

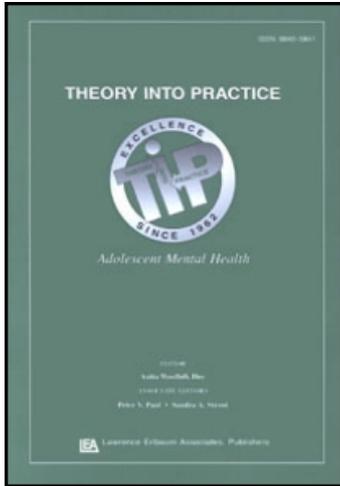
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NCLB and English Language Learners: Challenges and Consequences

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Kate Menken

NCLB and English Language Learners: Challenges and Consequences

This article highlights key issues surrounding the assessment and accountability mandates of No Child Left Behind (NCLB) for English language learners (ELLs). The policy requires high-stakes testing of ELLs in English—a language that these students, by definition, have not yet mastered. After offering background on current federal education legislation, this article shares findings from a word frequency analysis of actual statewide exams. This analysis reveals that even academic content tests are linguistically complex, using words likely unknown by an ELL, which clarifies why testing poses unique challenges for this student population. Analyses of recent ELL performance data on high-stakes tests are also provided, which document why these students and

the schools serving them are disproportionately likely to be penalized in accordance with the law's requirements. The article concludes by challenging two of the more problematic assumptions at the core of NCLB mandates for ELLs.

BUILT UPON AN UNYIELDING FOUNDATION of high-stakes testing and accountability, No Child Left Behind (NCLB) is a driving force in public schooling today. The law requires the inclusion of English language learners (ELLs) in its assessment mandates; accordingly, these students must make annual progress as measured on standardized tests of both English language proficiency and academic content. However, because the tests currently being used across the United States to measure content knowledge are administered in English, language proficiency impacts the performance of ELLs.

After offering an overview of the law's assessment mandates for ELLs, this article frames the challenges of high-stakes testing for this student

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population through a detailed linguistic analysis of actual tests, and describes how the law affects ELL students and their experiences in school. As this issue of *Theory Into Practice* goes to press, 9 years after the law's passage, ELLs have yet to reap the promised benefits of this educational reform; instead, the quality of schooling for ELLs may indeed have worsened, rather than improved, during the NCLB era. The article concludes by challenging two assumptions at the core of NCLB, due to the negative consequences they have caused English learners.

Background: NCLB Mandates for ELLs

The Elementary and Secondary Education Act (ESEA) is the main federal law funding K–12 public education in the United States, and was first passed in 1965 as part of President Johnson's War on Poverty, with the goal of providing funding for the most needy students. Riding on the wave of the Civil Rights movement, the Bilingual Education Act (Title VII of the ESEA) was passed in 1968, and required that schools provide language support services to ELLs, to ensure that the students could access curricular content while simultaneously acquiring English. Embedded within the Bilingual Education Act was the recognition that language can be a source of educational inequity in schools, and the law focused on creating opportunities for language learning that would result in equitable outcomes.

NCLB is the most recent reauthorization of the ESEA, and was passed under the administration of President George W. Bush in 2001 (U.S. Department of Education, 2001). In stark contrast to the goals of the Bilingual Education Act, which emphasized putting structures and programming in place to promote language learning, the main focus of the NCLB provisions is on educational outcomes and accountability. Rooted in the belief that public schools are failing, a view promulgated by the influential 1983 report published by the Reagan administration, entitled *A Nation at Risk*, in recent years the federal government has turned to student assessment as a means of asserting

greater control over the country's highly decentralized educational system. Specifically, NCLB requires that all students make what is termed *adequate yearly progress*, as measured on standardized tests, with the impossible goal that all students achieve a score of *proficient* by the year 2014. Using a complicated formula determined by each state that dictates a school's annual progress goals, schools must provide evidence of student progress or risk sanctions such as closure or the loss of federal funds. Thus, a single test score has become very high-stakes under NCLB, as tests are used to evaluate individual students, teachers, schools, school systems, and states.

NCLB terminated the Bilingual Education Act, and replaced it with Title III, the English Language Acquisition, Language Enhancement, and Academic Achievement Act. With a strong emphasis on English learning, and removal of the term *bilingual* altogether from federal law, NCLB requires that ELLs participate in statewide assessments. Specifically, ELLs must take tests of English language proficiency to measure their acquisition of English, and they must also take—and pass—the same tests of academic content as those taken by native English speakers. The content-area tests include such subjects as math, science, and social studies, as well as tests of English language arts.¹ Although states such as Virginia and New York at first permitted ELLs to take statewide English proficiency tests in lieu of the English language arts tests, since 2007 the U.S. Department of Education has required that ELLs who have been in the United States for one year take the same English language arts tests as those taken by native English speakers. Though the scope of NCLB is, in fact, quite broad, encompassing such areas as teacher quality and literacy instruction, this article focuses on the academic content assessment and accountability mandates of the law.

Linguistic Challenges That Testing Poses for English Learners

The reality is that when a test is given in English to ELLs, it becomes impossible to en-

tirely divorce language proficiency from content knowledge (Menken, 2000; 2008). Testing research is conclusive that a content-area test administered to an ELL in English is unlikely to render a true portrait of what the student knows and is able to do, because language impacts the results. Therefore, researchers argue that it is not valid to give ELLs an academic content test in English, and use the results for high-stakes decision making such as school evaluation or to determine high school graduation, grade promotion, and program placement (Gándara & Baca, 2008; Menken, 2008; Solórzano, 2008).

It is helpful to closely examine some of the tests currently being used in the United States to clarify why the language of the tests would affect the scores an ELL achieves. In New York, all high school students are required to pass a set of statewide Regents exams in order to graduate from high school. The Regents exams were originally honors exams used to evaluate college readiness but, with the passage of NCLB, the state of New York began requiring that all students pass the tests in order to receive a high school diploma, as a means to raise state educational standards (Menken, 2008). The tests, therefore, involve two layers of accountability; not only are they used to evaluate an individual student's performance and thereby determine high school graduation, but the test scores are also used to evaluate schools under the adequate yearly progress requirements of NCLB.

New York is not alone in this high-stakes testing approach. In fact, it is one of 19 states that currently require high school exit exams, with seven more states planning to do so by 2012 (Sullivan et al., 2005). In addition to New York, the states serving the largest numbers of ELLs nationally—California and Texas—also require that all students pass high school exit exams. Based on the states in which they reside, it is, therefore, predicted that within the next few years 87% of ELLs will need to pass high school exit exams in order to graduate (Sullivan et al., 2005).

This poses enormous challenges for ELLs as well as for the educators who serve them, because all these tests involve mastery of complex

academic language and literacy. This point is clarified in the following analysis of a reading comprehension passage from the January 2009 New York State English Regents exam, a test of English language arts originally intended for native-English speakers. The English Regents exam is a 6-hour test taken over 2 days, and this specific portion was the second part of the exam administered on the first day. For this portion, students were required to read a passage of 1,120 words about straw-bale building and answer a set of 10 multiple-choice questions about the text. Then, students were required to write a letter to the director of a local agency investigating alternative building materials in which they “persuade the agency to consider straw bales as a future construction material” (New York English Regents, January 2009, Session One, p. 5). Given that these tasks, together, make up about a quarter of a student's overall score on the exam, performance on this test relies heavily on a student's ability to understand the reading passage.

Analysis of the reading passage reveals its linguistic complexity for students learning English. One of the ways to evaluate linguistic complexity is to look at word frequency, or how often the words in a given text are used in the English language. Research by Nation (2006) identifies the 2,000 most frequent word families in English, as well as the most frequent academic word families, and posits that 98% of the words in a given text must be the most frequent words in English to be comprehensible to an ELL.²

Nation (2006) also offered an approach for analyzing the word frequency of texts.³ Using his approach yielded the results shown in Table 1. As this table indicates, the reading comprehension passage required that a student taking the test know over 356 word families in English. Of the vocabulary in the test passage, 71.11% of the words were the most frequently used 1000 words in the English language, 10.68% of the words were among the 1001–2000 most frequent English words, and 7.09% were academic words (that an ELL would likely acquire after learning more commonly used words). The remaining 11.03% of the words were not on any of the

Table 1
Word Frequency of January 2009
English Regents, Session One,
Part B—Reading Comprehension Passage

| | Word Families | Percent |
|--------------------------------|---------------|---------|
| Most frequent 1–1000 words | 251 | 71.11% |
| Most frequent 1001–2000 words | 58 | 10.68% |
| Word on the Academic Word List | 47 | 7.09% |
| Off-list words | ? | 11.03% |
| | 356+? | 100% |

Table 2
Word Frequency in Entire
January 2009 Math
A Regents Exam

| | Word Families | Percent |
|--------------------------------|---------------|---------|
| Most frequent 1–1000 words | 144 | 77.90% |
| Most frequent 1001–2000 words | 24 | 5.68% |
| Word on the Academic Word List | 23 | 6.42% |
| Off-list words | ? | 9.38% |
| | 191+? | 100% |

word frequency lists, and thus considered low frequency, and included words such as *rebar* and *shish kabobs*. It is particularly concerning that the word *bale* is also one of the off-list words in this passage, as understanding the passage and completing the corresponding tasks relies entirely on understanding what *straw-bale building* is. Moreover, this exam passage is linguistically complex in accordance with Nation’s (2006) definition.

Linguistic complexity is not limited to English tests, but rather also includes subjects such as math, which is often misperceived as using universal language. Thus, the same issue arises in the Math A Regents exam—a test of algebra, geometry, and other secondary math skills that students must pass to graduate. The entire exam involves 39 questions split into four parts. Interestingly, all 39 questions for the January 2009 exam were word problems, whereby students had to extract from the language the calculations they needed to complete the problem. This poses great difficulties for ELLs, who have not yet mastered the English language yet must negotiate it to show how much math they know. In addition, an analysis of all 39 questions reveals that the vocabulary of the test items is complex, as shown in Table 2. In this math exam, 9.38% of the words were off-list, and only 77.90% of the words were among those most frequently used in English. Many of the off-list words in this case were specific to math content such as *biconditional*, *commutative*, *histogram*, and *whisker plots*. It is likely that these terms would need to be learned

by all students, but for ELLs they must do so through a language they have, by definition, not yet mastered. The test also used the term *soda pop*, which was likewise off-list. It is interesting that the authors of this New York state test chose to use this term at all, as *pop* is a regional American English term used primarily in the Northwest, Great Plains, and Midwest, whereas *soda* is the term typically used in the Northeast (von Schneidemesser, 1996). Although the use of this term might simply appear strange to a native-English speaking New Yorker, it can cause a language barrier for an ELL who is learning English in New York, as he or she is unlikely to know that *soda* and *pop* are synonyms.

Linguistic modification involves modifying the language of a text while keeping the content intact, for example by shortening sentences, removing extraneous information, and using only frequently used words and simple grammar (Abedi & Sato, 2007). Although research indicates that linguistic modification could help reduce the language barriers of tests for ELLs, most states—such as New York—instead rely on linguistically complex exams for high-stakes decision-making in the era of NCLB. As the next section of this article indicates, the consequences of doing so are great for the students involved.

Disproportionate ELL Failure Rates

Given that the tests being used nationally are linguistically complex and administered in a lan-

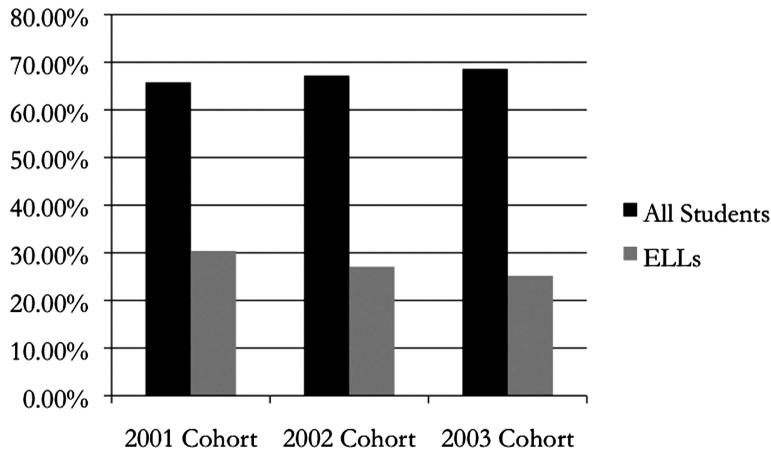


Figure 1. New York State ELL 4-year graduation rate, cohorts 2001–2003. *Source: New York State Department of Education (2008b).*

guage they are learning, it is then not surprising that ELLs typically do not perform well on the tests used to comply with the mandates of NCLB. Nationally, ELLs score an average of 20–50 percentage points below native English speakers on state assessments of English language arts and other content-area subjects, and thus the majority of ELLs fail to achieve a score of *proficient* or meet adequate yearly progress goals (Abedi & Dietal, 2004; Government Accountability Office, 2006; Sullivan et al., 2005). This achievement gap does not mean that ELLs are failing to acquire English or learn course content; rather, it more likely simply affirms that the students are indeed ELLs, and that language is posing a barrier reflected in their test performance. The high-stakes consequences of this policy are particularly problematic, causing these students and the schools that serve them to be more vulnerable to punishment.

In states where there are high school exit exams, participation in the NCLB testing regimen negatively impacts the graduation rates of ELLs. Recent research in California shows that the use of that state's exit exams has caused graduation rates to decline by 3.6 to 4.5 percentage points (Reardon, Atteberry, Arshan, & Kurlaener, 2009). In New York, 41% of ELLs are able to meet the English Regents graduation requirement

after 4 years, as compared to 76% of English-proficient students. Similarly, 52% of ELLs are able to meet the Math Regents graduation requirement after 4 years, as compared to 77% of English-proficient students (New York State Department of Education, 2008b). This means that the many ELLs who do not pass the tests after 4 years of trying are barred from graduation. As the chart in Figure 1 shows, this affects the high school graduation rates in the state.

As Figure 1 shows, for the 2003 Cohort of students (who graduated in 2007), the ELL graduation rate was only 25%, as compared to an overall graduation rate of 69%.⁴ What is particularly alarming is that although the graduation rates have gone up for all students, a fact celebrated by the New York State Department of Education and local newspapers alike, the ELL graduation rates are, instead, going down.

This, in turn, is linked to high dropout rates for ELLs. In New York City, where most of the state's ELLs reside, ELLs currently have the highest dropout rate of all students, and the dropout rate has increased in the years since ELLs were required to participate in the Regents testing requirement. The ELL dropout rate was 21% in New York City in the year prior to the inclusion of ELLs in the high school exit exam requirement, as compared to a dropout rate of

16% for non-ELLs in that year. In the years since, the dropout rate for ELLs has averaged 29%, yet the dropout rate for non-ELLs has averaged 17%. This means that the ELL dropout rate has increased by about nine percentage points in the years since the state began requiring these students to pass the Regents exams to receive a diploma (Menken, 2009). This finding is consistent with national data, as the dropout rates are higher and graduation rates lower in states requiring high school exit exams (Dee & Jacob, 2006; Warren, Jenkins, & Kulick, 2005). Their lower test scores make ELLs particularly susceptible to negative testing policy effects within the NCLB accountability system.

Further Testing Effects

Although there are believed to have been certain benefits of NCLB for ELLs to date, such as increased national awareness about this student population, the testing and accountability mandates of the law have resulted in numerous negative consequences. Beyond the low graduation rates and high dropout rates discussed in the preceding section, a further consequence is that schools serving ELLs are disproportionately likely to be labeled failing under NCLB. This is documented in California, where nine school districts serving large numbers of ELLs were all labeled failing and at risk of state takeover due to their low ELL pass rates on the state tests (Gándara & Baca, 2008). In response to what they perceive as unfair state policy, these districts have banded together to sue the state over this issue. Similarly, in the state of New York, schools serving large numbers of ELLs are overrepresented on the list of schools failing to meet the accountability requirements of NCLB (Menken, 2009).

Because the NCLB accountability requirements rely heavily on standardized test scores, testing policy has created a disincentive for schools to serve ELLs at all, because these students are seen to pull down schoolwide test scores. A recent interview with the acting principal of a high school in New York City clarifies

this point, when he discussed his school's response each time they receive new ELL students from the regional placement office for enrollment:

We send [ELLs] back to the region and we move them to a different school. . . . Accountability and all those things go around. . . . If they don't reach that number, that means we get a low grade on the progress report. It's better not to admit ELLs. Then I don't have to worry about student graduation rates for ELLs. (interview notes, Acting Principal, 3/19/09)

In the preceding quotation, the acting principal explains that because ELLs have low graduation rates, his school avoids admitting ELLs at all, because schools that do not serve ELLs typically have an easier time achieving the annual progress goals of NCLB.

The national emphasis on high-stakes testing in the era of NCLB has also resulted in widespread "teaching to the test." Because ELLs typically do not perform well on standardized tests, they are more likely to receive instruction that focuses on test preparation in the form of rote memorization and drills, at the expense of teaching methods proven effective in meeting the needs of this student population (Menken, 2008). For example, a teacher of English as a second language recently explained to me changes in her teaching practices because of NCLB. Three years ago, her ELL students completed an innovative family interview project, which not only engaged the students but for which they learned research skills and developed their academic English literacy. This year, the school was recategorized "in need of improvement" by the state, in accordance with NCLB, closing off classroom spaces for innovative methods. In the following quotation, this teacher reflects upon how this has changed her teaching practices:

I asked myself why I ever stopped doing this project. It was because of testing pressure. My school administration was really pushing us hard to do more to get the students better prepared for the English Regents. (transcript, high school English as a second language teacher, 7/23/08)

As the teacher explained, there is now less time for assignments other than explicit test preparation, in spite of their effectiveness, because of the need to meet the NCLB accountability mandates.

Discussion

Perhaps no group has been more punished by NCLB than ELLs. In spite of the law's promises, ELLs are being left behind in large numbers as they are required to pass linguistically complex tests in a language they are in the process of acquiring. The main issue is that these tests are attached to extremely high-stakes consequences, such as high school graduation and school evaluation. Below, I briefly draw into question two of the law's more problematic assumptions, in light of how they have affected the ELL population.

A central premise of NCLB is that focusing solely on student outcomes will lead to improved schooling. Nine years since the law's passage, it appears that this rationale is deeply flawed, as the achievement gap remains wide between ELLs and native-English speakers. ELLs disproportionately attend high-poverty schools with limited resources, and fewer schools offer bilingual education programs than did before the passage of NCLB (Crawford, 2007; Fry, 2008)—even though only a small minority of regular classroom teachers nationally have received preparation to work with this student population (Education Week, 2009). It therefore seems necessary for the federal government to refocus their efforts on creating opportunities in classrooms for learning to occur, along the same vein as the Bilingual Education Act of 1968.

A second assumption of NCLB is that using scores from tests in English to evaluate ELLs and the schools that serve them will yield valid results upon which to base high-stakes decisions. As indicated in this article, this assumption is erroneous, as the linguistic complexities of current tests cause a language barrier that make it impossible for these assessments to yield an accurate picture of what ELLs actually know. Research and data on student performance clearly indicate that this policy is misguided, and results

in negative consequences for ELLs who are labeled "low performing," denied graduation, and even denied school access. The stakes of a single test score, therefore, need to be dramatically reduced. By involving themselves so heavily in local education policy, federal lawmakers are now responsible for undoing the negative aspects of what has previously been done, and ensuring that their efforts benefit all students—including English language learners.

Notes

1. Though five states currently use test translations for math, science, and/or social studies exams, the vast majority of states only test in English; and, those that use translations still require that ELLs pass an English language arts exam (Sullivan et al., 2005).
2. This will vary according to how many English words an ELL knows; for instance, if an ELL only knows the 1,000 most frequent words in English, then this means that 98% of a text must use those words to be comprehensible (Nation, 2006).
3. Nation's list of word families comes from the British National Corpus, but because the analysis uses word families, it is possible to analyze texts written in Standard American English (Nation, 2006). For the purposes of this research, Nation's (2006) RANGE software was used to analyze word frequency.
4. It is worth noting that the overall graduation rate includes ELLs. Therefore, the graduation rate for native English speakers is likely to be higher than 69% because ELLs, when included, pull rates downward.

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