

English Language Learners at School



A Guide for Administrators

edited by

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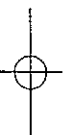
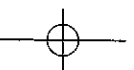
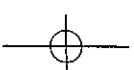
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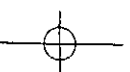
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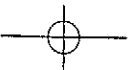
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Chapter 1

Policies and Accountability Requirements for English Language Learners



Guiding Principles

- We address all federal, state, and local mandates and accountability requirements regarding English language learners.
- We have developed an authentic accountability system for English language learners.
- We explicitly articulate local, school, district, and school language education policies and procedures.
- We use valid and reliable data on the academic achievement and English language development of appropriate learners to inform the development of appropriate policies and accountability requirements for these students.

Introduction

The Civil Rights Act of 1964 mandates that U.S. public schools provide equal educational opportunities for all students. Educators are challenged to ensure that their English language learners (ELLs) have the language support that they need in order to access the educational opportunities to which they are legally entitled. More than thirty years of federal, state, and local legislation has led to the development of a wide range of policies, programs, and practices that are intended to support this effort. And more than thirty years

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of research on the educational experiences and outcomes of ELLs in a range of program types has contributed to our understanding of what is and is not effective for these students.

For the first time in the history of the United States, schools are being held accountable by the federal government for the English language development and academic achievement of ELLs in their classrooms. The good news is that the largely underserved ELL population is no longer invisible in our schools. ELLs have been moved from the margins to the mainstream of U.S. educational concerns by the accountability requirements of the No Child Left Behind Act of 2001. The national organization of Teachers of English to Speakers of Other Languages (TESOL) is developing new national TESOL standards that focus more attention on academic language used in the content areas of language art, mathematics, science, and social studies. States are rapidly developing state language policies, accountability requirements, language proficiency standards, and standardized language proficiency assessments, and they are mandating a wide range of professional development so that school districts and schools statewide can comply with the new federal mandates. These policies and mandates, however, often are issued without adequate funding and certainly without adequate time for effective implementation. Administrators and teachers are asking questions about how they should interpret and implement the new policies and requirements that are being handed down to them in ways that make sense for their schools and communities. The situation is made more difficult by the high degree of variation in expectations and accountability requirements for ELLs from one state, school, or school district to another—and the requirements are changing rapidly. This chapter aims to equip administrators with the background and resources they need to navigate the complexities of this dynamic policy context and make informed decisions at the local level, for programs, schools, and school districts.

This chapter answers questions about the policy mandates and accountability requirements for ELLs by first providing a brief historical overview of the federal policy context surrounding the education of ELLs today, and then by considering what an authentic accountability system for ELLs should include. Next, we look more closely at specific state policies on the education of ELLs that have received considerable media attention—those of Arizona, Massachusetts, and Colorado—to see how these policies are being interpreted by administrators at the level of the local school. We also explore how programs for ELLs are currently funded in specific states—Illinois, New York, and Pennsylvania. Our focus on specific states is intended to illustrate some of the variation that we find across the United States at this time and to stimulate administrators' thinking about policies, accountability requirements

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How have laws regarding ELLs evolved in the U.S.? 3

and funding in their own states. The questions in the last part of the chapter move to the local school district and school levels to explore how administrators can develop policies and accountability requirements that are appropriate for their school and community contexts, and how they can use the data they collect at the local level to drive their decision making.

The chapter concludes with a survey for reflection and action. School district and school administrators can use this survey to review the status of their current policies and accountability requirements for ELLs, and identify the strengths and needs of these policies and procedures. Equipped with this information, administrators can take the necessary action steps to ensure that their ELLs have equal access to the educational opportunities they offer all students at their schools.

Question

How have laws regarding English language learners evolved in the United States?



KATE MENKEN

Policies regarding the education of children who speak languages other than English are far from new in the United States. Historically, such policies have been decided by a combination of legislation, court mandates, and federal, state, and local educational policies that have shifted with the ebb and flow of immigration waves to this country. When the U.S. Constitution was written, linguistic diversity was the national norm, and instruction was multilingual in schools. Bilingual German-English schooling was authorized by law in several states in the nineteenth century and flourished unofficially elsewhere, and other European languages were taught in response to pressure from immigrant groups (Crawford, 1992). More than a dozen states passed legislation for schooling in languages other than English, either as a subject or as the medium of instruction.

With the arrival of the second great wave of immigrants to the United States in the early twentieth century, however, anti-immigrant sentiment increased, and the dominance of English grew. The "Americanization" cam-

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paign of this period corresponded to increased restrictions placed on the use on languages other than English. After the United States entered World War I in 1917, several states passed laws and decrees banning German from classrooms and other public arenas (Crawford, 1999). Similar attempts were made to prohibit the teaching of Japanese, Chinese, and Korean in California and Hawaii, and Spanish in New Mexico. In 1923, Congress considered a bill to make English the official American language. Although this bill did not pass, and anti-foreign language laws were eventually overturned, they had a great impact on public sentiment. From the period of mass immigration into the United States during the early twentieth century until the 1960s, few or no special services were offered to language-minority students in schools where English was the language of instruction.

It was after the Civil Rights Act of 1964 that the need to provide language support for non-native English speakers, and the recognition that language is tied to educational inequity, were first explicitly addressed in federal education legislation. This was enacted in the passage of Title VII of the Elementary and Secondary Education Act of 1965, entitled the Bilingual Education Act, passed by Congress in 1968. The Bilingual Education Act acknowledged the challenges posed by the linguistic diversity of U.S. public schools and authorized the funding of innovative programs for English language learners (ELLs), such as bilingual education and English as a second language (ESL). Programs to meet the needs of ELLs, however, were only truly implemented in U.S. public schools after the *Lau v. Nichols* case of 1974. The suit was brought by Chinese parents in San Francisco who asserted that a child named Lau was unable to access the knowledge and skills needed to succeed in school owing to his limited English. The Supreme Court ruled in this case that “*identical* education does not constitute *equal* education under the Civil Rights Act.” As a result, school districts were required to take “affirmative steps” to address the educational challenges for ELLs due to language in all schools (by, for example, implementing bilingual education or ESL programs). To this day, school districts across the country continue to cite “the Lau provisions” when making decisions about educational programming for ELLs.

In the wake of these mandates, a wide array of program models addressing the needs of ELLs have been implemented. These models are divided between those in which the students’ native language is used in instruction (bilingual) and those in which the instruction is solely in English (ESL).

More immigrants arrived in the United States during the 1990s than in any other single decade, and there has been a backlash against the growing immigrant population and the languages they speak. With funding from Ron Unz, a millionaire software entrepreneur, anti-bilingual education ballot

How have laws regarding ELLs evolved in the U.S.? 5

measures have recently passed at the state level in California, Arizona, and Massachusetts, prohibiting native language instruction in those states (despite research showing the effectiveness of bilingual education). In addition, the No Child Left Behind Act (NCLB) was passed into law by Congress in 2001, marking the end of the Bilingual Education Act. Title III of NCLB includes the English Language Acquisition, Language Enhancement, and Academic Achievement Act (Part A), which mandates that ELLs be included in state assessment systems for accountability purposes and requires that these students make "adequate yearly progress" toward mastering academic content and English proficiency—with only passing mention of bilingual education or native language use. As such, this law implicitly promotes an English-only policy, pressuring school districts to emphasize English acquisition and students to learn the language as quickly as possible. Taken together, these recent policies suggest a return to a period of language restrictionism like that seen during the Americanization campaign of a century ago (Menken, 2005).

On the other hand, states such as New York, New Jersey, and Illinois currently mandate bilingual education in schools where there are twenty or more students who speak the same language other than English. Other states that mandate bilingual education are Alaska, Connecticut, Indiana, Texas, Washington, and Wisconsin. California and Massachusetts had mandated bilingual education over English-only instruction for ELLs prior to the recent passage in these states of anti-bilingual education measures. Similarly, certain states, among them New Mexico and Michigan, effectively mandate bilingual education by funding only this type of program. And several states, including New Mexico, Oregon, Rhode Island, and Washington, have adopted what they call "English Plus" mandates. This is best described in New Mexico's legislation:

NOW THEREFORE BE IT RESOLVED . . . Proficiency on the part of our citizens in more than one language is to the economic and cultural benefit of our state and the nation, whether that proficiency derives from second language study by English speakers or from home language maintenance plus English acquisition by speakers of other languages. Proficiency in English plus other languages should be encouraged throughout the State. (House Joint Memorial 16, New Mexico legislature, 1989)

Bilingual education is widely implemented in these states. Finally, programs using students' native languages in instruction in order to maintain those languages can also be found locally across the United States, even in states where native language instruction is not promoted.