

**The Status of English Language Learners in Florida:**

**Trends and Prospects**

**Policy Brief**

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## **Executive Summary**

One out of every five students in Florida's K-12 public schools is classified as an English Language Learner (ELL). While policy-makers increasingly use standardized testing, even as they debate the appropriate instructional methods for an ever-increasing population of non-native English speaking students, how will these students' educational rights be addressed? This brief examines how the state of Florida annually provides equal educational opportunities to almost 300,000 non-native English speaking students who have been identified through surveys and testing as Limited English Proficient (LEP). In particular, this brief examines the ongoing efforts of the Florida Department of Education (FDOE) to meet both the letter and spirit of the 1990 Consent Decree between the League of United Latin American Citizens (LULAC) and the Florida Department of Education. The Consent Decree requires each LEP pupil to receive "equal access to programming which is appropriate to his or her level of English proficiency, academic achievement, and special needs."

In the past several years, there has been a simultaneous increase in the number of English Language Learners and the accountability pressures placed upon schools at the local, state, and federal levels. To meet the needs of its English Language Learners, it is recommended that the state of Florida:

1. Increase funding for the Office of Multicultural Student Language Education (OMSLE).
2. Provide funding that would permit research organizations to conduct external evaluations, in order to allow closer monitoring of the Consent Decree's mandate to annually collect comparative data on English Language Learners and native English speakers.
3. Enhance teacher education programs at the in-service and pre-service levels by mandating that ESOL teachers be certified in the areas they teach, recruiting high quality (particularly minority) teachers, and removing exemptions for Consent Decree-mandated ESOL training of teachers.
4. Focus Resources on High School English Language Learners who are at risk for dropping out of school.

# **The Status of English Language Learners in Florida:**

## **Trends and Prospects**

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### **Section 1: The Issue**

The state of Florida offers economic and aesthetic incentives that continue to attract new residents from around the United States and the world. Between 1990 and March 2000 more than one million (1,030,449) newcomers chose Florida as their home, a 23.5 percent increase over the previous decade in the number of residents moving into the state. The diverse backgrounds of Floridians are most clearly reflected in their home languages. In the 2000 Federal Census, 23.1 percent of Florida residents over the age of five reported that they spoke a language other than English. About one in 10 stated that they spoke English “less than very well.”<sup>1</sup> Many areas of South Florida are considered informally bilingual, but English remains the official language of instruction and assessment in the public schools and is the means for economic and educational improvement.

Throughout the 1990s, Florida was the fourth most populous state in the nation and had the third-largest number of foreign-born residents, trailing only California and New York.<sup>2</sup> Florida’s location has historically attracted trade and migration from Central and Latin America. Although the presence of Spanish-speaking individuals in Florida dates back to the 1500s, the 1959 revolution in Cuba is typically viewed as the beginning of modern immigration to the state. During the last four decades of the twentieth century, Florida received newcomers of varied political status. Some were refugees, including

federally-designated Cuban/Haitian entrants, Central Americans who received Temporary Protected Status from the federal government, and undocumented aliens. Currently, three-quarters of immigrants to Florida are from Caribbean and Latin American nations.

One out of every five students in Florida's K-12 public schools is classified as an English Language Learners (ELL).<sup>3</sup> Spanish (71.3 percent) is the most common language among Florida's English Language Learners (ELL), followed by Haitian-Creole (11.4 percent). Overall, ELL students represent 257 countries and speak more than 200 different languages.<sup>4</sup>

The diverse student population presents certain challenges to Florida's educators and policy-makers. Florida Statutes and State Board of Education Rules (Chapter 1003.56) require the provision of instruction in the English language.<sup>5</sup> Since the 1960s, a series of federal laws, court decisions, and guidelines—including Title VI and VII of the Civil Rights Act of 1964; passage of the 1968 Bilingual Education Act; the Supreme Court decision *Lau v. Nichols* (1974); the Office of Civil Rights' *Lau Remedies*; and the Equal Education Opportunities Act of 1974—have reaffirmed the rights of English Language Learners to accessible public schooling that is adequate to their needs.<sup>6</sup> Florida has had in place since 1990 a Consent Decree that outlines the identification, services, and compliance of school districts to ensure “equal and comprehensible instruction” to these students – approximately 20 percent of the state's school-age population.<sup>7</sup>

Yet at the same time, while numbers of LEP students increase, educational standards are becoming more stringent and accountability issues loom larger. As educational standards and accountability continue to increase at the state and federal levels, the particular needs of LEP students will require scrutiny.

Historically, language policies have been highly politicized in the United States.<sup>8</sup> Academic researchers and individuals from Teachers of English as a Second Language (TESOL), a professional organization, often recommend policies that stress the preservation and inclusion of home language in assisting LEP students towards English proficiency.<sup>9</sup> State and federal governmental policies, however, have increasingly stressed using English as the sole language of instruction, rather than permitting native language during instruction.<sup>10</sup> Amid these often conflicting ideologies and policies remains the need of English Language Learners to benefit fully from the Florida public schools.

## **Section 2: Background**

On August 14, 1990, the Consent Decree was signed in the United States District Court. The Consent Decree—also known by the name of the plaintiffs, Multicultural Education Training Advocacy, Inc.(META) or English Speakers of Other Languages (ESOL) Consent Decree—was the result of a class action complaint filed on behalf of a coalition of eight minority rights advocacy groups in Florida. The plaintiffs had alleged that the State Board of Education had not complied with its obligations under federal and state law to ensure that Florida school districts provide equal and comprehensible instruction to Limited English Proficient (LEP) students.

On September 10, 2003, the State Board of Education and LULAC, through META representation, signed an agreement, a negotiated modification to the 1990 Consent Decree. The Stipulated Agreement, signed by U.S. District Court Judge Federico Moreno, is currently active in all of Florida's school districts. The Stipulated Agreement does not diminish any options for ESOL endorsement or coverage outlined in

the 1990 Consent Decree. It does, however, expand some of the original provisions. First, it provides an additional option through which a certified teacher may obtain ESOL coverage. Second, the amendment requires training, including post-certification hours, for all persons holding administrative and guidance counselor positions (60 hours). Last, the new 2003 amendment allows the plaintiffs to secure access to the ESOL teacher test and provide input that becomes part of the test's design.<sup>11</sup>

The six mandated areas of the decree and the state of Florida's policy responses are briefly reviewed below.

### ***Identification and Assessment***

State Board of Education Rules (2003) Chapter 1003.56 specifies that the Limited English Proficient designation refers to:

1. (a) An individual who was not born in the U.S. and whose native language is a language other than English; (b) An individual who comes from a home environment where a language other than English is spoken in the home; or (c) An individual who is an American Indian or Alaskan native and who comes from an environment where a language other than English has had a significant impact on his or her level of English language proficiency; and
2. Who, by reason thereof, has sufficient difficulty speaking, reading, writing, or listening to the English language to deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English.<sup>12</sup>

Since the beginning of the 1990-91 school year, upon initial enrollment in a Florida school district, each student has been asked to identify the language spoken at his

or her home, the first language he or she spoke, and the language most frequently spoken. Students who do not identify any of these as “English” are assessed in order to determine if they are English Language Learners. This particular stipulation of the Consent Decree was designed to prevent a large number of students from remaining unidentified as English Language Learners, thus remaining under-served.

The assessment process for English students varies depending upon grade level but must be state-approved and conducted within the first weeks of the semester. The average time for classification of English Language Learners in Florida is 8.43 days from the date of the Home Language Survey.<sup>13</sup> Students in grade 4 or above who have answered affirmatively to a question on the Home Language Survey are given a norm-referenced test. If they score below the 32<sup>nd</sup> percentile on the reading and writing sub-parts of a norm-referenced test, the state uses the classification of Limited English Proficient (LEP). Other state-approved tests in subject areas are conducted at the higher grades before a student is classified. Once the district designates a student as an English Language Learner, he or she is provided with an educational plan and assigned a committee composed of the school’s English for Speakers of Other Language (ESOL) teacher, homeroom teacher, and guidance counselor. The English Language Learners are then regularly tested to determine their readiness for exit from the program and reclassification into regular programs.

### ***Equal Access to Appropriate Programming***

According to the Consent Decree, each student must have access to programming “appropriate to his or her level of English proficiency, academic achievement and special needs.” In order to monitor this directive, each district must submit an LEP plan to the

Florida Department of Education (FDOE). The Consent Decree does not mandate a specific methodology for ESOL instruction, but instead permits flexibility to local needs and demographics. The state stipulates that LEP students must receive ESOL instruction in English, however, and also that they must have ESOL or home language instruction for reading, mathematics, science, social studies, and computer literacy.

In addition to a plan for the district, each student must have an LEP Student Plan on file. This document includes information on the date of identification, assessment data, and goals for exiting ESOL programs. Each student is also assigned an LEP Committee composed of the student's home teacher, an ESOL teacher, an administrator, and a guidance counselor or a social worker, if appropriate. Parents are invited to attend committee meetings. LEP committees are generally convened when a pupil is having difficulties, is eligible for reclassification, or is ready to participate in state assessments. Furthermore, each school must form an LEP Parent Leadership Council. According to the Decree, this parental representative body "has an active participation in all decision-making processes that impact instruction and issues."<sup>14</sup>

#### ***Equal Access to Appropriate Categorical and Other Programs for LEP Students***

An important objective of the Consent Decree was to ensure that LEP status did not curtail students' opportunities in other specialized programs. For example, LEP students are often under-represented in exceptional student services (e.g. gifted). The Consent Decree requires that districts show evidence of providing equal access for eligible English Language Learners. In addition, districts must track and report to the FDOE the number of students in programs such as compensatory education, exceptional

student education, magnet schools and programs, dropout prevention, pre-kindergarten programs, and pre-first grade classes.

Equal access to programming was also reinforced through the Consent Decree's mandate that, when feasible, communications from school to home are to be translated into the parents' primary language. Public documents in Spanish and Haitian/Creole, for example, are routinely available in districts with many students from these populations.

### *Personnel*

Among the most far-reaching consequences of the Consent Decree was the requirement for teachers of both Language Arts and other content areas (social studies, science, and others) to undergo extensive training in ESOL methods. Since 1990-91, amendments to the original stipulation have shifted the burden of ESOL training to pre-service teacher education programs (Section 240/529 F.S. and State Board of Education Rule 6A-5.066). In general, however, according to 2001 Florida Department of Education guidelines:

1. Teachers of Basic ESOL or primary English and Language Arts who need ESOL endorsement must complete 300 in-service points (measured as 300 in-service hours) or 15 college semester hours in the areas of Methods of Teaching ESOL, ESOL Curriculum and Materials Development, Cross-Cultural Communication and Understanding, Applied Linguistics, and Testing and Evaluation of ESOL.
2. Teachers of basic subject areas (mathematics, science, social studies, computer literacy) assigned in classrooms which have English Language

Learners must learn ESOL strategies through the completion of 60 in-service points or the equivalent college credit of three semester hours.

3. Teachers assigned to instruct English Language Learners in other subject areas must complete inservice training equivalent to 18 in-service points or three semester hours.<sup>15</sup>

### ***Monitoring Issues***

Compliance requirements for the Consent Decree have also undergone changes since 1991 implementation. During the first five years of implementation, the state was ordered to “annually submit to counsel for the plaintiffs a status report on the implementation of each section of this Agreement.”<sup>16</sup> The last *Annual Status Report* was produced in 2000-01. Measures effective in 2003 require the Department of Education to conduct a review of each school district’s program every four years.

### ***Outcome Measures***

By 1992-93, the Florida Department of Education was required to include data on various indicators that would permit comparisons of English Language Learners with “national origin minority students” (i.e. African-American, Asian, or Hispanic who are not ELL) and with “students who are not national origin minorities” (i.e. White/Caucasian who are not ELL).<sup>17</sup> Regular reviews of program effectiveness were mandated; demonstrations that students were “acquiring English language skills ... within a reasonable period of time” were reviewed on a regular basis. The reviewers focused on ensuring that students were making progress according to their individual LEP plans, and compared data on student identification and student exits from ESOL programs by district.

### Section 3: Available Data

Data on Florida's LEP students is obtained through the Florida Department of Education Automated Student Information Data Base. The Office of Multicultural Student Language Education (OMSLE) is the repository of data on LEP students and is responsible for compliance and monitoring through data collection, on-site visits, surveys, and other mechanisms put in place by the Consent Decree. As of October 2003, the total number of LEP students in Florida's public schools, from all categories, was 288,413.<sup>18</sup> OMSLE suffered a staff reduction in 2002, and is currently unable to maintain up-to-date reports accessible to the public. For this reason, detailed breakdowns of the 2003 date are unavailable. The following discussion, for lack of more timely data, is based upon outdated 2001 data. The Annual Status Report for 2000-01 reported a total of 290,024 LEP students in the Florida public schools—the fourth largest public school population of LEP students—following California (1,511,646), Puerto Rico (598,063), and Texas (570,022).<sup>19</sup>

The Florida Department of Education currently codes English Language Learners into eight sub-categories. The categories were created as a result of an official complaint registered by the plaintiffs for *LULAC vs. State Board of Education* in 1994. In order to settle the complaint, the State agreed to “give more specificity to the identification, placement, screening and classification of LEP students.”<sup>20</sup> These categories permit the state to monitor more closely the progress of students during and after enrollment in the ESOL program. Table 1 shows the categorization of students. For purposes of comparing LEP to Non-LEP students, the FDOE considers the first four categories to be

LEP and the last two to be Non-LEP. Data for virtually all indicators is disaggregated by individual category.

**Table 1: FDOE Categorization of Students**

<b>FDOE Categorization of English Language Learners</b>	<b>Status of Students</b>
LY	Students enrolled in classes specifically designed for LEP students. <ul style="list-style-type: none"><li>• LY&lt;2: designated LEP for less than 2 years</li><li>• LY&gt;2: designated LEP for more than 2 years</li></ul>
LN	Students Classified as LEP, but not enrolled in LEP classes
LP	Students in grades 4-12; tested fully English proficient on an aural/oral test but awaiting reading and writing assessment
LF	Students who left the LEP program within past 2 years
LZ	Students who left the LEP program more than 2 years ago
ZZ	Non-LEP students.

In 2001, of the total 290,024 LEP students, 215,777 were enrolled in LEP classes (LY), 1,206 were not enrolled in LEP classes (LN), 2,466 had tested fully English proficient and were awaiting reading and writing assessment (LP), and 70,575 had exited the program within the past two years (LF).<sup>21</sup>

No Child Left Behind requires that schools no longer automatically promote students to the next grade without meeting sufficient state-established norms. Florida's English Language Learners have one of the highest retention rates in the nation for secondary level (grades 7-12) students. Among 45 State Educational Agencies (SEAs) reporting retention of English Language Learners, approximately 9.1 percent of secondary level LEP students were not promoted to the next grade. In Florida, the retention rates for English Language Learners in 2001 was 18.2 percent. In Texas, another state with a high population of English Language Learners, the retention rate was 10.4 percent.<sup>22</sup>

As Valdéz and others have documented, English Language Learners who enter U.S. schools over the age of thirteen are more at risk for academic failure, including high

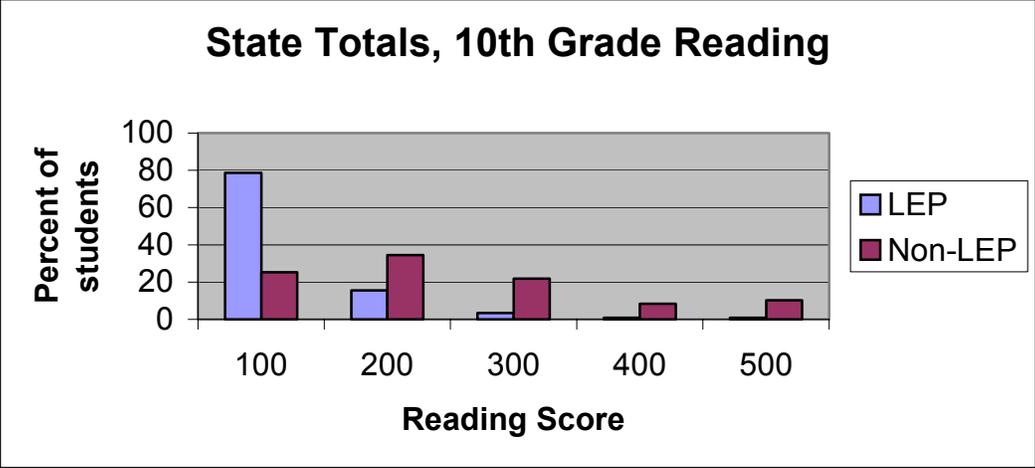
school drop-out.<sup>23</sup> Florida's overall 2001 high school graduation rate, 54.6%, is a cause for concern.<sup>24</sup> Florida has the third lowest graduation rate in the nation, followed only by Georgia and South Carolina. The graduation rates of English Language Learners in Florida are also especially low. Among English Language Learners enrolled in ESOL programs, the high school graduation rate is 36.2%. The risk is even greater for English Language Learners not receiving ESOL services. Graduation rates are only 20% for that population.<sup>25</sup>

According to monitoring reports, high school age English Language Learners are often denied access to services guaranteed to them under the Consent Decree. Lack of equal access to dropout prevention programs, magnet schools, and other programs that may increase graduation success remains a problem. English Language Learners are often placed in multiage or multilevel classrooms at the high school level that do not meet their academic content needs. Furthermore, the Florida Department of Education has created sub-categories for high school graduation, including certificates of completion, special certificates of completion and special diplomas. Since 1992-93, thousands of students have been receiving these certificates; whether English Language Learners are disproportionately represented in these categories that do not carry the weight of a high school diploma has not been examined. In 1998-99, for example, Florida's statutory definition of a high school "graduate" excluded any student who earned a certificate of completion.<sup>26</sup>

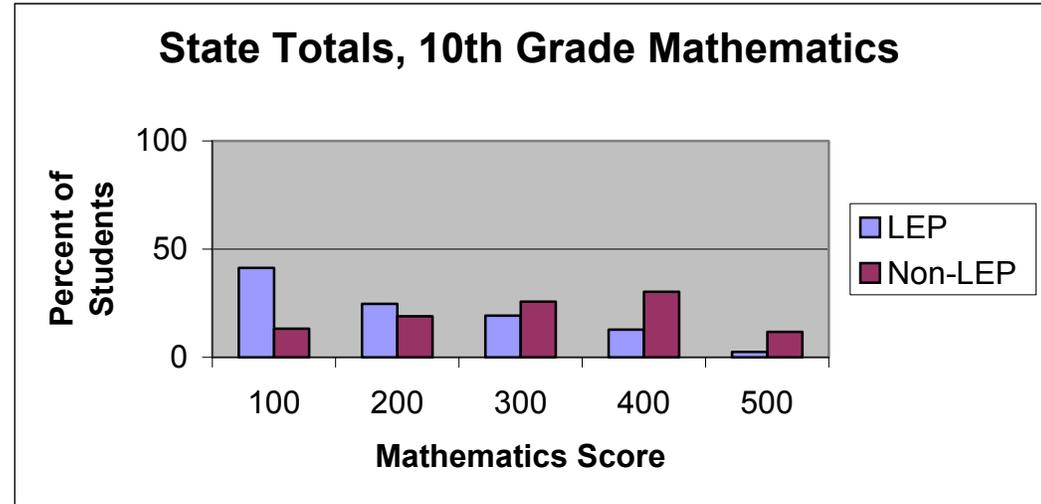
Florida, like many other states adhering to the No Child Left Behind Act, has established minimum scores on achievement tests for high school graduation. Beginning in 2002-03, the High School Competency Test (HSCT) was replaced with new criteria

tied to Florida's Sunshine State Standards.<sup>27</sup> In order to graduate, Florida's public school students must earn a passing score (currently 300 or above) on the 10<sup>th</sup> grade Reading and Mathematics tests. State summaries for Florida's English Language Learners in 2000-01 indicate that on these two measures, high school students are scoring well below established state norms. Among students classified as having been in LEP programs for less than two years (LY<2), 97.2 percent scored below 300 on the reading test. Students who had been in LEP programs for more than two years (LY>2) did not fare better. Among all categories of LEP (including both LY, LN & LP) 10<sup>th</sup> graders, 96.6 percent scored below passing in reading (compared to 58.4 percent of non-LEP students (ZZ) who scored below passing). Figure 1 shows a breakdown of 10<sup>th</sup> grade reading scores for LEP and Non-LEP students in 2000-2001, and Figure 2 shows the 10<sup>th</sup> grade math scores for LEP and Non-LEP students in 2000-2001.

**Figure 1: 2000-01 10<sup>th</sup> Grade Reading Scores, Compared for LEP and Non-LEP Students**



**Figure 2: 2000-01 10<sup>th</sup> Grade Math Scores, Compared for LEP and Non-LEP Students**



\*Range from 100 (low) to 500 (high). 300 is the minimum passing score for high school graduation as of 2004.

Source: State Synopsis. 2001. *Annual Status Report on the Implementation of the Consent Decree in the League of United Latin American Citizens (LULAC), et al. v. State Board of Education, et al., 1990*. Tallahassee, FL: Florida Department of Education.

**Section 4: Quality of available data**

The Office of Multicultural Student Language Education (OMSLE) has acquired the most reliable data regarding the status and progress of Florida’s LEP students. The

1990 Consent Decree required annual compliance reports for the first five years. A dissertation concerning the first five years of the Consent Decree's implementation was completed in 2000 at Florida State University and is a useful resource.<sup>28</sup> Subsequent annual reports for 1997-2001, although not required by the Consent Decree, are available on the OMSLE Web site. These later reports include a state synopsis in addition to district-by-district data. Current detailed information on Florida's English Language Learners is difficult to secure, despite the mandate for such specific information in Part VI of the Consent Decree. Regular reporting such as that produced in the State of California regarding its English Language Learners would greatly strengthen the quantity and quality of data available to Florida policymakers and citizens.<sup>29</sup>

Policies and procedures for district administrators, staff, teachers, and other personnel are available in a 1999 guide<sup>30</sup> that provides legal information, guidelines for approved testing accommodations for LEP students, and other information on policies and procedures. These policies, however, have not been updated to take into account the new requirements arising from NCLB. The most up-to-date requirements and allowances regarding the testing of LEP students were obtained for this brief only through personal communication with staff member Rubén Vázquez at OMSLE. As of January 2004, a committee of district level personnel to formulate guidelines adhering to NCLB had been formed, but had not yet convened.<sup>31</sup> Unlike the State of California, Florida has not yet created a state-level assessment for English Language Learners. The California English Language Development Test (CELDT) was inaugurated in the fall of 2002 and is a much more reliable method of tracking progress in the mastery of English.<sup>32</sup>

On February 19, 2004, U.S. Secretary of Education Rod Paige announced a series of new federal policies regarding English Language Learners and No Child Left Behind. The new guidelines permit states to have greater flexibility in the assessment of English Language Learners. Although the guidelines are brand new and their details are not yet known, schools will not be required to assess English Language Learners immediately as part of their Adequate Yearly Progress as previously stipulated.<sup>33</sup> Because the Florida Department of Education had not yet established guidelines to help districts comply with Title III guidelines for English Language Learners, Secretary Paige's announcement will permit the state more time to prepare.

OMSLE is also responsible for conducting reviews of all school districts every four years for compliance with the Consent Decree. OMSLE conducts on-site visits, surveys districts, and collects relevant data. OMSLE reports violations of the Consent Decree to the district and several stakeholders, including school board members, school principals, attorneys for the plaintiffs in the Consent Decree, and public depositories such as state university libraries. OMSLE also requests corrective action: individual schools or districts are given an established period in which corrective actions must be taken and OMSLE conducts a follow-up visit to ensure compliance.<sup>34</sup> Copies of these *Monitoring Reports* are available through OMSLE.<sup>35</sup>

## **Section 5: Findings**

Florida's public schools have one of the largest groups of K-12 English Language Learners in the nation, a number that will continue to increase. The overwhelming majority of LEP students are of Hispanic descent—that is, members of a population that has often struggled on several academic achievement indicators.<sup>36</sup> On several levels,

Florida is not meeting the needs of its English Language Learners. Both monitoring reports from the state's supervisory Office of Multicultural Student Language Education and district reviews conducted by consulting groups such as MGT of America, Inc. have found several areas of concern.

### ***Inadequate Monitoring of ESOL Delivery***

MGT of America, Inc. was commissioned to review district procedures and policies in several counties during the 1990s. These evaluations, called Educational Service Deliveries, included ESOL delivery. Analysts reported several deficiencies in the provision of ESOL services. For instance, in Brevard County, reviewers could not find “disaggregated data on LEP students; standardized test scores to evaluate student achievement...[T]here appears to be a lack of a process for closely monitoring the LEP students' progress in test score achievement.”<sup>37</sup> Similarly, ten years after passage of the Consent Decree, the Office of Multicultural Student Language Education found districts that were not familiar with the state codes for English Language Learners. As a result, students' progress could not be monitored adequately.<sup>38</sup>

This evidence from district reports indicates the need for continuous monitoring of compliance with the Consent Decree. The need for monitoring is particularly acute in the northern districts that have had little previous experience with English Language Learners. Although the Consent Decree technically requires OMSLE to file status reports only every four years, the continuous reclassification of English Language Learners, coupled with rapidly changing state standards for grade completion and high school graduation, necessitate more frequent monitoring.

### *Inadequate Teacher Training*

A second area of concern is the training and preparation of teachers and district personnel in charge of English Language Learners. For instance, OMSLE found that in the Miami-Dade district (home to the largest concentration of English Language Learners), teachers were not documenting ESOL strategies, paraprofessionals who had never received ESOL training were teaching ESOL students, and the requirement of hiring a bilingual aide when 15 or more students who speak one language are present in a school was not consistently honored.<sup>39</sup>

Research on Florida's provision of English as a Second Language (ESOL) reveals that inclusion has become the most widespread and preferred model for teaching English.<sup>40</sup> Inclusion refers to a model in which English Language Learners are placed in mainstream classrooms. Teachers are required to have received either in-service or pre-service training on the use of ESOL strategies in their classrooms. Other models utilized in Florida for teaching English include a "pull out" model in which students receive intensive ESOL for one or two hours a day; the removal of English Language Learners into separate ESOL classrooms; and bilingual education settings.

Current policy that allows in-service teachers to be exempt from ESOL training if they have demonstrated "effective teaching" of English Language Learners is a loophole in the Consent Decree.<sup>41</sup> Although this concession was granted because of the initial hardship on teachers to pursue additional coursework, Florida's in-service teachers have now had twelve years to receive and complete ESOL training. A recent report for the State Board of Education indicates that thirty-three per cent of all ESOL teachers are not

certified in the subject area they teach. Furthermore, among new hires of ESOL teachers, thirty-seven per cent are not certified in the appropriate field.<sup>42</sup>

One underutilized population from which to draw new teachers is the Latino population. Among all English Language Learners in Florida, 71% are Spanish-speaking. Hispanic students in the public school system represent one-fifth of the population, and this number will increase. In contrast, the teaching population of Florida is overwhelmingly white and female. In 2002, 75 percent of all teachers were white, non-Hispanic; 10 percent were Hispanic and 15 percent African-American.<sup>43</sup> In the case of teachers, both African-Americans and Hispanics are under-represented in proportion to the number of students. According to *Trends in Minority Students and Teachers*, a larger number of Florida's minority teachers remain in the classroom one, three, five, and ten years later than their white non-Hispanic counterparts.<sup>44</sup>

### ***Inadequate Access to Programming***

The Consent Decree's requirement that English Language Learners receive equal access to programs available to native speakers is still not consistently fulfilled. Access to special programs and services often assists in reducing retention rates, promoting high school graduation, and boosting achievement tests. In Leon County, for instance, reviewers in 2000 found that English Language Learners had neither access to charter schools nor adequate information about magnet programs such as the International Baccalaureate.<sup>45</sup> Furthermore, both in districts with small and large populations of English Language Learners, few of these students are being identified as gifted (Gifted programs, like other special services, often aid with the retention of students.). In some district ESOL programs, alternative methods of assessing English Language Learners for

giftedness have been developed. For example, “Gifted Plan B” in the Miami-Dade district was developed as an alternative to traditional forms of testing.<sup>46</sup>

Across the state only .32 percent (n=608) of English Language Learners coded as LY (students enrolled in classes for LEP students) were identified as gifted in 2000-01.

Overall, the percentage of students across the state in the gifted program was five percent.<sup>47</sup>

## **Section 6: Recommendations**

One out of every five students in Florida's K-12 public schools is classified as an English Language Learners (ELL). Currently, the Florida Department of Education is falling short in its efforts to meet the requirements of the 1990 Consent Decree between the League of United Latin American Citizens (LULAC) and the Florida Department of Education, which requires each of these students to receive “equal access to programming which is appropriate to his or her level of English proficiency, academic achievement and special needs.”

To meet the needs of its English Language Learners, it is recommended that the state of Florida:

1. Increase funding for the Office of Multicultural Student Language Education (OMSLE).
2. Provide funding that would permit research organizations to conduct external evaluations, in order to allow closer monitoring of the Consent Decree’s mandate to annually collect comparative data on English Language Learners and native English speakers.

3. Enhance teacher education programs at the in-service and pre-service levels by mandating that ESOL teachers be certified in the areas they teach, recruiting high quality (particularly minority) teachers, and removing exemptions for Consent Decree-mandated ESOL training of teachers.
4. Focus Resources on High School English Language Learners who are at risk for dropping out of school.

## Notes and References

- <sup>1</sup> GCT-11 (2000). Language, School Enrollment and Educational Attainment: 2000. U.S. Census Bureau. Retrieved March 5, 2004, from [http://factfinder.census.gov/servlet/GCTTable?\\_bm=y&-geo\\_id=01000US&-reg=DEC\\_2000\\_SF4\\_U\\_GCTP11\\_US9:0.01&-ds\\_name=DEC\\_2000\\_SF4\\_U&-lang=en&-redoLog=true&-mt\\_name=DEC\\_2000\\_SF4\\_U\\_GCTP11\\_US9&-format=US-9&-CONTEXT=gct](http://factfinder.census.gov/servlet/GCTTable?_bm=y&-geo_id=01000US&-reg=DEC_2000_SF4_U_GCTP11_US9:0.01&-ds_name=DEC_2000_SF4_U&-lang=en&-redoLog=true&-mt_name=DEC_2000_SF4_U_GCTP11_US9&-format=US-9&-CONTEXT=gct)
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- <sup>4</sup> Office of Multicultural Student Language Education (2001). Native Languages. *Annual Status Report on the Implementation of the Consent Decree in the League of United Latin American Citizens (LULAC), et al., 1990: State Synopsis*. Tallahassee, FL: Florida Department of Education.
- <sup>5</sup> Florida Statute Title 48, Chapter 1003.56. Retrieved from [http://www.flsenate.gov/Statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=&URL=CH1003/Sec56.HTM](http://www.flsenate.gov/Statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=&URL=CH1003/Sec56.HTM)
- <sup>6</sup> Civil Rights Act of 1964, Title VI, Public Law 88-352, 42 U.S.C. §§ 2000b-2000d-7, signed into law July 2, 1964.
- Civil Rights Act of 1964, Title VII, Public Law 88-352, 42 U.S.C. §§ 2000e, signed into law July 2, 1964.
- Bilingual Education Act of 1968, Title VII of the Elementary and Secondary Education Act, Public Law 90-247, 20 U.S.C. 3283, signed into law January 2, 1968.
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- <sup>7</sup> *League of United Latin American Citizens (LULAC) et al. vs. State Board of Education et al. Consent Decree*, 1990. No. 90-1913. United States District Court for the Southern District of Florida. Retrieved February 9, 2004, from [www.firn.edu/doe/bin00011/cdoage2.htm](http://www.firn.edu/doe/bin00011/cdoage2.htm)

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<sup>8</sup> Wiley, T. G. and Wright, W. E. (2004, January and March). Against the Undertow: Language-Minority Education Policy and Politics in the "Age of Accountability." *Educational Policy*, 18, 142-168.

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<sup>9</sup>August, D. & Hakuta, K., (Eds.) (1998). *Educating Language-Minority Children*. Washington, DC: National Academy Press.

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<sup>11</sup> López, A. (October 8, 2004). Memorandum to the Author. Re: Newly Approved Modification to the Consent Decree. LULAC et al. vs. Florida Board of Education, et al. Case no. 90-1913-CIV-Moreno. September 10, 2003 Stipulation Modifying the Consent Decree. United States District Court for the Southern District of Florida, Miami Division.

<sup>12</sup> Florida Department of Education & Bureau of Instructional Support and Community Services (2003). *Florida Statutes and State Board of Education Rules, Excerpts for Special Programs*. Tallahassee, FL.

<sup>13</sup> Office of Multicultural Student Language Education (2000-01). *Annual Status Report on the Implementation of the Consent Decree in the League of United Latin American Citizens (LULAC), et al., 1990: State Synopsis*. Tallahassee, FL: Florida Department of Education.

<sup>14</sup> Florida Department of Education (1999). *Language Arts Through ESOL: A Companion to the Sunshine State Standards for Language Arts, A Guide for Teachers and Administrators* (Chapter 3, page 4). Tallahassee, FL: Author.

<sup>15</sup> Florida Department of Education Bureau of Educator Recruitment and Professional Development (2001, September). *Preparing Florida Teachers to Work with Limited English Proficient Students*. Tallahassee, FL.

<sup>16</sup> Wilson-Patton, M. E. (2000). A Legal Study of the Florida ESOL Consent Decree: From Initiation through Fifth Year Implementation. 2 vols. Unpublished dissertation, Florida State University.

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- <sup>19</sup> Kindler, A. L. (2002, October) *Survey of the States' Limited English Proficient Students and Available Educational Programs and Services, 2000-20001 Summary Report*, 4. Washington, DC: National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs. In this study Florida's LEP student population was calculated differently, showing only 254,517 LEP students compared to 290,024 (see p. 4).
- <sup>20</sup> Garcia, B. (1994, July 5). Memorandum to ESOL District Coordinators, Office of Multicultural Student Language Education. Retrieved February 19, 2004, from [www.firn.edu/doe/omsle/ipscllep.htm](http://www.firn.edu/doe/omsle/ipscllep.htm)
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- <sup>22</sup> Kindler, A. L. (2002, October). *Survey of the States' Limited English Proficient Students and Available Educational Programs and Services, 2000-20001 Summary Report*. Washington, DC: National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs. Table 4. LEP Retentions by State, Grades 7-12, 2000-01 in *Survey of the States' Limited English Proficient Students*, p. 23.
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- <sup>27</sup> Florida Statute Title 48 Chapter 1003.41 Sunshine State Standards. Retrieved from [www.flsenate.gov/Statutes/index.cfm?App\\_mode=Display\\_Index&Title\\_Request=XLVIII](http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Index&Title_Request=XLVIII)
- <sup>28</sup> Wilson-Patton, M. E. (2000). A Legal Study of the Florida ESOL Consent Decree: From Initiation through Fifth Year Implementation. Unpublished dissertation, Florida State University.
- <sup>29</sup> Hill, E. G. (2004). *A Look at the Progress of English Learner Students*. Sacramento, CA: Legislative Analyst's Office. Retrieved February 18, 2004, from [www.lao.ca.gov/2004/english\\_learners/021204\\_english\\_learners.htm](http://www.lao.ca.gov/2004/english_learners/021204_english_learners.htm)

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- <sup>36</sup> National Center for Education Statistics. (2003). *Status and Trends in the Education of Hispanics*. Washington, DC: National Center for Education Statistics.
- <sup>37</sup> MGT of America, Inc. (1998). *Educational Service Delivery 13*, Brevard County School District. Tallahassee, FL: Florida Department of Education (pp. 31-32). Retrieved March 5, 2004, from [www.oppaga.state.fl.us/reports/pdf/bfmpbrevardch13.pdf](http://www.oppaga.state.fl.us/reports/pdf/bfmpbrevardch13.pdf)
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- <sup>39</sup> OMSLE (1998, April). *Monitoring Report: Miami-Dade County School District* (pp. 41-43). Tallahassee, FL: Florida Department of Education.
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