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An Overview of U.S. Bilingual Education: Historical Roots, Legal Battles, and Recent Trends

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This article provides a broad review of the development of bilingual education programs in the United States. We start by providing a brief background and then describe the historical trends, policies, and legal decisions that laid the framework for the implementation of formal bilingual education in our public schools. Lastly, this review highlights recent developments that have complicated traditional views of bilingual education in policy and practice.

Bilingual education broadly describes a complex array of school programs with different goals and objectives for different student populations (Rubin, 1977; Trueba, 1980). In the context of schooling, the terms *bilingual* and *multilingual* are interpreted to include not only the ability to use more than one language but also the ability to use more than one dialect of the same language (Mora, Wink, & Wink, 2001). Bilingual education encompasses pedagogic practices that happen in school as well as socialization agents such as family, community, mass media, peers, and neighborhoods (Akkari, 1998). Accordingly, Mora and colleagues (2001) recommend that any discussion of bilingual education programs be framed within a broader social, political, and educational context. This review will focus on the linguistic diversity that has existed in the territory currently known as the United States from early 19th century through the present.

The Historical Roots Bilingual Education

Alongside the history of schooling in the United States is a rich tradition and history of bilingual education and native language instruction (Crawford, 1992; Kloss, 1977). In the early 19th century communities in the United States first began to bring children together in large numbers for the purpose of educating them (Tyack & Cuban, 1995). This often occurred in languages other than English as well as more than one language; for example, German and Dutch in Pennsylvania, French in Louisiana, and Spanish and German in Texas (Blanton, 2005; Crawford, 1992; Kloss, 1998). As de Jong (2013) and Pavlenko (2002) have noted, the acceptance of multiple languages for communication and education indicate a broader language ideology of linguistic pluralism during this time period. This ideology was reflected in public policy, which allowed for bilingual education and native language instruction, the printing and dissemination of newspapers in multiple languages and multilingual theater productions (Pavlenko, 2002). However, the linguistic pluralism of this period did not mean that all languages were accepted equally, and many Indigenous, Asian, and Mexican American communities found that their languages were systemically segregated and devalued (de Jong, 2013).

The ideology of English as the one and only language of American national identity emerged around the turn of the twentieth century as a reaction to the massive influx of immigrants from non-English speaking parts of Europe (Pavlenko, 2002). The rise of this language ideology occurred alongside new restrictive immigration policies and the development of free and compulsory schooling in the United States. A central purpose of the new "common" schools was to "Americanize" students as part of broader effort to assimilate new immigrants from Southern and Eastern Europe (Schmid, 2000; Tyack & Cuban, 1995). The resistance to non-English speaking immigrants and the push to "Americanize" the common school were parts a dominant and nationalistic "English-only" language ideology in that persisted in U.S. schooling and society for much of the first half of the twentieth century (Blanton, 2005; Garcia, 2009; Kloss, 1998; Ricento, 2005). Despite this restrictive, assimilationist environment, many people continued to speak their native languages in thriving, multilingual communities. Wilkerson and Salmons (2008) debunk the myth that nineteenth-century immigrants typically became bilingual almost immediately after arriving, presenting evidence that Germans in Wisconsin remained monolingual German speakers well into the 20th century. The success of immigrant groups at the turn of the century cannot be contributed to their immediate, voluntary shift to English as many communities actively resisted the dominant English-only ideology by maintaining their native languages (Wilkerson & Salmons, 2008).

Early Legal Battles and "Sink or Swim" Language Policy

From the 1920–1960s, English immersion, or "sink or swim" policies were dominant methods of instruction for language-minority children. Few or no remedial services were provided and students generally remained in the same grade level until enough English was mastered to advance in subject matter understanding (Castillo, 2003). Although "English only" remained the official pedagogical approach in Texas until the 1960's, several legal decisions played a key role in the slow return of bilingual education. In 1924, the *Meyer v. Nebraska* Supreme Court decision overturned an English-only law that was similar to a Texas law established in 1923 that required total English-only instruction in all private schools in the state. Meyer held that the law was a violation of parent's fourteenth amendment right to choose the language in which their children were schooled but reaffirmed English-Only in public schools. The *Independent School District v. Salvatierra* (1930, 1931) case brought by parents in Del Rio, Texas was the first to determine that segregating Mexican American students on the basis of race was illegal. However, de-facto segregation continued on the basis of a later appellate court ruling that school districts could segregate according to special language needs. Linguistic segregation continued in Texas until *Delgado et al. v. Bastrop Independent School District of Bastrop County et al.* (1948) found that segregating Spanish-speaking students was contrary to the Texas Constitution and the fourteenth amendment.

One strategy of the early proponents of bilingual education was to apply novel ideas surrounding poverty and discrimination to the historic problems confronting schools with large numbers of Mexican children in the Southwest. As San Miguel (2004) has indicated, these advocates argued that the historic underachievement and high dropout rates of Mexican-origin children could be explained by poverty, societal racism and "discriminatory school actions such as structural exclusion, school discrimination, cultural suppression, and inappropriate English-only instruction" (p. 11-12). Mora and colleagues (2001) have also pointed out that the movement for bilingual education was influenced by the changing belief systems and language

experiences of individual policy makers. Key among these perspectives were the personal experiences of President Lyndon B. Johnson, who had incorporated Spanish into his English-language instruction while teaching as a young man in what was then known as the "Mexican school" in Cotulla, Texas in the 1920's (Blanton, 2005). As president, Johnson was at the forefront of one of the most important victories for the bilingual education movement: the passage of the Bilingual Education Act (BEA), Title VII of the Elementary and Secondary Education Act in 1968 (Blanton, 2005).

The passage of the Bilingual Education Act in 1968 indicated a major shift in tolerance towards bilingual education but the funding that the law provided to develop bilingual education programs was often premised on a deficit view of bilingual students (Blanton, 2005; Ricento, 2005). In 1974 a landmark U.S. Supreme court case, *Lau vs. Nichols*, went even further than the BEA and decreed that educators were required to provide "affirmative remedial efforts to give special attention to linguistically deprived children" (Lau v. Nichols 1974: p. 5). This victory forced schools to reflect on and address their emerging bilingual population in unprecedented ways (Gándara, Moran, & Garcia, 2004; Ovando, 2003).

Although the *Lau* decision legitimized bilingual education by changing instruction for linguistically diverse students from an option to a mandate, Wright (2010) has noted support for bilingual education in other key Texas cases. The *United States v. Texas* (1971, 1981) decision required the district to create a plan and implement language programs that would help Mexican American students learn English, adjust to American culture, and help Anglo students learn Spanish. Similarly, *San Antonio Independent School District v. Rodriguez* (1973) had serious implication for the funding of bilingual education when plaintiffs charged that predominantly minority schools received less funding than schools that served predominantly White students. The case was argued under the Equal Protection Clause of the 14th Amendment, but the U.S. Supreme Court ruled that there is no fundamental right to an education guaranteed by the Constitution. Indeed, if there is no constitutional right to an education under the 14th Amendment, as Del Valle (2003) points out, "there is clearly no constitutional right to a bilingual education" (p. 234).

The right to bilingual education suffered a further blow in *Castañeda v. Pickard* (Wright, 2010). This case also originated in Texas, where plaintiffs charged that the Raymondville Independent School District was failing to address the needs of English language learner (ELL) students as mandated by the Equal Educational Opportunities Act of 1974 (EEOA). Although the federal court ignored the old assumption that Lau and the EEOA mandated bilingual education the justices did find that Raymondville fell far short of meeting the requirements of the EEOA. A major outcome of this case is a three-pronged test to determine whether schools are taking "appropriate action" to address the needs of ELLs as required by the EEOA (Crawford, 2004; Wright, 2010). The "Castañeda standard" mandates that programs for language minority students must be (1) based on a sound educational theory, (2) implemented effectively with sufficient resources and personnel, and (3) evaluated to determine whether they are effective in helping students overcome language barriers (Crawford, 2004; Del Valle, 2003).

The historic and ongoing legal struggles for bilingual education include several failed legislative battles by proponents of making English an "official language." Crawford (2004) reported that Congress considered legislation that would make English the Official Language in 1981. This legislation was proposed by California Senator S. I. Hayakawa who felt that prolonged bilingual education in public schools and multilingual ballots threatened to divide the United States along language lines (Crawford, 2004, p. 133). Although Hayakawa's English

Language Amendment never advanced beyond the hearing stage nor came to a vote in Congress, Crawford (2004) does not that 23 states did adopt some form of "Official English" legislation.

Recent Political Battles and the Struggle for Additive Bilingualism

Recent policy initiatives have brought about dramatic shifts in the politics of educating language minority children and bilingual education programs in the United States. The continuing ideology of cultural and linguistic assimilation and the relative power and status of speakers of different world languages have spawned conflicting social and political agendas that play themselves out in reform initiatives in the public schools (Mora et al., 2001; Sidanius & Pratto, 1999). Lambert and Tucker (1972) identified *additive* versus *subtractive* forms of bilingual education based on whether the programs' goals were to produce students with bilingual and biliteracy skills, or whether programs were designed to only achieve proficiency in a second, and usually socially dominant, language.

With the growing awareness of linguistic human rights, dual language immersion programs are often cited as the best manner to provide minority students with equitable education, as well as developing bilingualism in language minority students (Christian, 1996; Collier, 1995; Freeman, Freeman, & Mercuri, 2005; Garcia, 2005; Thomas & Collier, 1998; Cummins, 2000). Collier and Thomas (2004) discovered that enrichment dual language schooling closes the academic achievement gap for all categories of students including those who are initially below grade level in their second language (L2) and in their first language (L1). These programs aim to create bilingual, bicultural students without sacrificing these students' success in school or beyond (Garcia, 2005). Ideally, students from minority and majority populations exit the program fully bilingual and achieve high levels of academic success in both languages (Mora et al., 2001). Howard, Sugarman, and Christian (2003) have noted that this additive model is successful as fifth grade dual language students have reached demonstrated, "impressive levels of performance on oral language, reading, and writing measures in English and Spanish" (p. 32).

By contrast, subtractive "sink or swim" models of bilingual education are much less successful in promoting student achievement. Freeman et al. (2005) reported that achievement for English Language Learners (ELL) stalled after the passage of Proposition 227 in California that outlawed bilingual education in favor of all-English Structured English Immersion (SEI) programs. The authors note that after five years of SEI implementation in California, just 30% of the Limited English Proficient (LEP) students had conversational English and only 7% were able to follow academic instruction from school textbooks at grade level. Collier (1995) suggested that, in US schools where all the instruction is given through the second language (e.g., submersion schooling), second language speakers of English with no schooling in their first language take between 7 to 10 years or more to reach the language proficiency of native English speaking peers. Cummins (2000) also cites the need for going beyond primary language instruction and Garcia and colleagues (2008, 2010) have pointed out policy makers and educators should think of ELL's and LEP as "emergent bilinguals" with the potential for possessing two languages.

Although bilingualism and bilingual education offer clear educational and economic benefits (Callahan & Gándara, 2014), the current state of bilingual education in the United States remains complicated and seemingly contradictory. From one perspective, it appears that the pendulum has swung again in the direction towards more assimilationist policies that restrict

language variation. The BEA was overturned in the year 2000 and "English Only" laws passed in California (1998), Arizona (2000) and Massachusetts (2002). The national education policy No Child Left Behind (NCLB), enacted in 2001, contains a number of implicit language-as-a-problem or assimilationist language ideologies (Evans & Hornberger, 2005). However, at the same time, dual language programs, including classroom instruction in two languages and at least 50% of the instruction in the native language, have increased substantially (Center for Applied Linguistics, 2008). For example, in Texas, over 80 school districts (representing more than 600 schools) adopted district-wide dual language programs (Center for Applied Linguistics, 2008; Lara-Alecio, Galloway, Rodríguez & Gómez, 2004). Perhaps as a result of the increasing popularity of dual-language programs, California is now considering a proposal to repeal the restrictive Proposition 227 (Ash, 2014) and states like New York are also considering implementing more rigorous bilingual and dual-language instruction (Maxwell, 2014). In sum, current approaches to bilingual education at the state level appear highly polarized. Depending upon state and local policies, schools have a range of program choices for serving emergent bilingual children from transitional bilingual programs, in which the goal is to transition students to English as quickly as possible, to dual language programs in which the goal is bilingualism, biculturalism and biliteracy in two languages.

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