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IDRA Rejects Appeals Court Conclusions about Texas' Education of English Language Learner Students

A Statement by Dr. María "Cuca" Robledo Montecel, IDRA President and CEO

San Antonio (March 25, 2010) – This week, the U.S. Fifth Circuit Court of Appeals reversed and remanded the Texas court case regarding the education of English language learners in the state. At the district court level, Judge Justice had earlier ruled that the state was failing in its role to implement and monitor programs for English language learners in Texas. IDRA rejects the conclusions the appellate court reached. We do take note of the court's observation that "LEP student performance is alarming and we encourage the district court and the parties involved to reconsider whether one or more individual school districts should be added to the litigation in order for it to proceed." The court also stated: "We do not suggest that state defendants cannot be held liable under EEOA [*Equal Educational Opportunities Act*]... we merely hold that an appropriate analysis of an EEOA claim should be conducted with regard to particular district or districts, with state educational agencies serving as additional parties."

IDRA notes that the appellate court neither threw out the case altogether nor entirely absolved Texas of its EEOA obligations. But the decision is disappointing because it represents one more lost opportunity to address what even the appellate court agrees is alarmingly low student performance at the secondary level among English language learners.

The court could have affirmed the need for additional funds for assessment, staffing of teachers who are trained in serving English language learners, specialized staff training, specialized materials, and time and space factors. Instead it gave the state of Texas permission to continue to do nothing while another round of students is ill served by an inadequate and inequitable education system – at least until a future decision prods it into corrective action.

IDRA also does not agree that protection of the rights of English language learners requires that we challenge each individual school district to seek fair and equitable education of our children. If we have to rely on EEOA claims at the local level to address under-education and lack of education, students will have to wait for their children's children to have a shot at a remedy and the slimmest of opportunity.

It is ludicrous for the court to conclude that ultimate responsibility for ELL student failure rates must be found before the Texas Education Agency fulfills its monitoring responsibilities. The fact is that it is the state's responsibility to ensure that all of its students receive an equitable and excellent education.

For the court to suggest that it is acceptable to ignore achievement gaps across groups is entirely inconsistent with efforts in Texas and the country to close achievement gaps. Disaggregated data and comparisons across groups and subgroups are important to monitoring and accountability, and ELL and non-ELL comparisons are consistent with such practices.

IDRA's recent policy update* reports that, in Texas, English language learners in middle and high school drop out at twice the rate of the larger student population. They are retained at rates consistently double that of their peers. And they perform worse than their peers by a margin of 40 percent or more on the TAKS. Nationally, there are significant gaps in achievement between English language learners and non-ELL students. As in Texas, the gap is most striking at the middle school and high school level.

While the case has been remanded to the district court, it is important for us all to recognize that the court did take note of the alarmingly low levels of ELL student achievement and in no way endorsed the current state of English language learner education in Texas. The ruling therefore provides the Texas Legislature a new opportunity to address the ills that characterize Texas services to our English language learners. The question remains whether the current state legislative leadership is up to the challenge.

***Related Resources Online**

IDRA's new publication, [Education of English Language Learners in U.S. and Texas Schools – Where We Are, What We Have Learned and Where We Need to Go from Here – A 2009 Update](#)

IDRA's article, "[Federal Judge Rules That Texas' Services for its LEP Students Are Inadequate,](#)" about Judge Justice's ruling.

Overview of what happened in bilingual/ESL policy in 2009 in Texas: "[Post-Legislative Session Summary on Proposed Changes to Texas Bilingual Education Monitoring Procedures, Secondary Level ESL Program Reforms, and Related Litigation](#)"

Other [resources](#) on policy related to the education of English language learners.

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IDRA works hand-in-hand with hundreds of thousands of educators and families each year in communities and classrooms around the country. All our work rests on an unwavering commitment to creating self-renewing schools that value and promote the success of students of all backgrounds.

We are a small organization with a powerful mission: to create schools that work for *all* children.

The logo for IDRA, consisting of the letters "IDRA" in a bold, yellow, sans-serif font. The letters are set against a blue background with a subtle pattern of white diagonal lines.

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