



Analysis of 2008 NCLB Accountability for ELL Students in California

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Purpose

In *Horne v. Flores*, Petitioners in the Supreme Court have argued, among other things, that compliance with the No Child Left Behind Act (NCLB) should satisfy state obligations and, other than “individual instances of discrimination,” district obligations to comply with the Equal Educational Opportunities Act. The purpose of this analysis is to examine the number of English Language Learners (ELLs) enrolled in California’s public schools who are not “counted” in the No Child Left Behind (NCLB) accountability system, particularly among schools and districts with ELLs that met NCLB objectives, and to compare ELL proficiency rates with whites in those schools and districts.

Accordingly, the analysis was guided by the following questions:

- 1) How many ELLs are: (a) not considered part of an ELL subgroup because they are deemed not numerically significant or (b) are enrolled in grade levels excluded from the NCLB accountability framework when analyzed statewide and in schools and districts with ELLs that met NCLB objectives?
- 2) What are the proficiency rates for ELLs and whites in schools and districts with ELLs that met NCLB objectives?

Methodology

Data for this analysis was drawn from three state data sources: 2008 AYP Data File, the 2007-2008 Title III Accountability Data File, and the 2007-2008 English Learners by Grade and Language Data File, each available from the California Department of Education Website. The files were merged together on the 14 digit county/district/school code “CDS.”

District Analysis

This analysis was limited to school districts that met one of two conditions: Title III districts that met all three “annual measurable achievement objectives” (AMAOs) targets in English acquisition and ELL AYP or non-Title III districts that met 2008 Adequate Yearly Progress (AYP). There were two categories of districts dropped from the analysis: (1) 99 districts that reported no ELLs enrolled on the 1st day of English/Language Arts (ELA) testing, and (2) 20 Title III districts that did not meet all three AMAO targets but met AYP.¹ This resulted in a working data file of 406 districts that met NCLB objectives for

¹ We understand at least one of the Petitioners has argued that the standard for determining NCLB/EEOA compliance should be whether a district has met the three Title III AMAOs, even if the district, like Nogales, has not met AYP overall. Accordingly, we have analyzed NCLB accountability for ELLs according to Petitioner’s more lenient standard. For non-Title III districts which do not have to meet the three Title III AMAOs, we have included in this analysis districts with ELLs who have met AYP overall (whether or not their ELLs were numerically

ELL students. Of the 406 districts, 173 were Title III districts that met all three AMAO targets and 233 were non-Title III districts that made AYP.

School Analysis

There were 8,961 schools in the 2008 AYP data file. There were two categories of schools dropped from this initial data file: (1) 803 schools that reported no ELLs enrolled on the 1st day of ELA testing, and (2) 95 schools that reported no students enrolled on the 1st day of ELA testing. This resulted in a working data file of 8,911 schools with 4,449 that made 2008 AYP and 4,462 that did not.

Analysis of Grade-Levels Excluded from NCLB

In its annual Language Census Survey administered to schools, the California Department of Education defines English Language Learners as students whose home or primary language is not English and who have not been reclassified as Fluent English Proficient (FEP). In contrast, ELLs are identified as a subgroup under NCLB as students who meet one of two requirements: (1) they are immigrants, Native Americans or migrant students or their native languages are not English, or, (2) they are unable to read, write or speak English well enough to reach proficiency on state assessments of academic achievement.

The implication of this difference is that California students who have been re-classified as FEP (and are no longer considered ELLs by California under the Language Census) are, at least for a few years, still considered ELLs by the NCLB accountability system. The analysis that examines the number of California ELLs in grade levels excluded by NCLB is drawn from the CDE's Language Census because data that identifies ELLs as defined by NCLB in excluded grade levels is not available. Grade levels not required for testing and accountability under NCLB are Kindergarten, first, second, ninth, and two of the three grades between grades ten and twelve. California has included second grade in its state and NCLB accountability framework and includes grade ten for NCLB purposes. Accordingly, excluded grades in California include kindergarten, first, ninth, eleventh and twelfth grades.

Summary of Results

There were 584,977 ELLs enrolled in grade levels in California public schools excluded from NCLB accountability. For districts with ELLs that met NCLB accountability objectives, 120,868 ELLs were enrolled in grade levels excluded by NCLB. Among schools that made AYP, that figure is 224,132. (See Table 5.) There were 94,544 ELL students statewide who were not counted as part of an ELL subgroup analysis at their school due to being considered not numerically significant. Among the 4,449 schools that met AYP, 18% of ELLs (69,120) were not counted toward the NCLB accountability measure due to being considered numerically insignificant. In contrast, just 6% of white students at those schools were not counted for the same reason. (See Table 3.) In addition, there were 4,640 ELL students who were deemed not numerically significant and therefore not subject to NCLB accountability provisions in the 406 California school districts that met NCLB district-level objectives. (See Table 1.)

Deep proficiency gaps exist between ELLs and whites,² even in districts and schools with ELLs meeting NCLB accountability objectives. Only 43% and 53% of ELLs in districts with ELLs meeting NCLB objectives reached proficiency in ELA and math, respectively, compared with 73 and 72% of whites. (See Table 2.) Identical gaps were observed in schools that made AYP, where 42% and 54% of ELLs met proficiency in ELA and math, respectively, compared to 72% & 73% for whites.

significant) as that standard is the sole measure of those districts' satisfaction of NCLB accountability where ELLs were present.

² Note, some white students (*e.g.*, Russian or other European immigrants) are also ELLs, but not in large enough numbers to substantially alter the analysis as a comparison of ELLs to English-Only whites.

Reliability

The data used in this analysis is the state's own data on which it relies for policymaking. It is the most accurate and reliable data available on the performance of California schools and districts on AYP, on the performance of California Title III districts on Title III AMAO's, and on the number of ELL students who are and are not included in NCLB's accountability framework.

AYP and Title III Data Files

Data files concerning school & district accountability were downloaded from the website of the California Department of Education (CDE) and are publicly available.

(<http://www.cde.ca.gov/ta/ac/ay/aypdatafiles.asp>) State assessments used by California to determine the Adequate Yearly Progress of schools and local educational agencies ("LEA's" or, generically, "districts") are the various California Standards Tests in ELA and math for grades two through eight, the California Alternate Performance Assessment in ELA and math for grades two through eight and ten (generically, referred to as the Standardized Testing and Reporting program or STAR) and, for most schools' grade 10 ELA and math AYP analysis, the California High School Exit Exam (CAHSEE). The STAR and CAHSEE are developed, administered, scored and reported by the Educational Testing Service (ETS) under contract with the CDE. In addition to the professional standards employed by ETS for test construction and scoring, ETS has a Data Review and Correction Process for schools and LEAs to correct possible errors in the data. One week before AYP results are released to the public, the CDE grants electronic access to schools and LEAs to information pertaining to their AYP, including raw numbers and calculated percentages for school-level, LEA-wide, and subgroup analyses. LEAs are encouraged to review the data and contact the CDE about any calculation errors for correction in time before the public release data. If schools or LEAs discover errors not related to calculation, they follow the Data Review and Correction Process and ETS submits data corrections to the CDE. The data files used for this analyses were revised files based on corrections; they were published on February 10, 2009.

Language Census Data File

The data file utilized to generate the counts of ELLs enrolled in grade-levels excluded from NCLB accountability is also publicly available on the CDE's website.

(<http://www.cde.ca.gov/ds/sd/lc/studentdatafiles.asp>) The CDE collects data on students pertaining to ELLs and fluent-English-proficient (FEP) status (*i.e.*, former ELLs reclassified as fluent) from schools across the state in an annual "Language Census". (See generally <http://www.cde.ca.gov/ds/sd/lc/>). School personnel receive detailed instruction and training on how to identify students for this census. The CDE "certifies" the data it receives from schools prior to publishing it online and making it available to the public, the media, researchers and policymakers. Certification "indicates that the information collected was edited and reviewed by CDE staff, corrected if needed, and where feasible, verified by the original data provider." (www.cde.ca.gov/ds/si/ds/certpolicy.asp.)

Analysis and Results

The Warren Institute uses the highest professional standards for analyzing and manipulating data, consistent with work typically done by educational researchers. Dr. Lisa Chavez uses standard social science software (STATA & EXCEL) and has over 15 years of experience in analyzing large data sets (both national and local). Dr. Chavez constantly reviews data for accuracy and reliability by conducting internal statistical checks to look for inconsistencies or other problems in the data runs produced. Where applicable, she also compares data results generated with those reported in other external data sources to check for possible errors. The data produced in this analysis meets professional standards for accuracy and reliability.

Table 1. California Districts with ELLs Meeting 2008 NCLB Objectives

Districts	Title III Districts Meeting AMAO Targets (N=173)				Non-Title III Districts that Made AYP ¹ (N=233)				Total Districts (N=406)			
	<u>ELL Students</u>		<u>White Students</u>		<u>ELL Students</u>		<u>White Students</u>		<u>ELL Students</u>		<u>White Students</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Total # of Districts Subgroup Enrollment ² > 0	173		173		233		233		406		406	
# of Districts Subgroup was "Counted" ³ for AYP	164	94.8%	157	90.8%	24	10.3%	157	67.4%	188	46.3%	314	77.5%
# of Districts Subgroup NOT "Counted" for AYP	9	5.2%	16	9.2%	209	89.7%	76	32.6%	218	53.7%	92	22.7%
Students	<u>ELL Students</u>		<u>White Students</u>		<u>ELL Students</u>		<u>White Students</u>		<u>ELL Students</u>		<u>White Students</u>	
	<u>ELA</u>	<u>Math</u>	<u>ELA</u>	<u>Math</u>	<u>ELA</u>	<u>Math</u>	<u>ELA</u>	<u>Math</u>	<u>ELA</u>	<u>Math</u>	<u>ELA</u>	<u>Math</u>
# Subgroup Enrolled 1st Day of Testing	251,268	251,208	359,013	358,975	6,612	6,613	77,927	77,921	257,880	257,821	436,940	436,896
# Subgroup "Counted" ³ for AYP	250,768	250,709	358,169	358,169	2,472	2,472	75,081	75,081	253,240	253,181	433,250	433,250
# Subgroup NOT "Counted" for AYP	500	499	844	806	4,140	4,141	2,846	2,840	4,640	4,640	3,690	3,646
	<u>ELA</u>	<u>Math</u>	<u>ELA</u>	<u>Math</u>	<u>ELA</u>	<u>Math</u>	<u>ELA</u>	<u>Math</u>	<u>ELA</u>	<u>Math</u>	<u>ELA</u>	<u>Math</u>
% Subgroup "Counted" ³ for AYP	99.8%	99.8%	99.8%	99.8%	37.4%	37.4%	96.3%	96.4%	98.2%	98.2%	99.2%	99.2%
% Subgroup NOT "Counted" for AYP	0.2%	0.2%	0.2%	0.2%	62.6%	62.6%	3.7%	3.6%	1.8%	1.8%	0.8%	0.8%

¹ The analysis of non-Title III districts is restricted to districts with at least one ELL student enrolled on 1st day of ELA testing.

² Enrolled on 1st Day of ELA Testing

³ A subgroup was considered to have been "counted" for AYP if they were numerically significant. This was determined if subgroup had valid data in "Met Proficiency Target" data fields.

Data Sources: California Department of Education

2008 AYP Data File: apr08abd, retrieved from <http://www.cde.ca.gov/ta/ac/ay/aypdatafiles.asp>

2007-2008 Title III Accountability Data File: amao0708.dbf, retrieved from <http://www.cde.ca.gov/ta/ac/t3/t3datafiles.asp>

Table 2: English Language Arts (ELA) & Math Proficiency of ELLs and Whites
in California Districts with ELLs Meeting 2008 NCLB Objectives

	Title III Districts Meeting AMAO Targets (N=173)				Non-Title III Districts That Made AYP ¹ (N=233)				All Districts (N=406)			
	English Language Arts		Mathematics		English Language Arts		Mathematics		English Language Arts		Mathematics	
	ELL	White	ELL	White	ELL	White	ELL	White	ELL	White	ELL	White
# Subgroup with Valid Scores ²	240,312	344,972	240,504	344,912	5,864	74,141	5,870	74,157	246,176	419,113	246,374	419,069
# Subgroup Reached Proficiency Target	103,664	251,526	127,330	248,964	2,269	52,987	2,830	51,475	105,933	304,513	130,160	300,439
# Subgroup Did Not Reach Proficiency Target	136,648	93,446	113,174	95,948	3,595	21,154	3,040	22,682	140,243	114,600	116,214	118,630
% Subgroup Reached Proficiency Target	43%	73%	53%	72%	39%	71%	48%	69%	43%	73%	53%	72%
% Subgroup Did Not Reach Proficiency Target	57%	27%	47%	28%	61%	29%	52%	31%	57%	27%	47%	28%

¹ The analysis of non-Title III districts is restricted to districts with at least one ELL student enrolled on 1st day of ELA testing.

² Proficiency data not available for subgroups with valid scores less than 11 due to concerns for student confidentiality.

Data Sources: California Department of Education

2008 AYP Data File: apr08abd, retrieved from <http://www.cde.ca.gov/ta/ac/ay/aypdatafiles.asp>

2007-2008 Title III Accountability Data File: amao0708.dbf, retrieved from <http://www.cde.ca.gov/ta/ac/t3/t3datafiles.asp>

Table 3: California Schools With at Least One ELL Student Enrolled ¹ by 2008 AYP Status

Schools	Schools that Made 2008 AYP (N=4,449)				Schools that Did Not Make 2008 AYP (N=4,462)				Total Schools (N=8,911)			
	ELL Students		White Students		ELL Students		White Students		ELL Students		White Students	
	N	%	N	%	N	%	N	%	N	%	N	%
Total # of Schools Subgroup Enrollment ¹ > 0	4,449		4,291		4,462		4,241		8,911		8,532	
# of Schools Subgroup "Counted" ² for AYP	1,854	41.7%	2,686	62.6%	3,400	76.2%	1,637	38.6%	5,254	59.0%	4,323	50.7%
# of Schools Subgroup NOT "Counted" for AYP	2,595	58.3%	1,605	37.4%	1,062	23.8%	2,604	61.4%	3,657	41.0%	4,209	49.3%
Students	ELL Students		White Students		ELL Students		White Students		ELL Students		White Students	
	ELA	Math	ELA	Math	ELA	Math	ELA	Math	ELA	Math	ELA	Math
# Subgroup Enrolled 1st Day of Testing	387,141	387,068	646,794	646,714	913,620	913,678	416,185	416,190	1,300,761	1,300,746	1,062,979	1,062,904
# Subgroup "Counted" ² for AYP	318,021	317,949	606,731	606,655	888,196	888,214	353,197	353,192	1,206,217	1,206,163	959,928	959,847
# Subgroup NOT "Counted" for AYP	69,120	69,119	40,063	40,059	25,424	25,464	62,988	62,998	94,544	94,583	103,051	103,057
	ELA	Math	ELA	Math	ELA	Math	ELA	Math	ELA	Math	ELA	Math
% Subgroup "Counted" ² for AYP	82.1%	82.1%	93.8%	93.8%	97.2%	97.2%	84.9%	84.9%	92.7%	92.7%	90.3%	90.3%
% Subgroup NOT "Counted" for AYP	17.9%	17.9%	6.2%	6.2%	2.8%	2.8%	15.1%	15.1%	7.3%	7.3%	9.7%	9.7%

¹ Enrolled on 1st Day of ELA Testing

² A subgroup was considered to have been "counted" for AYP if they were numerically significant. This was determined if subgroup had valid data in "Met Proficiency Target" data fields.

Data Sources: California Department of Education

2008 AYP Data File: apr08abd, retrieved from <http://www.cde.ca.gov/ta/ac/ay/aypdatafiles.asp>

Table 4: English Language Arts & Math Proficiency of ELLs and Whites
 Enrolled in California Schools With at Least One ELL Student ¹ by 2008 AYP Status

	Schools that Made 2008 AYP (N=4,449)				Schools that Did Not Make 2008 AYP (N=4,462)				All Schools (N=8,911)			
	ELA		Mathematics		ELA		Mathematics		ELA		Mathematics	
	ELL	White	ELL	White	ELL	White	ELL	White	ELL	White	ELL	White
# Subgroup with Valid Scores ²	360,646	614,022	360,899	614,110	849,777	377,993	850,955	378,050	1,210,423	992,015	1,211,854	992,160
# Subgroup Reached Proficiency Target	151,634	444,613	196,151	449,548	208,019	227,765	281,802	211,066	359,653	672,378	477,953	660,614
# Subgroup Did Not Reach Proficiency Target	209,012	169,409	164,748	164,562	641,758	150,228	569,153	166,984	850,770	319,637	733,901	331,546
% Subgroup Reached Proficiency Target	42%	72%	54%	73%	24%	60%	33%	56%	30%	68%	39%	67%
% Subgroup Did Not Reach Proficiency Target	58%	28%	46%	27%	76%	40%	67%	44%	70%	32%	61%	33%

¹ Enrolled on 1st Day of ELA Testing.

² Proficiency data not available for subgroups with valid scores less than 11 due to concerns for student confidentiality.

Data Sources: California Department of Education

2008 AYP Data File: apr08abd, retrieved from <http://www.cde.ca.gov/ta/ac/ay/aypdatafiles.asp>

Table 5 Number of California ELL¹ Students Enrolled in Grade Levels Excluded by NCLB: 2008

	Districts			Schools		
	Title III Districts Meeting All Three AMAO Targets (N=173)	Non-Title III Districts That Made 2008 AYP (N=233)	All Districts (N=406)	Schools that Made 2008 AYP (N=4,449)	Schools that Did Not Make 2008 AYP (N=4,462)	All Schools (N=8,911)
Kindergarten	38,940	1,760	40,700	77,205	105,322	182,527
1st Grade	38,783	1,642	40,425	79,285	110,455	189,740
9th Grade	16,081	263	16,344	29,597	67,055	96,652
11th Grade	12,352	255	12,607	21,166	43,521	64,687
12th Grade	10,484	308	10,792	16,879	34,492	51,371
Total	116,640	4,228	120,868	224,132	360,845	584,977

¹ The California Department of Education defines a student as an ELL if the student speaks a language other than English at home and has not passed the CELDT.

Note: Analysis of these schools & districts is restricted to those with at least one ELL student enrolled on 1st day of ELA testing.

Data Sources: California Department of Education

2008 AYP Data File: apr08abd, retrieved from <http://www.cde.ca.gov/ta/ac/ay/aypdatafiles.asp>

2007-2008 Title III Accountability Data File: amao0708.dbf, retrieved from <http://www.cde.ca.gov/ta/ac/t3/t3datafiles.asp>

2007-2008 English Learners by Grade and Language Data File: elsch08.dbf, retrieved from <http://www.cde.ca.gov/ds/sd/lc/fileselsch.asp>

Failing California Title III Districts¹ (N=372)

<u>Districts</u>	<u>ELL Students</u>		<u>White Students</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
Total # of Districts Subgroup Enrollment ² > 0	371		371	
# of Districts Subgroup was "Counted" ³ for AYP	350	94.3%	306	82.5%
# of Districts Subgroup NOT "Counted" for AYP	21	5.7%	65	17.5%

<u>Students</u>	<u>ELL Students</u>		<u>White Students</u>	
	<u>ELA</u>	<u>Math</u>	<u>ELA</u>	<u>Math</u>
# Subgroup Enrolled 1st Day of Testing	1,000,747	1,000,798	556,503	556,400
# Subgroup "Counted" ³ for AYP	999,567	999,619	553,621	553,527
# Subgroup NOT "Counted" for AYP	1,180	1,179	2,882	2,873

	<u>ELA</u>	<u>Math</u>	<u>ELA</u>	<u>Math</u>
	% Subgroup "Counted" ³ for AYP	99.9%	99.9%	99.5%
% Subgroup NOT "Counted" for AYP	0.1%	0.1%	0.5%	0.5%

<u>Proficiency</u>	<u>English Language Arts</u>		<u>Mathematics</u>	
	<u>ELL</u>	<u>White</u>	<u>ELL</u>	<u>White</u>
# Subgroup with Valid Scores ⁴	954,513	525,874	955,698	525,827
# Subgroup Reached Proficiency Target	247,425	334,633	340,302	328,962
# Subgroup Did Not Reach Proficiency Target	707,088	191,241	615,396	196,865
% Subgroup Reached Proficiency Target	26%	64%	36%	63%
% Subgroup Did Not Reach Proficiency Target	74%	36%	64%	37%

<u>Grades Excluded from NCLB Accountability</u>	<u>ELLs</u>
Kindergarten	142,643
1st Grade	147,659
9th Grade	79,910
11th Grade	52,283
12th Grade	41,316
Total	463,811

¹ These are Title III districts that did not meet all three "annual measurable achievement objectives" (AMAO).

² Enrolled on 1st Day of ELA Testing

³ A subgroup was considered to have been "counted" for AYP if they were numerically significant. This was determined if subgroup had valid data in "Met Proficiency Target" data fields.

⁴ Proficiency data not available for subgroups with valid scores less than 11 due to concerns for student confidentiality.

Data Sources: California Department of Education

2008 AYP Data File: apr08abd, retrieved from <http://www.cde.ca.gov/ta/ac/ay/aypdatafiles.asp>

2007-2008 Title III Accountability Data File: amao0708.dbf, retrieved from <http://www.cde.ca.gov/ta/ac/t3/t3datafiles.asp>

2007-2008 English Learners by Grade and Language Data File: elsch08.dbf, retrieved from <http://www.cde.ca.gov/ds/sd/lc/fileselsch.asp>