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January 12, 2021

To: Viji Somasundaram, Director of the Office of Educational Accountability

Wisconsin Department of Public Instruction

From: Wisconsin Teachers of English to Speakers of Other Languages (WITESOL) and

Wisconsin Association for Bilingual Education (WIABE)

On behalf of **WITESOL** and **WIABE** we urge the **Wisconsin Department of Public Instruction to apply for Federal waivers for ACCESS for ELs testing requirements during the 2020-21 school year.** The Department notified school districts that the testing window has been pushed back, allowing testing from February 22 through April 30, 2021, and ELs are expected to test in person in their district “to the greatest extent possible.” This is the maximum flexibility DPI has under law; therefore, a Federal waiver is needed.

The League of United Latin American Citizens (LULAC), National Association for Bilingual Education (NABE), TESOL International Association, Lawyers’ Committee for Civil Rights Under Law, the Multicultural Education Training and Advocacy, Inc. (META), Lawyers for Civil Rights, and the Center for Law and Education bring to your immediate attention concerns about the testing of English learner (EL) students during the pandemic in their [joint letter](#) dated December 29, 2020 to Supreet Anand, Deputy Director Office of English Language Acquisition at the U.S. Department of Education.

Our concerns about carrying our ACCESS testing in 2020-21 remain, especially any testing that takes place during the winter months. In-person testing is still highly problematic as long as the COVID-19 pandemic continues. We believe that the most important consideration is how ACCESS testing this year will impact our students. Going forward with testing this school year will have a negative impact on EL students and families, furthering educational inequity between ELs and English proficient students.

More specifically, if testing goes forward as scheduled this year:

1. Students, their families, teachers, and school staff will be put at greater risk for exposure to COVID-19.
2. Learning will be disrupted and students will receive less EL and other content area classroom instruction during the testing window, at a time when there are already concerns about equity and the amount of instructional time students are receiving.
3. ACCESS test data will be incomplete and some may be invalid due to low student participation and the extraordinary circumstances in which students will have to take the test.
4. ACCESS for ELs is a summative, high stakes test and results are not expected to be posted until mid-June (or later), so the results will not be helpful to teachers in planning instruction for this year and will likely come too late for districts to take into account to effectively plan for next year.

We support annual assessment of student progress in developing English language proficiency, as required by federal and state law. ACCESS for ELs was successfully administered last December-January of 2020 before the pandemic, and we expect it to be safe to administer it again in 2022. Language proficiency assessment benefits students because the data helps to ensure that EL receive appropriate placement and instruction for their language level, to monitor the students' progress in developing English proficiency, and to determine when students can be reclassified and exit EL programs. However, during this extraordinary year, the disruption and harm of administering ACCESS for ELs in person outweighs the benefits. Whether or not ACCESS for ELs testing is cancelled, there are several issues that need to be addressed in a situation when some or all ELs do not take the test:

1. School districts should not be penalized for low student participation in the ACCESS for ELs test during the pandemic. It is unclear how lack of participation will affect district accountability measures. Likewise, schools and teachers should not be penalized if students do not meet English Proficiency Benchmarks and this cannot happen without a Federal waiver.
2. If the testing goes forward, the Wisconsin state legislature and the US Department of Education should provide districts with a clear message to send to families stating that if a family does not feel safe sending their child to school for testing, they do not have to take the test and that the student and family will face no negative consequences.
3. Under current guidelines, students can only exit EL programs with a minimum ACCESS score, along with other relevant data including local assessments, grades, observations, and the WIDA Performance Definitions to determine "whether students can perform ordinary classroom work in English". The US Department of Education reiterated as recently as October that states

are not allowed to exit students without a numeric ELP score. Therefore, we are bound by the exit criteria outlined in the ESSA Consolidated State Plan unless we receive a federal waiver from that.

Thank you for seeking waivers for ACCESS for ELs testing during 2021 and we look forward to continuing our work together to support English Learners and their families in the state of Wisconsin.

As TESOL International shared in their statement released on December 22, 2020:

*As the number of COVID-19 cases continues to surge at unprecedented levels across the United States, the health and safety of our students, teachers, and school staff must take priority over student testing requirements. With this in mind, TESOL International Association urges all states utilizing WIDA's ACCESS for ELLs exam to grant local education agencies the flexibility needed to safely conduct the exam, which will not have a remote version and must be conducted in-person. Not only does an in-person exam put students, teachers, and staff at greater risk, but the speaking portion of the WIDA Access for ELLs test is particularly problematic. The guidance established by the U.S. Centers for Disease Control and Prevention calls for face coverings, social distancing, and no mixing of groups of students and teachers in schools. Yet the speaking portion of the exam generally pulls students of similar proficiency levels from multiple classrooms.*

*TESOL recommends that state education agencies, in coordination with the U.S. Department of Education, postpone testing until a later date in the 2021 school year or waive testing requirements all together. Additionally, TESOL advocates can remind parents or guardians that participation in the ACCESS for ELLs exam is optional and that they have the right to opt their child out of the exam without any negative consequences.*

*The association realizes that postponing the exam or waiving testing requirements entirely is not without its drawbacks. It is concerning that English learners, whose academic achievements have been historically underreported, may not have sufficient testing data for this school year. As there have been numerous published reports about student learning losses experienced by English learners due to virtual instruction, testing data would also provide a more standardized mechanism to measure those reported losses across the 40 states and territories that use the ACCESS for ELLs exam. As we continue to work together to overcome the many challenges that the COVID-19 pandemic has posed to classrooms around the world, TESOL is committed to advocating for unique solutions that improve student outcomes, while prioritizing the health and safety of English language teachers and their students.*