



**Testimony to New Jersey State Board of Education
Jessica Levin, Esq. - Education Law Center
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Good afternoon, and thank you for the opportunity to testify. My name is Jessica Levin. I'm an attorney at Education Law Center (ELC), where a focus of my work is advocacy for English Language Learner students (often known as "ELLs") and limited English proficient (or "LEP") parents.

ELC welcomes the focus on ELL students at this morning's Board meeting via the Commissioner's Report on the State of New Jersey's English Language Learners. I would like to take this opportunity to further call the Board's attention to some of the challenges facing ELL students and offer suggestions for the Board's consideration.

ELLs comprise a significant portion of our student population, and bring important strengths, including their multilingual abilities, to New Jersey classrooms. Approximately 5% of New Jersey students are ELLs, and in many large districts they make up 10% or more of the student population. That translates to over 72,000 students as of 2016-17, an increase of almost 2,000 over the prior year and of more than 8,000 since 2013-14.

In many districts, ELLs benefit from excellent programs and dedicated staff, but our State must do more to ensure that all ELL students have the necessary resources and opportunities to succeed. In 2016-17, 12% of ELL students met expectations on PARCC Algebra I (Level 4 or 5), compared to 42% of students statewide. In 2016, ELLs' 4-year graduation rate was 74% – the lowest rate of all reported subgroups – compared to 90% statewide. Graduation challenges

for ELLs are compounded by the PARCC-based graduation testing requirements imposed in 2016 – only 3% of ELLs fulfilled the exit exam requirement via PARCC assessments in 2016, with over half of ELL seniors needing to use the portfolio appeal option and approximately 40% using “transitional” options that are currently being phased out. This data is extremely pertinent because the new graduation rules, which are problematic for both ELLs and high school students in general, were proposed for readoption without any significant changes at this morning’s meeting; ELC will separately submit detailed comments regarding those regulations.

Focusing on English Language Learners, it is crucial that the New Jersey Department of Education (DOE) ensure that all school districts comply with state and federal laws designed to provide appropriate educational services and equal educational opportunity for ELLs. Our State has some of the strongest legal protections for ELL students in the country. New Jersey’s bilingual education statute and the Bilingual Education regulations at N.J.A.C. 6A:15 provide detailed requirements mandating access for ELLs to the same programs and services all students enjoy plus comprehensive language acquisition services to help ELLs learn English. This includes the requirement that districts with twenty or more ELLs in the same language classification establish bilingual education programs. Unfortunately, these legal protections are often violated, and the great promise of our state laws regarding ELLs has not been fully realized.

ELC urges the Board to direct the DOE to send a strong message to districts that they must comply with all legal requirements regarding ELL students and LEP parents, including properly identifying all ELLs; providing them with all required courses, support services, and language assistance programs (such as daily ESL classes and bilingual education) via certified staff members; appropriately exiting students from ELL status; monitoring student progress both

during and after their time in ELL programs; and ensuring effective communication with parents. We have no doubt that dedicated DOE officials strive to make these requirements a reality. However, greater resources, technical assistance, and enforcement efforts by DOE at the state level are needed to help all districts achieve compliance. As part of these efforts, ELC respectfully renews a suggestion previously submitted to DOE, to establish a complaint investigation system comparable to that which exists for special education at N.J.A.C. 6A:14-9.2; this would create a clear channel for alerting DOE to potential violations of laws regarding ELLs and promote effective investigation and remediation if violations are found.

Further, ELLs with disabilities who require special education must receive appropriate assessments, from trained experts and in their native language if necessary, and both language acquisition and special education services geared to their unique needs. This is another area in which DOE guidance and support to districts is greatly needed. Additionally, ELC encourages DOE to limit the granting of bilingual education waivers—which allow a district to implement an alternative to full bilingual education programs—to instances in which a waiver is strictly necessary and the district has met the specific criteria justifying a waiver under New Jersey law.

The legal rights of limited English proficient parents are also often misunderstood and frequently violated. LEP parents are entitled to receive all important information provided to English-speaking parents in a language they can understand. In the realm of special education, LEP parents have clear rights to translation of written notices and competent interpretation at meetings. Familiarity with and enforcement of these legal requirements is key to allowing LEP parents to participate in their children’s education, and that participation is essential to student success.

Finally, we must ensure that all students, including ELLs and their parents, enjoy a safe

and supportive school environment. In this climate of increased anxiety regarding immigration status, ELC renews its request that DOE take affirmative action to remind school districts to protect students' and families' personally identifiable information in accordance with applicable laws and provide districts with concrete tools to reassure immigrant and undocumented students and families that our public schools remain safe and welcoming places for them. This issue affects many ELLs and English-speaking students.

ELC is ready to work with the Board, Commissioner, and DOE in strengthening and enforcing ELLs' legal rights, and promoting the achievements of our state's ELL students. The new Administration, new members of the State Board, and Commissioner's Report on the State of New Jersey's ELLs provide an excellent opportunity to redouble our commitment and efforts to promote ELLs' educational rights and opportunities for success in school. Thank you for the opportunity to share these comments and suggestions with the State Board of Education today. I would be happy to answer questions from the Board or submit additional information on this important topic.