Title:

English Language Learners and the No Child Left Behind Act of 2001

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Abstract

This literature review looks at the impacts of the No Child Left Behind Act (NCLB) of 2001 on English language learners (ELLs), educators and schools. A brief overview of the current state of English as a second language teaching for adult learners will first be described. Then the importance of the enactment of the NCLB of 2001 is mentioned. Both the problems and the benefits the NCLB has created for ELLs and educators and schools will be presented. This literature review shows that although the NCLB has posed challenges to ELLs, teachers, and schools, the benefits it has brought for ELLs in particular and the education system in general outweigh the problems and challenges. The NCLB Act of 2001 can be deemed as a victory for disadvantaged student groups in the United States both in terms of legal written rights to be provided with quality English language education and budget allocation.

The Unites States of America has not overtly or legally stated language policy but there seems to be covert and implicit language policy (Schiffman, 1998). Although many Americans believe that English is the official language of the United States of America, it is not the case because there is no indication in the U.S. constitution that gives English more privileges over other languages and no law has been made to make English the language of the land (Baron, 1990). In reality, despite the fact that English is not a de jure language of the USA, it is the de facto language that is spoken in almost all corners of the country and if those who reside there want to succeed socially, educationally and economically, they should be able to use English well enough to fully participate in their daily life and work activities. As a young country made of immigrants from nearly all countries in the world, the USA is composed of people of various languages and cultures. Therefore, it is necessary for newly arrived immigrants as well as people who were born and raised in the country but speak another language other than English as their native language to have good opportunities and conditions to learn to use English for their daily communication, work and study.

According to Chisman, Wrigley and Ewen (1993), English as a second language (ESL) for adults is a neglected backwater of the educational system and it is poorly supported, low status activity to which the majority of educators and policymakers give only passing attention. They also add that the neglect is a national disgrace and it is so serious that there seems to be de facto discrimination against serving ESL students in certain public programs. As Chisman et al. put it, the pattern of ESL service “is so disorganized and complex that no one really knows how it works “(p. 1) and no one can give satisfactory answers to the most rudimentary questions

about service and funding. As indicated in the report, the picture of ESL teaching for adults in the USA is not a very beautiful and may make one to wonder if the same situation can be inferred for school students with limited English proficiency. Macias (2000) observes that many limited English proficient (LEP) students' needs have not been addressed for most are entirely taught in English and there is a lack of qualified teachers for either bilingual or ESL instruction. Hayes (2008) indicates that students who need additional education in English language learning now comprise ten percent of the population of public schools in the United States. Unlike the situation with ESL education for adult learners, LEP students' needs are better addressed as the No Child Left Behind (NCLB) Act of 2001 was enacted.

In the aftermath of the tragic events on September 11th 2001, the two parties pulled together to pass No Child Left Behind (Fowler, 2009). The legislation received an overwhelming bipartisan majority support in both the House and the Senate and the final version of the law was enacted by a vote of 381 to 41 in the House and 87 to 10 in the Senate (Yell and Drasgow, 2009). They also indicate that No Child Left Behind is a comprehensible and complex law that raised federal education funding up to an unprecedented level (almost 25%) and it also increases federal mandates and requirements for states, school districts and public schools. The NCLB Act of 2001, which was signed into law by President George W. Bush on January 8th 2002, is the most noteworthy of recent congressional attempts to improve student achievement and reform elementary as well as secondary educational programs in the United States (Simpson, LaCava, and Graner, 2004). The goal of the NCLB Act of 2001 is "to ensure that all children have the fair, equal, and significant opportunity to obtain a high-quality education, and reach, at a minimum, proficiency on challenging state academic achievement standards and state

academic assessment"(NCLB 2001, cited in Simpson et al. 2004, p. 68). As Simpson et al. note, the central and overarching theme of the NCLB is accountability and under the NCLB, individual schools, school districts, and states are held accountable for improvements in student achievement, with particular emphasis on closing the achievement gap between high and low performing students and children from disadvantaged groups and minority population.

As Lems and Miller (2009) point out, English language learners (ELLs) comprise one of the subgroups of the disadvantaged groups, and because of that, ELLs have gone from the sidelines to the crosshairs in record time. They also remark that NCLB requires all states to help all limited English proficient (LEP) children, including immigrant children and youth, to achieve at high levels in the core academic subjects so that the children can meet the same challenging state academic content and student academic achievement standards as all children are expected to meet. The way in which NCLB has changed the landscape for teaching ELLs, as Lems and Miller argue, is complex and multidimensional as it has influenced professional preparation and development, program models, classroom instruction and assessment as well as the dialog about teaching ELLs. An important part in NCLB that specifies the goal of improving English language ability of LEP students is title III. As Lems and Miller (2009) observe, title III of the NCLB Act, which is named "Language Instruction for Limited English Proficient and Immigrant Students," consists of two major sections. The first section basically calls for ELLs to reach state academic achievement levels comparable to those of native speakers and the second section, which is entitled "Improving Language Instruction Educational Programs," pinpoints the mandatory features that should be found in programs for ELLs, including valid and reliable tests, systematic data gathering and trained teachers. According to the U.S. Department of

Education (2005), title III centers on the establishment of comprehensive, integrated statewide systems to meet the needs of all LEP students. Lems and Miller (2009) indicate that although the Bilingual Education Act or title VII of the Elementary and Secondary Education Act (ESEA) was enacted in 1968 and the Act did authorize money to be spent on teaching both oral and academic English to children from language minority backgrounds, the ambiguous language of the Act provided no road map for English language instruction. In comparison with earlier legislation, NCLB, especially title III has created a new and promising future for LEP students to receive sufficient attention as well as quality educational services to improve their English language skills. The enactment of NCLB in general and title III in particular have made significant changes both positive and negative for teachers of ELLs, the schools that enroll them, school districts and LEP students.

Despite the fact that the significance of NCLB is still controversial and contentious (Simpson et al., 2004), some notable negative and positive impacts of the law have been discussed. Kuenzi (2008) states that title III of the NCLB Act raised two important and potentially conflicting issues with regard to the education of LEP students. First, it concerns rapid growth of the non-native English speaking student population. Second, it involves increasing pressure to conduct assessment and hold schools accountable for academic achievement. In addition, Lems and Miller (2009) postulate that NCLB may create profound negative consequences because of high stakes testing. In the same vein, Peterson (2009) claims that on the surface no one would dare to argue with the intent behind the NCLB Act but in fact NCLB has forced schools to focus on tests, and for some people, this has a negative impact on the high school experience. Particularly for the case of ELLs, learning English is more than just

coping with tests but learners are supposed to be able to use the language comfortably and easily for communication in social as well as academic contexts. Consequently, classroom instruction that focuses too much on testing will rob LEP students of their opportunities to fully and meaningfully practice and use the language in authentic communicative situations. It is likely appropriate to say that testing in the age of No Child Left Behind leaves everyone behind, not only students, but often teachers (Bicudo, 2009). If testing is for learning, LEP students and their teachers can make use of the results to modify and improve their learning and teaching process. However, if too much pressure is placed on tests, ELLs and their teachers are likely to suffer from stress and negative effects that high stakes testing seems to cause.

NCLB has created challenges for LEP students as well as the schools they attend. Assessment for LEP students is a problem that is often discussed in relation to NCLB. One of the popular problems is the inconsistent LEP definitions across and within states (Abedi, 2004; Batt, Kim, and Sunderman, 2005). As different states or even different districts and schools in the same state use different LEP classification criteria, this directly has an effect on the accuracy of adequate yearly progress (AYP) reporting for LEP students. Batt et al. (2005) posit that the nature of instability of the LEP subgroup can be problematic. When a student's level of English proficiency has improved to a certain proficiency level, the student will be moved out of the LEP subgroup and the remaining or newly arrived students will obviously have a lower level of English language proficiency; as a result, there is not much chance for improving the AYP indicator of the LEP subgroup over time (Abedi, 2004). In terms of academic achievement tests for LEP, Batt et al.(2005) indicate that standardized tests constructed and normed for native speakers of English have low reliability and validity when used with LEP students. Likewise,

Abedi (2004) and Abedi and Dietel (2004) hold the same view when stating that the results of the tests should not be interpreted for LEP students as they are not designed particularly for LEP students.

Schools that have a large number of LEP students also seem to be negatively affected by the NCLB requirements because their baseline scores are usually much lower; their year-to-year progress goals may be more challenging or unrealistic as their students may keep struggling with the same disadvantages or limited school resources as before (Abedi, 2004). Besides, Abedi suggests that earlier legislation used a compensatory model where students' higher scores in content areas with less language demand (such as math) could compensate for their scores in areas with higher language demand such as reading. However, NCLB is based on a conjunctive model where students should score at a proficient level in all content areas required for AYP reporting, which makes the AYP requirements more difficult for schools with a large number of LEP students (Abedi, 2004). Moreover, resource inequities could be a challenging issue for schools serving a large population of LEP students as they do not usually have enough instructional materials for LEP students or they have problems finding enough well-trained teachers to serve the students (Batt et al., 2005). They point out that NCLB also seems to create a risk of loss of fluent bilingual teachers and native language speaking aides due to the requirements that teachers need to be highly qualified and all aides must have the equivalent of a two-year degree to serve LEP students. Bilingual teachers and aides that are conversant in the LEP students' native language are an important factor to help with assisting LEP students in their learning process as well as communicating with their parents so the new

requirements may make it much harder for schools and school districts to recruit new staff that can meet the requirements.

Hayes (2008) observes that although LEP students are only being introduced to English language, they are required by NCLB to take most of the mandated tests and urban districts which often have significant numbers of these students are most likely to be cited for failing to meet the guidelines of adequate yearly progress (AYP). It appears that the U. S. Department of Education was quite receptive when, as Batt et al. (2005) indicate, announcing two changes in 2004 that were aimed at providing more flexibility for states and local education agencies (LEAs) in NCLB accountability requirements for LEP students. The first is LEP students are not required to take the reading content assessment during their first year of enrollment in U.S. schools and the second is states are allowed greater flexibility in defining LEP subgroups. Particularly, states are now allowed to count former LEP students in the LEP subgroup for AYP calculation up to two years after they have obtained English proficiency. Citing from Monty Niell (2005), Hayes (2008) notes that it is not reasonable to expect students with limited English skills to compete fairly on English language tests even after three to five years of English language instructions and it is totally not fair to punish schools for such failure. This could be potentially dangerous as English language learners' (ELLs) scores may threaten a school's ability to meet NCLB requirements so ELLs may become more vulnerable due to the strict requirements of AYP (Lems and Miller, 2009). Possibly, instead of receiving encouraging support to improve their English skills, LEP students may be blamed for making the whole school fail to achieve AYP and such possible situation may cause negative psychological influence on LEP students.

Although NCLB has negative impacts on schools, school districts, states, and LEP students, the law does have positively outstanding effects that give disadvantaged students such as students with disabilities and limited English proficiency more attention and schools or school districts cannot simply ignore them. Lems and Miller (2009) claim that as ELL test scores are now part of the public record of each school and school district, ELLs are getting new attention, and the programs that teach them are receiving new scrutiny. Remarkably, funding for students with limited English proficiency and immigrant students increased significantly under title III from title VII (the Bilingual Education Act in 1968) level (Report to Congressional Requesters, 2006). This can be considered a clear and explicit commitment of the federal government to improve academic achievement of these disadvantaged students in the hope that they may be able to achieve as much as native English speaking student population. The increase in funding can also facilitate and improve the learning and teaching of English by hiring highly qualified teachers and equipping better instructional materials to assist LEP students in their process of acquiring English. Clearly, it may be sufficient to say that ELLs have been supported in terms of both words and money in the NCLB. Crandall (2005) indicates that the most positive "byproduct" of NCLB is the fact that schools can no longer overlook the need to provide high quality services for English language learners (cited in Lems and Miller 2009). This is of particular importance for LEP students in states or school districts where there are not strong English language development programs for ELLs as it seems to promise better care and attention for them. Lems and Miller (2009) also point out that another positive aspect of NCLB is the professionalization of the teachers of ELLs as the legislation requires teachers to be highly qualified; therefore, teachers who want to teach ELLs must complete formal training to develop

expertise in teaching ELLs and this seems to be overwhelmingly supported by ESL professionals. For ESL practitioners and educators, this may be of crucial importance and can be regarded as an important achievement in raising public understanding of the significance of professional training and education in ESL. More than just being known about the importance of ESL professional training, the law has made it a required component for anyone who wants to become ESL teachers. Apparently, it can be understood that speaking English as a native language does not automatically make the person a qualified teacher to serve LEP students. Good training is needed to make a highly qualified teacher. This requirement can be deemed as an essential condition to help LEP students to learn the language more easily and quickly thanks to qualified teachers who possess the knowledge and skills critical to their learning success.

Admittedly, too much accountability can be very stressful for teachers and schools, as well as school districts that serve LEP students. However, accountability may make them more responsible for their jobs of serving LEP students. According to Batt et al. (2005), the potential benefits of NCLB for LEP students include giving more attention to the LEP subgroup, increasing accountability for their performance and providing additional resources for schools serving LEP students. The NCLB Act is proving to be system-transforming legislation that has caused educators to place more emphasis on the academic performance of LEP students (Bailey, Butler, and Sat, 2005). The U.S. Department of Education (2005) reported that at the time NCLB was passed, very few states had integrated systems of English language proficiency standards, assessment, and accountability designed to produce high standard of academic achievement that included LEP students. Therefore, NCLB has proved to be very effective and beneficial for LEP students. Miller (2003) indicates that title III of the NCLB Act lays out specific requirements

that states and school districts have to meet in educating ELLs. Lems and Miller (2009) state that although NCLB does not point to any specific teaching method or approach, it clearly specifies English language proficiency as the desired outcome. From a teaching methodological perspective, NCLB allows freedom and flexibility in terms of teaching methods or approaches. In other words, the methods used in teaching LEP students are not as important as the desired outcomes.

Some people believe that NCLB will dramatically improve U.S. schools, whereas others consider it a misguided enactment but time will be able to tell which of these perspectives most accurately describes NCLB (Simpson et al., 2004). As a man-made legislation, NCLB is certainly imperfect and needs adjustments or amendments. It is not going to disappear in the foreseeable future but it is going to change (Fowler, 2009). For LEP students, NCLB is of paramount importance as it forces schools and school districts to pay close attention to the disadvantaged students to help them achieve English language proficiency so that they can do well academically in school and be able to fully participate in the society later in their life. Undeniably, the 5.5 million ELL students in the United States who speak more than 400 languages greatly complicate the problems for school districts (Hayes, 2008) as they have to find enough highly qualified teachers to teach the students. In reality, highly qualified teachers seem to be a must that states, school districts and schools will have to recruit sooner or later to meet their goals to improve educational quality for younger generation in the country. Although the job of training and recruiting is hard at the beginning, it may be more rewarding later on when such quality teachers help to produce quality education. LEP students deserve to learn with highly qualified teachers to most effectively learn English to do as well as their native

English speaking peers. Besides, accountability is good per se as it makes teachers and educational administrators become more responsible in their job and it may produce better learning outcomes. However, accountability must be reasonable and within teachers' and schools' ability or it will become an unrealistic requirement. As Abedi and Dietel (2004) put it, there are substantial nonschool effects on student learning so schools are unable to control all factors related to LEP student achievement. Logically, it seems unfair to totally hold schools and teachers accountable for LEP student achievement. Hopefully, appropriate changes are going to be done so that LEP students, their teachers and their schools can reach their goal in a feasible manner and time frame.

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