

The Condition of Minority Access and Participation in Arizona: 2004

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Background

This brief reviews the current status of minority students in the public schools of Arizona. For the purposes of this discussion, *minority* is defined as anyone other than non-Hispanic White native speakers of English. The discussion includes all varieties of minority (i.e., language minority, ethnic minority, racial minority, recent immigrant). This brief attempts to paint a broad-brush picture of how minority students in Arizona achieve in comparison with majority group students.

Federal Laws and Court Rulings

The *Brown v. Board of Education of Topeka, Kansas*,¹ ruling of 1954 determined that racial segregation limited African American student access to a quality education in public schools, and was therefore illegal. This landmark case set the stage for the legal and regulatory framework that developed subsequently and that grew to include other groups experiencing similar educational inequities. *Brown v. Board of Education* paved

the way for The Civil Rights Act of 1964 (especially Title VI),² and for The Equal Educational Opportunities Act (EEOA) of 1974.³

Other pertinent U.S. Supreme Court rulings include *Lau v. Nichols*,⁴ in which the Supreme Court declared that equality of educational opportunity is denied to students who do not understand English if schools do not take affirmative steps to differentiate their instructional program from that provided to native speakers of English. Unlike *Brown v. Board of Education*, which made it necessary for plaintiffs to show a school district's intent to discriminate, *Lau's* focus is on outcomes. If students do not receive instruction in a language that they can understand, they are receiving disparate services from the school district. The school district has denied the students equal educational opportunity, regardless of the district's intent. The state's data suggest that the absence of such opportunity, owing to the absence of affirmative steps to provide access, is common in Arizona. In *Plyler v. Doe*,⁵ the Supreme Court ruled that the Fourteenth Amendment prohibits states from denying a free public education to immigrant children regardless of the legal status of their parents' residency in the United States.

The Federal Court of Appeals' ruling on *Castaneda v. Pickard*⁶ resulted in the formulation of a test to determine school district compliance with the Equal Educational Opportunities Act (EEOA):

- The school must pursue a program based on an educational theory recognized as sound or, at least, as a legitimate experimental strategy.
- The school must actually implement the program with instructional practices, resources, and personnel necessary to transfer theory into reality.
- The school must not persist with a program that fails to produce results.

In *Gomez v. Illinois*,⁷ the requirements to apply these principles were extended to state education agencies to ensure that English Language Learners' needs are met. Again, no evidence was found that Arizona has responded *affirmatively* to this requirement of law.

The Native American Languages Act of 1990⁸ stipulates that the right of Native Americans to express themselves in Native American languages shall not be restricted in any public proceeding, including publicly supported education programs. With the sole exception of an Attorney General opinion that Proposition 203 does not apply to Indian-controlled, Bureau of Indian Affairs (BIA), and reservation schools,⁹ no evidence was found that state school leaders have concerned themselves with this legislation or monitored its application uniformly across the state.

Arizona State Laws and Court Rulings

In Arizona, the legal and regulatory landscape with respect to minority participation in education in K-12 schools promised to change remarkably in the 1990s. The process, however, has yet to be completed. *Flores v. State of Arizona*¹⁰ was first filed in the U.S. District Court in 1992. The court agreed with the plaintiffs' claim that the state did not adequately finance educational programs for English Language Learners (ELLs). One outcome of the court case was the *Flores Consent Order* (2000),¹¹ which required new procedures for reassessment of ELLs and greater monitoring by the state of school districts' compliance with EEOA and other pertinent federal and state laws. This consent order also required that the state conduct the first of two cost studies on the education of ELLs. In response to the Flores Order, Arizona House of Representatives Bill 2011 (HB2011)¹² enacted laws and statutes regulating English Learner (ELL) programs in schools. This bill also established requirements for the State Board of Education and the Arizona Department of Education (ADE) with respect to their supervision of ELL programs in Arizona public and charter schools, established various steps to improve compensatory instruction, and ordered the ADE to monitor such programs, along with the funds expended for them. Also mandated was a regional teacher training program, English as a Second Language instruction for parents of ELLs, and special grants to school districts and charter schools that demonstrate unique needs in language acquisition programs.

The legislature also commissioned a second cost study to determine an equitable funding level for these programs. That report was to be provided to the legislature by August 2004, and is not yet available at this writing.

Proposition 203¹³ repealed the state statute that provided for bilingual and English as a Second Language programs in the public schools¹⁴ and replaced it with “English Language Education for Children in Public Schools.”¹⁵ The resulting legislation requires that all public school instruction be conducted in English and that ELLs be placed in an intensive one-year English immersion program. Parents may request a waiver for children who already know English, are ten years of age or older, or have special needs best suited to a different educational approach. Traditional foreign language programs are unaffected.

Recent Developments

Since the passage of Proposition 203 in November, 2000, the Arizona legislature, in consultation with the educational and business communities, has been engaged in rule-making that complies with two apparently conflicting mandates. Two additional developments emerging since January 2002 are the reauthorization of the federal Elementary and Secondary Education Act (known as the No Child Left Behind Act of 2001 [NCLB])¹⁶ and Arizona LEARNS (Arizona Revised Statute 15-241),¹⁷ which is Arizona’s state plan for participating in NCLB. To continue to receive federal funds under NCLB, public schools must meet academic standards as prescribed by NCLB. The objectives are to implement a single, statewide accountability system that ensures that all districts and schools make Adequate Yearly Progress (AYP), and to hold accountable those that do not. Most notable of the statutory requirements are those included in Title I (Improving the Academic Achievement of the Disadvantaged), which requires that: (1) In order to make adequate yearly progress, schools must test in each of a number of categories at least 95 percent of their students, including low-income students, students from major racial and ethnic groups, and students with limited English proficiency;¹⁸ and (2) Local school districts must notify parents of their right to request information on the professional qualifications of their children’s teachers.

Arizona’s interpretation of the terms of NCLB through Arizona LEARNS appears to conflict with the *Flores Consent Order*. Arizona LEARNS requires that all students in Arizona’s public schools be taught in English and that they “participate effectively” in

the rest of the curriculum, whereas the *Flores Consent Order* acknowledges that English learners are foreclosed from their civil right to participate in the rest of the curriculum when the language of instruction is limited to English. Also underway, in response to the *Flores Consent Order*, is a second cost study focused on the education of English Language Learners in Arizona in the civil rights legal context. The study is to be completed no later than August, 2004.

Portions of NCLB focus on subsets of the population, with Title III providing funding to the schools serving ELL students. Formerly known as Title VII, or the Bilingual Education Act, this aspect of the legislation no longer funds bilingual education in Arizona, since it is prohibited by Proposition 203. Accordingly, Title III funds are being used for other purposes, notably for structured English immersion.

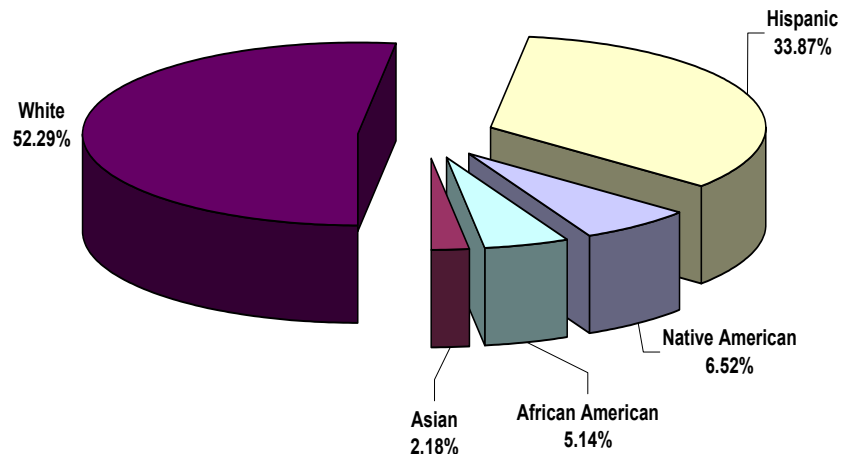
Title IV of NCLB regulations relates to school safety,¹⁹ and is pertinent to minority participation because students who attend school and learn in a safe, orderly environment are more likely to persist in their studies and achieve academically. In addition to addressing substance abuse, hate crimes, weapons in school, and similar concerns about student-to-student violence, Title IV's terms also consider incidents of institutional "violence" — elements of school culture that are potentially dissonant with minority students' and families' experiences and values — by offering minority families alternatives to physically and intellectually hazardous learning environments.

Available Data

According to the U.S. census, between 1990 and 2000, the Hispanic population grew by approximately 88 percent.²⁰ Hispanics in Arizona are both the largest and fastest growing minority group in the state. Since Hispanic families are younger on average than other racial and ethnic populations in Arizona, the minority school-aged demographic is growing exponentially. According to the Arizona Department of Education,²¹ minority students represent almost half of all students in Arizona (Figure 1). A projected 54 percent of students in Arizona schools will be minorities by 2013-14.²²

Figure 1

Arizona K-12 Enrollment Demographics
Source: Arizona Department of Education, 2003



Positive indicators of minority participation in K-12 education include participation in advanced courses, such as Advanced Placement and gifted or talented programs, and representation among high school graduates; negative indicators are representation among those reported as truant or suspended or otherwise involved in disciplinary proceedings, and representation among high school dropouts.

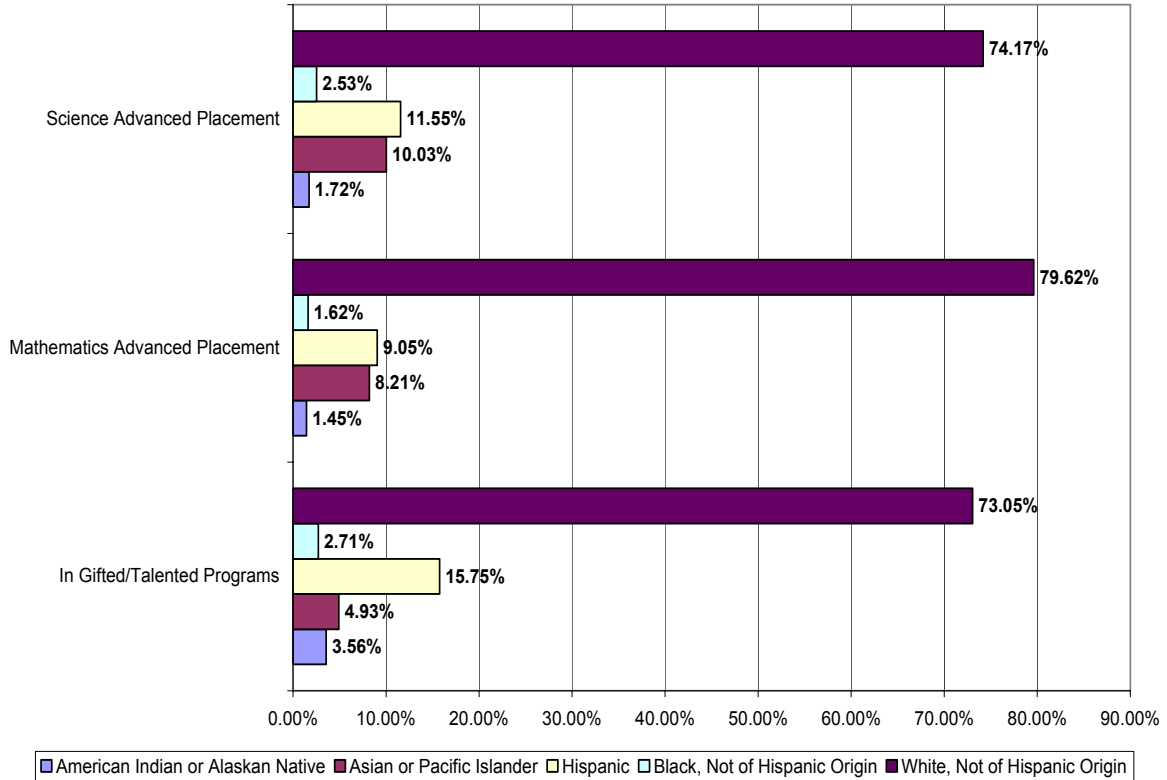
Advanced Placement and Gifted or Talented Programs

One indicator of student achievement and participation is representation in Advanced Placement and Gifted or Talented Programs.²³ According to the Office for Civil Rights data, minority students, who represent nearly half of the school-aged population in Arizona, are underrepresented in Advanced Placement Mathematics and Science classes and in Gifted or Talented programs across the state (Figure 2). Ethnic or racial minorities make up approximately 27 percent of students enrolled in Arizona Gifted or Talented programs. Similarly, they make up 20.4 percent and 25.8 percent of students enrolled in AP Mathematics and AP Science, respectively. These statistics represent a wide gap between minority students' participation in these programs and their presence as 49.72 percent of Arizona's K-12 student enrollment.²⁴

Figure 2

Arizona Student Participation in Advanced Placement and Gifted or Talented Programs

Source: Office for Civil Rights Elementary and Secondary School Survey, 2000



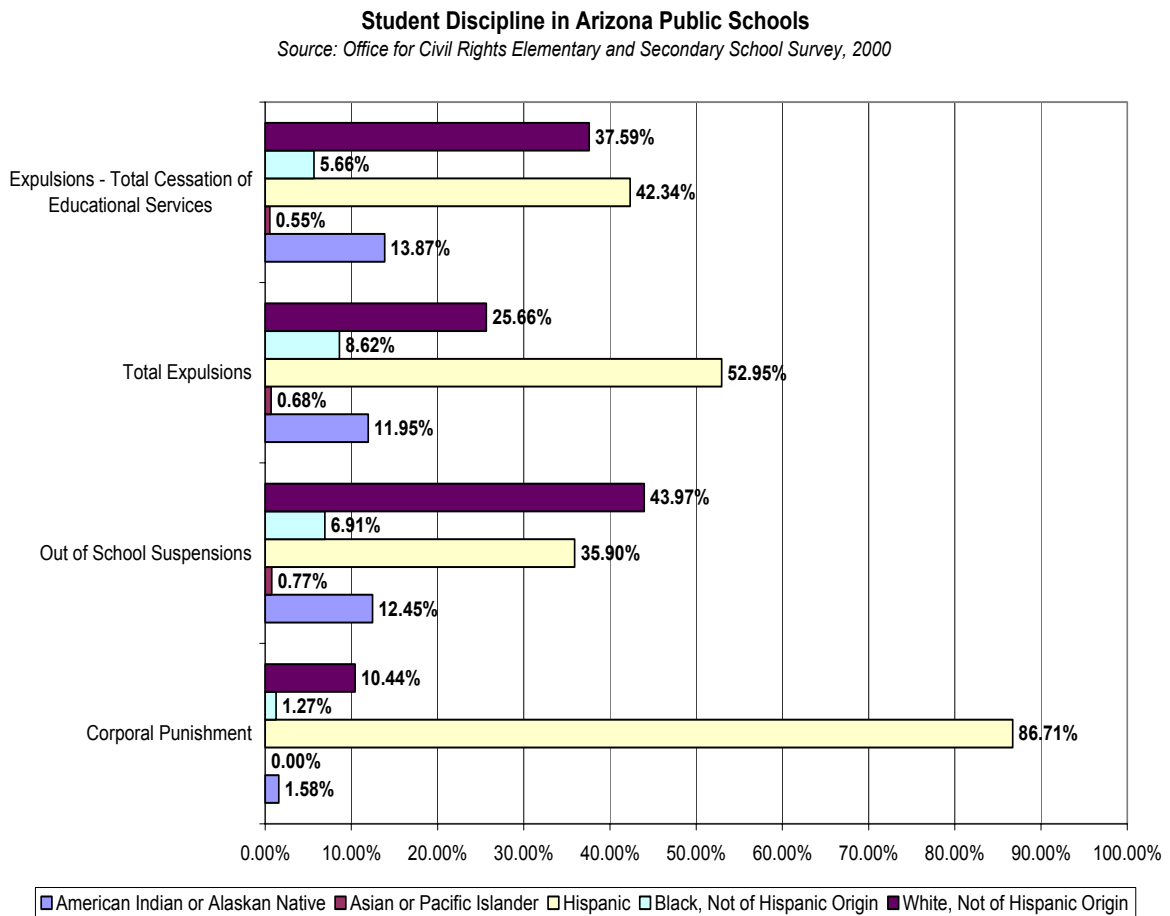
Student Discipline

According to Skiba, Michael, Nardo & Peterson,²⁵ one of the critical issues in school discipline is the overrepresentation of students of color among those disciplined through suspension, expulsion, or other disciplinary policies, because such actions threaten minority students’ access to education more severely than they do other groups’. Nationwide, school discipline regulations that are enforced disproportionately are an education equity issue.²⁶

By definition, suspended students are denied access to the school’s instructional programs. Suspension, expulsion, retention in grade, chronic failure, alienation, being over-age for one’s grade, and social isolation all contribute to high dropout rates.^{27, 28} Suspension policies can encourage repeated negative behavior that ultimately results in the student dropping out of school, thwarting the school’s mission.²⁹ Minority students in

Arizona are overrepresented among those disciplined for misbehavior in school, and their access to education is impeded as a result because disciplinary practices remove them from the classroom and interrupt instruction. According to Office for Civil Rights (OCR) data obtained from the schools,³⁰ in the 2000-01 school year, more than 62 percent of expulsions with total cessation of education services involved minority students. The OCR reports also that in Arizona, more than 76 percent of expulsions, 56 percent of out-of-school suspensions, and 89 percent of violent acts of corporal punishment involved minority students. Nearly all of Arizona’s minority students who received corporal punishment were Hispanic (86.71 percent of 89.56 percent). In the 2000-01 school year, Arizona schools reported 548 instances of corporal punishment on Hispanic students.

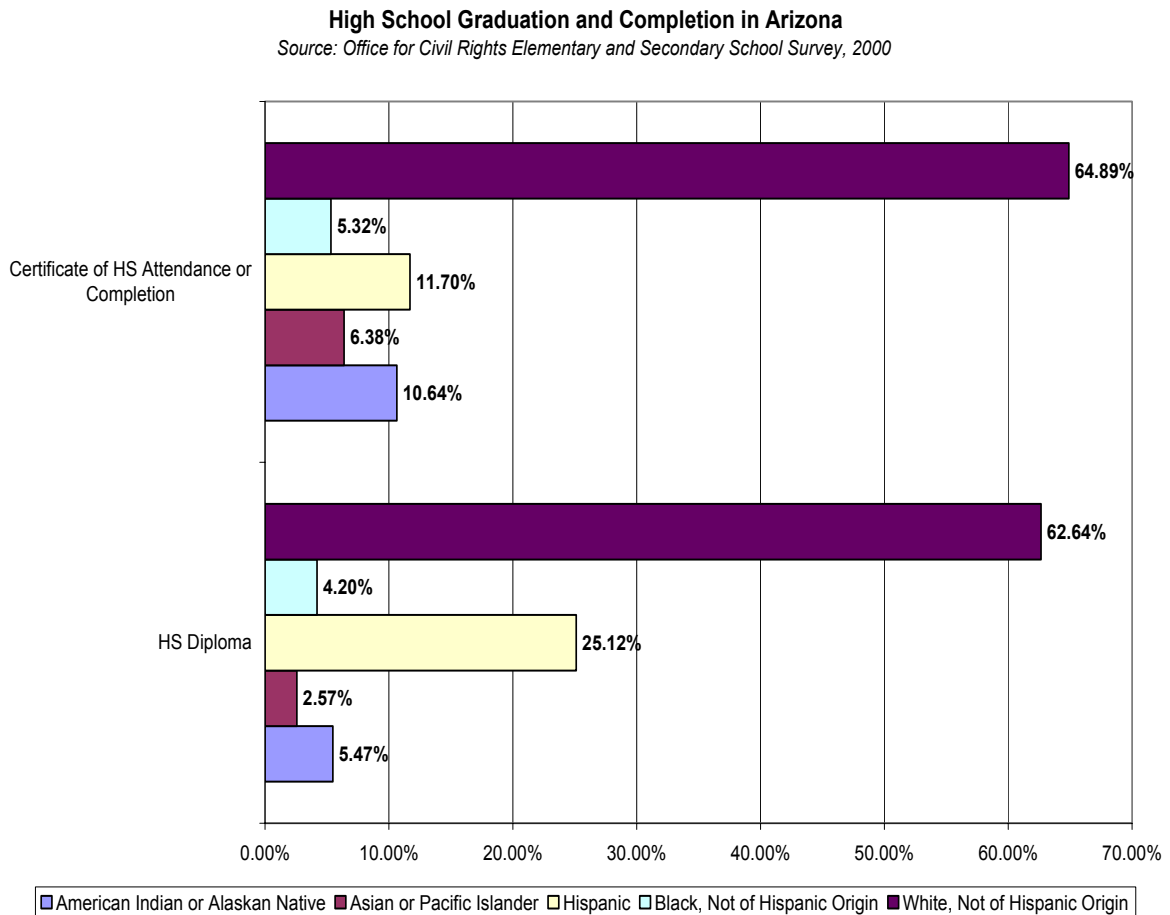
Figure 3



Dropout and Graduation Rates

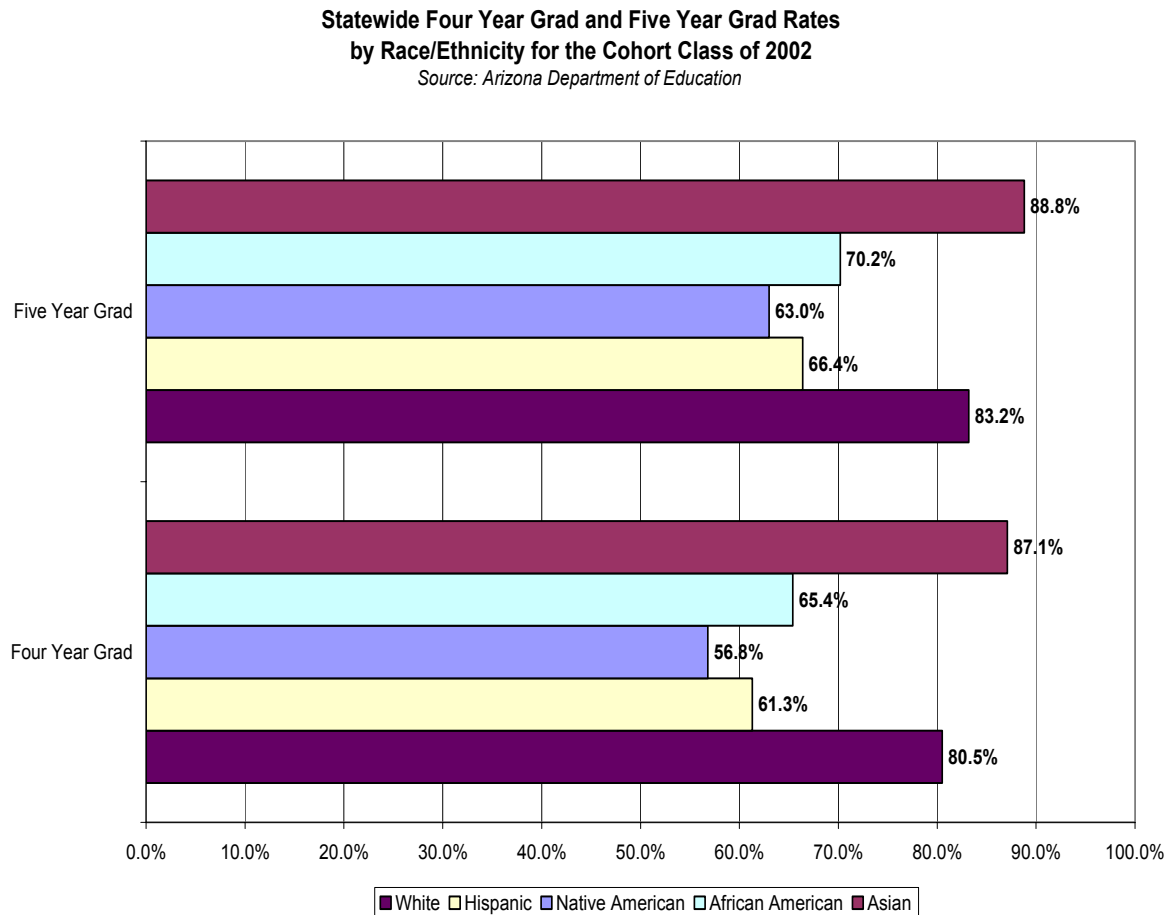
This section examines the condition of minority participation in Arizona's schools as reflected in high school graduation and dropout patterns.³¹ According to OCR,³² 35.11 percent of all high school graduates with certificates of high school attendance or completion were minority students in 2000 (Figure 4). By comparison, 37.36 percent of all high school graduates are minority students (Figure 4). These statistics represent an approximately 10 percent gap between minority students' 47.71% representation among Arizona's student enrollment (See Figure 1) and their representation among diploma-carrying high school graduates prepared to continue their education in a postsecondary educational institution.

Figure 4



The Arizona Department of Education also tracks graduation rate data and distinguishes among those who graduate at the end of four years of high school, those who graduate after five years, and those who complete a G.E.D. Native American, Hispanic, and African American students graduate in four or five years at lower rates than their Asian or non-Hispanic White peers (Figure 5).

Figure 5



Assuming that high school dropout rates represent low levels of minority participation in school, the picture of minority participation in education in Arizona is discouraging. The data show that 3.6 percent of minority students in seventh and eighth grade dropped out of school during the 2002-03 school year (Table 1).³³ Of particular concern is the 5.5 percent dropout rate among Native American eighth graders (Table 1). This rate is nearly three times the norm for non-Hispanic White students. Also

troublesome is the 11.7 percent dropout rate among minority ninth through twelfth graders in 2002-03. This rate was more than double that of non-Hispanic White students (5.6 percent; Table 1). The highest dropout rates are found in ungraded secondary schools, where no group appears to fare well: 25.3 percent of White students and 35.7 percent of minority students dropped out of this type of Arizona secondary school in 2002-03 (Table 1). The most poorly performing minority sub-group in ungraded secondary schools was the African American population (40.5 percent dropped out in 2002-03). Approximately 35 percent of Hispanic and Native American students in ungraded secondary schools dropped out, and 14.7 percent of Asian students did.

Table 1: School Dropout Rates, Grades 7–12, 2002–03

Grade/Category	Non-Hispanic White			Minority		
	Enrolled	Drops	Rate	Enrolled	Drops	Rate
7	43,800	909	2.1%	43,640	1,575	3.6%
8	42,198	760	1.8%	39,731	1,449	3.6%
<i>Total Elementary</i>	<i>85,998</i>	<i>1,669</i>	<i>1.9%</i>	<i>83,371</i>	<i>3,024</i>	<i>3.6%</i>
9	44,930	1,703	3.8%	44,887	4,627	10.3%
10	41,782	2,005	4.8%	37,263	3,832	10.3%
11	39,329	2,284	5.8%	31,060	3,353	10.8%
12	37,063	2,620	7.1%	29,603	3,986	13.5%
Ungraded Secondary	2,956	748	25.3%	3,802	1,358	35.7%
<i>Total High School</i>	<i>166,060</i>	<i>9,360</i>	<i>5.6%</i>	<i>146,615</i>	<i>17,156</i>	<i>11.7%</i>
<i>Total All Grades</i>	<i>252,058</i>	<i>11,029</i>	<i>4.4%</i>	<i>229,986</i>	<i>20,180</i>	<i>8.8%</i>

	African American			Hispanic		
Grade/Category	Enrolled	Drops	Rate	Enrolled	Drops	Rate
7	4,627	187	4.0%	31,578	107	3.4%
8	4,094	138	3.4%	28,369	980	3.5%
<i>Total Elementary</i>	<i>8,721</i>	<i>325</i>	<i>3.7%</i>	<i>59,947</i>	<i>1087</i>	<i>3.4%</i>
9	4,420	321	7.3%	32,102	3,253	10.1%
10	4,017	324	8.1%	26,358	2,737	10.4%
11	3,617	325	9.0%	21,683	2,369	10.9%
12	3,442	478	13.9%	20,508	2,858	13.9%
Ungraded Secondary	536	217	40.5%	2,660	945	35.5%
<i>Total High School</i>	<i>16,032</i>	<i>1,665</i>	<i>10.4%</i>	<i>103,311</i>	<i>12,162</i>	<i>11.8%</i>
<i>Total All Grades</i>	<i>24,753</i>	<i>1,990</i>	<i>8.0%</i>	<i>163,258</i>	<i>13,249</i>	<i>8.7%</i>

	Native American			Asian		
Grade/Category	Enrolled	Drops	Rate	Enrolled	Drops	Rate
7	5,661	280	4.9%	1,774	38	2.1%
8	5,551	305	5.5%	1,717	26	1.5%
<i>Total Elementary</i>	<i>11,212</i>	<i>585</i>	<i>5.2%</i>	<i>3,491</i>	<i>64</i>	<i>1.8%</i>
9	6,487	1,020	15.7%	1,878	33	1.8%
10	5,148	729	14.2%	1,740	42	2.4%
11	4,117	605	14.7%	1,643	54	3.3%
12	3,948	552	14.0%	1,705	98	5.7%
Ungraded Secondary	538	186	34.6%	68	10	14.7%
<i>Total High School</i>	<i>20,238</i>	<i>3,092</i>	<i>15.3%</i>	<i>7,034</i>	<i>237</i>	<i>3.4%</i>
<i>Total All Grades</i>	<i>31,450</i>	<i>3,677</i>	<i>11.7%</i>	<i>10,525</i>	<i>301</i>	<i>2.9%</i>

Source: Arizona Department of Education, Dropout Rate Study. Retrieved May 6, 2004, from <http://ade.az.gov/researchpolicy/DropoutInfo>

According to Arizona Department of Education data,³⁴ there has been some improvement in the high school graduation rate, and the proportion of minority students who drop out of Arizona's high schools is declining. When actual numbers of students are counted, however, rather than percentages, the opposite is the case.³⁵ In 2002-03, 9,360 non-Hispanic White seventh through twelfth graders dropped out of school, yet three years earlier 10,531 dropped out of school. For minority students, the trend went in the opposite direction. A total of 12,162 Hispanic seventh through twelfth grade students dropped out of school in 2002-03, whereas three years earlier 10,969 did. Among Native American seventh through twelfth graders, 3,092 dropped out in 2002-03, and 2,919 dropped out in 1999-2000. Among African American seventh through twelfth graders, 1,665 dropped out in 2002-03, and 1,446 dropped out in 1999-2000. Finally, among Asian American seventh through twelfth graders, 237 dropped out in 2002-03, and 232 dropped out in 1999-2000. Altogether, 1,590 *more* minority teenagers dropped out of school in 2003 than in 2000, and 1,171 *fewer* non-Hispanic White teenagers dropped out of school in 2003 than in 2000. During this period, 75 percent of the minority dropouts (1,193 students) were Hispanic. In other words, proportionally, the rate has improved for everyone. In terms of actual counts, the situation has become worse for minority students while it has improved for non-Hispanic White students. Larger numbers of minority students than ever before are not participating, and Hispanic students represent 75 percent of this increase.

Evaluation of Available Data

The data referred to in this study are valid, accurate, and consistent, but they are of limited value because they focus solely on instructional results and on participation. They are not linked directly to school policies, procedures, culture, or other organizational and political characteristics that affect students' decisions to leave or stay in school, and they do not measure the relationship between student behavior and these contextual variables *over time*. Further, with respect especially to schools with large concentrations of minority students who also are English Language Learners, the NCLB requirement for adequate yearly progress faces several challenges. First, it fails to take

into account the instability of the English Language Learner category in data disaggregation by generation for immigrant populations: once English Language Learners achieve English language proficiency, they leave the category and are no longer tracked, and their progress is not monitored in connection with the English Language Learner category they left. Because of the growth rate of the Hispanic group, an exiting student in a school located in an immigrant community with a large concentration of English Language Learners may be replaced by two others. Because the data do not disaggregate by generation within the Hispanic group, it is statistically impossible for schools with large concentrations of English Language Learners ever to show improvement. Second, it assumes that assessment instruments normed for native English speakers are also appropriate for English Language Learners. Third, it does not take into account different instructional requirements for this population.³⁶ Student performance data that are not disaggregated by generation within the minority group frustrate educators' efforts to assess the effectiveness of particular instructional practices and match them appropriately with particular minority students. Consequently, failure to connect policy, practice, culture, organization, and the politics of education with student outcomes risks perpetuating inequity rather than resolving it. This is especially true for immigrant families in which educational needs change from one generation to the next.

Although graduation rates have improved slightly for minority students in recent years, there has not been a comparable increase in the rates at which minority students enroll in and graduate from four-year university programs.³⁷ The same is true of dropout rates: these have improved slightly for minority students in recent years, although more Hispanic students dropped out of school in 2002-03 than did in 1999-2000.

Data from other states strongly suggest that implementing high-stakes testing for high school graduation will make matters worse, not better. High-stakes testing by itself places a greater share of the burden on students without making deep changes to the programs of the schools, yet NCLB does not challenge states to bring greater support to their instructional programs. The current plan to use the AIMS test for graduation is on a collision course with NCLB's requirement that all subgroups of students participate effectively and equitably in the benefits of schools. The authors searched widely for indicators to the contrary and found none. The institution of high-stakes testing without a

parallel improvement in teaching is almost certain to worsen graduation rates for immigrant, Mexican American, Native American, and African American students in Arizona.

The U.S. Department of Education has not updated its test for school-based programs for ELLs, which dates back to 1981, and does not appear to have actively enforced even its relaxed rules. With the possible exception of the NCLB, the federal government appears to use neither carrots nor sticks to support efforts aimed at improving the education of minority students, and it remains unclear that the NCLB sanctions and rewards will improve educational programs and minority students' achievement in them.³⁸

The schools of Arizona are not actively promoting the study of Spanish and other native languages as a content area in the curriculum, despite evidence that favors their use to develop English language literacy among English Language Learners.³⁹ The reduced emphasis on the study of second languages is occurring despite a state law that encourages their study.⁴⁰

Neither the Arizona Department of Education (ADE) nor school districts disaggregate data on Hispanic youngsters. Hence, neither the ADE, school districts, nor outside investigators are able to answer the question of what works best, with what generation of students, and under what kinds of social and cultural environments. It is difficult, if not impossible, for analysts and researchers to query the data. It is difficult to determine effects on achievement of students' and their families' length of residence in the U.S. (e.g., are they recent immigrants, first generation, or second generation U.S. residents?), education of the parents, or English language ability of the youngsters.^{41,42}

Key Unanswered Policy Questions

The intent of the *Flores v. Arizona* case was to improve the level of funding made available by the state for the education of English Language Learners. That litigation, initiated in 1992, has yet to yield the intended results 12 years later. As the proportion of minority children increases, the prospect for Arizona's continued economic and social

growth is reduced because minority children participate less in educational activities that will prepare them to take their place as productive adults in Arizona's local economy. As the non-Hispanic White population comes here to age and retire, members of that group argue that they paid taxes to educate their own children and do not feel they need to educate those of other families. The risk is that, as both of these groups grow, the public will to support public education will diminish. Little is understood about the impact of the changing demographic environment in Arizona on public policy and on financial support of Arizona's schools.

Education policies associated with language minority participation tend to frame the issue in terms of deficiencies in the students' command of English. The research literature, however, indicates that the problem is more complex than a question of sociolinguistic differences.⁴³ As much as language differences, socioeconomic (or class) differences may impede students' ability to benefit from an instructional program that was not designed with their particular needs in mind.

Despite the existence of ample data, there has been little productive discussion that will lead to clear insights into questions such as: (1) What policies, practices, and procedures ensure that minority students feel safe and welcome in school? (2) What education policy and curricular and instructional practices fit with interaction norms in minority families and are relevant to students' and their families' experiences? (3) What policies, practices, and initiatives in educational institutions encourage minority parents to feel welcome as advocates for their own children's education? (4) What specific policies and practices increase or decrease the capacity of parents, students, and education professionals to interact reciprocally and communicate effectively in support of students' persistence in K-12 education? (5) To what extent do data gathering and analysis disaggregate educational achievement, participation, and attainment data within minority subgroups (for example, distinguishing between recently arrived immigrants or refugees and first- or second-generation minority students)?

Consideration of existing data, conducted in tandem with reflection on what has been found to be exemplary educational practice to encourage minority participation—for example, the evidence in favor of bilingual education⁴⁴— will begin to help determine

more precisely what needs to be done to remedy the situation for minority students and their families.

The primary question is this: How do existing education policies, program administration, curriculum and instructional practices, and education accountability and evaluation structures contribute to inequitable education for minority students? Considering datasets in conjunction with information obtained directly from minority families about the reasons for minority students' performance, and developing sound statistical methodologies that take into account the myriad differences between minority and mainstream students and among minority students, are two approaches to find answers to this question.

Recommendations

Minority students are regularly overrepresented in negative measures of student outcome and regularly underrepresented in positive measures of student outcome. This pattern plays out in dropout and graduation rates, school discipline, and enrollment in gifted, talented, or Advanced Placement courses. It also plays out in other areas across Arizona's educational landscape that are not included in this brief.⁴⁵ This pattern points to a conclusion that the most critical questions to be addressed in this area do not concern the data *per se*.

With the possible exception of poverty data, which are readily available at state and school district levels but not at the school building level,⁴⁶ data are readily available that show, at the state, district, and school level, how well students are performing with respect to a number of indicators of educational equity. For instance, the Arizona Department of Education makes dropout and graduation rate statistics available at all three levels. Because of space limitations, these data are not included in this brief. One can also examine data at the U.S. Office for Civil Rights website to see in greater detail how Arizona schools are performing with respect to the measures described in this brief. Other data on related topics (e.g., student performance on AIMS assessments) are also available in units as small as the district level. There are ample data available, and they are often reported in local and regional newspapers. Data, with the exception of the

problem of disaggregation, may not be Arizona's biggest challenge. Rather, the task is to engage the attention of Arizona taxpayers in general, and policy makers in particular, to confront the disparities in education in Arizona.

Arizona would benefit from thorough evaluation of its divergent policy and consequent educational practice, both as they exist independently and as they interact with each other in Arizona school programs and practices. To this end, it is recommended that the ADE lead efforts to improve the quality of data collected and the methods used to analyze them. To achieve the goal of policy-practice alignment, it is recommended that the ADE lead an effort to synthesize principles of effective teaching and learning that have been supported by research,^{47, 48, 49, 50, 51} and have schools apply them in a concerted way to the education of minority students. The following recommendations specify how the ADE can address these goals.

It is recommended that:

1. The Arizona Department of Education (ADE) require that school districts keep data on indicators that affect outcomes, such as grade retention, disciplinary measures, and public rewards for high levels of student achievement.
2. The ADE monitor and document teaching techniques, such as structured English immersion, to determine if they accomplish the desired aim: engaged students, mastery of rigorous content, high rates of student success, and successful transition into English literacy.
3. The ADE make provisions for enrollment of reclassified students in English as a Second Language instruction if needed, and make special efforts to enroll English learners in advanced math and science courses and gifted or talented programs.
4. School districts involve parents of English learners in school governance. This would include involving parents in redefining and redesigning gifted or talented programs that embrace unique characteristics that minority students

bring, and recognizing the diversity in minority communities as a resource and not a deficiency. It would also include adopting native language communications with families, including sending information home in a language and terms that parents can understand, and using ESL strategies to teach English learners enrolled in advanced courses.

5. The ADE implement appropriate accountability procedures to assure student progress and success. These would include documenting procedures for school districts to follow that monitor and uphold prohibitions against tracking, ability grouping, assignment to special education, and other practices that limit minority student progress and success. Accountability procedures would also provide for appropriate classification of minority students who need special education or English language acquisition services, appropriate instruction, and assessment of student achievement with appropriately designed assessments.

Notes and References

- ¹ *Brown v. Board of Education*, 347 U.S. 483 (1954) (USSC+). Retrieved January 28, 2004, from <http://supct.law.cornell.edu/supct/cases/349us294.htm>
- ² Title VI, Civil Rights Act of 1964 stipulates that *No person in the United States shall, on the grounds of race, color or national origin...be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance*. Retrieved January 29, 2004, from <http://www.ed.gov/about/offices/list/ocr/docs/hq43e4.html>
- ³ The Equal Opportunities Act of 1974 stipulates that *No state shall deny an equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by...the failure of an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs*. The complete U.S. Code reference is available at <http://www4.law.cornell.edu/uscode/20/ch39schI.html>
- ⁴ *Lau v. Nichols*, 414 U.S. 56 (1974) Retrieved January 28, 2004, from <http://www.ncela.gwu.edu/miscpubs/lau/>
- ⁵ *Plyler v. Doe*, 457 U.S. 202, 102 S. Ct. 2382 (1982) Retrieved January 28, 2004, from <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&navby=case&vol=457&invol=202>
- ⁶ *Castaneda v. Pickard*, 648 F.2d 989 (5th Circuit 1981). Retrieved January 28, 2004, from <http://www.stanford.edu/%7Ehakuta/Docs/castaneda.doc>
- ⁷ *Gomez v. Illinois*, United States Court of Appeals for the Seventh Circuit 811 F.2d 1030 (1987).
- ⁸ Native American Languages Act of 1990 (P.L. 101-477, October 30, 1990). The Native American Languages Act (NALA) articulates policy of the United States to *encourage and support the use of Native American languages for Native American language survival, equal educational opportunity, increased student success and performance, increased student awareness of their culture and history, and increased student and community pride*. Complete text retrieved January 28, 2004, from <http://www.ncela.gwu.edu/miscpubs/stabilize/ii-policy/nala1990.htm>
- ⁹ 101-006 (R00-062) Attorney General Opinions Regarding the Application of Proposition 203 to Schools Serving the Navajo Nation.
- ¹⁰ *Flores v. State of Arizona*, United States District Court for the District Of Arizona 160 F. Supp. 2d 1043 (2000).
- ¹¹ See: Arizona Department of Education (2001, September). Guidance Regarding the Implementation of A.R.S. §15-751 -755 and Flores Consent Order (CIV 92-596 TUC ACM). Retrieved January 28, 2004, from <http://www.ade.az.gov/asd/downloads/EASQAfinal9-9-02.pdf>
- ¹² House of Representatives HB 2001: English learners; increase group B. Sponsors: Representatives Gray, Hanson, Marsh, Voss, et al. Retrieved February 9, 2004, from http://www.azleg.state.az.us/legtext/45leg/2s/summary/h.hb2011_11-29-01_judiciary.doc.htm
- ¹³ Proposition 203, English Language Education for Children in Public Schools, 2000. Retrieved January 28, 2004, from <http://www.sosaz.com/election/2000/info/pubpamphlet/english/prop203.htm#pgffd-1>
- ¹⁴ Explained in Arizona Administrative Code, Article 3, Section R7-2-306. Retrieved January 28, 2004, from http://www.sos.state.az.us/public_services/Title_07/7-02.htm

- ¹⁵ Arizona Revised Statutes (A.R.S.) Title 15, Chapter 7, Article 3.1, A.R.S. §15-751 through 755 (English Language Education for Children in Public Schools) enacted in 2003. Retrieved January 28, 2004, from <http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp?Title=15>
- ¹⁶ U.S. Department of Education. No Child Left Behind Act of 2001. Retrieved January 28, 2004, from <http://www.ed.gov/policy/elsec/leg/esea02/index.html> /
- ¹⁷ Arizona Department of Education. Arizona LEARNS. Retrieved January 28, 2004, from <http://www.ade.az.gov/azlearns/>
- ¹⁸ Though recent developments with respect to the NCLB requirements have begun to ease the AYP requirements for limited English proficient students by excusing them from taking the test. This strategy relieves both students and schools from accountability. The unfortunate consequence for the affected students is that they fall through the cracks of the accountability system because they are omitted from the enrollment for the purposes of AYP.
- ¹⁹ U.S. Department of Education. No Child Left Behind Act of 2001, Title IV, 21st Century Schools. Retrieved January 28, 2004, from <http://www.ed.gov/policy/elsec/leg/esea02/pg51.html>
- ²⁰ U.S. Census (n.d.). State and County QuickFacts: Arizona Quick Links. Retrieved April 29, 2004, from <http://quickfacts.census.gov/qfd/states/040001k.html>
- ²¹ U.S. Department of Education Office for Civil Rights (2000, May 22). Elementary and Secondary School Survey 2000. Washington, DC: Author. Retrieved May 3, 2004, from <http://205.207.175.84/ocr2000>
- ²² Western Interstate Commission for Higher Education (WICHE) (2003). Knocking at the College Door: Projections of High School Graduates by State, Income, and Race/Ethnicity. Retrieved March 4, 2004, from <http://wiche.edu/policy/Knocking/1988-2018/profiles/az.pdf>
- ²³ According to the Office for Civil Rights (OCR), Gifted or talented programs are “special programs during regular school hours for students who possess unusually high academic ability or a specialized talent or aptitude such as in literature or the arts.” Advanced Placement courses are college-level courses, offered in high school, and taught by high school teachers and monitored by the Educational Testing Service (College Board). Students can earn college credit, based on their performance on the Advanced Placement Exam, which is administered at the end of the course.
- ²⁴ Arizona Department of Education, Research & Policy Division, January, 2004.
- ²⁵ Skiba, R., Michael, R., Nardo, A., & Peterson, R. (2000). The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment. Bloomington, IN: Indiana Education Policy Center. Retrieved January 28, 2004, from <http://www.indiana.edu/~safeschl/cod.pdf>
- ²⁶ The Office for Civil Rights tracks various types of disciplinary practices in schools: expulsion/total cessation of educational services, expulsion, suspension, and corporal punishment. Expulsion/total cessation of educational services means that the student, after expulsion from school, was not offered other educational services by either the school or the district. Expulsion means the exclusion of a student from school for disciplinary reasons that results in the student’s removal from school attendance rolls or that meets the criteria for expulsion as defined by the appropriate state or local school authority. Out-of-School Suspension means excluding a student from school for disciplinary reasons for one school day or longer. Suspension does not include students suspended from the classroom who, however, served the suspension in school. Corporal Punishment means paddling, spanking, or other forms of physical punishment imposed on a student.
- ²⁷ Gregg, S. (1998). Schools for Disruptive Students: A Questionable Alternative? Policy Briefs. Charleston, WV: Appalachia Educational Laboratory, Inc.

- ²⁸ Strategies and Successes in School Dropout Prevention: A Forum Brief (1995, October 6). American Youth Policy Forum. Retrieved March 2, 2004, from <http://www.aypf.org/forumbriefs/1995/fb100695.htm>
- ²⁹ Block, S., Tapscott, K., & Savner, J. (1998). Suspension and Expulsion: Effective Management for Students? *Intervention in School and Clinic*, 34, 1. Austin, TX: Pro-Ed, Inc.
- ³⁰ See: Office for Civil Rights Elementary and Secondary School Survey 2000 (<http://205.207.175.84/ocr2000r>).
- ³¹ The Arizona Department of Education defines dropouts as “students who are enrolled in school at any time during the school year, but are not enrolled at the end of the school year and did not transfer, graduate, or die.” There are other definitions that distinguish between those students who announce their intention to leave school and those who simply do not return to school the following year. It is not our purpose here to engage in discussion of the relative merits of one definition or counting method—a topic that has already been treated elsewhere (See T. Huerta, (2003, September) Assessing Arizona’s Dropout Problem: Why Current Measurement Methods are Flawed, and How to Fix Them, *Education Policy Research Unit* (EPSL-0309-112-EPRU). Tempe, AZ. Retrieved January 27, 2004, from <http://www.asu.edu/educ/epsl/EPRU/documents/EPSL-0309-112-EPRU.doc>). Regardless of the method used to count them, many of Arizona’s students opt out of the educational system before the twelfth grade, and minority students are overrepresented in this group. Of Arizona’s seventh through twelfth graders in 2002-2003, 48% were minority students.
- ³² See: Office for Civil Rights Elementary and Secondary School Survey 2000, available at <http://205.207.175.84/ocr2000r>
- ³³ Arizona Department of Education (2003). Dropout Rate Study: 2002-2003 Annual Dropout Rates (Arizona Public Schools, Grades Seven through Twelve). Retrieved January 28, 2004, from <http://www.ade.az.gov/researchpolicy/DropoutInfo/2002-2003DORreport.pdf>
- ³⁴ Arizona Department of Education. Graduation Rate Study: four and Five Year Graduation Rates for the Cohort Class of 2002 (Arizona Public High Schools). Retrieved January 28, 2004, from <http://www.ade.az.gov/researchpolicy/grad/20025yearGradReport.pdf>
- ³⁵ Compare data in: (1) Arizona Department of Education (2000). 1999-2000 Dropout Rate Study. Retrieved January 15, 2004, from <http://ade.az.gov/researchpolicy/DropoutInfo/99-00DropOutRate.asp> and (2) Arizona Department of Education (2003). Dropout Rate Study: 2002-2003 Annual Dropout Rates (Arizona Public Schools, Grades Seven through Twelve. Retrieved January 28, 2004, from <http://www.ade.az.gov/researchpolicy/DropoutInfo/2002-2003DORreport.pdf>
- ³⁶ See Abedi, J. (2004, January/February). The No Child Left Behind Act of 2001 and English Language Learners: Assessment and Accountability Issues. *Educational Researcher*, 33 (1), 4-14. Abedi discusses six assessment issues as they relate to adequate yearly progress (AYP) reporting for schools serving English Language Learners: (1) Inconsistency in Limited English Proficient (LEP) classification across and within states; (2) Sparse LEP population (small sample sizes make meaningful analysis difficult to achieve); (3) Lack of LEP subgroup stability (LEP status is not stable over time, and a school’s LEP population is a moving target. Students who achieve exit this status.); (4) Measurement quality of AYP instruments for LEP students (Instruments are generally normed for English speakers and have lower reliability and validity for LEP students); (5) LEP baseline scores are lower, which imply higher progress goals that are also unrealistic for this population; and (6) LEP cutoff points are based on a conjunctive model that requires students score at “proficient” level in all content areas required for AYP. All of these issues result in inequitable educational opportunities for minority students who are also English Language Learners.

- ³⁷ Arizona State University and Northern Arizona University Office of Planning and Institutional Research, and the University of Arizona Decision and Planning Support Department data indicate minority underrepresentation as undergraduate students. See ASU Minority Review (<http://www.asu.edu/uoia/minority.html>); NAU Factbook (<http://www4.nau.edu/pair/mainpage/home.htm>); and UA Factbook (<http://daps.arizona.edu/daps/factbook/students.html>).
- ³⁸ Voke, H. (2002). High-Stakes Accountability Strategies: What Do We Know About Sanctions and Rewards? Infobrief 31, Alexandria, VA: Association for Supervision and Curriculum Development. Retrieved April 22, 2004, from <http://www.ascd.org/publications/infobrief/issue31.html>
- ³⁹ Slavin, R. and Cheung, A. (2003). Effective Reading Programs for English Language Learners. Baltimore, MD: Center for Research on the Education of Students Placed At Risk (CRESPAR), Johns Hopkins University.
- ⁴⁰ Arizona Administrative Code (Title VII, Article 3, R7-2-301, Section A: *Students shall demonstrate competency as defined by the State Board-adopted Essential Skills, at the grade levels specified, in the following required subject areas. District instructional programs shall include an ongoing assessment of student progress toward meeting the competency requirements [in 1. Language arts, Literature, Mathematics, Science, Social Studies, Music, Visual Arts, Health/Physical Education, Foreign or native American Language {includes modern and classical}]*). Retrieved January 28, 2004, from http://www.sos.state.az.us/public_services/Title_07/7-02.htm
- ⁴¹ Slavin, R. and Cheung, A. (2003). Effective Reading Programs for English Language Learners. Baltimore, MD: Center for Research on the Education of Students Placed At Risk (CRESPAR), Johns Hopkins University.
- ⁴² Horne, T. (2004). First Annual State of Education Speech. Phoenix, AZ. Retrieved January 28, 2004, from <http://www.ade.az.gov/administration/superintendent/articles/2004StateofEducation.doc>
- ⁴³ Horvat, E., Weininger, E. & Lareau, A. (2003). From Social Ties to Social Capital: Class Differences in the Relations between Schools and Parent Networks. *American Educational Research Journal*, 40 (2), 319-351.
- ⁴⁴ Slavin, R. and Cheung, A. (2003). Effective Reading Programs for English Language Learners. Baltimore, MD: Center for Research on the Education of Students Placed At Risk (CRESPAR), Johns Hopkins University.
- ⁴⁵ See: The Condition of Hispanic Education in Arizona 2002, (<http://www.asu.edu/educ/sceed/hera/>) where we outline the performance of all minority groups in a number of educationally-related indicators.
- ⁴⁶ National Center for Education Statistics (2003). Census 2000 School District Profiles. Retrieved January 20, 2004, from <http://nces.ed.gov/surveys/sdds/main1.asp>
- ⁴⁷ Commonly accepted standards of effective teaching include: (1) Facilitating learning through joint productive activity among teacher and students; (2) Developing competence in the language and literacy of instruction across the curriculum; (3) Contextualizing teaching and curriculum in the experiences and skills of students' home and community; (4) Challenging students toward cognitive complexity; and (5) Engaging students through dialogue. See the Center for Research on Education, Diversity, and Excellence, available at <http://crede.ucsc.edu/standards/standards.html>
- ⁴⁸ Commonly accepted standards of effective schools and classrooms include provision of the following: (1) A safe and orderly learning environment; (2) A climate of high expectations for student success; (3) Instructional leadership; (4) Clear and focused school institutional mission; (5) Opportunity to learn and student time on task; (6) Frequent monitoring of student progress; and (7) Home-school relations. See:

Lezotte, L. (1991). *Correlates of Effective Schools: The First and Second Generation*. Effective Schools Products, Ltd., Okemos, MI. Retrieved February 21, 2004, from <http://www.effectiveschools.com/Correlates.pdf>

⁴⁹ Reyes, P., Scribner, J., & Scribner, A. (1999). *Lessons from High-Performing Hispanic Schools*. New York, NY: Teachers College Press.

⁵⁰ Walqui, A. (2000). *Access and Engagement: Program Design and Instructional Approaches for Immigrant Students in Secondary School*. Washington, DC: Center for Applied Linguistics.

⁵¹ Valenzuela, A. (1999). *Subtractive Schooling: U.S.-Mexican Youth and Politics of Caring*. Albany, NY: State University of New York Press.