

# Meeting the Needs of English Learners

*Testimony of Maura McNerney, Esq. before School Reform Commission*

*December 14, 2017*

Good afternoon and thank you for the opportunity to speak today. My name is Maura McNerney and I am the Legal Director at the Education Law Center. I am testifying regarding *Policy 138 English Language Development/Bilingual Education Program*.

We greatly appreciate the District's efforts to develop this new policy with the input of many community stakeholders who have worked towards a common goal of ensuring culturally and linguistically appropriate planned instructional programs for English learners (ELs) across the District. I speak today to request an additional revision to the proposed policy and to request that the District develop separate additional administrative procedures to fully effectuate this new Policy. Specifically, distinct, detailed administrative policies are needed to address the following:

- (1) how the District will ensure the provision of interpretation and translation services to support meaningful parent participation in the special education process, and to ensure the informed input of all limited English proficient parents in their children's education;
- (2) procedures to ensure that evidence-based language instruction programs are available in every school where English learners are educated – including Educational Options Programs (EOPs), and that content teachers are trained in all schools to effectively modify instruction for ELs; and
- (3) a revised protocol to evaluate the effectiveness of language instruction programs at the building level to ensure that all bilingual programs and ESL instruction effectively enables English learners to overcome language barriers and access the curriculum in accordance with the Equal Education Opportunities Act ("EEOA").

First, we request that Policy 138 expressly reference the *LeGare Waiver Process* on page 5 and thus mirror the explicit reference to the *LeGare* in the accompanying 92-page *English Learners Programming Handbook* for teachers.<sup>1</sup> We appreciate the revisions adopted by the SRC Policy Committee in response to our prior letter which resulted in referencing the availability of accommodations and supports in the high school admission process. However, in the absence of a direct reference to the *LeGare* process, it is unlikely that parents of ELs -- particularly those with limited English proficiency -- will be able to request this and obtain the opportunities the *LeGare* process secures. It is well documented that the current high school application process fails to enable ELs to access special programs and expanded educational opportunities. *While the agreed-upon target under the LeGare Consent Decree and SRC policy was to enroll 7 percent of EL students in special admission schools, this has never occurred. EL students are barely represented in special admission schools* as parents struggle to navigate the process and are not informed of available waivers for standardized tests etc. *For example, during the 2015-16 school year, when 10.21% of District students were identified as ELs, Masterman reported "0.08%" EL students while Central High School reported "1.12%" ELs.*

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<sup>1</sup> The *English Learners Programming Handbook* states as follows on pages 41-42:

- A. LeGare** The LeGare review process allows for English Learners to apply for Special Admission and City Wide High Schools.

*What does LeGare mean for ELs?* All families should be assisted by persons knowledgeable about high schools and high school programs in considering a range of programs, in identifying the accommodations and supports needed for the student to be successful, and in recommending modifications and waivers of admission criteria. Families should receive guidance in a language that they understand. The counselor and the ESL teacher are responsible for counseling students on high school options and for supporting students' development of application materials. Students may not be excluded on the basis of admission criteria if they can participate successfully, given reasonable accommodations. The District has established a procedure for an impartial review of any individual decision not to admit a student with disabilities when the decision is based on a reason other than racial balance or space. Information regarding the impartial review and hearing procedures will be provided to parents when they are notified of the decision not to admit. More information about the LeGare Process and the school's responsibility can be found on the Office of Multilingual Curriculum and Programs' website.

We ask that the *LeGare* process be referenced explicitly in the new policy on page 5: **“Specifically, in accordance with the *LeGare Waiver Process*, students shall be assisted by persons knowledgeable about district schools and programs to consider a range of programs...”** This small change of referencing the *LeGare* process explicitly will ensure that the high school selection process is more accessible for EL students and will empower their families to request this critical protection by name.

Second, we request a separate detailed administrative policy to ensure interpretation and translation services are provided to limited English proficient parents and students to ensure meaningful parent participation in the special education process and to secure equal access to educational opportunities for all students. Such a uniform policy must include ensuring that families are apprised of their right to interpretation and translation services and how to access such services at enrollment and throughout the special education process; that vital documents are translated so that parents understand their child’s disability and the services and placement being offered and that all parents participate in their children’s education; and that there is a standard procedure for monitoring the provision of interpretation and translation services that includes sufficient oversight of Bilingual Counseling Assistants and the process more generally so that LEP parents of students with disabilities and others receive these services and supports to which they are legally entitled.

Third, we seek a policy to ensure proper monitoring, oversight and evaluation of language instruction programs. There are over 14,000 students in Pre-K through Grade 12 who are known to be English learners. They are among the most educationally at-

risk of all student groups<sup>2</sup> and are legally entitled to equal access to educational opportunities under federal, state, and constitutional law. These civil rights laws require the District to remove language barriers and ensure access to high-quality instruction in all schools that serves ELs – including Educational Options Programs, some of which we have heard currently offer no language program at all. In addition, there is wide variation in the number of hours of ESOL instruction provided to EL students at different levels of proficiency, the type of support at the building level, and disparities in the training provided to content teachers. Appropriate, effective language services must be provided in every school in the District to enable EL students to access the curriculum and become proficient in English. Ensuring that these students learn critical content and acquire essential language acquisition skills must be a high priority for all teachers, both in bilingual and ESL programs and in general education. Accordingly, all teachers need training and support to modify instructional methods and implement effective instructional programs across content areas. In the absence of effective modifications and sufficient quality bilingual programs or ESL instruction, EL students will continue to fall far behind their peers.

In addition, bilingual and ESL language instruction programs must be effectively evaluated at the building and grade level. A disaggregated analysis of ACCESS scores at the school level must be a core component of the District’s evaluation process. It is only through such an assessment that the District can determine whether a particular language instruction program as delivered to students is effectively overcoming language barriers for all students at all levels of proficiency.

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<sup>2</sup> For example, in 2013, math proficiency rates in the District dropped from 50.9% to 46%. In the same year, math proficiency rates among ELL students in the District stood at 25.6%. While district-wide reading proficiency rates declined from 44.8% to 42.3%, only 14.2%<sup>2</sup> of ELL students were proficient in reading -- representing a nearly 30% gap between ELL students and their peers.

Thank you for the opportunity to share this testimony today. We would welcome the opportunity to work with the District on these additional policies. Through effective language programming, meaningful parent participation, teacher training, and ongoing monitoring and assessment of programs, we know that our EL students can and do thrive.