Intersectionality and Equity Among English Learner Students in California: A Spotlight on Overlooked Populations

Overview

Uplifting the intersectional identities of English Learner (EL) students in California policy and legislation is an important topic that has been raised by the Consortium for English Learner Success. Intersectionality refers to an overlap of multiple social identities. For English Learner students who are, by definition, classified by language proficiency, there may be additional components of their identities, backgrounds, and experiences that make their needs and assets more distinct. An educational system that does not understand these distinctions would, in turn, compound the barriers intersectional EL students face in obtaining support to succeed in school. This memo focuses on subcategories of EL students who experience the intersections of trauma, socioeconomic hardship, immigration, and language access issues and therefore have unique challenges and needs.

EL students are not a monolithic group. They have diverse racial and ethnic backgrounds, cultures, migration experiences of those who are foreign-born, and primary languages. Yet, federal and state policy tend to cluster all EL students together under the false assumption that they all have similar educational needs. Doing so can seriously hinder the academic performance of EL students who are not served well by one-size-fits-all policies.

The complexity in understanding and addressing the distinct needs of students within the EL subgroup means EL students continue to be overlooked, as evidenced by consistent opportunity gaps between EL and non-EL students. What’s more, within the EL subgroup, designated programs or formal approaches designed for specific typologies of EL students are lacking.

This memo provides a description of key intersectional subcategories of EL students, highlights key issues impacting those students, and offers related policy recommendations. The intersectional subcategories are: (1) dually-classified and Long Term English Learner (LTEL) students (2) newcomer EL students (3) unaccompanied minors and EL foster youth and (4) Asian American, Native Hawaiian, and Pacific Islander (AANHPI) ELs. The purpose of this memo is to highlight the intersectionality of EL students and to promote public education through a cultural preservation lens, in which the primary languages and cultures of California’s diverse students are safeguarded and developed.

Intersectional Subcategories of English Learner Students

Dually-classified students and Long Term English Learners. Within the EL subgroup, there are students who also qualify for special education services, also known as “dually-classified” students. They require both language and special education supports. Long Term English Learners (LTEls) have been EL students for 6 or more years and have not made sufficient progress towards English proficiency and

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academic achievement. Students who hold both the EL and special education classification are more likely to become LTELs.3

Newcomer students. These are students who have recently arrived in the U.S. and may be refugees, unaccompanied minors or may have limited or interrupted formal education. The Every Student Succeeds Act identifies two groups of newcomer students: recently-arrived students who have been in U.S. schools for less than a year and immigrant students who have been in the U.S. for up to three years.4 Newcomer students with interrupted formal education (SIFE) have less than grade-level-equivalent education in their home country. Other newcomer students have grade-appropriate skills in their native language and may enter U.S. schools with transferrable academic credits.5 “Late-arriving” English learners are also newcomers, and arrive to U.S. schools in grades 6-12.6 Newcomers enter the U.S. school system for the first time at all grade levels and have higher rates of trauma exposure.7

Unaccompanied minors and EL foster youth. Unaccompanied minors (also known as UAC) are immigrant children who arrive to the U.S. without a parent or legal guardian or do not have a parent or legal guardian in the U.S.8 Most commonly, unaccompanied children migrate from the Northern Triangle countries of Central America. In May alone, a record-breaking 12,000 unaccompanied children were apprehended at the U.S.-Mexico border, which is likely to exceed the 90% increase in UAC migration in 2014.9 Some unaccompanied children enter the U.S. foster care system as they seek relief from deportation in immigration court. UAC have higher rates of trauma from displacement, relocation, and lack of parental support.

Asian American, Native Hawaiian, and Pacific Islander (AANHPI) ELs. The state of California serves more than 6.2 million children of which 12.1% are Asian American, Native Hawaiian, and Pacific Islander.10 3,827,352 of California’s children are identified as coming from a socioeconomic disadvantaged background (including 204,085 homeless youth), 34,426 are foster youth and 1,271,150 are identified as English Learner students.11 In 2013, more than 1/3 (35%) of Asian Americans and 13% of NHPI were limited English Proficient - a rate higher than Latinos (30%).12

Key Issues

Dually-classified Students and Long Term English Learners

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5 Ilana Umansky, Ibid.
7 Muzaffar Chishti, Ibid.
9 Ibid.
EL students face challenges in being properly identified for special education due to an inability to distinguish between language and a disability need. EL students have historically been over- and under-identified for special education. Approximately 14% of EL students in California have a disability, compared to 12.8% of ELs in the nation.13 The share of ELs with a disability is also slightly higher than the state’s share of students with a disability (12.4%).14 Improper identification may lead to inappropriate instruction, assessment, and accommodation for these students.15 This can be caused by an inability to differentiate a language need and a disability. For example, evidence of a disability could be masked by limited English proficiency or vice versa. Poorly designed and implemented referral strategies are also a major barrier to accurate identification and services for ELs.16 The California Department of Education (CDE) has recently created a manual providing guidance to school districts to identify and support these students.17

Long Term English Learners are disproportionately identified as students with disabilities and may not receive timely special education services. Significant proportions of LTEls are dually-classified ELs with disabilities.18 In California, nearly half of secondary EL students are LTEls; they are often socially, academically, and linguistically isolated with low access to core curriculum, further hampering their educational achievement and ability to complete high school within four years.19 Educators may be hesitant to refer a student with a possible disability until their English proficiency improves. As a result, LTEls with a possible disability may proceed throughout their education without the special education services they require to improve English proficiency and academic achievement.

Dually-classified students are entitled to both language and special education services under federal law, but schools and districts are challenged with providing assessment accommodations and timely and appropriate special education services. In 2009, only 1% of ELs were provided with language accommodations on state assessments.20 Schools may be unaware of the types of accommodations available to students and the legal right for ELs to access these accommodations. The insufficient use of assessment accommodations for ELs can lead to improper identification of ELs and inappropriate placement of ELs into classrooms and programs mismatched to their needs. Dually-classified students may be withheld from EL or special education services, including bilingual programs, as schools and districts may interpret law on service provision for only one category of the student or have misperceptions about students’ abilities to thrive in bilingual programs.21 Educators often have difficulty providing consistent and adequate specialized instruction that meet both sets of needs. There is also a lack of consistent monitoring of student progress across EL and special education systems.

EL students with disabilities face barriers to reclassifying when reclassification criteria is not modified according to students’ abilities.22 A lack of modification in reclassification criteria,

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14 Ibid.
18 Ilana Umansky, Ibid.
21 Ilana Umansky, Ibid.
22 Ilana Umansky, Ibid.
procedures, and mechanisms leads to an inability for dually-classified students to meet one of the criteria for reclassification: proficiency in English language arts. Education providers also lack guidance and expertise on how to modify the reclassification process. While the CDE has recently released guidance to around this topic, more resources will be needed for it to be disseminated and meaningfully implemented.

Newcomer Students

Schools and districts struggle to determine the appropriate instructional program for newcomers. More research and guidance is needed to determine the appropriate balance between newcomer integration versus separation. Some research shows that newcomer students may benefit from short-periods of intensive separated English immersion coursework, while other research indicates that academic isolation leads to exclusion from core content instruction and the development of newcomers’ home language yields academic success.23

Secondary-aged newcomers are pushed out of traditional high school settings.24 Late-arriving newcomers often struggle to meet graduation graduation requirements before being pushed out of the K-12 school system. Whether due to social and safety concerns regarding including older students in school settings or the use of a four-year adjusted cohort graduation rate in California’s accountability system, schools and districts may push newcomers to adult school or community college settings. They have very different educational needs and strengths compared to their non-newcomer peers. They often grow very quickly when they first enter U.S. schools, suggesting the first few years in U.S. schools are critical to their success.25

Many newcomers have higher rates of trauma exposure and therefore have discrete mental health, emotional, and social needs. The hostile federal climate toward immigrants has negatively impacted the mental health, attendance, academic achievement, and parent participation of newcomer students.26 In addition, many newcomers may have experienced trauma in their home country or during their journey to the U.S.

Unaccompanied Minors (UAC), Detention Centers, and EL Foster Youth

Some unaccompanied minors are held in unsafe and unsanitary detention facilities, in violation of federal settlement policy. The Flores Settlement agreement of 1997 outlines standards for the detention and release of unaccompanied minors taken in federal immigration custody and establishes that children must be placed in the “least restrictive setting”.27 UAC must be provided with “safe and sanitary conditions” and receive education services, including English language training, among other services.28 Recent reporting of a migrant detention center in Clint, Texas indicate that some UAC and immigrant children may be held in very poor conditions and have less access to educational services.29

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25 Umansky, Ibid.
28 Stipulated Settlement Agreement, at ¶ 11
Some schools and districts are creating programs that address the acute needs of unaccompanied minors and newcomers, while others make school enrollment more difficult. Unaccompanied children, and newcomers more broadly, are entitled to a free public K-12 education under federal law. However, schools face challenges in meeting the needs of unaccompanied minors, including family reunification, interrupted formal education, acculturation and trauma. California has the second-highest number of unaccompanied minors in the country, with nearly 10,000 being released to family sponsors between 2013 and 2015.  

Some schools are bearing the responsibility to support this vulnerable population with very little federal support to do so, while others are creating barriers for students to enroll.

Most unaccompanied children are likely to remain in unauthorized status in the U.S. for a long time, are ineligible for most public services and thus require extensive and unique services when enrolled in U.S. schools. UAC have unique service needs stemming from unmet basic needs in their home countries, such as proper nutrition, shelter, safety, and education. Many have been exposed to gang violence in their home country or experience trauma, like theft and violence, during their journey to the United States. Their service needs are, therefore, extensive upon enrollment into U.S. schools and typically not supported with federal funds. Unaccompanied children are eligible for the national subsidized free lunch under federal law but do not qualify for a myriad of other public services until they receive immigration status.

AANHPI EL Students

Students and families who speak Asian languages have little to no voice on matters of language access and support, nor broader education equity issues. In 2013, more than 1/3 (35%) of Asian Americans and 13% of NHPI were limited English Proficient - a rate higher than Latinos (30%). In Los Angeles County, 85.71% of English Language Learners are Spanish speakers, with the remaining consisting of a mix of primarily Asian languages like Mandarin, Korean, Cantonese, Vietnamese, and Tagalog.

POLICY RECOMMENDATIONS

ELs with a Disability and Long Term English Learners

1. Establish a clear policy statement that additional considerations will be used to place ELs in special education programs. The longstanding concern of under- and overidentification of ELs in special education warrants a state and/or local policy that clearly states that additional considerations will be used when identifying and placing ELs in special education.

2. Strengthen the technical expertise of staff on disability identification and intervention strategies among English Learner students. Districts should take multiple approaches to systematically strength capacity on disability identification. This could include providing technical assistance for schools to construct referral teams to include both EL specialists and

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31 Sarah Pierce, Ibid.


34 California Department of Education, “English Learner Students by Language by Grade,” https://dq.cde.ca.gov/didataguest/SpringData/StudentsByLanguage.aspx?Level=County&TheYear=2017-18&SubGroup=All&ShortYear=1718&GenderGroup=B&CDSCode=19000000000000&RecordType=EL
special education specialists so that ELs are accurately identified and given appropriate services. Individualized Education Program teams should be strengthened to work with dually identified students so that, once identified, dually-classified students are monitored and provided with meaningful access to both types of services. EL students’ language and disability needs should be assessed using a response to intervention approach in which intensive and focused instruction, assessment, and intervention are increased over time.

3. **Allow LTELs and newcomers more time to complete high school graduation requirements if needed, until age 21.** Long term EL students often require more time to finish their high school requirements whether due to a learning disability or lack of appropriate structures in elementary and secondary schools. Long term EL students are disproportionately identified as students with special needs and enrolled in lower-level classes. Other groups of EL students would also benefit, such as newcomer students who arrive in high school may also need more time to graduate high school. English learner students who require more time to graduate should be allowed to finish in a traditional high school setting.

4. **Ensure county offices of education and school districts have the support to meaningfully implement the recently issued guidance by the California Department of Education to support dually-classified students.** The recent guidance released by the California Department of Education, *California Practitioner’s Guide for Educating English Learners with Disabilities,* is a step in the right direction to help schools and districts provide meaningful access to EL and disability services. Additional steps should be taken to ensure this guidance and policy is meaningfully implemented, which could include providing professional development to counties and districts or funding pilot implementation initiatives.

5. **Modify reclassification criteria, procedures, and mechanisms for dually-classified students at the school board level.** This would improve eligible students’ ability to reclassify, thus avoiding the LTEL classification. Reclassification criteria, procedures, and mechanisms should be appropriately tailored to the individualized education program (IEP) goals of the student at the school level. The state could also share a model school board policy regarding modified reclassification criteria for dually-classified students as a helpful tool for school board policymakers.

**Newcomer Students**

6. **Provide ELs across all grade levels with immediate and full access to grade-level core content with appropriate language supports, and include EL course enrollment as a statewide indicator of student success.** Core content courses can be made immediately accessible for EL students through instruction in a student’s native language which has shown to be promising for EL student achievement, especially for newcomer students and students with beginning levels of English proficiency. An indicator in the state’s accountability system related to EL course enrollment would allow for the state, schools and districts to monitor equitable course access for EL students and intervene when access issues arise. Schools should consider the level a student is in core content during course placement, so EL students have access to not only grade-level core content, but honors and AP classes as well.

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35 Julie Sugarman, Ibid.
7. **Issue guidance related to the balance between newcomers’ separation for targeted services and integration for access to mainstream content and peers.** This guidance should maximize learning and minimize exclusion. It could include approaches to supporting newcomer students, such as providing targeted expanded learning time.

8. **Use a five- and/or six-year graduation rate in the state accountability system to reward districts for graduating newcomer students, who may need more time to graduate high school.** State law now allows newcomers to attend a fifth year of high school to complete local graduation requirements. However, schools and districts are not incentivized to retain their newcomers and support them through graduation. The state should create an incentive by revisiting its use of the four-year graduation rate in its accountability system.

9. **Ensure newcomers’ proficiency in their home languages are valued and count toward high school graduation.** In some school districts, not all heritage language classes currently count toward A-G coursework. School board policy could allow for heritage language classes to count towards post secondary eligibility. In addition, state law now requires that coursework completed in the home country by newcomer students be accepted for full or partial credit.

10. **Establish robust partnerships with other public, private or non-governmental agencies to provide socio-emotional support and wraparound services to newcomer students.** Local school districts can create partnerships to provide students and families with educational workshops or information about immigration laws, free or low-cost legal services, health insurance access, and other social services programs. In doing so, the school could be a community hub for students and families and can promote a welcoming environment with trustful relationships that lead to student success.

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**Unaccompanied Minors and EL Foster Youth**

11. **Request the Office of Refugee Resettlement (ORR) to forewarn California school districts before releasing unaccompanied children, so that districts can allocate resources appropriately.** California has the second highest number of unaccompanied minors in the country. Many schools experience challenges in meeting the needs of unaccompanied minors due to having limited resources and the unpredictable nature of when they might enroll in schools. ORR does not currently have a system that tracks the outcomes of released children or share any relevant information with receiving school districts so that they can allocate resources accordingly. In addition, there is a need to better track the outcomes of EL foster youth.

**Asian American, Native Hawaiian, and Pacific Islander EL Students**

12. **Increase language access among AANHPI families by reevaluating Cal. Educ. Code § 48985(a).** State law requires schools to provide all information in the primary language of the family, if 15 percent or more of the students enrolled in that school speak a single primary language. The 15 percent threshold should be reevaluated, given the large share of AANHPI who are EL students. More language access is needed to conserve the cultures and primary languages of all ELs, including AANHPI students.

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36 Cal. Educ. Code § 51225.1 & 51225.2
37 Cal. Educ. Code § 51225.1 & 51225.2
38 Sarah Pierce, Ibid.