



ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND

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The Committee on Health, Education, Labor, and Pensions
United States Senate
428 Senate Dirksen Office Building
Washington, DC 20515

Re: Comments on the Proposed Reauthorization of the Elementary and Secondary Education Act (ESEA)

Dear Chairman Harkin and Committee Members:

The Asian American Legal Defense and Education Fund (“AALDEF”), a 36-year-old organization that protects and promotes the civil rights of Asian Americans, is pleased to submit comments concerning the proposed reauthorization of the Elementary and Secondary Education Act (“ESEA”). We are glad the Committee on Health, Education, Labor and Pensions (“Committee”), along with the U.S. Department of Education (“DOE”), has taken the initiative to seek bipartisan reform of this important education law. We are also pleased the Department of Education’s (“DOE”) blueprint for the reauthorization of ESEA acknowledges the importance of educational equity for diverse populations such as English Language Learners (“ELLs”), and begins to address key issues like content alignment between high quality curricula and assessments, the collection and dissemination of sound disaggregated data, resource equity for low-income school districts, and the creation of safe and healthy environments for all students.

AALDEF’s Educational Equity and Youth Rights Project advocates on behalf of Asian American students in public education, in particular ELLs and students from low income families. Contrary to the “model minority myth” that all Asian Americans are high achievers who perform well in school, many Asian American subgroups struggle to achieve parity in our education system. Nearly one out of four (24%) Asian American students are ELLs, compared to only 2% of non-Hispanic black and 1% of non-Hispanic white children.¹ Nationwide, Asian Americans constitute 12% of all ELLs, even though they are 5% of the general population.² Certain Asian ethnic groups have a particularly high proportion of ELL students. 52% of Hmong Americans ages 5 to 17 are ELLs, as are 39% of Vietnamese Americans and 34% of Bangladeshi Americans within that age range.³ In addition, 60% of Southeast Asian parents (defined here as parents of family origin from Vietnam, Laos and Cambodia) have less than three years of formal education.⁴

¹ Randolph Capps, et al., *The New Demography of America’s Schools: Immigration and the No Child Left Behind Act*, Urban Institute (2005).

² Calculations based on Census 2000. Note: the Census does not track ELL students. Instead the data shows limited English proficient Asian and Pacific Islanders ages 5 to 17.

³ *Id.*

⁴ Katharya Um, *A Dream Denied: Educational Experiences of Southeast Asian Youth*, Southeast Asian Resource Action Center (2003).

Below are our comments and recommendations on ESEA provisions most relevant to the Asian American community:

I. Invest In Meaningful Teacher Effectiveness Measures.

The DOE's blueprint places great emphasis on the role of teachers and school leaders in building strong schools and successful student outcomes. Teachers and school leaders must have the necessary tools to work with a wide range of students, including ELLs and other diverse learners. In particular, ESEA must include the following elements to improve ELL learning outcomes:

A. Require training in ELL teaching methodology and multicultural awareness for all teachers.

We are pleased the DOE's blueprint acknowledged the importance of effective professional development in ELL methodology for all teachers, including academic content teachers. ESEA should designate and increase resources for teacher training in ELL methodology and multicultural awareness for all teachers, regardless of whether they work exclusively with ELLs.

Despite the rapid growth of ELL populations across the country, only 2.5% of teachers nationwide have appropriate professional development in ELL instruction.⁵ Teachers speaking Asian languages are even more scarce. In California, there is only 1 Vietnamese speaking teacher for every 662 Vietnamese ELLs, and 1 Khmer (Cambodian) speaking teacher for every 21,000 ELLs.⁶

B. Provide states with funding to hire more English as a Second Language (“ESL”) and bilingual education specialists.

We are also pleased the blueprint emphasized the consideration of ELLs' specific needs in building pathways for teacher training. In addition, ESEA should designate and increase funding for states to hire (and provide ongoing training to) ESL and bilingual education specialists to serve this growing population.

Many school districts face severe shortages in ESL and bilingual education specialists. In some cases, ESL teachers are responsible for up to 80 students of varying grade levels and language abilities. Others are responsible for multiple schools in a single district, only visiting each school once a month.⁷

⁵ Danling Fu and J. Graff, “The Literacies of New Immigrant Youth,” *Handbook of Adolescent Literacy Research* (NY: Guilford Publications, Inc.; 2008).

⁶ Um, *supra*.

⁷ Fu and Graff, *supra*.

C. Encourage states to promote a diverse and representative education workforce.

ESEA should provide resources to help states recruit and retain a diverse workforce reflecting the makeup of local student populations. Asian American teachers represent only 2% of teachers nationwide, while Asian American students make up 4.4% of the student population.

II. Promote Bilingual Education Programs And Other High Quality ELL Programs.

We are pleased the DOE will continue to provide significant formula grants for states to develop high quality ELL instruction programs, including dual-language programs, transitional bilingual education and newcomer programs for late-entrant ELLs. However, as ELL populations grow, such formula grants must be increased accordingly to maintain per-pupil spending and services.

In particular, ESEA should include funding incentives for states to develop research-based bilingual education programs in states with large and growing ELL populations. Research shows that bilingual education is more effective than English-only approaches in promoting academic achievement for ELLs.⁸ ESEA should explicitly promote the use of bilingual programs (including both dual-language and transitional bilingual education) by providing resources for bilingual curriculum development, teacher hiring, and teacher training.

III. Provide ELLs Equal Access To Challenging Curricula Aligned With Appropriate And High Quality Assessments.

The DOE's blueprint emphasizes the creation of challenging standards aligned with high quality assessments. We agree that tests and other assessment measures must be aligned with classroom curricula in order to accurately measure student growth, knowledge and skills.

We are pleased the DOE will continue to strengthen programs tailored to the needs of ELLs and other diverse learners. In addition to appropriate instruction and equal access to a challenging curriculum, ELLs require assessments tailored to their needs – including Native Language Assessments (“NLAs”) and other accommodations.

A. Use absolute numerical thresholds and/or population ratios within districts or counties to trigger NLAs.

High quality NLAs are essential to accurately track the academic progress of ELLs with native language literacy, and states must develop assessments in languages spoken by a critical mass of ELLs. ESEA should require states to develop NLAs for each language spoken by 10% of ELLs within each school district or county. Using a 10% district or county wide trigger, a significant number of Asian ELLs would have access to NLAs. Alternatively, a statewide absolute numerical threshold could also capture a meaningful number of Asian languages.

⁸ Kellie Rolstad, Kate Mahoney, and Gene V. Glass, “The big picture: A meta-analysis of program effectiveness research on English language learners,” *Educational Policy*, 19 (September 2005).

In the previous reauthorization effort, some proposed that states create NLAs for languages spoken by 10% or more of its entire ELL population. Unfortunately, our research found that a 10% statewide trigger would exclude most Asian languages. Most likely, the only Asian language to meet this threshold in *any* state would be Hmong, in the state of Minnesota (Hmong is spoken by 34.1% of Minnesota ELLs).⁹

B. Utilize testing to identify needs and inform solutions, rather than impose sanctions.

Standardized testing should not be used to penalize schools or jeopardize students by cutting resources, or hastily shut down or drastically restructure schools. Instead, it should be one of a variety of ways to assess curricula, identify groups with special needs, and inform solutions based on providing resources rather than imposing sanctions. Testing should be one among multiple indicators of individual student growth and development aligned to classroom content.

IV. Enable Parent Engagement By Increasing Language Access Funding.

We are pleased the DOE's blueprint acknowledges the importance of engaging parents and families in their children's education. To that end, ESEA must support robust interpretation and translation services to enable equal participation by limited-English proficient parents. Important school documents must be translated into common languages and verbal interpretation must be available for important parent-teacher communications. ESEA should also designate funding for states to conduct extensive community outreach in Asian immigrant enclaves, as well as for adult literacy and ESL programs for limited-English proficient parents.

Linguistic isolation – defined as a household in which no one over age 14 speaks English “very well” - is prevalent in many Asian immigrant and refugee communities. For example, 46% of all Vietnamese households are linguistically isolated as are 35.3% of Chinese households, compared to 4.1% of all U.S. households nationwide.¹⁰

V. Foster Safe And Healthy School Environments.

AALDEF's work with Asian American youth programs across the country has revealed a rising tide of anti-immigrant, and in particular anti-Asian, harassment. In January 2010, AALDEF filed a complaint with the U.S. Department of Justice (“DOJ”) against the School District of Philadelphia for severe and pervasive peer-on-peer harassment based on race and national origin at South Philadelphia High School. AALDEF has also worked with DOJ to enforce a consent decree with the New York City Department of Education concerning a similar pattern of harassment at Brooklyn's Lafayette High School.

⁹ Anneka L. Kindler, *Survey of the States' Limited English Proficient Students and Available Educational Programs and Services: 2000-2001 Summary Report*, National Clearinghouse for English Language Acquisition & Language Instruction Educational Programs (October 2002). <<http://www.ncela.gwu.edu/>> (February 11, 2008).

¹⁰ Calculations based on U.S. Census 2000.

We are pleased the DOE has acknowledged the importance of collection and public reporting of data pertaining to school safety and environment. Among other things, ESEA should mandate the collection and reporting of comprehensive data concerning incidents of harassment and bullying. Such data should be disaggregated by a variety of factors, including, but not limited to, the victim's actual or perceived race, ethnicity, ELL status, gender identity, and sexual orientation.

In addition, ESEA should designate funding for states to create and implement meaningful multiculturalism and diversity programs. Such programs can be integrated into student curricula, teacher professional development, and parent outreach. Currently, such funds are designated for competitive grants under the Successful, Safe and Healthy Students program. We are pleased the DOE will direct states to prioritize much needed partnerships between school districts and nonprofit organizations in this competitive grant program. In addition, ESEA should also designate a formula-based funding stream for all states as baseline support for these important programs.

VI. Require States To Collect And Disseminate Disaggregated Data.

We are pleased the DOE supports disaggregation of key education data by a variety of factors, including ethnicity, ELL status, and family income. In addition, ESEA should also require disaggregation of data about ELLs by native language and ELL program type.

Disaggregated data relating to student academic achievement and growth, as well as graduation and college enrollment rates, will document differences in educational needs and attainment among diverse Asian American communities. A better understanding of these differences will help disprove the "model minority myth" and inform schools how to better meet the needs of overlooked populations.

VII. Protect Students in the School Restructuring Process.

The DOE's blueprint requires the implementation of one of four improvement models (transformation, turnaround, restart, and closure) to restructure the lowest-performing 5% of schools in each state. As struggling schools are restructured under these provisions, they must provide ELLs and other vulnerable students with support and resources to graduate. ESEA should require districts to make all efforts for students at restructured schools to continue their education with as little disruption as possible. They must receive regular and adequate instruction, and be allowed to transfer to other schools where appropriate.

ESEA should allocate funding for restructured schools to maintain academic programs and services tailored to special populations (e.g., ESL, bilingual education/dual language programs, and interpretation and translation services for ELLs). Further, schools using the transformation, turnaround or restart models should maintain the same total number of student seats to avoid overcrowding other nearby schools. ESEA should also require districts to notify parents and community members of important milestones and decisions in the restructuring process. Districts must provide parents and community members a forum to provide input, and make a meaningful effort to incorporate and respond to such input. Such engagement will foster

essential parental and community support, and help ensure that students do not fall through the cracks of the restructuring process.

VIII. Increase Baseline Formula Funding To Support Growing Communities Rather Than Relying On New Competitive Funding.

The DOE's blueprint indicates that certain programs and priorities will be funded through continued formula funding and others through competitive grant funding. New competitive funding streams will allow districts to create welcome and innovative programs. However, competitive funding should supplement, not replace, crucial baseline formula funding. Formula funding for essential services must not only be maintained but increased so states may continue to provide essential services to growing populations.

If you have any questions regarding these comments, please feel free to contact us at (212) 966-5932, extension 219 or via email at kaung@aaldef.org.

Sincerely,

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