

III. ENSURE INFORMED PARENTAL CHOICE:

Currently, placement in bilingual programs often precedes parental notification. If a child is classified as an “English Language Learner” as a result of his or her score on the LAB, and if there are enough students speaking his or her native language to form a Bilingual class, that child is placed in the Bilingual program.

Parents typically are not informed about their right to opt out of Bilingual education and have their children receive ESL instruction until after the school year has already begun. The information presented to parents at this point often favors Bilingual education, and may not clearly describe the differences between Bilingual and ESL programs, or advise parents of student achievement in each methodology. Indeed, a 1975 Board of Education circular defining Board policy at the outset of bilingual education stated, in part:

“[Parents] are to be notified of their child’s entitlement and of the nature of the program to be provided. Every effort is to be made to inform parents of the educational value of the [Bilingual] program and no attempt is to be made to invite parents to withdraw from the program.”¹³

When parents are offered an Accelerated English Language Acquisition model in addition to Bilingual and standard ESL, there is an even greater need for parents to have an explicit, non-coerced choice between programs of instruction. Instead of school districts placing children automatically in any one program, the districts should ensure that parents exercise the right to make the choice in the first instance.

Accordingly, the Board must develop materials to provide parents with a clear understanding of the differences between Bilingual, ESL and Accelerated models, and the respective merits of each. Districts should provide report cards separately showing the achievements of students from Bilingual and ESL programs, with respect to reading,

¹³ Quote excerpted from Memorandum and Order on Motion to Vacate Judgment at 5, 72 Civ. 4002 (S.D.N.Y. July 11, 1975), as cited in Santiago, Community’s Struggle for Equal Opportunity: Aspira v. Bd. Of Ed.

mathematics and English Language acquisition, both while they are English Language Learners and after they have made the transition out of services for English Language Learners.

However, because students who receive a mixed program of instruction transition at a significantly reduced rate, when parents select an instructional option, they should be committed to that program for a period of two years.

Extension of services after three years of instruction is another subject about which parents need better information. The Board must seek permission from the State Commissioner of Education when students remain in Bilingual or ESL programs for more than three years. However, there is no requirement that a school inform the parents when an extension is sought. Schools should be required to notify parents when there is a need to seek an extension for their child and to receive prior parental consent for such an extension.

IV: IMPROVE QUALITY OF INSTRUCTION:

When English Language Learners are not making adequate progress in English Language Development, it is incumbent upon the system to identify problems and take corrective measures.

To give students the very best opportunity to meet these higher standards, the recruitment drive for qualified Bilingual and ESL teachers should be dramatically expanded.

In addition, the Board should require the certification of all new and existing teachers. Of note, 27% of bilingual instructors were uncertified as of August 2000.¹⁴ Furthermore, too many teachers of bilingual education are not themselves bilingual – they lack sufficient proficiency in English. Actively requiring certification serves two purposes: first, it ensures that students will have access to the highest quality of instruction; and second, it

¹⁴ Board of Education Human Resources Data

ensures that teachers will speak English, since English proficiency is a requirement of certification.

Additional proposals within this recommendation include:

Teacher Recruitment and Professional Development:

- ◆ Intensify recruitment of certified ESL and Bilingual teachers.
- ◆ Require certification of existing bilingual teachers within three years.
- ◆ Improve and expand professional development for Bilingual and ESL teachers.
- ◆ Provide monolingual teachers with in-service professional development in ESL instruction in order to offer students a smoother transition to mainstream classes.

Giving Students Access to Higher Quality Instruction:

- ◆ Identify students with little or no prior formal schooling in their native countries and implement special programs/services to meet their particular educational needs.
- ◆ Develop and implement specialized instructional program for ELLs who receive Bilingual and/or ESL services for longer than six years.
- ◆ The availability of Dual Language/Two-Way Bilingual Programs should be expanded as an additional instructional option for parents, providing that a currently ongoing study can establish the effectiveness of these programs.
- ◆ Ensure that adequate and appropriate textbooks and other instructional materials are available for all Bilingual and ESL classes.
- ◆ Develop an early childhood literacy assessment in Spanish.
- ◆ Translate City/State subject area tests for Bilingual program ELLs.
- ◆ Support appropriate accommodations for ELLs taking Regents' Examinations.

V. REVISE ENTRY AND EXIT CRITERIA:

While U.S. Secretary of Education Richard Riley urges a greater focus “on the individual needs of each child, and not on some artificial and arbitrary time frame,”¹⁵ the current exit standard used in New York City – the LAB – is based exclusively on a percentile score on a norm-referenced English language assessment (in this case, the 40th percentile on the English LAB).¹⁶ As a result, by definition, 40% of all students – including native English language speakers – would never be able to meet this criterion for exit. Exit criteria should be changed to a performance-based assessment that will provide a more accurate assessment of a student’s readiness to move into an English speaking, general education classroom.

Additional proposals within this recommendation include:

- ◆ Update English Language Assessment Battery (LAB) used for initial identification of English Language Learners.
- ◆ Develop a performance-based assessment that is aligned with City and State standards in English Language Arts and is designed to measure the progress of ELLs towards meeting those standards.
- ◆ Recommend that New York State Education Department institute a more rigorous review of applications for extensions beyond three years; considering teacher recommendations and other appropriate indicators of student readiness.

VI. REVIEW STATUS OF ENGLISH LANGUAGE LEARNERS IN SPECIAL EDUCATION:

In its 1998 report, the Mayor’s Task Force on Special Education determined that English Language Learners are referred to special education 2.5 times more frequently than

¹⁵ United States Secretary of Education Richard Riley, “Helping all Children Learn English”, April 27, 1998.

¹⁶ In 1989, the New York State Education Commissioner Thomas Sobel raised the LAB entry and exit criteria from 23 to 40.

English-speaking students. That task force, therefore, re-emphasized the criteria for determination of disability eligibility to be strictly adhered to and that non-disability factors be ruled out, especially for English Language Learners.

To this end, the Board's new Continuum of Special Education Services establishes the criteria for eligibility for special education, which includes not only the New York State criteria for one of the 13 disabilities, but the need for special education services in order to benefit from instruction. It emphasizes that the determining factor in making the eligibility finding may not be limited English proficiency.

To ensure that English Language Learners are not initially classified unnecessarily if already receiving special education services, all assessments (e.g., initials and evaluations) of English Language Learners should be conducted in both English and the student's native language. Consideration should be given to educational/experiential background and language proficiency in order to differentiate a language difficulty, as opposed to a true disability.

VII. CONTINUOUS MEASUREMENT OF STUDENT ACHIEVEMENT:

The Board of Education should document system-wide transition rates for all ELL students by instructional methodology, language group, district, school, grade, as well as the students' academic success in and beyond bilingual services. Socioeconomic factors, which can be measured through available data, such as qualification for the federal lunch subsidy, should also be measured.

This will facilitate further longitudinal studies and allow New York City to develop the most comprehensive database of English Language Learner achievement in the nation.

This data will help the Board meet and beat the three-year transition standard for all students by allowing for detailed individual assessments of a student's progress to be considered in his or her evaluation.

Furthermore, students who are identified as having trouble meeting the three-year transition standard should be offered additional summer-school, after-school, and weekend instruction. Indeed, such summer programs should be mandated to the extent permissible by law.

In addition, indicators specifically related to Bilingual/ESL programs should be provided to all Superintendent districts and printed in school report cards to help parents make informed choices about their children's education.

CONCLUSION

Taken together, these reforms will constitute the most fundamental changes to New York City's bilingual education programs in the past quarter century. The quality of instruction will improve, and more children will learn English faster in order to move more quickly into and participate fully in mainstream, English-speaking classrooms. Parents will be able to make informed choices about their children's education, as student progress and programmatic results will be measured and reported. This renewed emphasis on organizational accountability within a goal-driven curriculum will help students meet the State Regents' Requirements for Graduation. These reforms will ensure not only that bilingual education programs meet their originally intended purpose, but also that all of New York City's children have an equal opportunity to succeed in the 21st Century.



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December 15, 2000

ADDITIONAL RECOMMENDATION FROM THE CHAIR:
END THE ASPIRA CONSENT DECREE

While the Task Force focused on those recommendations that the City and the Board of Education could implement consistent with State Law and the Aspira Consent Decree, the Chair makes this additional recommendation: The City and the Board of Education should seek to vacate the existing Aspira Consent Decree.

The 26-year-old Aspira Consent Decree is an outdated and inflexible constraint on New York City's ability to design and manage effective English acquisition programs that meet the needs of its diverse student body. Moreover, it is largely duplicative of already existing State requirements.

It is time to lift this restrictive court order and enable the Board of Education and the Chancellor to set bilingual education policy, consistent with State law, just as they make decisions on other issues of importance faced by the New York City Public Schools.

Originally intended to allow Spanish speaking students "full and equal educational opportunity"¹⁷ in the learning process while ensuring that students "avoid isolation and segregation from their peers,"¹⁸ the Aspira Consent Decree now undermines its original purpose.

Year after year, children who can and should be learning English are placed in separate Bilingual classes – where, according to the Board's own data, they learn both English and their other core subjects less effectively, and where the majority of such students fail to transition into English language classrooms within three years, which is the State's

¹⁷ Marvin E. Frankel, United States District Judge, Memorandum on the Aspira Consent Decree, August 29, 1974, page 2.

¹⁸ Marvin E. Frankel, United States District Judge, "Notice of Entry of Consent Decree," August 29, 1974, page iii.

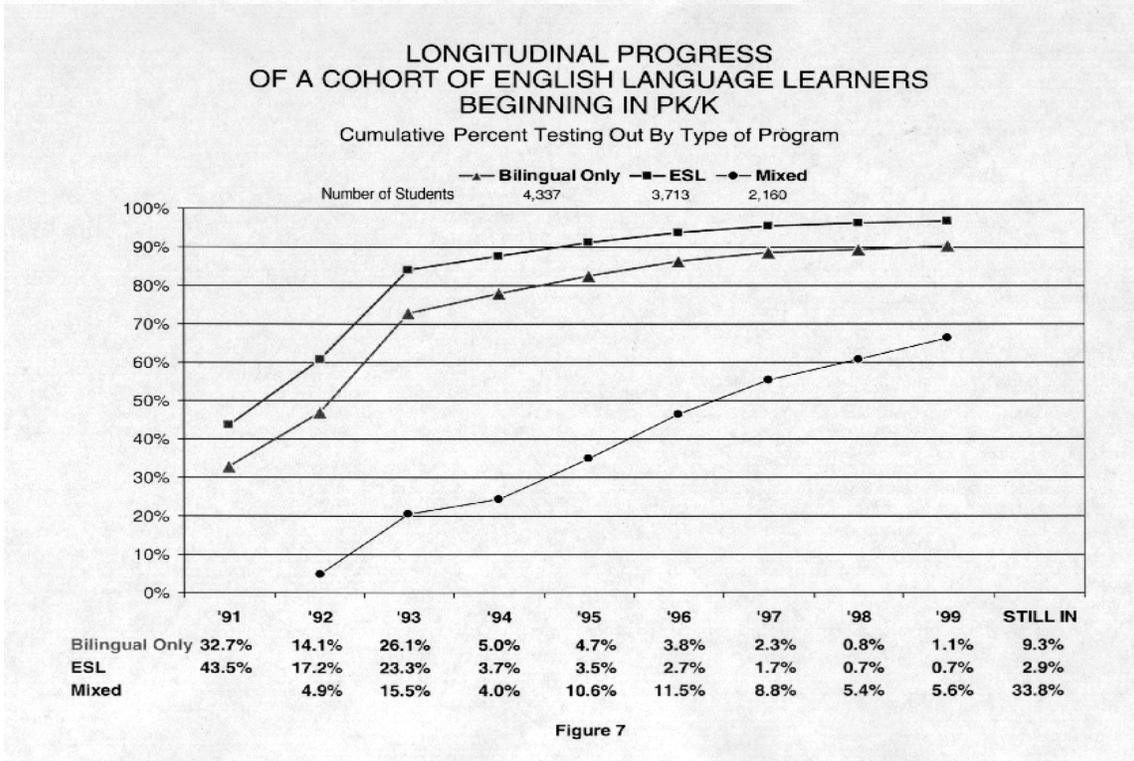
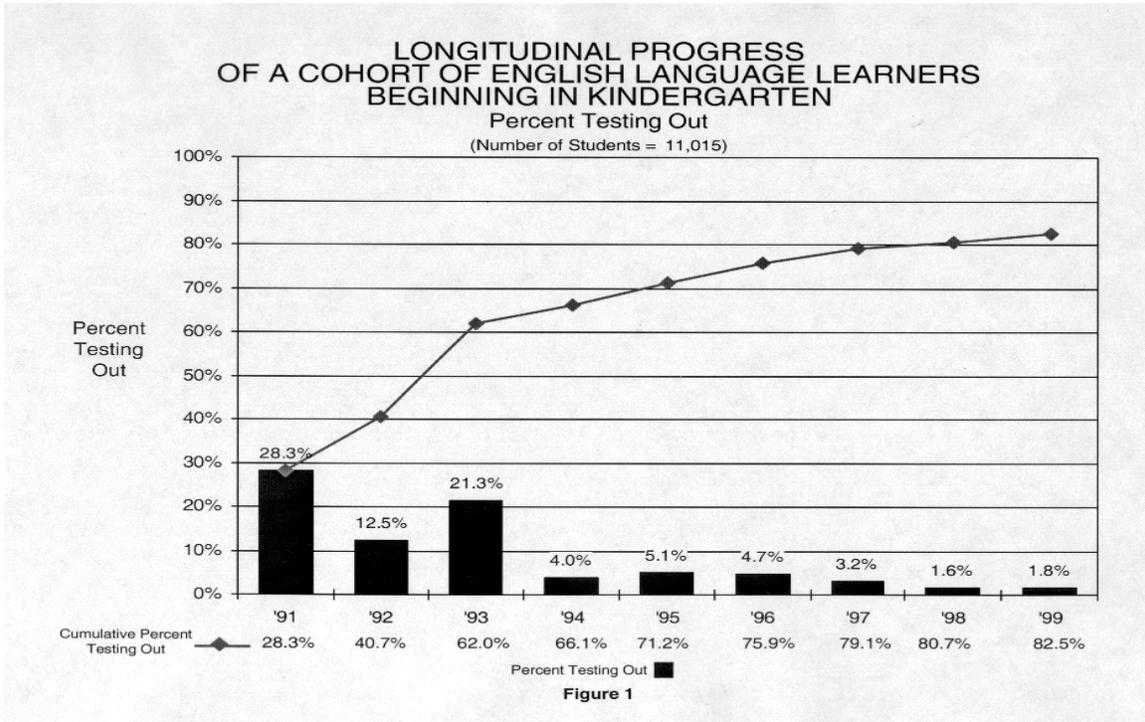
standard. Under the Aspira Consent Decree, Bilingual education has become an end in itself, rather than a means to an end.

The effect is particularly troubling with regard to children in the early grades. The school system should be prepared to teach all kindergartners the fundamentals of reading and writing in the English language. The Aspira Consent Decree, however, has become a barrier to full English language instruction for children who come from Spanish-speaking homes, even if their parents desire such instruction. Indeed, these children are now automatically enrolled in traditional bilingual programs until their parents take the affirmative steps to “opt-out” of such programs. This adversely affects overall academic achievement for thousands of students and unnecessarily creates a two-tiered education system. Indeed, according to the Board of Education’s own data, students in the early grades who receive ESL instruction consistently transition more rapidly into English-speaking general education classrooms than Bilingual education students.

In light of these facts, it would be reasonable to encourage student enrollment in ESL and other English intensive options in grades K-3, so that they can quickly and effectively learn the English language and transition into mainstream classes, where they can study alongside the rest of New York City’s diverse student body.

The Aspira Consent Decree, however, prohibits such reasonable reforms. That decree must be lifted so that those who are responsible for the management of New York City’s public schools, namely the Chancellor and the Board of Education, are given the flexibility to determine the most effective educational strategies for educating English Language Learners, consistent with State Law. Over the last 20 years, several Chancellors have recognized the need for reform in New York City’s bilingual education programs, but their efforts have been obstructed by the existence of the Aspira Consent Decree. At a time when reform efforts are proving effective in cities and states around the country, it is imperative that New York City have the flexibility to decide for itself how best to address the widely documented deficiencies in our current structure of educating English Language Learners.

APPENDIX



LONGITUDINAL PROGRESS OF A COHORT OF ENGLISH LANGUAGE LEARNERS BEGINNING IN GRADE 1

Percent Testing Out
(Number of Students = 1,957)

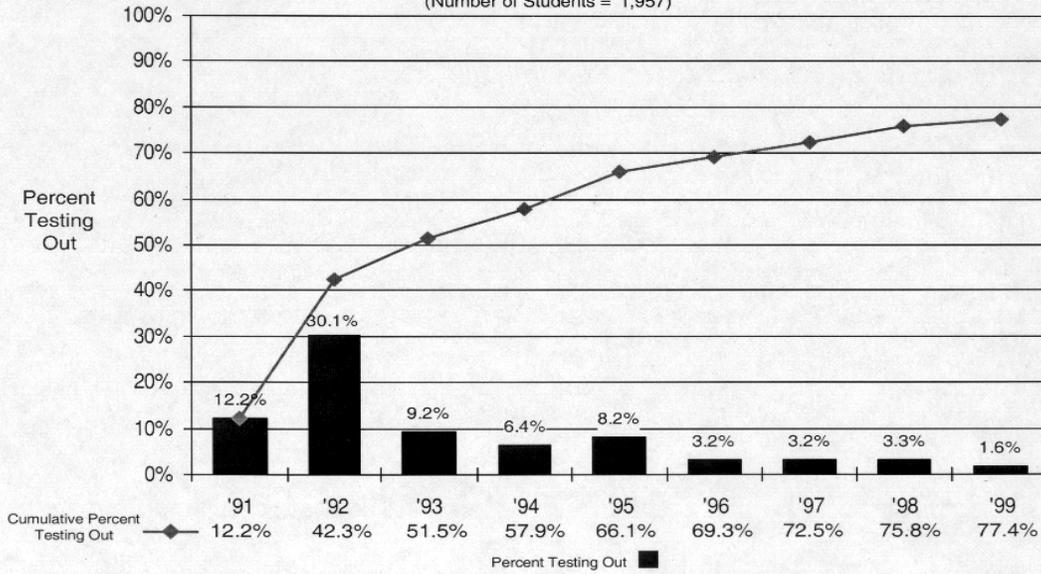


Figure 2

LONGITUDINAL PROGRESS OF A COHORT OF ENGLISH LANGUAGE LEARNERS BEGINNING IN GRADE 1

Cumulative Percent Testing Out By Type of Program

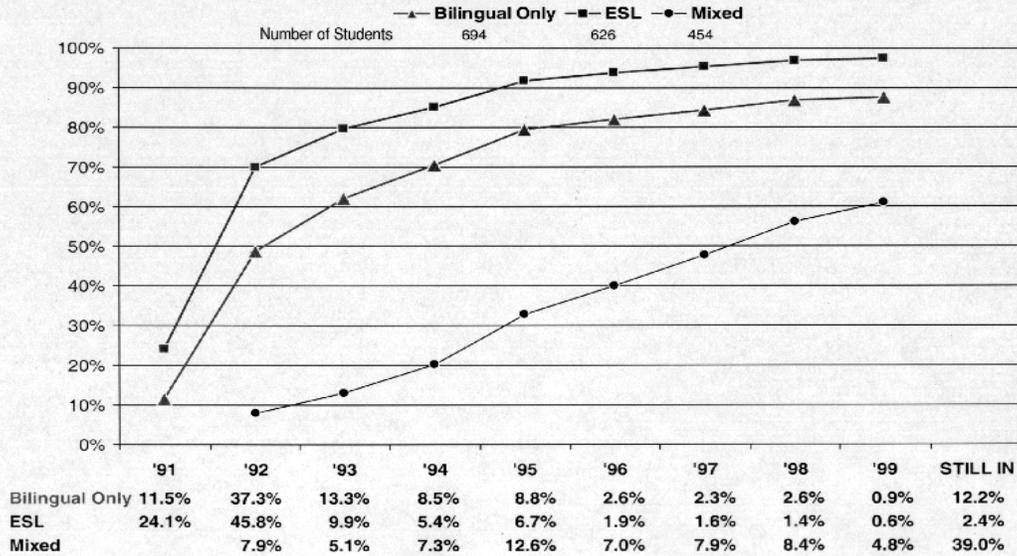


Figure 8

LONGITUDINAL PROGRESS OF A COHORT OF ENGLISH LANGUAGE LEARNERS BEGINNING IN GRADE 2

Percent Testing Out
(Number of Students = 754)

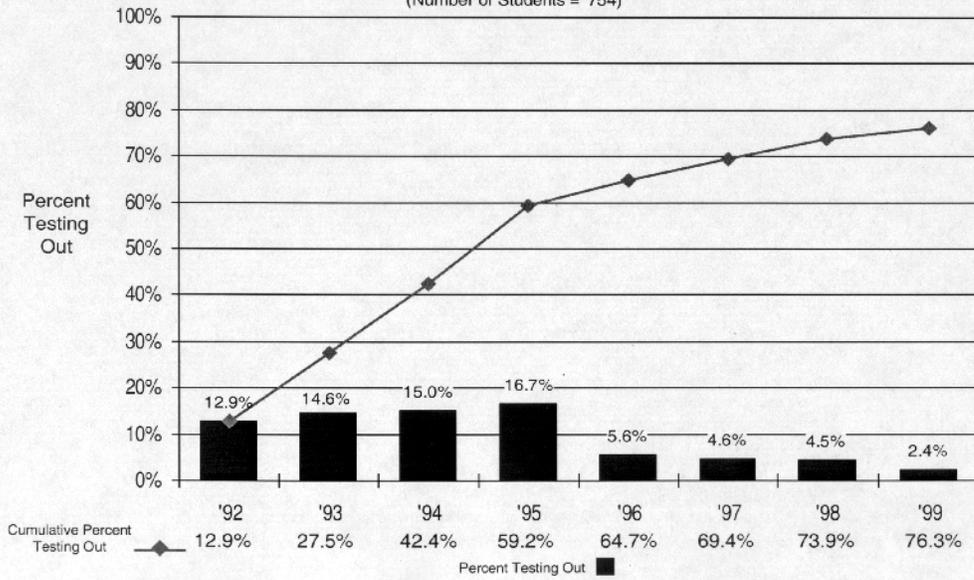


Figure 3

LONGITUDINAL PROGRESS OF A COHORT OF ENGLISH LANGUAGE LEARNERS BEGINNING IN GRADE 2

Cumulative Percent Testing Out By Type of Program

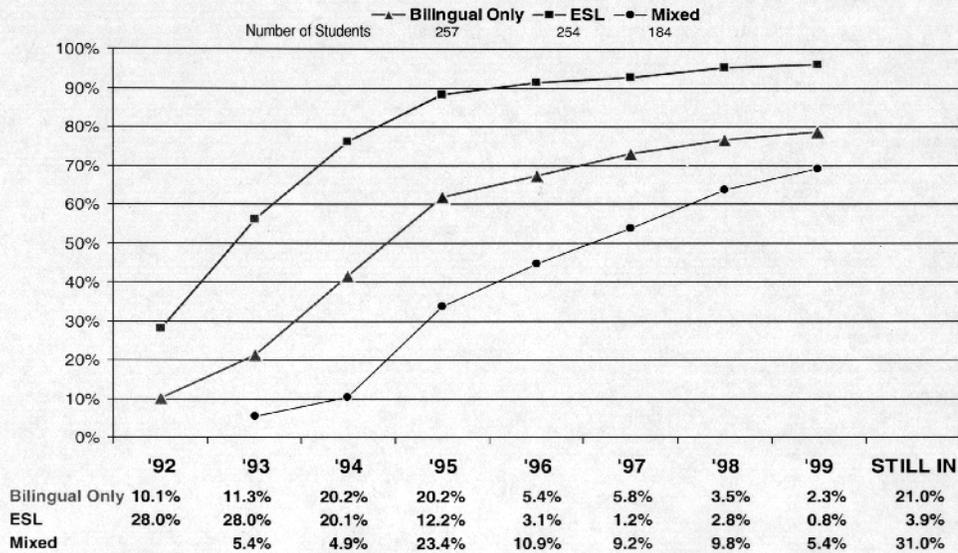


Figure 9

LONGITUDINAL PROGRESS OF A COHORT OF ENGLISH LANGUAGE LEARNERS BEGINNING IN GRADE 3

Percent Testing Out
(Number of Students = 701)

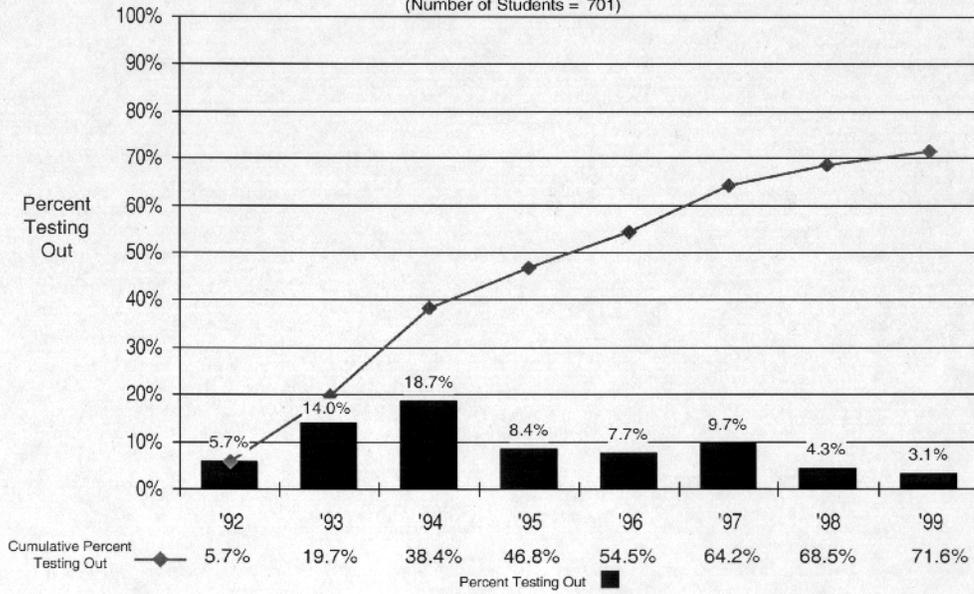


Figure 4

LONGITUDINAL PROGRESS OF A COHORT OF ENGLISH LANGUAGE LEARNERS BEGINNING IN GRADE 3

Cumulative Percent Testing Out By Type of Program

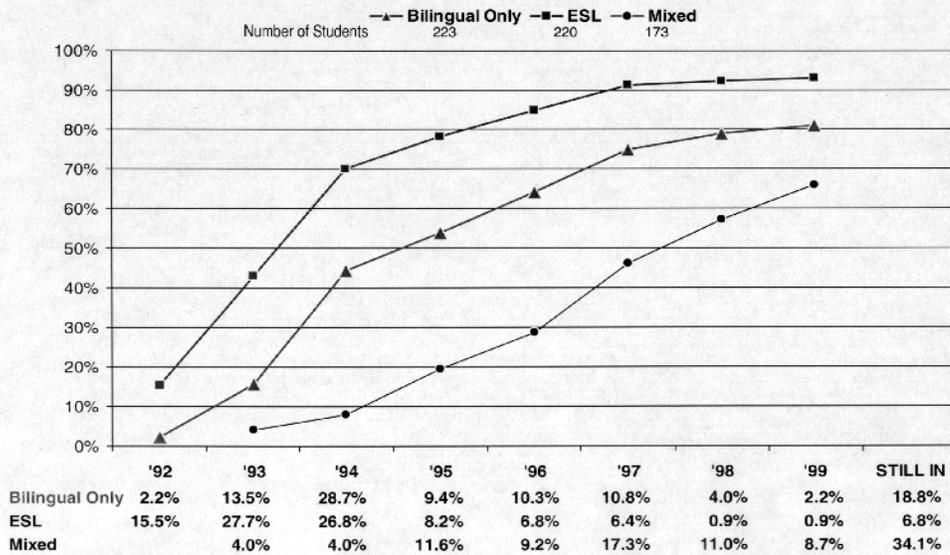


Figure 10

LONGITUDINAL PROGRESS OF A COHORT OF ENGLISH LANGUAGE LEARNERS BEGINNING IN GRADE 6

Percent Testing Out
(Number of Students = 656)

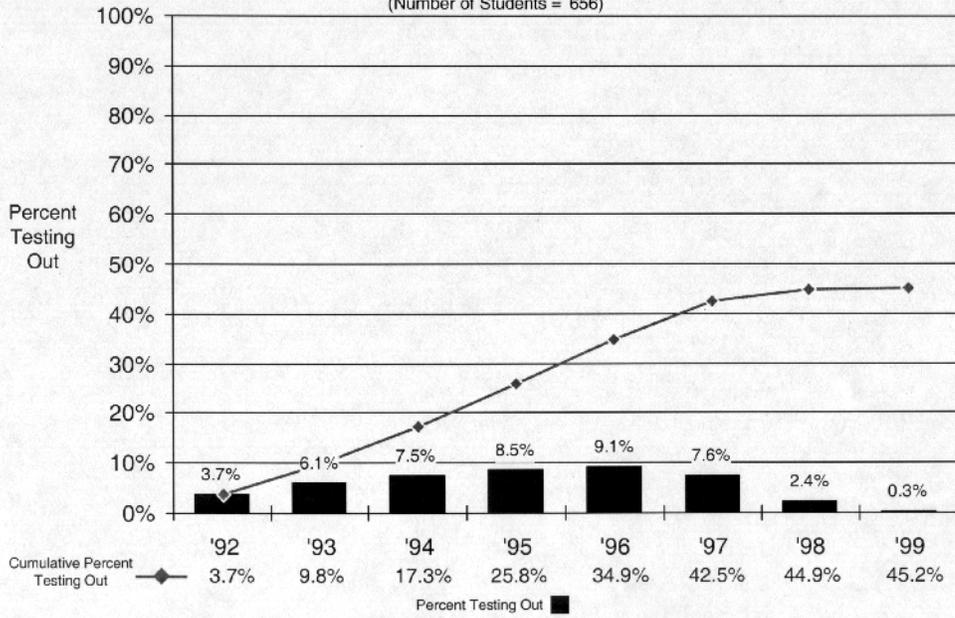


Figure 5

LONGITUDINAL PROGRESS OF A COHORT OF ENGLISH LANGUAGE LEARNERS BEGINNING IN GRADE 9

Percent Testing Out
(Number of Students = 1,393)

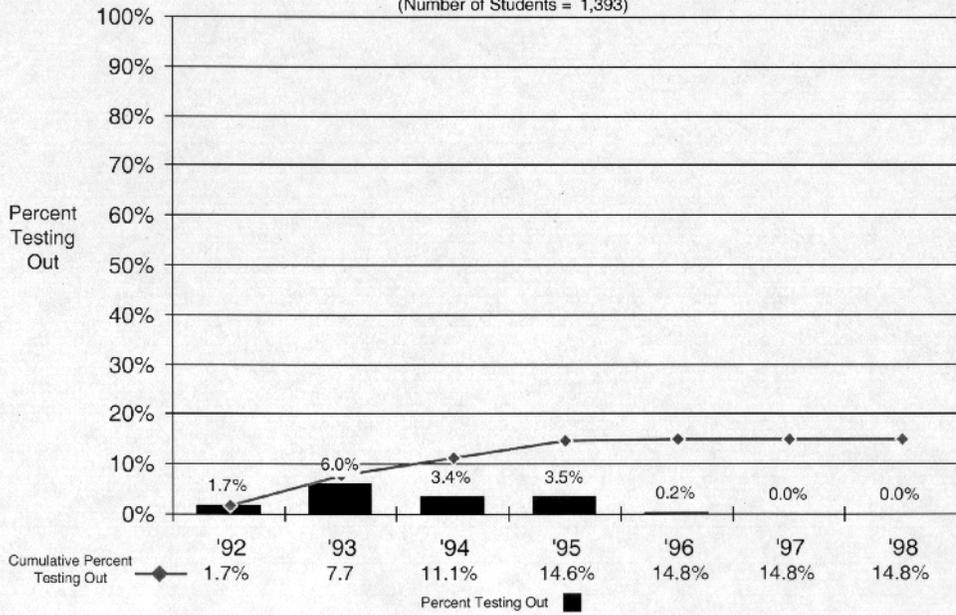


Figure 6