The Impacts on English Learners of Key State High School Policies and Graduation Requirements

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Executive Summary

Few academic outcomes carry the weight of high school graduation, which is both a milestone for students and a key indicator of school effectiveness. Many individual, familial, and systemic factors contribute to whether students successfully complete high school, and English Learners (ELs) often experience unique challenges navigating the complex pathways through the K-12 system. States carry primary responsibility for setting the benchmarks for what high school graduates know and can do as well as policies to keep students on track toward those goals. But too few state policies take into consideration how the pathway to graduation may look different for ELs and for subpopulations such as adolescent newcomers with limited formal education.

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Many high schools have built successful EL programs through their own initiative, creating innovative program models and student support systems. But even in generally high-quality school systems, there is often little consistency from school to school in what services are available to ELs and what college and career preparation pathways they can access. States can do more to ensure all ELs have access to high-quality learning experiences while still giving schools flexibility to respond to local needs and circumstances, including creating policies in the areas described below.

Defining graduation requirements and completion rates:

- Most states define minimum requirements to receive a high school diploma. States can clarify what EL-specific coursework counts for credit and whether ELs should be given exceptions to any requirements in order to balance high expectations with fairness.
- Equity advocates have encouraged states to align high school graduation requirements with a college preparatory course of study, but few states have a default pathway sufficient for admission to a four-year university. Moving in this direction might help ensure ELs have access to college-preparatory pathways, but states should also consider what supports need to be in place for this strategy to be successful, especially for newcomers entering U.S. schools with limited formal education.
- The four-year graduation rate is a key measure of school performance. The high stakes it carries in accountability systems may unintentionally lead administrators to be reluctant to enroll high school newcomers who are unlikely to graduate in four years. States can mitigate that reluctance by ensuring that schools are given credit for students who graduate in more than four years and that the consequences of accountability systems are fair.
- Reporting overall EL graduation rates may not be sufficient to target ELs at risk of dropping out or to identify underperforming school programs in need of additional support. States can disaggregate data (for example, for newcomers and for ELs with disabilities) and use additional indicators to better understand ELs' educational trajectories.

Placement in and design of instructional programs:

- State departments of education can help schools with EL student intake and placement by providing guidance on how to collect and interpret information to place them in the right classes.
- Although schools generally have wide latitude to design EL instructional models, states can provide guidance on research-based practices. For example, states that want to reduce the number of long-term ELs—those who remain in EL services for longer than average, and a group at higher risk of dropping out—might suggest or mandate the use of bilingual education starting in elementary school.
- Each state has a uniform process for exiting students from EL status. Ensuring that state criteria allow students to exit in a timely manner may help keep students motivated and on track to graduate.

Ensuring access to high-quality educational opportunities:

- Increasing a state's maximum age of enrollment in free, public education could help expand older immigrant newcomers' access to a standard high school diploma.
- Research has shown that ELs are systematically underenrolled in advanced coursework and overenrolled in remedial courses. States can set policies requiring schools to ensure ELs are not automatically placed in low-level coursework solely due to their English proficiency level.
- Requirements for EL and bilingual specialist credentials vary widely across states. States wanting to ensure consistent and high-quality instruction for ELs might review whether their EL/bilingual teacher certification process is sufficiently rigorous and require ELs to be served by teachers with such credentials.

Students face increasingly high expectations regarding what they should know and be able to do upon graduating from high school. The U.S. education system is designed to hold schools accountable for helping students meet those expectations, with public scrutiny of a wide variety of indicators of school success. At the same time, educational systems must balance high standards for all students with options that support ELs with a range of needs and attending schools with diverse capacities. With such variation in contexts, state regulations and guidance can provide important guardrails to ensure consistency across districts, while allowing for flexibility to help ELs achieve their educational goals.

1 Introduction

English Learners (ELs) face a number of unique challenges navigating a path to high school completion. Researchers have identified a long list of potential reasons that youth drop out of school as well as protective factors and interventions that may keep some at-risk students on track. Among this wide variety of forces shaping any young person's trajectory are individual factors such as their background and experiences, the context of their family and community, and their school's policies and practices. In addition to the challenges many ELs experience as students of color and students living in poverty, ELs often contend

with educators unprepared to meet their language development needs and to help them and their families access resources in unfamiliar school and community systems.

Although many school systems have invested considerable time and energy in improving EL education, opportunity gaps and achievement gaps persist.[1] Graduation rates for all students and for subgroups such as ELs and students living in poverty rose steadily over the 2010s, and yet in 2019, only 69 percent of ELs graduated in four years, compared to 84 percent of all students.[2] The stakes are high for students as well as their communities and schools, as high school completion is generally a minimum requirement to earn a family-sustaining wage and the graduation rate is a key marker of school and district effectiveness.

With the nation's 5 million ELs making up a substantial portion of the K-12 population in most states,[3] ensuring that state educational policies support this diverse group is a critical step in improving educational outcomes. While the protections afforded by federal civil rights laws are critical to ensuring ELs' access to education, it is state policy that sets the foundation for how school systems meet those obligations. States have primary authority on such issues as school funding, compulsory attendance, teacher education and certification, and the organization of local education agencies (districts as well as charter schools or networks). Since the passage of *No Child Left Behind* (NCLB) in 2001, states have taken a more active role in school improvement efforts, for example by enacting laws related to charter schools, setting more rigorous graduation requirements, and designating specific topics for teacher professional development.[4] Typically, state policies on these issues are developed by policymakers and administrators who are not specialists in EL education. As a result, such policies may not fully meet ELs' unique needs, or, in the worst cases, put up unnecessary and unintended hurdles.

While local flexibility is often key to meeting the diverse needs of ELs, the lack of guardrails in many states may mean that students in different school districts within a state have very different experiences and levels of access to a rigorous education.

This report discusses key policy areas that are within the purview of states to regulate, are relevant to high school completion, and may have unique impacts on ELs. In researching state policies for this report, it was evident that few formal laws or regulations explicitly address obstacles to high school completion for ELs or immigrant-background students. The richest information was generally found in documentation from state education department EL offices, including guidance on how to interpret statewide rules. While local flexibility is often key to meeting the diverse needs of ELs, the lack of guardrails in many states may mean that students in different school districts within a state have very different experiences and levels of access

1 Opportunity gaps refer to ways that student groups such as English Learners (ELs) face systemic obstacles to accessing academic resources, while achievement gaps refer to differences in educational outcomes (generally test scores) between more- and less-advantaged student groups.

2 National Center for Education Statistics (NCES), "Table 219.46. Public High School 4-Year Adjusted Cohort Graduation Rate (ACGR), by Selected Student Characteristics and State: 2010-11 through 2018-19," updated February 2021; Julie Sugarman, *The Unintended Consequences for English Learners of Using the Four-Year Graduation Rate for School Accountability* (Washington, DC: Migration Policy Institute, 2019).

3 As of Fall 2018, ELs were at least 5 percent of the student population in 34 states plus Washington, DC, and at least 10 percent in ten states plus DC. See NCES, "Table 204.20. English Language Learner (ELL) Students Enrolled in Public Elementary and Secondary Schools, by State: Selected Years, Fall 2000 through Fall 2018," updated November 2020.

4 Betheny Gross and Paul T. Hill, "The State Role in K–12 Education: From Issuing Mandates to Experimentation," *Harvard Law and Policy Review* 10, no. 2 (2016): 299–326.

to a rigorous education. The policy options outlined in this report provide numerous opportunities to establish consistent but flexible supports to help ELs benefit from all that their high school has to offer.

2 EL Diversity and Outcomes

As of Fall 2018, there were 947,101 ELs enrolled in Grades 9 to 12 in U.S. public schools, making up about 6 percent of all high school students. In contrast, 11 percent of students in kindergarten through Grade 8 were ELs.[5] The smaller share of ELs in the high school grades reflects the fact that more students exit EL status over time than new EL students arrive in the United States. The fact that students stop being classified as ELs once they achieve English proficiency means that by high school, a significant share of the EL population is students who are struggling academically or who are new to U.S. schools.

High school ELs may be described as falling into four groups:

- **Long-term English Learners.** Such students have been classified as ELs for more than four to seven years (depending on state definitions), many since kindergarten. They are far more likely to qualify for special education services than are other ELs or non-ELs in Grades 6 to 12.[6]
- **Newcomer students with interrupted formal education (SIFE).** These recently arrived immigrant students have less than grade-level-equivalent education, often with low levels of literacy in their native language.
- **Newcomer students at or close to grade level.** These students often arrive with high school transcripts and evidence of coursework that can transfer into academic credits.
- **Progressing ELs.** These students entered U.S. schools in late elementary or middle school and are on track to exit EL status in the typical four- to seven-year time frame.

In addition to their length of time in the United States and prior educational background, ELs are a diverse group in numerous other ways. These include language background, socioeconomic status, parents' educational backgrounds, and their families' reasons for and experience during immigration. These differences are critical to understanding student outcomes, although reported data are infrequently broken down by these more specific categories.[7] Further, data from former ELs (students who have exited EL status)

5 NCES, "Table 203.10. Enrollment in Public Elementary and Secondary Schools, by Level and Grade: Selected Years, Fall 1980 through Fall 2029," updated August 2020; NCES, "Table 204.27. English Language Learner (ELL) Students Enrolled in Public Elementary and Secondary Schools, by Home Language, Grade, and Selected Student Characteristics: Selected Years, 2008-09 through Fall 2018," updated November 2020.

6 Narek Sahakyan and Sarah Ryan, *Exploring the Long-Term English Learner Population across 15 WIDA States* (Madison, WI: Wisconsin Center for Education Research, 2018); Ilana M. Umansky et al., *Improving the Opportunities and Outcomes of California's Students Learning English: Findings from School District–University Collaborative Partnerships* (Stanford, CA: Policy Analysis for California Education, 2015).

7 Julie Sugarman, *A Guide to Finding and Understanding English Learner Data* (Washington, DC: Migration Policy Institute, 2018).

are not typically reported, which means that policymakers are unable to track the progress of large numbers of multilingual learners who had been served by EL programs in U.S. schools.[8]

Some states and researchers are beginning to look at how to expand who is included in EL data reporting[9] in order to provide schools and districts with better information to make policy decisions. Critically, data consistently show that the standardized test scores and graduation rates of former ELs are as good as—or even better than—other students. For example, in Oregon's class of 2020, the four-year graduation rate for students who were ELs any time prior to but not during high school was actually higher than that of students who were never ELs (86 percent versus 83 percent). Students who were ELs any time in high school had a predictably lower rate of 65 percent.[10]

While graduation rates of current ELs are typically lower than average,[11] it is important to know if some subgroups of ELs perform better than others in order to develop effective interventions. One study identified six subgroups of ELs within a sample of high schoolers in Massachusetts, finding systematic differences in graduation rates. The group with the lowest four-year graduation rate (48 percent) was Spanish-speaking, high-poverty long-term ELs, about half of whom qualified for special education. High-poverty long-term ELs who spoke other languages did better, with a 77 percent graduation rate, and about one-quarter of these students qualified for special education. The rate for long-term ELs who did not qualify for special education was 91 percent. Among newcomers, while the rate for high-poverty Spanish and Haitian speakers was 67 percent, it was 91 percent for high-poverty Chinese and Vietnamese speakers as well as for low-poverty newcomers. The three groups with relatively low graduation rates did worse on standardized tests of English and math and were more likely to fail a Grade 9 course than the groups with higher rates.[12]

Stakeholders can also gain valuable insight by looking at graduation and dropout rates other than those reported by state departments of education. The U.S. Census Bureau reports on educational attainment, but it does not limit its analysis to those who attended school in the United States. Unlike administrative data from state departments of education, the status completion rate reported by the Census Bureau includes individuals who received a high school equivalency diploma, such as by passing the General Educational Development (GED) test. Table 1 shows that the total number of youth ages 18 to 24 who completed high school or the equivalent is higher than the four-year graduation rates reported by U.S. schools. Almost 80 percent of Hispanic, foreign-born youth received a high school diploma or equivalent, along with more than 90 percent of non-Hispanic foreign-born youth, U.S.-born children of immigrants, and those who are not children of immigrants.

8 To account for this, many states include former ELs for two to four years after exiting EL status in the EL subgroup used to report standardized test results. See Leslie Villegas and Delia Pompa, *The Patchy Landscape of State English Learner Policies under ESSA* (Washington, DC: Migration Policy Institute, 2020).

9 For more information on which ELs are included in the EL subgroup for data reporting, see Julie Sugarman, *Which English Learners Count When? Understanding State EL Subgroup Definitions in ESSA Reporting* (Washington, DC: Migration Policy Institute, 2020).

10 Oregon Department of Education, "Graduation Reports: School Year 2019-20—Cohort Graduation Rate 2019-2020 Media File," updated March 31, 2021.

11 Note that most states include students who were ELs any time in high school in their EL subgroup graduation rate, but some include only students who were ELs in their last enrolled year. See Sugarman, *Which English Learners Count When?*

12 Jonathan F. Zaff et al., "English Learners and High School Graduation: A Pattern-Centered Approach to Understand within-Group Variations," *Journal of Education for Students Placed at Risk (JESPAR)* 26, no. 1 (2020): 1–19.

TABLE 1

Status Completion Rate of 18- to 24-Year-Olds Not Enrolled in a U.S. High School, 2018

Recency of Immigration	Hispanic	Non-Hispanic	All Ethnicities
Born outside the United States	79.1%	94.3%	87.2%
First-generation U.S. born	91.4%	97.3%	94.1%
Second-generation or higher U.S. born	92.4%	94.7%	94.4%

Note: First-generation individuals were born in the United States, but one or both parents were born outside the United States. Second-generation or higher individuals were born in the United States, as were their parents.
Source: National Center for Education Statistics, "Table 219.67. High School Completion Rate of 18- to 24-year-olds Not Enrolled in High School (Status Completion Rate), Number of 18- to 24-year-olds Not in High School, and Number Who Are High School Completers (Status Completers), by Selected Characteristics: Selected Years, 2008 through 2018," updated October 2019.

3 The Path to Graduation

One of the guiding principles of U.S. education policy in the 21st century is that all students—including those from traditionally underserved populations—must be held to the same high academic standards. In fact, federal policies require states to hold schools accountable for closing achievement gaps between more and less advantaged student groups. As states have made graduation requirements more rigorous over the years, schools have struggled to balance high expectations with providing flexibility to students who enter high school underprepared or who would benefit from a nontraditional pathway. States can help districts and schools be both consistent and fair by developing policies that address how EL coursework leads to credits, give credit to schools that graduate students in more than four years, and provide detailed data to help schools target the right resources to ELs with diverse needs.

As states have made graduation requirements more rigorous over the years, schools have struggled to balance high expectations with providing flexibility to students who enter high school underprepared or who would benefit from a nontraditional pathway.

A. Graduation Requirements

Nearly all states have minimum high school graduation requirements. The exceptions are Colorado, Massachusetts, and Pennsylvania, which allow districts to set their own requirements. State requirements generally lay out the number of courses students must take in each subject (English language arts [ELA],[13] math, social studies, science, physical education, health, arts, and foreign language); the total number of core and elective credits students must take; and in some cases, which specific courses students must take as part of the core curriculum (e.g., biology, U.S. history).

13 In this report, English Language Arts (ELA) is used to refer to courses in composition and literature. This subject area is commonly called simply "English" in many high schools.

High school ELs—especially those at the beginning and intermediate stages of English proficiency—typically take at least one English as a Second Language (ESL) class.[14] There are no states where these are required for graduation, per se, but some states require ELs, particularly newcomers, to be enrolled in such classes. In California and New York State, for example, ELs must receive both direct ESL instruction (where language development is the focus of the course) and integrated ESL instruction (where language proficiency is supported during lessons on other academic content).[15] Such courses may be essential for English learning but they also can take up valuable time needed to earn core academic credits or displace electives such as art and music that may be very enriching for students and offer an opportunity to interact with non-EL students in meaningful ways.[16]

In some states, ESL classes count for core or elective credit. In Tennessee, for example, students may apply two ESL credits toward the four ELA credits required for graduation, and additional ESL courses count as elective credits.[17] Similarly, Georgia allows ESL courses that are aligned with ELA courses to fulfill two of the four required ELA courses (not 9th Grade Literature and Composition or American Literature and Composition), with additional ESL classes counting toward elective credit. Students enrolled in ESL courses for ELA credit must take the same end-of-course exams as students taking the general education version. Teachers of such classes must have both ESL and ELA credentials. Some states, such as New Jersey, allow ESL to count as world language credit.[18]

Specially designed academic content courses for ELs, sometimes called sheltered instruction, also generally count for core academic credit as long as the teacher is certified in the academic content; if not, it might only count as an elective. Additionally, some states allow students to earn credits for world languages they already know, such as Washington State, which allows students to receive up to four credits based on their score on a language proficiency exam.[19] While bilingual education at the high school level is less common than it is in elementary schools, offering content area instruction in students' native languages is another way to ensure that ELs can take credit-bearing courses to make progress toward graduation. Although in most states ELs must take language arts in English, in 2021, the Oregon legislature amended graduation requirements to offer credit for language arts courses given in any language.[20]

California, like many states, allows school districts to add additional graduation requirements on top of the state minimum. However, California Law AB 2121, passed in 2018, exempts ELs in newcomer programs in their third or fourth year of high school and migrant students from those additional requirements if they

14 In this report, English as a Second Language (ESL) is used to refer to instruction for ELs that focuses primarily on language development. Although many states use other terms such as English language development for this purpose, this report uses ESL as it is likely familiar to the widest range of readers.

15 In New York, only high school students at the lowest two of five English proficiency levels are required to receive ESL as a stand-alone class. See New York State Education Department (NYSED), "CR Part 154-2 (9-12) English as New Language (ENL) Units of Study and Staffing Requirements" (rubric, NYSED, Albany, NY, May 6, 2015). On California, see California Department of Education, "CA Ed. G.E. Code of Regulations and Education Code," updated December 7, 2020.

16 Manuel Vazquez Cano, Ilana M. Umansky, and Karen D. Thompson, "How State, District, and School Levers Can Improve the Course Access of Students Classified as English Learners in Secondary Schools" (research brief, National Research & Development Center to Improve Education for Secondary English Learners at WestEd, San Francisco, CA, 2021).

17 Tennessee Department of Education, "English as a Second Language" (manual, Tennessee Department of Education, Nashville, November 9, 2018), 63.

18 State of New Jersey Department of Education, "Policy Initiatives," accessed August 12, 2021.

19 Washington Office of Superintendent of Public Instruction, "World Language Competency Testing," accessed August 12, 2021.

20 Oregon State Legislature, *Relating to English Instruction*, HB 2056, Chapter 178 (2021).

cannot complete them in four years. These students can choose to stay for a fifth year of high school to have sufficient time to complete the extra work. Otherwise, eligible students can graduate by completing only the state requirements.[21]

Some states have non-course requirements such as community service; demonstrating competency in civics, financial literacy, or technology; completing the Free Application for Federal Student Aid (FAFSA);[22] or successful completion of a senior project.[23] As of 2020, only 11 states required students to pass one or more statewide standardized exam to graduate.[24] Passing state ELA tests can be particularly challenging; Box 1 provides an example of the alternatives New York State has considered for ELs.

Policy Considerations for ELs. Designing a course of study for ELs requires balancing a number of needs, especially for those who enter high school with very low literacy levels and need to take multiple remedial courses to prepare for high school content. There are a variety of ways that schools can address the competing demands of providing targeted instruction to ELs and ensuring they stay on track to earn the credits they need to graduate.

Schools increasingly combine ESL instruction with content area instruction; that is, they teach both ESL and content curricula in an integrated way. This practice—grounded in research on second language acquisition—helps keep students on track to earning state-required credits without adding an additional class period for ESL. However, it can be challenging to combine English language development standards with academic content standards, especially within the confines of a traditional high school day. Some schools use block scheduling to allow for longer class periods that meet fewer times per week to ensure that students receive sufficient support to develop language and content skills in such courses.[25]

For schools that offer ESL and remedial courses for ELs that do not count toward graduation requirements, schools may extend learning time through afterschool, weekend, and summer courses. Without this additional time, students might find themselves having to take multiple credit-bearing courses within the same subject area in their senior year, especially when the state requires four years of a subject. Some schools use extended learning time to allow ELs the opportunity to take enriching elective courses such as art, music, and computer science. Still, some newcomers might find a five-year path necessary to complete all of the requirements, especially if they aspire to enroll in a four-year college.

21 State of California, *An Act to Amend Sections 51225.1 and 51225.2 of the Education Code, Relating to Pupil Instruction*, AB 2121, Chapter 581 (2018).

22 While states provide an opt-out provision for completing the Free Application for Federal Student Aid (FAFSA), it should be noted that unauthorized immigrant students or students with unauthorized immigrant parents or guardians may experience stress having to disclose their status to school officials or confusion about what types of financial aid they qualify for. See Peter Granville, "Should States Make the FAFSA Mandatory?" The Century Foundation, July 29, 2020.

23 Education Commission of the States, "50-State Comparison: High School Graduation Requirements," updated February 14, 2019.

24 Fairtest, "Graduation Test Update: States That Recently Eliminated or Scaled Back High School Exit Exams," updated May 2019.

25 Maria Santos et al., *Preparing English Learners for College and Career* (New York: Teachers College Press, 2018).

BOX 1
Alternatives to Graduation Exams in New York State

In New York State, students can earn one of three types of high school diplomas: a Regents diploma, a Regents diploma with advanced designation, or a local diploma. Students must pass specific Regents exams or alternatives approved by the New York State Education Department (NYSED) to earn any diploma. For the Regents diploma, students must pass four exams, one in each discipline (English language arts [ELA], math, science, and social studies). They must also pass a test in an area of their choosing, including world languages, or complete career development requirements. NYSED offers three Regents exams—Algebra I, Living Environment, and Physical Setting/Earth Science—in the top eight languages other than English, ensuring that English Learners (ELs) who speak these languages are being tested on the subject matter, not their English proficiency.

Passing such exams presents a major hurdle toward graduation for ELs. It may be a factor in why New York has the lowest graduation rate for ELs nationwide, with only 34 percent of ELs graduating in four years in the 2018–19 school year. To reduce disparities in graduation rates, NYSED created an option for a local diploma via an appeals process that permits ELs to pass exams with lower scores. More specifically, ELs can seek an appeal for a failing score on the ELA Regents exam and one other exam after at least two attempts to pass. ELs are eligible for this option if they: (1) entered the United States in 9th grade or after; (2) were classified as an EL when they took the test the second time; (3) attained an ELA course average that meets the school's required passing grade; and (4) were recommended by their ELA teacher or department chair to receive an appeal. With this appeals process, late-arriving ELs who are able to pass other required Regents exams have the opportunity to earn their diploma and graduate from high school.

Some schools have moved away from the Regents exams almost entirely and adopted their own performance assessment system. Upon a waiver from the New York State Commissioner, 38 schools—including many designed for ELs—in the New York Performance Standards Consortium replaced all but the ELA Regents exams with performance-based assessment tasks in literature, social studies, science, and math. Many ELs participate in and benefit from the consortium, with consortium schools in New York City serving a greater proportion of ELs than traditional city schools. Through the consortium and state policies such as the local diploma appeals process, New York State offers its ELs many options for earning their high school diploma, creating a fairer path toward graduation. The consortium's approved performance-based standards and policies such as the local diploma appeals process highlight the careful balance policymakers in New York State and elsewhere have sought to strike in setting high graduation standards for all students, while also attempting to ensure that ELs receive fair treatment under their standards regime.

Sources: Memorandum from Steven E. Katz, Assistant Commissioner, NYSED, to District Superintendents; Superintendents of Schools; Principals of Public, Religious, and Independent Schools; and Leaders of Charter Schools, "Procedures for Requesting and Storing the June 2021 Regents Examinations," March 15, 2021; Michelle Fine and Karyna Pryiomka, *Assessing College Readiness through Authentic Student Work: How the City University of New York and the New York Performance Standards Consortium Are Collaborating Toward Equity* (Palo Alto, CA: Learning Policy Institute, 2020); New York Department of State, Division of Administrative Rules, "Diploma Requirements," *New York Codes, Rules, and Regulations* 8 CRR-NY 100.5 (September 30, 2020); New York Performance Standards Consortium, "New York Performance Standards Consortium," accessed August 25, 2021; NYSED, "New York State Diploma Requirements Applicable to All Students Enrolled in Grades 9-12" (guidance, NYSED, Albany NY, March 2021); NYSED, "New York State Diploma/Credential Requirements" (guidance, NYSED, Albany NY, March 2021).

B. The Increasing Rigor of Pathways to Graduation

One of the goals of the standards-based reform movement has been to increase expectations for what students have learned by the time they graduate. The idea that graduating students must be "college and career ready" has permeated much of education policy and practice in recent years. This concept rests on the assumption that the same set of standards can meet both goals, insomuch as many more careers require some postsecondary training than was the case in the past. Additionally, even if not all students end up in higher education, raising expectations is intended to increase the number of students who are ready for college and to ensure that traditionally underserved groups of students have access to a college-preparatory track. In order to raise graduation standards, states can increase the number of course credits needed in core areas (such as four years of math instead of three), increase the total number of credits needed to graduate, require students to demonstrate competency in one or more subject areas (such as through tests), and/or require students to complete specific advanced coursework within a subject (such as Algebra II, a course typically required for admission to four-year colleges).

States face considerable pressure to raise graduation standards from a number of sources. First, ever since the influential 1983 report, *A Nation at Risk*, the rhetoric around school reform has focused on needing the U.S. workforce to have higher skills, especially in math and science.[26] A number of equity-focused think tanks have published reports concluding that graduation standards are too low and exhorting states to align expectations with college entry requirements.[27] Further, school accountability policies have gradually narrowed what counts as a high school diploma by only counting as graduates those students who receive the standard diploma given to the majority of students in a state, excluding less rigorous diplomas, certificates, and passing a high school equivalency test such as the GED.

Despite the pressure to set a narrow, increasingly rigorous pathway to high school graduation, one study found that 29 states still offer multiple pathways to earn a standard diploma. Some of those states align their default pathway to college- and career-ready standards while others require students to opt into that track. Among the 21 states plus the District of Columbia that only have one pathway, 14 have not aligned their minimum requirements with college- and career-ready standards.[28] Using a different metric, another study found that only six states meet and three states partially meet criteria demonstrating alignment of their high school graduation requirements with requirements for admission to the state's flagship public university.[29]

Policy Considerations for ELs. Research shows that taking more rigorous coursework in high school has positive long-term effects on high school and college success. However, research on the impact of raising course requirements for graduation is more mixed. Some studies found that state efforts to increase

26 Jal Mehta, "Escaping the Shadow: 'A Nation at Risk' and Its Far-Reaching Influence," *American Educator* 39, no. 2 (2015): 20–26, 44.

27 See, for example, Monica Almond, *Paper Thin? Why All High School Diplomas Are Not Created Equal* (Washington, DC: Alliance for Excellent Education, 2017); Laura Jimenez and Scott Sargrad, *Are High School Diplomas Really a Ticket to College and Work? An Audit of State High School Graduation Requirements* (Washington, DC: Center for American Progress, 2018).

28 Jennifer Sattem and Anne Hyslop, *Ready for What? How Multiple Graduation Pathways Do—and Do Not—Signal Readiness for College and Careers* (Washington, DC: Alliance for Excellent Education, 2021).

29 Matthew N. Atwell et al., *Building a Grad Nation: Progress and Challenge in Raising High School Graduation Rates* (Washington, DC: Alliance for Excellent Education and America's Promise Alliance, 2020), 124.

requirements after *A Nation at Risk* were associated with a higher risk of students dropping out.[30] On the other hand, a 2021 study found that students in California districts with higher requirements had better outcomes.[31] Some researchers suggest that increasing the rigor of high school course pathways may have different effects on students at different ability levels.[32] Further, simply raising expectations without improving the preparation of students entering high school at risk of educational failure might not be sufficient to see improvements in outcomes.[33]

Raising graduation expectations—and in particular, making the default pathway a rigorous one that can lead to college admission—is intended to reduce the negative effects of tracking that have long been a barrier to success for ELs, students in poverty, students of color, and other groups.[34] Nevertheless, in states where the demands of core coursework are extensive, schools may find their options to provide newcomers with ESL or remedial content courses limited by the number of periods available in the day. As discussed earlier, enrolling newcomers in courses with grade-level-appropriate content from the beginning is a strategy that is supported by research and one that many schools are finding success with.[35] But states should also consider whether they are providing sufficient support to schools for that approach to be successful.

Furthermore, in states with multiple pathways to graduation, systems must help students and parents understand their options. With children of immigrants more likely to have parents who did not graduate from high school[36]—let alone one in the United States—this group of students may have more difficulty navigating high school pathway options. They may not question their counselors' suggestions to enroll in low-level courses[37] and may be less likely to discuss with their counselors what courses are needed to enroll in college.[38]

C. Graduation Rates and School Accountability

Concomitant with the standards-based reform movement, federal policymakers instituted a robust system of school accountability in NCLB and kept many of the same provisions in the 2015 reauthorization of

30 Richard Buddin and Michelle Croft, "Do Stricter High School Graduation Requirements Improve College Readiness?" (working paper WP-2014-1, ACT, Iowa City, IA, 2014); Andrew D. Plunk, William F. Tate, Laura J. Bierut, and Richard A. Grucza, "Intended and Unintended Effects of State-Mandated High School Science and Mathematics Course Graduation Requirements on Educational Attainment," *Educational Researcher* 43, no. 5 (2014): 230–41.

31 Niu Gao, *Does Raising High School Graduation Requirements Improve Student Outcomes?* (San Francisco: Public Policy Institute of California, 2021).

32 Elaine Allensworth, Takako Nomi, Nicholas Montgomery, and Valerie E. Lee, "College Preparatory Curriculum for All: Academic Consequences of Requiring Algebra and English I for Ninth Graders in Chicago," *Educational Evaluation and Policy Analysis* 31, no. 4 (December 2009): 367–91.

33 Buddin and Croft, "Do Stricter High School Graduation Requirements Improve College Readiness?"

34 Placing students in academic "tracks" according to their perceived ability restricts opportunity for lower-track students, and the negative effects of low expectations compound over time. See Rebecca M. Callahan, "Tracking and High School English Learners: Limiting Opportunity to Learn," *American Educational Research Journal* 42, no. 2 (2005): 305–28.

35 See, for example, Santos et al., *Preparing English Learners for College and Career*.

36 Jacob Hofstetter and Margie McHugh, *Immigrant and U.S.-Born Parents of Young and Elementary-School-Age Children in the United States: Key Sociodemographic Characteristics* (Washington, DC: Migration Policy Institute, 2021).

37 Rebecca M. Callahan, *The English Learner Dropout Dilemma: Multiple Risks and Multiple Resources* (Santa Barbara, CA: California Dropout Research Project, 2013).

38 Julia Gwynne, Amber Stitziel Pareja, Stacy B. Ehrlich, and Elaine Allensworth, *What Matters for Staying On-Track and Graduating in Chicago Public Schools: A Focus on English Language Learners* (Chicago: The University of Chicago Consortium on Chicago School Research, 2012).

the law, the *Every Student Succeeds Act* (ESSA). This federal framework requires states to report student outcomes such as scores on standardized tests of reading and math and high school graduation rates at the school, district, and state level. States also use those scores to identify their lowest-performing schools for school improvement. This system was intended to give practitioners and communities the information and motivation to target resources toward improving outcomes.

Starting in school year 2010–11, states have been required to use a common formula to calculate graduation rates for federal accountability purposes. The adjusted cohort graduation rate (ACGR) is a measure of how many of a high school's first-time ninth graders graduate a given number of years later, with adjustments for students who transfer in or out of the school.[39] States must report the four-year ACGR for all students and for subgroups such as ELs. Some states also report five-, six-, and seven-year ACGRs. Students may only be counted as graduates if they earn the standard diploma that is aligned to the state's academic standards and given to most students in the state, including students receiving the diploma with honors. The ACGR has substantial consequences for high schools, as failure to graduate at least 67 percent of students is grounds for identification as a low-performing school.

Under NCLB, states had limited options for how to respond to the identification of a school as low performing, including firing staff and having the state take over the school or district. The threat of shame and job loss for administrators of low-performing schools created enormous pressure that, in a few extreme cases, led to unethical behavior such as manipulating student transfer data to inflate graduation rates.[40] Hearing the criticism that NCLB was overly punitive, when Congress reauthorized it in 2015 as ESSA, lawmakers made changes to the accountability framework to give states more flexibility to address schools identified as needing improvement and to refocus such provisions as more supportive than punishment. Nevertheless, about half of states maintained overhauling school governance as a school improvement strategy under ESSA.[41]

Policy Considerations for ELs. Policymakers attached high stakes to the ACGR in hopes of spurring high schools to improve their outcomes. However, those stakes may also have the unintended consequence of discouraging administrators from enrolling older newcomers who appear unlikely to meet the four-year ACGR metric—for example, those who need additional time beyond four years to earn a diploma or who might age out of eligibility to attend high school before obtaining one.

One way states can try to mitigate that reluctance is to give schools credit for students who graduate in more than four years. As of 2017, when states submitted ESSA implementation plans to the federal government, only nine states included extended-year graduation rates in all of the calculations that could lead to a high school being identified as needing comprehensive support and improvement. ELs are

Including extended-year graduation rates is an important way to signal to high schools that their efforts to help ELs graduate—even if it takes more than four years—will be recognized.

39 Students who do not graduate are counted as dropouts unless they transfer to another secondary school program leading to a regular diploma, leave the United States, or die. See Sugarman, *The Unintended Consequences*.

40 Sugarman, *The Unintended Consequences*.

41 Samantha Batel, "Do ESSA Plans Show Promise for Improving Schools?" Center for American Progress, February 2, 2018.

more likely than other subgroups to take advantage of extra years to graduate, so including extended-year graduation rates is an important way to signal to high schools that their efforts to help ELs graduate—even if it takes more than four years—will be recognized.[42]

Another step some states have taken is to set up different graduation rates for alternative high schools that serve students at risk of dropping out, often with more curricular and logistical flexibility than traditional high schools. The majority of states did not include such provisions in their ESSA plans.[43] However, concerned about fairness to its more than 1,030 alternative high schools, California developed a one-year graduation rate to apply to them starting in the 2018–19 school year.[44] While many ELs could be well served by alternative high schools, and creating such a scheme could help traditional high school principals worry less about enrolling ELs who are overage and undercredited, there is a concern that traditional high schools would be let off the hook for ELs' performance and could even push such students into alternative high schools inappropriately.[45]

D. Data for Decision-Making

States have greatly increased their data-reporting capacity since implementing NCLB in order to ensure that practitioners and communities have access to the data that federal law requires states to report. Investing in data systems, in fact, has been a key strategy in school improvement, driven by the idea that increased transparency will help the public and policymakers track the efficacy of school reforms. States have also been working to develop longitudinal data systems that follow students through early childhood, K-12, and postsecondary education systems and even into the workforce. These data systems are intended to allow analysis of long-term trends to ensure that reforms lead to improved outcomes for individuals and communities.

Another innovation in data use relates directly to improving graduation rates. In recent years, some states have added dropout prevention metrics to their data dashboards—data that indicate the percentage of students failing to achieve benchmarks that correlate with persistence to graduation. For example, research suggests that secondary school math scores, high school grade point averages, and student engagement (such as participation in school activities) are effective early warning signals as to whether students are at risk of dropping out. Another good predictor is a combination of having a low number of course credits and having failed more than one course in Grade 9.[46] Schools use indicators such as these to identify individual students who might benefit from academic or behavioral interventions to keep them on track. Additionally, states can use the data schools already collect to create indicators that show what percentage of a school's students are on track.

42 Sugarman, *The Unintended Consequences*.
43 Jessica Kannam and Madison Weiss, *Alternative Education in ESSA State Plans: A Review of 38 States* (Washington, DC: American Youth Policy Forum, 2019).
44 John W. Gardner Center for Youth and Their Communities, *Report and Recommendations of the California Advisory Task Force on Alternative Schools* (Stanford, CA: John W. Gardner Center for Youth and Their Communities, 2020).
45 Cameron Sublett and Russell Rumberger, *What Is California's High School Graduation Rate?* (Stanford, CA: Policy Analysis for California Education, 2018).
46 Alex J. Bowers, Ryan Sprott, and Sherry A. Taff, "Do We Know Who Will Drop Out? A Review of the Predictors of Dropping Out of High School: Precision, Sensitivity and Sensitivity," *The High School Journal* 96, no. 2 (2013): 77–100.

Policy Considerations for ELs. There are two challenges in using data on ELs: insufficient data disaggregation and a lack of research on whether the indicators states use for all students are valid for ELs. As to the first challenge, while NCLB and ESSA greatly increased the amount of information that is reported on ELs and thus these students' visibility to policymakers, the data may not be sufficiently nuanced. For example, graduation rates for ELs as a whole tend to lag behind non-ELs, but one study found much lower graduation rates for some groups of ELs, including Spanish speakers living in poverty and with disabilities, than for other groups.[47] If data reporting does not sufficiently distinguish which students are struggling, practitioners will not be able to target resources appropriately.

The other challenge is in interpreting data such as dropout prevention metrics. There is little research on whether the indicators that accurately predict whether students will drop out or persist to graduation are valid for ELs. One study investigated whether two indicators used by several districts in the Seattle, Washington, area accurately predict ELs' risk of dropping out. One indicator was at least six absences plus at least one course failure in Grade 9, and the other was at least one suspension or expulsion in Grade 9. The study found that the indicators failed to flag many students, especially newcomers, who eventually dropped out of school.[48]

Given these issues, decisionmakers may need to gather additional information beyond state data to understand how to best serve ELs. For example, acknowledging the high dropout rate among its ELs, New York State has built a set of tools for dropout prevention, including guidance for districts to create their own system of early warning indicators. They suggest using local data to test which indicators are the best predictors for ELs and using early warning systems to inform evaluations of instructional quality as well as to identify students who should receive targeted support.[49] Research suggests that the types of indicators that might be helpful include student background, such as their age at enrollment in U.S. schools and whether they were identified as SIFE, as well as what EL support services they received.

4 Newcomer Placement and EL Programming

States have primary responsibility for determining *what* students will learn, culminating in requirements for what students should know and be able to do by the time they graduate high school. However, in most states, local schools and districts have wide latitude to determine *how* students will learn. States can support research-informed practices for implementing instructional programs by offering guidance on program models and placement approaches to help ensure a consistent and high-quality learning environment across the state.

47 Zaff et al., "English Learners and High School Graduation."

48 Theresa Deussen, Havala Hanson, and Biraj Bisht, *Are Two Commonly Used Early Warning Indicators Accurate Predictors of Dropout for English Learner Students? Evidence from Six Districts in Washington State* (Washington, DC: U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, and Regional Educational Laboratory Northwest, 2017).

49 Office of Bilingual Education and World Languages, NYSED, "Multilingual Learner/English Language Learner Graduation Rate Improvement and Dropout Prevention" (planning tool, NYSED, Albany, NY, 2019).

A. Intake and Placement

States vary in the degree to which they provide guidelines on how to place newly arriving ELs in a grade level or in high school courses. In all states, the intake process for newly enrolling students who speak a home language other than English includes a screening to evaluate if they have limited English proficiency.[50] But staff must also determine what grade or classes students should go into. If high-school-aged students arrive in the United States with transcripts that show what classes they took in the country where they previously attended school, their new schools can offer transfer credits and allow them to enroll in the appropriate level for their educational background. But this process can be more difficult if students arrive without high school transcripts or are SIFE. In Louisiana, state guidelines indicate that students should be placed in the grade corresponding with their age, but students of high school age without valid transcripts may be placed in Grade 9.[51] Georgia's guidelines suggest that SIFE not be placed more than one year below the appropriate grade for their age.[52]

Most states allow districts considerable flexibility as to how to place high school newcomers in classes. Some states have a formal definition for SIFE that helps staff identify these students for special programs or services. Such definitions generally include immigrant ELs who are at least two years behind age-appropriate skills in reading and math. Minnesota provides guidance on what information to collect to screen students as SIFE, including school transcripts, parent and student interviews, and standardized or classroom-based assessments of literacy and academic skills.[53]

States generally do not provide specific instructions on how to evaluate foreign transcripts for courses that may count for credit. Tennessee, for example, suggests that districts may obtain a list of content courses given in the student's origin country, use a fee-based transcript interpretation service, or use performance measures such as written assessments to evaluate a student's content area knowledge. The state also cautions that students should not be made to retake courses in U.S. schools that they have already taken elsewhere.[54] Missouri's guidance exhorts districts to balance fairness to the student with maintaining the integrity of the diploma—that is, to be flexible in how students may demonstrate they have mastered a subject area while ensuring they meet the same standards that would be expected of students in Missouri schools.[55]

Policy Considerations for ELs. Enrollment in a new school is a critical event in the educational trajectory of newcomer ELs. States can support this process by reminding school personnel of their obligations to

50 Under the *Every Student Succeeds Act* (ESSA), all states must have uniform procedures for identifying ELs. These procedures include establishing whether students have a home language other than English and using a standardized assessment to determine if they need support learning in English. See Julie Sugarman, *Legal Protections for K-12 English Learner and Immigrant-Background Students* (Washington, DC: Migration Policy Institute, 2019).

51 Louisiana Department of Education, "Louisiana High School Planning Guidebook" (guidebook, Louisiana Department of Education, Baton Rouge, LA, May 19, 2020), 4.

52 Georgia Department of Education, "ESOL Resource Guide 2018-2019" (guidebook, Georgia Department of Education, Atlanta, July 31, 2018), 14.

53 Minnesota Department of Education, "Identification of Students with Limited or Interrupted Formal Education (SLIFE)" (guidance document, Minnesota Department of Education, Roseville, MN, February 2016).

54 Tennessee Department of Education, "English as a Second Language."

55 Missouri Department of Elementary and Secondary Education, "English Learners (EL) Transcript Evaluation," accessed August 18, 2021.

enroll eligible youth regardless of immigration status and provide guidance on how to collect sufficient information to place a student in a grade or in courses, as the above examples show. While responsiveness to the local context is important, some minimum boundaries are likely useful in all circumstances, such as requiring districts to carefully examine transcripts for transferable credits or providing a consistent definition of SIFE across the state.

B. Instructional Programs

Schools use a wide variety of program models to serve ELs. In high school, these typically include at least one period of ESL per day and sheltered instruction courses for students at beginning levels of English proficiency, with fewer specialized courses as the student becomes more fluent.[56] Some districts offer newcomer programs with specialized instruction to help ELs—often SIFE—catch up on English and academic skills before transferring into a general education program. Many states provide guidance on appropriate instructional models, but generally, districts and schools have wide latitude to develop their own programs and set parameters for how much specialized instruction ELs get and the degree to which they are integrated with non-ELs for classes.

A few states have more detailed requirements for the programs serving ELs. In Connecticut, Illinois, New Jersey, New York, and Texas, schools are required to offer bilingual education if there are at least 20 ELs in a grade who speak the same language.[57] Notably, Connecticut's policy requires newcomer high school students who are placed in 10th grade or above at enrollment to be assigned to ESL rather than bilingual programming.[58] Several other states have policies affirming the value of bilingual education and have initiatives to support the development of such programs.[59] Nearly all states have or are developing a policy to offer students the opportunity to earn a seal of biliteracy at graduation. This seal recognizes students who have achieved a high level of fluency in English and at least one additional language.[60]

Some states also prescribe models for high school ESL. New York State details the number of minutes per week that high school ELs must receive stand-alone and integrated ESL[61] based on their English proficiency level.[62] Georgia maintains a list of approved program models that include ESL classes, sheltered instruction, and newcomer programs.[63] Between 2006 and 2019, Arizona ELs were enrolled in a daily four-hour instructional block focused on English language skills. For high school students especially, this model prevented students from accessing enough credit-bearing courses to make progress toward graduation. In

56 Julie Sugarman, *A Matter of Design: English Learner Program Models in K-12 Education* (Washington, DC: Migration Policy Institute, 2018).
57 New America, "English Learners: State Legislation," accessed August 18, 2021.
58 Connecticut State Department of Education, "English Learners in Connecticut's Public Schools: Guidelines for Administrators" (guidebook, Connecticut State Department of Education, Hartford, CT, n.d.).
59 New America, "English Learners."
60 Seal of Biliteracy, "State Laws Regarding the Seal of Biliteracy," accessed August 18, 2021.
61 New York State uses the term "English as a new language" where this report refers to ESL.
62 NYSED, "CR Part 154-2."
63 The approved list uses the term "scheduled language acquisition" for what this report calls ESL. See Georgia Department of Education, "Language Instruction Program for English Learners (ELs)" (State Board of Education rule, Georgia Department of Education, Atlanta, October 1, 2020).

2019, the state legislature approved a new model allowing districts much more flexibility and shortening the required ESL block to about 100 minutes a day.[64]

Several districts and states require schools to develop individualized plans for ELs' studies, similar to the individualized education plan (IEP) required for students with disabilities. For example, in Mississippi, all ELs have a language service plan that is updated annually. The plan records information about the students' background and test scores, EL services provided, language development goals for the year, and testing and classroom accommodations.[65]

Policy Considerations for ELs. The EL program model a school or district uses is generally a local decision. This makes sense, as local variables—including EL population characteristics, community and educator philosophies, and available resources—should guide such choices. But states can provide guidance on which models are most likely to lead to success. While there are no recent studies of the effectiveness of bilingual education for high school newcomers, the literature is clear that bilingual education programs that start in kindergarten—especially dual language programs that help ELs develop their native language to a high level of proficiency—produce better long-term academic results than do English-only programs.[66] One study found that balanced bilinguals—students who developed English and their native language to equally high levels—were less likely to drop out of high school than English monolinguals or bilinguals without strong skills in both languages.[67] ELs in bilingual programs are also more likely to reclassify as English proficient by high school than ELs in English-only programs.[68] Knowing that long-term ELs are less likely to graduate on time than former ELs, bilingual education may be an effective way to improve graduation rates.

The EL program model a school or district uses is generally a local decision. ... But states can provide guidance on which models are most likely to lead to success.

C. *Reclassification of ELs as English Proficient*

Every state has consistent, statewide procedures for exiting students from EL status, as required by ESSA. These procedures allow students to be reclassified as English proficient at the point when they can perform similarly to their non-EL peers on standardized academic assessments. Some states also have policies that signal the maximum length of time they expect students to take to reclassify. These include the maximum

64 Amaya Garcia, "Arizona to Offer New Flexibility to English Learners," New America blog, February 12, 2019; Sugarman, *Legal Protections*, 9.

65 Accommodations for testing include use of a bilingual dictionary or extra time; classroom accommodations may include those plus a broader range of strategies including modified assignments and teaching that incorporates sheltered instruction strategies. See Mississippi Department of Education, "Language Service Plan" (form, Mississippi Department of Education, Jackson, MS, June 2018).

66 Virginia P. Collier and Wayne P. Thomas, "Validating the Power of Bilingual Schooling: Thirty-Two Years of Large-Scale, Longitudinal Research," *Annual Review of Applied Linguistics* 37 (September 2017): 203–17.

67 Rubén G. Rumbaut, "English Plus: Exploring the Socioeconomic Benefits of Bilingualism in Southern California," in *The Bilingual Advantage: Language, Literacy, and the US Labor Market*, eds. Rebecca M. Callahan and Patricia C. Gándara (Clevedon, UK: Multilingual Matters, 2014), 182–205.

68 Ilana M. Umansky and Sean F. Reardon, "Reclassification Patterns Among Latino English Learner Students in Bilingual, Dual Immersion, and English Immersion Classrooms," *American Educational Research Journal* 51, no. 5 (2014): 879–912.

timeline to proficiency defined in state ESSA plans[69] and how long states provide supplementary funding to schools for enrolled ELs.[70] However, federal law requires states (and in turn, schools) to serve all identified ELs, so these policies cannot preclude students from getting services even if they surpass the state timeline. Rather, they may be used to encourage schools to work more proactively to prevent students from remaining labeled as ELs longer than is actually helpful.

Policy Considerations for ELs. The decision to reclassify a student as a former EL has considerable ramifications. One research study showed that among students who scored just below or just above the cutoff signaling English proficiency, being reclassified had positive effects on ACT scores, graduation rates, and postsecondary attendance.[71] This may be due to the fact that research suggests that students identified as ELs are systematically underenrolled in grade-level or honors academic coursework (see Section 5.B.).[72] This being the case, two ways to ensure that students have access to grade-level, credit-bearing courses are to ensure that a state's EL reclassification policy exits students as soon as is reasonable to do so, and to use the state's other policy levers to motivate schools to be proactive in helping students achieve the proficiency criteria more quickly. Ensuring timely exit from the EL program also may prevent students from losing their motivation to finish school as they continue to be labeled ELs for years, even long after they self-identify as fluent in English.[73]

5 Educational Access and Quality

In light of the long history of discriminatory practices in U.S. schools, states have a responsibility to ensure that their school systems remove as many barriers as possible that could keep some students from accessing a high-quality education and graduating from high school. States that are equity oriented use the lenses of access and quality to ensure that schools provide the supports and experiences that ELs need. And with the EL population increasing in schools across the country, states must also ensure that teachers are well prepared to provide the supports high school students need to meet rigorous graduation standards.

A. Maximum Age of Compulsory and Free Public Schooling

All states set a minimum and a maximum age of compulsory school enrollment. About half of states require school attendance until age 16 or 17, and the other half until age 18.[74] The maximum compulsory age of enrollment is an important policy lever for encouraging students to remain in school, as several studies

69 ESSA required states to define the maximum number of years it should take students to become English proficient and to develop indicators to use in their accountability systems that measure student progress toward that goal. See Villegas and Pompa, *The Patchy Landscape*.

70 A handful of states provide supplementary funding for ELs for only four to seven years, while most states provide that funding as long as the student is identified as an EL. See Julie Sugarman, *Funding English Learner Education: Making the Most of Policy and Budget Levers* (Washington, DC: Migration Policy Institute, 2021).

71 Deven Carlson and Jared E. Knowles, "The Effect of English Language Learner Reclassification on Student ACT Scores, High School Graduation, and Postsecondary Enrollment: Regression Discontinuity Evidence from Wisconsin: Effects of ELL Reclassification," *Journal of Policy Analysis and Management* 35, no. 3 (June 2016): 559–86.

72 Vazquez Cano, Umansky, and Thompson, "How State, District, and School Levers."

73 Laura Hill et al., *Academic Progress for English Learners: The Role of School Language Environment and Course Placement in Grades 6–12* (San Francisco, CA: Public Policy Institute of California, 2019).

74 Education Commission of the States, "50-State Comparison: Free and Compulsory School Age Requirements," updated August 19, 2020.

have shown that states with a higher maximum compulsory school age have higher graduation rates.[75] Most states also require youth to be offered free public education up to age 20 or 21, although several have no maximum age in statute or allow localities to set their own policies.[76] States can also set the maximum age for free public schooling to be higher for certain groups of students. For example, Virginia permits (but does not require) districts to allow ELs who entered Virginia schools after age 12 to remain enrolled up to age 22, two years longer than for other students.[77]

Policy Considerations for ELs. Immigrant students who arrive in the United States during their high school years may be affected by a state's maximum age of enrollment, especially those who arrive with fewer than four years before they will age out of the system and without evidence of transferable credits. Administrators may be conflicted as to whether to enroll such students in a high school course of study from which they have little chance of graduating or to counsel them to follow another option, such as adult education courses to prepare for a high school equivalency test. While students may benefit from experiencing life in a comprehensive high school and from the standards-aligned instruction they receive there, some students may feel that it is a waste of time, especially if the high school's course of study does not align with the requirements of a high school equivalency program in adult education that becomes their only means to obtain a high school diploma.[78]

Students should be informed of the options available to them and allowed to make their own decisions. In the mid-2010s, advocates and the media reported numerous instances of administrators blocking older immigrant students from enrolling in comprehensive high schools because of their age, among other reasons.[79] Hearing several such complaints, New York State took action to provide clear regulations reiterating the state law requiring schools to allow students up to age 21 to enroll. Further, knowing that some schools diverted students to educational programs that met the letter of that law but were not equivalent to the standard high school experience, the state made it clear that all students were entitled to the full range of services that a comprehensive high school offers (such as special education, services for ELs, and career and college counseling). Districts were also cautioned not to force or steer students toward alternative programs, although students would be allowed to voluntarily opt into them.[80]

B. Access to Credit-Bearing and Advanced Courses

A significant body of research literature over the last ten years demonstrates that ELs are far less likely than their non-EL peers to take advanced coursework such as honors and advanced placement courses, and that

75 Russell W. Rumberger and Sun Ah Lim, *Why Students Drop Out of School: A Review of 25 Years of Research* (Santa Barbara, CA: California Dropout Research Project, 2008).
76 Education Commission of the States, "50-State Comparison: Free and Compulsory School Age Requirements."
77 Commonwealth of Virginia, "Regulations Concerning Admission of Certain Persons to Schools; Tuition Charges," *Code of Virginia*, Title 22, Chapter 1, §22.1-5 (2014).
78 Julie Sugarman, *Beyond Teaching English: Supporting High School Completion by Immigrant and Refugee Students* (Washington, DC: Migration Policy Institute, 2017).
79 See, for example, Benjamin Mueller, "New York State Accuses Utica School District of Bias against Refugees," *The New York Times*, November 17, 2015.
80 Memorandum from Angelica Infante-Green, Deputy Commissioner, Office of Instructional Support, NYSED, to District Superintendents, Superintendents of Schools, Administrators of Public and Charter Schools, Bilingual/ESL Coordinators/Directors, "Guidance Relating to the Right of Individuals over Compulsory School Age to Attend High School," May 2016.

they are overenrolled in remedial and lower-level content courses.[81] Mostly the result of district- or school-level policies (as states do not generally set class placement policies), this stems in part from the common—but mistaken—belief that students must develop English first before they can learn grade-appropriate material. But long-term ELs, who typically sound fluent in English although they have yet to exit EL status, also find themselves overenrolled in remedial courses, likely due to the accumulating effects of ineffective instruction in low-resourced schools and the low expectations that teachers have of students labeled as ELs.

California's legislature has recently made efforts to ensure that students have access to credit-bearing and advanced coursework. AB 2735, passed in 2018, prohibits a school from denying ELs access to the standard curriculum, including courses to meet graduation requirements, college-preparatory courses, and advanced courses such as honors or advanced placement. The only exceptions are ELs in their first year of enrollment in U.S. schools or students enrolled in a newcomer program.[82] Other state boards of education have asserted a similar message. For example, Louisiana's EL handbook states that students must have access to the same content as their peers,[83] and Pennsylvania's regulations prohibit schools from limiting ELs' enrollment in a course or academic program for which they are eligible.[84]

Policy Considerations for ELs. Policies that increase access to advanced coursework—whether by requiring that all students have access or simply providing incentives to offer more of these types of classes—address historic patterns by which students in the process of developing English proficiency are denied access to academic content. Federal civil rights law requires ELs be given access to all of the same opportunities as their peers, including regular and honors academic classes, career and technical education, dual enrollment (college courses taken during high school), and advanced placement.

However, having permission to enroll in a course is not sufficient to ensure access. It is frequently reported that a large share of general education teachers are unprepared to teach ELs in academic content areas.[85] One study reported that staff in a Pennsylvania high school were reluctant to place EL students in upper-level content courses because they believed the teachers of those courses would not make the kinds of academic accommodations that would make the content accessible to ELs, a judgment the authors characterized as underestimating ELs' ability to take on academic challenges.[86] As much as setting higher expectations for ELs is an important goal, it is reasonable to be concerned about whether policies to increase access to high-level courses will have the intended effect if they are not paired with state and district policies to ensure appropriate instruction.[87]

81 See, for example, Rebecca M. Callahan and Dara Shifrer, "Equitable Access for Secondary English Learner Students: Course Taking as Evidence of EL Program Effectiveness," *Educational Administration Quarterly* 52, no. 3 (August 1, 2016): 463–96; Yasuko Kanno and Sara E. N. Kangas, "'I'm Not Going to Be, Like, for the AP': English Language Learners' Limited Access to Advanced College-Preparatory Courses in High School," *American Educational Research Journal* 51, no. 5 (2014): 848–78.

82 State of California, *An Act to Add Section 60811.8 to the Education Code, Relating to English Learners*, AB 2735, Chapter 304 (2018).

83 Louisiana Department of Education, "English Learner Program Handbook: School System & Charter School Administrators" (guidebook, Louisiana Department of Education, Baton Rouge, LA, July 2020), 14.

84 Pennsylvania Department of Education, "Educating English Learners (ELs)," updated July 1, 2017.

85 National Academies of Sciences, Engineering, and Medicine, *Promoting the Educational Success of Children and Youth Learning English: Promising Futures* (Washington, DC: The National Academies Press, 2017).

86 Kanno and Kangas, "I'm Not Going to Be, Like, for the AP."

87 Buddin and Croft, "Do Stricter High School Graduation Requirements Improve College Readiness?"; Vazquez Cano, Umansky, and Thompson, "How State, District, and School Levers."

C. *Teacher and Staff Quality and Training*

Because permission to enroll in a variety of course options does not automatically make them truly accessible to ELs, it is critical that schools take steps to ensure teachers are well prepared to meet ELs' unique language and academic needs. States are responsible for setting teacher certification requirements, including the number and types of courses required for initial certification and recertification (or continuing education). All states offer a credential in teaching ELs, but the requirements for obtaining the credential vary enormously. For example, only 30 states have a stand-alone ESL credential; in the others, teachers must be credentialled in something else (such as elementary education or a secondary school content area) and add additional coursework for an ESL endorsement. Further, the number of coursework hours and amount of fieldwork required for these credentials vary enormously. In ten states, teachers may get an ESL endorsement by just passing an exam, with no coursework required.[88] Fewer than 30 states have statutes or regulations that require general education teachers to receive training on how to support ELs either in their teacher education coursework or through professional development offered by their school.[89]

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Even if states require ESL teachers to have ESL or bilingual certification, few require ELs to receive a certain amount of instruction from ESL- or bilingual-certified teachers. If there is no requirement for ELs to be served by such teachers, some administrators may choose not to hire any—or not enough to work with all EL students on a regular basis.[90] In contrast, credit-bearing classes in the content areas must be taught by teachers certified in that subject. This means that sheltered content classes taught by ESL teachers may not count for credit if those teachers do not also have subject matter credentials. The reverse situation is far less likely: only a few states (including Florida and New York State) require teachers with subject matter credentials who teach ELs to have ESL training.

Most states report a shortage of bilingual and ESL teachers,[91] and U.S. teachers are far less racially and linguistically diverse than their students.[92] States have a number of policy tools they can use to incentivize recruitment and retention of racially and ethnically diverse teachers and teachers in critical areas such as ESL/bilingual instruction. These include loan forgiveness programs and providing state funds to districts to support credentialling coursework. Such coursework might be organized for current general education

88 Christine Montecillo Leider, Michaela Colombo, and Erin Nerlino, "Decentralization, Teacher Quality, and the Education of English Learners: Do State Education Agencies Effectively Prepare Teachers of ELs?," *Education Policy Analysis Archives* 29, no. 100 (2021).
89 Education Commission of the States, "50-State Comparison: English Learner Policies," updated May 27, 2020.
90 Some schools may have success with a consultancy model, where ESL-certified teachers regularly meet with general education teachers to provide suggestions on EL supports. However, schools where ELs are not directly served by ESL-certified teachers and where general education teacher training is inadequate might run afoul of civil rights guidance. See Sugarman, *Legal Protections*.
91 Jenny Muñiz, "How Will the Pandemic Affect the English Learner Teacher Shortage?" New America blog, September 25, 2020.
92 Elizabeth Heubeck, "Recruiting and Retaining Teachers of Color: Why It Matters, Ways to Do It," *Education Week*, June 30, 2020.

teachers to get ESL endorsements or to support a cohort of bilingual paraprofessionals in completing a teaching degree.[93]

As they do for teachers, states determine certification requirements and may also specify maximum caseloads for support staff, such as guidance counselors and social workers. There is little data available on how many nonteaching staff have specific qualifications to work with ELs, including how many can communicate with students and families in their home languages. A 2017 National Academies of Science, Engineering, and Medicine study found that such professionals are underprepared to work with ELs and recommended that state certification requirements include an understanding of second-language acquisition and skills to work with and advocate for ELs and their families.[94]

Policy Considerations for ELs. Teacher quality is one of the most important factors in ensuring ELs' academic success. The state role in setting standards for teacher training and qualifications is especially important given the wide variation within most states of district capacity to serve ELs. Schools with a small population of ELs, for example, might need the additional weight of a state statute—and state funds—to prioritize hiring EL specialists and providing training to general education teachers. States have a duty to ensure that ELs in such schools receive services comparable to those available to ELs in well-resourced, high-incidence schools.

6 Conclusion

Each of the state policy areas described in this report is important to facilitate ELs' successful high school completion. Taken together, they also reflect broader trends in education. Over the past 40 or so years, policymakers have been concerned with raising expectations for what high school graduates know and can do in order to ensure a well-trained workforce that can complete in a global, information-focused economy. The past 20 years have seen that concern operationalized as a focus on testing and accountability, in hopes that increased transparency about student outcomes would spur educators to shift resources to where they are most needed and thus improve instruction.

At the same time, civil rights advocates have pressed for policies that put an end to tolerating lower expectations for ELs, students of color, and other historically underserved groups. Instead, they argue, schools should set uniform learning goals and provide targeted support to help all students—including those with additional learning needs—achieve them. Federal law has long required that ELs be given access to the same learning opportunities as their peers. Such an approach is supported by research on second-language acquisition, which shows that integrating language and grade-level content instruction is a better approach than teaching language skills in isolation and waiting to introduce content until students are English proficient.

93 Ilana Umansky, "State Policies to Advance English Learners' Experiences and Outcomes in California's Schools" (Stanford, CA: Policy Analysis for California Education, 2018).

94 National Academies of Sciences, Engineering, and Medicine, *Promoting the Educational Success of Children*, 476–77.

Together, these trends have resulted in higher expectations for all high school graduates, including ELs. Educators and policymakers have responded by orienting the high school curriculum around college preparation and expecting schools to increase—in some cases dramatically—how many of their students graduate with a standard diploma in four years. While some high schools are exceptionally successful in guiding ELs to high levels of academic achievement, their success is often more due to local innovation than to systemwide supports. Nevertheless, many states are working hard to create laws and policies that help ELs access the courses they need and to train teachers to support ELs within those classes.

The challenge for states, then, is to balance the tension between the demanding ideals of U.S. education policy with the diverse needs and goals of their students and the capacity of their schools and districts. Especially in light of the disruptions caused by the COVID-19 pandemic, states would be wise to take a fresh look at the policy levers available to ensure that all schools can offer the services their students need.

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