



The Heritage Foundation

Background

Executive Summary

No. 1206

July 23, 1998

HOW CONGRESS CAN HELP LIMITED ENGLISH-PROFICIENT STUDENTS TO LEARN ENGLISH

NINA H. SHOKRAII AND SARAH E. YOUSSEF

The House soon will consider the appropriations bill for the Departments of Labor and Health and Human Services, which includes appropriations for the Department of Education, as well as Representative Frank Riggs's (R-CA) English Language Fluency Act (H.R. 3892). Both efforts offer important opportunities to make reforms in the federal government's badly flawed bilingual education program. This year's appropriation for the Office of Bilingual Education and Minority Language Affairs (OBEMLA) at the Department of Education contains several measures designed to strengthen the education offered to Limited English Proficient (LEP) students. Although appropriators make no changes to the funding level for OBEMLA, they take several steps toward giving states greater flexibility in designing bilingual education programs and moving students out of bilingual education and into normal classrooms within two years.

The English Language Fluency Act introduces even more dramatic reforms to the government's bilingual education program. This bill would:

- **Block grant** all current federal funding for bilingual and immigrant education to states, giving them more flexibility to develop ways to help their LEP students to make the transition to English language fluency.
- **Allow** local education agencies (LEAs) to select which method of English language instruction to use while allowing parents the freedom to choose the program that best suits their children's needs.
- **Provide** bonuses to those LEAs that teach English fluency in a shorter period of time.
- **Rein in** the powers of the Department of Education's Office of Civil Rights (OCR).

Both the Riggs bill and the appropriations reforms address an issue that has been neglected for too long. There are approximately 2.8 million LEP students in the United States, and the U.S. Bureau of the Census estimates that 88 percent of the increase in the child

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population between 2000 and 2050 will be children of new immigrants.

Tragically, the current system is failing to teach LEP students the English language skills they will need to perform well in school. English language learners, when compared with their English-fluent peers, tend to receive lower grades, are judged by their teachers to have weaker academic abilities, and often score below the average on standardized math and reading exams. Parents of LEP students, moreover, recognize the failure of certain schools to help their children master the tools for success. An August 1996 survey of Hispanic parents, for example, found that 63 percent thought that “Hispanic students should be taught English as soon as possible, while less than seventeen percent thought they should learn Spanish first.”

Meanwhile, the Department of Education and its Office of Civil Rights continue to promote one method—transitional bilingual education—as the best means by which to provide “equal education” to LEP students. Even a cursory evaluation of the evidence reveals that their position is not supported by solid research or clear legal opinions.

The U.S. Supreme Court’s 1974 decision in *Lau v. Nichols* was the first legal precedent requiring schools to help LEP students to understand the curriculum. In *Lau*, the Supreme Court ruled that “identical education” did not translate into “equal education” when dealing with LEP students. Although some education authorities took this ruling to mandate native language instruction, the Supreme Court’s wording in no way suggests this is the only option—or even the best option—in educating LEP students. The wording in *Lau v. Nichols* clearly allows options for English language instruction, including English as a Second Language. A later decision in the Fifth Federal Court of Appeals, *Castaneda v. Pickard*, requires schools to make students proficient in English as they progressed in the overall academic curriculum. Again, the decision makes clear that school systems are free to pursue this aim in any way they think appropriate.

Yet the Department of Education (and especially its Office of Civil Rights) persist in their efforts to force schools to employ the method of bilingual education Washington prefers. The OCR has assembled regulations, called the *Lau* remedies, that were sent to every school district in the United States that receives federal funding. The regulations essentially say that if a school has 15 students who speak a single language, the school must offer instruction to those students in their native language. At the same time, the most recent reauthorization of the Elementary and Secondary Education Act (in 1994) capped the use of Title VII federal funding for programs other than bilingual education at 25 percent.

In addition to offering school districts financial incentives to use certain bilingual education methods, the Department of Education wields considerable legal power over a school district’s implementation of bilingual education through the OCR. When the OCR conducts compliance reviews, it often determines a school’s exit criteria (standards by which a district determines a student ready to leave the program), staffing requirements, and program effectiveness. If the OCR does not approve of the school district’s program design (and research shows that it almost never does), it can demand that the school accept OCR proposals or lose federal funding and possibly face prosecution by the Department of Justice.

It is time for the federal government to allow local districts and parents to educate Limited English Proficient students free from unnecessary intervention. A good education is the cornerstone of success in the path to the American dream. Without the English language skills to succeed in school and in later life, this path is closed. Reforms currently under consideration give Congress the chance to improve substantially the federal government’s program to help these children.

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HOW CONGRESS CAN HELP LIMITED ENGLISH-PROFICIENT CHILDREN TO LEARN ENGLISH

NINA H. SHOKRAII AND SARAH E. YOUSSEF¹

Where inability to speak and understand the English language excludes national origin minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.

—Lau v. Nichols, 1974, U.S. Supreme Court decision upholding the Office for Civil Rights' requirement for school districts to provide equal educational opportunity to limited English-proficient students.

I my parens per mi in dis school en I so I feol essayrin too old in the school my border o reri can grier das mony putni gire and I sisairin aliro sceer.

—Written by a fifth grade student in a Los Angeles Unified School District public school after six years of bilingual education.²

The House of Representatives soon will consider two measures that address the federal role in bilingual and immigrant education. The first is the appropriations bill for the U.S. Departments of Labor and Health and Human Services, which also contains funding for the U.S. Department of Education. The appropriations for the Office of Bilingual Education and Minority Language Affairs (OBEMLA) contains several provisions designed to

strengthen the education offered to Limited English Proficient (LEP) students. While funding the program at the same level as last year, the appropriators take several steps toward giving states greater flexibility to design the best model for their LEP students while ensuring that these

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1. The authors would like to thank Jake Phillips, a 1998 summer intern at The Heritage Foundation from Duke University, for his contributions to this paper.
 2. Jill Stewart, "Bilingual Bunk," *New Times* (Los Angeles), July 24-30, 1997, p. 4.

students are able to exit the program after two years (or a maximum of four years). House Members might consider including in the appropriations bill some of the recommendations in a second piece of pending legislation: the English Language Fluency Act (H.R. 3892), introduced by Representative Frank Riggs (R-CA).³ Even though Congress should scrutinize every federal program in education, it should take special care to make sure that programs designed to help children read and write are effective and meet the expectations of parents and taxpayers. The Riggs bill would:

- **Block grant to states all current federal funding for bilingual and immigrant education**, giving states more flexibility to develop ways to help their LEP students to make the transition to English language fluency while requiring that 90 percent of the grant go directly to classroom instruction.
- **Allow local education agencies (LEAs) to select which method of English language instruction to use.** The LEA would have to secure parental consent before placing a child in the program. Parents would have the right to remove their child from the program at any time and would be able to select the method of English language instruction if more than one were offered. The programs selected by the LEAs should help students to attain English proficiency within two years and in no more than three years of enrollment.
- **Provide bonuses to those LEAs that teach English fluency in a shorter period of time.**

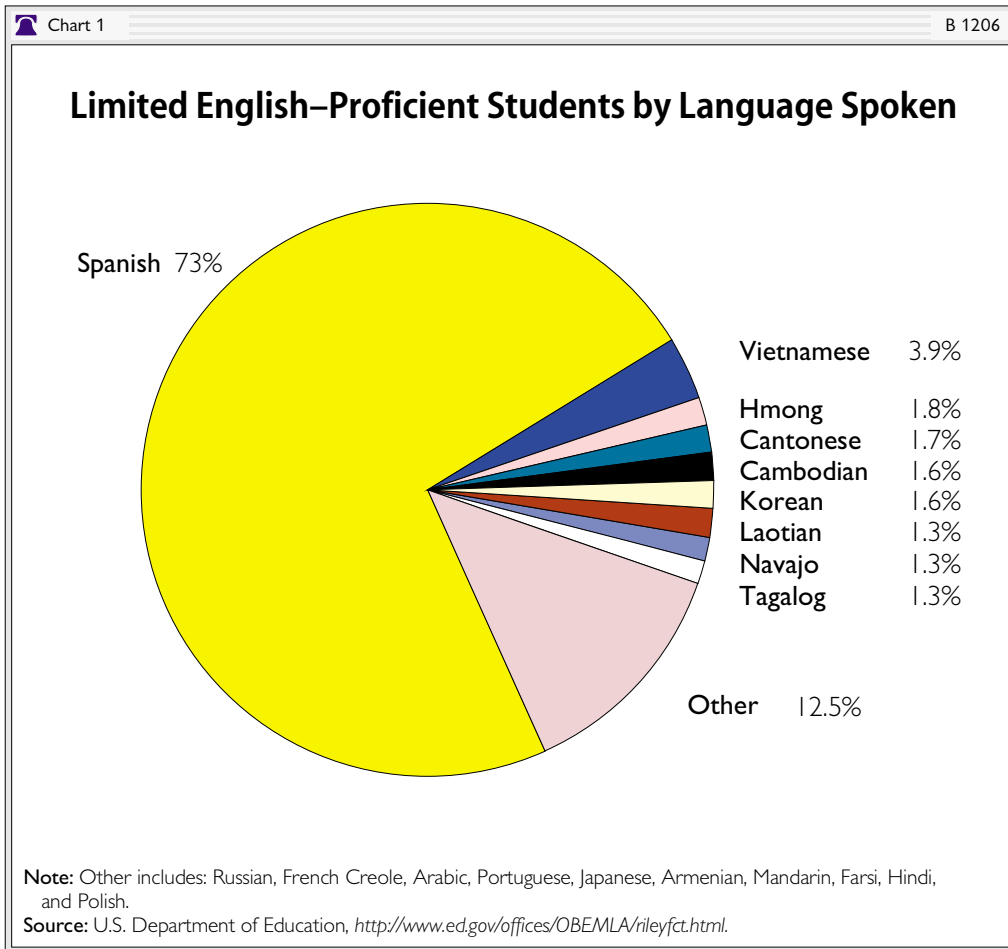
- **Void all previous compliance agreements mandating bilingual education** that were reached between the Department of Education and districts receiving funds and prohibit the Office of Civil Rights (OCR) from entering into any new compliance agreements until the Secretary of Education sets new regulations.

Improving the future of LEP children requires a change in the federal government's role. The current federal bilingual program neither meets the growing and differing needs of states nor coincides with the wishes of the parents and the needs of the children it is supposed to serve. By block granting federal funds, removing federally mandated barriers to experimental instruction, and empowering parents, as the Riggs bill proposes, Congress can give LEP children a better opportunity to succeed in the United States. OBEMLA does not deserve any increase in funding until substantive reforms like these have been implemented. If Congress does not act this year, next year's reauthorization of the Elementary and Secondary Education Act (ESEA) will offer yet another opportunity to overhaul OBEMLA.

LIMITED ENGLISH-PROFICIENT STUDENTS IN THE UNITED STATES

There is debate over exactly how many children need English language instruction. The Department of Education estimates there are approximately 2.8 million LEP students in the United States.⁴ Three-quarters of these students are concentrated in only five states: California, Florida, Illinois, New York, and Texas,⁵ and each of these states has specific needs. Of all LEP students, 73 percent speak Spanish; 3.9 percent speak

3. Other efforts to streamline the federal role in teaching LEP children are under way. The English for the Children Act (H.R. 3270), introduced by Representative Tom DeLay (R-TX), would repeal the federal bilingual education program and abolish OBEMLA altogether. Representative DeLay argues that the program has hurt, not helped, immigrant and non-English-speaking children.
4. Limited English Proficient (LEP) students have not mastered fluency in the English language. It is important to make a distinction between LEP students and language minority students, because many confuse the two. Language minority students are students from homes in which a minority language is spoken, regardless of whether it is the primary language. Although all LEP students are language minority students, not all language minority students are LEP students.
5. Georges Vernez and Allan Abrahamese, "How Immigrants Fare in U.S. Education," Santa Monica, CA: RAND Corporation, 1996.



backgrounds. But the U.S. Bureau of the Census estimates that 88 percent of the increase in the child population between 2000 and 2050 will be children of new immigrants.⁷ It is critical for state and local education policy to be sound, and it is equally critical for federal policies not to undermine sound state and local policies.

Yet the current system is failing to teach LEP students the English language skills they will need to perform well in school. English language learners, when compared with their English-fluent peers, tend to receive lower grades,

Vietnamese; 1.8 percent speak Hmong; 1.7 speak Cantonese; 1.6 percent speak Cambodian; 1.6 percent speak Korean; 1.3 percent speak Laotian; 1.3 percent speak Navajo; and 1.3 percent speak Tagalog; followed by Russian, French Creole, Arabic, Portuguese, Japanese, Armenian, Mandarin, Farsi, Hindi, and Polish.⁶

Federal policy on bilingual education already affects children from many native language

are judged by their teachers to have weaker academic abilities, and often score below the average on standardized math and reading exams.⁸ Parents of LEP students, moreover, recognize the failure of certain schools to help their children to master the tools for success. A 1988 Department of Education survey found that 80 percent of Cuban and Mexican parents were opposed to having their children receive instruction in their native language if it meant less time devoted to studying English.⁹ And

6. U.S. Department of Education, <http://www.ed.gov/offices/OBEMLA/rileyfct.html>.
 7. U.S. Bureau of the Census, Division of Population, available on the Internet at <http://www.census.gov>. Population data in the publications library.
 8. M. Moss and M. Puma, "Prospects: The Congressionally mandated study of educational growth and opportunity. First year report on Language Minority and Limited English Proficient students," Abt Associates: Cambridge, MA, 1995, cited in Diane August and Kenji Hakuta, eds., *Improving Schooling for Language-Minority Children: A Research Agenda*, Committee on Developing a Research Agenda for the Education of Limited English Proficient and Bilingual Students (Washington, DC: National Academy Press, 1997), p. 2.
 9. Linda Chavez, *Out of the Barrio: Toward a New Politics of Hispanic Assimilation* (New York, NY: Basic Books, 1991), p. 29.

METHODS OF EDUCATING LIMITED ENGLISH-PROFICIENT CHILDREN*

English as a Second Language (ESL). Students are instructed in English language skills for specific periods of time with a focus on grammar, vocabulary, and communication. Classes are taught separately from fluent English-speaking classrooms. Students at the secondary level are taught in more English-intensive classrooms. ESL programs technically are not known as “bilingual” programs.

Content-based ESL/Structured Immersion. Students are instructed through English with an emphasis on acquiring English language proficiency through studying academic content, using simplified vocabulary and grammatical structures.

Sheltered Instruction. Students are instructed in all subjects in English at a level modified to their level of proficiency.

Transitional Bilingual Education. Although degrees of native language instruction vary, students usually are instructed half the day in English and the other half in their native language, with gradual transition to all-English instruction in approximately two to three years. Researchers also refer to this model as early-exit bilingual education.

Maintenance Bilingual Education. Limited English-Proficient (LEP) students from the same native language background are instructed mostly in their native language. The aim is to develop proficiency in English while developing academic proficiency in the native language as well.

Two-Way Bilingual Education. English-proficient and LEP students are schooled together in the same bilingual class, and they work together to learn both languages, serving as peer teachers.

* The program models may include either of the instructional approaches. See Diane August and Kenji Hakuta, eds., *Improving Schooling for Language-Minority Children: A Research Agenda*, Committee on Developing a Research Agenda the Education of Limited English Proficient and Bilingual Students (Washington, DC: National Academy Press, 1997), p. 19.

an August 1996 survey of Hispanic parents found that 63 percent thought that “Hispanic students should be taught English as soon as possible, while less than seventeen percent thought they should learn Spanish first.”¹⁰

Moreover, the recent passage in California of Proposition 227 to dismantle bilingual education was conceived when dozens of Latino parents banded together to boycott the 9th Street Elementary School in Los Angeles for two weeks. The parents felt the school was failing to provide an equal

education for their students by failing to teach them in English.¹¹

THE FEDERAL EXPANSION INTO BILINGUAL EDUCATION

Originally authorized by Title VII of the Elementary and Secondary Education Act of 1965, the bilingual education program aimed to teach English to LEP children. Congress thus funded grants to school districts to aid in the instruction of these students.¹² When the federal government

10. Michael La Velle, “The Importance of Learning English: A National Survey of Hispanic Parents,” *READ Perspectives*, Spring 1997.

11. Lynn Schnaiberg, “Plan to Curb Bilingual Education Progresses in California,” *Education Week*, October 15, 1997.

began funding local-level bilingual education programs in 1968, Congress emphasized that support should not be limited to any one instructional method. Money was provided in the form of competitive grants to state and local education agencies to research and experiment with methods of teaching, with the goal of improving English language instruction according to students' needs.

The U.S. Supreme Court's 1974 decision in *Lau v. Nichols* was the first legal precedent requiring schools to help LEP students to understand the curriculum.¹³ The Supreme Court ruled that "identical education" did not translate into "equal education" when dealing with LEP students. The Supreme Court based its decision on the 1964 civil rights law that barred discrimination on the basis of national origin. The crux of the argument:

Where inability to speak and understand the English language excludes national origin minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.¹⁴

Although some education authorities took this decision to mandate native language instruction, the Supreme Court's wording by no means suggests this is the only option—or even the best option—for educating LEP students. The wording in *Lau v. Nichols* clearly allows options for English

language instruction, including English as a Second Language (ESL):

No specific remedy is urged upon us. Teaching language to the students of Chinese ancestry who do not speak the language is one choice. Giving instruction to this group in Chinese is another. There may be others.¹⁵

Yet the Department of Education's Office of Civil Rights created a task force that decided that transitional bilingual education (TBE) was the best means by which to provide "equal education" to LEP minorities.¹⁶ The OCR assembled regulations, now called the *Lau* remedies, that were sent to every school district in the United States that receives federal funding. The regulations in essence say that if a school has 15 students who speak a single language, it must offer instruction to those students in their native language.¹⁷ The *Lau* remedies defined ESL programs as an inappropriate method of instruction "because an ESL program does not consider the affective or cognitive development of students."¹⁸

The task force's suggestions were realized when OBEMLA was established in 1974. OBEMLA quickly became a champion of TBE. Just before the 1980 presidential election, the Carter Administration attempted to mandate bilingual education in schools with a specified minimum percentage of LEP students. The *Lau* remedies were withdrawn briefly under the Reagan Administration. Since that time, Congress slowly has increased the

12. Scott A. Hodge, ed., *Balancing America's Budget: Ending the Era of Big Government* (Washington, DC: The Heritage Foundation, 1997), p. 264.

13. *Ibid.*

14. *Lau v. Nichols*, 414 U.S. 563.

15. *Lau v. Nichols*, 414 U.S. 565.

16. The policies adopted by the task force were dubbed the *Lau* remedies and evolved into the de facto compliance standards, which allowed federal influence over educational decisions that rightfully are under local jurisdiction. See Department of Health, Education and Welfare internal memorandum, "Task Force Findings Specifying Remedies Available for Eliminating Past Educational Practices Ruled Unlawful Under *Lau v. Nichols*," issued December 1975.

17. Linda Chavez, "Bilingual Education: Conformity in the Name of Diversity," *American Experiment Quarterly*, Summer 1998.

18. Diane August and Carl Kaestle, "The Infrastructure for Research on English-Language Learners and Bilingual Education," in August and Hakuta, eds., *Improving Schooling for Language-Minority Children*, p. 369.

proportion of money to be spent on special alternative instruction programs like ESL. Still, the most recent reauthorization of the ESEA, in 1994, capped the use of federal funding for special alternative instruction programs at 25 percent, with a few exceptions.¹⁹

The next significant development in federal involvement in bilingual education came in a 1981 case before the Fifth District Circuit Court, *Castaneda v. Pickard*. In this decision, the court set three guidelines for schools to follow when implementing bilingual education or any other LEP program.²⁰

1. **Create a program that is based on an “educational theory that is recognized as sound by at least some experts in the field,”** or one that is recognized as a legitimate educational experiment;
2. **Have the resources and policies in place to implement the chosen program effectively;** and
3. **Pick a program that demonstrates students are overcoming language barriers.**

Again, the Fifth District Court’s simple criteria and language contrast greatly with those who argue that native language instruction is required by Title VI of the civil rights law. The California Little Hoover Commission²¹ interpreted this language to mean schools should have two goals: (1) to make students proficient in English; and (2) to ensure that they make academic progress in the overall curriculum. Schools are free to pursue these goals either sequentially or simultaneously.

But, like *Lau*, the *Castaneda* decision’s recommendations largely have been ignored or misinterpreted.

THE DEPARTMENT OF EDUCATION’S OFFICE OF CIVIL RIGHTS

In addition to offering school districts financial incentives to use TBE methods, the federal government wields considerable legal power over a school district’s implementation of bilingual education through the Department of Education’s Office of Civil Rights. The reach of the OCR now includes exit criteria (standards by which a district determines a student ready to leave the program), staffing requirements, and the adequacy of the program itself.²² The OCR regularly conducts “compliance reviews” of schools to “assist recipients and beneficiaries in understanding the practical application of Title VI’s compliance requirements.”²³ According to the U.S. Commission on Civil Rights, “OCR used the [National Enforcement Strategy] to target some recipients for compliance reviews to serve as examples to the other recipients.”²⁴ The reviews normally end with the OCR requiring reforms to place the school within the realm of compliance with Title VI of the 1964 Civil Rights Act. Districts that do not adopt OCR policies risk losing federal funding. Research shows that the OCR rarely likes what it finds. In 28 reviews conducted in 1994, the OCR found:²⁵

- In 19 cases, school districts did not have adequate procedures for identifying and assessing LEP students;

19. *Ibid.*, pp. 370 and 371; and Congressional Budget Office, *Reducing the Deficit: Spending and Revenue Options*, August 1996, p. 280.

20. *Castaneda v. Pickard*, 648 F.2d 989.

21. A bipartisan, independent body designed to promote efficiency, effectiveness, and economy in state programs.

22. Internal memorandum of the Department of Education Office of Civil Rights, “Policy Update on Schools’ Obligations Toward National Origin Minority Students with Limited English Proficiency,” issued September 27, 1991.

23. “Federal Title VI Enforcement to Insure Non-Discrimination in Federally Assisted Programs. A Report of the Commission of Civil Rights.” June 1996. p. 205.

24. *Ibid.*, p. 214.

25. *Ibid.*, pp. 202–203.

- 15 districts did not afford all LEP students the opportunity to participate in the program or ran a program that was inadequately staffed;
- 3 districts had no program for LEP students; and
- 20 districts did not have adequate procedures for students to exit the programs, did not provide information to the parents of LEP students in their native language, excluded LEP students from gifted programs, or wrongly placed them in special education programs.

When the OCR and the local school district are unable to reach an agreement, the OCR turns the case over to the U.S. Department of Justice for prosecution as a civil rights violation.²⁶ Few local school districts have been willing to devote the time and resources to fight the OCR's compliance demands to this extent. The vast majority have no choice but to accept the recommendations of the OCR (and the Department of Education's guidelines for bilingual instruction along with them). Thus, bilingual programs find much of their origin in the OCR.

The OCR's most publicized conflict came in 1997: After two and a half years of negotiations, the OCR and the Denver, Colorado, school district were unable to come to agreement. At issue: The OCR disagreed with Denver's three-year limit on the length of participation for LEP students, as well as the school district's request that parents and teachers be involved in moving students out of bilingual education. In addition, the OCR demanded that all students who report on the home language survey that another language is spoken at home be tested for bilingual instruction, even if that student speaks only English. On October 15, 1997, the OCR recommended that the Department of Justice sue Denver for civil rights

violations for refusing to accept its recommendations.²⁷

The OCR told the U.S. Commission on Civil Rights that it intends to devote more of its resources to compliance; it devoted as much as 40 percent to compliance in 1996. These funds translate into a huge increase in the number of compliance reviews; the OCR conducted 13 reviews in 1992, but 80 in 1997. Surely, this extra emphasis should focus even more congressional attention on the flawed policies that the federal government is trying to enforce.

WHAT THE RESEARCH SHOWS

Members of Congress, especially those dedicated to preserving existing bilingual education programs, should know that research and evaluation on methods of second-language instruction have been inconclusive at best.

In 1997, a National Research Council committee composed of 12 research scholars commissioned by the Department of Education and several independent foundations evaluated the available research on English language instruction. It concluded that nearly \$100 million and 30 years of research and evaluation yielded scant results in classroom achievements.²⁸ The committee writes,

[W]e do not yet know whether there will be long term advantages or disadvantages to initial literacy instruction in the primary language v. English given a very high quality program of known effectiveness in both cases.

The committee especially criticized OBEMLA for its inability to manage and disseminate research.²⁹ More often than not, the committee found, OBEMLA had been inattentive to the results of its in-house research projects and failed

26. In 1994, the Department of Education turned three cases over to the Department of Justice. At least one of these cases involved services provided to LEP students.

27. "Denver Schools, OCR Hits Stalemate," *Education Week on the Web*, October 15, 1997; Lynn Schnaiberg, "Denver Hispanics Assail Bilingual Education," *Education Week*, April 30, 1997.

28. Charles Glenn, "A Review of the National Research Council Study: Improving Schooling for Language Minority Children: A Research Agenda," Amherst, MA: Institute for Research in English Acquisition and Development, May 1997, p. 2.

to build upon original research.³⁰ Even among officials who had worked on Title VII programs, many were unaware of research results and their implications.³¹ For example, during a 1992 audit of OBEMLA research, a budget analyst from the Department of Education's Office of the Under Secretary discovered that, of the 91 research evaluations or studies funded with \$47 million of Title VII appropriations from 1980 to 1991, 40 of the final reports had been discarded or lost. Of the remaining 51 studies available, 29 were relevant for policy formation and only 12 were described as "large-scale policy-relevant studies."³²

An evaluation of three large-scale national program studies of LEP students makes the case that each state and local education agency should select the method of English language instruction that best suits the needs of their LEP students.

A 1978 American Institutes for Research (AIR) study concludes that students in bilingual education fared no better or worse than students not in such programs. The study was criticized, however, for using a weak control group. Two-thirds of the students in the control group had received bilingual instruction previously, so the study was not genuinely comparing bilingual education with no bilingual education. Because of the AIR report's questionable methodology and benign conclusion, the Department of Education commissioned two longitudinal studies on the long-term effectiveness of the program.³³

The National Longitudinal Evaluation Study of the Effectiveness of Services for Language Minority

and Limited English Proficient Students found, among other things, that most English language learners performed well below grade level. The study also found, not surprisingly, that when a mathematics proficiency test was administered in English to students in later grades, the students needed English proficiency to score well. This was not the case for LEP students in lower grades.³⁴

The Longitudinal Study of Immersion and Dual Language Instructional Programs for Language Minority Students conducted by Aguirre International in 1991 found virtually no difference in achievement results among three models of instruction and concluded that some language instruction, regardless of type, was better than none.³⁵

The National Research Council's recommendation based on the national studies further boosts the case for restoring local control over the education of LEP students. It writes,

We see little value in conducting evaluations to determine which type of program is best.... The key issue is not finding a program that works for all children and all localities, but rather a set of program components that works for the children in the community of interest.³⁶

Even supporters of bilingual education concede that research has not proven its effectiveness. According to Kenji Hakuta, a prominent bilingual education theorist:

29. August and Hakuta, eds., *Improving Schooling for Language-Minority Children*, p. 357.

30. *Ibid.*, p. 315.

31. Personal communication from Gilbert N. Garcia, OBE research analyst in the early 1980s, quoted in August and Kaestle, "The Infrastructure for Research on English-Language Learners and Bilingual Education," in August and Hakuta, eds., *Improving Schooling for Language-Minority Children*, p. 380.

32. *Ibid.*

33. *Ibid.*, p. 140.

34. *Ibid.*, p. 142.

35. *Ibid.*, p. 143.

36. *Ibid.*, p. 147.

There is a sober truth that even the ardent advocates of bilingual education would not deny. Evaluation studies on the effectiveness of bilingual education in improving either English or math scores have not been overwhelmingly in favor of bilingual education. To be sure, there are programs that have been highly effective, but not very many.... An awkward tension blankets the lack of empirical demonstration of the success of bilingual education programs. Someone promised bacon, but it's not there.³⁷

HOW TO HELP LEP STUDENTS

Although the current research on teaching LEP students through bilingual education is inconclusive, the federal government continues to pour millions of dollars into bilingual education every year. (It appropriated \$354 million for 1998.) Congress needs to examine ways of encouraging a search for better ways of teaching English. This can be done by using the following guidelines.

Move Control of LEP Teaching Methods Closer to Students

Because children have different needs, it is best for the states, LEAs, and parents to decide which method of teaching best suits them and to be free to experiment. The current appropriations package lifts the cap on the percentage of funding that can be used on alternative methods of teaching. The English Language Fluency Act, however, addresses this issue by fully block granting federal funding for teaching LEP students to the states, requiring that 90 percent of this money reach the classroom, and offering LEAs the flexibility to select a program of choice for their student population. Furthermore, the act would permit parents to choose the program most suitable for their children. No school would have the authority to impose a certain method of teaching English on their students.

Bring the OCR Back in Line with the *Lau* Decision

The Office of Civil Rights should be prevented from enforcing regulations that are not based on sound legal principles. In the case of bilingual education, the OCR's *Lau* remedies force school districts receiving federal funding to teach LEP students using bilingual education—even though neither the *Lau* decision nor any other court ruling expressly favors one method of teaching LEP students over another. The English Language Fluency Act addresses this issue by voiding all previous compliance agreements with the OCR that mandate bilingual education and allows states the flexibility they need to choose the program that best teaches their LEP students English.

Link Continued Financing to Demonstrated Success

The ultimate test of a program's effectiveness is its ability to allow children to make a quick and effective transition into regular classrooms that are taught in English. All parents want their children to graduate with the basic tools needed to work and succeed in today's global marketplace; this means knowing how to speak English. Rather than micromanaging states, and forcing them to use one method of teaching LEP students, the federal government should give states flexibility and then link continued financing to demonstrated success. House appropriators would require the Secretary of Education to provide a report on programs that effectively and efficiently teach children English. The English Language Fluency Act goes further by offering bonuses to states that show they can teach their LEP population English effectively—be it through ESL, TBE, English immersion, or any other method.

CONCLUSION

It is time for the federal government to allow local districts and parents to educate Limited

37. Kenji Hakuta, *Mirror of Language: The Debate of Bilingualism* (New York, NY: Basic Books, 1986), cited in Charles Glenn and Ester J. de Jong, *Educating Immigrant Children: Schools and Language Minorities in Twelve Nations* (New York, NY: Garland, 1996), p. 465.

English Proficient students free from unnecessary intervention. The English Language Fluency Act would accomplish this goal by transferring all funding to states and eliminating all precedents set by the federal government interfering with the ability of local school districts to teach students who cannot speak English. It also would encourage states to seek the best ways of teaching English fluency by giving states flexibility and bonuses for success. The House should consider adopting the reforms in the English Language Fluency Act before pouring any new funds into the Office of

Bilingual Education and Minority Language Affairs. Learning how to speak English and excel in school, after all, are the cornerstones of success in the path toward achieving the American dream for the millions of immigrants who come to the United States to work hard and make a new life.

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