

## *Chronology of Federal and State Law & Policy Impacting Language Minority Students*

### *How has federal policy for language minority students evolved in the U.S.?*

- 1920s-1960s English immersion or “sink-or-swim” policies are the dominant method of instruction of language minority students. Few or no remedial services are available, and students are generally held at the same grade level until enough English is mastered to advance in subject areas.
- 1963 Success of a two-way bilingual program for Cuban refugee children in Dade County, FL. inspires the implementation of similar programs elsewhere.
- 1964 *Civil Rights Act: Title VI* prohibits discrimination on the basis of race, color, or national origin in the operation of all federally assisted programs.
- 1968 *The Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1968*: Establishes federal policy for bilingual education for economically disadvantaged language minority students; allocates funds for innovative programs; and recognizes the unique educational disadvantages faced by non-English speaking students.
- 1978 Amendments to *Title VII* emphasize the strictly transitional nature of native language instruction, expand eligibility to students who are limited English proficient (LEP), and permit enrollment of English-speaking students in bilingual programs.
- 1982 Amendments to *Title VII* allow for some native language maintenance, provide program funding for LEP students with special needs, support family English literacy programs, and emphasize importance of teacher training.
- 1988 Amendments to *Title VII* include increased funding to state education agencies, expanded funding for “special alternative” programs where only English is used, a three-year limit on participation in most *Title VII*, and the creation of fellowship programs for professional training.
- 1994 Comprehensive educational reforms entail reconfiguration of *Title VII* programs. New provisions reinforce professional development programs, increased attention to language maintenance and foreign language instruction, improve research and evaluation at state and local level, supply additional funds for immigrant education, and allow participation of some private school students.

2001            *No Child Left Behind Act of 2001 (NCLB)*: The reauthorization of the Elementary and Secondary Education Act of 1965, appropriates funds to states to improve the education of limited English proficient students by assisting children to learn English and meet challenging state academic content and student academic achievement standards. Legislation for limited English proficient students is found under Title III of NCLB.

*What court rulings have impacted the education of language minority students in the U.S.?*

### SUPREME COURT

1974            *Lau v. Nichols*

This suit by Chinese parents in San Francisco leads to the ruling that *identical* education does not constitute *equal* education under Title VI of the Civil Rights Act of 1964. School districts must take affirmative steps to overcome educational barriers faced by non-English speakers. This ruling established that the Office for Civil Rights, under the former Department of Health, Education, and Welfare, has the authority to establish regulations for Title VI enforcement.

1982            *Plyler v. Doe*

Under the Fourteenth Amendment of the U.S. Constitution, the state does not have the right to deny a free public education to undocumented immigrant children.

### FEDERAL COURT

1971            *United States of America v. State of Texas, et al.*

This desegregation case centered on the issue of discrimination and whether the San Felipe and Del Rio school districts were providing Mexican American students an equal educational opportunity. On August 6, 1971, Judge William Wayne Justice ordered the consolidation of the two districts. As a result of the lawsuit, the federal court came down with a court order, Civil Action 5281, which eliminates discrimination on grounds of race, color, or national origin in Texas public and charter schools.

1974            *Serna v. Portales*

The 10<sup>th</sup> Circuit Court of Appeals found that Spanish surnamed students' achievement levels were below those of their Anglo counterparts. The court ordered Portales Municipal Schools to implement a bilingual/bicultural curriculum,

revised procedures for assessing achievement, and hire bilingual school personnel.

1978 *Cintron v. Brentwood*

The Federal District Court for the Eastern District of New York rejected the Brentwood School District's proposed bilingual program on the grounds that it would violate "Lau Guidelines" by unnecessarily segregating Spanish-speaking students from their English-speaking peers in music and art. The court also objected to the program's failure to provide for exiting students whose English language proficiency was sufficient for them to understand mainstream English instruction.

1978 *Rios v. Reed*

The Federal District Court for the Eastern District of New York found that the Pasthogue-Medford School District's transitional bilingual program was basically a course in English and that students were denied an equal educational opportunity by not receiving academic instruction in Spanish. The court wrote: "A denial of educational opportunities to a child in the first years of schooling is not justified by demonstrating that the educational program employed will teach the child English sooner than a program comprised of more extensive Spanish instruction."

1981 *Castañeda v. Pickard*

Reputed to be the most significant court decision affecting language minority students after *Lau*. In responding to the plaintiffs' claim that Raymondville, Texas Independent School District's language remediation programs violated the Equal Educational Opportunities Act (EEOA) of 1974, the Fifth Circuit Court of Appeals formulated a set of basic standards to determine school district compliance with EEOA.

The "Castañeda test" includes the following criteria: (1) *Theory*: The school must pursue a program based on an educational theory recognized as sound or, at least, as a legitimate experimental strategy; (2) *Practice*: The school must actually implement the program with instructional practices, resources, and personnel necessary to transfer theory to reality; (3) *Results*: The school must not persist in a program that fails to produce results.

1981 *United States v. State of Texas et al., January 12, 1981*

The U.S. District Court for the eastern district of Texas, Tyler division, instructs TEA to phase in mandatory bilingual education in grades K-12. This decision outlined specific requirements including: three year monitoring cycles, identification of LEP students, and a language survey for students entering school and established the need for exit criteria.

- 1982            *United States v. State of Texas et al., July 12, 1982*
- The U.S. Court of Appeals, Fifth Circuit reverses the previous judgment of U.S. v. State of Texas et al., January 12, 1981 because of state legislation enacted in 1981.
- 1983            *Keyes v. School District #1*
- A U.S. District Court found that a Denver public school district had failed to adequately implement a plan for language minority students which is the second element of the "Castañeda Test."
- 1987            *Gomez v. Illinois*
- The Seventh Circuit Court of Appeals ruled that State Education Agencies are also required under EEOA to ensure that language minority student's educational needs are met.

#### Noteworthy Legislation in Texas Regarding Bilingual Education

- 1969            HB 103
- The 61<sup>st</sup> legislature passed the state's first bilingual education bill. This Act acknowledged English as the primary language of instruction in school and *allowed* but did not require school districts to provide bilingual instruction through Grade 6.
- 1973            SB 121
- The 63<sup>rd</sup> legislature passed the Texas Bilingual Education and Training Act. This Act directed each school district in which 20 or more LEP students in the same grade shared the same language classification the previous year to institute a program of bilingual instruction beginning with the 1974-75 school year.
- 1978            In November, the State Board of Education adopted the rules governing the implementation of Special language programs for LEP students.
- 1981            SB 477
- This Act strengthened the guidelines necessary to implement the state bilingual plan and established the Language Proficiency Assessment Committees (LPAC).