



## Technical Advisory Committee to the TASK FORCE ON K-12 PUBLIC EDUCATION FUNDING

May 21, 2014

Dear Members,

The Latino Leadership Council is a community group based in Southern Nevada focused on policy advocacy for the benefit of Latino and other historically underrepresented communities. Leaders from the following organizations comprise the LLC education committee: Latin Chamber of Commerce, *Las Mujeres*, Project 51, NSEA, CCEA, *Mi Familia Vota*, PLAN, SEIU, Hispanics in Politics, and Hispanic Educators Association of Nevada. During the 2013 Legislative session, our organization was a key player in education reform; specifically, the historical enactment of SB504, which marked the first time that the state of Nevada recognized that ELL students require additional supports to have an equal educational opportunity to succeed.

The Technical Advisory Committee (TAC) has had a very difficult task. It has been asked with providing a recommendation on how to rethink Nevada funding formula without a current cost study, or guidance on key education policy choices. It is becoming a consensus view that there are not enough dollars for education currently in Nevada, yet there is lack of agreement as how to make the education revenue pie larger. We know that our funding formula is the most unfair in the country, per Education Law Center's recent report.<sup>1</sup> We know that the way that dollars are currently distributed does not support the neediest populations *and* the fastest growing populations – FRL and immigrant children/ELLs. Specifically, with respect to the latter, ELLs now comprise one in four children in K-3 in CCSD,<sup>2</sup> and this group is growing. These are subgroups that the Nevada Plan does not cover; yet per the experience in states with high ELL and immigrant populations, we know that these children need to be better supported for Nevada's overall educational outcomes to improve. One analysis put the cost of not investing in ELL supports at close to \$8 billion.<sup>3</sup> In sum, moving towards a weighted formula is good policy for all Nevadans. This testimony addresses recommendations for ELL weights, since this is a policy area in which our members have great expertise.

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<sup>1</sup> Is School Funding Fair? [http://www.schoolfundingfairness.org/National\\_Report\\_Card\\_2014.pdf](http://www.schoolfundingfairness.org/National_Report_Card_2014.pdf)

<sup>2</sup> Final Report for Lincy Institute <http://www.unlv.edu/sites/default/files/24/Final-Report-Putney.pdf>

<sup>3</sup> Applied Analysis, By the Numbers: a Review and Analysis of Nevada's Education System (2012)

## 1. ELL WEIGHTS

***The weight for ELLs should be in the range of 1.7 to 1.9, and be revisited in 5-10 years.***

The 2012 AIR report<sup>4</sup> warns that “the issue of equity in the funding formula leaves 15 rural districts ‘terrified’ as long as the inadequacy of funding is not addressed.” (p.11) We agree that this is a daunting task. The discussion below contains ambiguity because it is difficult to discuss weights without knowing what the base number should be. The only Nevada Cost Adequacy study by Augenblick et al is based on data over a decade old.<sup>5</sup> Like the TAC, we are constrained by the unavailability of a current cost study. For this reason, our analysis is based on “rough estimates” that approximate the range for the weights TAC might recommend to the K-12 Funding Task Force.

### **a) Rough estimate of weights considering AIR study.**

AIR 2012 study did not recommend weights, but per legislative mandate, advised on a possible range of weights, based on comparisons to what 15 other states had addressed weights for ELLs. AIR did NOT survey actual needs in Nevada.

Table 1. AIR Report recommended ELL weights<sup>6</sup> based on comparisons

Grouping of states	Average ELL Weight	Range
average top 5 states- Maryland, Missouri, Georgia, Maine, Oregon	1.63	1.5 to 1.99
average of middle 5 - New Mexico, New Jersey, Kansas, Oklahoma, Hawaii	1.30	1.23 to 1.5
Average of bottom 5 - Iowa, Vermont, Florida, Arizona, Texas	1.16	1.1 to 1.22

Highlighted states reformed their school finance system because courts found the state funding system to be unconstitutional

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<sup>4</sup> American Institutes for Research, Study of a New Method of Funding for Public Schools in Nevada (2012)

<sup>5</sup> Augenblick et al. Estimating the Cost of an Adequate Education In Nevada (Aug. 2006) We have researched the feasibility of updating the Augenblick 2006 adequacy study. The cost would be minimal and the time to get it done relatively brief (3 months). There is enough time before 2015 legislative session to obtain this key piece of the weights analysis.

<sup>6</sup> Figure 3.7

No update of AIR study was available to TAC. Since its publication, courts have found funding systems in Kansas,<sup>7</sup> New Jersey,<sup>8</sup> and Texas<sup>9</sup> to be unconstitutional, because their respective funding formulas do not sufficiently support education. A lawsuit was filed in New Mexico<sup>10</sup> last month.

Past litigation challenged and extensively reformed Florida<sup>11</sup> and Arizona's<sup>12</sup> ELL funding.

The three "bottom" tier states surveyed by AIR made extensive investments in their ELL infrastructure because of successful lawsuits brought and won in the last three decades. In 1990, Florida settled the lawsuit LULAC v. Florida Board of Education,<sup>13</sup> and pursuant to consent decree agreed to improve its ELL education by requiring all teachers who teach ELL children – even music, physed and science teachers -- to become TESL (Teaching English as a Second Language) certified. Florida now requires up to 36 hours of additional training for teachers who are in high ELL classrooms and teach core subjects. In addition Florida has universal full day kindergarten and PreK for ELL and FRL children. It has also enacted "READ BY THREE" legislation that supports early literacy.

Texas education system has been the subject of education lawsuits for more than 25 years.<sup>14</sup> After a successful lawsuit won by MALDEF, the Texas Legislature reformed school finance to better support students from poor districts. Texas requires TESL endorsements for all teachers who are teaching in high ELL classrooms. Texas has universal full day kindergarten and PreK for ELL and FRL children. Most districts offer summer remedial work for ELL and FRL students who fall behind reading and math proficiencies.

Arizona was the subject of litigation around ELL financing. Its state legislature responded by repeatedly increasing funding for ELLs and instituting instructional reforms.<sup>15</sup>

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<sup>7</sup> Gannon vs. Kansas (KS 2014) (unconstitutional wealth disparities arising from budget cutbacks)

<sup>8</sup> Abbot v. Burke, 20 A.3d 101 (NJ 2011)

<sup>9</sup> *Edgewood Independent School District v. Williams*, (2013) The Texas funding of EL programs was held arbitrary, insufficient and Unconstitutional in our recent case.

<sup>10</sup> *Martinez v New Mexico* (2014) (seeks to declare education rights Violated By State's Funding for Economically Disadvantaged and English Learner Students).

<sup>11</sup> LULAC v. Florida Board of Education Consent Decree, (S. FL 1990) available at <http://www.fldoe.org/aala/cdpage2.asp>

<sup>12</sup> United States District Court for the District of Arizona found the state was violating the EEOA by not implementing a funding scheme that was "reasonably calculated to effectively implement the program" the state had chosen for its ELLs. *Flores v. Arizona*, 516 F.3d 1140, 1144-45 (9th Cir. 2008), rev'd sub nom., *Horne*, 129 S. Ct. 2579 (2009).

<sup>13</sup> Available at <http://www.fldoe.org/aala/cdpage2.asp>

<sup>14</sup> *Edgewood v. Kirby*, 77 SW 2d 859 (TX 1989).

<sup>15</sup> See note 12 supra.

The appropriate grouping for TAC to consider is top tier 5 states. First, TAC should eliminate as valid comparables the finance systems of states where courts have found the funding systems inadequate. In the mid tier and bottom tier grouping three of the five comparables were found to have school finance systems that were irrational or inadequate by courts. Another is the subject of ongoing litigation.

Second, three of the states (Oregon, Missouri and Georgia) in the top-tier experienced hyper-growth of immigrant populations during the same time period as Nevada. These three states, like Nevada, had scant educational infrastructure for support of ELL children. Like these states, Nevada is still “catching up” to provide quality education to ELL children.

Third, Nevada has huge achievement gaps between ELL and nonELL populations. Given the large size of Nevada’s ELL population, there is urgency in the need to build up ELL educational infrastructure quickly in order that ELL children do not suffer lack of a meaningful educational opportunity, and the state can progress economically.

*We recommend that TAC should focus on AIR’s top tier of weight range of 1.5 to 1.99.*

**b) Additional identified needs since AIR and Augenblick studies.**

**i) Lack of Adequately Trained Teachers in ELL Instruction.**

Since both the Augenblick and AIR studies, Nevada has acknowledged that the lack of adequately trained teachers represents a systematic barrier to academic advancement of ELLs.

SB504, Nevada’s ELL policy legislation, responded to what was reported as almost universal low teaching quality for ELL student in Nevada as reported by WESTED in its survey of CCSD ELL classroom teaching.<sup>16</sup> Only one teacher out of 70 was found to be teaching language development according to Common Core standards at a high quality level. Language instruction, in high quality ELL teaching, must be explicit and a core objective of any lesson in a high ELL class. This review of classroom teaching in CCSD found explicit language instruction was lacking. SB504 commissioned an expert committee, English Mastery Council (EMC), to investigate and make recommendations as to how to improve Nevada’s quality of ELL teaching.

As the following table shows, Nevada has a deficit of properly trained teachers for ELLs.

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<sup>16</sup> Aida Walqui, Clark County Public Schools, Nevada: Report on Instruction for English Language Learners (June 2012)

Table 2 Nevada English Language Learner Distribution: Ratio of EL Personnel to EL Students;  
Schools and Teachers by Percent of English Learner (EL) Population

Table 1: Approximate ratio of ELs to District Funded EL Personnel					
District	ELs (2012-13)	Certified EL Staff	"Teacher" to EL Ratio	non-Certified EL Staff	Total District Funded EL Personnel to EL Ratio
Carson	1,221	12	102/1	13	49 to 1
Churchill	268	6	45/1	3.5	28 to 1
Clark	53,534	25	2,141/1	61	622 to 1
Douglas	285	8	36/1	5	22 to 1
Elko	1,081	12	90/1	9	51 to 1
Esmeralda	11	0	n/a	.5	22 to 1
Eureka	0	0	n/a	0	n/a
Humboldt	402	3	134/1	7	40 to 1
Lander	105	1	105/1	1	53 to 1
Lincoln	4	0	n/a	0	n/a
Lyon	567	16	35/1	6	26 to 1
Mineral	0	0	n/a	0	n/a
Nye	389	4.5	86/1	0	86 to 1
Pershing	51	1	51/1	0	51 to 1
Storey	0	0	n/a	0	n/a
Washoe	10,186	156	65/1	10	61 to 1
White Pine	37	0	n/a	0	n/a
St. Charters	242	0	n/a	0	n/a
State	68,383	244.5	280/1	116	190 to 1

Source: English Mastery Council, April 23, 2014. Above shows the approximate ratio of ELs to District funded EL personnel; it does not include Title III funded or SB 504 funded personnel. It does include District EL Personnel who work in administrative functions such as EL Program Directors.

In April 2014, the EMC found that TESL endorsements for teachers in high ELL environments are key to improvement in ELs academic outcomes. The TESL subcommittee approved the following recommendation:

All Nevada Teachers and Administrators should be required to obtain the TESL endorsement (or English Language Acquisition & Development).

To be clear, quality professional practices such as the development of professional learning communities focused on student learning, data, and instructional strategies are also required to improve ELL achievement.<sup>17</sup> However, these general practices should be

<sup>17</sup> Kenji Hakuta, Educating Language Minority Students and Affirming their Equal Rights (2011)

covered from the general budget.<sup>18</sup> TESL training should be a one-time cost phased over several years. The EMC is also working on recommendations to higher ed so that higher ed training matches Nevada's workforce needs. If higher ed follows recommended reforms, new teachers presumably would be the equivalent of TESL endorsed upon being hired by a Nevada school district.

The cost of TESL endorsement at a NSHE higher education institution is between \$1000 (past negotiated rate) and \$3500 (UNLV). There are approximately 25,000 teachers in Nevada. If the state were to provide funding for the TESL endorsement of every teacher, the cost would be between \$25 million and \$88 million. If Nevada were to provide funding for TESL endorsements for only teachers in high ELL environments,<sup>19</sup> the cost would be \$10 million (at the low negotiated fee) phased in over several years.

## **ii) Higher Standards under Common Core.**

As a matter of policy, Nevada has committed to higher student performance standards under Common Core – the equivalent of the most challenging state content standards. Additional funding and support will be required to ensure that ELLs and FRLs can access the vocabulary of Common Core. Language development will become even more important, because high levels of language proficiency are required to access the more rigorous curriculum and assessments that will be in place under Common Core.<sup>20</sup>

TAC's recommended funding weights should allow administrators to put in place new state mandated curriculum and assessments adjusted for the instructional needs of ELLs.

How high should an ELL weight be that links Common Core standards to school funding for ELLs? The only state surveyed by AIR where the Legislature explicitly linked modern Common Core standards to school finance is Maryland, with an ELL weight of 1.99.<sup>21</sup> Pursuant to a consent decree following Maryland's Supreme Court finding that its education system was inadequate,<sup>22</sup> the Maryland Legislature revamped its educational infrastructure, and modernized it to include Common Core. Maryland's ELL weight of 1.99

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<sup>18</sup> Guinn Center for Policy Priorities and Nevada Succeeds! are working on a proposal for the Education Committee on how to make more efficient use of funds so that on site PD can be funded from existing monies.

<sup>19</sup> Our rough estimate is that approximately 10,000 teachers teach in schools with 31% or more ELLs. According to data provided to EMC by DOE, there are a total of 133 schools with 31% or more ELLs in Nevada. All but one is elementary school. See Nevada English Language Learner Distribution: Schools by Percent of English Language Learner Population (presented before EMC, April 2014).

<sup>20</sup> See Hakuta, supra note 12.

<sup>21</sup> AIR, Fig. 3.7

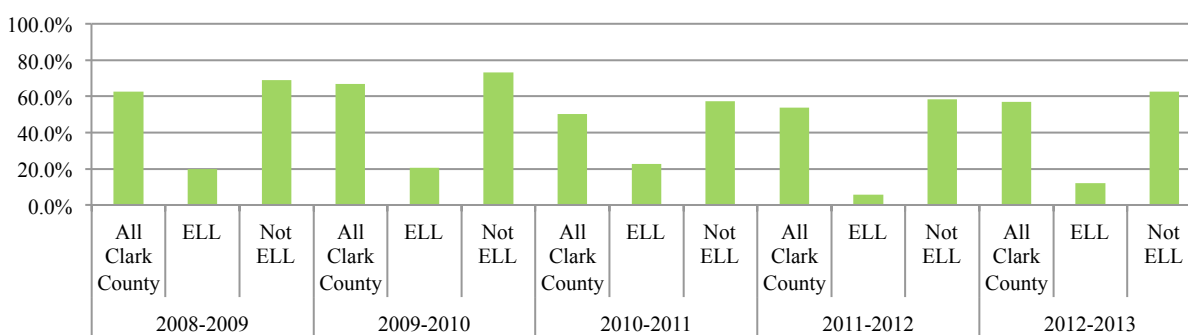
<sup>22</sup> Bradford v. Maryland State Board of Education (MD 1996)

reflects a policy decision to provide modern education support to ELLs that reflects that state's adoption of Common Core standards.<sup>23</sup>

#### iv) Disappointing middle school and high school performance of ELLs

The performance of Nevada's ELL students in middle school is very low. See the below chart for CCSD.

**Chart 1. Clark County School District  
State Assessment Reading Proficiency Rate  
Middle Schools 2009-2013  
Percent Proficient Grades 6-8**



Source: Success for All Students Current status of English Language Learners and Literacy Proficiency in the Clark County School District, (working draft May 20, 2014).

The reason for ELL's low literacy proficiency is that their academic language grows very little during middle school. In middle school, CCSD's 8,000 ELLs exit ELL status at a 2% rate.<sup>24</sup> Without language growth, ELLs cannot advance in core substantive academics.

Moreover, Nevada's graduation rates for ELLs are close to the bottom of the Nation.

**Table 3: Nevada ELL Graduation Rates Compared**

	2012	2011
National All Students	80%	79%
National ELL Students	59%	57%
Arizona All Students	76%	78%
Arizona ELL Students	24%	25%
California All Students	78%	76%

<sup>23</sup> Molly Hunter, Maryland Enact Modern, Standards-Based Education Finance System: Reform Based on Adequacy Cost Studies available [http://www.schoolfunding.info/resource\\_center/MDbrief.php3](http://www.schoolfunding.info/resource_center/MDbrief.php3)

<sup>24</sup> WIDA results, CCSD ELL Dept (2013)

California ELL Students	62%	60%
Florida All Students	75%	71%
Florida ELL Students	57%	53%
New York All Students	77%	77%
New York ELL Students	44%	46%
Texas All students	88%	86%
Texas ELL Students	59%	58%
Nevada All Students	63%	62%
Nevada ELL Students	23%	29%

Source: National Center for Education Statistics, April 2014; Success for All Students Current status of English Language Learners and Literacy Proficiency in the Clark County School District, (working draft, May 20, 2014

Nevada can improve its performance if TAC recommends funding weights that will allow administrators and teachers to institute reforms so that the appropriate instructional practices can be put in place for middle and high school ELLs. Nevada has not yet begun that task, and the academic results for ELLs reflect that we are behind in addressing the needs of middle school and high school ELLs. We need to reform low performing, high ELL middle schools and high schools in much the same way that SB504 zoom school funding is reforming low performing high ELL elementary schools. There are about 40 such struggling middle schools and high schools in Nevada. TAC recommended weights for ELL students should be sufficiently high to support “turnaround” of these schools.

#### **v) Lack of bilingual programs.**

The number of quality bilingual programs available to ELLs and native English speakers in Nevada is only a handful, that is, almost negligible considering the large size of our ELL population. Florida, Texas, California, with comparable concentrations of ELLs, all have quality bilingual (or Spanish support) programs as part of their education program for ELLs *and* nonELLs. Research has shown that ELLs in quality bilingual programs academically outperform their counterparts after they have been in the program long enough to become bi-literate and bilingual.<sup>25</sup>

Nevada is not capitalizing on an important human asset essential for its future growth and global competitiveness. ELL children could become the multilingual and multicultural work force that would anchor Nevada’s global businesses.

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<sup>25</sup> Bialystok, E. (2005). Consequences of bilingualism for cognitive development. In J. R. Kroll, & A. de Groot (Eds.), *Handbook of bilingualism: Psycholinguistic approaches* (pp. 417–432). Oxford, UK: Oxford University Press; Bialystok, E., & Craik, F. I. M. (2010). Cognitive and linguistic processing in the bilingual mind. *Current Directions in Psychological Science*, 19.



TAC should consider ELL weights that would provide sufficient funding to enable school districts to establish state of the art programs in ELL -- bilingual and dual language schools that would be accessible to both ELLs and nonELs.

**vi) preK for vulnerable children; full day K; Extended school day; summer sessions**

Texas, Florida, New Jersey and California, states comparable to Nevada as high immigrant states,<sup>26</sup> have put in place preK for vulnerable students, full day K, extended school day, and funded summer sessions for struggling students for all students. These programs help all struggling students, not just ELLs and FRLs. In Nevada, we seem to be years away from making such supports available to all students. Accordingly, TAC should consider whether incorporating the cost of these programs, which are part of sound instructional and developmental strategies for ELLs and FRLs, should be factored into the ELL and FRL weights.

**RECOMMENDATION:**

Nevada is a top immigrant state and therefore the fifth highest ELL state. Yet Nevada is still developing infrastructure to address the basic educational needs of immigrant children. To prosper, Nevada should go a step beyond basic needs, and fund education so that immigrant and nonimmigrant children can develop into the multilingual and multicultural human capital assets that the state will need in the next ten years to be globally competitive. For this reason TAC should focus on the HIGH end of the AIR top state comparable grouping, and recommend weights in the range of 1.7 to 1.9. These weights would help Nevada build an ELL infrastructure that would close the achievement gap, eliminate the poor graduation rate crisis, and help every child become competitive in the new global work force.

If TAC recommends ELL weights in the high range, TAC might recommend that these be revisited once ELL weight funding has been able to build ELL infrastructure, perhaps within a five year or ten year period.

**2. TAC should not reduce funding for ELLs after six years in status.**

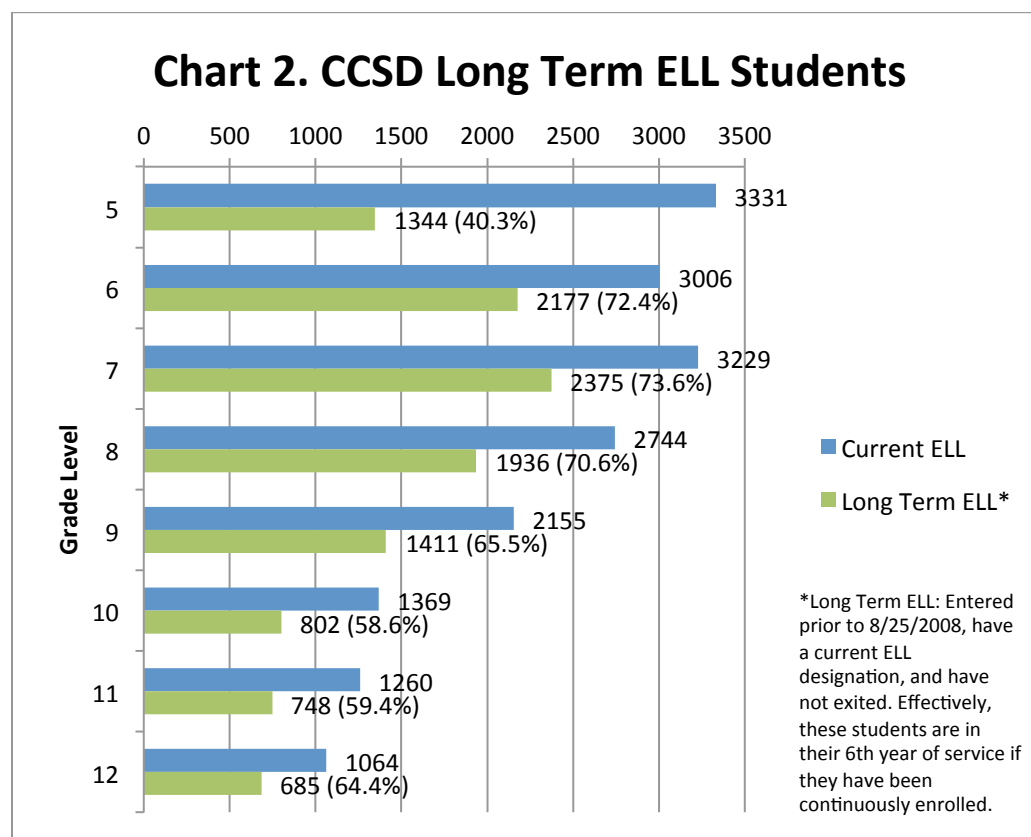
TAC has been considering a recommendation that ELL funding be either eliminated or reduced after a child has been in ELL status for more than six years. **We strongly recommend that TAC reject this proposal.**

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<sup>26</sup> Nevada is fifth highest in immigrant population behind California, New York, New Jersey and Florida Pew Research Center <http://www.pewresearch.org/fact-tank/2014/05/14/15-states-with-the-highest-share-of-immigrants-in-their-population/> (May 2014)

This proposal would most affect “long term ELLs,” children who have ben in ELL status for more than six years (LTEL). <sup>27</sup>

In CCSD, LTELs number over 11,000 students. The concern with LTEL students is the significant learning gaps accumulated over the course of the years enrolled in school. Often, LTEL students can speak conversational English and sound like native English speakers, but they cannot access grade appropriate texts. The main characteristic defining a LTEL student is that deficits in academic English-language have grown so severe they have negatively affected the student’s ability to achieve full academic potential. LTEL students have developed habits of academic disengagement, passivity while learning, and social detachment. These habits result in increases in retention and dropout rates for LTEL students.<sup>28</sup>



<sup>27</sup> According to the Glossary of Education Reform created by the Great Schools Partnership and for the purposes of this paper, a long-term English learner (LTEL) is defined as a student who is enrolled in American schools for more than six years, is not progressing toward English proficiency, and is struggling academically due to limited English skills (Great Schools Partnership, 2013)

<sup>28</sup> Success for All Students: Current status of English Language Learners and Literacy Proficiency in the Clark County School District (working draft, May 20, 2014).

According to a 2013 three-year perspective WESTED study of Washoe's high school population,<sup>29</sup> LTELs is the demographic group most likely NOT to graduate from high school. Only 1% of students identified as ELLs at the beginning of their high school years were able to graduate from a Washoe high school.

Up to now, Nevada has not developed instructional programs appropriate for the needs of LTELs. In middle and high school, LTELs need specialized instructional programs in order to be successful. They should be grouped into programs of accelerated learning, but each student needs a program designed just for him/her.<sup>30</sup>

We believe that this proposal violates the civil rights of LTELs. The proffered reason for this proposal was "administrative incentives." However, such a policy goal does not make sense in Nevada's "on the ground" context. The reason Nevada has such a high number of LTELs is that the educational system has failed them in the past. They have had teachers who do not employ language development instructional practices every day in the classroom, and/or are culturally competent.<sup>31</sup> Without adequate supports, these children will surely not graduate. LTELs should not pay for the failure of the adults in providing adequate instruction and learning supports.

**Recommendation. Continue to fund Long Term ELLs, until Nevada has the support structure for ELLs and develops appropriate instruction for long term ELL.** It would be bad policy to discontinue supports of the most vulnerable student demographic.

Thank you for the opportunity to weigh in on this important issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sylvia R. Lazos". The signature is fluid and cursive, with a large initial "S" and "L".

Sylvia Lazos,

Co-chair Education Committee, Latino Leadership Council

Cc: members of LLC

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<sup>29</sup> Using District Longitudinal Data to Inform the Design and Evaluation of Supports for Students at Risk of Not Graduating: A District Collaborative Research Project (WESTED 2013) (T. 1).

<sup>30</sup> See Tracy Spies, Testimony before TAC on Long Term ELLs (May 21, 2014).

<sup>31</sup> See Aida Walqui, *supra* note 16.

