

**Standardized Testing in a Non-Standardized World:
The Unfairness of High-Stakes Standardized Testing and its Implications for English
Language Learners in Texas**

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Abstract: This paper aims to determine whether federally mandated standardized tests provide fair equality of opportunity for all students. To assess the effects of high-stakes testing, I researched the performance of English language learners in Texas public schools on standardized tests. Further, I analyzed the consequences of poor performance on standardized testing on both schools and students, applying these impacts specifically to English language learners. This paper utilizes a Rawlsian ethical framework to determine the fairness of testing as it is currently implemented. Through this research, I hold that the implementation and the impacts of high-stakes standardized testing compound existing disadvantages for certain students, including English Language Learners. Further, standardized testing does not accomplish its intended goals under the No Child Left Behind Act of promoting and measuring academic achievement.

INTRODUCTION

There are many factors that either contribute to or alleviate the cycle of poverty: income, systemic racism, disabilities, etc. However, policymakers and scholars across the spectrum have placed an emphasis on education as an equalizer- an opportunity to rise out of poverty, and an imperative indicator of wellbeing. In 2001, the passage of the No Child Left Behind Act (NCLB) attempted to ensure equal quality of education across the nation. However, instead of focusing on maximizing the inputs that increase quality of education, the act created a stringent system of measurement with hopes that implementation of education would consequently improve. Specifically, the act mandated the introduction for high-stakes standardized testing. Standardized tests are examinations administered, assessed, and analyzed on a large scale; while standardized tests are not inherently high stakes, they are often used for high stakes purposes.¹ Tests used as determinates of outcomes such as graduation or advancement into subsequent grade levels are considered high-stakes. Although measurement of progress provides policymakers with indicators as to methods that work, schools that need attention, and potential problems to be addressed, the system currently employed due to the NCLB act also has negative consequences. “Standardized” tests assume that the population itself that is being assessed is also standardized. This marginalizes students with academic gifts and skills other than those captured on standardized tests. Rather, the system favors students who excel in the specific skills measured by the tests, disadvantaging children with abilities or knowledge outside of this scope.

¹ “How Standardized Tests Shape- and Limit- Student Learning.” National Council of Teachers of English. 2014.

² “Language Proficiency Assessment Committee: Framework Manual.” Texas Education Agency. 2016.

The rise of standardized testing and the corresponding significance placed upon its results can be explained throughout the history of education policy (specifically initiatives regarding measurement and attempts to create equal opportunity of education). Although some inequality can be expected in a testing situation such as the one created by NCLB, I will argue that through John Rawls' theory of justice as fairness that the inequality created by standardized testing is inherently unfair as not everyone has the fair equality of opportunity to succeed in testing and the effects of low-performance are disproportionately detrimental to the least advantaged groups.

To illustrate this unfairness, I will describe the experience of English-language learners (ELLs). Because states' standardized tests differ widely, I will, for the sake of clarity, focus on Texas, the state with the second highest population of ELLs. According to the Texas Education Agency (TEA), an English-language learner is, "A person who is in the process of acquiring English and has another language as the first native language."² I will highlight how ELLs are outside of the norm for which the test is designed and are disproportionately disadvantaged by standardized tests. This unfairness is evident in the structure, implementation, and unnecessarily severe implications of statewide standardized testing. This disparity becomes apparent through the "achievement gap", a term recognized by educators referring to test result disparities that arise amongst different demographic groups of students.³ This paper will outline the accommodations ELLs receive in Texas, the ramifications of poor testing performance on both schools and

² "Language Proficiency Assessment Committee: Framework Manual." Texas Education Agency. 2016.

³ Morales, Christina M., and Saenz, Rogelio. "Correlates of Mexican American Students' Standardized Test Scores: An Integrated Model Approach." *Hispanic Journal of Behavioral Sciences*. Vol 29 No. 3. August 2007.

individual students, and the changes high-stakes testing creates for ELLs within the classroom.

Ultimately, the implementation and the impacts of high-stakes standardized testing compounds existing disadvantages for certain students, including English Language Learners. Further, standardized testing does not accomplish its intended goals of promoting and measuring academic achievement. Given the problematic effects of high-stakes testing, I recommend that policymakers implement an alternative method of accountability for schools that includes both qualitative and quantitative measures and provide more extensive accommodations for ELLs.

HISTORY OF STANDARDIZED TESTING

Providing equal quality education to American students is challenging; with a wide geographic span, array of cultural backgrounds, and varying opinions as to the appropriate extent of government involvement in state affairs, both the implementation and measurement of an adequate education is not an easy feat.

With constitutional authority of education, state governments differed in approaches to school accountability prior to federally mandated testing. Beginning in the 1980s, Texas introduced “minimum competency exams” as a graduation requirement of its students.⁴ Texas legislatures expanded this initiative in 1993 through a state-wide accountability system involved in ranking and scoring of various school districts based on student test results. In 1994, the “Improving America’s Schools Act” was introduced

⁴ Heilig, Julian Vasquez; Darling-Hammond, Linda. “Accountability Texas- Style: The Progress and Learning of Urban Minority Students in a High-Stakes Testing Context.” *American Educational Research Association*. Sage Publications. June 11, 2008. Web.

nation-wide; although it did not constrict states to any specific standard, it federally mandated the incorporation of uniform academic material statewide and subsequently measurement of student achievement.⁵ This legislation led to the formalization of high stakes standardized testing, executed by the states, to ensure student achievement of material.

However, the passing of NCLB in 2001 under the Bush Administration used this policy as a springboard to further the effort to maximize accountability of schools with a hope that this would promote increased quality of education across the nation.⁶ This act raised the mandatory participation rate of students in standardized testing to 95% for all students. This forced administrators to include subgroups, such as English-language learners, that had often been excluded from testing due to various barriers to educational success to fully partake in mandated testing.⁷

NCLB has left a lasting impact on how schools function to this day. The structure of the act enacted punitive measures to increase accountability, taking funding away from local education agencies (LEAs) that were unable to meet specific standards for two consecutive years (include specific measures for subgroups such as impoverished students and English-language learners).⁸

No Child Left Behind and Title I

⁵ Menken, Kate. "Teaching to the Test: How No Child Left Behind Impacts Language Policy, Curriculum, and Instruction for English Language Learners. *Bilingual Research Journal*. Summer 2006. pp. 521-546.

⁶ Ibid.

⁷ U.S. Department of Education, Office of the Secretary, Office of Public Affairs, *A Guide to Education and No Child Left Behind*, Washington, D.C., 2004.

⁸ Ibid.

While the guidelines illustrated in NCLB can be utilized by any institution, the act has statutory authority over Title I schools. Title I encompasses local education agencies that disproportionately serve children from low-income families; these schools receive various grants and funding to ensure education for these disadvantaged populations.⁹ In the academic year ending in Spring of 2010, approximately 56,000 were affected by Title I, receiving some form of financial support from this program.¹⁰ Further, the Title I program imposes that schools use these funds specifically on students identified to be from low-income backgrounds; they can only delegate funds for school wide programs if they reach a minimum of 40% of low-income students.¹¹ Because NCLB is only compulsory for schools qualifying for Title I funding, any detrimental effects of the policy will exclusively affect low-income children.

All schools that fall under the umbrella of NCLB are required to implement various accountability measures, specifically statewide standardized testing. This testing, at a minimum, is obligatory for students grades three through eight and consists of evaluation in reading and mathematics.¹² Administrators compile the results to determine if schools meet adequate yearly progress (AYP) as defined by the state.¹³ The AYP requirement not only applies to the students within a school as a collective group but also applies to subgroups categorized based on race, socioeconomic status, disabilities, and English

⁹ "Programs: Improving Basic Programs Operated by Local Educational Agencies (Title I, Part A)." U.S. Department of Education. October 10, 2015.

¹⁰ Ibid.

¹¹ Ibid.

¹² "NCLB: Executive Summary." U.S. Department of Education. February 10, 2004.

¹³ "Questions and Answers on *No Child Left Behind*." U.S. Department of Education. September 9, 2003.

proficiency.¹⁴ States monitor schools based on holistic results of students but also on disaggregated data regarding subgroups to ensure that adequate performance is not explained by traditionally advantaged students alone; this analysis aims to ensure schools accommodate for all groups of students. NCLB provides the following steps to be taken if schools fail to meet the AYP.

Figure 1: NCLB Plan for Schools Failing to Meet AYP U.S. Department of Education		
Number of Years Failing to Meet AYP	Mandated Actions	Number of Schools in Texas in this Category (2016)¹⁵
One Year	School will be identified as “Needing Improvement.”	241
Two Consecutive Years	School will be identified as “Needing Improvement.” It will be required to develop a two-year plan to meet the AYP goal. Families are given the option to transfer their student to a different school within the district (including charter schools) that are not “Needing Improvement.”	82
Three Consecutive Years	Previous stipulations still apply. Low-income students (as identified by Title I) become eligible for state-sponsored academic support programs.	49
Four Consecutive Years	Previous stipulations still apply, The district is required to implement “corrective action”, including but not limited to: creating a new academic curriculum for the school and replacing staff members.	52
Five Consecutive Years	The school will undergo “restructuring.” This	19

¹⁴ Ladd, Helen F. “No Child Left Behind: A Deeply Flawed Federal Policy.” *Point/Counterpoint*. Journal of Policy Analysis and Management.

¹⁵ “Final 2016 Accountability Ratings.” *Department of Assessment and Accountability. Division of Performance Reporting*. Texas Education Agency. November 15, 2016.

	could mean: becoming a charter school, giving up control of operations to the state or even a private company.	
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Total number of public campuses in Texas: 4,435.

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Schools are required to employ sanctions until they have achieved the state-set AYP goal for two years in a row.¹⁷ Failure to comply with this testing model or its mandated remedial actions will result in loss of subsequent funding through Title I.¹⁸ For the 2015-2016 school year, 88.6% of the schools in Texas earned a rating of *Met Standard* and did not need to implement any changes under NCLB.¹⁹

Creators of NCLB cite the ability of students to withdrawal from schools failing to meet adequate standards for testing as a main benefit to the Act. However, schools are limited in their intake of students; schools, regardless of the amount of space left to take on new students, are not allowed to deny transfers in this capacity.²⁰

One of the main actions NCLB requires schools to take on is restructuring. However, studies have shown school restructuring does not significantly impact student scores, promotion rates, or drop-out rates.²¹ Rather, school administrators cite indiscriminate changes made by external sources creating additional challenges in the process of promoting student achievement.

¹⁶ “Questions and Answers on *No Child Left Behind*.” U.S. Department of Education. September 9, 2003.

¹⁷ Regulations of the Offices of the Department of Education, 34 C.F.R. § 200.44(d). 2002.

¹⁸ Menken, Kate. “Teaching to the Test: How No Child Left Behind Impacts Language Policy, Curriculum, and Instruction for English Language Learners.” *Bilingual Research Journal*. Summer 2006. PP. 521-546.

¹⁹ “Highlights of the 2016 State Accountability Results.” Texas Education Agency. November 17, 2016. Web.

²⁰ Regulations of the Offices of the Department of Education, 34 C.F.R. § 200.44(d). 2002.

²¹ Hamilton, Madlene P; Heilig, Julian Vasquez; Pazey, Barbara L. “A Nostrum of School Reform? Turning Around Reconstituted Urban Texas High Schools.” *Urban Education*. Sage Publications. (2104). Vol. 49 No. 2. PP 182-215.

ASSESSMENT OF STANDARDIZED TESTING

Standardized testing assumes a homogenous group of test takers; however, a heterogeneous student population leads to students having different experiences with test-taking. For the purpose of this paper, I will refer to the experiences that English-language learners, specifically Spanish speakers, have had with standardized testing. By including this example, I will illustrate that standardized testing is plagued by unfairness. Also, given the variation of testing based on state (although NCLB stipulated certain subjects and grade levels to be tested, it deferred many decisions as to how tests are implemented to the state level), I will use the State of Texas Assessment of Academic Readiness (STAAR) as a reference.

POPULATION OF ENGLISH LANGUAGE LEARNERS

Within the United States, English-language learners have been identified as the fastest growing population in the public school system.²² According the National Center for Education Statistics, there were approximately 4.5 million students who were identified as English language learners, comprising a total of 9.3% of all public school students for the 2013-2014 academic year. Of these 4.5 million students, 76.5% of the students identified their primary language as either Spanish or Castilian.

As part of NCLB, policymakers decided that it was important to measure the progress of acclimation to the English language.²³ Consequently, they provide certain accommodations to allow for fair testing of all students. This policy brings up two salient

²² "Addressing Achievement Gaps." Policy Evaluation and Research Center. Educational Testing Service. Vol 16. No. 3. Fall 2008.

²³ "Guidelines for the Assessment of English Language Learners." *Educational Testing Service*. 2009. Web.

dilemmas: is it ethical to hold English-language learners to the current level of English attainment when their peers face no similar barrier, and do these accommodations effectively measure skills besides English comprehension?

NO CHILD LEFT BEHIND POLICIES TOWARDS ENGLISH LANGUAGE LEARNERS

NCLB requires that ELLs achieve levels of proficiency similar to their peers. Specifically, the act requires states to test ELLs in both academic content and progress in English language proficiency.²⁴ These students are held to the same standard of AYP as native speakers, even though they must overcome the additional task of foreign language acquisition.

Current Accommodations for ELLs

Given the heavy emphasis on the attainment of language proficiency and challenges of participating in a test in a foreign language, NCLB has outlined the need to linguistic accommodations in statewide standardized testing.²⁵ However, each state must adapt the guidance to fit its specific needs. Looking at Texas as a case example, and assessing the various rules in practice versus in principle, it becomes apparent that the current accommodations given to English-language learners is not sufficient to mitigate the lack of validity in standardized testing.

The Texas STAAR (State of Texas Assessment of Academic Readiness) has guidelines as how to identify students needing accommodation, which level of accommodation they qualify for, and what specific assistance will be provided. Local and qualified Language

²⁴ No Child Left Behind Act of 2001, P.L. 107-110, 20 U.S.C. § 6319 (2002).

²⁵ Ibid.

Proficiency Assessment Committees (LPAC), in conjunction with campus-level staff, assess the English abilities of students petitioning for linguistic accommodations on their exams. Specifically, the state mandates that instructors adhere to the process outlined in Figure 2 to properly identify the necessary accommodations for ELLs.

The LPAC assigns students to either bilingual education programs or English as a second language programs. ELLs in bilingual programs receive full time instruction in a combination of English and the student's native language (in this case, Spanish).²⁶ Curriculum in these classrooms focuses both on academic attainment in core subjects, specifically those tested by STAAR, and mastery of English skills. This option is most accommodating for ELLs as they learn material in Spanish. However, academic content is also taught in English in an attempt to facilitate the transition from Spanish to English.

Students who do not qualify for the bilingual program but who would still struggle to succeed in English-only instruction receive English as a Second Language (ESL) placement. The TEA describes these programs as, "... intensive English language instruction by teachers trained in effective language acquisition strategies."²⁷ The curriculum focuses both on success in academic subjects taught in general classrooms in addition to reading, writing, and speaking in English. In this program, students with limited English ability are taught almost completely in English with teachers who can provide translations as needed.

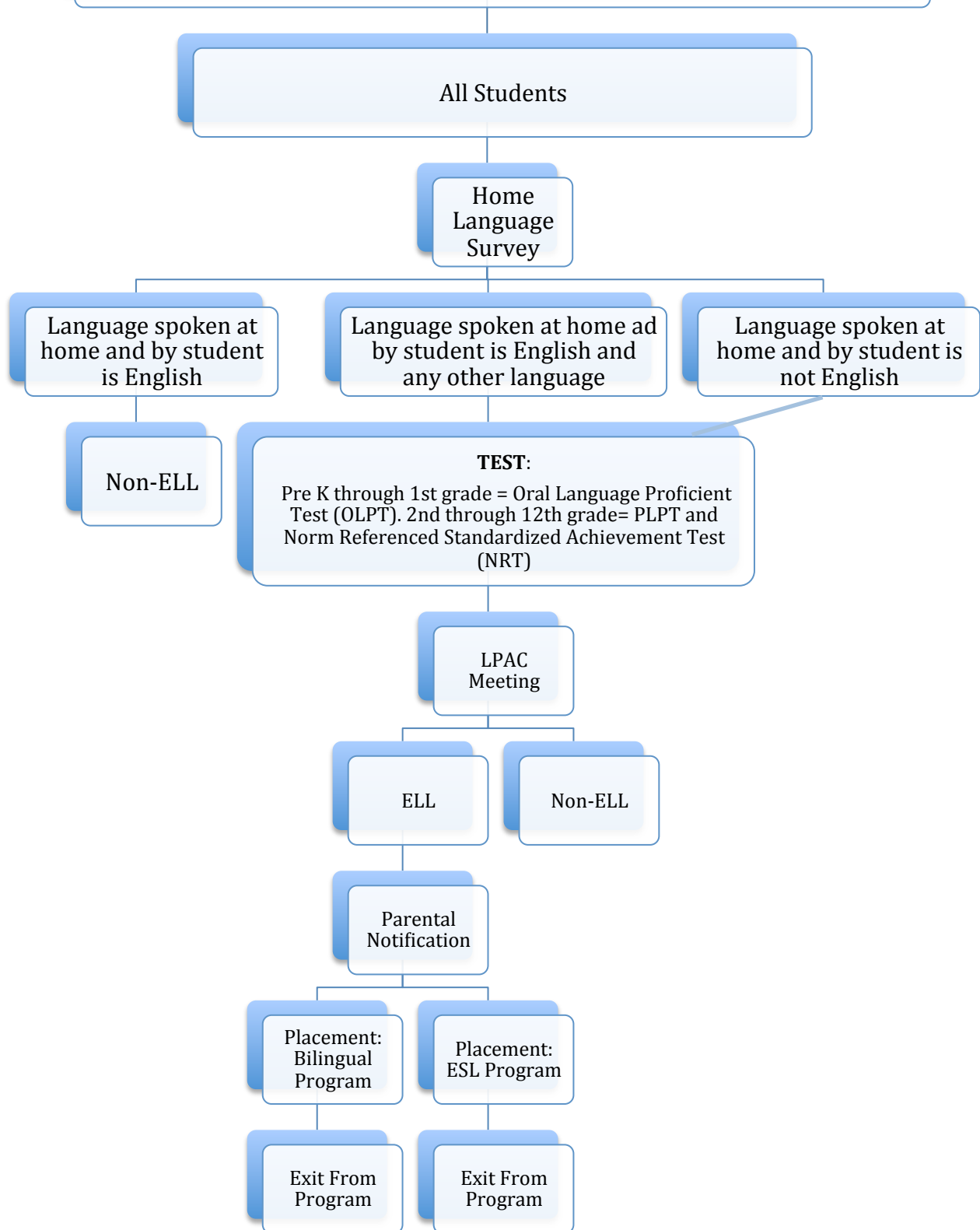
These programs, in tandem with requirements under NCLB, are problematic: ELLs in bilingual and ESL programs are expected to achieve the same levels of proficiency in reading and math as Native speakers, yet they are expected to learn the content in a foreign

²⁶ Stanley, Dan. "Bilingual Education Program: Benefits for Your Child." *Texas Education Agency Division of Curriculum*. Texas Education Agency. 2016.

²⁷ "English as a Second Language Program: Benefits for Your Child." *Texas Education Agency Division of Curriculum*. Texas Education Agency. 2016.

language. Further, within the parameters of the seven-hour school day, ELLs participating in this program must not only find time to stay on track with the same curriculum as native speakers but also dedicated time to learning English. As currently implemented, Texas programs for ELLs place an extra burden of education on the students with high expectation for success in testing without providing extra resources (such as time beyond the seven-hour school day) for them to do so. These accommodations are not extensive enough to promote academic success and English language acquisition.

Figure 2: English Language Learner Training Flowchart
Texas Education Agency



Once students' English-language ability is tested, they are identified as qualifying to one of four testing options. The most extensive accommodation, STAAR Spanish, is an exam administered completely in Spanish. However, only students in grades 3 through 5 potentially qualify for this exam. Figure 3 outlines the STAAR tests available to qualified ELLs. It is important to note that any extra time that is allocated does not extend beyond the traditional seven-hour school day.

²⁸ "Limited English Proficient Training Flowchart." *Texas Education Agency*. Texas English Language Learners Portal. 2012.

Figure 3: STAAR Test Options for ELLs (Based on Previously Placement)
Texas Education Agency

STAAR (English)

- "Limited degree of linguistic accommodation."
- Accommodations: instructors may provide bilingual dictionaries (all students, including non-ELLs, will be provided with English dictionaries) and clarify the meaning of words included in the exam prompt or in short answer reading questions.

STAAR L

- "Moderate to substantial degree of linguistic accommodation."
- STAAR L is only available for the following subjects: mathematics, science, and social studies
- Accommodations: instructors may provide bilingual dictionaries, clarify the meaning of an English word, allocate extra testing time, and read text out loud

STAAR A

- "Degree varies in accordance with second language acquisition needs of ELLs who qualify for this test."
- STAAR A is available for all subjects except for Algebra II and English II
- Accommodations: instructors may provide bilingual dictionaries (all students, including non-ELLs, will be provided with English dictionaries), clarify the meaning of an English word, and allocate extra testing time.

STAAR Alternate 2

- "No specified linguistic accommodations; assessment design allows other languages and communication methods to be used as appropriate."
- Texas offers this version of STAAR to students participating in special educational programs due to cognitive disabilities.
- Applicable grades 3-12

STAAR Spanish

- "Assessment is provided in student's native language; other linguistic accommodations not applicable."
- No special accommodations are provided; this differs from non-ELL testing only in that the examination content is in Spanish
- Applicable grades 3-5

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In 2016, approximately 11% of 5th grade students identifying as an ELL took the STAAR Spanish examination and 20% took the examination in English with some form of

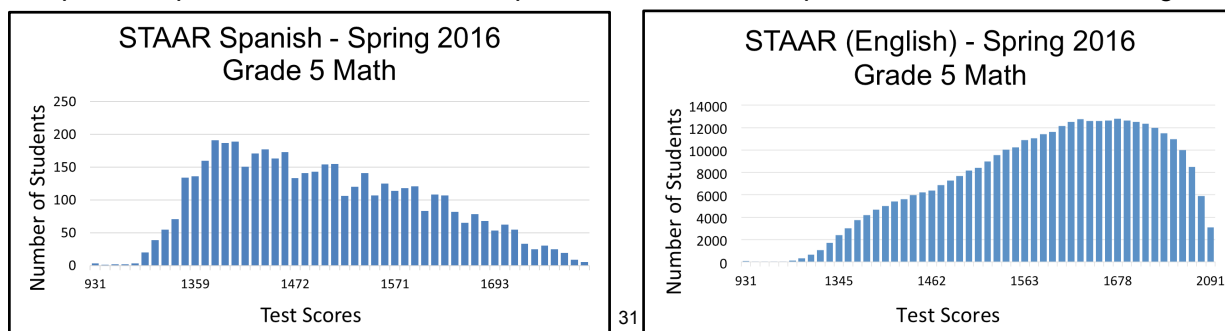
²⁹ Porter, Justin; Brannan, Kim; Neumeyer, Lois. (2016). *Accommodations For State Assessments: 2016 Texas Assessment Conference* lecture [PowerPoint slides].

accommodation. The remaining students who identified as ELLs were assigned to or self-selected to take the English version of STAAR with no accommodations.³⁰

Although these accommodations attempt to equalize the opportunity to prove academic achievement for all students, regardless of background, the current implementation does not completely close the gap, indicated by the disparity between white students and ELLs mentioned previously.

Figure 4: STAAR Math Results for 5th Graders Spring 2016

Spanish Speakers Were Tested in Spanish, while Native Speakers Were Tested in English



To get a better understanding of why these accommodations are not minimizing the achievement gap, it is important to understand how these methods are implemented: how much extra time is given? What are the qualifications for a teacher to be able to assist an ELL with word clarification? The accommodations, as explained by the Texas Education Agency (the governing body for education within the State of Texas) are vague and open to interpretation. Increased transparency would allow me to further investigate why these

³⁰ "State of Texas Assessments of Academic Readiness: Combined Summary Report." Texas Education Agency. May 2016.

³¹ "State of Texas Assessments of Academic Readiness: Combined Summary Report." Texas Education Agency. May 2016.

accommodations are unable to bridge the gap, but at this point in time I am unable to determine any concrete reasons.

Additionally, the pace at which federal legislation expects English language learners to master the language is unrealistic. Under NCLB, students who have been United States residents for more than three years are required to participate in state administered reading examinations in English.³² However, various studies suggest that students typically need five to seven years before they gain a mastery of the language to the point where they would be able to participate in an English-only classroom.³³

High-stakes standardized testing, although intended simply as a measure of accountability and quality assurance for public schools in the United States, has creating lasting implications for how English language learners are treated in the school system and their achievements after the test is administered.

Further, the lack of transparency about both the selection process and the implementation of accommodations suggests both unfairness in nature and the potential for incorrect (and potentially detrimental) facilitation. For example, the nature and effectiveness of the LPACs should be challenged. The Texas Education Agency provides the following explanation of the selection process for LPAC membership:

School districts shall by local board policy establish and operate a language proficiency assessment committee. The school district

³² No Child Left Behind Act of 2001, P.L. 107-110, 20 U.S.C. § 6319 (2002).

³³ Abedi, Jamal and Gandara, Patricia. "Performance of English Language Learners as a Subgroup in Large-Scale Assessment: Interaction of Research and Policy." University of California, Davis. Winter 2006.

shall have on file policy and procedures for the selection, appointment, and training of members of the language proficiency assessment committee(s).³⁴

While the Texas Education Agency does furnish a framework manual that provides guidance as to the intent of the LPAC and the general boundaries that members should maintain, appointment and facilitation of training is left to local boards. Accordingly, there is likely heterogeneity amongst the local LPAC throughout the state of Texas. Under Rawls' theory of justice, this process would not be fair in that students would not have equal access to the inequality that would naturally occur due to this variation. By deferring decisions to "local boards" and not providing further discussion as to how the boards themselves are selected, how the application process works for membership, and how oversight (beyond providing general guidelines) is conducted, the Texas Education Agency creates an opaque picture as to what ELL students and their parents should expect. Without a full understanding of these factors, it becomes increasingly difficult to defend one's own rights.

INEFFECTIVENESS OF STANDARDIZED TESTING

Standardized testing under NCLB not only disproportionately discriminates against subgroups such as English Language Learners, but also it does not accomplish its initiatives: specifically, the tests do not adequately measure nor promote student achievement.

³⁴ "Language Proficiency Assessment Committee: Framework Manual." Texas Education Agency. 2016.

Is the Test Measuring What It Set out to Measure?

Standardized testing, as implemented, is ineffective because the tests lack validity.

Validity refers to the extent to which standardized tests accomplish their aims of measuring a particular constructs- skills or levels of proficiency- of interest with minimal “construct-irrelevant variance”.³⁵ When a test aiming to assess proficiency in a skill such as mathematics or social studies (topics mandated for assessment by most states), administering the exam in a language that the student is not proficient creates an added element to the assessment. Students must not only demonstrate understanding in the academic content, but also must interpret the instructions, grasp cultural references, and have basic literacy to ascertain the objectives of specific questions. A study conducted with 1,700 ELLs and former ELLs illustrated the influence of language proficiency in performance on examinations. When given a Spanish-language and English-language math test, controlling for home-language literacy, students tested significantly better on the home-language version.³⁶ This revealed that English-versions of examinations, even in tests that were not measuring English language proficiency, did not act as a valid metric for knowledge of subject material. Given that the majority of ELLs test in English with limited accommodations, ELLs are not positioned to succeed in testing and reflect their academic abilities.

Who is Truly Being Held Accountable?

³⁵ “Guidelines for the Assessment of English Language Learners.” Educational Testing Service. 2009.

³⁶ Abella, Rodolfo; Urrutia, Joanne; Shneyderman, Aleksandr. “An Examination of the Validity of English-Language Achievement Test Scores in an English Language Learner Population.” *Bilingual Research Journal*. (2005). Vol. 29 No. 1. PP 127-144.

The expressed intent of the NCLB was to solidify the standards that Title I schools were upholding for their students, increasing accountability to ensure equal education. Rhetoric surrounding the act promoted equality of opportunity; subgroups such as ELLs were not only included in the dialogue- they were spoken about as if they were the driving force behind the statute, as illustrated in the following excerpt:

“Children learning English face some of the greatest educational challenges due to language and cultural barriers. That is why President Bush and Congress pushed through the historic education reforms of *No Child Left Behind*. The law ensures that all children—from every ethnic and cultural background—receive a quality education and the chance to achieve their academic potential.”³⁷

However, while schools may seem to face the consequences of the act on the surface of the issue (restructuring of teaching methods, adhering to accommodations for students, potentially suffering economic damages, etc.), students, specifically English language learners, take on the accountability being measured by the state.

Retroactive Approach

³⁷ U.S. Department of Education, Office of the Secretary, Office of Public Affairs, *A Guide to Education and No Child Left Behind*, Washington, D.C., 2004.

Ultimately, the NCLB was implemented with the aim of increasing student achievement.³⁸ However, standardized testing evaluates student's educational attainment at the end of the academic year. While getting feedback from the past year can give some indication performance for the coming year and changes that can be implemented, this retroactive approach on its own is not ideal. Specifically, retroactive assessment does not provide a clear view of the future; previous scores may help with short term change, but scores alone cannot accommodate long-term plans. Further, this method does not allow for necessary intervention in classrooms that are not receiving adequate instruction. After testing, the only solution under NCLB to amend poor performance is retention. At this point, the student would be punished for the lack of intervention, a process outside of their control.

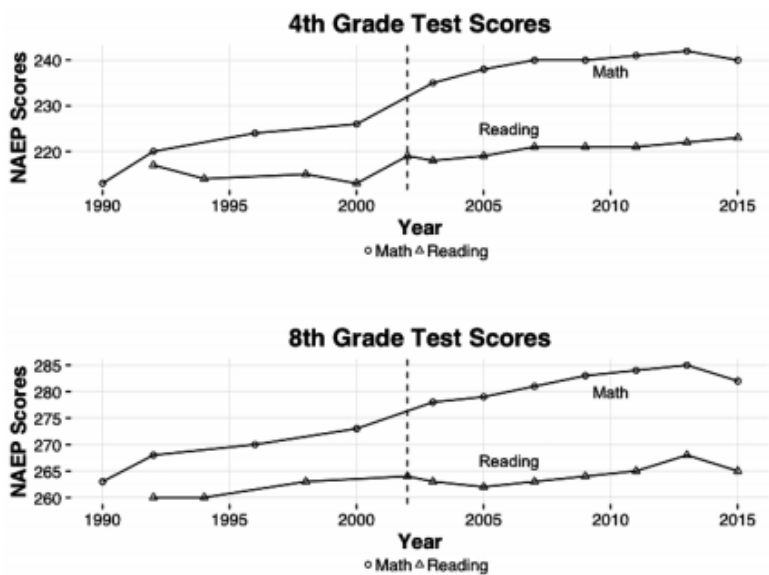
Student Achievement

Proponents of NCLB and accountability through standardized testing argue that some method of liability at a school level is necessary to ensure that students, especially those from disadvantaged backgrounds, receive a standard education. Standardized testing attempted to both monitor and improve educational attainment. However, it fails to achieve these goals. Researchers Jaekyung Lee and Todd Reeves conducted a study using NAEP data to assess the effectiveness of standardized testing as implemented under NCLB on student achievement. The two analyzed differences between state characteristics in education and prior to the enactment of NCLB and trends before and after NCLB. Lee and Reeves found that NCLB policies regarding high-stakes testing were not responsible for any

³⁸ U.S. Department of Education, Office of the Secretary, Office of Public Affairs, *A Guide to Education and No Child Left Behind*, Washington, D.C., 2004.

improvements in educational attainment.³⁹ Rather, their models attributed educational improvements (as indicated by the NAEP) to, “...long-term statewide instructional capacity and teacher resources rather than short-term NCLB implementation fidelity, rigor of standards, and state agency’s capacity for data tracking and intervention.”⁴⁰ Figure 5⁴¹ shows national results from the NAEP from 1990 to 2015, comparing achievement the trends in both math and reading that Lee and Reeves observed in their work.

Further, standardized testing does not accurately capture the academic ability of students as intended. Studies have shown that failure of standardized testing results in



higher dropout rates among students with stronger GPAs than those with low GPAs.⁴² This indicates that psychological and social

ramifications from the stigma of failing a standardized test, independent of academic skill, result in negative outcomes for students. It also shows that testing does not accurately

³⁹ Lee, Jaekyung; Reeves, Todd. “Revisiting the Impact of NCLB High-Stakes School Accountability, Capacity, and Resources. State NAEP 1990-2009 Reading and Math Achievement Gaps and Trends.” *Educational Evaluation and Policy Analysis*. Vol. 34, No. 2, pp. 209-231. June 2012.

⁴⁰ Ibid.

⁴¹ Ladd, Helen F. “No Child Left Behind: A Deeply Flawed Federal Policy.” *Point/Counterpoint*. Journal of Policy Analysis and Management.

⁴² Lee, Jaekyung; Reeves, Todd. “Revisiting the Impact of NCLB High-Stakes School Accountability, Capacity, and Resources. State NAEP 1990-2009 Reading and Math Achievement Gaps and Trends.” *Educational Evaluation and Policy Analysis*. Vol. 34, No. 2, pp. 209-231. June 2012. (p.209)

capture students' academic abilities. As implemented, testing provides an easy way to assess content understanding. However, regardless of how simple the data collection is, because standardized testing does not adequately measure achievement, it should not be used.

IMPACT OF HIGH-STAKES STANDARDIZED TESTS

With 57.3% of students who were identified as “not English proficient” by the spring of their kindergarten year falling below the federal poverty line⁴³, one must consider the confounding ramifications of poverty and language barriers. Further, if indeed these standardized tests are inherently discriminatory towards Spanish speakers, this means that at least 7.7% of students are facing a substantial barrier to academic success.

High-Stakes Nature of STAAR

Standardized testing is problematic because of the high-stakes implications of test results. All students in Texas participate in initial testing in March. Students whose scaled scores are categorized as unsatisfactory results, as defined by the state, receive notification of their failure; this notification states that students will be required to complete accelerated instruction, retake the assessment, and potentially face grade retention.⁴⁴ The accelerated instruction is compulsory and is determined for ELLs in consultation with the student's LPAC. This instruction occurs either during or after the standard school day, and the school itself is responsible for facilitation of the program and transportation of the students.

⁴³ Mulligan, Gail; Halle, Tamara; Kinukawa, Akemi. “Reading, Mathematics, and Science Achievement of Language-Minority Students in Grade 8: Issue Brief.” National Center for Education Statistics. U.S. Department of Education. April 2012.

⁴⁴ State of Texas Assessments of Academic Readiness. “Student Success Initiative Manual.: Grade-Advancement Requirements.” Texas Education Agency. 2017.

However, this places a burden on the schools to prepare the students for a second round of testing, further stretching the limited resources.

In May of that year, these students retake the test for the subject they failed. A subsequent failure results in a notification to the family that the student will participate in a Grade Placement Committee (GPC) meeting. The Texas Education Agency mandates that the principal (or the principal's designee), a parent or guardian of the student, and the teacher for the academic subject in question. The "Student Success Initiative Manual" asserts that parents who cannot attend meetings will be asked to make conference calls into the meetings. This poses an undue burden on parents whose free-time is limited: children not in childcare, strenuous jobs, or other responsibilities may need to take priority to the GPC meeting. This meeting will prescribe the agreed upon accelerated instruction for the student and will result in the denotation of "promotion pending" on their report card. If deemed necessary, it can result in placement in remedial courses.

The student will receive a third opportunity to take the examination in June of that academic year. Failure of this exam results in the student repeating the grade from the previous academic year. However, high-stakes standardized testing results in grade retention for two reasons: STAAR policies mandate grade retention as a form of remediation, and negative ramifications for schools who fail to meet AYP have lead to increased preemptive retention.

Impacts of Grade Retention and Remedial Courses

To avoid having substandard performance metrics, teachers have, at an increasing rate nationally, held back low-testing students earlier on in elementary school.⁴⁵ ELLs not only face the risk of repeating a full year of academic work due to a substandard and discriminatory exam, but they also are subject to becoming a casualty of public schools desperate to retain funding, preemptively being held back before even failing.

While retention is sometimes justified (some students stand to benefit from a review of material they have not fully mastered), one must consider the psychological and social impacts that students experience when retaking courses. Megan Andrew, a sociologist from Notre Dame University, has described grade retention as a “triggering event”- an event that alters one’s course of future achievement by moving a student from one hierarchical sphere to another.⁴⁶ Future performance post retention differs from peers who are promoted based on, “...curricular exposure, stigma, motivation, effort, and more...”⁴⁷ Further, Andrew states that grade retention compounds disadvantages faced by at risk students. Students facing disadvantages, such as ELLs, typically achieve lower scores on standardized testing because (as previously demonstrated) current accommodations and the structure of the test do not position them to succeed. However, instead of facing the single set-back of unsatisfactory marks, the obstacles ELLs face become cumulative given the negative self-efficacy of students facing retention.

Beyond psychological effects and the impact on one’s social standing, grade retention and remedial classes can often lead to a substandard education. When students are identified as needing to be placed in a remedial course or to repeat a grade, based on

⁴⁵ Andrew, Megan. "The Scarring Effects of Primary-Grade Retention? A Study of Cumulative Advantage in the Educational Career." *Social Forces* 93.2 (2014): 653-85. Web.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

test scores, the intention is to provide extra attention to reduce the education gap between the respective student and their peers who achieved satisfactory marks. However, remedial classes will likely not result in any significant closure of this gap, as the course curriculums are simplistic (lacking the substances other students in regular classes would be receiving) and instruction follows a slower pace, covering less material than comparable classes.⁴⁸ While this is concerning on its own accord, it presents problematic implications when the validity of these assessments come into play. What if a student has the academic ability and potential to score tantamount to their English speaking peers but is penalized because the exam does not adequately measure the desired construct? They will only fall behind their peers and will face the additional barrier of fighting the achievement gap created by remedial courses.

Grade retention also leads to long-term negative educational outcomes. Using data from the National Longitudinal Survey of Youth starting in 1979 and the National Education Longitudinal Study starting in 1988, Andrew assessed the correlation between primary-grade retention and educational outcomes. She found that the chances of high school completion for those who repeated a grade during their elementary education was reduced by 60- 75%.⁴⁹ For those who overcame retention and graduate high school, chances of entering postsecondary education was reduced by 45% and the completion of a bachelor's degree by 64%. Although the data for this study occurred before the enactment of NCLB, it illuminates the potential long-term ramifications of retention even today. Texas'

⁴⁸ Rumberger, Russell W.; Gandara, Patricia. "Seeking Equity in the Education of California's English Learners." *Teachers College Record*. Vol. 106, No. 10, October 2004, pp.2032-2056.

⁴⁹ Andrew, M. "The Scarring Effects of Primary-Grade Retention? A Study of Cumulative Advantage in the Educational Career." *Social Forces* 93.2 (2014): 653-85. Web.

policy of remediation through retention, especially for ELLs who are less likely to succeed on STAAR, further compounds existing unfairness for students.

Educational Environment

The high-stakes testing model detrimentally affects the learning environment and quality of education received by students. A study conducted by Schiller and Muller explored teacher and administrator reactions to punishments, such as classification as failing schools or compulsory restructuring, resulting from standardized testing. Their study found that consequences based on testing lead to increased school drop-out rates.⁵⁰ This correlation resulted from teacher identification of at-risk students and disparate treatment, often pushing for test exemptions for students and placement in remedial courses, including special education programs. This process leads to the misplacement of at-risk students in alternative courses; students such as ELLs who traditionally meet unsatisfactory marks on standardized testing need not be delegated to special education programs or remedial courses but rather need accommodations that promote their academic attainment as they learn English. The study explored the relationship between teachers and low-performing students, showing that low teacher expectations strongly correlated with the student's likelihood of graduating from high school.

Further, curriculum shifts focus towards test taking as opposed to educational attainment. Teachers face pressure to have students achieve satisfactory test scores to both promote students to subsequent grades and help the school achieve AYP. These expectations lead teachers to teach to the test- adopting teaching methods to cater to

⁵⁰ Schiller, K., & Muller, C. "External Examinations and Accountability, Educational Expectations, and High School Graduation." *American Journal of Education*, Vol. 108, No. 2 (2000). Pages 73-102.

standardized testing. An ethnographic study conducted by Kate Menken revealed that teachers began, "... preparing students for high-stakes tests by focusing instruction on test content, and skills or, more explicitly, by devoting class time to teaching test items and test-taking strategies."⁵¹ For ELLs, this translated to bilingual and ESL classroom instruction in English as much as possible with programs resembling English language arts courses for native speakers;⁵² this shift employs language learning as a test-preparatory measure with focus less on communication and speaking and more on reading comprehension in the context of a multiple choice examination. Not only is this not conducive to comprehensive language acquisition, but also it reduces time allocated to other subject material outside of what appears on the test. State-mandated testing in only a few subjects (reading and math being the only two federally mandated subjects) creates a de facto script for what should be taught in schools; the significance of many important skills and subjects is diminished.

THEORY OF JUSTICE: AN ETHICAL FRAMEWORK

To assess the fairness of standardized testing, as currently implemented, I will utilize John Rawls' Principle of Justice. Rawls acknowledges the inevitability of inequality, especially in societies that hold liberty as a fundamental pillar.⁵³ However, he perceives justice as fairness, and consequently upholds inequalities to certain standards to assess their fairness. I focus on Rawls' second Principle of Justice which can further be broken down into the fair equality of opportunity principle and the difference principle. Within the

⁵¹ Menken, Kate. "Teaching to the Test: How No Child Left Behind Impacts Language Policy, Curriculum, and Instruction for English Language Learners." *Bilingual Research Journal*. Summer 2006. PP. 521-546.

⁵² Ibid.

⁵³ Rawls, John. "An Egalitarian Theory of Justice." *Ethical Theory and Business*. Eighth ed. 2009.

context of demonstrated inequality in high-stakes standardized testing, the following questions must be asked:

Fair Equality of Opportunity	Do similarly endowed students have equal testing outcomes?
The Difference Principle.	Do unequal testing outcomes benefit the least advantaged students?

Inequalities that fulfill all of the criteria above would pass Rawls' test of fairness and would therefore be permissible.

To implement this test, and to give rise to the discussion to come throughout this paper, we must first establish that inequality does indeed exist. The National Assessment of Educational Progress (NAEP) is a national assessment used to uniformly assess the academic progress of students for every state; it does not reveal individual or school-wide results, but rather reports metrics by state for various groups and subgroups of students.⁵⁴ This assessment allows researchers to compare educational achievement across the nation, a difficult task if the different state-designed tests were used. Data from the NAEP for

⁵⁴ "National Assessment of Educational Progress (NAEP)." *National Center for Education Statistics*. U.S. Department of Education.

Figure 6: “Average Reading Scores of 4th-Grade Students, by English Language Learner (ELL) Status: Selected Years, 2002-11”

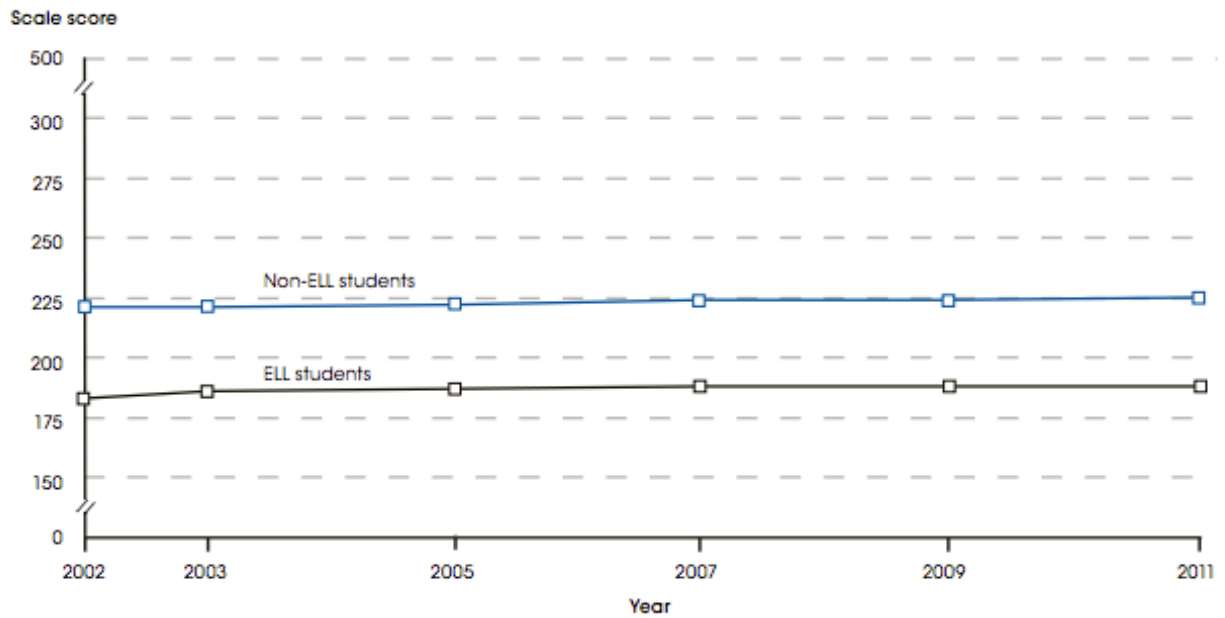
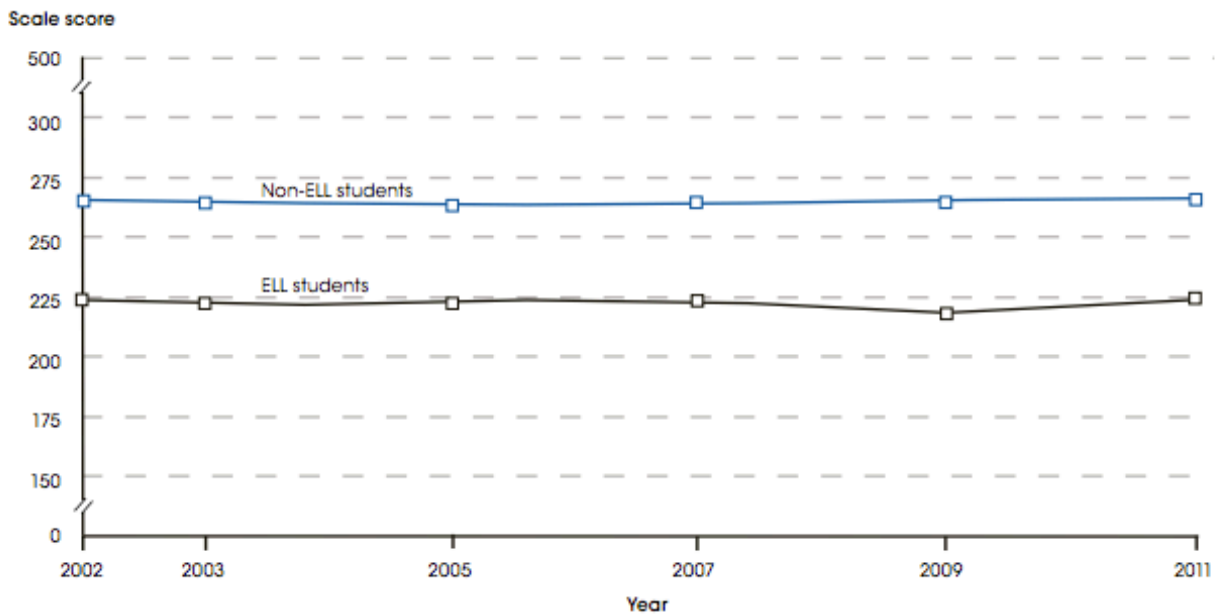


Figure 7: “Average Reading Scores of 8th-Grade Students, by English Language Learner (ELL) Status: Selected Years, 2002-11”



NOTE: Scale ranges from 0 to 500.
 SOURCE: U.S. Department of Education, National Center for Education Statistics, National Assessment of Educational Progress (NAEP), selected years, 2002-11 Reading Assessments, NAEP Data Explorer. See *Digest of Education Statistics 2012*, table 142.

nation-wide test results of fourth and eighth graders in reading provides such evidence.⁵⁵

⁵⁶These differences are significant and hold true across the span of four grades. It becomes apparent that this difference in achievement, as measured by the standardized tests, disproportionately affects ELLs. Further, even through the enactment of NCLB, this achievement gap has been persistent, showing little progress. Through the analysis of this patterned inequality, we can conclude that Rawls' equality of opportunity criterion is not met.

Also, standardized testing also fails to meet Rawls' difference principle. Based on the detrimental effects of receiving unsatisfactory marks such as grade retention, admittance to remedial course, and negative psychological and social impacts, it becomes apparent that poor performance on testing does not advantage students, but rather hinders their personal and educational development. Ultimately, this inequality of performance only compounds existing inequality.

The achievement gaps demonstrated between ELLs and non-ELLs reflect morally arbitrary characteristics; because of this, these examinations should not dictate life outcomes. As previously outlined, low performance in high-stakes standardized testing correlates with unfavorable outcomes, and therefore the exams are unjust. Rawls explains that humans are subject to a "natural lottery" of characteristics; we are born into certain socio-economic statuses, given able-bodies or disabilities, and imbued with certain skills.⁵⁷ However, having these characteristics is a matter of pure luck; we have not done anything to deserve our initial positions in life. In recognizing this, Rawls states that the way to bring

⁵⁵ Fry, Richard. "How Far Behind in Math and Reading are English Language Learners?" *Pew Research Center*. June 6, 2007.

⁵⁶ Both images obtained from the following source: "English Language Learners." *Elementary/Secondary Enrollment*. National Center for Educational Statistics. 2013.

⁵⁷ Rawls, John. "An Egalitarian Theory of Justice." *Ethical Theory and Business*. Eighth ed. 2009.

about justice in society is by removing the effects of these morally arbitrary attributes. Students born into families that do not speak English are a part of this birth lottery; justice will be achieved when the education system and statutes are able to give the necessary resources and accommodations so these students can adequately compete with their peers.

Finally, standardized testing is unfair because it requires that schools alone reverse the effects of inequalities created by other institutions. Rawls argues that schools need the support of just social, political, and economic institutions to mitigate inequalities that exist amongst students, most of the inequalities existing prior to primary school enrollment.⁵⁸ However, by requiring students such as ELLs who face unique barriers to success to perform at the same level of proficiency in academic content as their peers, policies like NCLB demand that schools become the equalizer of society. Rather, schools should work in tandem with other institutions to reduce inequalities that are often results of unfair structures in society.

POLICY SUGGESTIONS

Standardized testing, as currently implemented, does not adequately measure “academic achievement”, does not capture skills (such as art, writing, social sciences, communication, etc.) outside of mandated content (reading and math), and can even set individuals back in their academic careers. However, the intent of policymakers to create a standard of accountability is not ill founded. This paper deals with equality of measurement in regards to testing, but equality of educational opportunity poses a nation-wide concern and creates the need for accountability. Because of this, I assert that there needs to be some standard

⁵⁸ Stein, Zachary. *Social Justice and Educational Measurement: A Rawlsian Perspective*. Routledge. March 31, 2016.

for oversight of various schools, but it should be modified to promote the successes of schools rather than punish failure.

In the long-term, policymakers should phase out the use of standardized testing as a way to assess academic achievement. Standardized testing has been believed to provide an efficient, seemingly unbiased way to account for student progress. However, ease of measurement does not equate to quality of data collected. As illustrated in this project, both the actual test and the consequences of the results do not provide fair equality of educational opportunity, nor do they promote overall academic achievement. Given the unfairness of standardized testing, more research should be done as to how to effectively promote both equality of education and student achievement in all regards, not just in reading and math. This can be done through fair funding of schools, the employment of high quality teachers, and exposure to diverse opportunities for students. However, I recognize that standardized testing has been the norm for many years; substantial research will be required to ascertain the best methods for student promotion and accountability.

As high-stakes standardized testing phases out, states can employ the balanced scorecard method to provide proactive, holistic assessments that best promote educational equality. For-profit firms widely use the balance scorecard technique. Traditionally, firms have used financial end-of-year reports to assess the firm's performance and amend future budgets, expansions, and goals. However, executives found that looking at financial performance was not only retroactive, but also did not capture important business processes that ultimately led to overall success and focused too much on short-term solutions. The balanced scorecard used four dimensions to gauge the firm's operations: financial; customer; internal business processes; and learning and growth. Within each

perspective, firms assign various goals and corresponding measurements to achieve said goals. This type of assessment would translate well to school assessment. Having various perspectives, including student experience, internal school processes, and growth, will reduce the impact that standardized testing has on assessment. Various measures, specifically those within the frame of student experience, would capture student achievement in skills outside of easy-to-measure subjects that are traditionally tested (reading and math). Metrics with internal school processes could include student/teacher ratios and ability of classrooms to stay on curriculum timelines. The learning and growth frame would enable schools to take a proactive approach to education; this would require monitoring of new classroom techniques, updating curriculum to include the most up-to-date material, and evaluating the ever-changing social and culture changes in society and their effects on students, allowing them to adapt for all subgroups of students.

Regardless of how policymakers amend measurement standards, they should repeal any sanctions placed upon underperforming schools. Just as student populations are diverse, schools across states as varied as Texas face different challenges based on their funding, student body, and location. Instead of removing funds from schools who choose not to comply with NCLB testing requirements, state agencies should allow for appeal by schools to disregard high-stakes testing. Through a thorough approval process, schools with high populations of ELLs that need to amend curriculum to best suit their students can do so without facing consequences for not conforming to traditional criteria.

Additionally, policymakers should eliminate the high-stakes nature of standardized testing for students. The ramifications of unsatisfactory marks (retention, social implications, etc.) are more detrimental than helpful. Teachers, those who interact with and

continually assess students, should play a larger role in identifying whether or not students would benefit from remediation or intervention. Unique students require unique solutions, and a homogenous system of mediation does not accommodate for various challenges students face.

Finally, states should provide more extensive resources to ELLs, including a different version of the standardized test. ELLs should take an English proficiency examination to assess their progression in their language acquisition, but given the lack of validity of standardized testing, it is not fair to assess English comprehension a second time through English-version examinations. Rather, testing should be developed that more accurately reflects the curriculum being taught in bilingual and ESL classrooms. Further, more extensive support for ELLs should be provided. Rawls argues that as a society it is our duty to provide resources to mitigate the impact of morally arbitrary factors in life outcomes. Therefore, when patterned inequality (such as the achievement gap) becomes apparent, we should attempt to correct this by supporting the struggling group. This will allow them to better compete with their peers. Within the context of ELLs, we should provide English instruction outside of the typically seven-hour school day. When core content is instructed in a foreign language, we compromise student's ability to grasp material. ESL and bilingual classes should be preceded by Spanish-only classrooms that are supplemented by English-language courses.

CONCLUSION

It is ethically problematic and practically ineffective to require states to administer high-stakes standardized testing. Standardized tests have widely been used as a means of

assessing schools' ability to instruct students. Acts such as NCLB have increased the import of these metrics through mandated testing and high-stakes consequences for poor performance. Specifically, schools face the consequence of restricting and increased student withdraw, and students face grade retention and alternative education. However, this policy unfairly affects disadvantaged students, specifically ELLs.

Further, even if standardized testing promoted fair equality of educational opportunity, it does not achieve the goals of NCLB. The act specifically stated that it would attempt to promote academic achievement, reduce the achievement gaps between high and low performing students, and increase equality for traditionally disadvantaged student populations. However, studies have shown that any increase in nationwide student achievement is due to continued trends starting in the 1990s. Also, the achievement gap in the state of Texas has been consistent since NCLB was enacted. Finally, ELLs disproportionately receive unsatisfactory scores on the STAAR examination, even when testing in their native language.

Policymakers should remove high-stakes standardized testing as a method of accountability. Rather, a proactive, holistic approach of assessment should be used. Specifically, educators can adapt the balanced scorecard approach used by for-profit companies. This method allows for the inclusion of a wider variety of metrics and for a proactive approach to assessment. Also, ELLs should receive more extensive accommodations. Although they are tasked with the additional burden of learning English, these students utilize different accommodations rather than more accommodations. ELLs should receive a different version of the standardized test, if one must be implemented, that best reflects their curriculum. Also, content instruction should be taught in one's

native language to maximize comprehension, and additional instruction in English should be provided outside the scope of the school day.

Other factors that can influence performance on standardized testing include educational background prior to attending the affected Title I schools, socio-economic background and family environment, literacy in a student's primary language, and status of citizenship. These issues themselves, although significant, are complex; however, they exceeded the scope of this paper and therefore were not addressed. Although I have used ELLs as an example of a specific group facing adversity within the scope of unfair assessment and its detrimental consequences, that is not the only group of individuals that the unfairness of standardized testing affects. Other subgroups, such as individuals with disabilities, children from lower socioeconomic status backgrounds, immigrants, etc., also have their own specific challenges, some of which may or may not overlap with those outlined in this paper.

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