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## Charter Schools and ELLs: An Authorizer and School Leader Guide to Educating ELLs

Educators, school administrators, policymakers, and community members are responsible for providing a quality education for *all* students in the nation's public schools. Traditional and charter schools bear the duty to ensure that special populations of students have access to the best education possible. This responsibility makes it essential for charter school authorizers to not only have knowledge of these diverse student groups, but also to ensure that charter school operators are fulfilling their responsibility of providing quality education for all students.

The purpose of this Issue Brief is to provide charter authorizers and school leaders with information about the education of English Language Learners (ELLs), illuminating the legal requirements and sound education practices for these students. This brief will provide authorizers with background information related to ELLs, the state and federal laws that affect the education of ELLs, and the education needs of these children. After reading this brief, authorizers will have a greater understanding of this unique student population and be better prepared to provide oversight to charter schools serving ELLs.

### Part One: Background

#### Characteristics of ELLs

ELLs are students whose native language is other than English, and whose capacities in English limit their ability to participate and succeed in school. ELLs are a diverse group of students. They may be foreign or native born, belong to different ethnic and/or racial groups, come from different countries, be in the United States for different reasons, enter school at different grades, and have varying experience with school that may include limited formal schooling in their country of origin. ELLs may be from homes where a language other than English is spoken or where English is spoken with difficulty. ELLs may speak any one of more than 400 languages, although Spanish is the most widely spoken native language, accounting for 75 percent of all ELL students. ELLs have roots within the world at-large; however, Latinos represent the greatest number of ELL students nationwide, with first- and second-generation students from North, Central, and South America.

#### The Context of Schooling for ELLs

ELLs comprise one of the fastest-growing groups in the nation, representing 10 percent of K–12 students and numbering approximately five million students.

ELLs are a diverse group of students. Authorizers and school leaders should understand who the ELLs that they serve are in order to implement effective programs and services for these students.



Nationwide ELL enrollment in public schools increased by 57 percent from 1995–2005. In 20 states, the size of the ELL population at least doubled during this period. Although the total public school population increased by three percent between 2000–01 to 2009–10, the ELL population increased by 27 percent. ELLs can be found in schools across the United States; however, a vast majority of ELLs are located in California, Nevada, Arizona, Texas, Florida, Virginia, New Jersey, New York, and Illinois. Moreover, the ELL population varies from state to state, and even city by city. This diversity makes it necessary for authorizers to understand the complexities of the student population to better serve ELLs.

As a group, ELLs have not reached their full potential in school. In 2007, only 16.9 percent of students were found to be proficient in English, and more than half were found to be “not proficient” or “not making progress” on their state’s English-language proficiency tests.<sup>1</sup> Only seven percent of ELLs scored proficient or above on the National Assessment of Educational Progress (NAEP) compared to 63 percent of non-ELLs.<sup>2</sup> Many ELLs make academic progress in the primary grades, but their performance frequently begins to drop around fourth grade, when cognitive and academic demands require higher levels of comprehension and engagement with academic material. ELL performance is lower than that of other subgroups, and the achievement gap between ELL and non-ELL students has remained. Finally, ELLs are more likely to drop out of school than their English-speaking peers.

### Charter Schools and ELLs

As the ELL school-age population increases, the number of charter schools is also growing at a rapid pace. As of 2013, there were approximately 6,400 public charter schools enrolling over 2.5 million students across the country. Charter schools play an important role in educating ELLs, as many of these schools serve a majority of at-risk, minority, and poor students. Data from the National Center for Education Statistics School and Staffing Survey indicates that ELLs make up 9.8 percent of charter schools compared with 9.2 percent of traditional schools, although

some argue that this data is incomplete.<sup>3</sup> A 2013 report by the U.S. Government Accountability Office found that there are significant gaps in data reported on ELL enrollment in charter schools.<sup>4</sup>

The independent and innovative nature of charter schools lend these education providers the flexibility to serve the ELL population. Although research related to ELL academic performance and charter schools is mixed, some programs are experiencing a great deal of success. For example, a 16 state study found that ELLs in charter schools outperform their peers in traditional public schools in reading and math.<sup>5</sup> Another study of 22 KIPP middle schools found that KIPP students had statistically significant higher achievement in reading and math state assessments than did their non-KIPP peers.<sup>6</sup> These studies reveal the potential of charter schools in the education of ELLs. Other programs, however, are not experiencing great success in educating ELLs, with their academic performance levels falling well behind those of their peers in traditional public schools.

Charter schools are agents of school choice, providing quality educational opportunities to all students. In order to achieve this mission, they must be equipped to serve unique student groups such as ELLs. Authorizers are responsible for ensuring that charter school applicants and operators have a plan in place to educate ELLs.

## Part Two: The Law and ELLs

### Federal Civil Rights Laws and ELLs

Title VI of the Civil Rights Act of 1964 provides broad protection for ELLs, ensuring equal access to education. The act states, “No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits, or be subjected to discrimination under any program or activity receiving federal assistance.” Since 1964, federal laws and policies regarding ELLs have evolved to ensure that states are in compliance and ELLs are receiving a quality education. Highlights include:

- In 1970, the Office of Civil Rights (OCR) issued a memo entitled “Identification of Discrimination and Denial of Services on the Basis of Nation Origin,” regarding school districts’ responsibilities under civil rights laws to provide equal educational opportunity for ELLs. The memo states that school districts must take affirmative steps to ensure that ELLs are not excluded from active participation in educational programs. The OCR memo *did not* prescribe the content of the affirmative steps; however, Title VI violations serve as a guide for what

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states must not do. Title VI violations include:

- Excluding students from active participation in school because of their inability to speak and understand the language of instruction;
  - Placing national-origin minority students in special education inappropriately because of their lack of English skills;
  - Designing programs for students lacking English proficiency that do not teach English as soon as possible, or programs that operate as a dead-end track; or
  - Not providing parents whose English is limited with school notices or other information in a language they can understand.
- In the 1974 case *Lau v. Nichols*, the United States Supreme Court upheld the 1970 OCR memo as a valid interpretation of Title VI. The Supreme Court stated that merely providing students with the same textbooks, teachers, and curriculum is not sufficient for a meaningful education if students do not understand English.
  - In 1985 and 1991, the OCR issued documents that explain the relevant legal standards for OCR policy concerning discrimination of national origin and the provision of ELL services in public schools. OCR procedures ensure that schools serve ELLs effectively and have significant relevance to charter schools. These procedures include:
    - Identifying students that need assistance;
    - Developing a program that, in view of experts in the field, has a reasonable chance for success;
    - Ensuring that staff, curricular materials, and facilities are in place and used properly;
    - Developing appropriate evaluation standards and including program exit criteria for measuring student progress; and
    - Assessing the success of the program and modifying it where needed.

### Application of Civil Rights Laws to Charter Schools: Recruitment, Admission, and Outreach

As public schools, charter schools should be mindful of civil rights obligations in the recruitment and admission of students, and in outreach to parents and families.

Charter school operators should recruit from all segments of the community that the school serves, including

students with disabilities and students of different races and national origins. Charter schools may also target segments of the population that may otherwise have limited opportunity to attend the school.

Moreover, charter school operators should be attentive to parents and community members who lack English language proficiency. Outreach materials should be translated into multiple languages, public information meetings should be conducted in languages other than English, or interpreters should be available to ensure that all parents can reasonably participate in meetings. Moreover, once ELL students are admitted into the school, parents should receive information (e.g., policies, calendars, and report cards) in a language and manner they understand.

### No Child Left Behind Act (2001)

The Elementary and Secondary Education Act of 1965 and its amended act, No Child Left Behind (NCLB) of 2001, address the needs of ELLs through Title III and Title I. The goal of NCLB is for all students to read and perform mathematic skills at or above grade level by 2014.

**NCLB has enhanced schools' responsibility for tracking ELL progress on academic content and English language proficiency.**

NCLB legislation has enhanced schools' responsibility for the academic progress of ELLs by designating ELL as a subgroup for making adequate yearly progress (AYP). NCLB requires that states establish English language proficiency standards that include the language necessary to acquire academic content, as well as create assessments aligned with those standards.

Title III of the act holds states accountable for ELL progress in listening, speaking, reading, writing, and comprehending English. This provision requires school operators to use English language proficiency standards to create curricula and measure and report progress based on these standards. It also mandates that schools should have the appropriate staff capacity to effectively deliver English language instruction to ELL students. Title I holds states accountable for ensuring that ELLs master the same academic content in reading, math, and science as do non-ELL students. This requires schools to create content curricula and materials that are appropriate for the age and proficiency of ELLs, to measure and report progress

in content areas, and to ensure there is staff capacity to effectively deliver content instruction for ELLs.

Charter school operators should make sure they are complying with Title I and Title III regulations under NCLB, which includes ensuring that ELLs have access to appropriate English language and academic content instruction, and that ELL progress in English language proficiency and academic content be measured and reported.

### Part Three: Effective Schools and Programs for ELLs

As noted, federal civil rights laws require that ELLs have access to a quality education and are not denied programs and services because of their inability to speak or understand English. Civil rights laws *do not* prescribe

Charter Schools have the freedom to innovate in creating effective programs for ELLs, as long as students' rights are safeguarded.

the content of how states and charter schools do this, giving states and charter schools the flexibility to design programs and educational opportunities for ELLs. As long as students' rights are safeguarded, charter schools have the flexibility to innovate and create effective programs and services for ELLs.

In this section, features of effective schools and programs for ELLs are presented. These features represent sound educational practice for ELLs and overlap with sound educational practice for all students. For a description of effective charter schools that are showing results for ELLs, refer to the article, *Next Generation Charter Schools: Meeting the Needs of Latinos and ELLs*.<sup>7</sup>

#### Features of Effective Schools for ELLs

Overall, many of the attributes of effective charter schools also support ELL achievement. However, researchers and educators have learned much during the past decades about how best to teach the diverse ELL students that populate public schools. Charter school leaders should have up-to-date knowledge of the education of ELLs and a comprehensive system of schooling that includes the following elements.<sup>8</sup>

##### *High-quality and Accessible Preschool Education*

For ELLs, these programs can reduce inequities and pervasive achievement gaps among groups of students. These programs should be culturally and linguistically responsive, contain a developmentally appropriate and language-rich curriculum as a basis for literacy and

conceptual learning, build upon children's home language, and be parent and family friendly to increase parental engagement with their child's early education.

##### *Comprehensive Program of English Language Development (ELD) that Supports Academic Development*

ELLs need a standards-based, developmentally appropriate program that promotes English language and academic content development. An ELD program should:

- Actively develop all domains of language, including listening, speaking, reading, and writing skills, ensuring there is meaningful oral language development for beginning students;
- Address different levels of English language proficiency and fluency;
- Develop age- and context-appropriate language skills, including a focus on academic English;
- Provide meaningful opportunities for ELLs to interact with English-speaking peers;
- Foster a supportive classroom and school environment for language learners; and
- Recognize the role of a student's native language in ELD.

##### *Comprehensive Program of Academic Content—Access to the Academic Curriculum*

While ELLs are learning English, they need access to a well-articulated, age-appropriate academic curriculum. Charter operators can select from a number of program alternatives that are presented in the next section of this Issue Brief. The selection of these programs depends on the type of ELL student served by the program, the composition of students in a particular school, the goals of the school, and the capacity of the school staff to successfully deliver the program. The success of the program is linked to the consistency and depth of implementation.

##### *High-quality Instruction and Materials*

The quality of instruction for ELLs is paramount. An effective teacher that has a basic understanding of how ELLs acquire English and academic content is perhaps the greatest determiner of ELL success. ELLs with sufficient English can access grade-level curricula in English if teachers know how to differentiate instruction, make the content comprehensible, and have resource materials in the home language that students can use to assist in comprehension. Ways to make academic content comprehensible include, but are not limited to, building

upon students' prior knowledge, providing explicit instruction in learning strategies, and using visual and context clues.

### *Valid, Reliable, and Fair Assessments*

Effective instruction, decision making, and public accountability rely on valid, reliable, and fair assessments that measure student performance. For ELLs, progress must be measured for both English language proficiency and academic content growth. Effective schools make data-based decision making a habitual part of professional development. This necessitates administrators and teachers who understand how to use different assessment data for ELLs, have access to timely and useful data, and are supported with training to make instructional and other decisions that are based on the data.

### *School-wide Commitment to ELLs' Academic, Intellectual, and Social Growth*

ELL students' academic, intellectual, and social growth depend on a strong commitment from the entire school community. Staff members take responsibility for ELL student success, and their roles and responsibilities are clear. A school-wide commitment contains, but is not limited to, the following features:

- An inclusive environment where ELLs feel safe and where teachers know how to build on their students' cultural capital;
- High expectations, where all staff demonstrate that ELLs have the capacity to achieve academically, intellectually, and socially;
- Shared responsibility, where the education of ELLs is not the sole responsibility of the ELL teacher or department, and all staff understand their responsibility in supporting the education of ELLs; and
- High-quality professional development and collaboration, where professional development is linked to student results and where all teachers have a basic understanding of second-language development and the nature of language proficiency, the role of the first language and culture in learning, the demands that the general-education classroom places on ELLs, and how to use assessment data to make instructional decisions.

### *Strong Family and Community Partnerships*

ELLs achieve high levels of academic and social success in schools where there is active parent, family, and community involvement. Like ELLs, their parents are a diverse group; they may be confronted with social and

cultural challenges, speak a language other than English, work long hours, and be unfamiliar with schooling procedures in the United States. Other ELL parents may speak English, have experience as community activists, and be quite familiar with U.S. schools. Therefore, school leaders need to know their parent community and structure parent involvement that is inclusive, builds partnerships, educates, and exchanges information with parents. The following are example strategies that support the creation of effective parent involvement.

- Translate all materials in the languages that parents speak and provide interpreters at school meetings
- Conduct school meetings in the community
- Create meaningful volunteer opportunities for parents
- Provide multiple ways for family involvement (e.g., school events, family nights, and school celebrations)
- Conduct home visits

### *Consistent Support and Flexible Structures*

ELLs confront academic and social challenges that are related to their life circumstances. Academically, ELLs must not only master academic content, but also learn English. Socially, ELLs may need to work, assist in caring

ELLs need charter school leaders with current expertise in the education of ELLs and a comprehensive system of schooling that holds high expectations for their academic and social success.

for siblings or parents, and migrate to other states or their home countries during the school year. These challenges can be alleviated by structuring schools in new ways and providing ELLs with more time to accomplish goals. Charter schools are well situated to do this. Strategies for increasing time include extended day programs, summer intensive programs, night school, and year-round enrollment. In the elementary grades, schools can implement looping, thus providing teachers with more time to build relationships with ELLs and their families. In secondary schools, block scheduling allows teachers longer periods with fewer students, thus facilitating stronger relationships with ELLs and implementing more in-depth teaching, such as projects and student research. In addition, small learning communities or advisory groups facilitate a degree of personalization among teachers and ELLs. Effective strategies to alleviate ELL social challenges include independent study, computerized courses, and curricular



units that ELLs can do outside of the normal school day.

### *Access to Expertise and Increased Capacity to Serve ELLs*

Charter school leaders and teachers need significant knowledge and skills to provide quality programs and services for ELLs. Minimally, charter school leaders need expertise or access to expertise in selecting, adapting, implementing, and monitoring appropriate programs and services for ELLs, recruiting and retaining qualified staff, and providing ongoing professional development on the education of ELLs. Teachers must teach and assess ELLs in ways that reflect a basic understanding of the factors that influence second-language development, the role of the first language in learning a second language, and the demands of the academic curricula. In addition, they must build relationships with ELLs and these students' families.

In evaluating charter school applications, authorizers should be mindful of the potential operator's plan to serve ELLs. The National Association of Charter School Authorizers' (NACSA) *Principles & Standards for Quality Charter School Authorizing* states that a quality authorizer ensures that schools provide access and appropriately serve special populations of students, including ELLs, homeless students, special-education students, and gifted students as required by state and federal law. Additionally, authorizers should ensure that virtual/online charter schools provide appropriate services in virtual learning environments for ELLs and students with disabilities. When evaluating a charter school applicant or reviewing an existing charter school operator, authorizers should consider the school's recruitment and communications plans regarding ELLs, the academic performance of ELLs, the existence of English language development programs and academic content, and the use of effective tools to assess the progress of ELLs.

### **Program Model/Alternatives for ELLs**

In addition to creating effective schools, charter school leaders have the flexibility to select and/or adapt appropriate program models and alternatives that ensure ELL academic success. There are a number of research-based models that are being applied in successful charter schools, and there is a wealth of information for charter leaders to access to help build effective programs for ELLs.

ELLs are a diverse group of students with varying needs. The academic levels of ELLs include under-schooled students, newly arrived higher educated adolescents, and long-term ELLs who have been in the United States more than six years. No program model fits all ELL students and circumstances; charter operators should first fully understand the ELL populations they serve in order to

select or adapt the most appropriate program. Once the program is selected, it should be implemented with consistency and fidelity, and monitored to ensure that ELLs are making English language and academic progress.

The research-based programs presented include a range from all English to bilingual programs. They include sheltered instruction (SI); structured English immersion (SEI); newcomer, transitional, and bilingual education (TBE); developmental bilingual education; and two-way/dual languages. Each program model has goals, serves students with different characteristics and grade levels, requires varying teacher skills and qualifications, and includes instructional materials consistent with the language of instruction.

While these programs are different, they share the need for charter school operators' expertise in selection, implementation, and monitoring efforts. It is beyond the scope of this brief to describe each program model and alternative in detail. However, Table I gives a snapshot of the characteristics of the different program models and alternatives for ELLs. For a full description and discussion of these program models, see Genesee, F. (Ed.) (1999) *Program alternatives for linguistically diverse students*. (Educational Practice Rep. No. 1) Santa Cruz, CA: Center for Research on Education, Diversity & Excellence, University of California and Washington, D.C.: Center for Applied Linguistics. This table provides authorizers with terms frequently used when discussing ELL education. Charter schools are vehicles for innovation in public education; therefore, the actual programs that charter school applicants and operators use will vary.

## **Conclusion**

Charter schools are a viable and important educational option for the growing number of school-aged ELLs. With the growing population of ELLs in our nation's public schools, charter schools will continue to play an important role in educating this unique student group. This Issue Brief is designed to provide charter authorizers and school leaders with essential information on ELLs, including the federal laws and regulations that protect them, features of effective schools, and research-based ELL program models and alternatives that can be replicated or adapted in charter schools. It is the hope that charter authorizers and school leaders will use this information to provide a quality education for these students.

**Table I—Summary of Instructional Programs for ELLs<sup>9</sup>**

	Sheltered Instruction (SI)	Structured English Immersion (SEI)	Newcomer	Transitional Bilingual Education (TBE)	Developmental Bilingual Education	Two-Way or Dual Language
<b>Language Goals</b>	Proficiency in academic English	Proficiency in academic English	English proficiency	Transition to all English instruction	Bilingualism	Bilingualism
<b>Academic Goals</b>	Same as English-speaking peers	Same as English-speaking peers	Varied	Same as English-speaking peers	Same as English-speaking peers	Same as English-speaking peers
<b>English Proficiency/ Student Type</b>	Limited or no English	Limited or no English/students speak different first language (L1)	Limited or no English/newly arrived	Limited or no English/students speak same L1	Limited or no English/students speak same L1	Native English speakers and students with limited English
<b>Entry Grade/ Grades Served</b>	Any grade entry/ K–12 served	Any grade entry/ K–12 served	K–12/most common in middle and HS	K–3 entry/K–3 served	Elementary grades	K–1 entry/K–8
<b>Teacher Qualifications</b>	Training in ESL, Sheltered Instruction (SI)	Training in ESL content teachers/training in SI	Training in ESL, SI	Training in bilingual practices, SI	Training in bilingual practices, SI/ proficiency in L1	Training in bilingual practices, SI/L1 proficiency
<b>Instructional Materials</b>	English (modified) visuals, culturally appropriate	English (modified); resource materials in L1 visuals, culturally appropriate	L1 and English; English materials adapted to student proficiency level	L1 and English; English materials adapted to student proficiency level	L1 and English; English materials adapted to student proficiency level	L1 and English



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## ENDNOTES

- <sup>1</sup> Swanson, C.B. (2009) Perspectives on a Population: English language learners in American Schools. [Electronic version]. (Bethesda, MD: Editorial Projects in Education, Inc.).
- <sup>2</sup> National Center for Education Statistics, National Assessment of Educational Progress.
- <sup>3</sup> National Center for Education Statistics, Schools and Staffing Survey.
- <sup>4</sup> U.S. Government Accountability Office (2013), "Education Needs Further Examine Data Collection on English Language Learners in Charter Schools."
- <sup>5</sup> Center for Research on Education Outcomes (2013), "National Charter School Study 2013."
- <sup>6</sup> Tuttle, CC et. al. Student Characteristics and Achievement in 22 KIPP Middle Schools. Cited in Lazarin, M. and Ortiz-Licon, F. (2010). Next Generation Charter Schools: Meeting the Needs of Latinos and ELLs. (Washington, D.C.: Center for American Progress, National Council of La Raza).
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- <sup>8</sup> Adapted from Olsen, L. (2006). Ensuring Academic Success for English Language Learners. (Los Angeles, CA: UC Linguistic Minority Research Institute) v. 15. n.4; Edvantia (2007) Research Review: What Research Says about Preparing ELLs for Academic Success (city: Center for Public Education).
- <sup>9</sup> Adapted with permission from Genesee, F. (Ed.) (1999). Program alternatives for linguistically diverse students. (Educational Practice Rep. No. 1) Santa Cruz, CA: Center for Research on Education, Diversity & Excellence, University of California and Washington, D.C.: Center for Applied Linguistics).

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