



# Improving Classroom Instruction for English Learners in the United States

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## **Improving Classroom Instruction for English Learners in the United States**

English learners (ELs), a population of kids in the United States who lack English proficiency, are struggling to stay afloat in public schools. Many of them confront a multitude of challenges, ranging from language barriers and financial pressures to subpar instruction and high-stakes standardized tests for which they do not receive adequate preparation. For example, Yimi Alvarez, who immigrated from the Dominican Republic to Massachusetts when he was 11 years old, struggled with standardized testing.<sup>1</sup> Despite “learn[ing] as much English as he could while going through the public school system,” he failed the Massachusetts Comprehensive Assessment System test partly because he did not fully understand what the questions were asking.<sup>2</sup> For Taniya Ria, a teenager who immigrated from Bangladesh to the Bronx in 2019, the pandemic forced her to take classes on a phone from her family’s one-bedroom apartment, disrupting the progress that she had made in learning English up until that point.<sup>3</sup>

Unfortunately, these kinds of stories are far too common. Despite the fact that ELs are the fastest growing population of K-12 public school students,<sup>4</sup> they experience significant educational disparities resulting from additions to and omissions in education law that reflect a bias against ELs. One particularly concerning issue is the absence of federal education law

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<sup>1</sup> Hillary Chabot, *English Learners in Public School Classrooms Are Often Left Behind. What Can Help Them Catch Up?*, NEWS AT NORTHEASTERN (Apr. 27, 2021), <https://news.northeastern.edu/2021/04/27/english-learners-in-public-school-classrooms-are-often-left-behind-what-can-help-them-catch-up/>.

<sup>2</sup> *Id.*

<sup>3</sup> Juliana Kim, *With Remote Learning, A 12-Year-Old Knows Her English Is Slipping Away*, N.Y. TIMES (Dec. 29, 2020), <https://www.nytimes.com/2020/12/29/nyregion/coronavirus-english-language-students.html>.

<sup>4</sup> *Toolkit: English Language Learners*, NAT’L EDU. ASSOC. (July 2020), <https://www.nea.org/resource-library/english-language-learners>.

requiring states to establish teacher training and certification requirements. This omission has resulted in a patchwork of state requirements and contributes to poor educational outcomes for ELs. Existing law should be changed to ensure that all ELs receive effective instruction, which would make it easier for students to do well in their classes, pass standardized tests, and ultimately feel prepared for the future. This essay will summarize the nature and scope of this particular problem, identify pertinent provisions of education law, propose several ideas for legal change and strategies for implementing them, and address potential counterarguments to these proposals.

## **I. The Nature and Scope of the Problem**

ELs make up a sizable and growing share of the U.S. public school population. On top of the disproportionate concentration of ELs in high-poverty public schools across the country, many are being taught by untrained or undertrained teachers—a problem that will likely magnify as the U.S. immigrant population grows.

Approximately 17 million students in U.S. public schools speak languages other than, and in addition to, English.<sup>5</sup> This paper will focus on the roughly 5 million students who meet the definition of “ELs” under federal law.<sup>6</sup> According to Title III of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, an EL is an individual who is aged 3 through 21, is enrolled or about to enroll in an elementary or secondary school, comes from an environment where a non-English language is dominant, and has difficulties in using the English language in a way that may prevent them from meeting state

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<sup>5</sup> Cindy Long, *Addressing the Needs of ELLs in COVID Era*, NAT'L EDU. ASSOC. (Feb. 28, 2022), <https://www.nea.org/advocating-for-change/new-from-nea/addressing-needs-ells-covid-era>.

<sup>6</sup> *Id.*

academic standards, thriving academically in classes taught in English, or participating fully in society.<sup>7</sup>

Over the last few years, the number of ELs in U.S. public schools has increased significantly. In the fall of 2010, there were 4.5 million ELs, comprising 9.2% of all public school students; in the fall of 2019, there were 5.1 million ELs, comprising 10.4% of all public school students.<sup>8</sup> While most ELs were born in the United States,<sup>9</sup> they are a diverse population. They typically belong to a racial or ethnic minority group,<sup>10</sup> and as of 2019, approximately 75% of them speak Spanish at home.<sup>11</sup> Other commonly spoken languages include Arabic, English,<sup>12</sup> Chinese, and Vietnamese.<sup>13</sup>

ELs attend public schools located all throughout the country. In the fall of 2019, Texas reported the highest percentage of ELs among its public school students (19.6%), followed by California (18.6%) and New Mexico (16.5%).<sup>14</sup> Nine other states identified at least 10% of their

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<sup>7</sup> The full definition of an “EL” is as follows: “The term ‘English learner,’ when used with respect to an individual, means an individual (1) who is aged 3 through 21; (2) who is enrolled or preparing to enroll in an elementary or secondary school; (3) (a) who was not born in the United States or whose native language is a non-English language, (b) who is a Native American, an Alaska Native, or a native resident of the outlying areas and comes from an environment where a non-English language has had a significant impact on their level of English language proficiency, or (c) who is migratory, whose native language is a non-English language, and who comes from an environment where a non-English language is dominant; and (4) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny them (a) the ability to meet the challenging state academic standards, (b) the ability to successfully achieve in classrooms where the language of instruction is English, or (c) the opportunity to participate fully in society.” 20 U.S.C. § 7801(20).

<sup>8</sup> *Fast Facts: English Learners*, NAT’L CTR. FOR EDU. STATS., <https://nces.ed.gov/fastfacts/display.asp?id=96> (last visited Nov. 25, 2022).

<sup>9</sup> Julie Sugarman, *The Unintended Consequences for English Learners of Using the Four-Year Graduation Rate for School Accountability*, MIGRATION POL’Y INST. (Apr. 2019), <https://www.migrationpolicy.org/sites/default/files/publications/ELGradRates-FINALWEB.pdf>.

<sup>10</sup> Leslie Villegas, *English Learners Were at a High Risk of Being Suspended Before the Pandemic, Restorative Practices May Offer Much Needed Relief*, NEW AM. (July 2, 2021), <https://www.newamerica.org/education-policy/edcentral/english-learners-were-at-a-high-risk-of-being-suspended-before-the-pandemic-restorative-practices-may-offer-much-needed-relief/#:~:text=While%20the%20intersectionality%20of%20EL,in%20elementary%20and%20middle%20school>.

<sup>11</sup> *Fast Facts: English Learners*, *supra* note 8.

<sup>12</sup> This may reflect students who live in multilingual households or students adopted from other countries who were raised speaking another language but currently live in households where English is spoken. *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

public school students as being ELs, and an additional 22 states identified between 6–10% of their public school students as being ELs.<sup>15</sup> Despite this geographic diversity, most ELs attend the same schools, with about 20% of U.S. schools enrolling 75% of all ELs.<sup>16</sup>

Many ELs live in urban areas and are disproportionately likely to live in poverty. In the fall of 2019, ELs comprised an average of 14.8% of total public school enrollment in cities, compared with 10% in suburban areas, 7% in towns, and 4.4% in rural areas.<sup>17</sup> Thirty-seven percent of ELs live in poverty, compared to 21% of all public school students.<sup>18</sup> Additionally, 54% of ELs have non-college-educated parents, compared to 37% of all public school students.<sup>19</sup>

Schools serving many ELs tend to be high-poverty schools, which has led some education experts to analyze the “worrisome” connection between economic segregation and poor education outcomes.<sup>20</sup> Seventy percent of ELs are exposed to low-income peers, compared to 60% of non-white, non-EL students and 41% of white students.<sup>21</sup> The disproportionate concentration of ELs in high-poverty schools “likely hinders their academic success,” in light of research indicating that “schools serving high shares of low-income students have fewer resources per students and hire less-effective teachers.”<sup>22</sup>

This theory is reflected by ELs’ overall education outcomes and experiences. ELs lag behind their non-EL peers in both test scores and high school graduation rates.<sup>23</sup> ELs are also

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<sup>15</sup> *Id.*

<sup>16</sup> Diana Quintero & Michael Hansen, *As We Tackle School Segregation, Don’t Forget About English Learner Student*, BROOKINGS INST.: BROWN CTR. CHALKBOARD (Jan. 14, 2021), <https://www.brookings.edu/blog/brown-center-chalkboard/2021/01/14/as-we-tackle-school-segregation-dont-forget-about-english-learner-students/>.

<sup>17</sup> *Fast Facts: English Learners*, *supra* note 8.

<sup>18</sup> Quintero & Hansen, *supra* note 16.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Academic Performance and Outcomes for English Learners*, U.S. DEP’T OF EDU., <https://www2.ed.gov/datastory/el-outcomes/index.html#two> (last visited Nov. 25, 2022).

10% more likely to be suspended or expelled in elementary and middle school compared to their non-EL peers.<sup>24</sup> Furthermore, they are less likely to participate in extracurricular activities and tend to be over- and under-identified for special education.<sup>25</sup>

The systemic cause of disparities in educational outcomes and experiences—economic segregation which leads to a high concentration of ELs in high-poverty schools—is exacerbated by the poor quality of teaching directed toward ELs in K-12 public schools. Jennifer Flores Samson, a professor whose research focuses on improving teaching for students who are culturally, linguistically, and ability diverse, believes that teachers in states with sizable EL populations are unprepared to work with those students.<sup>26</sup> Her conclusion is supported by research published over the years finding infrequent trainings and discrepancies between teacher knowledge requirements and the actual educational needs of ELs, some of which include oral language development and academic language development.<sup>27</sup> From Samson’s perspective, teachers should have not only the skills to address ELs’ educational needs, but also the soft skills to understand their “backgrounds . . . , the cultures, the families, the socioemotional needs, [and] the challenges they face in the context in which [they] live.”<sup>28</sup>

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<sup>24</sup> Quintero & Hansen, *supra* note 16.

<sup>25</sup> Long, *supra* note 5.

<sup>26</sup> Corey Mitchell, *Overlooked: How Teacher Training Falls Short for English-Learners and Students with IEPs*, *EDU. WEEK* (May 14, 2019), <https://www.edweek.org/teaching-learning/overlooked-how-teacher-training-falls-short-for-english-learners-and-students-with-ieps/2019/05>.

<sup>27</sup> A 2005 study of California teachers indicated that 43% of teachers whose classes consisted of mostly ELs received at most one in-service training session in the past five years on teaching these students. Jenn Shreve, *Educators Are Poorly Prepared for ELL Instruction*, *EDUTOPIA* (Oct. 24, 2005), <https://www.edutopia.org/no-train-no-gain>. A 2012 study, of which Samson is a co-author, found that under existing practices, the knowledge and skills over which teachers are expected to demonstrate mastery at various checkpoints for becoming a teacher “rarely correlate to one to another and frequently do not address the needs of English language learners.” Jennifer F. Samson & Brian A. Collins, *Preparing All Teachers to Meet the Needs of English Language Learners: Applying Research to Policy and Practice for Teacher Effectiveness*, *CTR. FOR AM. PROGRESS* (Apr. 2012), <https://www.americanprogress.org/article/preparing-all-teachers-to-meet-the-needs-of-english-language-learners/>.

<sup>28</sup> Mitchell, *supra* note 26.

This problem will grow as the U.S. immigrant population continues to expand. In 2021, this country experienced a net gain of 244,000 new residents from immigration, and as of December 2021, immigrants comprised 14.1% of the U.S. population.<sup>29</sup> If current immigration trends continue, immigrants and their descendants will account for 88% of population growth through 2065.<sup>30</sup> In particular, Asian and Hispanic immigrants, many of whom are limited English proficient (LEP),<sup>31</sup> represent and will likely continue to represent the largest shares of total immigrants.<sup>32</sup> Based on these demographic trends, ELs will face an increasing need for teachers who can effectively address their educational needs.

## II. The Legal Treatment of ELs in the United States

The main federal protections for ELs were enacted around the middle of the 20<sup>th</sup> century as a response to significant discrimination against people of color and immigrants, among other marginalized communities. However, there is no binding law which requires states to have teaching and certification requirements—resulting in concerning gaps and inconsistencies at the state level.

Throughout U.S. history, rising immigration levels have led to increased language diversity,<sup>33</sup> but this trend has been accompanied by a pattern of involuntary assimilation to the

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<sup>29</sup> Miriam Jordan & Robert Gebeloff, *Amid Slowdown, Immigration Is Driving U.S. Population Growth*, N.Y. TIMES (Feb. 5, 2022), <https://www.nytimes.com/2022/02/05/us/immigration-census-population.html#:~:text=The%20latest%20report%2C%20from%20the,million%20or%20more%20to%20immigration.>

<sup>30</sup> Abby Budiman, *Key Findings About U.S. Immigrants*, PEW RSCH. CTR. (Aug. 20, 2020), <https://www.pewresearch.org/fact-tank/2020/08/20/key-findings-about-u-s-immigrants/>.

<sup>31</sup> Mary Hanna & Jeanne Batalova, *Immigrants from Asia in the United States*, MIGRATION POL'Y INST. (Mar. 10, 2021), <https://www.migrationpolicy.org/article/immigrants-asia-united-states-2020>; Jens Manuel Krogstad et al., *English Proficiency on the Rise Among Latinos*, PEW RSCH. CTR. (May 12, 2015), <https://www.pewresearch.org/hispanic/2015/05/12/english-proficiency-on-the-rise-among-latinos/#:~:text=English%20proficiency%20also%20steadily%20increases,country%20more%20than%2020%20years.>

<sup>32</sup> Budiman, *supra* note 30.

<sup>33</sup> See David G. Nieto, *A Brief History of Bilingual Education in the United States*, 2009 PERSPECTIVES ON URBAN EDU. 61, 61 (2009).

English language.<sup>34</sup> Before the 20<sup>th</sup> century, the federal government “actively imposed the use of English among Native Americans and the inhabitants of the incorporated territories of the Southwest.”<sup>35</sup> In 1917, Congress passed a law that required all new immigrants to pass a literacy test and prohibited most immigration from Asia, revealing “the closeness between racial prejudice and linguistic restrictions.”<sup>36</sup> The hostile climate against non-English languages during the early-to-mid 20<sup>th</sup> century would lead to a “drastic reduction of any type of bilingual instruction” in the United States.<sup>37</sup>

Over time, mounting outrage against racial, ethnic, and national origin discrimination led to federal protections that apply to ELs and LEP people, among other marginalized populations. The main federal protections for ELs are Title VI of the Civil Rights Act of 1964 (Title VI) and the Equal Educational Opportunity Act (EEOA).<sup>38</sup> Important intervening milestones, such as the Bilingual Education Act of 1968 and the Supreme Court’s decision in *Lau v. Nichols*, are also worth mentioning.

Described as the “cornerstone” of legal protections for ELs,<sup>39</sup> Title VI provides that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving [f]ederal financial assistance.”<sup>40</sup> Although Title VI does not

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<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 62.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* The Supreme Court “refused to back those restrictive policies.” *Id.*; see also *Meyer v. Nebraska*, 262 U.S. 390 (1923) (holding that a Nebraska law prohibiting instruction in any foreign language violated the Fourteenth Amendment); *Farrington v. Tokushige*, 273 U.S. 284 (1927) (holding that a Hawaii law banning foreign language instruction without a permit in the state’s schools was constitutional).

<sup>38</sup> 20 U.S.C. § 7801(20).

<sup>39</sup> Julie Sugarman, *Legal Protections for K-12 English Learner and Immigrant-Background Students*, MIGRATION POL’Y INST. (June 2019), [https://www.migrationpolicy.org/sites/default/files/publications/EL-Insight\\_Legal-Framework\\_Final.pdf](https://www.migrationpolicy.org/sites/default/files/publications/EL-Insight_Legal-Framework_Final.pdf).

<sup>40</sup> 42 U.S.C. § 2000d.

provide a private right of action,<sup>41</sup> the U.S. Department of Education’s (ED) Office of Civil Rights and the U.S. Department of Justice (DOJ) can enforce it through a complaint-and-investigation process.<sup>42</sup> Title VI is complemented by additional laws, federal court cases, and federal government guidance aimed at “help[ing] school systems understand the details of their obligations to equitably serve and promote the educational success of ELs.”<sup>43</sup>

In 1968, Congress passed the Bilingual Education Act of 1968,<sup>44</sup> which represented the first federal bilingual and bicultural education program.<sup>45</sup> Guided by the philosophy that bilingual instruction would “ease [an EL’s] transition into the mainstream,” this law funded bilingual programs mainly targeting low-income and non-English speaking populations.<sup>46</sup>

In 1974, the Supreme Court in *Lau v. Nichols* established the right of ELs to have meaningful access to education.<sup>47</sup> The court reasoned that because “students who do not understand English are effectively foreclosed from any meaningful education,” the provision of “the same facilities, textbooks, teachers, and curriculum” cannot by itself ensure the equal treatment of ELs.<sup>48</sup> Where a student cannot effectively participate in a school district’s educational program because of their English language capacity, “the district must take affirmative steps to rectify the language deficiency.”<sup>49</sup>

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<sup>41</sup> *Alexander v. Sandoval*, 532 U.S. 275 (2001).

<sup>42</sup> Sugarman, *supra* note 39.

<sup>43</sup> *Id.*

<sup>44</sup> This is also known as Title VII of the Elementary and Secondary Education Act. Nieto, *supra* note 22, at 63.

<sup>45</sup> Nieto, *supra* note 33, at 63.

<sup>46</sup> *Id.* The law was later amended to, among other things, explicitly define bilingual educational programs, identity goals, stipulate the requirement of feedback and progress reports from the programs, and eliminate the low-income requirement in order to broaden the terms of eligibility. *Id.*

<sup>47</sup> Sugarman, *supra* note 39.

<sup>48</sup> *Lau v. Nichols*, 414 U.S. 563, 566 (1974) (abrogated by *Alexander v. Sandoval*, 532 U.S. 275 (2001)).

<sup>49</sup> *Id.* at 568. In response, the Office of Civil Rights published rules, known as the “Lau Remedies,” “to promote bilingual education as a way to allow children to learn grade-appropriate content in their native language while acquiring English.” Sugarman, *supra* note 39. When policymakers and public pushed back against mandatory bilingual education, OCR stopped using Lau Remedies and developed new guidance emphasizing local choice of program model. *Id.*

A few weeks after this decision, Congress passed the EEOA, which prohibited states from “deny[ing] equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by . . . the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.”<sup>50</sup> Unlike Title VI, the EEOA provides a private right of action; it is also enforced by the DOJ.<sup>51</sup> A 1978 case decided by the U.S. Court of Appeals for the Fifth Circuit, *Castañeda v. Pickard*, articulated the now-prevailing standard for what constitutes “appropriate action”: The challenged program must be (1) based on a sound educational theory, (2) reasonably calculated to effectively implement the theory, and (3) able to produce results indicating that the language barriers are actually being overcome.<sup>52</sup>

Title VI and the EEOA do not specifically regulate teacher training and certification, nor do any other sources of federal education law. Instead, there is non-binding federal guidance “encourag[ing] states to provide necessary personnel to effectively provide EL programs, including highly-qualified core-content teachers who have received training to support EL students in their classroom.”<sup>53</sup> Federal law also “does not dictate specific qualifications” for the training and certification of EL-only teachers.<sup>54</sup> The absence of federal law regulating either type of teacher has led to gaps and inconsistencies among state laws. Around 22 states lack statutes or regulations that provide for specific qualifications, pre-service and in-service training, and

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<sup>50</sup> 20 U.S.C. § 1703(f).

<sup>51</sup> Sugarman, *supra* note 39.

<sup>52</sup> *Castañeda v. Pickard*, 648 F.2d 989, 1010 (5th Cir. 1981).

<sup>53</sup> *50-State Comparison: English Learner Policies, What EL Training or Ongoing Professional Development Is Required of General Classroom Teachers?*, EDU. COMM. OF THE STATES (May 2020), <https://reports.ecs.org/comparisons/50-state-comparison-english-learner-policies-10>.

<sup>54</sup> *50-State Comparison: English Learner Policies, Are EL-Only Instructors in K-12 Required to Hold a Specialist Certification or Endorsement?*, EDU. COMM. OF THE STATES (May 2020), <https://reports.ecs.org/comparisons/50-state-comparison-english-learner-policies-11>.

professional development for general classroom teachers.<sup>55</sup> Additionally, around 11 states lack statutes or regulations that provide for training, professional development, teaching standards, certification, or endorsements for EL-only teachers.<sup>56</sup>

This patchwork of state laws has serious implications for students. Research shows that ELs learn best when general classroom teachers, who can help students become proficient in “the essential areas of language proficiency,” receive “some form of EL-specific training” even if they do not work directly with ELs.<sup>57</sup> Research also shows that ELs learn best when EL-only teachers “are required to have state certification to teach English as a Second Language (ESL), English to Speakers of Other Languages (ESOL), bilingual [education, or another mode of education].”<sup>58</sup>

### **III. A Proposal for Legal Change**

The following federal legislative proposal aims to bring about the establishment of training requirements in all states for general classroom teachers and EL-only teachers. To implement this proposal, advocates working on behalf of ELs should utilize numerous strategies to craft and amplify their message.

#### **A. Congress should pass a law requiring states to have training and certification requirements for general classroom teachers and EL-only teachers.**

Congress should pass a law requiring states to establish training and certification requirements for general classroom teachers and EL-only teachers. Given that the federal government has merely issued non-binding guidance recommending that states provide

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<sup>55</sup> Alyssa Rafa et al., *50-State Comparison: English Learner Policies*, EDU. COMM. OF THE STATES (May 27, 2020), <https://www.ecs.org/50-state-comparison-english-learner-policies/>.

<sup>56</sup> *Id.*

<sup>57</sup> *50-State Comparison: English Learner Policies, What EL Training or Ongoing Professional Development Is Required of General Classroom Teachers?*, *supra* note 53.

<sup>58</sup> *50-State Comparison: English Learner Policies, Are EL-Only Instructors in K-12 Required to Hold a Specialist Certification or Endorsement?*, *supra* note 54.

“necessary personnel” for EL programs, this proposed law would lead to greater protections at the state level.

The law would require states to establish teacher training requirements that promote meaningful access to education for ELs. It would require states to implement (1) a requirement that general classroom teachers receive a form of EL-specific training each year and (2) a requirement that EL-only teachers possess a state certificate to teach ESL, ESOL, bilingual education, or another mode of EL education. Both kinds of teachers must have a working knowledge and understanding of oral language development, academic language (as opposed to conversational language only), and the role of cultural norms for behavior, communication, and interactions with others in language development and academic achievement.<sup>59</sup> This law would require states with no law on the books and states with laws that do not satisfy this requirement to take remedial action, but it would not disturb existing state laws that do satisfy the requirement. Furthermore, the proposed law would authorize the ED to make this determination, as well as empower it to promulgate relevant rules and regulations. Finally, in recognition that ELs disproportionately attend high-poverty schools, this law would provide funding to state and local governments to carry out these requirements, subject to any relevant ED rules or regulations.

**B. Advocates should use numerous, intersecting advocacy strategies to convince Congress to pass this law.**

Advocates should use numerous, intersecting advocacy strategies to convince Congress to pass this law—namely, community organizing and education, data gathering, legislative advocacy, and media strategies. First, advocates should involve themselves in community

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<sup>59</sup> See Samson & Collins, *supra* note 27, at 9–11.

organizing and education by working with organizations and organizers from parts of the country with high concentrations of immigrants, LEP people, and ELs. Advocates should work with such organizations and organizers to determine the best way to reach community members and, based on this information, plan or attend events where members are present. Advocates should learn from community members about the educational challenges facing ELs, in addition to providing easily digestible information about the state requirements that are in place (if they exist at all). Advocates should also view these events as opportunities to present the legislative proposal to stakeholders and to gauge their opinion.

In the process of getting involved in community organizing and education, advocates should gather additional data that can help demonstrate why ELs need effective general classroom teachers and EL-only teachers. While statistics are important, stories lend a compelling personal element to advocacy through their ability to illustrate the challenges that ELs are facing with respect to ineffective instruction. By speaking with impacted individuals, advocates can better understand the needs of ELs, their experiences in the classroom, and the challenges that they and their families are facing more generally. Stories from the perspectives of sympathetic teachers who work with ELs could also be useful.

Furthermore, advocates should engage in legislative advocacy, targeting certain members of Congress to convince them to sponsor or cosponsor the law. They should first draft a model bill to give lawmakers a sense of how the law would ideally function and then have organizational partners, education experts, and other stakeholders review it. Advocates should then identify potential champions in both houses of Congress and set up meetings to explain the bill to them and their staffers. Ideally, advocates will find one champion in each house to sponsor the bill. During these meetings, they should share community members' stories, with their

consent, in order to explain why Congress should require states to establish teacher training and certification requirements. Additionally, if community members and organizers are available, advocates with greater financial capacity should consider flying them out to join the legislative meetings, since it would be especially compelling, as well as potentially empowering, for impacted individuals to tell their own stories.

Finally, advocates should harness the power of the media. They should consider organizing press conferences to attract media attention to their cause, as well as use social media to communicate updates and call on supporters to contact their representatives to support the bill. A combination of all of these strategies could help advocates convince Congress to pass this law.

#### **IV. Potential Counterarguments**

I anticipate encountering counterarguments that point out the limitations of my proposal, including its impact and effectiveness. First, some may think that the legislative proposal is shortsighted because it will not tackle the root cause of ELs' poor education outcomes—poverty and income inequality. I would respond that although I agree that civil society needs to focus on eliminating poverty and income inequality, such efforts will very likely take a long time and face immense pushback from the private sector. In the meantime, many ELs will continue to be harmed by ineffective instruction. Therefore, as valiant as efforts to combat the systemic issue are, my proposal seeks to provide more immediate relief to ELs, whose current experiences in school could likely shape the trajectories of their lives.

Second, some may think that the legislative proposal will not go very far without the use of a litigation strategy. I would respond that, assuming that advocates would want to sue states under the EEOA, the litigation strategy would probably be effectuated on a case-by-case and state-by-state basis based on the statutory language. The legislative proposal, on the other hand,

seeks to bring about the enactment of federal law that would apply to all states. Moreover, whereas a judicial decision could be overruled, federal statutes are more greatly shielded from change due to the slow and deliberative nature of the legislative process.

## **V. Conclusion**

As emphasized in this essay, many ELs throughout the country are struggling in public schools that are woefully underfunded and understaffed. While the root of the issue is economic segregation (in tandem with the problematic system of funding education in the United States), ELs' difficulties are unnecessarily exacerbated by ineffective instruction by general classroom teachers and EL-only teachers. The absence of federal law requiring these teachers to receive certain training and certification has led to the existence of serious gaps and inconsistencies in state law. The abovementioned legal proposal will not only create a federal standard that requires states to implement training and certification requirements so that teachers can obtain certain competencies, but also delegate rulemaking authority to the ED and provide funding to help state and local governments implement such requirements. Ultimately, this proposal will support ongoing efforts to provide meaningful access to education for ELs in the United States.