

# **(Re)Defining Freedom of Speech: Language Policy, Education, and Linguistic Rights in the United States**

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*In the United States, the current sociopolitical environment has produced a barrage of policies aimed at curbing the use of languages other than English. From a language ideologies perspective (Schieffelin et al. 1998), this discussion outlines the political architecture of anti-immigrant policies as they are realized in public classrooms. Schools are readily accessible to policymakers and effectively used in the process of instilling socially desired qualities while simultaneously filtering out unwelcome characteristics. As the largest minority group in the United States, the children of Latino immigrants have been especially affected by educational language policies. By tracing out the underlying impetus behind federal and state language policies, I demonstrate how immigration, language, and ethnicity are conflated in the process of developing policies that aim to homogenize and repress cultural diversity. Focusing on language policies across multiple levels of government demonstrates the complexity involved the development and implementation of programs that service immigrant and language-minority communities. It is argued that the fundamental lack of cultural and linguistic sensitivity that spans English-only policies constitutes a coherent effort to interrupt the processes of heritage-culture transmission to language-minority students. In this context, the adverse effects of subtractive language policies targeted at minority communities become apparent as they extend from the classroom to a variety of other social contexts.*

## **Introduction**

In the United States, the current sociopolitical environment is saturated with trepidation and uncertainty. Prominent concerns such as economic failure, international conflict, and domestic vulnerability have coalesced to produce a heightened ethos of ethnic intolerance that pervades society. While stemming the tide of an economic recession and defending the country against unknown threats are seemingly insurmountable tasks, focusing on immigrants who are deemed “illegal” has proven to be a more achievable endeavor. Unfortunately,

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the underlying narrative surrounding immigration has been promoted through a thrust of negative metaphorical rhetoric focused on Latinos (for examples of pejorative metaphors in the media, see Santa Ana 2002). This rhetoric has ignited a national wave of political sentiment and led to a deluge of anti-immigrant legislation across many state and local areas. Given the failure of the federal government to deal effectively with border issues in the eyes of many, states and cities have taken matters into their own hands.

Campaigns to “protect the border” extend far beyond geopolitical boundaries. Efforts to curb unauthorized entry into the United States are translated into policies that are realized in all corners of society. As the largest minority group in the US, the children of Latinos have experienced the brunt of this attack in an arena in which they are most vulnerable: public schools. Discourses surrounding immigration, language, and ethnicity are conflated in the process of developing educational policies that aim to homogenize social characteristics and repress cultural diversity (Johnson 2008c). Whereas increasing levels of educational achievement in minority communities is an important and urgent goal, academic success is often counterposed against cultural identity. Consequently, the cultural capital of Latino communities and children is being erased.

Policymakers swiftly figured out that one of the most efficient means of diffusing cultural cohesion within a minority group is to focus on language use (Spolsky 2004). The United States has a long history of implementing educational policies that overtly supplant minority cultures by targeting language (McCarty 2004; Ovando 2003). As instruments of change, schools are integral in the process of instilling socially desired qualities while simultaneously filtering out unwelcome characteristics. While this discussion examines the connection between the overall social angst surrounding issues of immigration and the development of practices that continue to marginalize Latino communities, one of the goals of this paper is to illustrate the insidious nature of heavy-handed, anti-bilingual education language policies. This is not to say that other language-minority groups are not affected by such policies; rather, Latinos constitute the most prominent minority group in the US, and the recent surge of legislation targeted at Mexican immigrants reflects a deliberately orchestrated attempt to control social interaction and limit cultural proliferation.

Focusing on educational policies at the federal, state, and local levels demonstrates the complexity involved the development and implementation of programs that service immigrant and language-minority communities. The underlying lack of cultural and linguistic sensitivity that spans policies on all these levels constitutes a coherent effort to interrupt the processes of cultural and linguistic transmission to language-minority students. It should also be noted that numerous public schools have seen their student enrollments become increasingly minority dominant (i.e., even though the broader social majority remains White/Anglo), especially in states along the U.S.-Mexico border. To illuminate how individuals in these contexts are politically and culturally affected, this discussion reviews language policies as they are translated across various levels of government. Extending examples from the classroom to a variety of other social environments, this analytical approach underscores the adverse effects of subtractive language policies targeted at Latinos. Based on this premise, another general goal of this of this paper is to trace out the social origins of language policies in the US and consider the inherent notion of how “Freedom of Speech” is experienced by immigrant groups.

## Theoretical Approaches to Language Policy and Planning

Before exploring some specific characteristics of language policy, the field must be outlined from a broader perspective. Wright (2004: 13) concisely describes the three major themes of the field of language policy and planning as:

- 1) how language has been used as a organizing principle and mobilizing force in nation building;
- 2) what is happening as the processes of globalization bring citizens of these nation states into ever greater contact;
- 3) how groups whose languages have been eclipsed in nation building (or through unequal competition with the languages of those more politically and economically powerful) are engaged in reviving these languages in what could become a postnational era.

This spectrum of ideas reflects the depth of influence that language policies hold for both individuals and states. It also extends the issue of language beyond political borders by describing the global ramifications of linguistic policy and interaction (see Ruiz 1990 and Spolsky 2004 for additional encompassing frameworks of language policy). Whereas Wright (2004) sketches out the currents of language dynamics on a large scale, Larrivee (2003: 185) outlines language policy issues in terms of two inherent orientations toward the role of government: “one that poses that the state is to intervene to guarantee a greater level of equality between citizens, and the other that public forces must refrain from interventions so as not to hinder individual liberties.” While looking at language policy in terms of its role in nation building, globalization, and revitalization helps us recognize the inherent complexities involved in maintaining social stability, describing the basic role of government in language planning as either active or passive highlights the influence that lawmakers have in the overall process. This paper looks at the consequences of taking an interventionist approach to language policy in response to the contexts detailed by Wright.

Considering the impetus behind the formation of language policies, Spolsky (2004: 217) contends that “the beliefs that some variety of language is better than others and that it is possible to influence speakers to select the better variety are fundamental to language management.” Even though one might want to reduce language planning to “an extension of social policy aimed at behavior modification” (Williams 2003: 1), the underlying motivation driving the promotion of certain behaviors varies. There are three main philosophical camps within language planning institutions: pluralists, assimilationists, and confederationists (see Schmidt 2000: 183-220). Pluralists strive to provide equal rights for different linguistic groups, and support programs that provide the equal access to resources for minority and majority languages (van Dijk 2000). Schmidt’s (2000: 227) outline of the basic elements of a language policy for pluralistic integration includes such strategies as providing funding/support for bilingual education, dual language schools, Native American language revival programs, and social programs that accommodate non-English speakers in linguistically compromising situations (e.g., legal proceedings).

Whereas the pluralists’ vision of language management is very progressive and considerate to linguistically underrepresented communities, assimilationists take the opposite stance. Assimilationists prioritize the politically dominant

language as a necessary tool for social interaction (Bourhis 2001). In fear of “losing” the majority language, this view holds that minority languages should be relegated to private contexts and do not belong in the public environment. Extreme views of this type of policy have sought to eradicate minority languages through assimilation politics (e.g., Spain and the Franco regime’s attack on the Basques and Catalans). Even though some assimilationist groups herald their policy as egalitarian in nature and beneficial for everyone, “the common good cannot be truly common if it furthers one group’s interests at the expense of those of others” (Schmidt 2000: 177).

Stemming from somewhere between the extreme views of the assimilationists and the progressive attitude of the pluralists, confederationists argue for regional and linguistic autonomy as a means of empowerment for the linguistic minority (Azurmendi et al. 2001; Chevrier 2003; Larrivee 2003). Endowing linguistic primacy to the regional majority seems to make sense when you consider the efficiency of conducting social services in the popular language. While ostensibly a good idea, such policies have the potential to cause a great deal of social division within countries (e.g., Quebec French in Canada, and Basque in Spain) (Azurmendi et al. 2001; Bourhis 2001; Chevrier 2003; Lamarre & Rossell 2003; Larrivee 2003; MacMillan 2003; Schmidt 2000).

Albeit these three platforms nicely encapsulate the different attitudes behind language politics, actual policies often include a combination of principles. For example, a governing body that outwardly supports pluralism and multicultural rights, but views group identities as malleable and group membership as a purely private affair, will inherently “conceive of group rights as a barrier to minority assimilation and as a basis for reproducing permanent divisions within society” (Williams 2003: 6). Even when the political intentions are clear, the compatibility between national level and regional level policies can cause great social dissension (MacMillan 2003).

Narrowing in on the political agendas behind social policies elucidates the view of language planning as a necessary instrument in the process of nation building. “It can be argued,” contends Wright (2004: 7), “that the desire to ally communicative competence and group identity lies at the heart of language planning whether it is conceived as overt policy making or develops informally in the general governance of social groups.” Whereas the positive aspects of nation building and civic nationalism are many (e.g., a perceived sense of social cohesion, belonging, and security), marginalizing specific groups on the basis of their cultural backgrounds has the opposite effect (e.g., social isolation and a sense of inter-group animosity). In the case of the US, nation building has generally focused on maintaining a “melting pot” system to ensure a common language, territory, and people; though, as Takaki (1993) and Zinn (2005) have pointed out, this process has occurred overwhelmingly at the expense of minority groups, especially immigrants. While some might contend that providing everyone with equal access to the majority language discredits the view that certain policies are structured to disenfranchise minority groups, when the avenue of access is through ineffective educational structures, the notion of equal access can be contested.

## Language Policy, Ideology, and Education

According to Ruiz (1984), there are three fundamental orientations from which language(s) are viewed: 1) language as a problem; 2) language as a right; and 3) language as a resource. Understanding the formation of language policies within this framework exposes the “problem orientation” inherent in attempts to abate the use of minority languages. Ruiz (1990: 14) adds that “while language planning is at least about language, it is rarely only about language.” Governing the use of a language is not just about regulating the way people speak; it is about controlling the people who use that language. Applying this notion, Zentella (2005: 10) comments,

[t]he choices Latinos make about how to raise their children in the United States depend on the information and opportunities they are given and their ability to counteract the damaging language ideologies shaped by the market value of English, English-only campaigns, and a legacy of linguistic purism and linguistic insecurity that is erasing Spanish.

The most general premise of this perspective is that there exist ideological forces in our society that promote specific styles of language use (Woolard & Schieffelin 1994). McCarty (2004, 2005) poses language ideologies and policy as social constructs that promote the interests of dominant group(s), thereby reproducing unequal relationships of power and access within the larger society. “As ideological constructs,” asserts McCarty (2004: 72), “language policies both reflect and (re)produce the distribution of power within the larger society.” One need not look very far to see manifestations of such ideology and power in social institutions such as education (Apple 1990; Crawford 1999, 2000; Cummins 1986, 1996, 2000; Freire 2000; Giroux 2001; McCarty 2005; Pérez 2004; Tollefson & Tsui 2004; Wiley 2007). Cummins (2000) delineates educational ideology as “coercive relations of power” that are realized in the everyday practices of the education system. Policies that overtly dictate which language(s) are allowed and those which are not reify these coercive relationships in the minds of language-minority students and educators.

From this ideological vantage point, it is imperative to look at how policies construct their subjects as objects of power. This viewpoint can help us better understand the emerging types of subjectivity or identity that result from this process (Shore & Wright 1997). Concerning the promotion and perpetuation – or the defamation and eradication – of an individual language, Strubell (2001: 279) comments that “the main idea is that learning a language, using it, and having positive perceptions and motivation to further increase its study and use, are linked together to form a natural, self-priming social mechanism, but that the passage from one to the next may be blocked by external or internal factors.” Here, it is important to point out that interactions – and the subsequent repercussions – between teachers and students do not occur within a vacuum. McCarty’s (2002: xvii) description of a Navajo community’s struggles with educational language policies illustrates that “local meanings cannot be divorced from the larger network of power relations in which they reside.” Thus, how education is perceived, structured, and implemented on local levels is based on larger, historically-determined social norms that have been established to perpetuate dominant socioeconomic-class interests. When debates over citizenship and national membership are played out in multiple social arenas

surrounding nation building, language issues are often used as a principal catalyst for political action.

## **English in the United States**

In the US, policies that favor assimilation are promoted as the key to nation building and social cohesion (Schmidt 2000)—to such an extent that behaviors promoting diversity are readily seen as anti-American. Urciuoli (1998) concludes that when languages other than English are spoken in public contexts in the United States, the speakers are viewed as a threat to the essence of being “American.” But why is that? From where does this view of other languages originate? In reality, there are varying degrees of enmity toward different languages. In a description of the animosity and/or fear that Americans feel toward minority languages, McCarty (2004) asserts that a language is viewed as “dangerously different” when the ethnic group itself is seen as posing some sort of threat to mainstream America. Views of dangerous difference shift over time. For example, stemming from international conflict during World War II, German and Japanese were commonly perceived as threatening in the mid 20th century (a sentiment that has since waned). Currently, the US conflict in Iraq has produced a heightened fear of individuals (and languages) from the Middle East; and since there is no general perception of economic or political threat posed by individuals from Europe, languages like French and Italian (among others) are usually received with admiration—or at least as non-threatening.

As for Spanish, the overall emphasis on “illegal” immigration from Mexico is quickly associated with the large number of Latinos and the prevalence of Spanish in the US. While there was also a considerable perceived threat from non-English speaking immigrants in the 19th and early 20th centuries, European and Asian immigrants were more isolated from their home countries, making them more complicit in the process of assimilation (Takaki 1993). Also distinct from the turn of the 20th century is the sheer number of schools and students, as well as the increased educational expectations placed on immigrants (Mondale & Patton 2004). High levels of academic underachievement in immigrant communities is commonly (though mistakenly) attributed to specific groups instead of looking at the systemic problems in the schooling process itself. Regrettably, the dropout rate for foreign-born Latino students between the ages 16-24 is an astonishing 44.2% (United States Department of Education 2000). This disproportionately high Latino dropout rate has contributed to multiple challenges commonly associated with low socioeconomic areas (e.g., gangs, crime, drugs, incarceration), resulting in jaded public opinions toward programs that cater to immigrants. Finally—and without a doubt—Mexico’s proximity to the US contributes to pervasive ethnic intolerance (especially in the US Southwest). This is easily seen in the recent surge of civilian vigilante groups volunteering to “protect the border” (see the “Minutemen Project” at: [www.minutemanproject.com](http://www.minutemanproject.com)).

In spite of the view that many Americans have concerning the “danger” of minority languages, the prominence of English is not being eroded by the growth of minority languages in the United States (see Crawford 2000: 66). A quick glance at the most recent US Census (2000) data will help situate the prominence of English in the United States. Of the 262,375,152 people over the age of five listed in the census, only 8.1% (21,320,407) of the total population is

reported to speak English “less than very well” or worse. Even if these (self-reported) statistics are slightly off, considering that approximately 92% of the nation speaks English “very well,” it is hard to substantiate any claim that English is in danger of being overtaken by minority languages.

With over 28 million speakers (many of whom are bilingual in English), Spanish is by far the largest minority language in the US—Chinese is a distant second with just over 2 million speakers. Having such a major presence has caused many people to focus on Spanish as a threat to English. In addition to the number of actual Spanish speakers, Spolsky (2004) suggests that the xenophobic (i.e., anti-foreigner) sentiments felt towards Latinos might have to do with the overall population in the United States. According to the 2000 Census, there are approximately 35 million Latinos (over the age of 5) living in the US, constituting approximately 10% of the total population. What is often overlooked is that not all Latinos speak Spanish, and many of those who do are bilingual. Additionally, (contrary to popular beliefs) the concentrations of Latinos from different countries do not make up a single ethnocultural entity (Spolsky 2004; Zentella 2005). Even considering the prevalence of Spanish (as well as the large Latino population), English is hardly at risk of being eroded. With only eight million people from all language groups (approximately 3% of the total US population) admitting to speaking English “not well” or “not at all,” it seems even more absurd to imagine that Spanish is considered by many as a significant threat to English.

Using language policies as instruments of social engineering is not a new phenomenon. From a historical perspective, one of the most effective ways to establish and perpetuate dominant-group interests has been to repress the languages of groups perceived as dangerously different (McCarty 2004). Historically, the spread of English has been boosted by both explicit and implicit government policies toward ethnic groups in America (Ovando 2003). The process of cultural dilution of annexed *Mexicanos* in the nineteenth century, the Dawes Act of 1871 and Indian allotment of reservation lands, and the Slave Codes of the Old South are all examples of explicit attempts to diminish the identity of minority groups to promote assimilation. Inherently, controlling language use is a way of exerting power over the individuals who speak that language. Ideologically, this can be looked at in two ways. While having a common language facilitates social cohesion, there is a stark difference between: 1) providing minority groups with adequate resources to learn the dominant language (while maintaining their heritage language); and 2) manufacturing direct strategies to supplant a minority language with English. The problem that arises in plurilingual societies is how to accommodate multiple groups and provide equal access for everyone. In contexts like the US, developing a single panacea language policy is fraught with complexities. Without understanding the benefits of promoting education programs to help immigrant groups develop bilingualism and biliteracy, many see instituting an official English-only policy as precluding social problems that may arise out of linguistic contention. Many proponents of this view also see English-only as a way to stave off any threat to the predominance of English.

Since the eighteenth century, English has always been the dominant language in the U.S. No other language has even come close to dominating it (Crawford 1999, 2000). Schmidt (2000) highlights some valuable points concerning the status of English. First, not only are most non-English-speaking residents trying to acquire a working knowledge of English, so are most

upwardly mobile residents in almost every country on the globe. In fact, the demand for adult ESL (English as a second language) courses exceeds the supply. Suárez-Orozco and Suárez-Orozco (2001: 54) report that of “[n]early half of the students who participate in adult education classes at the federal, state, and local levels (approximately 1.8 million adults) are enrolled in ESL courses.” Second, competence in English is highly correlated with social status, prestige, and income in the United States. Immigrants are quick to support policies purporting to accelerate English acquisition. For example, when faced with California’s anti-bilingual education referendum (Proposition 227), 84% of Latino voters backed the ethnocentric English for the Children movement (see below) (Los Angeles Times 1997). It is lamentable that assimilationists who back English-only policies do not understand that the most effective way for immigrant students to achieve academically while acquiring English is to develop their native language skills to scaffold learning to their second language (Baker 2006).

### **Legal Rights to Language in the United States**

While there is no direct mention of an official language in the US Constitution, the First Amendment guarantees an individual’s freedom of speech, and the Fourteenth Amendment affirms the principle of equal protection under the law and includes the due process clause concerning the protection of life, liberty, and property (Crawford 2000; Del Valle 2003; Miner 1998). Yet, like many other concepts in the Constitution, different interpretations of these Amendments have caused significant tension concerning the constitutionality of an official language (Miner 1998; Weinstein 1990). While specific landmark Supreme Court cases have interpreted the Amendments in favor of the language minority community (see *Meyer v. Nebraska*, *Yu Cong Eng v. Trinidad*, *Farrington v. Tokushige*, and *Mo Hock Ke Lok Po v. Stainback* in Del Valle 2003: 30-45), there continues to be a push for establishing English as an official language.

The original movement for an official American language, however, was more geared toward distinguishing the US version from the British dialect (Spolsky 2004). After gaining independence, language issues began to surface as new territories were acquired (Del Valle 2003). The use of English in the writing of the Constitution was often used to justify the imposition of English and suppression of other languages (Spolsky 2004) such that people living in the newly acquired territories (e.g., New Mexico, Louisiana, Puerto Rico, and Hawaii) were obligated to learn English (see Del Valle 2003: 10-22; Spolsky 2004: 92).

Assimilationist policies claim that there are two main threats to the continuity of American culture: 1) the massive influx of non-English speaking immigrants that shows no signs of abating; and 2) the ideology and educational policies (e.g., bilingual education, multilingual ballots, and multilingual workplace environments) that support multiculturalism such that immigrants have no incentive to assimilate (Schmidt 2000). On the contrary, most immigrants are highly motivated to learn English and readily emphasize its importance. Pointing to this context of complicity, proponents of pluralist policies recognize that most people of color did not originally become members of American society through voluntary immigration, and that they have largely been targets of deculturation (Marger 2006; Takaki 1993; Wiley 2000). For



immigrants, learning English is generally considered part of a two-part process, “de-ethnization and Americanization” (Spolsky 2004: 94). This process of language shift explains the complete linguistic assimilation of immigrants over a relatively short period of time. This occurs to such an extent that, in the majority of cases, the heritage language is eventually lost and replaced by English by the third generation – sometimes even sooner (Adams 1990).

The pressure to assimilate is even stronger when immigrants are forced into legally and politically vulnerable situations. Stemming from domestic and international economic policies, involuntary migration patterns have largely been based on the exploitation of human capital. Most recently, the North American Free Trade Agreement (NAFTA) has deeply impacted the economy in Mexico, resulting in many thousands of Mexican immigrants risking their lives to seek employment in the US (Ullman 2005). With the enactment of NAFTA in the early 1990s, small businesses and farms in Mexico have been undermined by enormous American-based companies (e.g., Walmart), leaving many Mexicans with few options other than leaving Mexico to work for low-wages in the US. With economic prosperity relying on this constant supply of cheap labor, US economic policies covertly foster undocumented immigration while overtly targeting immigrants as “illegal” to impose assimilation. In this context, there exists systemic subjugation that “has included specific efforts to disparage and/or exterminate the cultural forms of the oppressed” (Schmidt 2000: 100), most notably through language policies.

## **The English-Only Movement**

The English-only movement is complex and cannot be essentialized to pure xenophobia. Marshall and González (1990: 49) declare that “the United States is in the throes of debating the nature of its identity, veiled under the thin guise of deciding the necessity for an official language.” The assimilationist attitudes of those who view other languages as counterproductive in the process of nation building are a product of complex historical tensions concerning multiculturalism. At the extreme end of the assimilationist spectrum is the ideology of the English-only movement. Spolsky (2004) traces the origins of the English-only orientation to a sense of insecurity based on dealing with conquered peoples (e.g., Native Americans, Spanish speakers in California and Puerto Rico, and Hawaiians) and the omnipresent threat of dominant immigrant groups (e.g., Germans in Pennsylvania and Wisconsin). While a monolingual English society might be the goal of many contemporary groups, historically, “the imposition of English-only policies was more a means than an end” (Wiley 2000: 79). Wright (2004: 163) epitomizes the thrust behind the English-only movement,

[t]he English-only debate seems redolent of a former era. The US is not as profoundly affected by globalization as many other groups, whether the phenomenon is interpreted as flows and contacts or as constraints and pressures. American pre-eminence in media networks and entertainment industry has caused the flows to be away from it and not to it. American cultural products are a major export but there is no equivalent volume of imports.

In this light, American nation building activities like English-only campaigns are not seen as a reaction to increased globalization and social dilution; rather, they represent deliberate attempts to control specific groups. Considering that Latinos are projected to constitute 29% of the United States' population by 2050 (as compared to 14% in 2005), it is easy to see how these types of statistics can be used to bolster anti-immigrant causes (Pew Charitable Trusts 2008).

Extreme proponents of English-only policies successfully spread their views by instilling a sense of insecurity into the public (Crawford 1992, 1999; Schmidt 2000; Spolsky 2004; Zentella 1990). To hide ethnically-biased viewpoints, many advocates of these policies champion the following arguments for preserving English as the official language:

- immigrant groups are less willing to assimilate, resulting in social fragmentation;
- non-English language groups are being encouraged to maintain their ethnic/linguistic enclaves through bilingual policies;
- bilingual services are inordinately expensive to the tax-payers of the state;
- and, the primacy of English is at risk and is threatened by competing “official” languages. (Ruiz 1990: 12)

While these concerns permeate all corners of society, the nexus of the language debate is most visible in the public school system.

## **The Politics of Multilingual Education**

Characterizing the current educational environment is problematic without understanding the larger sociopolitical context in which it is embedded. According to the Bilingual Education Act of 1968 (also known as Title VII of the Elementary and Secondary Education Act), school districts were required to accommodate the needs of language-minority students. While this legislation was a giant step for language-minority education, it did not specify how language programs should be implemented—nor did it define what “bilingual education” actually meant. Without direct federal guidance, language issues were further disputed in state courts. The 1974 U.S. Supreme Court's decision on *Lau v. Nichols* is the defining court case for language-minority children. This decision demanded that school districts provide language assistance programs for non-English speaking students. Drawing from this court case, the US Commissioner of Education Terrel Bell developed the “Lau Remedies.” The Lau Remedies instructed school districts “how to identify and evaluate children with limited English skills, what instructional treatments would be appropriate, when children were ready for mainstream classrooms, and what professional standards teachers should meet” (Crawford 1999: 46). The Office of Civil Rights used the Lau Remedies to police school districts around the country and make sure that they were offering adequate services (Crawford 2004; Wiley 2007).

Due to the misapplication and/or disorganization of bilingual education pedagogies, the 1980s hosted a sharp increase in the number of disputes over services offered to language-minority students (Baker 2006; Ovando 2003; Wiley 2007). Basically, all programs were considered under the blanket term of bilingual education, so there was much confusion as to what strategies were

actually being implemented (pull out English as a second language, transitional bilingual education, or immersion) and/or how such programs were being delivered. This caused many people to see bilingual education as ineffective, essentially blaming bilingual education for low academic achievement. Moreover, intolerant sentiments toward immigrants billowed when bilingual education programs were accused of impeding English acquisition in favor of cultivating native languages instead. On a national stage, President Reagan declared that “it is absolutely wrong and against American concepts to have a bilingual education program that is now openly, admittedly dedicated to preserving their native language and never getting them adequate in English so they can go out into the job market and participate” (quoted in Crawford 1999: 53). Siphoning the negativity from debates over these misdiagnosed programs, proponents of the English-only movement (e.g., US English and English First) were able to gain support for their ethnocentric language policies (Crawford 1992; Ricento 1998; Wiley 2004; Zentella 1990).

In 2002, the Bilingual Education Act was eliminated by the Bush administration as part of the new No Child Left Behind (NCLB) education reform. Under NCLB, Title III outlines the federal language policy for immigrant students (United States Department of Education 2006). While Title III continues to support the education of language-minority students, it emphasizes rapid English acquisition, accountability of schools on standardized assessments, stronger state control of resources, less focus on the development of native language skills, and funding for program development based on “scientifically-based research” – though, what constitutes “scientifically-based” can be easily contested (Crawford 1999). Federal funding is used to support the programs defined by each individual state. Therefore, if bilingual education is outlawed by the state (as in the case for Arizona, California, and Massachusetts), schools still receive financial assistance as long as there is some “scientifically-based” program in place. Thus, the policies established at the federal and state level are designed to meet the needs of all language groups; yet, while it is not permissible to develop a policy that officially targets one language, the campaigns promoting the anti-bilingual education laws in Arizona, California, and Massachusetts overtly focused on Spanish speakers (Johnson 2005, 2007, 2008a, 2008b).

Relating issues surrounding language education to the larger socio-ideological currents that shape them, Skutnabb-Kangas (2002: 182) explains that

[a]ssimilationist submersion education, which only allows minorities to be taught through the medium of dominant languages, causes mental harm and leads to the students using the dominant language with their own children later on; that is, over a generation or two the children are linguistically, and often in other ways too, forcibly transferred to a dominant group.

In the case of immigrant students, language is viewed an index of cultural identity and ideological affiliation. Unfortunately, supplanting native language abilities through the education system has proven to be an effective strategy to promote dominant class interests – at the expense of cultural identity.

## Immigrant Education

A major factor in the development and implementation of education policies is the underlying view of immigrant students. According to Title III, Section 3301 of No Child Left Behind, “Immigrant Children” are individuals who:

1. are between the ages of three and twenty-one;
2. were not born in any State;
3. and have not been attending one or more schools in any one or more States for more than three full academic years (Arizona Department of Education 2008).

In addition to Title III funds for bilingual education programs, this basic definition is used by state education agencies to implement and allot resources for education services to assist immigrant students and their families.

While concise, this description of immigrant children is problematic due the diversity of backgrounds from which they come. To ensure that more culturally appropriate policies can be developed, a better depiction of “immigrant student” is required. First, detaching the imperative of the three-year time limit listed above allows immigrant students to be viewed within the larger process of immigration and acculturation, which can extend across multiple generations. Furthering this definition, it is important to note that the immigrant-student population includes those with either authorized (e.g., naturalized citizens or students with special visas) or unauthorized residence (e.g., undocumented individuals or those with expired visas). Moreover, this group also comprises individuals who either immigrated on a voluntary or involuntary basis (Marger 2006). Obviously, a student who is in the US on a one-year study abroad visa has considerably different needs than a student who was forced to leave her or his home country due to political, economic, or family strife. Whereas involuntary immigrants often have limited access to the types of resources that foster academic acclimation in the US school system, voluntary immigrants usually arrive with social and financial resources (e.g., family members with higher levels of education) that facilitate the schooling process. Considering the complexity of forces causing children to immigrate—and the subsequent resources needed to assist them once they start attending school—the federal classification of immigrant children above seems utterly inept.

While an expanded description of immigrant students should encompass a variety of situations unique to foreign-born children, there remain second and even third generation students who might still identify themselves as immigrants. It is not uncommon for children to be born in the US and then return to their home country for either one long period of time or many short stints over an extended number of years. In some cases, these children might not speak English, nor consider themselves Americans. For this reason, it can be proposed that a broader definition “immigrant student” should include any child with direct ties to another country who is participating in, or eligible for, services in the US public education system, and who identifies with her or his heritage country and culture more than she or he does with mainstream American norms. Furthermore, we should also highlight the distinction between immigrant students in the US on special visas and those actually born in America, as the latter are much more likely to experience social and educational marginalization. Expanding the federal definition also allows us to see how

certain patterns of inequity are perpetuated across multiple generations when proper educational services are not implemented.

The purpose of reevaluating the concept of “immigrant student” is not to further label or stigmatize a group of individuals; rather, reconceptualizing immigration as a complex process extending over multiple generations and resulting in a myriad of hybrid identities has multiple implications that directly affect traditionally marginalized communities. Instead of perpetuating the current monolithic category, it would greatly benefit school districts with high numbers of immigrant students to recognize the need for a continuum of interventions based on culturally and linguistically diverse backgrounds—instead of merely qualifying needs in terms of an arbitrary time period. Understanding that many students who were born in the US still face certain challenges stemming from social and political constraints placed on their families as a result of immigrating might enable educators to more clearly see the relationship between academic achievement and the larger process of immigration.

For example, many second generation immigrant students might not qualify for language assistance programs—either due to high oral proficiency or being reclassified as an English Language Learner (ELL) too many times (for more information on reclassification stipulations, see Johnson 2008c). Even though these students might not qualify for language assistance, they often still require extra educational support to facilitate the development of academic literacy skills and the acquisition of second language instructional competence (Rolstad & MacSwan 2008). In many cases in the US, students in this situation are quickly slotted into stigmatized “Special Education” programs (i.e., programs for students with learning or cognitive disabilities). This has resulted in a gross overrepresentation of culturally and linguistically diverse students in the US Special Education system (Hosp & Reschly 2004; Warger & Burnette 2000; Welner 2006). Creating a systematic procedure for identifying needs based on the students’ backgrounds versus a disability has the potential to alleviate the vast misplacement of language-minority students into Special Education. Instead of limiting educational resources to immigrant residents of three years or less, expanding the categorical definition could afford much needed support to schools with contextually specific needs surrounding immigration status. The challenge here is to figure out how to deliver services to these students in a way that honors their backgrounds and cultural resources without merely creating another programmatic label.

## **English for the Children Campaign**

During the 1990s, California had approximately 1/3 of the United States’ bilingual education programs. With anti-bilingual education sentiments surging to an all time high, Ron Unz started the English for the Children campaign to dismantle bilingual programs in California’s public schools. Educated as a theoretical physicist, Unz had previously run (and lost) as a Republican candidate for governor in California in 1994. In November 1997, Unz began the English for the Children initiative campaign in California after learning of boycotts by Latino parents against Spanish-language programs in the Los Angeles area. In many US states, amendments to state laws can be proposed by individual citizens by gaining enough public support in the form of a certain

number of signatures from registered voters on a petition. Taking advantage of this opportunity in California, Unz's group collected more than 510,000 signed petitions from registered voters agreeing to support an end to bilingual education in the public school system. Unz, a multimillionaire software developer, vowed to dig deep into his own pockets and spend whatever it took to get the measure passed. Unz's political background and financial status allowed him to effectively construct himself in the eyes of the public as contributing to positive nation building by promoting his program as both facilitating English acquisition and improving educational opportunities for language-minority students.

Benefiting from the swell of xenophobia that dominated the state's politics during that time period, Unz and the English for the Children campaign constructed an effective platform from which to promote California's Proposition 227. According to Proposition 227, the bilingual education services being offered in California inhibited the students' English acquisition and overall educational progress. In spite of the other social factors that influence second language acquisition and education in general, Proposition 227 was promoted as an elixir for the language-minority students' ailments. As an alternative to bilingual education, Proposition 227 promoted a one-year English immersion course to prepare non-English-speaking students for mainstream classes. According to Unz's initiative, language minority students were to be placed in Sheltered English Immersion (a term coined by the English for the Children movement) for a period usually not to exceed one year before being mainstreamed into the regular education classroom.

While heavy handed, Proposition 227 did include a waiver option available for parents to exclude their children from the sheltered English programs and place them into bilingual programs if the child: 1) already possessed good English skills; 2) was over 10 years old and the school staff thought it would benefit her or him to be in a bilingual education program; or 3) was in a special needs program. According to the guidelines of this program, students may be mixed by age and grade. In addition, teachers or other school faculty may be sued to ensure that instruction is delivered in English. Within one school year, students are expected to attain a "good working knowledge of English" so that they can be transferred to a mainstream classroom with native English-speaking children. In this context, the language-minority students are expected to comprehend the subject matter without any further language instruction.

From this platform, Unz's English-only campaign targeted California's Latino communities. He capitalized on discontent with the public schools and sought to make bilingual education the scapegoat. Expensive ads promoting the initiative appeared in Spanish-language media. Some alleged advocates for immigrant rights – along with a handful of Asian and Latino politicians – signed on as well. While Unz adamantly denied having any anti-immigrant motivations for promoting Proposition 227, he could not repudiate his ties to the following individuals from more overtly biased organizations. Unz's co-chairperson of the initiative was Gloria Matta Tuchman, a first grade teacher from Santa Ana who finished fifth in the 1994 race for state superintendent of public instruction. While happy to announce her Mexican-American roots, Tuchman was less vociferous about her ties to the English-only movement. She joined US English and served as a member of the board of directors between 1989 and 1992. She left shortly after the founder of US English, Dr. John Tanton, produced the derogatory "Gobernar es poblar" memo about Latinos – essentially claiming that

Latinos would overtake the country due to their reproductive habits (Crawford 1999). These comments should not come as a surprise considering Tanton's leadership roles in anti-immigrant nativist groups such as FAIR (Federation for American Immigration Reform 2009, see: [www.fairus.org/site/PageServer](http://www.fairus.org/site/PageServer)).

In 1998, California voters expressed their frustration with language education issues by passing Proposition 227, the original English for the Children referendum. Boasting ostensibly higher testing scores after the first year of Proposition 227's implementation (even though children in waiver bilingual programs performed just as well [see Krashen 2000]), the English for the Children campaign moved on to Arizona.

Using paid circulators (i.e., individuals employed to solicit signatures)—at 0.50¢ per name—to gain a sufficient number of signatures (101,000), the English for the Children organization was able to get Proposition 203 on the 2000 ballot in Arizona. In spite of the imploring cries of educators, researchers and community organizations around Arizona denouncing Proposition 203, the pro-203 community was able to reinforce its position through a well-funded and well-organized media campaign (Johnson 2005). Unz and his followers were able to accumulate enough political and social support to once again overshadow the opposition and convince the public of the initiative's ostensible integrity. Additionally, due to the large number of students who were able to opt out of the sheltered English immersion programs in California, Unz redrafted the Arizona referendum to restrict options for students and parents. Also, he carefully crafted Prop 203 to be more legally punitive for educators who might stray from the guidelines.

Basing their claims on the success of students in California, the Arizona branch of English for the Children was able to avoid most accusations of cultural insensitivity. Caught in a landslide of confusing test scores, patriotic tropes, and ethnocentric lies, the majority of the public—including many Latinos—saw it as a step toward a better education for non-English-speaking students (Johnson 2007). Arizona's voting public voted with a 64% majority to limit the educational services that language minority students receive.

At best, voters may not have realized that they were doing away with all of Arizona's bilingual education and ESL programs in favor of the proposed monolithic methodology. Nor did they realize the underlying goal of eradicating Spanish from the public realm. Unz did a good job convincing the public that all language-minority children were in failing bilingual education programs. In reality, though, only 30% of students eligible for language services in Arizona were involved in true bilingual education programs (MacSwan 2000). While it seems absurd to blame Arizona's low achievement on a program in which the majority of students was not even involved, advocates of Proposition 203 successfully persuaded the voting public to see it that way.

After passing the law in Arizona in 2000, Unz mounted a similar attack on Massachusetts. On November 5, 2002, 70% of voters approved Massachusetts' Question 2. Aligned with Arizona's Prop 203, this version of the English for the Children program dismantled Massachusetts' bilingual education programs and placed firm regulations on educators. Shifting from the original name of the instructional program as Sheltered English Immersion, Unz's group modified the name to Structured English Immersion to appear more rigorous in their approach.

During the same year as the Massachusetts' campaign, Unz also attempted to plant his views in Colorado. While English for the Children had succeeded in

California, Arizona, and Massachusetts, Colorado voters shot down Unz in 2002. The English for the Children campaign in Colorado proved unsuccessful for many reasons. During the initial attempt to get the law on the ballot in 2000, the Colorado Supreme Court declared the bill unconstitutional due to deceptive and misleading wording (mostly about the waiver process). Not to be outdone, proponents of English for the Children regrouped and promised to return. In 2002, Unz was triumphant in getting his initiative placed on the ballot as Amendment 31 (formally titled English Language Education for Children in Public Schools). During those two years, pro-bilingual education groups (e.g., English Plus and Colorado Common Sense) were able to rally support across the state and promote their “No-on-31” campaign (Escamilla et al. 2003). Instead of focusing on the benefits of bilingual education programs and promoting scientific research, opponents of English for the Children attacked the actual initiative. Ultimately, the focus of No-on-31 was narrowed down to three basic tenets summarized as PPC: 1) P- Parental involvement and choice would be eliminated; 2) P- Punitive measures in the amendment (e.g., suing educators) are too extreme; and 3) C- Cost to the taxpayers will skyrocket if the amendment passes.

Support for anti-Unz movement came in many forms. In September 2002, the board of education of Denver Public Schools voted unanimously to oppose Amendment 31. Parents and educators organized to raise money and distribute literature. In all, it was a successful grassroots effort that enabled the voters of Colorado to understand the misguided nature of Unz’s approach. The underlying flaws of Amendment 31 were widely promoted: it would limit the options currently available to educators; such a law would create segregated classrooms; parental choice was essentially eliminated due to the restrictive waiver process; educators could be fired or banned for five years as a form of punishment; and, the amendment would require even more funding than schools were currently receiving. While Unz was able to fund attorneys to write and defend the initiative, pay workers to gather enough signatures to get the measure on the ballot, and financially support the Colorado staff of English for the Children, he was not able to buy public opinion. Eventually, Amendment 31 was shot down by a margin of 56% to 44%.

Unz and his supporters have managed to construct an image of themselves as defenders of children who want to learn English but are being cheated by bilingual education. Unz ingeniously calls his campaign “English for the Children.” Without acknowledging the reality of bilingual education’s woes (e.g., lack of resources, disparate methodologies, and national standardization efforts), Unz was able to gloss over his true intentions of extricating languages other than English from public schools by promoting giving children the “gift” of English. In this light, who would not want their children to “receive” such a skill? With such an approach, Unz and his allies have been able to play off of cresting racially biased sentiments, while ironically distancing themselves from them. Sadly, the English for the Children campaign has been able to use this smoke screen strategy to garner the support of many well-meaning individuals concerned with equality and opportunity.

Even though Unz was victorious in California, Arizona, and Massachusetts, we can learn from the demise of Amendment 31 in Colorado. Until bilingual education and multilingualism are truly understood and appreciated, the inherent faults of initiatives like Unz’s need to be exposed on a grand scale--or he (and other likeminded groups) will continue to promote subtractive language



policies around the country. While Unz and his supporters have been quiet since their defeat in Colorado, it is only a matter of time before the US experiences a similar surge against minority-languages.

## Conclusions

Instead of celebrating and promoting the diversity and rich cultural knowledge that immigrant students bring to school with them every day, education policies are crafted to expedite assimilation—usually at the expense of academic achievement. Not only do submersion oriented policies contradict the research on the effectiveness of bilingual education methodologies and language acquisition models, they are culturally insensitive and their subtractive nature disregards the inherent value of bilingualism (August & Hakuta 1997; Baker 2006; Crawford 1999; Cummins 1996; Faltis 2001; Freeman & Freeman 2001; Krashen 1996; Krashen et al. 1998; Peregoy & Boyle 2008).

Language-minority students face a number of social and cultural obstacles throughout their academic careers—especially those who are part of involuntary migrant groups. Many of these students are either first generation immigrants or they come from a non-English speaking household (Faltis 2001; Valdés 2001). While the language differences contribute to the students' academic difficulties, the majority of such families is trapped in a spiral of financial impoverishment and cannot afford the extracurricular resources (e.g., tutoring, computers, and reading materials) necessary to supplement regular schooling. Additionally, students in this situation are often obligated to work to subsidize the family income and have little time to devote to school. Instead of recognizing these types of economic and social obstacles that contribute to academic underachievement, the education community commonly elects to categorize language-minority students solely according to their linguistic abilities (Crawford 1999; Cummins 2000).

In 1975, the U.S. Commission on Civil Rights clearly stated, “it is not necessary for language minority children to be taught explicitly that their group is less valued” (quoted in Schmidt 2000: 132). Contrary to this position, at the heart of the bilingual education debate is the message read by children that using any other language besides English is wrong (Pease-Alvarez 2003). While proponents of bilingual education programs vehemently oppose this position, “virtually, no proponent of multicultural education, however, has argued that American education should import and incorporate as its own a non-American education edifice from another country” (Schmidt 2000: 90). This fact should lead the education community to rethink its approach and be willing to search abroad for other ideas (for example, see May 2004).

Even though the future success of immigrant students is intimately linked to the schools and programs that strive to elevate their academic achievement, policymakers have succeeded in eliminating valuable language resources, limiting educator discretion, and blocking access to higher education (Johnson 2008c). Unfortunately, US schools are mired in a tense sociopolitical environment that emphasizes standardization and accountability, making it difficult to see the ingrained systemic incongruities that are producing such lopsided underachievement. Furthermore, when government-supported education policies fuel misguided local language programs, they exacerbate a deficit view of language-minority students and their communities. Considering

that Latinos are the largest and fastest growing minority population, confronting policies that continue to disenfranchise them is of great importance. Instead of viewing language as a problem, this discussion urges all American schools to start promoting minority languages as invaluable resources. To do this, we must peel back the convoluted layers of federal and state policies that perpetuate social inequities to gain a greater appreciation for the challenges facing language-minority communities negotiating a larger social context of cultural myopia. Finally, confronting these linguistic injustices must be a priority before the constitutional right to “freedom of speech” in the United States can truly be embraced as inalienable.

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