

1 Language Policies in Conflict

An Overview

THE UNITED States has experienced heightened political conflict over language policy for the last three decades, as an ongoing disagreement between pluralists and assimilationists has engaged the attention of the media and policymakers in such a wide range of venues as radio talk shows, television debates, local school boards, PTA meetings, city councils, county governments, state legislatures, executive agencies, national political party nominating conventions, the Congress, and the Supreme Court of the United States. More specifically, this conflict has centered on three primary issues that are deeply intertwined in the minds of most of its partisans: (1) education policy for language minority children; (2) access to civil and political rights and government services by non-English-speakers; and (3) the establishment of English as the sole official language of the United States and its political subdivisions. This first chapter will introduce this subject by sketching a developmental narrative of this political debate that in turn will serve as the point of reference for the analysis to follow.

EDUCATION POLICY FOR LANGUAGE MINORITY STUDENTS

Contemporary language politics in the United States first emerged in the 1960s in reference to educational policy for language minority students in the public schools, especially Latino students. Initiated before the current wave of immigration to the United States took on large-scale proportions, the beginnings of the movement for an innovative approach to education for students from non-English-speaking homes was perceived by most policymakers as an equal opportunity program for "culturally disadvantaged" American minority students.

The first national legislation in this movement was the Bilingual Education Act of 1968, which amended the Elementary and Secondary Education Act of 1965 (ESEA) by adding Title VII. Arguing that poverty and

ignorance had denied millions of Americans an opportunity to live the American dream, by 1966 President Lyndon Johnson had pushed through Congress a sweeping series of domestic policy innovations known collectively as the "Great Society" program. The ESEA, by establishing the first large-scale federal program in support of local schools, was by far the most significant of its initiatives in the field of education (Sundquist, 1968: 155–220).

Present bilingual education policies had their origins in this Great Society quest for equal opportunity for the disadvantaged, especially racialized minorities. By the middle 1960s mounting evidence showed that non-English-speaking students in the public schools, particularly many Latinos in the Southwest, suffered unusually high dropout rates and progressively lower academic achievement scores compared to their English-speaking peers. The inability to speak English came to be viewed by many educators and activists as an important obstacle standing in the way of equal opportunity for these Americans. Among those taking this position was Senator Ralph Yarborough (D-Texas), who introduced the bilingual education amendment (Title VII) to ESEA in 1967. Senator Yarborough explained his motivation for sponsoring the bill as follows:

The failure of our schools to educate Spanish-speaking students is reflected in comparative drop-out rates. In the five Southwestern States . . . , Anglos 14 years of age and over have completed an average of 12 years of school compared with 8.1 years for Spanish-surnamed students. I regret to say that my own State of Texas ranks at the bottom, with a median of only 4.7 years of school completed by persons of Spanish surname. (Yarborough, 1992 [1967], p. 323).

While the Johnson administration did not initially support the bill, Senator Yarborough and several of his colleagues, together with widespread support from Latino political leaders and activists, managed to see it successfully through Congress.

As a relatively small demonstration grant program, Title VII was at first more symbolic than substantive. Political support for bilingual education continued to grow in the late 1960s and early 1970s, but the major impetus for its expansion came from the U.S. Supreme Court in its 1974 *Lau v. Nichols* decision. In that ruling on a class action suit brought against the San Francisco Unified School District on behalf of Chinese-speaking elementary school students, the Court held the 1964

Civil Rights Act to mean that failure by a school district to provide instruction in a language students can understand is unlawful discrimination that violates those students' civil rights. As Justice William O. Douglas wrote in the opinion of the Court, "there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education" (U.S. Supreme Court, 1974).

While the Court did not mandate bilingual education as the remedy for these students, supporters of the Title VII program—both inside and outside government—seized upon the case as legitimation for its expansion. A subsequent task force convened by the U.S. Office of Education resulted in the so-called *Lau* Remedies, issued as guidelines to bring local school districts receiving federal funds into compliance with the *Lau* decision. Although the *Lau* Remedies also did not mandate bilingual education, they did place it in a preferred position: those schools desiring to use alternative pedagogical methods had to demonstrate that their approaches to educating non-English-speaking students were at least as effective as bilingual education.

Meanwhile, in the same year as the *Lau* decision, was handed down, Congress adopted the 1974 Equal Educational Opportunities Act, thereby codifying the language used by the Court. Section 1703(f) of the act prohibited "the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional program" (Salomone, 1986: 100). Thus, by the middle 1970s bilingual education had become a nationwide force for change in the public schools. In addition to the federal law, many states enacted legislation authorizing or mandating bilingual education in their public schools.

The original Bilingual Education Act did not specify the pedagogical methods involved in a bilingual approach to teaching non-English-speaking students. And by the early 1970s, controversy had erupted among educators and political activists over competing approaches. During the decade that followed the conflict came to center on a debate between transitional and maintenance approaches to bilingual education. The *transitional* approach uses the student's native language in subjects other than English only until the student masters the dominant language well enough to be mainstreamed into a monolingual English

classroom. The orientation is remedial in that the child's home language is considered a crutch that should be dispensed with as quickly as possible.

The *maintenance* approach also seeks to enable students to master English and to move quickly into mainstream classrooms, but its orientation to their native languages is very different. Rather than seeing the home language as a crutch, the maintenance approach views it as a valuable resource—for the child, the community and the nation—that should be nurtured and developed along with other academic skills. Thus, maintenance programs continue to teach students in their native languages long after they have become proficient in English. The aim for them is mastery of *both* languages, not just English.

While educators and activists fought over these approaches (and a proliferation of subtypes within each), policymakers at all levels of government were making it increasingly clear that there was little support for the maintenance approach in legislative bodies. At the insistence of House conferees, for example, Congress stipulated in its 1974 amendments to the Bilingual Education Act that its expansion of the bilingual education program should "not be misinterpreted to indicate that an ultimate goal of the program is the establishment of a 'bilingual society'" (Schneider, 1976: 201). Further, Congress mandated that the native language of limited English-speaking (LES) children was to be used in bilingual programs only "to the extent necessary to allow children to progress effectively through the educational system" (Schneider, 1976: 215). By 1978 Congress became even less ambiguous: that year's amendments to the act stipulated that the native language could be used only "... to the extent necessary to allow a child to achieve competence in the English language" (Gray et al., 1981: 8).

State legislation followed a similar pattern. The Massachusetts law, for example, was titled the Transitional Bilingual Education Act. And California's 1980 bilingual education law, considered at the time one of the nation's strongest, stated that the "primary goal of all programs under this article is, as effectively and efficiently as possible, to develop in each child fluency in English," authorizing the use of students' primary languages only "when necessary" to attain that goal (Gray et al., 1981: 22).

By 1980 it seemed clear that the bilingual education movement, insofar as it was aimed at a bilingual citizenry, had peaked and was on the

defensive. Indeed, within government in the 1980s the issue no longer centered around the "transitional versus maintenance" argument but on whether the requirements for bilingual instruction in federally funded programs for limited English-proficient (LEP) students would be maintained at all. Critics of the programs argued that this "expensive" method for the education of non-English-speaking students had not been able to prove itself in evaluation studies, and began to call for alternative approaches that would not employ the students' native languages in the classroom. School districts, hard-pressed to find qualified bilingual teachers, began to pressure legislators and federal education officials for permission to use their federal bilingual dollars to experiment with other approaches.

Among the favorite candidates for experimentation was an approach called "English-immersion." Loosely modeled after a French-immersion technique popular among Anglophone Canadians in Quebec, immersion involves placing non-English-speaking students in a structured English-only environment in which they are encouraged to rapidly switch to the dominant language without help from their native tongue. In turn, these moves toward experimentation were attacked immediately by bilingual education's supporters as a return to the pre-*Lau* days of "sink-or-swim English *submersion*," and the political conflict over language education policy continued (see California State Department of Education, 1984).

It did not take the Reagan administration very long to make it clear that it would side with those who argued against a maintenance approach and that it would favor loosening the requirements for bilingual education for LEP students. Shortly after taking office, for example, President Reagan made the following off-the-cuff remark to reporters: "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 into the job market and participate" (quoted in Crawford, 1989: 43). In its first year in office, then, the new administration scuttled proposed U.S. Department of Education regulations developed at the end of the Carter years that would have strengthened the *Lau* Remedies issued in 1975 (Crawford, 1989: 42). Further, it also succeeded in 1981 in cutting back funding for the Bilingual Education Act (although not in consolidating the program into the edu-

cation block grant of that year), and launched an effort in 1983 to end the privileged pedagogical status of bilingual education (Salomone, 1986: 92–97).

These efforts were stepped up very aggressively after Reagan appointed William C. Bennett as secretary of education in 1985 (General Accounting Office, 1987: 43–58). Indeed, Bennett became a leading national spokesperson for the campaign to “rescue” English as the sole national language from the forces of bilingualism and multiculturalism, and remained active in this campaign long after he left public office. Shortly after becoming secretary of education, Bennett delivered a widely noted speech in New York City in which he attacked his own department for having privileged (via the *Lau Remedies*) bilingual education “as virtually the only approved method of remedying discrimination,” with the result that “we had lost sight of the goal of learning *English* as the key to equal educational opportunity” (quoted in Tatlovich, 1995: 19).

The Reagan administration was never fully successful in its efforts to derail bilingual education, however, due to stiff opposition from the program’s supporters in Congress. In 1988 the administration was forced to accept a compromise in the reauthorization of the law, in which 75 percent of federal bilingual education funds were set aside for “transitional bilingual education programs,” and the remaining 25 percent could be used for experimental programs at the local level (which could include both English-immersion and maintenance bilingual education).

Then came another shift in the beleaguered program’s political fortunes. After Bennett was replaced as secretary of education by Lauro Cavazos in 1988, the orientation of the department became more positive toward the bilingual program. Indeed, shortly after President Bush reappointed Cavazos to head the department in 1989, the press began to write of a new revival of bilingual education in the country, spearheaded by the administration’s educational administrators. In a 1990 *New York Times Magazine* article on Rita Esquivel, appointed by Cavazos as director of the Office of Bilingual Education and Minority Languages Affairs, Richard Bernstein described her as “an unequivocal advocate of bilingual education.” Moreover, while reflecting the Republican administration’s support for a decentralist version of federalism, Esquivel claimed to have President Bush’s support for a maintenance