

Closing the Education Gap For K-12 English Learners Advocacy Needs and Opportunities

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Introduction

In the 1970s, LatinoJustice PRLDEF (LatinoJustice) and ASPIRA New York joined forces to challenge New York City’s failure to provide bilingual education to children whose primary language was Spanish. The 1974 settlement in *ASPIRA v. NYCBOE* established the right of all New York City public school children to receive bilingual education while learning English and paved the way for further legal victories around the country.

Congress has since passed several laws to ensure that schools meet the needs of non-English speaking students. Moreover, a few states have enacted mandates to serve this population. Unfortunately, the educational gap experienced by Latinx English Learners (ELs) is widening, not closing. Despite greater legal protections and funding than was available 50 years ago, school districts are still not meeting the challenge of educating ELs whose success is crucial to the advancement of the Hispanic community.

To honor the 50th anniversary of the *ASPIRA* case, on April 4, 2024, LatinoJustice and ASPIRA of New York held a national convening to develop strategies for improving educational outcomes for Latino K-12 students who have not yet attained English proficiency. This by-invitation-only convening gathered a diverse group of educators, parent and community advocates, litigators, state

and local education agency administrators, academics, researchers, education journalists, and funders from around the country. Also participating in the working meeting were representatives from the Educational Opportunities Section of the Department of Justice’s Civil Rights Division, the White House Hispanic Initiative and the President’s Advisory Commission on Advancing Educational Equity, Excellence, and Economic Opportunity for Hispanics.

Convening participants discussed the policies, practices, and deficiencies that create barriers to success and those that promote success, and recommendations for improving educational outcomes for Latino ELs. We also heard from teachers, parents, and community advocates from around the country about their on-the-ground experience on what works and what doesn’t and the specific challenges they face. And we also examined examples of successful past advocacy and litigation to improve outcomes for Latino ELs.

Perhaps the most important objective of the convening was to identify current advocacy needs and opportunities in this space. Specifically, convening participants engaged in a lively, robust dialogue about where and how LatinoJustice and other groups could undertake advocacy—including litigation; complaints to government agencies to request investigation and enforcement actions; advocating for changes in laws, regulations, and executive agency guidance; advocacy for increased funding; and community engagement and empowerment—to create increased opportunities for success for Latino ELs. The following is a report out of the conversation highlights, which provides the foundation for developing an advocacy agenda.



Parent Engagement and Leadership

Parent participation and leadership is needed both to support individual EL students and to contribute to developing policy and programs that will truly create pathways for success for their students. To facilitate such engagement, we must recognize that the power of parents is often taken away by English-only barriers and lack of support in navigating complex educational systems.

The education system, and the relationships that run and sustain it, are frequently different from what EL parents experienced in their places of origin. The challenge is to create

welcoming environments where teachers, administrators and other staff are designated to assist parents to learn how the system works and their key role in it.

We need more investment in parents to give them knowledge, skills, and ability to not only advocate for their children but to inform policy and program development for their school and school district. Parents of EL students have rich contributions to make to the educational environment, and parents must have language access to play these roles.



Advocacy Opportunities

Advocate for state education agencies to issue regulations and policy guidance for school districts to:

- implement education and training programs to empower parents to advocate for their EL students, including creating a parent advocate alumni network to serve as coaches for one another;
- establish in each school a permanent liaison position between the school and EL parents; ideally the position is filled by a parent;
- create handbooks for parents in their languages to advise them of their rights and provide guidance as to how to navigate the educational system;
- ensure professional interpreters at parent-teacher conferences and other school community events where key information is shared and decisions made about curriculum, staffing, code of conduct, and other important topics; and
- at least every two years, conduct an EL community needs assessment, that includes listening to families to hear what matters to them and the challenges they face, to inform needed changes to program and practices.

Advocate for state education agencies, local government bodies (e.g., city councils and county commissions), and foundations to allocate and award funds to train and fund EL parents to run serve on school boards. Provide professional interpretation at all school board meetings.

Advocate for state education agencies to conduct social media and communications campaigns in the languages of EL learners in their communities to inform parents of their rights and opportunities for engagement.

Advocate to state legislatures to appropriate funds for all of the above activities.

Litigate and file administrative complaints with federal Departments of Justice and Education and relevant state agencies to challenge instances of schools asking students to interpret and translate for their parents.

Using PSAs

School districts can use Public Service Announcements (PSAs) on Spanish-language radio and television stations to inform and empower parents, as they did in one city where a PSA advised parents of their rights to obtain Individualized Education Plan (IEP) documents in their own language and have interpretation services at meetings with their child's teacher.

Dual Language and Other Assets-Based Programs for ELs

The education system in too many states and localities is just not designed for multilingual learners, and particularly emergent learners. And ELs as a group experience inequitable access to existing dual language programs.

Multilingualism is a superpower. But program design has not uniformly changed throughout the country to a dual language approach; instead, too many schools and school districts employ a deficit-based approach. We need to shift away from a deficit perspective to an assets-based approach, which includes

incorporating home knowledge into the classroom. As one panelist stated, “We don’t want children to have to become someone else when they enter a classroom to be successful.”

Translanguaging is an example of an assets-based approach; it is the antithesis of English-first programs and pushes back on the idea of language having fixed boundaries. Translanguaging can also be a tool in social and emotional learning and culturally responsive education. Finally, an anti-immigrant agenda often drives English-only and English-first mandates, which erect roadblocks to dual language education.



Advocacy Opportunities

Advocate state legislatures and education agencies for statewide implementation of dual language and multilingual programs as gold standard for educating ELs.

Advocate for state legislatures to promote dual language and the benefits of multilingualism by enacting provisions like **California AB 370**, which recognizes high school graduates who have attained a high level of proficiency in speaking, reading, and writing one or more languages in addition to English by marking their diploma or transcript with a biliteracy seal.

Advocate that in the creation or expansion of dual language programs, state education agencies and school districts include in their plans specific strategies to ensure that ELs have equitable access to such programs.

Use existing federal and state anti-discrimination constitutional provisions and statutes to bring litigation to challenge unequal access to existing dual language programs. File complaints with U.S. Departments of Justice and Education and relevant state agencies to seek investigation and enforcement actions against such discriminatory practices.

Litigate against English-only and English-first mandates and laws, challenging them as violations of equal protection and anti-discrimination statutes.

Intervene as defendants or serve as *amici* in litigation brought against state education agencies and/or school districts that challenge laudable and necessary efforts to deviate away from English-first practices in EL education.

Advocate at federal and state level for funding to further research translanguaging and pilot translanguaging programs that include teacher training and support and family engagement strategies.

Dual Language Guide

The Children’s Equity Project at Arizona State University has developed critical guidance for **Operationalizing High-Quality Dual Language Programs** for emergent bilinguals who are infants/toddlers, preschoolers, and students in the early grades. The Project gathered dozens of research and practitioner partners and did an exhaustive review of extant research to develop a seven-part comprehensive framework that includes programmatic structures, curriculum and assessment, language allocation, and family leadership and engagement.

California Roadmap

The team at **SEAL**, a California-based nonprofit which offers research- and evidence-based approaches to improve the educational outcomes of multilingual learners, **advances bilingual/multilingual education** in a former English-only state with the country’s largest numbers of ELs.

English-first in Florida

Florida’s English-first approach limits the number of educators for multilingual learners. While Florida has the third largest EL student population in the country, it currently does not have any bilingual teacher certification programs. The English Learners unit in the state department of education has only two staff members

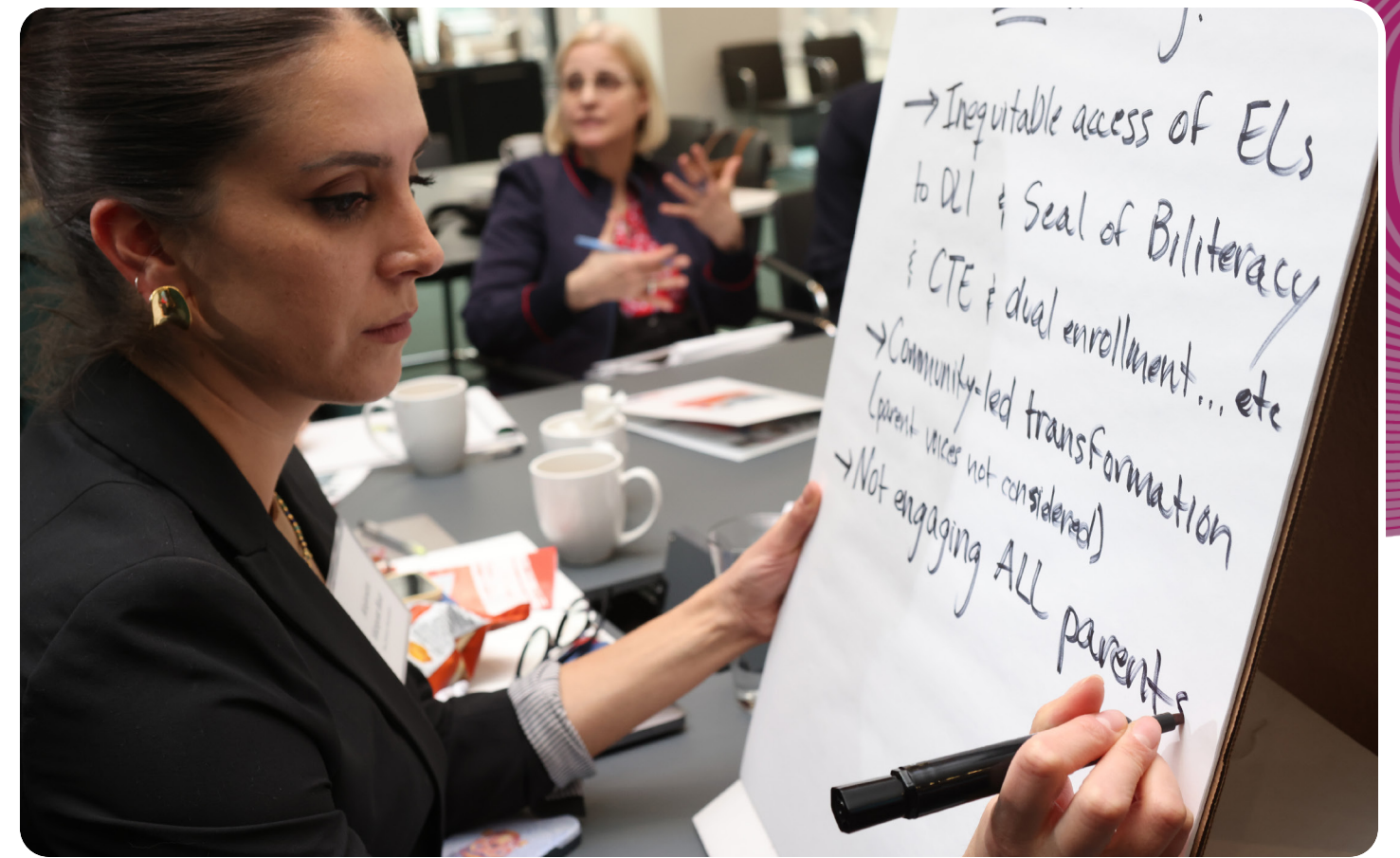
Teacher Recruitment, Training, and Retention

Parent participation and leadership is needed both to support individual EL students and to contribute to developing policy and programs that will truly create pathways for success for their students. To facilitate such engagement, we must recognize that the power of parents is often taken away by English-only barriers and lack of support in navigating complex educational systems.

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welcoming environments where teachers, administrators and other staff are designated to assist parents to learn how the system works and their key role in it.

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Advocacy Opportunities

Advocate to state legislatures to allocate monies for building the pipeline of dual language teachers.

Advocate for colleges of education to reframe teacher education to train multilingual teachers in dual language and multilingual curriculum and methods, including translanguaging.

Litigate and file administrative complaints with federal Departments of Justice and Education and relevant state agencies to challenge acute and/or chronic shortages of qualified teachers for ELs in identified jurisdictions.

Law for More Bilingual Teachers

Californians Together successfully advocated for passage of AB 1127, the **Bilingual Teacher Professional Development Program (BTPDP)** which aims to increase the number of teachers who obtain a bilingual authorization.

Translanguage Pedagogy

Professor Ryan Pointier at Florida International University provides training and guidance to pre-service teachers to understand what translanguaging is and how to use it as a pedagogy with students starting at Pre-K through 12th grade.

Funding

Title III provides federal funding to states to ensure that ELs, including immigrant children attain English proficiency and academic achievement and advancement. However, that funding stream is stagnant and has not kept pace with the arrival of newcomers, resulting in their segregation.

School privatization efforts such as voucher systems and charter schools take money away from public schools that ELs attend.



Advocacy Opportunities

Advocate to Congress to fully fund Title III.

Identify different funding sources, e.g., refugee resettlement funds, to support education for newcomers.

Advocate against school privatization efforts such as school voucher bills.

Ensuring Funds

The report [How to Ensure Title III Funds Reach Every Newcomer Student](#) includes recommendations to improve and fully fund Title III to better equip school districts to support newcomers.

Against Privatization

The Intercultural Development Research Association or [IDRA](#) is actively working in Georgia and Texas to oppose public school privatization efforts.

The Science of Reading

As one convening participant described, we have a perfect storm brewing in the wake of the pandemic learning loss, and people are offering the science of reading (SOR) as the magic bullet.

Narrow interpretations of SOR in policy and practice, a standard of literacy grounded in English and not bilingual literacy, and a hyper focus on English can negatively impact

bilingual programs and long-term educational progress for ELs. In addition to nurturing proficient readers, we must foster educated and empowered youth with positive racial, cultural, and linguistic identities.

Thus, it is imperative that we find ways for SOR and translanguaging and other instructional practices for ELs to blend and build on each other.



Advocacy Opportunities

Advocate to the federal Department of Education and state departments of education to issue guidance that

- identifies practices that schools are implementing under the SOR name that are not such and, indeed, are misaligned with the evidence of how ELs and emergent bilingual students learn to read; and

- emphasizes that “a student’s home language is an asset that should be valued and nurtured because of its intrinsic value and because it can be used to leverage second language acquisition and second language literacy development”.

Advocate to the federal Department of Education and state departments of education to fund pilot programs to train teachers on how to instruct ELs and emergent bilingual youth in reading and writing, emphasizing the role of oral language and home language development

Advocate to the federal government and public and private institutional funders that they fund studies with ELs and emergent bilingual youth on how they develop literacy to add to the existing body of SOR research.

Potential Alignment

The Reading League and the National Committee for Effective Literacy issued a joint statement on **Understanding the Difference: The Science of Reading and Implementation for English Learners/ Emergent Bilinguals (ELs/EBs)**, which outlines areas of alignment between the fields of reading science and English learner/emergent bilingual (EL/EB) education. The joint statement stresses the importance of practices that support students in developing proficiency in language, reading, and writing in both English and their home languages.

Special Education

ELs with special education needs face even more obstacles to academic achievement, starting with appropriate evaluation.

We must avoid youth being “pulled out” to receive services; when we provide services in that manner, we often pull the student out of the classroom only to have technology replace the teacher and people.

Advocacy Opportunities

Advocate for state education agencies and school districts to design and implement curriculum so that ELs with special needs receive language and special education services as a combined package.

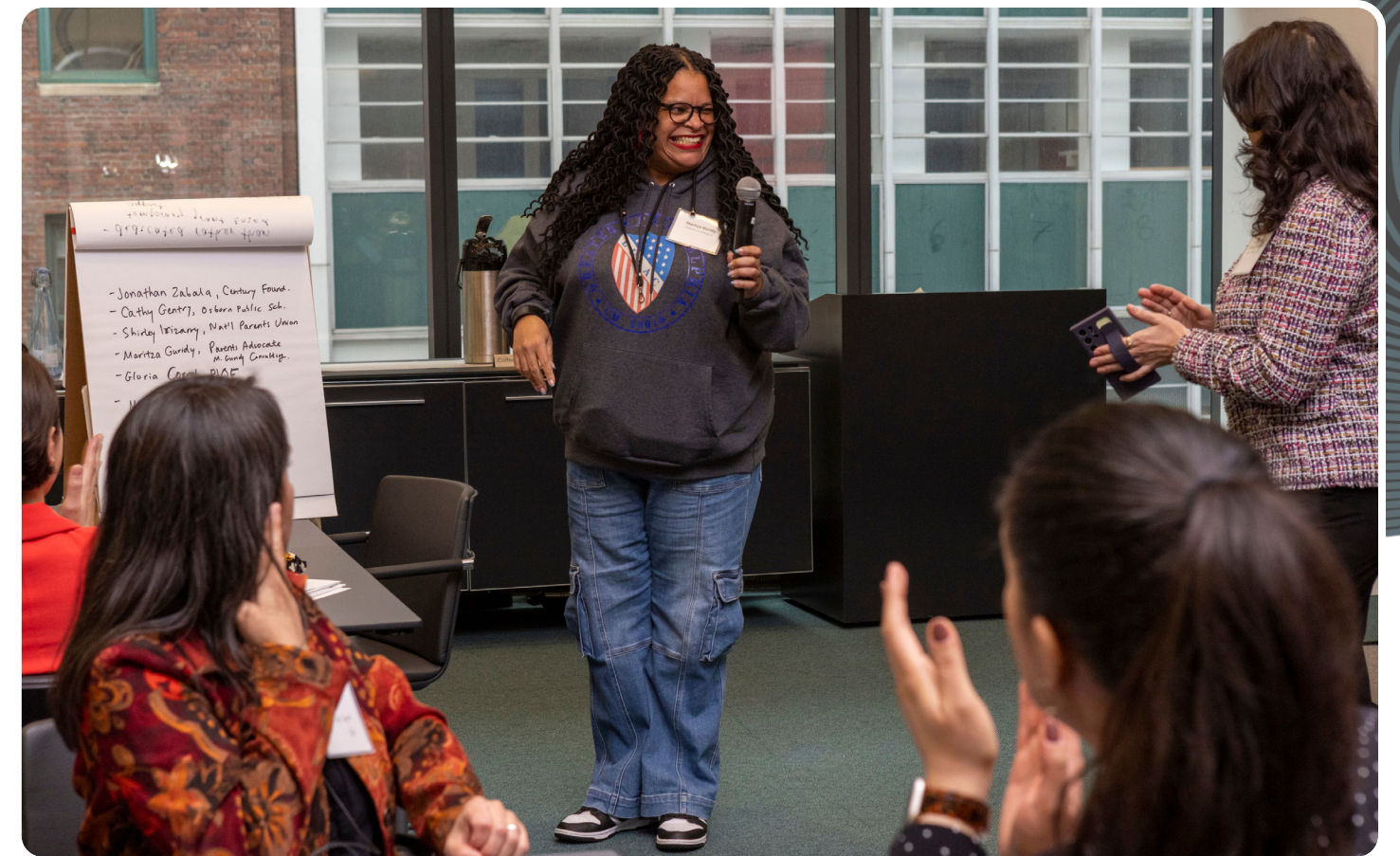
Advocate for multilingual mental health providers in every school.



Empowering Advocates to Utilize Federal and State Laws

Federal and state laws and constitutional amendments create entitlements to EL education. For example, the **Educational Opportunities Section of the Department of Justice's Civil Rights Division** pursues investigations for violations of the Equal Educational Opportunity Act (EEOA); examples of EEOA violations that the department has found include failures to provide newcomer programs, including for those newcomers who had little or no formal education in their country of origin, failures to serve ELs with disabilities, and to serve ELs who speak an indigenous language.

The EEOA contains provisions that explicitly create a private right of action for individuals to sue education agencies for not fulfilling their legal obligations. However, the private right of action is severely underutilized and private litigation is needed to supplement government advocacy.



Advocacy Opportunities

Increase the number of non-government attorneys who bring litigation to enforce the legal rights of ELs by creating tool kits and offering trainings on how to use existing laws and constitutional provisions.

Create and run a list serv of advocates, attorneys, parents, educators, researchers and other stakeholders from around the country to identify possible legal violations and case opportunities.

Successful Lawsuit

The Mexican-American Legal Defense and Education Fund (MALDEF) **successfully sued state education officials in New Mexico** for violating the fundamental rights of ELs, as well as low-income students and students with disabilities, to a uniform and sufficient education as required under the state constitution.

School District and State Education Agency Accountability

There is a need for more transparency and accountability as to how school districts and state education agencies are spending funds.

This includes requiring enhanced data collection on ELs and the publication of aggregate data on the services provided to them as well as their academic achievement. Such data collection must be done so as to protect the privacy of families and comply with privacy laws.

Advocacy Opportunities

Advocate to state legislatures to enact legislation requiring school districts to report data regarding EL education services and achievement rates to state education agencies, and for the latter to issue public reports.

File Freedom of Information Act (FOIA) requests to state education agencies and school districts to provide data on EL education services and achievement rates.



