Submitted Comments to Florida Department of Education  
Response to Draft Florida State ESSA Plan and Waiver Request  
July 31, 2017

Thank you for the opportunity to provide feedback on Florida’s draft state plan and waiver request for the Every Student Succeeds Act (ESSA). TESOL International Association is the largest professional association for the field of English language teaching, representing approximately 12,000 educators worldwide. TESOL has several concerns specifically with Florida’s ESSA waiver request, and so will limits its comments to that proposal.

The state of Florida has historically been one of the states with the highest population of English language learners (ELLs) in public schools. According to data from the U.S. Department of Education, in the 2013-14 school year, over 10% of the students in Florida public schools were identified as ELLs. It is of great concern then that several of the elements in the ESSA waiver request specifically target ELLs and the state’s approach to English language instruction. TESOL is specifically concerned about the following proposals in the state’s waiver request:

Waiver Request 1: Report subgroup performance on the components of the school accountability system but base the calculation and grade on all students.

Florida is seeking a waiver from ESSA section 1111(c)(4)(B) and (C) to calculate the components of the accountability system based on all students and to report on the performance of each subgroup separately for each component. According to the draft request, Florida’s accountability system focuses on the lowest-performing 25% of students, which contains an over-representation of the subgroups that are historically low-performing, including ELs. The proposal argues that many schools do not have sufficient numbers of students in each subgroup for their performance to count in the accountability system, thus leading schools to ignore the needs of these students. Moreover, the proposal argues that focusing on individual subgroups creates a more complex school grading system that is more difficult for educators to understand.

TESOL has significant concerns with this proposal, as it will essentially mask the academic performance of students in these subgroups, especially ELs. The state is obligated to serve the needs of all students in public schools, including ELLs. Ensuring that the needs of ELLs are being met requires that their academic performance is being measured both appropriately and accurately through the accountability system. Moreover, by not reporting on the performance of each subgroup separately, these populations of students are essentially removed from the accountability system altogether. TESOL urges the Florida Department of Education to reconsider this proposal, and retract this waiver request.
Waiver Request 3: Use the English language arts assessment to measure English language learners’ progress and do not add an English language proficiency on the English language acquisition test (ACCESS for ELLs 2.0) measure to the school accountability calculation.

Florida is seeking a waiver of the statutory requirement from ESSA section 1111(c)(4)(B) and section 1111(c)(4)(A)(ii) in order to use ELLs’ performance on the English language arts (ELA) assessment instead of the English language proficiency (ELP) assessment as part of Florida’s long-term goals, and not to include an English language proficiency indicator in the school grades calculation. The draft waiver request argues that the overall goal of Florida’s plan is to close the achievement gap between ELLs and non-ELLs in mathematics and ELA, and since English proficiency is required to demonstrate content mastery in ELA, the ELA assessment would be an appropriate instrument to measure the English proficiency of ELLs.

Although the majority of content-area assessments in U.S. schools are conducted in English, and thus require English proficiency in order to demonstrate academic proficiency in the content areas, this is not a reason to substitute content-area assessments for language proficiency assessments. It has been well established that ELA and ELP assessments measure different things, and therefore are not interchangeable. Experts in both psychometrics and second language acquisition have confirmed through research that academic content assessments are designed to measure academic content knowledge, not language proficiency, and therefore are not valid for making inferences about students’ language development.

Since 2001, there has been statutory requirements under the Elementary and Secondary Education Act that states have separate standards for ELA and for measuring English language proficiency for ELLs. In addition, there have been statutory requirements under both the No Child Left Behind Act and ESSA that states report on the progress that ELLs are making in obtaining English language proficiency. This proposal would not only not be in compliance with ESSA, but would have invalid and unreliable assessments at the center of the state’s accountability system. Moreover, by not using the ELP assessment on the school accountability calculation, the state would in effect not hold schools accountable for supporting the English language development of their ELLs.

TESOL strongly opposes this proposal, and urges the Florida Department of Education to retract this waiver request.

Waiver Request 5: Waive the requirements surrounding providing native language assessments

Florida is seeking a waiver of ESSA section 1111(b)(2)(F) and 34 CFR § 200.6(f)(2)(ii) and (f)(4) that requires states to make every effort to develop annual academic assessments in “languages other than English that are present to a significant extent in the participating student population”. The proposal suggests that the majority of ELLs in Florida public schools enter at kindergarten, so they would not have received any reading or writing instruction in a language other than English. In addition, the
proposal cites the provision in the Florida state constitution declaring English the official language of the state, suggesting it would create a complicating factor with any discrepancies between native language assessments and their correlating translations.

This waiver request proposal cites the need to assess ELLs in a valid and reliable manner, and in a form that most likely would yield accurate information about what students and know and can do in academic content areas. However, the proposal fails to take into account students who are receiving bilingual instruction, or ELLs who are entering Florida public schools at higher grades, and therefore who have received instruction in a language other than English. For these students, a native language assessment would yield accurate information on what the students know and can do in academic content areas. Especially for late-entry students, a native language assessment would be more valid and reliable than an academic content assessment in English. TESOL urges the Florida Department of Education to reconsider this proposal, and retract this waiver request.

In developing its ESSA plan and any waiver requests, TESOL urges the Florida Department of Education to consider and follow the recommendations developed by the Subcommittee on English Language Learners as outlined in the final report by the Commissioner’s Taskforce on Inclusion and Accountability (2012)