work directly with educators in schools to deliver sustained, intensive professional development, which will include strategies for English language learners and students with disabilities¹⁶

The Network Teams also run professional development institutes led by experts in various topics. The November 2011 institute focused on principles of instruction for English language learner students and students with disabilities. It also provided instructional strategies for students with specific needs under the Common Core.¹⁷

New York's application thoughtfully considered qualifications for entrance into the profession, support, and evaluation of teachers of English language learners and English as a second language teachers. In order to better prepare its incoming teachers, the state board of regents recently directed the state education agency to use new teacher certification exams. One of the new exams is the Educating All Students Test, which is designed to assess whether new teachers understand how to address the needs of diverse student populations and how to support them in the classroom.¹⁸

New York took special care in developing its teacher evaluation system to include teachers of English language learners and English as a second language teachers. The state expects to have its districts linking teachers to data on their students' achievement in every course that leads to a state assessment by the 2012–13 school year and anticipates that this data will be broken down by the amount of instructional time that a teacher spends with a student.¹⁹ This is especially important for teachers of English language learners and English as a second language teachers, who may not have had any data captured in the past if they provided additional instruction for part of a school day or week but were not the main content teacher.

In addition, New York chose a growth model that would allow for English language learner status to be taken into consideration in student growth calculations. The model allows value-added characteristics such as language proficiency level to be added without significantly changing the basic structure of the model itself. By way of example, every student in a class will have a single student growth percentile that is calculated by comparing his or her growth to the growth of similar students based on their previ-

ous test histories. Language proficiency will be considered as an additional factor for students who are English language learners.

The state's teacher evaluation system also allows districts to choose from a list of approved teacher or principal observation rubrics that are aligned with the state standards. In its call for rubric proposals, New York asked applicants to include how they would address the needs of English language learner students and students with disabilities. One of the approved rubrics specifically supports teachers of English language learners and students with disabilities through evaluator guidebooks. In addition, New York state evaluation regulations require districts to provide specific training to evaluators in several areas, including evaluating principals and teachers of English language learners.²⁰

Currently, most English language learner students in the third grade through eighth grade take the same state assessments that are administered to all other students, and these assessment results are used to measure their growth.²¹ New York, however, still has work to do around incorporating results from its separate English language proficiency exam into its measures of student growth. The state plans to analyze whether it is possible to measure growth on the English language proficiency exam using the same growth model used for English-proficient students. If it is possible, English language learner student growth on this specific test will be included in the growth measures for all teachers of tested subjects. If it is not possible, the English language proficiency exam results will continue to be incorporated in broader student learning objectives.²²

In its application, New York provided a great deal of detail on the ways that the needs of English language learner students are or will be incorporated into standards and assessments, as well as teacher preparation, support, and evaluation. The state still has a lot of work to do in order to improve current English language learner student achievement but is off to a strong start with its efforts to integrate English language learners into every aspect of reform.

Conclusion

States can learn from the strong example set by New York. Since the population of English language learner students in the United States is growing so rapidly, states need to be proactive about including English language learner students and their teachers in every aspect of education reform.

The current No Child Left Behind law was designed to ensure that schools were identifying students whose struggles might otherwise be overlooked in an aggregate of higher-performing students. Teachers of English language learners, whether they are English as a second language teachers or general education teachers, need to have the supports and information they need to teach their students effectively. As the first iteration of No

Child Left Behind evolves into the next generation of waivers and a future reauthorization of the Elementary and Secondary Education Act, it will be critical for the federal government to push states to support teachers and enhance standards in ways that will continue improving the educational achievement of English language learner students.

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Endnotes

- 1 Ben Master and others, "Different Skills: Identifying Differentially Effective Teachers of English Language Learners," Working Paper 68 (Washington: National Center for Analysis of Longitudinal Data in Education Research, 2012), available at <http://lb.air.commonspotcloud.com/upload/Master-et-al.pdf>.
- 2 U.S. Department of Education, ESEA Flexibility Review Guidance (2012), available at www.ed.gov/sites/default/files/review-guidance.doc.
- 3 Ibid.
- 4 Vermont initially applied for a waiver in February 2012 but subsequently withdrew its application in June 2012. This count includes the District of Columbia, which is referred to as a state for the purposes of this paper.
- 5 Accountability plays an important role in improving instruction and is a key area that states must address in their waiver applications. The topic of accountability deserves its own paper, so for the purposes of this paper, we focus solely on the principles related to state standards and leadership and instruction. Additionally, the fourth principle received scant attention in state applications and did not deal directly with programs for English language learners. Therefore we did not treat this principle either.
- 6 National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs, The Growing Number of English Learner Students: 1998/99 – 2008/09 (U.S. Department of Education, 2011), available at http://www.nclae.gwu.edu/files/uploads/9/growingLEP_0809.pdf.
- 7 Master and others, "Different Skills."
- 8 Maria Santos, Linda Darling-Hammond, and Tina Cheuk, "Teacher Development to Support English Language Learners in the Context of Common Core State Standards" (Palo Alto: Stanford University, 2012), available at <http://ell.stanford.edu/publication/10-teacher-development-appropriate-support-ells>.
- 9 Jennifer F. Samson and Brian A. Collins, "Preparing All Teachers to Meet the Needs of English Language Learners: Applying Research to Policy and Practice for Teacher Effectiveness" (Washington: Center for American Progress, 2012), available at http://www.americanprogress.org/issues/2012/04/pdf/ell_report.pdf.
- 10 Jeremy Ayers and Isabel Owen with Glenda Partee and Theodora Chang, "No Child Left Behind Waivers: Promising Ideas from Round Two Applications" (Washington: Center for American Progress, 2012).
- 11 U.S. Department of Education, ESEA Flexibility Review Guidance.
- 12 Ibid.
- 13 New York State Education Department, ESEA Flexibility Request (2012), available at www2.ed.gov/policy/eseaflex/approved-requests/ny.pdf.
- 14 Ibid.
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- 16 Ibid.
- 17 Ibid.
- 18 Ibid.
- 19 Ibid.
- 20 Ibid.
- 21 Ibid.
- 22 Ibid.