

Position Statement on Protecting the Rights of English Language Learners

The year 2015 marks a significant milestone in New Jersey educational history. We are celebrating 40 years of protecting the rights of language minority students through the New Jersey Bilingual Education Act. In light of this celebration and the fact that the needs of this growing population have not specifically been addressed under the recent reforms, the New Jersey Teachers of English to Speakers of Other Languages-New Jersey Bilingual Educators (NJTESOL/NJBE) has developed this position paper.

New Jersey led the nation 40 years ago when the legislature adopted the NJ Bilingual Education Act on the heels of the *Lau v. Nichols* Supreme Court decision. This decision basically concluded: *“There is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education.”*

It is time for us to renew our commitment to the language minority students in the state of New Jersey. Unfortunately, in this day of Common Core State Standards and PARCC assessments, districts, teachers and students are pressured to use the same grade level texts as their English speaking peers, and take the same assessments in English, (no matter their level of English proficiency), and receive minimal services from certified specialists; thus dismissing the ruling in the *Lau v Nichols* case and ignoring the requirements in our own state law.

The general provisions of the NJ Bilingual Education Act include:

- that all English Language Learners (ELLs) receive a free and *appropriate* public education; (*emphasis added*)
- that the rights of ELLs are protected;
- that ELLs receive bilingual and/or ESL education and related services
- assistance for district boards of education to provide educational services to ELLs; and
- ensure the evaluation of the effectiveness of the education of ELLs

In the past, New Jersey has always been a leader in the provision of achieving high standards while at the same time protecting the rights of this defenseless minority. However, under the current reforms, this specialized group has been ignored. Therefore, NJTESOL/NJBE recommends the following:

1. Assess ELLs appropriately and establish valid accountability measures.

Historically, New Jersey provided full year exemptions and created alternate measures in Spanish. At this time, the PARCC test in Language Arts is only offered in English and newly arrived 9th, 10th and 11th grade students are required to take the assessment.

NJTESOL/NJBE firmly believes that this violates the rights of ELLs to be validly assessed in a language that they understand. Therefore, we recommend that ELLs, **AT ALL GRADE LEVELS**, who have recently arrived, should be exempt from ELA testing for the first full year. The federal guidelines define a recent arrival as: *“... a LEP student who has attended schools in the United States for less than 12 months ... During the period within which an LEP student may*

be a recent arrival to the United States (during his/her first 12 months attending schools in the U.S.) a State may exempt such a student from one administration of the State's reading/language arts assessment.” (p. 4)

Furthermore, since the majority of ELLs speak Spanish and districts are required to develop bilingual programs, NJ should follow the lead of New York and Louisiana and invest in developing PARCC or an alternate assessment in Spanish so that students are assessed in the language of instruction and can demonstrate competency in the content standards.

Once assessed, students' PARCC and ACCESS for ELLs scores should be analyzed with valid accountability measures which take into consideration the varied growth patterns according to the student's English language proficiency (ELP) level (Cook, Boals & Lundberg, 2011). The ELL subgroup's status is ever dynamic. Therefore, the ELP levels of students' data used to establish the target growth may not be equivalent to subsequent years' cohorts. Consequently, the current system does not accurately capture the growth patterns across the various grade levels.

Too often schools have been designated as a Focus or Priority school because of this perceived “gap” between the general population and the ELL subgroup, which may, in all actuality, be a result of the process of second language acquisition. English language proficiency levels should be considered when calculating Annual Measurable Objectives (AMO –Title I) and Annual Measureable Achievement Objectives (AMAO-Title III).

2. Implement realistic high school graduation requirements. (N.J.A.C. 6A:15-1.4)

Historically, 25% - 45% of ELLs passed the High School Proficiency Assessment (HSPA) on their first attempt in their junior year. This is a subgroup which relied upon the multiple administrations of HSPA in their senior year as well as the options offered under the Alternate High School Assessment (AHSA) to demonstrate competency in English and/or their first language. Although the percentage of ELLs who utilized AHSA in native language was low, the result of a high school diploma was and is priceless; especially considering the data that the ELL subgroup has the lowest high school graduation rate (NJDOE, 12/3/14). Under the current guidelines, there will be NO options to demonstrate knowledge in a student's first language in any of the alternate assessments.

In addition, when districts do the right thing and allow ELLs an additional year to develop English proficiency and competency in the content areas, they are penalized for not graduating their students in four years.

3. Ensure that ELLs are receiving effective instruction from certified specialists (N.J.A.C. 6A:15-1.9)

Due to the recent budget crisis and interpretation of the Common Core State Standards, many districts reduced the number of ELL specialists and ELL administrators. ELLs were pushed into general education classes without the instructional support for the students nor the professional

development for teachers to effectively instruct ELLs. In addition, administrators who have no background knowledge or experience in second language acquisition were placed in charge of bilingual and ESL programs and thus lack expertise needed to design, guide and evaluate best practices.

4. Ensure that **all** teachers receive support on methods and strategies to effectively instruct ELLs

Therefore, all teachers who work with ELLs should receive professional development and support from specialists on effective strategies in working with culturally and linguistically diverse students (N.J.A.C. 6A:15-1.8).

Proactively, teacher education programs in the state colleges and universities should be required to include courses/credits on working with ELLs since there are over 60,000 ELLs in New Jersey across 475 districts.

5. Provide ELLs with appropriate materials that reflect the reality that these children are developing a second language which is a “complex and long term process” (WIDA, Guiding Principle #9, 2014).

The NJDOE has not provided clear guidance on the use of alternative materials and pathways (other than grade level texts) to achieve the standards. Using only grade level texts when teaching ELLs repudiates the conclusion of Lau v Nichols decision: “*for students who do not understand English are effectively foreclosed from any meaningful education.*” In addition, this practice is a contradiction of the research on effective strategies for ELLs. Districts need specific guidance from the NJ Department of Education on how to address the CCSS for ELLs while they are in the process of learning a second language.

6. Meaningfully engage parents of ELLs in the educational community (N.J.A.C. 6A:15-1.15).

Too often linguistic and cultural barriers prevent parents of ELLs from sustained engagement in the educational system. In order to protect the rights of children, parents need to be informed and feel empowered. So, districts need technical and financial assistance to provide informational and educational programs for parents. As parents are the child’s first teachers, they too must understand the second language acquisition process and how best to support their child’s learning at home.

7. Award a Seal of Biliteracy to New Jersey students who demonstrate proficiency in English and another language.

In this era of global competency, knowing two languages is a definite asset. Acknowledging this fact and to celebrate student achievement, NJTESOL/NJBE and Foreign Language Educators of NJ (FLENJ) established a pilot program last year which recognized over 200 students who were able to pass proficiency tests in two languages. Eight states have already passed legislation that officially awards a Seal of Biliteracy to deserving seniors. By supporting this initiative, the

NJ Department of Education recognizes the implicit and explicit value of bilingualism for all.

NJTESOL/NJBE contends that all ELLs can meet rigorous, content standards but need a different pathway and supports to arrive at that destination. NJTESOL/NJBE supports holding districts accountable for the education of their ELLs, however, the instructional environment and accountability measures must be research-based, valid and reliable for this special population. We ask the New Jersey Department of Education to lead the state's educators with its support of the Bilingual Education Act in not only protecting the rights of language minority students and ensuring that ELLs receive a free and appropriate education but also in celebrating and encouraging all students to develop the skills and ability to speak two (or more) languages.