Testimony on State Interventions and Innovations Interim Charge
Presented by Brianna Marie Dimas of the San Antonio Hispanic Chamber of Commerce, before the Texas Senate Education Committee, September 14, 2016

Members of the Senate Education Committee:

Thank you for allowing the Texas Latino Education Coalition (TLEC) the opportunity to provide written and oral testimony on the implementation of legislation establishing state intervention procedures for public schools with academically unsuccessful ratings and the ability of school districts to be designated as a district of innovation. TLEC is a collaborative of organizations and individuals who advocate for the rights of Latino students at the local, state and national levels. The coalition was organized to focus specifically on critical educational issues in Texas and to improve the state of education for Latino students in public schools.

Our testimony today focuses on intervention procedures for unsuccessful public schools and for school district innovation. In summary, we recommend that the state:

- consider moving away from the highly punitive intervention methods required under the previous No Child Left Behind Act and instead focus on supporting struggling schools and local communities with targeted resources and assistance, when necessary, as authorized under the newly authorized Every Student Succeeds Act (ESSA); and
- enact safeguards to protect research-based, high quality measures adopted into law, such as bilingual education, from being subject to modification under innovation procedures.

Interventions and Opportunities under NCLB vs. ESSA

Under NCLB, the states and local education agencies (LEAs) were required to follow a very proscriptive tract for identifying struggling schools and for intervening. States and school districts were required to exercise one of four options for schools identified for the highest priority of intervention (LeFloh, 2016):

1. **Turnaround model** – Replace the principal and no less than 50 percent of the staff, introduce significant instructional reforms, increase learning time, and provide the school sufficient operational flexibility (e.g., staffing, time and budgeting) and support (e.g., ongoing, intensive technical assistance and related support).

2. **Restart model** – Reopen the school under the management of a charter school operator, a charter management organization (CMO), or an education management organization
(must enroll, within the grades served, any former student who wants to attend the school).

3. **School closure model** – Close the school and reassign students to higher-achieving schools.

4. **Transformation model** – Replace the principal, develop a teacher and leader evaluation system that takes into account student progress, introduce significant instructional reforms, increase learning time, and provide the school sufficient operational flexibility and support.

These models were carried over from the U.S. Department of Education’s Race-to-the-Top initiatives and the *America Recovery and Reinvestment Act*. Opponents of NCLB argued that it was overly punitive and prescriptive, giving the federal government significant influence over state education policies. The *Every Student Succeeds Act* (ESSA) is a bipartisan reform effort passed in 2015, replacing NCLB and giving states and LEAs more flexibility.

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<tr>
<th>Level</th>
<th>Identifying Criteria</th>
<th>Required Intervention</th>
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<td>Comprehensive Support</td>
<td>Title I schools that score in the lowest 5% on state ratings scale and high schools with graduation rates below 67%.</td>
<td>Districts must develop an evidence-based, needs-based improvement plan that also addresses resource inequities. States must approve and monitor progress, and have up to four years to intervene if a school does not improve.</td>
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<td>Targeted Support</td>
<td>States select schools that consistently underperform on school quality ratings for one or more subgroups. Indicators may include: academic achievement, student growth, graduation rates, English proficiency, or another school quality measure.</td>
<td>Schools must develop evidence-based improvement plan that meets district approval. Lack of improvement prompts additional action by the school district.</td>
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<td>Additional Targeted Support</td>
<td>Schools whose quality rating for any subgroup falls into the lowest 5% of Title I schools in the state.</td>
<td>Schools must develop district-approved improvement plans that also address resource inequities. Lack of improvement could spur reclassification or state intervention.</td>
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Greater flexibility for states and LEAs applies to setting standards and learning goals, determining school quality ratings, designing supports for underperforming schools, and deciding how to spend resources. **ESSA, in essence, allows for more supportive, rather than punitive, measures to help improve student learning and achievement.**

Importantly, as the table notes, ESSA requires that interventions be evidence-based and for resource inequities to be examined. This provides a great opportunity for the state to enact policies that operate with transparency in research-based designed and public reporting of school quality measures while seeking to meaningfully engage families and community members in each step of the process.
The current intervention models used by the state include those aimed at stripping power from locally-elected school boards and transferring control of schools to a non-public charter operator or educational management organizations (EMOs) or to a state-appointed authority (Trujillo, et al., 2012). Oftentimes, these actors have zero accountability owed to the local community, and the community and parents no longer have a voice. This runs counter to the research showing how actively engaged communities can create greater equity in helping to turn around low-performing schools while not sacrificing the democratic process (Trujillo, et al., 2012).

Although these more drastic takeover interventions are exercised far less frequently than other interventions, like school turnaround or school transformation, when they are engaged, they often target high-poverty, urban communities of color (Hurlburt, 2011, Sen, 2016).

**Texas Turnarounds Result in Communities of Color Losing Local Control**
Texas follows a similar, punitive intervention path that tends to strip control from schools that enroll high numbers of students of color. An analysis of TEA data shows the following.

### Of the 106 turnaround schools in at least their third consecutive year of intervention most are majority minority

<table>
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<tr>
<th>Majority/plurality</th>
<th>Number</th>
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<tbody>
<tr>
<td>Latino</td>
<td>70</td>
</tr>
<tr>
<td>African American</td>
<td>34</td>
</tr>
<tr>
<td>White, non-Hispanic</td>
<td>2</td>
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### Collectively, these 106 turnaround schools enroll 59,353 students

- **Latino**: 61.0%
- **African American**: 30.4%
- **White**: 6.5%
- **Other**: 2.1%

### Latino students, and especially African American students, are overrepresented in these schools compared to statewide demographics

- **Statewide Demographics**:
  - **Latino**: 52.0%
  - **African American**: 12.6%
  - **White**: 29.0%
  - **Other**: 6.4%

Furthermore, the TEA has appointed several conservators and monitors over school districts for various reasons, including financial mismanagement and poor academic performance. These conservators and monitors are often White and oversee a strong majority of school districts enrolling students of color. IDRA’s analysis of TEA enrollment data and data showing the race/ethnicity of conservators and monitors appointed\(^1\) from 2009-10 through the 2015-16 shows that of the 207 conservators/monitors appointed, 171 (83 percent) are White; only 20 are African American, and 16 are Latino.

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\(^1\) Of these, 12 were appointed both as a monitor and conservator for the same district in consecutive years.
TLEC Recommendations on Interventions

Instead of shifting control from local minority communities to EMOs, charter school operators and state-appointed authorities, states could begin by ensuring that their accountability systems capture more measures beyond test scores since public education is a public good and exists not only to help students achieve academically but also to build stronger students civically and socially (Trujillo & Renee, 2012).

Second, for those schools identified for intervention, states should measure and improve upon:

- the inequitable and inadequate resources and opportunities for all students;
- building systems for the development of a stronger teaching force and the equitable distribution and recruitment of high quality teachers;
- providing equitable and adequate school funding;
- creating rigorous, culturally-relevant curriculum;
- expanding college-readiness preparation for all; and
- supporting authentic community engagement and parent involvement programs (Robledo Montecel & Goodman, 2010).

States also should provide critical expertise and support to LEAs to help improve learning for all students and to design systems that develop better citizens, including efforts to racially and economically integrate students (Frankenberg, et al., 2016).

Innovation Districts

Legislation passed during the 2015 legislative session authorized qualifying school districts to submit innovation plans that would waive certain statutory requirements. This law can provide greater opportunities to schools and communities, but the law is too broad in its current form. TLEC recommends that the state consider modifications that will ensure that certain sound, proven, research-based educational opportunities and related civil rights protections are not waived.

For example, the legislature should consider an amendment that prohibits school districts from waiving bilingual education requirements outlined in the Texas Education Code. Bilingual education was created, in part, as a response to a 1981 federal court decision holding that Texas’ language programs for English learner students was deficient under federal law requirements. While the current legislation does include a qualifier for federal requirements, the state should make it clear that Chapter 29, Subchapter B of the Texas Education Code as pertaining to bilingual education cannot be waived.

Texas’ bilingual law is one of the strongest in the nation, helping tens of thousands of students have access to comprehensible instruction and also to achieve bi-literacy and bilingualism each year. This law is grounded in strong research showing bilingual education is a far superior language program compared to others, (Robledo Montecel & Danini, 2013). Although none of the current school districts have sought exemption from Subchapter B, the legislature should ensure that this important piece of legislation cannot be exempted through an innovation plan.
The legislature also should revise the statute to make clear about the cross-walk between federal requirements under the *Every Student Succeeds Act* (ESSA) concerning intervention and state and local district efforts in pursuing innovation models. Under the ESSA, Congress revised the *Elementary and Secondary Education Act* in 2015 to ensure that intervention efforts in schools and districts identified by the state are evidence-based, as noted further above. The state innovation law, however, merely requires that school districts cannot be identified as requiring improvement in order to qualify for the innovation. These school districts may have one or several schools requiring intervention.

The state could add a provision to the innovation law that requires innovation plans to be evidence-based where the school district has at least one or more schools identified for intervention.

Thank you for the opportunity to present testimony on this important issue. For questions, please contact David Hinojosa, TLEC co-chair, at david.hinojosa@idra.org or 210-444-1710, ext. 1739, or Celina Moreno, TLEC co-chair, at celina.moreno@maldef.org or 210-224-5476.

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