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Los Angeles, CA 90014  
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# **What Ron Unz *won't say* about his "English for the Children" Initiative**

MAR. 23. 1998 11:21AM

OFFICE OF SECRETARY

NO. 8018 P. 2/3

**T**he "English for the Children" Initiative, spearheaded by entrepreneur Ron Unz, will be appearing on the California ballot in June 1998. ASPIRA of New York and the Puerto Rican Legal Defense and Education Fund (PRLDEF), among other advocates of the needs of limited English proficient students, are concerned that this initiative mischaracterizes the role and nature of bilingual education today. Instead of finding ways to strengthen choice in the programs and approaches available to those children who need to learn English in California, the Unz initiative limits choice and fails to hold existing English language developmental programs accountable, while advocating an approach that is untried and likely to fail.

Here are some facts that we are sure Mr. Unz does *not* want you to know:

- Under current California law local school districts have the *flexibility* of adopting whatever English language development programs and approaches they feel are appropriate. However, with the Unz initiative, this flexibility would be taken away. The Unz initiative would *impose a single model* — "sheltered English immersion."

- Contrary to popular belief, bilingual education is not the only approach used in California to teach English to limited English proficient students. While this current flexibility allows California school districts to institute a wide variety of English language development program models (two-way developmental bilingual education, late-exit bilingual education, early-exit/transition bilingual education, structured immersion, self-contained and pull-out ESL programs, etc.), the Unz initiative would *impose a single statewide approach*.

- The proponents of the Unz initiative promote the misperception that most or all of limited English proficient students in California are enrolled in bilingual education program when, in fact, *less than a third* are enrolled in such programs.

- Under current California law, parents have the *absolute right* to withdraw their children from any English language development program. Rather than support a parent's right in this regard, the Unz initiative would eliminate it by substituting much stricter waiver procedures than now exist.

- Despite the assertions of Unz initiative proponents, according to California law, the main purpose of bilingual education is "to develop in each child fluency in English." Cal. Educ. Code Sec. 52161.

- The Unz initiative would impose a presumptive one-year limit on enrollment in a mandated English immersion program, while research indicates that this is *not sufficient time to successfully transfer English learners to mainstream classrooms*. The proponents of the Unz initiative do not offer any evidence that one year is sufficient time for these programs to work, as opposed to the three year period that is generally accepted practice.

- The "sheltered English immersion" model that would be imposed by the Unz initiative is *poorly defined*, does not conform to successful models of English immersion programs, and does not allow for the teaching of academic content except for English language instruction. This is an *underdeveloped and untested approach* that would do more harm than good.

- The Unz initiative may be *in violation of Title VI* of the 1964 Civil Rights Act and *Lau v. Nichols* (1974) and could provoke expensive legal challenges that could result in California losing all federal funding for education. □



THE WHITE HOUSE  
INITIATIVE ON EDUCATIONAL EXCELLENCE  
FOR HISPANIC AMERICANS

Fax Cover Sheet

"Partners in Education: Building Bridges, Breaking Barriers"

Date: March 20, 98

To: Mike Cohen, WH Education Advisor

FAX: 202-456-5582 Phone: 202-456-5575

From: Edmundo DeLeon, Special Assistant

FAX: 202-401-8377

Phone: 202-401-8459

Total Pages Including Cover Sheet: 4

Subject: Phone Conference call on 3/24 at 2:30

Comments: Sarita Brown, the Exec. Dir., is on travel and will be back on Mon, 3-23. The phone conference call on 3-24 at 2:30 will focus on Proposition 227 and the April 3-4, 98 agenda (attached) of the President's Advisory Commission. Mickey and Maria will join in on the phone conference.

Please call if you need more info.

Have a great weekend.

Ed De

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**President's Advisory Commission on  
Educational Excellence for Hispanic Americans**

**April 3-4, 1998**

**Pitzer College at the Claremont Colleges  
Claremont, California  
*Preliminary Agenda***

**Friday, April 3, 1998  
Gold Student Center  
Rapaport Room, #204-206**

|       |                                                                                                                                                                                              |            |
|-------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| 9:00  | Chair Cha Guzman convenes Commission meeting                                                                                                                                                 |            |
| 9:15  | Introductory Comments<br>Sarita Brown, Executive Director                                                                                                                                    | (TAB 1)    |
| 9:20  | Preliminary Report by the Executive Board<br>Guillermo Linares and Gloria Rodriguez,<br>Children, Families, and Communities Co-Chairs<br>Juliet Garcia, Higher Education Chair               | (TAB 2)    |
| 9:30  | A Description of the California Example<br>Harry Pachon, Public Policy Committee Chair<br>Darlene Chavez, K-12 Committee Chair                                                               | (TAB 3, a) |
| 9:45  | Bilingual Education: The Case for Science Over Politics<br><i>Briefing on the findings of J.P. Greene, Government, UTAustin</i>                                                              | (TAB 3,b)  |
| 10:00 | Discussion of the Impact of the California Board of Education<br>March 12 Decision on Bilingual Education                                                                                    | (TAB 3,c)  |
| 10:20 | <b>COMMISSION ACTION: Review the educational practices<br/>reflected in the Unz Initiative and comment on their capacity<br/>to provide quality education to the children of California.</b> |            |
| 10:45 | <b>BREAK</b>                                                                                                                                                                                 |            |
| 11:15 | Higher Education Committee Report<br>Showing of<br><i>HSIs: Serving the Community,, Serving the Nation</i><br>Facilitated by Juliet Garcia                                                   | (TAB 4)    |

12:00-1:30 LUNCH BREAK

1:30 Hispanic Educational Excellence and the Clinton Administration  
(Review and Discussion)

Facilitated by Cha Guzman and Guillermo Linares

FY99 Budget Recommendations (TAB 5)

Secretary's Response to "No More Excuses:  
The Final Report of the Hispanic Drop Out Project" (TAB 6)

Inter-Departmental Council for  
Hispanic Educational Improvement (TAB 7)

Status on the Response to the Commission's Report,  
*Our Nation on the Fault Line*

2:15 The Commission Responds

*The Role of Parents in the Education of Their Children*  
Gloria Rodriguez

*America Goes Back to School*  
Guillermo Linares and Erlinda Archuleta

Loni Hancock, Secretary's Regional Representative, IX

2:45 The Initiative Responds  
Report by Executive Director Sarita Brown

3:00 BREAK

3:15 Commission examines the role of assessment in systemic school reform  
and Latino educational attainment (TAB 8)  
Facilitated by Bill Rojas and Ruben Zacarias

4:30 Review of Agenda for Saturday, April 4

5:00 Meeting Adjourns

5:00-6:30 Hosted Reception, McConnell Living Room

**Saturday, April 4**  
**Broad Center Performance Space**

9:00 Chair Guzman convenes meeting

9:15      **Review of Calendar of Activities through April 1999 and discussion  
of future Commission meeting dates**

9:45      **Announcement of room assignments for Committee work sessions**

10:00      **"What do you want the President to know?"  
PUBLIC TESTIMONY**

11:00      **BREAK**

11:15      **Committee work sessions begin**

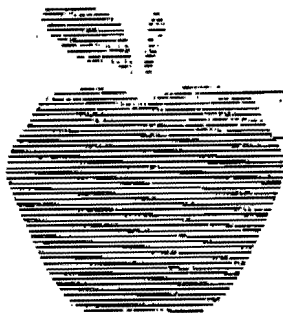
12:30-2:00      **LUNCH BREAK**

2:00-3:00      **Committee work sessions continue**

3:15      **Committees report to Commission**

4:00      **Summary review of Next Steps  
Facilitated by Cha Guzman and Guillermo Linares**

4:30      **Meeting adjourns**



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## Hispanic Education Coalition

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March 20, 1998

**RE: California Proposition 227 (the Unz Initiative)**

**VIA FACSIMILE AND US MAIL**

Maria Echaveste, Special Assistant to the President  
Office of Public Liaison  
122 Old Executive Office Building  
Washington, DC 20502

Dear Ms. Echaveste:

Thank you for meeting with advocates for bilingual education on March 9, 1998 regarding actions the Administration should take with respect to California Proposition 227 (the Unz Initiative) and bilingual education more generally. Both of these matters are of the utmost concern to our community.

Proposition 227 is about politics, not education. It is opposed by virtually every education group in California and is only supported by political/ideological groups such as U.S. English and English-First. Proposition 227 would outlaw every school program for limited-English-proficient (LEP) children in California whether bilingual or English Only. No current programs in the state follow 227's "one-year of structured English immersion followed by transfer to regular classroom" mandate. Further, claims of proponents for Proposition 227 that children can learn English in a matter of months to a year and that children under 10 cannot benefit from native-language instruction is in direct opposition to the findings of all credible research on the subject.

There is an important role for this Administration in helping the public understand the ramifications of Proposition 227. Great care must be taken, however, not only to do the right thing, but also to explain and sell it. If mishandled, federal policy on bilingual education can backfire substantively and politically.

We hope that our recommendations, set out below, are in accord with the Administration's planned response to the Unz initiative.

- 1) Proposition 227 and federal bilingual education policy should be kept totally separate. Between now and June 2nd, the administration should focus exclusively on Proposition 227. While Proposition 227 would have a direct adverse impact on educational services

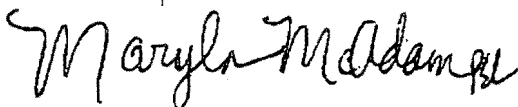
Maria Echaveste, Special Assistant to the President  
RE: California Proposition 227 (Unz Initiative)  
Page 2  
March 20, 1998

for LEP children, Proposition 227 has broader implications for local control, parental involvement, teacher liability and resource allocation. The Administration should focus on these latter issues not federal bilingual education policy.

- 2) Administration action on Proposition 227 should be at the Cabinet level with Secretary Riley as the leader. The Secretary's goal should be to give visibility and voice to the California education community's unified opposition to Proposition 227 and to burst the public relations bubble surrounding the Unz initiative. The Secretary should focus on the educational aspects of Proposition 227, not the political controversy surrounding the Unz Initiative.
- 3) *Enrollment time limits for students in bilingual education is a spurious solution which must be rejected.* The Administration should not fall into the "speed-trap" of asking the wrong question of bilingual education programs. It's not how fast, but how high and how far. It's not how fast children learn English, but how high they achieve and how far they progress through the educational system. This is consistent with the Administration's call for high standards for all children.
- 4) Secretary Riley should work closely with the Hispanic Education Coalition and the Congressional Hispanic Caucus to develop ESEA Reauthorization Legislation respecting bilingual education and LEP students. This effort should start now but assume public profile after the June 2nd California election.

The Administration's leadership is important and necessary to defeat Proposition 227's thinly-veiled attack on the rights of LEP children to receive education services tailored to their needs. We look forward to your response to our recommendations for responding to Proposition 227 and to working with the Administration to truly enhance the academic success of *all* our children.

Sincerely,



Maryln McAdam, Acting Co-Chair  
The Hispanic Education Coalition  
National HEP/CAMP Association



Patricia E. Loera, Acting Co-Chair  
The Hispanic Education Coalition  
National Association for Bilingual Education

Maria Echaveste, Special Assistant to the President  
RE: California Proposition 227 (Unz Initiative)  
Page 3  
March 20, 1998

On behalf of:

**ASPIRA**

**Council of the Great City Schools**

**Hispanic Association of Colleges and Universities (HACU)**

**Intercultural Development and Research Association (IDRA)**

**League of United Latin American Citizens (LULAC)**

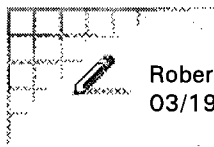
**MANA- A National Latina Organization**

**National Council of La Raza (NCLR)**

**National Puerto Rican Coalition (NPRC)**

**The National Association for Migrant Education**

cc: **Congressman Xavier Becerra, Chairman, The Congressional Hispanic Caucus**  
**Secretary Richard Riley, U.S. Department of Education**  
**Michael Cohen, Special Assistant to the President**  
**Delia Pompa, Director, Office of Bilingual Education and Language Minority Affairs**  
**Sarita Brown, Executive Director of the White House Initiative on Educational**  
**Excellence for Hispanic Americans**



Robert M. Shireman  
03/19/98 04:49:48 PM

Record Type: Record

To: Michael Cohen/OPD/EOP

cc: See the distribution list at the bottom of this message

Subject: Re: Unz memo 

In supporting our contention that Unz is bad education policy, you may want to cite the brand-new reading research report from the National Research Council: "Hurrying young non-English-speaking children into reading in English without ensuring adequate preparation is counterproductive. . . To the extent possible, non-English-speaking children should have opportunities to develop literacy skills in their home language as well as in English."

Message Copied To:

Maria Echaveste/WHO/EOP  
Mickey Ibarra/WHO/EOP  
Janet Murguia/WHO/EOP  
Karen E. Skelton/WHO/EOP  
Judith A. Winston/PIR/EOP

should be expected to spell previously studied words and spelling patterns correctly in their final writing products. Writing should take place on a daily basis to encourage children to become more comfortable and familiar it.

#### Recommendations on reading practices and motivation:

- Throughout the early grades, time, materials, and resources should be provided (a) to support daily independent reading of texts selected to be of particular interest for the individual student, and also beneath the individual student's frustration level, in order to consolidate the student's capacity for independent reading and (b) to support daily assisted or supported reading and rereading of texts that are slightly more difficult in wording or in linguistic, rhetorical, or conceptual structure in order to promote advances in the student's capacities.
- Throughout the early grades, schools should promote independent reading outside of school by such means as daily at-home reading assignments and expectations, summer reading lists, encouraging parent involvement, and by working with community groups, including public librarians, who share this same goal.

#### Students with Limited Proficiency in English

**Findings:** Hurrying young non-English-speaking children into reading in English without ensuring adequate preparation is counterproductive. Learning to speak English first contributes to the children's eventual fluency in English reading, because it provides a foundation to support subsequent learning about the alphabetic principle through an understanding of the sublexical structure of spoken English words and of the language and content of the material they are reading. The abilities to hear and reflect on the sublexical structure of spoken English words, as required for learning how the alphabetic principle works, depends on oral familiarity with the words being read. Similarly, learning to read for meaning depends on understanding the language and referents of the text to be read. Moreover, because being able to read and write in two languages

## RECOMMENDATIONS FOR PRACTICE AND RESEARCH

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confers numerous intellectual, cultural, economic, and social benefits, bilingualism and biliteracy should be supported whenever possible. To the extent possible, non-English-speaking children should have opportunities to develop literacy skills in their home language as well as in English.

**Recommendations:**

- If language-minority children arrive at school with no proficiency in English but speaking a language for which there are instructional guides, learning materials, and locally available proficient teachers, then these children should be taught how to read in their native language while acquiring oral proficiency in English and subsequently taught to extend their skills to reading in English.
- If language-minority children arrive at school with no proficiency in English but speak a language for which the above conditions cannot be met and for which there are insufficient numbers of children to justify the development of the local capacity to meet such conditions, the initial instructional priority should be developing the children's oral proficiency in English. Although print materials may be used to support the development of English phonology, vocabulary, and syntax, the postponement of formal reading instruction is appropriate until an adequate level of oral proficiency in English has been achieved.

**School-Wide Restructuring**

**Findings:** When a large percentage of a school's students are from disadvantaged homes, it is often the case that median student reading achievements in that school will be low. Research has shown the effectiveness of clearly articulated, well-implemented, school-wide efforts that build from coherent classroom reading instruction. Such school-wide efforts, when they have included coherent regular classroom reading instruction consistent with the principles articulated in this report, have often proven substantially more effective than disconnected strategies or restructuring focused on organizational issues that have not included school-wide curricular reform.

**Conclusion:** The local adaptation of national models is often a more efficient route to meaningful reform than are numerous local

March 18, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: SECRETARY RILEY  
BRUCE REED

SUBJECT: California Proposition 227 (Unz Initiative) to End Bilingual Education

On June 2, California voters will consider Proposition 227, otherwise known as the Unz Initiative, which proposes to eliminate all bilingual education. This is California's third potentially divisive race-related initiative in four years, following on the heels of Proposition 187, which barred public benefits for illegal immigrants, and Proposition 209, which ended affirmative action.

*Many* Polls consistently show that the initiative is popular and is likely to pass. *Indeed,*  
~~Even~~ Latino voters currently favor the initiative, although many expect Latino support to decline considerably as voters become more familiar with the details of the proposal. Latino activists are strongly opposed to Unz, and are looking to the White House to support their efforts to defeat Unz

Despite legitimate concerns over the effectiveness of some bilingual education programs, your advisors strongly believe that the Unz initiative is bad education policy and will harm students who need help the most. We also believe that you may be able to turn this issue to your political advantage if you combine opposition to Unz with proposals to reform bilingual education programs. Despite some tricky politics, we believe that it is both good policy and good politics to oppose Unz, coupled with proposals to "mend, not end" bilingual education. This memo lays out such a "mend, not end" approach.

I. The Unz Initiative and Bilingual Education in California

A. Overview of the Unz Initiative

This initiative, authored and backed by Silicon Valley millionaire Ron Unz, is designed to end all bilingual education programs in California. More specifically, it would:

- Require that all public school instruction be conducted in English.
- Permit this requirement to be waived only if parents or guardians can show that the child already knows English, has special needs, or would learn

- English faster through an alternative instructional technique.
- Provide initial placement for Limited English Proficient (LEP) students in "sheltered English immersion" programs for one year. Instruction in these programs would be conducted in English, with some accommodations in the curriculum to take into account the limited English language skills of the students.
- Appropriate \$50 million per year over 10 years to fund adult education programs designed to teach English to LEP adults who in turn pledge to provide English language tutoring to LEP students.
- Makes teachers, administrators and school board members subject to suit<sup>S</sup> and personally liable for failure to implement the provisions of the initiative.

Unz and other backers of this initiative regard the existing system of bilingual education in the state as a complete failure. They argue that because bilingual education relies so heavily on use of the students' native language and only slowly introduces English, the approach delays or prevents, rather than promotes, the acquisition of English. Further, they point out that although California's bilingual education law expired a decade ago, the legislature has been unable to enact legislation to reform a broken program. This initiative, they argue, will break the legislative impasse and dramatically change bilingual education policy for the better. ✓

✓ Opponents criticize the Unz Initiative on a number of counts. Critics argue that the initiative is harmful to children, because it relies on a single, unproven approach that provides an unrealistic time period in which to learn English. They argue that this one-size-fits-all approach eliminates parents' right to choose the best approach for their child (given that the waiver provisions are very complicated and burdensome<sup>m</sup>). They point out that the Unz initiative provides no accountability, because it lacks any requirements for assessing students' academic progress. They also charge that the Unz Initiative undermines local control and the ability of local school boards to determine important education policies, and wrongly subjects educators to lawsuits.

## B. Bilingual Education in California

**Demographics.** There are approximately 1.3 million Limited English Proficient (LEP) students in California, approximately one quarter of California's K-12 students. ✓ This number has nearly doubled in less than a decade, and represents some 43% of the national total. Seventy nine percent of California's LEP students are native Spanish speakers. Hispanics have a 50% dropout rate, and by most indicators their academic performance lags behind most other population groups in the state.

**Educational Services.** LEP students receive a wide variety of services intended to help them learn English and academic subjects. In 1997, only about

30% received what is conventionally considered bilingual education--programs which make significant use of the student's primary language to teach academics while phasing in greater amounts of English language instruction. More than half participate in specially designed instructional programs that help students learn English through a combination of approaches such as direct instruction in grammar, vocabulary and communications, while teaching other subjects in a way designed to be accessible to LEP students. The Unz Initiative would eliminate these programs as well as conventional bilingual programs. Approximately 46% are not receiving any language instruction services at all.

Indeed, there is widespread agreement among researchers and observers that almost no one believes that the services now provided to LEP students are effective on a large scale basis. While program evaluations have identified some promising efforts, shortages of qualified teachers and poor implementation has limited the effectiveness of existing programs. In addition, most observers agree that the overall poor academic performance and high dropout rate of Hispanic students reflects serious weaknesses in schools that extend well beyond language services for LEP students.

The research on instruction for LEP students does not identify any approach (e.g. bilingual education, English immersion, English as a Second Language, or dual-language immersion) as particularly effective. Rather, it suggests that effective programs are those that fit the needs and resources of the local community; have well-prepared teachers who know how to teach reading and who are knowledgeable about second language acquisition; provide students with a challenging curriculum and high academic standards; and regularly assess student progress and make adjustments in the instructional program accordingly. Consequently, while much of the debate about educating LEP students centers on the relative merits of one program over another, research and experience suggest that attention to program quality regardless of program type is more important.

**California Legal Framework.** The legal framework for providing services to LEP students in California is particularly murky. California's Bilingual Education Act sunsetted in 1987, but the State Board of Education regulations implementing the act have remained in effect. Under this framework, school districts are required to help students become fluent in English and competent in other academic subjects, and are given a significant amount of flexibility in determining how to achieve these goals. Neither bilingual education nor any other specific approach to teaching LEP students is required.

There have been a number of unsuccessful attempts in the past decade to enact new legislation, but bilingual education reformers and advocates have been unable to agree on an approach. There has been a fresh attempt over the past month to craft compromise legislation, partly to take the steam out of Unz and to give Unz opponents something to support. This effort, however, is likely to end in

failure.

Last week the State Board of Education took the first step toward eliminating the state bilingual education regulations. This process should be completed shortly before the vote on Unz. The effect of this action will be to eliminate any state requirement for the provision of specific services to LEP students, and to give local school districts even greater flexibility in this area.

**Federal Legal Framework.** Federal requirements originate in the Due Process and Equal Protection Clauses of the Fourteenth Amendment, and provisions of the Equal Educational Opportunities Act which require educational agencies to take appropriate action to overcome language barriers that impede equal participation by students in instructional programs.

As interpreted by the courts, these provisions do not require any specific form of services, such as Bilingual Education or English as a Second Language. They instead require the provision of supplemental language instruction that is based on sound educational theory, is adequately resourced and implemented, and is evaluated and modified as necessary.

If Unz is enacted, many expect that it will be challenged as a violation of federal law. Department of Education lawyers believe that the success of such suits will depend on whether the services mandated by Unz are implemented effectively. Absent implementation problems, federal law appears to provide sufficient flexibility to allow California to approve this approach. However, if services mandated by Unz are not implemented effectively, there is likely to be a strong basis for a legal challenge.

The federal Bilingual Education program (Title VII of the Elementary and Secondary Education Act) similarly does not preclude the Unz approach. This competitive grant program also provides local school districts with considerable discretion in the kind of services provided to students.

## II. Political Context

The Unz initiative is currently the clearly the most serious threat to bilingual education, but it is not likely to be the last. Earlier this year Speaker Gingrich proposed eliminating bilingual education, and some conservative education experts (e.g., Diane Ravitch) have also called its elimination. Especially if Unz passes, we are likely to see energized opposition to the federal program, and increased opposition in other states and localities.

The Unz initiative presents a political dilemma in California. If we oppose it, we risk alienating a majority of California Anglo voters. If we fail to oppose it, we

*Part of the reason for the conservative education is a bilingual education funding*

*for*

UNZM.DOC

Page 5

risk alienating a vocal and increasingly influential group of Latino leaders, and possibly Latino voters.

Current polls show that a large majority of California Anglo voters support Unz. For Anglos, bilingual may become a hot button issue similar to immigrant services and affirmative action. In contrast, Latino voters are split on the issue of bilingual education. While many continue to support Unz largely out of frustration at the public schools' failure to help their children, that support is eroding as they become more aware of the particulars of the initiative.

Latino activists and electeds oppose Unz. To some of the Latino leaders, Unz is a litmus issue, like Propositions 187 and 209. Latino leaders are looking to the White House to become actively involved in the opposition to Unz, and are fearful that we will choose to sit on the sidelines.

More organizations and elected officials are taking positions on Unz. The California education community -- including the California Teachers Association and the California School Boards Association -- is strongly opposed to Unz. Key Democratic officeholders (including Sen. Boxer, Rep. Becerra and most Democrats in the California delegation, State Superintendent Delaine Eastin, and Speaker Villagraigosa) have also announced their opposition to the Unz initiative. Sen. Feinstein has not taken a public stance yet, though she appears likely to support Unz. A list of organizations, elected officials and other leaders that have taken positions on Unz is attached.

The Republican state party has supported Unz, though many Republican officials, including Gov. Wilson, have not yet taken a position. There is a chance that White House opposition to Unz could polarize the situation, and push Gov. Wilson and other Republicans to support Unz; yet, the Republican leaders are afraid to support another initiative named as anti-Hispanic.

[Note: We need to determine the positions of the Dem. Gubernatorial candidates, and Feinstein] many current programs are failing students. The political dilemma can be resolved with a "Mend it / Don't End it" response.

We believe the best approach to this issue is to strike a middle ground by admitting that bilingual education needs mending, but asserting that Unz is not the way to do it. More specifically, we can:

- Start by reiterating the overriding importance of helping every child become proficient in English;
- Oppose Unz on the merits because it is too extreme;
- Remind voters what we are for, including both our overall approach to public education and our Hispanic initiative;
- Propose to "mend" the federal bilingual education program through steps that

language acquisition

For them support for bilingual education is a sign of respect for the multicultural nature of our society and has less to do with effectiveness of these programs as a national policy.

that is a bilingual education in the schools becomes so much for people's state that they have changed the word.

will create expectations for learning English within a fixed period of time; strengthen accountability for students and programs alike by testing for English proficiency; strengthen local control and flexibility; and promote our efforts to strengthen program quality by increased investments in teacher training.

### III. Specific Recommendations

#### 1. Announce opposition to Unz within next 4 weeks

*Language Acquisition*

We recommend that you or another senior Administration official (the Vice President or Secretary Riley) announce the Administration's opposition to the Unz initiative within the next <sup>3</sup>4 weeks. Taking a position in the next month will allow us to frame the debate and set a constructive tone, rather than get sucked into an already inflammatory debate. We could turn this initiative into an opportunity to fit bilingual education into our overall framework for ensuring effective education in the 21st century.

#### 2. Specific recommendations for changing federal bilingual education program

In accord with our recommendation for a "mend, don't end" approach to bilingual education, we believe that opposition to Unz should be coupled with specific proposals to change the federal bilingual education program. This approach will lend credibility to our position, and give us a basis for framing the debate over bilingual education. Specifically, we recommend the following changes:

**Strengthen local control by lifting the existing cap on English programs.** The current federal bilingual program contains a ceiling that permits only 25% of all funds to be used to support English-only programs. Since most participating school districts use a variety of approaches, the cap has not limited local approaches--though it is perceived as having that effect. Lifting the cap would add credibility to our call for local control (rather than the Unz one-size-fits-all approach) in California, and would help address the concerns of conservative critics. This action, however, would be unpopular with the bilingual advocacy community.

*Text*

**Create expectations for students to learn English within 3 years.** One of the most powerful criticisms of bilingual education programs is that they in fact prolong the time it takes for students to learn English. This criticism resonates with many opponents as well as supporters of Unz. We should propose amending the federal bilingual education program to require that students learn English within 3 years, with additional time and services provided to students facing unusual circumstances. Setting clear expectations for how quickly students will master English will appropriately focus the efforts of schools and students and help more students become proficient in English. This action would be unpopular with the

*Set as a goal*

bilingual advocacy community. Advocates and researchers will argue that there is no clear research base to establish a 3-year time frame--and, indeed that more time is necessary for students to master English and other subjects.

*goal*  
**Strengthen testing and accountability for students and programs.** Programs should be required to test students periodically for English proficiency (as well as achievement in other subjects) to determine if they are making adequate progress toward the 3-year ~~deadline~~, and to provide additional services or take other corrective actions as appropriate when students not making adequate progress. There should also be additional accountability for school districts participating in *the* bilingual education program. Programs are already required to undergo evaluations; this requirement can be strengthened by establishing consequences, such as possible withholding of funds, from programs that fail to make adequate progress as measured by student achievement.

**Underscore efforts to strengthen the quality of programs that provide services to LEP students.** We should highlight your budget request to increase funding for teacher training within the bilingual education program. The Education Department should also undertake a vigorous effort, through technical assistance and effective dissemination approaches, to emphasize that any program for LEP students must be based on fundamental principles of quality: ensuring well-trained teachers, high standards and a quality curriculum, testing and accountability measures.

**Elected Officials, Associations, Activists are Taking positions on Unz:**

**Oppose Unz:**

Senator Barbara Boxer  
 Congressman Xavier Becerra  
 Congressman Cal Dooley  
 Congressman Bob Filner  
 Congressman Lucile Roybal-Allard  
 Congresswoman Zoe Lofgren  
 Congresswoman Ellen Tauscher  
 Congressman Vic Fazio  
 Congressman Marty Martinez  
 Delaine Eastin, Superintendent of Public Instruction  
 Former Speaker Cruz Bustamante  
 Speaker Antonio Villaraigosa  
 Senator President John Burton  
 Supervisor Gloria Molina  
 CTA  
 MALDEF  
 Republican Assemblyman Bill Leonard  
 Republican Assemblyman Rod Pacheco (only R Latino Assemblyman)

Roger V. Salazar @ OVP 02/02/98 05:35:39 PM

Record Type: Record

To: See the distribution list at the bottom of this message  
cc:  
Subject: VP Remarks (As Prepared) Hispanic Education Action Plan

**THE WHITE HOUSE**

**Office of the Vice President**

**For Immediate Release  
Monday, February 2, 1998**

**Contact: (202) 456-7035**

**Remarks of Vice President Al Gore  
(As prepared for delivery)**

**Clinton Administration's Hispanic Education Action Plan Announcement  
Roosevelt Room, The White House  
Monday, February 2, 1998**

*Buenas Tardes y Bienvenidos a la Casa Blanca!*

Last Tuesday night, in his State of the Union address, President Clinton emphasized what we all know to be true -- that this new Information Age is, first and foremost, an education age. If we want to give all our children the chance to live out their dreams, we must make sure that all our children have a world-class education -- and the opportunity to bring their God-given talents to full bloom.

That's why the President has proposed an aggressive education agenda: 100,000 new teachers to make class size smaller in the early grades. Tax cuts to help build and modernize our schools. An end to social promotion. More public school choice. Higher standards. More Head Start. Connecting every classroom to the Information Superhighway, and training teachers to use the new technology. Opening the doors to college wider than ever before in our history.

We're making a lot of progress. And yet, even the most successful efforts to renew our schools will help only those who stay in school.

As the final report of the Hispanic Dropout Project makes clear, we have more work to do in this area. We cannot seize the enormous opportunities of the 21st Century if a large percentage of our children trade the bright opportunities of a

college graduate for the dark prospects of a high school drop out.

And America cannot afford the inequalities created when certain racial or ethnic groups develop just a fraction of their talents and abilities. As I said before, the President's Advisory Board on Race has repeatedly pointed out that equal and excellent education is the single most promising approach for closing the opportunity gap among different races and ethnic groups. And, as every parent knows, *educacion es los mas importante*.

We share that conviction, and that's why the President asked Gene Sperling, Mickey Ibarra, Maria Echaveste, Secretary Riley, and so many others to work with the Hispanic Caucus, the Hispanic Dropout Project, and the President's Advisory Commission on Educational Excellence for Hispanic Americans -- and develop a plan for addressing this pressing national issue.

As a result of those efforts, President Clinton and I are proposing today the first-ever national action plan to help Hispanic-American students stay in school -- and succeed in school. This unprecedented, \$600 million commitment will help Latino youngsters master the basics of reading and math; it will help them learn English, stay in school, and prepare for college. And ultimately, it will help them succeed in college -- so they can graduate and seize all the promise of our future.

This new initiative will also help Hispanic adults to learn English, and will expand educational opportunities for migrant youth and adults. Our commitment is clear: we want Hispanic Americans to be full partners in America's progress and prosperity. And we will act on that commitment at the highest levels of our nation.

The Hispanic American community is brimming with talent, spirit, and potential, and they care deeply about the education and future of their children.

The whole country should share that concern, because we can never fulfill our promise as a country, until all our children fulfill their promise as individuals. That's why we must give Latino children a better chance than ever before to develop their potential -- so they can contribute the full force of their talent to the success of America in the 21st century.

Let me say, on a personal note, that I have always believed that the United States has a special mission in human history. Our mission is to prove to the world that people of different racial and ethnic backgrounds, of all faiths and creeds, can not only work and live together, but can enrich and ennoble both themselves and our common purpose.

Expanding opportunity through education -- giving all our children the tools to succeed, and move forward together -- is at the very core of that mission.

There's an old Spanish expression: "*El que se duerme se lo lleva la corriente*." [He who falls asleep is taken by the current.] We cannot be taken by the current. We must move forward together against the current if America is to prove what so many nations have failed to

prove: that men and women of different racial and ethnic groups can live together prosperously and harmoniously as neighbors, and as equals. Thank you very much.

###

Message Sent To:

---

copy  
for  
file

TO: Maria  
Mickey  
Michael 218R  
Elena  
June

From: Karen Skelton

---

Poll Shows that A message  
of "UNZ costs \$50 million for an  
untested, new program" sinks the initial

**FINAL RESULTS****n=700, Margin of Error=3.7%****Interview Dates: March 16-17, 1998**

1. First, next June there will be a primary election for Governor, United States Senator and other offices in California. How likely are you to vote in that election – are you almost certain to vote, will you probably vote, are the chances 50-50, or will you probably not vote?

|                |    |
|----------------|----|
| CERTAIN .....  | 87 |
| PROBABLY ..... | 13 |

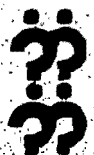
2. In general, do you think things in California are going in the right direction, or do you feel things are pretty seriously off on the wrong track?

|                       |      |
|-----------------------|------|
| RIGHT DIRECTION ..... | 53   |
| WRONG TRACK .....     | 30 ✓ |
| DON'T KNOW .....      | 17   |

3. One initiative on next June's statewide ballot will be Proposition 227. It requires that all public school instruction be conducted in English. It says the requirement may be waived if parents or guardians show that the child already knows English, has special needs or would learn English faster through an alternate instructional technique. It provides initial short-term placement, not normally exceeding one year, in intensive sheltered English immersion programs for children not fluent in English. It appropriates \$50 million dollars per year for ten years to fund English instruction for individuals pledging to provide personal English tutoring to children in their community. It permits enforcement suits by parents and guardians. The Legislative Analyst says that the fiscal impact of the initiative could vary significantly by school district; that it requires state spending of \$50 million dollars per year for ten years to teach tutors of limited English proficient students, and that total state spending on education will probably not change.

If the election were held today, would you vote yes or no on Proposition 227? (IF "YES," OR "NO," FOLLOW-UP: Is that a strong yes/no or might you still change your mind? IF UNDECIDED, FOLLOW-UP: Do you lean more toward yes or more toward no?

|                           |    |     |
|---------------------------|----|-----|
| YES, STRONG .....         | 30 |     |
| YES, MIGHT CHANGE .....   | 14 |     |
| UNDECIDED, LEAN YES ..... | 6  | →50 |
| UNDECIDED .....           | 18 |     |
| UNDECIDED, LEAN NO .....  | 3  | ←18 |
| NO, MIGHT CHANGE .....    | 6  |     |
| NO, STRONG .....          | 23 | →32 |



David Binder Research

[ASK QUESTION 4 TO SPLIT SAMPLE A ONLY] N=351

4. Now I am going to read you some things supporters and opponents say about Proposition 227.  
(ROTATE ORDER OF PARAGRAPHS)

Supporters of Proposition 227 say that hundreds of thousands of California schoolchildren are forced into Spanish-only bilingual education classes and not taught English. Proposition 227 ensures that all children are taught to read English, write English, and speak English as soon as they start school, with non-fluent students placed in intensive short-term English immersion classes.

Opponents of Proposition 227 say that this month, the state ended mandatory bilingual education. Schools can now use different ways to teach English. Proposition 227 ends that new freedom and mandates a new 50 million dollar a year spending program - not in our schools - but to teach non-English speaking adults who pledge to tutor children in English. Kids won't learn English that way. The California PTA and the League of Women Voters say, "No on 227".

Hearing this, if the election were today, would you vote yes or no on Proposition 227? (IF "YES," OR "NO," FOLLOW-UP: Is that a strong yes/no or might you still change your mind? IF UNDECIDED, FOLLOW-UP: Do you lean more toward yes or more toward no?

|                           |    |      |
|---------------------------|----|------|
| YES, STRONG .....         | 25 |      |
| YES, MIGHT CHANGE .....   | 14 |      |
| UNDECIDED, LEAN YES ..... | 7  | → 48 |
| UNDECIDED .....           | 17 |      |
| UNDECIDED, LEAN NO .....  | 4  | + 9  |
| NO, MIGHT CHANGE .....    | 7  |      |
| NO, STRONG .....          | 26 | → 37 |

[ASK QUESTION 5 TO SPLIT SAMPLE B ONLY] N=349

5. Now I am going to read you some things supporters and opponents say about Proposition 227.  
(ROTATE ORDER OF PARAGRAPHS)

Supporters of Proposition 227 say that hundreds of thousands of California schoolchildren are forced into Spanish-only bilingual education classes and not taught English. Proposition 227 ensures that all children are taught to read English, write English, and speak English as soon as they start school, with non-fluent students placed in intensive short-term English immersion classes.

Opponents of Proposition 227 say that the supporters don't tell you that the state has already ended mandatory bilingual education. And the supporters don't talk about money. Proposition 227 appropriates \$50 million dollars a year for a new spending program - not in our schools - but to teach non-English speaking adults who pledge to tutor children in English. Kids won't learn English that way. The California PTA and the League of Women Voters say, "No on 227".

Hearing this, if the election were today, would you vote yes or no on Proposition 227? (IF "YES," OR "NO," FOLLOW-UP: Is that a strong yes/no or might you still change your mind? IF UNDECIDED, FOLLOW-UP: Do you lean more toward yes or more toward no?

|                           |    |      |
|---------------------------|----|------|
| YES, STRONG .....         | 28 |      |
| YES, MIGHT CHANGE .....   | 13 |      |
| UNDECIDED, LEAN YES ..... | 3  | → 45 |
| UNDECIDED .....           | 16 |      |
| UNDECIDED, LEAN NO .....  | 7  | + 6  |
| NO, MIGHT CHANGE .....    | 8  |      |
| NO, STRONG .....          | 24 | → 39 |

11/11/02

David Brink Research

**[ROTATE ORDER OF 6, 7, and 8]****6. (ROTATE ORDER OF PARAGRAPHS.)**

\_\_\_ Supporters of 227 say that placing students who are non fluent in English in intensive short-term English immersion classes is the best way to teach children to read, speak and write English.

\_\_\_ Opponents of 227 say that 227 prohibits individual schools from using different ways to teach English, and mandates a new untested state program on each and every school district in the state.

Based on these arguments, would you vote yes or no on Proposition 227? (IF UNDECIDED: Do you lean more toward yes or more toward no?)

|                  |    |      |
|------------------|----|------|
| YES .....        | 33 |      |
| YES, LEAN .....  | 12 | → 45 |
| NO .....         | 27 | + 8  |
| NO, LEAN .....   | 12 | → 39 |
| DON'T KNOW ..... | 16 |      |

**7. (ROTATE ORDER OF PARAGRAPHS.)**

\_\_\_ Supporters of 227 say that it is appropriate to spend 50 million dollars a year to fund English instruction for individuals pledging to provide personal English tutoring to children in their community.

\_\_\_ Opponents of 227 say that we should not spend 50 million dollars a year for a new program that will not go to our schools, and will have no accountability.

Based on these arguments, would you vote yes or no on Proposition 227? (IF UNDECIDED: Do you lean more toward yes or more toward no?)

|                  |    |       |
|------------------|----|-------|
| YES .....        | 28 |       |
| YES, LEAN .....  | 10 | → 38  |
| NO .....         | 37 | - 14  |
| NO, LEAN .....   | 13 | → 50  |
| DON'T KNOW ..... | 14 | ===== |

**8. (ROTATE ORDER OF PARAGRAPHS.)**

\_\_\_ Supporters of 227 say that Prop 227 is needed because hundreds of thousands of California schoolchildren are forced into Spanish-only bilingual education classes and not taught English.

\_\_\_ Opponents of 227 say that the state recently ended mandatory bilingual education, and that individual schools are now free to use different ways to learn English. However, Prop 227 would end that new freedom.

Based on these arguments, would you vote yes or no on Proposition 227? (IF UNDECIDED: Do you lean more toward yes or more toward no?)

|                  |    |      |
|------------------|----|------|
| YES .....        | 30 |      |
| YES, LEAN .....  | 10 | → 40 |
| NO .....         | 33 | - 4  |
| NO, LEAN .....   | 11 | → 44 |
| DON'T KNOW ..... | 16 |      |



David Binder Research

9. Now that you have heard more about Proposition 227, I would like to ask you again, if the election were held today, would you vote yes or no on Proposition 227? (IF "YES," OR "NO," FOLLOW-UP: Is that a strong yes/no or might you still change your mind? IF UNDECIDED, FOLLOW-UP: Do you lean more toward yes or more toward no?

|                           |    |      |
|---------------------------|----|------|
| YES, STRONG .....         | 28 |      |
| YES, MIGHT CHANGE .....   | 10 |      |
| UNDECIDED, LEAN YES ..... | 5  | → 43 |
| UNDECIDED .....           | 14 |      |
| UNDECIDED, LEAN NO .....  | 5  | + 0  |
| NO, MIGHT CHANGE .....    | 8  |      |
| NO, STRONG .....          | 30 | → 43 |

10. And now some questions about yourself for statistical purposes. First, what is your age?

AGE Under 30=8%, 30s=14%, 40s=23%, 50-54=28%, 65+=25%, Unknown=2%

11. Are you Hispanic or of Spanish descent? (IF YES, FOLLOW-UP: Is that ... (READ CHOICES.)

|                                 |    |          |
|---------------------------------|----|----------|
| Mexican .....                   | 10 |          |
| Spanish .....                   | 2  |          |
| Puerto Rican .....              | <1 |          |
| Central American .....          | 1  |          |
| South American .....            | <1 |          |
| Other .....                     | 2  |          |
| Hispanic, no further info ..... | 2  |          |
| NOT HISPANIC .....              | 82 | → to q12 |
| REFUSE .....                    | 1  | → to q12 |

→ to q13

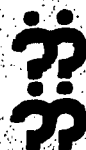
[IF "NOT HISPANIC" ASK:]

12. Which of the following ethnic groups describes you? (READ LIST.)

|                                         |     |
|-----------------------------------------|-----|
| CAUCASIAN/WHITE/EUROPEAN-AMERICAN ..... | 70  |
| BLACK/AFRICAN-AMERICAN .....            | 4   |
| CHINESE/ASIAN/PACIFIC-ISLANDER .....    | 3   |
| NATIVE AMERICAN (INDIAN) .....          | 2   |
| OTHER (.....) .....                     | 2   |
| REFUSED .....                           | 2   |
| (Latino .....                           | 17) |

13. On most issues, do you consider yourself liberal, moderate, or conservative? (IF "LIBERAL" OR "CONSERVATIVE," Is that very liberal/conservative, or somewhat?) (IF "MODERATE," Do you lean more toward liberal or more toward conservative?)

|                                   |    |        |
|-----------------------------------|----|--------|
| LIBERAL, VERY .....               | 8  |        |
| LIBERAL, SOMEWHAT .....           | 13 | → 21   |
| MODERATE, LEAN LIBERAL .....      | 6  |        |
| MODERATE .....                    | 30 |        |
| MODERATE, LEAN CONSERVATIVE ..... | 9  | → 45 * |
| CONSERVATIVE, SOMEWHAT .....      | 17 |        |
| CONSERVATIVE, VERY .....          | 15 | → 32   |
| OTHER (.....) .....               | 1  |        |
| REFUSED .....                     | 2  |        |



David Binder Research

14. What is the highest level of education that you have achieved?

|                                                                   |    |
|-------------------------------------------------------------------|----|
| Not graduated high school                                         | 4  |
| Graduated from high school, but not attended any college          | 18 |
| Attended some college or trade school, but not a college graduate | 34 |
| Graduated college                                                 | 29 |
| Have done some graduate or post-college education                 | 17 |
| REFUSED                                                           | <1 |

That's all the questions I have. Thank you for your time. Good-bye.

CODE FROM SAMPLE SHEET:

15. RECORD SEX:

|        |    |
|--------|----|
| FEMALE | 51 |
| MALE   | 49 |

CODE ELECTION HISTORY:

|           |    |
|-----------|----|
| 16. 6/92  | 55 |
| 17. 11/92 | 73 |
| 18. 11/93 | 57 |
| 19. 6/94  | 58 |
| 20. 11/94 | 76 |
| 21. 3/96  | 77 |
| 22. 11/96 | 91 |

23. VOTE BY MAIL 35

24. ASSEMBLY DISTRICT

25. STATE SENATE DISTRICT

26. CONGRESSIONAL DISTRICT

27. COUNTY CODE:

28. ZIP CODE:

29. RECORD PARTY:

|                  |    |
|------------------|----|
| Democrat         | 46 |
| Republican       | 38 |
| Decline to State | 11 |
| Other            | 5  |

30. LANGUAGE OF INTERVIEW:

|         |    |
|---------|----|
| English | 57 |
| Spanish | 3  |

31. ENTER ID NUMBER



David Binder Research

**COUNCIL OF GREAT CITY SCHOOLS OPPOSES CALIFORNIA INITIATIVE TO  
LIMIT EDUCATION SERVICES FOR LANGUAGE MINORITY STUDENTS**

**RESOLUTION:** In opposition to the Unz Initiative "English language Education for Immigrant Children" (Proposition 227) slated for the California June Ballot.

**WHEREAS,** the Council of the Great City Schools is a national organization representing 50 of the largest urban school superintendents and school boards; and

**WHEREAS,** our nation's public schools enroll over 3 million students who are English language learners; and

**WHEREAS,** the member districts of the Council of the Great City Schools are responsible for educating over 40 percent of the nation's linguistically diverse students, who speak over 100 languages; and

**WHEREAS,** the member districts of the Council of the Great City Schools value the richness of its culturally and linguistically diverse students and communities; and

**WHEREAS,** the member districts of the Council of the Great City Schools recognize that parents of linguistically diverse students are more likely to be involved in their children's education when schools value their primary language and culture; and

**WHEREAS,** the proposed California initiative entitled "English Language Education for Immigrant Children" would remove local control from local school boards of education to determine the most effective methods to teach their students; and

**WHEREAS,** the proposed initiative would outlaw existing educational programs that our districts have found effective in increasing English proficiency and academic achievement for our diverse student population; and

**WHEREAS,** the proposed initiative mandates a state-imposed "one-size-fits-all" method of teaching language minority children which severely limits options suited to the varied needs of our non-English and limited English speaking students—depriving them an equal opportunity to learn;

**BE IT THEREFORE RESOLVED,** that the

Council of the Great City Schools opposes the proposed California Unz initiative (Proposition 227), entitled "English Language Education for Immigrant Children;" and that the

Council of the Great City Schools will actively participate in the campaign to defeat this initiative.

**COUNCIL OF GREAT CITY SCHOOLS OPPOSES CALIFORNIA INITIATIVE TO  
LIMIT EDUCATION SERVICES FOR LANGUAGE MINORITY STUDENTS**

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**WHEREAS,** the proposed California initiative entitled "English Language Education for Immigrant Children" would remove local control from local school boards of education to determine the most effective methods to teach their students; and

**WHEREAS,** the proposed initiative would outlaw existing educational programs that our districts have found effective in increasing English proficiency and academic achievement for our diverse student population; and

**WHEREAS,** the proposed initiative mandates a state-imposed "one-size-fits-all" method of teaching language minority children which severely limits options suited to the varied needs of our non-English and limited English speaking students—depriving them an equal opportunity to learn;

**BE IT THEREFORE RESOLVED,** that the

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Council of the Great City Schools will actively participate in the campaign to defeat this initiative.

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# NABE NEWS

*The news magazine about educational equity and excellence through bilingual education*

February 1, 1998

National Association for Bilingual Education

Volume 21, Number 4

## SPECIAL ISSUE:

### Ron Unz and "English for the Children"

#### CLINTON LIBRARY PHOTOCOPY

**Editor's Note:** This issue of the NABE News is exclusively devoted to a single topic: the "English for the Children" initiative that will be on the June 2, 1998 California ballot. Although the initiative applies to a single state, it has national significance due to the fact that California students constitute nearly 40 percent of all limited-English-proficient students in the United States. Some of the material included in this edition of the NABE News was initially published in earlier editions; it is reprinted here for the benefit of readers who are new Association members. Much of the material included in this issue is available at NABE's internet website, [www.nabe.org](http://www.nabe.org); it is presented here for the benefit of Association members who do not have access to the internet.

## Unztruthfulness of the California "English for the Children" Campaign

by James J. Lyons, Esq.,

NABE's Executive Director and Legislative & Policy Counsel

**R**on Unz, the wealthy California businessman behind the "English for the Children" initiative, has based his entire campaign to mandate English-only instruction on three charges against bilingual education. Each of these charges is contradicted by the facts.

Ron Unz charges that bilingual education is a "total failure" for California's limited-English-proficient (LEP) students who number nearly 1.4 million. In reality, only 411,000 or 30 percent of the state's LEP students are receiving bilingual instruction from a teacher. The other 70 percent, nearly one million LEP students, are taught by teachers who only use English. If LEP students are failing in California, English-only programs are more to blame than bilingual programs.

Ron Unz charges that bilingual education "has a 95% annual failure rate." This charge is based on school district-reported data concerning the percent of its LEP student enrollment who are redesignated fluent-English-proficient (FEP) during a given year. In 1997, the statewide redesignation rate was 6.7 percent. Ron Unz's charge is fallacious for three reasons.

First, redesignation data are inherently misleading because they do not apply to a cohort of students but rather to a continuously growing population. A district's growth in LEP enrollment during a given year can statistically cancel out much of its success that year in moving students from LEP to FEP. Second, statewide

annual redesignation data reflect the progress of all LEP students, only 30 percent of whom are receiving native language instruction from a teacher. Low statewide redesignation rates are more likely to reflect the failure of English-only instruction than the failure of bilingual education. Third, redesignation data do not support Ron Unz's claims about the effectiveness of English-immersion programs which his initiative would mandate for all LEP students. Take for example, Westminster Elementary School District which has exclusively relied on English-immersion for many years. In 1997, Westminster's redesignation rate was 4.0 percent, 2.7 percent below the statewide average of 6.7 percent. During the last five years, Westminster's average annual redesignation rate was 2.8 percent, less than half the statewide five-year average of 5.9 percent. If redesignation rates are, as Ron Unz charges, the measure of success, English immersion is failing the LEP students in the Westminster Elementary School District.

Ron Unz's most serious charge is that bilingual education is responsible for the high drop-out rate of Latino youth. History and current reality contradict this charge.

For 95 years — from 1872 until 1967 — California's education code mandated English-only instruction in state schools. English-only instruction failed Hispanic students miserably, contributing to a high school drop-out rate of nearly 75%. Indeed, the 1960

CONTINUED ON PAGE 6

Jim Lyons

- ① stay focused on Un2  
- not bilingual ed.

② teacher training key

③ Budget - dollars \$ for training

④ Amendments to Title VII

- proposals signed/sent

Don't rush - time

it's not how fast it  
how high & how far

⑤ Two-way bilingual ed programs

[Log her self]

[Key]

Gabriella -

stay away from time

- testing issues in CA

Gebriels

- don't micromanage

CLINTON LIBRARY PHOTOCOPY

Aspin

- don't support programs that don't work
- fee development
- no limits in terms of time
- program evaluation

Orange County School Board  
oppose CLZ

Messages that resonate

- local flexibility
- teacher liability
- \$500 million cost

- 1 chance to learn English vs 1 yr. to learn

stay away from bilingual ed

Charles

- working assumption is that the initiative  
is very popular

but - few right oppos. to

b) focus on Ch2, not on bilingual

c) this isn't just bilingual - it's a lot better  
ed - there is over push a little

② here's what's wrong  
with Ch2

Leaves

Ch2 makes illegal every program in the  
state

- because no program permits to  
help kids learn English in 1 yr

Bill Cosby

## ST. MARY'S UNIVERSITY



*S - Worth*  
*This is worth*  
*reading to - Maria*  
*copy - Karen*  
*- Mike*  
*- Ron*  
*- Monica*  
*✓ sent 2/17*  
*Wishy*

St. Mary's University

ANDREW HERNANDEZ

Visiting Lecturer

and

Writer in Residence

## FAX TRANSMISSION SHEET

DATE: 2/16/98  
 PAGES WITH COVER:

TO: Mickey Ibarra - White House

FAX#: 202 456-6220

FROM: Andy Hernandez

FAX#:

OFFICE:

PHONE#:

## COMMENTS:

— Per your request —  
 good talking to you Mickey

TO: Mickey Ibarra

FROM: Andy Hernandez

DATE: February 16, 1998

RE: The politics of the UNZ initiative in the Latino Community and it's implications for the administration.

### Overview

There are a few policy issues in the Latino community that have more political saliency than does bilingual education. There has existed for more than two decades and continues to exist an overwhelming consensus on the part of Latino leaders and voters around support for bilingual education. Support for bilingual education is wide, deep, and sustained. This consensus cuts across ethnic origin lines, and class and age cohorts. It is one of the great "unifiers" in the Latino community. As such, it has great symbolic importance to Latino voters and substantive policy significance to Latino leaders in both parties. Bilingual education has become one of the measuring sticks of commitment for Latino political leadership and a visceral issue for Latino voters.

Recently, a number of pollsters, pundits, and conservatives commentators have suggested that Latino voters do not support bilingual education and would in fact support the UNZ initiative in California. They are wrong. They are just as wrong now as they were on Proposition 187 and Proposition 209 in California where the same chorus was heard on how Latinos would vote in favor of anti-immigrant legislation and oppose affirmative action. They predicted Latinos would vote 2-1 in favor of these initiatives. On election day, Latinos voted 70-80% against these very same measures. Not only did they vote overwhelmingly against 187, they broke turnout records to do so.

While the pundits and pollsters were wrong, Latino leaders were right.

There exists considerable polling data that suggests that once the UNZ initiative is perceived to be an anti-bilingual education measure by Latino voters, Latino voters will again be energized to turn out in large numbers to vote overwhelmingly against the UNZ initiative and punish those politicians associated with it as they punished Republicans in 1996 with the lowest Republican vote in 25 years. Latinos will vote anywhere between 75-80% against the UNZ initiative.

The President and Vice-President can solidify their positive standing among Latino voters and further deepen Latino identification with the Democratic Party among new Latino(a) voters by coming out of the initiative. Probably more significantly for our prospects in 2000 the Vice-President can position himself among Latino political leaders, particularly in California, as their champion. It is an act of political conviction and courage that Latino leadership will not forget.

Not doing anything will have the opposite effect. Latino leadership would not forgive the fact

that the Vice-President stepped away from this fight in California. Furthermore, because the contrast between Republicans and Democrats would be blurred, we would lose a historic opportunity to crystallize opinion against the Republicans for the long haul.

#### Latino Electoral Support for Bilingual Education

\* Polling in the Latino community has generally found overwhelming support among Latino voters for bilingual education. Since the mid-eighty's when sophisticated, scientific public opinion polling was first undertaken in the Latino community, support for bilingual education has ranged from 65-80% among Latino voters.

\* A national telephone poll of 2,285 Latino citizens was undertaken by the Southwest Voter Research Institute just prior to the presidential election in 1996 and found that 86% of respondents opposed "a law that would eliminate bilingual education."

\* Exit polls in Texas (N = 1,626) and California (N = 930) of Latino voters leaving the polls in November 1996 found that 65% of Texas Latino Voters and 58% of California Latino Voters oppose "a law eliminating bilingual education". Only 21% of Latino voters in Texas and 17% in California said they supported such a measure.

Recent Polls by the Los Angeles Times and Field Polls in California paint a different picture. According to a Los Angeles poll taken in October of 1997, 84% of the Latino respondents indicated that they favored the UNZ initiative. Of course, a L.A. Times poll conducted in September 1994 found that 52% of the Latinos supported proposition 187. Two months later, 77% of Latinos voted against the measure.

A Field Poll taken in February 1997 found 46% of the Latinos interviewed favored the measure with 45% opposed. The Field Polls track record is not much better than the Los Angeles Times Poll in predicting how Latinos would vote either on Proposition 187 or 209. In September 1994 a Field Poll reported that Latinos were split on 187 (44% in favor 48% against) and in October 1996 a Field Poll showed only a slight majority opposing 209 when in fact, 70% of the Latino voters according to exit polls conducted by Los Angeles voted against 209.

I also recall the argument that Dick Morris and the White House pollsters made that Latinos would vote for Proposition 187 and were ambivalent about affirmative action. They were also wrong.

How does one explain the differences between those polls that show considerable support for bilingual education and those that show just the opposite?

It is easily explained by (1) sample size or how many people you actually interview with the built-in margin of error associated with small sample sizes (2) the way you ask the question and (3) how you interpret the results.

Most national or state polls have very small Latino samples. The Field Poll for example

interviews fewer than 80 Latinos for all of California; The Los Angeles Times 150. The same is true for other national polls where most sample sizes range from 150 - 350 respondents out of 5 million voters. Obviously the margin of error is off the charts.

Secondly, how you ask the question makes a marked difference in the kind of response you are going to get. If you ask Latino voters if Latinos should learn English first, 88% agree. If you ask should bilingual education be eliminated, 80% say no. People agree that English is to be taught and learned but not at the expense of doing away with bilingual education.

The question on the UNZ initiative is how will it be framed come November? There is no question that ultimately it will be seen as an anti-bilingual education initiative. Expect Latinos to vote 70% - 80% against it.

Finally, there is the question of how you interpret the data. Every time pollsters have claimed to know more than Latino leaders, Latino leaders have been vindicated. Because Latino Leaders and elected officials can read the data out of a long history of direct, intimate relationships with Latino Voters - they have a much better "feel" for what is meant in what is said.

The notion that folks that hardly know Latinos would know better what Latinos feel, think or would act upon, than those very people who emerge out of, and have built Latino political participation would be amusing if it did not lead to such poor political decision making.

Even Latino Republican leaders understand the political fallout for taking an anti-bilingual education position in the Latino community. All three of the Republican congresspersons, and the Republican rising star in California, State Representative Pacheco, have unsuccessfully fought their own parties attempts to do away with bilingual education. They believe, accurately, it will damage the Republicans Parties ability to win over Latino voters. They know their party is making a huge mistake.

#### Bilingual Education? Administration Policy and Campaign Promises

On what grounds should the President and the Vice-President publicly oppose the UNZ initiative in California - on the very same policy grounds they have supported bilingual education as effective education policy in two presidential campaigns and through six years of the administration.

Because the President and Vice-President ran in 1992 and 1996 on an educational plank supporting bilingual education, making commitments to Latino leaders to oppose it's elimination and sought to demonstrate the Presidents commitment to improving Hispanic education opportunities by campaigning on bilingual education, their silence as the elimination of bilingual education is underway in California would be a glaringly apparent. It would become an issue among Latino elected officials and activists.

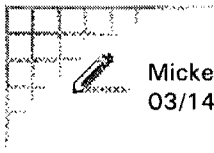
If we ran on bilingual education when we were courting Latino voters, then it would be politically disastrous and morally wrong to run away from it because it may prevail with white voters. It

would leave a residual of distrust and disappointment among Latino elected officials and civic leaders. Furthermore, it would give Latino Republicans the right to claim Democrats aren't much better on this issue. Finally, it could provide Latino political leadership the inspiration to seek other primary options other than the Vice-President.

Santo nty

Alphunt

Hon



Mickey Ibarra  
03/14/98 07:47:19 PM

Record Type: Record

To: Karen E. Skelton/WHO/EOP  
cc: Michael Cohen/OPD/EOP, Maria Echaveste/WHO/EOP, Craig T. Smith/WHO/EOP  
Subject: Re: bilingual politics 

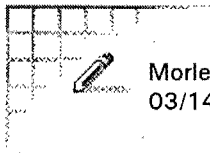
I would like to offer the following conclusions for your consideration regarding Proposition 227:

-Given the poll results I shared with you last week, I am not prepared to conclude that Latino Voters Support Prop. 227 but more importantly, by the June election day, I predict both Latino leaders and voters will oppose 227 by a huge margin similar to their opposition to the earlier affirmative action and illegal immigrant propositions.

-Two of our strongest arguments against 227 include 1) loss of local control of curriculum decisionmaking, and 2) contrasting it to our own comprehensive action plan to raise the education attainment of Latino children in the context of higher standards, stronger curriculum, smaller class size, and well qualified teachers. We must stay on the offensive with what we are FOR.

-Our opposition needs to be strong and unambiguous as well as Presidential in tone. This proposition is bad public policy and should contrast it with our plan. We can not allow ourselves to be put on the defensive by defending bilingual education nor can we be seen as trying to have it both ways again. We are FOR improving public education (a subject we have a lot of credibility on) and against this initiative.

-The Vice President is the ideal messenger in California for the announcement of our opposition. The timing should be within 3-4 weeks. It should be early enough to demonstrate leadership but saved for maximum exposure to the right audience.



Morley A. Winograd @ OVP  
03/14/98 07:51:03 PM

Record Type: Record

To: Karen E. Skelton/WHO/EOP

cc: michael cohen/opd/eop, maria echaveste/who/eop, mickey ibarra/who/eop, craig t. smith/who/eop

Subject: Re: bilingual politics

Michael:

I think Karen has done her usual excellent job of summarizing the situation on bilingual education in CA. There are two things I would add to her memo.

1. Recently, the State Board of Education's ruling that mandated bilingual education programs was eliminated, either by judicial action or their own motion, I am not sure. The net impact of this is that now only individual school districts, not the state can impose bilingual ed. programs on individual public schools. Under UNZ, parents would have to petition individual schools for such programs, so we now have a middle ground, more localized decision point than when UNZ first circulated his petition.

2. While the Unz proposition does have the potential to be racially inflammatory, Unz himself was the leading Republican OPPONENT of Prop. 187 (along with Jack Kemp) that was designed to eliminate civil rights for immigrants. Therefore, he is not the divisive figure that you might imagine, as witnessed by Jamie Escalante's joining in support of the proposal (one of the more popular and influential Latino leaders in CA.)

I have called a meeting at 6 PM on Tuesday to discuss this issue and other ballot propositions before the Vice-President's trip to CA at the end of next week. I hope you and others copied on this message who care to join it, will.

Morley Winograd



Karen E. Skelton

03/14/98 06:04:32 PM

Record Type: Record

To: Michael Cohen/OPD/EOP

cc: Maria Echaveste/WHO/EOP, Mickey Ibarra/WHO/EOP, Craig T. Smith/WHO/EOP

Subject: bilingual politics

Per our last conversation, I've tried to draft a political context for your memo on bilingual education. I did not include statistics, such as polling numbers and Latino voting patterns in California. I am happy to do that if your argument requires that kind of support. I thought it would be helpful to summarize from a political perspective the results of our consultations and my reading of the polls and demographics.

Please let me know where I've missed points or if I've got things wrong.

The main points:

**The Unz initiative presents a political dilemma in California:**

If we oppose it, we risk alienating a majority of California anglo voters (if you believe the current polls). If we support it, we risk alienating a vocal and increasingly influential group of Latino leaders, and possibly Latino voters (though the polls still show most Latino voters supporting Unz).

**Latino Voters are split on the issue of bilingual education:**

1. Latino activists and electeds oppose Unz. To some of the Latino leaders, this is a limitus issue, like Propositions 187 and 209. It is being viewed as a cultural attack and as racially motivated.
2. Latino "voters" support Unz. According to the polls and anecdotal evidence, Latino citizens believe the education system is failing to lift their children up to the standards of anglo children. They are frustrated and want a better choice for their children's education.

**Anglo Voters overwhelmingly support Unz.** For Anglos, bilingual may become the hot button issue that immigrant services and affirmative action were. Anglos are angry about spending money on bilingual education and want it stopped.

**The political dilemma can be resolved with a "Mend it / Don't End it" response.**

We can strike a middle ground between Latino leaders, possibly Latino voters, and anglos by admitting that bilingual education needs mending, but Unz is not the way to do it. On the merits, we have an opportunity to oppose Unz because it is too extreme:

- \* Unz is harsh on kids, kicking them out of language programs after 1 year
- \* Unz insists on a "one size fits all" solution to complicated problems
- \* Unz imposes personal liability on teachers

On the politics, there is a need to support mending bilingual, at a minimum. Unz cannot be taken out of the following political context: Unz is California's third potentially divisive "race" initiative in

4 years. In 1994, Proposition 187 barred public benefits for illegal immigrants. In 1996, Proposition 209 ended affirmative action. In 1998, the White House does not want to be on the side lines when California considers eliminating educational opportunities for Latino children.

**The timing of making a decision public is important.**

**Legislative Compromise:** The Assembly may very well accept Amendments to the Senate bill that produces a compromise piece of legislation on bilingual education for the Governor's signature. Assembly Speaker Antonio Villaraigosa does not believe the Governor will sign bilingual education legislation. Regardless of the legislation's ultimate success, the President should not take a position that would create partisan motivations for the Governor to gratuitously oppose legislation. The legislature is hoping to complete a bill by mid to late March.

**1998 Gubernatorial Candidates:** Before the President takes a public position, we must consult with the gubernatorial candidates.

**Setting a polite political tone:** One advantage of taking a position in the next month is that we have an opportunity to take an offensive position and set a polite tone rather than get involved in an inflammatory one. The closer to the election, the more likely this debate will devolve into a mud slinging race debate. If our objective is to support effective education for the 21st Century, we could make this an opportunity for fitting bilingual education into that kind of framework.

**More Elected Officials, Associations, Activists are Taking positions on Unz:**

**Oppose Unz:**

Senator Barbara Boxer  
Congressman Xavier Becerra  
Congressman Cal Dooley  
Congressman Bob Filner  
Congressman Lucile Roybal-Allard  
Congresswoman Zoe Lofgren  
Congresswoman Ellen Tauscher  
Congressman Vic Fazio  
Congressman Marty Martinez  
Delaine Eastin, Superintendent of Public Instruction  
Former Speaker Cruz Bustamante  
Speaker Antonio Villaraigosa  
Senator President John Burton  
Supervisor Gloria Molina  
CTA  
MALDEF  
Republican Assemblyman Bill Leonard  
Republican Assemblyman Rod Pacheco (only R Latino Assemblyman)  
CABE

**Support Unz:**

Ron Unz  
Gloria Matta Tuchman  
Jaime Escalante  
Fernando Vega  
Mayor Richard Riordan  
Darrell Issa, Republican Senate Candidate opposing Barbara Boxer

**C O V E R**

**FAX**

**S H E E T**

**To: MICHAEL COHEN**  
**Washington DC**

**Fax #: 202/456-5581**

**Subject: FYI**

**Date: March 16, 1998**

**Pages: 17 including this cover sheet.**

**COMMENTS:**

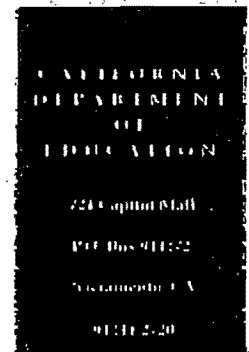
**For your information.**

From the office of...

**Richard Whitmore**  
**Chief Deputy Superintendent**  
**for Educational Policy, Finance and Accountability**  
**California Department of Education**  
**721 Capitol Mall, 5th Floor**  
**Sacramento, CA 95814**  
**(916) 657-2644**  
**Fax: (916) 657-5420**



DELAINE EASTIN  
State Superintendent of Public Instruction



March 16, 1998

Ms. Yvonne Larsen, President  
California State Board of Education  
P.O. Box 80456  
San Diego, California 92138

Re: Bilingual Education Policy Directives

Dear Ms. Larsen:

On March 12, 1998, the State Board of Education considered the rulemaking petition filed by the Pacific Legal Foundation and passed a motion directing Department staff to perform several tasks. Pursuant to that motion, we have prepared a revised Board policy memorandum on Bilingual Education compliance requirements; a set of Title 5 regulations to be deleted from the California Code of Regulations if approved by the Office of Administrative Law; and revisions to the Department's Coordinated Compliance Review (CCR) Manual provisions relating to students of limited-English proficiency (LEP). We will provide these proposed changes to Board staff and discuss any suggested revisions they may have.

The Superintendent of Public Instruction has stated that, in directing CDE staff to provide these revised documents to the Board, she continues to disagree with the Board's interpretation of the bilingual statutes and of the recent Superior Court ruling in the Quiroz case. She believes that State law regarding bilingual program compliance needs to be immediately clarified so that this Department and the school districts will know what to expect in the future.

We will continue to work with Board staff to provide any information and assistance to the Board.

Sincerely yours,

Michael E. Hersher  
General Counsel

## *Excerpt from the 1997-98 Coordinated Compliance Review Manual*

**PROGRAM:** State Program for Students of Limited-English Proficiency (LEP)

**PROGRAM GOAL:** To develop fluency in English in each student as effectively and efficiently as possible; promote students' positive self-concepts; promote cross-cultural understanding, and provide equal opportunity for academic achievement, including, when necessary, academic instruction through the primary language

| <i>Standards, Assessment, and Accountability</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | C | NC |
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| <p><b>I-CON3</b> Each former LEP student who has been designated to FEP has demonstrated English-language proficiency comparable to that of the average native speakers and can participate equally with average native speakers in the school's regular instructional program. (former LEP.1e)</p> <p style="text-align: right;">(20 USC 1703(f); EC 62002, former EC 52164.6; 5 CCR 4306;<br/>see generally <u>Gomez v. Illinois State Bd. of Education</u><br/>(7th Cir. 1987) 811 F.2d 1030, 1041-1042;<br/><u>Castaneda v. Pickard</u> (5th Cir. 1981)<br/>648 F.2d 989, 1009-1010;<br/><u>Kevas v. School Dist. No. 1</u><br/>(D. Colo. 1983) 576 F.Supp. 1503, 1516-1522)</p> |   |    |

| <i>Teaching and Learning</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | C | NC |
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| <p><b>II-CON12</b> Each LEP student receives a program of instruction in English-language development in order to develop proficiency in English as effectively and efficiently as possible. (former LEP.2)</p> <p style="text-align: right;">(20 USC, 1703(f); EC 62002; former EC 52161;<br/><u>Castaneda v. Pickard</u> (5th Cir. 1981)<br/>648 F.2d 989, 1011; and<br/><u>Kevas v. School Dist. No. 1</u> (D. Colo. 1983)<br/>576 F.Supp. 1503, 1518)</p> <p><b>Notes:</b> <u>Option 1:</u><br/>If the district has been approved for Outcomes-based Option 1, review the Option 1 Control File developed by the Bilingual Education Office, CDE. It will indicate the language groups and grade levels approved. For each language group affected by Option 1, do not review LEP items II-CON2,3,4,5, IV-CON22,23a,23b,24 and VII-CON39a&amp;b.</p> <p><u>Option 6:</u><br/>Each language group with fewer than 50 LEP students districtwide and no more than 20 students in a school shall be considered under Option 6. For these language groups, items II-CON2,3,4 and IV-CON22&amp;23a will not be reviewed.</p> |   |    |
| <p><b>II-CON13</b> In order to provide equal opportunity for academic achievement and to prevent any substantive academic deficits, each LEP student whose diagnosis makes academic instruction through the primary language necessary receives such instruction. (former LEP.3)</p> <p style="text-align: right;">(20 USC 1703(f); EC 62002, former EC 52161;<br/><u>Castaneda v. Pickard</u> (5th Cir. 1981)<br/>648 F.2d 989, 1011; and<br/><u>Kevas v. School Dist. No. 1</u><br/>(D. Colo. 1983) 576 F.Supp. 1503, 1518-1519)</p> <p style="text-align: center;">by the district</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |   |    |

| <i>Teaching and Learning (cont.)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |  | C | NC |
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| <b>II-CON14</b> In order to provide equal opportunity for academic achievement in the district's regular course of study and to prevent any substantive academic deficits, each LEP student whose diagnosis makes it necessary receives specially designed academic instruction in English.<br><i>(former LEP.4)</i><br>(20 USC 1703(f); EC 44253.1, 44253.2, 62002, former EC 52161;<br><u>Castaneda v. Pickard</u> (5th Cir. 1981)<br>648 F.2d 989, 1011; and<br><u>Keyes v. School Dist. No. 1</u><br>(D.Colo. 1983) 576 F.Supp. 1503, 1518) |  |   |    |
| <b>II-CON15</b> Each LEP student receives, as part of the district's program, instruction that reinforces a positive self-image and promotes cross-cultural understanding.<br><i>(former LEP.5)</i><br>(EC 62002, former EC 52161)                                                                                                                                                                                                                                                                                                              |  |   |    |

| <i>Opportunity (equal educational access)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  | C | NC |
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| <b>III-CON20a</b> There is a Home Language Survey (HLS), used to determine the primary language, on file for each student in the district, including migrant, special education, and continuation school enrollees. <i>(former LEP.1a)</i><br>(EC 62002, former EC 52164.1 (a); 5 CCR 4304)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  |   |    |
| <b>III-CON20b</b> Each student with a home language other than English on the HLS has been assessed within 30 school days of initial enrollment in English comprehension, speaking, reading, and writing. English comprehension and speaking proficiency have been assessed using a state-designated instrument. Each district has established a process by which reading and writing assessments are to be made, including specification of criteria, instruments, procedures, and standards appropriate to each grade level. For purposes of initial identification, English reading and writing assessments are optional for all students in grades K-2. They are also optional for students in grades 3-12 who are identified as LEP on the basis of English comprehension and speaking skills alone. <i>(former LEP.1b)</i><br>(EC 62002, former EC 52164.1 (b);<br>5 CCR 4304, 4305) |  |   |    |
| <b>III-CON20c</b> The district has further assessed each LEP student for primary-language proficiency, including comprehension, speaking, reading, and writing, within 90 calendar days of initial enrollment. Parallel forms of the tests to determine English-language proficiency are used if available. <i>(former LEP.1c)</i><br>(20 USC 1703(f);<br>EC 62002, former EC 52161, 52164(c);<br>5 CCR 4305)                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |   |    |
| <b>Note for 20b &amp; 20c:</b> Testing is optional for students whose HLS indicates a language other than English only on a response to the fourth question.<br><b>1995-96 state-authorized tests for comprehension and speaking are:</b> <ul style="list-style-type: none"> <li>- BINL (K-12)</li> <li>- BSM I/II (K-12)</li> <li>- The Pre-IPT (ages 3-5 only)</li> <li>- The IPT I (K-6): Forms A, B, C, and D;</li> <li>- The IPT II (7-12): Forms A and B</li> <li>- The Pre-LAS (ages 4-6 only)</li> <li>- The LAS I/II, Forms A, B, C, and D; the short form (1-12)</li> <li>- Woodcock-Muñoz Language Survey (pre-12)</li> <li>- The QSE (K-6 only)</li> </ul> <b>No other instruments may be used without a state-approved waiver.</b><br>(EC 62002, former EC 52164.1 (c))                                                                                                       |  |   |    |

| Staffing and Professional Growth                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | C | NC |
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| <p><b>IV-CON22</b> An adequate number of qualified teachers has been assigned to implement the required English-language development instruction for each LEP student. Upon documentation of a local shortage of qualified teachers to perform English-language development instruction, the district has adopted and is implementing interim measures by which it plans to remedy the shortage. (former LEP.6)</p> <p>(20 USC 1703 (f); EC 62002, former EC 52161; <u>Castaneda v. Pickard</u> (5th Cir. 1981) 648 F.2d 989, 1011-1013; and <u>Keyes v. School Dist. No. 1</u> (D. Colo. 1983) 576 F.Supp. 1503, 1517-1518)</p>                                                                                                                                                                                                                 |   |    |
| <p><b>IV-CON23a</b> An adequate number of qualified teachers has been assigned to implement academic instruction through the primary language for each LEP student when that has been determined to be necessary. Upon documentation of a local shortage of qualified teachers to perform academic instruction through the primary language for each such LEP student, the district has adopted and is implementing measures by which it plans to remedy the shortage. (former LEP.7)</p> <p>(20 USC 1703 (f); EC 62002, former EC 52161; <u>Castaneda v. Pickard</u> (5th Cir. 1981) 648 F.2d 989, 1011-1013; and <u>Keyes v. School Dist. No. 1</u> (D. Colo. 1983) 576 F.Supp. 1503, 1518)</p>                                                                                                                                                |   |    |
| <p><b>IV-CON23b</b> An adequate number of qualified teachers has been assigned to implement specially designed academic instruction in English (SDAIE) for each LEP student when that has been determined to be necessary. Upon documentation of a local shortage of qualified teachers to perform SDAIE for each such LEP student, the district has adopted and is implementing measures by which it plans to remedy the shortage. (new)</p> <p>(20 USC 1703 (f); EC 44253.1, 44253.2, 44253.10, 62002, former EC 52161; <u>Castaneda v. Pickard</u> (5th Cir. 1981) 648 F.2d 989, 1012-1013; and <u>Keyes v. School Dist. No. 1</u> (D. Colo. 1983) 576 F.Supp. 1503, 1518)</p>                                                                                                                                                                |   |    |
| <p><b>Note for 22, 23a &amp; 23b:</b> The CTC is now implementing two new teaching authorizations: the BCLAD and the CLAD. BCLAD is equivalent to the bilingual teaching authorizations, and CLAD to the ELD, and SDAIE authorizations.</p> <p>In response to a district shortage of teachers qualified to perform academic instruction through the primary language, appropriately qualified bilingual paraprofessionals may be teamed with regular teachers on an interim basis to meet this staffing requirement. However, classroom teachers who are assisted by paraprofessionals must retain the responsibility for the instruction and supervision of the students in their charge.</p> <p>(<u>Castaneda v. Pickard</u> (5th Cir. 1981) 648 F.2d 989, 10013; and EC 45344(a), (b))</p>                                                    |   |    |
| <p><b>IV-CON24</b> The district provides an adequate in-service training program which results in qualifying existing and future personnel in the bilingual and cross-cultural teaching skills necessary to serve each LEP student. (former LEP.8)</p> <p>(20 USC 1703 (f); EC 62002, former EC 52161; <u>Castaneda v. Pickard</u> (5th Cir. 1981) 648 F.2d 989, 1012-1013; and <u>Keyes v. School Dist. No. 1</u> (D. Colo. 1983) 576 F.Supp. 1503, 1517)</p> <p><b>Note:</b> Where there is a shortage of qualified teachers to conduct the district's program for LEP students, an adequate teacher training program is required as a matter of federal law.</p> <p>(20 USC 1703 (f); <u>Castaneda v. Pickard</u> (5th Cir. 1981) 648 F.2d 989, 1012-1013; and <u>Keyes v. School Dist. No. 1</u> (D. Colo. 1983) 576 F.Supp. 1503, 1517)</p> |   |    |

| Parent and Community Involvement                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | C | NC |
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| <p><b>V-CON30</b> All parents of LEP and FEP students have been notified in writing of their child's English- and primary-language proficiency assessment results. <i>(former LEP.10)</i><br/>(EC 62002, former EC 52164.1(c); § CCR 4308)</p> <p><b>Note:</b> Parent assessment notifications for LEP and FEP may be sent in English only for language groups under Option 6 (as reported in the R-30 Language Census).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |   |    |
| <p><b>V-CON31</b> A procedure exists that ensures that the participation of each student enrolled in the district's bilingual program is voluntary on the part of the parent or guardian. <i>(former LEP.11)</i><br/>(EC 62002, former EC 52161)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |   |    |
| <p><b>V-CON32a</b> <i>(former LEP.12a)</i> Whenever there are 21 or more LEP students at a school site, there is a functioning bilingual advisory committee (BAC) that has met ALL of the following:</p> <ul style="list-style-type: none"> <li>- Has advised the principal and staff of:             <ul style="list-style-type: none"> <li>a. The development of the school plan for bilingual education submitted to the governing board</li> <li>b. Conduct of the school's needs assessment</li> <li>c. Administration of the school's language census</li> <li>d. Efforts to make parents aware of the importance of regular school attendance</li> </ul> </li> <li>- Has a membership of LEP parents in at least the same percentage as there are LEP students at the school</li> <li>- Has had an election of members in which all parents of LEP students have had an opportunity to vote</li> <li>- Has had the opportunity to elect at least one member of the district bilingual advisory committee (DBAC) or participated in a proportionate regional representation scheme when there are 31 or more BACs in the district</li> <li>- Has received training materials and training appropriate to assist parent members in carrying out their responsibilities</li> </ul> <p>(EC 62002.5, former EC 52176; § CCR 4312)</p>                                                                                           |   |    |
| <p><b>V-CON32b</b> <i>(former LEP.12b)</i> Whenever there are 51 or more LEP students in a district, there is a functioning district bilingual advisory committee (DBAC) or subcommittee of an existing district committee that has met ALL of the following:</p> <ul style="list-style-type: none"> <li>- Has had the opportunity to advise the governing board regarding:             <ul style="list-style-type: none"> <li>a. A timetable for and development of a master plan for bilingual education</li> <li>b. A districtwide needs assessment on a school-by-school basis</li> <li>c. District bilingual education goals and objectives</li> <li>d. Administration of the language census</li> <li>e. Review and comment on the written notification of initial enrollment</li> <li>f. Review and comment on any related waiver request</li> </ul> </li> <li>- Has a majority membership of parents of LEP students not employed by the district. In the event an existing committee is used for these purposes, the membership of parents of LEP students shall be made up of at least the same percentage as that of the LEP students in the district.</li> <li>- Has received training materials and training, developed in consultation with the committee, appropriate to assist parent members in carrying out their responsibilities.</li> </ul> <p>(EC 62002.5, EC 33051(a)(3), former EC 52176; § CCR 4312)</p> |   |    |

| <b>Governance and Administration</b>                                                                                                                                                                                                    | <b>C</b> | <b>NC</b> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-----------|
| <b>VI-CON35</b> The district has completed properly and submitted annual language census reports (R30-LC) which include all LEP and FEP students. (former LEP.1d)<br>(EC 62002, 62003, former EC 52164.1, 52164.2, 52164.5; 5 CCR 4304) |          |           |

| <b>Funding</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>C</b> | <b>NC</b> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-----------|
| <b>VII-CON39a</b> There are adequate basic general fund resources to provide each LEP student with <del>bilingual</del> learning opportunities in an appropriate program. The provision of such general fund resources is not contingent on the receipt of state or federal categorical aid funds. (former LEP.9a)<br>(20 USC 1703(f); <u>Castaneda v. Pickard</u> (5th Cir. 1981) 648 F.2d 989, 1010, 1012-1013; and <u>Keyes v. School Dist. No. 1</u> EC. 62005-62006 (D. Colo. 1983) 576 F.Supp. 1503, 1516-1518) |          |           |
| <b>VII-CON39b</b> ELA-LEP funds are used to meet the academic needs of LEP students. These funds supplement but do not supplant existing resources at the school site. (former LEP.9b)<br>EC. 62005-62006 (EC 54032, 62002, former 52161, 52168; 5 CCR 4320)                                                                                                                                                                                                                                                          |          |           |

### KEY DIMENSIONS

- ◆ **Standards, Assessment, and Accountability** To ensure that all educational programs are based on high and challenging standards, accompanied by a process for monitoring and determining effectiveness
- ◆ **Teaching and Learning** To ensure that all students are provided integrated and coordinated programs based on student needs and educationally sound and legally acceptable educational practices
- ◆ **Opportunity (equal educational access)** To ensure that all students have equitable access and opportunity to participate in and benefit from high quality curricular and extracurricular activities
- ◆ **Staffing and Professional Growth** To ensure that students have access to qualified teachers, administrators, and other staff members, and that all educators have access to high quality professional growth opportunities
- ◆ **Parent and Community Involvement** To ensure that parents and community members including business, industry, and labor have the opportunity to assist and support the educational process through participation in decision making, training, volunteer activities, and the creation of partnerships
- ◆ **Governance and Administration** To ensure that all schools conduct high quality programs that are effectively managed and operated within appropriate legal parameters
- ◆ **Funding** To ensure that financial plans and practices meet legal requirements and operate to achieve the LEA's priorities and goals for student success

| <b>Item #</b>                                   | <b>Item Description</b>                                 | <b>Findings – C/NC</b> |  |  |  |  |  | <b>Comments</b> |
|-------------------------------------------------|---------------------------------------------------------|------------------------|--|--|--|--|--|-----------------|
| <b>STANDARDS, ASSESSMENT AND ACCOUNTABILITY</b> |                                                         |                        |  |  |  |  |  |                 |
| I-CON3                                          | LEP student redesignation to FEP                        |                        |  |  |  |  |  |                 |
| <b>TEACHING AND LEARNING</b>                    |                                                         |                        |  |  |  |  |  |                 |
| II-CON12                                        | English language development (ELD)                      |                        |  |  |  |  |  |                 |
| II-CON13                                        | Academic Instruction through the primary language       |                        |  |  |  |  |  |                 |
| II-CON14                                        | Specially designed academic instruction in English      |                        |  |  |  |  |  |                 |
| II-CON15                                        | Self-image and cross-cultural understanding             |                        |  |  |  |  |  |                 |
| <b>OPPORTUNITY (EQUAL EDUCATIONAL ACCESS)</b>   |                                                         |                        |  |  |  |  |  |                 |
| III-CON20a                                      | Home Language Survey (HLS)                              |                        |  |  |  |  |  |                 |
| III-CON20b                                      | English language proficiency test (30 days)             |                        |  |  |  |  |  |                 |
| III-CON20c                                      | Primary language proficiency test (90 days)             |                        |  |  |  |  |  |                 |
| <b>STAFFING AND PROFESSIONAL GROWTH</b>         |                                                         |                        |  |  |  |  |  |                 |
| IV-CON22                                        | Adequate qualified teachers: (Eng. lang. devel.)        |                        |  |  |  |  |  |                 |
| IV-CON23a                                       | Adequate qualified teachers: (primary lang. inst.)      |                        |  |  |  |  |  |                 |
| IV-CON23b                                       | Adequate qualified teachers: SDAIE                      |                        |  |  |  |  |  |                 |
| IV-CON24                                        | Adequate inservice training for existing & future staff |                        |  |  |  |  |  |                 |
| <b>PARENT AND COMMUNITY INVOLVEMENT</b>         |                                                         |                        |  |  |  |  |  |                 |
| V-CON30                                         | LEP/FEP parent notification (testing results)           |                        |  |  |  |  |  |                 |
| V-CON31                                         | Parent notification of voluntary program participation  |                        |  |  |  |  |  |                 |
| V-CON32a                                        | School Bilingual Advisory Committee (BAC)               |                        |  |  |  |  |  |                 |
| V-CON32b                                        | District Bilingual Advisory Committee (DBAC)            |                        |  |  |  |  |  |                 |
| <b>GOVERNANCE AND ADMINISTRATION</b>            |                                                         |                        |  |  |  |  |  |                 |
| VI-CON35                                        | Annual Language Census Survey Report (R30-LC)           |                        |  |  |  |  |  |                 |
| <b>FUNDING</b>                                  |                                                         |                        |  |  |  |  |  |                 |
| VII-CON39a                                      | Adequate basic general fund resources                   |                        |  |  |  |  |  |                 |
| VII-CON39b                                      | Appropriate use of EIA-LEP funds                        |                        |  |  |  |  |  |                 |

## CALIFORNIA STATE BOARD OF EDUCATION

# POLICY

|          |                  |
|----------|------------------|
| ADOPTED: | January 10, 1986 |
| AMENDED: | August 11, 1987  |
| REVISED: | July 14, 1995    |

|                 |                                                                                                                  |
|-----------------|------------------------------------------------------------------------------------------------------------------|
| <b>SUBJECT:</b> | <b>Policy Statement on Educational Programs and Services for Limited-English Proficient Students<sup>1</sup></b> |
|-----------------|------------------------------------------------------------------------------------------------------------------|

After considerable deliberation and discussion, the California State Board of Education adopts the following policy statement on educational programs and services for limited-English proficient students (or "English learners").<sup>1</sup> This policy statement is intended to guide school districts and motivate them to implement high quality language and academic programs for English learners.

**Intent.** Whereas the state recognizes that the size and diversity of the population of English learners is constantly increasing, and these students require supplemental services, funding, and staffing, the State Board of Education strongly encourages districts to monitor closely the development of these students' English proficiency and academic achievement so they might be placed in mainstream English programs as quickly, efficiently, and effectively as possible.

**Federal Law.** The 1974 U.S. Supreme Court decision in *Lau v. Nichols* as codified in the *Equal Education Opportunities Act* and other federal laws require that each educational agency "take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs." A three part analysis is used to determine "appropriate action."

- ▶ **Use sound theory.** The educational theory upon which instruction is based must be sound.
- ▶ **Provide adequate support.** The school system must provide the procedures, resources, and personnel necessary to apply the theory in the classroom. The resulting program must be implemented effectively.
- ▶ **Achieve results.** After a reasonable period, application of the theory must actually overcome English language barriers confronting the students and must not leave them with substantive academic deficits.

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<sup>1</sup>"Limited-English proficient students" and "English learners" are synonymous and are used interchangeably in this policy statement. The State Board recognizes that "English learners" is becoming more widely used, because it does not imply that the identified students are in any way *limited* participants in the educational process.

**Policy Statement on Educational Programs and Services for  
Limited-English Proficient Students**

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**State Law.** The specific programmatic provisions of California's "bilingual education" program "sunset" on June 30, 1987, in keeping with *Education Code* section 62000.2(d). However, funds for that program "continue for the general purposes of that program as specified in the provisions relating to the establishment and operation of the program," in keeping with *Education Code* section 62002. Moreover, parent advisory committees required by that program "continue as prescribed by the appropriate law or regulation in effect as of January 1, 1979," in keeping with *Education Code* section 62002.5.

The State Board finds and declares that the "bilingual education" program that sunset under *Education Code* section 62002.2(d) is the *Moscone-Chacon Bilingual-Bicultural Education Act of 1976*, Article 3 (commencing with section 52160) of Chapter 7 of Part 28 of the *Education Code*.

The State Board of Education finds and declares that the general purposes of the *Act* are eight in number and expressed as follows, based upon the language contained in *Education Code* section 52161. The general purposes are listed here in the same order as they appear in the statute.

1. "[T]he Legislature directs school districts to provide for in-service programs to qualify existing and future personnel in the bilingual and crosscultural skills necessary to serve the pupils of limited English proficiency of this state...[and] intends that the public institutions of higher education establish programs to qualify teachers and administrators in the bilingual and crosscultural skills necessary to serve these pupils."
2. "The Legislature finds and declares 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."
3. "The programs shall also provide positive reinforcement of the self-image of participating pupils..."
4. "The programs shall also...promote crosscultural understanding..."
- 2-8. "The programs shall also...provide equal opportunity for academic achievement, including, when necessary, academic instruction using the primary language."

**Policy Statement on Educational Programs and Services for  
Limited-English Proficient Students**

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**Goals and Principles Not Binding on School Districts.** In keeping with *Education Code* section 33308.5, the State Board of Education makes clear that the guidance provided above is advisory in nature and that only the requirements of federal and state law (and, where applicable, decisions of courts of law) are binding upon school districts, as they develop and implement educational programs and services for English learners.

**Focus of Department of Education Support and Compliance Activity.** The State Board of Education by policy directs that the California Department of Education focus all support and compliance activity toward the objective of conformity by school districts with the requirements of federal law and applicable requirements of state law as they pertain to educational programs and services for English learners. In particular, compliance efforts shall emphasize results, i.e., after a reasonable period, application of the locally selected educational theory actually overcomes English language barriers confronting the students and does not leave them with a substantive academic deficit.

**Waivers.** The State Board of Education recognizes that the general purposes provisions of the *Moscone-Chacon Bilingual-Bicultural Education Act of 1976* that remain after the 1987 sunset are subject to various statutory waiver authorities, including the general waiver authority set forth in *Education Code* section 33050, et seq. The State Board hereby expresses its intent to approve waiver requests relating to those general purposes requirements where results are being or will be achieved by the applying agency.

**Compliance Monitoring and Due Process.** The California Department of Education shall use the compliance monitoring and due process procedures for educational programs and services for English learners that it uses for other categorical programs and shall advise local educational agencies that they may avail themselves of due process in all compliance matters related to those programs.

A memorandum of understanding between the Superintendent of Public Instruction and the State Board shall be prepared regarding procedures to be followed to address any dispute between the California Department of Education and a local educational agency immediately prior to the presentation to the State Board of any recommendation for restricted approval of the agency's consolidated application or for interruption of funds.

**Policy Statement on Educational Programs and Services for  
Limited-English Proficient Students**

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6. "It is the purpose of this article to require California school districts to offer bilingual learning opportunities to each pupil of limited English proficiency enrolled in the public schools..."
7. "It is the purpose of this article to require California school districts...to provide adequate supplemental financial support to achieve [the purpose set forth in 6]."
8. "Insofar as the individual pupil is concerned, participation in bilingual programs is voluntary on the part of the parent or guardian."

**State Board of Education Guidance.** Based upon the provisions of federal and state law, the State Board of Education hereby establishes two goals which the State Board urges all school districts to achieve through educational programs and services for English learners:

- Rapid development of English language proficiency (literacy), including speaking, reading, and writing.
- Opportunity to learn, including access to a challenging core curriculum and access to primary language development.

**Principles for Educational Programs and Services for English Learners.** The State Board of Education hereby establishes five principles relating to educational programs and services for English learners:

- Maximum local flexibility to determine which instructional programs and methodologies best achieve results.
- Instructional programs based on sound educational theory, emphasizing that local programs may include primary language instruction, English language development through "sheltered" content instruction, and/or other sound instructional methodologies.
- Adequate resources and personnel to implement local plans and programs.
- Parent involvement, including parental consent for placement of their children in programs for English learners and the providing of materials to parents to support their children's education actively.
- Due process in all compliance matters.

for each of the subsequent two years of the three year program, except that adjustments may be made to accommodate one or more of the following:

(a) Any increase or decrease in the total state and federal funds available for that year.

(b) Any statutory provision for a cost of living adjustment.

(c) Any change in average daily attendance of the school which exceeds 20 percent of the prior year average daily attendance.

Note: Authority cited: Sections 33031 and 44671.2, Education Code. Reference: Sections 44670.9 and 44671.4, Education Code.

#### § 4113. Cost Limitations.

Of the state and federal funds provided to schools for approved staff development programs:

(a) No more than 4 percent shall, in any one year, be expended for school district or county superintendent of schools level indirect costs.

(b) No more than 25 percent shall, over the three-year term of the program, be used for the purchase of computer hardware equipment or instructional materials including computer software.

Note: Authority cited: Sections 33031 and 44671.2, Education Code. Reference: Sections 44670.3(b) and (c), 44670.9 and 44671.4, Education Code.

### Subchapter 4. Economic Impact Aid

#### Article 1. Purpose

##### § 4200. Purpose.

This chapter and Chapters 5, 6, and 7 implement the three legislative purposes of the Economic Impact Aid (EIA) Program pursuant to Education Code Sections 54000 et seq.

One purpose is to provide financial assistance to certain school districts having significant concentrations of special need students in meeting their obligation to ensure equal educational opportunity for pupils of limited English proficiency an obligation which exists, irrespective of whether or not a district qualifies for assistance under this chapter or whether or not the EIA funds are made available under this chapter. This purpose is implemented in Chapter 5.

A second equally important purpose is to provide financial assistance to such school districts to design and implement State Compensatory Education (SCE) programs to meet the special educational needs of their educationally disadvantaged students. This purpose is implemented in Chapter 6. A third purpose is to provide financial assistance for other designated purposes such as to improve school security. This purpose is implemented in Chapter 7.

Note: Authority cited: Section 54005, Education Code. Reference: Section 54020, Education Code.

##### HISTORY

1. New Chapter 4 (Articles 1-4, Sections 4200-4203) filed 9-5-79; effective thirtieth day thereafter (Register 79, No. 36).
2. Amendment filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

#### Article 2. Allocation of Funds

##### § 4201. Allocation of Funds.

(a) Funds received by school districts under the EIA provisions pursuant to Education Code Sections 54000 et seq. are allocated for use in support of the three purposes outlined in Article 1 of this chapter.

(b) For the 1979-80 school year, school districts may allocate their EIA apportionment in one of three ways:

(1) In such manner as to ensure that schools which receive funding during the 1978-79 school year for EDY and state bilingual education programs will continue to receive funding for such programs.

(2) In accordance with the allocation procedures outlined in Chapters 5, 6, and 7 of these regulations.

(3) In a manner which combines both subsections (1) and (2) above (i.e., all new funds will be allocated in accordance with subsection (2) while all schools previously funded would continue to receive funds in accordance with subsection (1)).

Note: Authority cited: Section 54005, Education Code. Reference: Section 54020, Education Code.

##### HISTORY

1. Amendment of subsection (a) filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

### Article 3. General Accounting Requirements

##### § 4202. Accounting.

School districts receiving EIA funds must maintain separate accounting records which document the total amount of EIA funds spent under Chapters 5, 6, and 7. Such records shall be maintained at the school level. In Title I eligible schools receiving both ESEA, Title I and State Compensatory Education funds, the ESEA Title I accounting requirements may be applied.

Note: Authority cited: Section 54005, Education Code. Reference: Section 41010, Education Code.

##### HISTORY

1. Organizational headings of CCR were renamed as a result of CCR Reform Project as follows: "Chapter" was renamed to "Subchapter"; "Division" was renamed to "Chapter"; and "Part" was renamed to "Division." The organizational headings referenced in this regulation and/or history notation have not been renamed; refer to the renamed organizational headings described in this paragraph.

### Article 4. Administration and Evaluation Allocations

##### § 4203. Limits on Administration and Evaluation Allocations.

School districts receiving EIA funds shall not allocate more than 10 percent of their total EIA allocation for the purposes of administration and evaluation of their programs which are funded by EIA funds.

Note: Authority cited: Section 54005, Education Code. Reference: Section 54004, Education Code.

### Subchapter 5. Bilingual Education

#### Article 1. Purpose

##### § 4300. Purpose.

It is the purpose of this chapter to implement the requirements of the Bilingual Education Improvement and Reform Act of 1980 (Chapter 1339 of the Statutes of 1980) and the requirements of the Economic Impact Aid provisions of AB 65 (Chapter 224 of the Statutes of 1977) as they relate to the services to be provided to meet the needs of pupils of limited English proficiency.

Note: Authority cited: Sections 52162 and 54020, Education Code. Reference: Sections 52160-52179 and 54004.7, Education Code.

##### HISTORY

1. New Chapter 5 (Articles 1-4; Sections 4300-4320, not consecutive) filed 9-5-79; effective thirtieth day thereafter (Register 79, No. 36).
2. Amendment filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

##### § 4301. Effective Instruction—Bilingual Learning Opportunities.

In order to ensure educational opportunities for pupils of limited English proficiency that are as effective as those provided for pupils whose primary language is English, all districts shall give attention to the academic and linguistic needs of pupils of limited English proficiency as defined in Education Code Sections 52160 et seq. and shall include in-

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struction offered in a manner consistent with the United States Supreme Court decision in *Lau v. Nichols* (414 U.S. 363), the Equal Educational Opportunities Act of 1974 (20 U.S.C. 1701 et seq.) and federal regulations promulgated pursuant to such court decisions and federal statutes.

(b) California school districts must offer bilingual learning opportunities to each pupil of limited English proficiency enrolled in kindergarten through grade twelve. A pupil of limited English proficiency shall receive instruction in a language understandable to the pupil which recognizes the pupil's primary language and teaches the pupil English as specified in the program options described in Education Code Section 52163.

NOTE: Authority cited: Section 52162, Education Code. Reference: Sections 52161, 52163(e), (f), 52163.5 and 52165, Education Code.

## History

1. Amendment filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

## Article 2. Definitions

## § 4302. Definitions.

(a) The terms "basic bilingual instruction," "bilingual bicultural education," "experimental bilingual programs," "secondary level language learning program," "secondary level individual learning program," "elementary level individual learning program," "primary language," "bilingual cross-cultural teacher aide," "Board," "Superintendent," "basic skills," "pupil of limited English proficiency," "pupils of fluent English proficiency" and "Department" shall have the meanings set forth in Education Code Section 52163.

(b) "Principal teacher" as used in Education Sections 52166 and 52178 means the K-6 teacher to whom the pupil of limited English proficiency is assigned, or a teacher member of a team teaching system. In a team teaching situation in grades K-6 no principal teacher shall be responsible for providing primary language instruction to more pupils of limited English proficiency than the average class size at that grade level in the school site. The protections guaranteed in Section 52165 shall not be diluted by drawing LEP students from multiple nonconsecutive grades in a team teaching or multigrade situation. The ratio of nonbilingually credentialed teachers to bilingually credentialed teachers in a team teaching situation shall not exceed 1:1. Nothing in this definition diminishes the requirements for bilingual teachers per Education Code Section 52165.

(c) "AB 507" refers to the Bilingual Education Improvement and Reform Act of 1980, Chapter 1339 of the Statutes of 1980—Education Code Sections 52161 et seq.

(d) "Language development specialist" has the meaning given in Education Code Section 52165. A bilingual cross-cultural teacher as defined in Education Code Section 52163 meets the requirements for a language development specialist.

(e) "English language development" means specialized English instruction designed for students whose primary language is other than English in which the instructional techniques, assessments, materials and approaches are directed toward communicative competence and academic achievement covering listening, speaking, reading, and writing including, but not limited to, English as a second language.

NOTE: Authority cited: Section 52162, Education Code. Reference: Sections 52163, 52165(b), 52166 and 52178, Education Code.

## History

1. Amendment filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

## Article 3. Program Requirements

## § 4303. Program Requirements.

(a) The failure to receive EIA funds or federal supplementary funds such as ECTA Chapter 1 does not relieve the district from the obligation to provide programs described in Education Code Section 52163(a), (b),

(d), and/or (e) and (f), pursuant to the provisions of Education Code Sections 52160 et seq.

(b) At a minimum, all schools shall provide for each pupil of limited English proficiency in kindergarten through grade 12 an individual learning program as defined in Section 52163(e) or (f) of the Education Code.

NOTE: Authority cited: Section 52162, Education Code. Reference: Sections 52161, 52163(e), (f) and 52165, Education Code.

## History

1. Amendment filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

## § 4304. Census.

(a) All pupils whose primary language is other than English who have not been previously assessed or are new enrollees to the district shall have their English language skills assessed within 30 school days from the date of initial enrollment in accordance with Education Code Sections 52164 et seq. Each previously unassessed pupil in grades K-12 with a primary language other than English shall be enrolled as a pupil of limited English proficiency in a bilingual program as defined in Education Code Section 52163 (a), (b), (c), (d), (e), or (f) until the census procedure is completed for that pupil.

(b) The census of pupils of limited English proficiency required for each school district shall be taken in a form and manner prescribed by the Superintendent in accord with uniform census-taking methods established pursuant to Education Code Sections 52164, et seq. The census shall take into account all pupils with a primary language other than English, including migrant and special education students, through the determination of the primary language of each student enrolled in the school district and through the use of language proficiency assessment instruments as required by the Superintendent.

(c) The results of the census shall be reported by grade level on a school-by-school basis to the Department of Education not later than April 30 of each year.

NOTE: Authority cited: Section 52162, Education Code. Reference: Sections 52164-52164.6, Education Code.

## History

1. Amendment filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

## § 4305. Identification and Assessment.

Once a pupil has been determined to be a pupil of limited English proficiency on the basis of his or her English language skills, the pupil's ability to comprehend, speak, read, and write in his or her primary language shall also be assessed, to the extent assessment instruments are available in order to determine the language of basic skills instruction.

A pupil who scores at the lowest level of a designated oral language proficiency assessment instrument based on his or her primary language skills shall be further assessed pursuant to Education Code Section 52164.1(c). If that detailed assessment indicates that the pupil has no proficiency in his or her primary language, and the parent(s) or guardian(s) concur(s) in writing then the pupil need not be considered a pupil of limited English proficiency.

Each LEP pupil's skills in mathematics and other basic skills shall be assessed in the language designated for basic skills instruction, and a learning program for the pupil shall be constructed based on this assessment and other relevant diagnostic assessment and the development of the learning program shall be completed within 90 days of the pupil's initial enrollment and updated as appropriate.

NOTE: Authority cited: Section 52162, Education Code. Reference: Section 52164.1, Education Code.

## History

1. Amendment filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

## § 4306. Reclassification.

The language reclassification criteria, standards and procedures to be established by the governing board of each school district shall, at a minimum consist of the following components:

(e) A responsible administrative mechanism for the effective and efficient conduct of the language reclassification process such as,

(1) a language appraisal team,  
(2) provisions for notice to parent(s) or guardian(s) of their legal right to challenge decisions of placement and language reclassification, and reasonable efforts to encourage their participation in the district's reclassification procedure,

(3) specification of the participation of the pupil's bilingual teacher, bilingual program administrator, regular classroom teacher and school site administrator in the language reclassification process,

(4) monitoring the progress of pupils reclassified to ensure correct classification and placement, and

(5) documentation of multiple criteria information, participants and decisions of reclassification in the pupil's permanent records.

(b) Multiple criteria with appropriate cut-off scores for assessing the pupil's English skills which include:

(1) documented teacher evaluation of the pupil's English language proficiency, including a review of the pupil's mastery of the English language curriculum for the appropriate grade level,

(2) objective assessment of the pupil's oral English proficiency using test(s) designated by the Superintendent and using a cut-off score of fluent English speaking established by the publisher for this purpose,

(3) parental opinion and consultation, and

(4) objective assessments in English language arts, reading, writing, and mathematics, using one of the following tests and procedures of proven validity and reliability:

(i) norm referenced tests with cut-off scores of not less than the thirty-sixth percentile based on national norms or on the distribution of scores derived from a representative pupil sample of nonminority English proficient pupils of the same age and grade; or

(ii) norm referenced tests with cut-off scores between the thirty-first and thirty-fifth percentile based on national norms or on the distribution of scores derived from a representative pupil sample of nonminority English proficient pupils of the same age and grade provided that the school or district's language appraisal team, with the pupil's parents' or guardians' agreement, judges the pupil to have English language skills necessary to succeed in an English only classroom and is provided appropriate supportive instructional services in language arts, reading, writing, and mathematics, or

(iii) in the case that the fiftieth percentile of the nonminority district population of the local educational agency is lower than the thirty-sixth percentile of the national norm, the cut-off score shall be no lower than three percentile points below the local norm; or

(iv) standardized criterion referenced tests for basic skills assessment, including curriculum mastery of language arts, reading, writing, and mathematics at grade level equivalent to nonminority pupils provided that such procedures are approved by the Department and meet the purpose, intent and requirements of Education Code Section 52164.6 in accordance with guidelines established by the Department.

Nothing contained herein is to be construed as authorizing or permitting districts to establish low or differential standards of linguistic or academic performance of students affected by the language reclassification process. School districts shall be responsible for determining that pupils so reclassified meet all of the criteria and are, in fact, pupils of fluent English proficiency as defined in Education Code Section 52163(n).

(5) Notwithstanding the results obtained in the tests and procedures described in subpart (4) of this subdivision, the language appraisal team may reclassify a pupil, provided that:

(i) the pupil has been enrolled in a bilingual program for at least three years, and has received English reading instruction in an organized program during the last year, and

(ii) the language appraisal team, after reviewing the assessment and all pupil performance data obtained pursuant to the provisions of this section, determines that the pupil has acquired sufficient English language skills necessary to succeed in an English-only classroom, and

(iii) the language appraisal team specifies any instructional support services necessary for the pupil to succeed in an English only classroom, and

(iv) the pupil's parent or guardian consents to reclassification.

(c) The number of pupils reclassified and district level procedures for reclassification shall be reported annually to the Department in a form and manner prescribed by the Superintendent.

NOTE: Authority cited: Sections 52162 and 52164.6, Education Code. Reference: Sections 52164.6 and 52171.6, Education Code.

#### HISTORY

1. Renumbering and amendment of former Section 4306 to Section 4307, and new Section 4306 filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

2. Amendment of subsections (a) and (b) filed 5-9-85; effective thirtieth day thereafter (Register 85, No. 19).

3. Amendment of subsections (a) and (b) refiled 5-16-85; designated effective 5-22-85 pursuant to Government Code Section 11346.2(d) (Register 85, No. 19).

#### § 4307. Educational Services.

(a) The educational services offered in instructional programs, kindergarten through grade 12, pursuant to subdivision (a), (b), (c)(1)(A) or (d) of Education Code Section 52163 shall build upon the language strength the student brings to the school setting. Participation in such programs by both fluent- and limited-English-speaking pupils is voluntary on the part of parents or individual students.

(b) When enrolled in either program option pursuant to subdivision (a), (b), or (c) of Education Code Section 52163 in kindergarten through grade 6, the pupils of limited English proficiency shall be of the same primary language.

When possible, in classes established pursuant to subdivision (a), (b) or (c) of Education Code Section 52163 not more than two-thirds nor less than one-third of the pupils shall be pupils of limited English proficiency. The remaining proportion of pupils in such classes shall be pupils of fluent English proficiency and pupils whose primary language is English. In addition to the regular school curriculum, the pupils of fluent English proficiency and pupils whose primary language is English enrolled in classes offered pursuant to subdivision (a), (b), or (c) of Education Code Section 52163 shall be offered instruction in the primary language of the pupils of limited English proficiency. The second language of instruction shall include, but not be limited to comprehending, speaking, reading and writing skills and shall be the primary language of their limited-English-proficient counterparts in the classroom. The average performance level of participants who are pupils of fluent English proficiency and pupils whose primary language is English in programs offered pursuant to subdivision (a), (b), or (c) of Education Code Section 52163 should, wherever possible, be at least the average performance level in the district of the respective grade of the program(s).

NOTE: Authority cited: Section 52162, Education Code. Reference: Sections 52163, 52165 and 52167, Education Code.

#### HISTORY

1. Amendment filed 3-21-80; effective thirtieth day thereafter (Register 80, No. 12).

2. Renumbering and amendment of former Section 4307 to Section 4308, and renumbering and amendment of former Section 4306 to Section 4307 filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

#### § 4308. Parent Notification.

(a) The parents or guardian of a student who is assessed for purposes of initial identification in accordance with Sections 4304 and 4305 and who is designated as a pupil of limited English proficiency or as a pupil of fluent English proficiency shall be notified in writing by the district of the assessment or reassessment of the student. The written notification shall be in English and the primary language of the student. In addition to the written notification, the results shall be communicated orally when school personnel have reason to believe that a written notice will not be understood. If the parent or guardian claims a reasonable doubt about the accuracy of such a designation then the district shall reassess the student as necessary within 30 calendar days.

## Title 5

## State Department of Education

§ 4310

(b) Prior to the initial enrollment of any pupil of limited English proficiency, fluent English proficiency, or pupil whose primary language is English in any program authorized pursuant to subdivision (a), (b), (c) or (d) of Education Code Section 52163, the governing board of the school district in which the pupil resides shall notify by mail or in person the parent, parents, or guardian of the pupil of the fact that their child or ward will be enrolled in a program of bilingual education. The notice shall contain a simple nontechnical description of the purposes, method, and content of the program in which their child or ward will be enrolled, and shall inform the parent, parents, or guardian that the parent, parents, or guardian have the right and are encouraged to visit such classes in which their child or ward will be enrolled and to come to the school for a conference to explain the nature and objectives of such an education program, and include an explanation of the available options offered by the district. Such notice shall further inform the parent, parents, or guardian that they have the right, if they so wish, not to have their child or ward enrolled in such an education program. Such notice shall further inform the parent, parents, or guardian that they have the opportunity to participate in the school or school district bilingual advisory committee, or both. The written notice shall be in English and in the primary language of the pupil.

(c) Parents or guardians will be informed by the governing board of the school district, at the time they are notified of the school's intent to enroll their children in a bilingual program of instruction, that they have the right to withdraw their children from an (a), (b), (c) or (d) bilingual education program as outlined in Education Code Section 52163. The intent to withdraw the child from said program shall be in written form signed by the parent or guardian of the child. No written response from a parent or guardian is necessary to enroll a pupil of limited English proficiency in program options (a), (b), (c), or (d). Parents or guardians of English proficient students must approve in writing or orally of such placements.

(d) In the event a parent or guardian of a pupil of limited English proficiency exercises the option not to have their child participate in a bilingual education program of instruction, the school will be required to provide an individual learning program (an "e" or "f" program as outlined in Education Code Section 52163) for such child. Such individual learning program will be developed in consultation with the parent or guardian of such child.

Parents or guardians may request that their child be withdrawn from an individual learning program. In such case the governing board of the school district shall ensure that the following procedures are followed:

(1) Establish an administrative procedure by which parent requesting that their child be withdrawn from an ILP are advised of the goals, objectives and activities of the program by an administrative designee familiar with the program; and

(2) ensure that for each child withdrawn from an ILP there is on file in the school a withdrawal request signed by the parent and the administrator who advised the parent about the program along with the copy of the ILP from which the child has been withdrawn.

Since there is no parallel federal policy allowing parent waiver of educational programs for LEP students, the instructional programs developed for LEP students in lieu of an individual learning program must be based on their unique skills, learning modes, and needs. Such a program must provide comprehensible instruction and continuous academic progress for all pupils in spite of any lack of English language proficiency.

(e) In the event a parent or guardian of a pupil of fluent English proficiency or a pupil whose primary language is English exercises the option not to have his or her child participate in a bilingual education program of instruction, the school will be required to reassign the pupil to a classroom not participating in the bilingual program where such classrooms are available. Where no such classrooms are available, the school must provide the student English-only instruction within the designated bilingual classroom.

(f) Parents or guardians of pupils being considered for reclassification shall be notified in writing of the possible reclassification of the pupil in accordance with Section 4306(b)(3). The written notification shall be in

English and the pupil's primary language. In addition to the written notification, the notification shall be communicated orally where school personnel have reason to believe that a written notice will not be understood. Note: Authority cited: Section 52162, Education Code. Reference: Sections 52161, 52164.1, 52164.3, 52165 and 52173, Education Code.

## History

1. Renumbering and amendment of former Section 4308 to Section 4309, and renumbering and amendment of former Section 4307 to Section 4308 filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

## § 4308. Teacher and Teacher Aide Criteria.

(a) Teachers and aides employed for district programs of basic bilingual instruction, bilingual bicultural education, innovative experimental bilingual programs, and, unless waived by the Board, planned variation experimental bilingual programs must meet the criteria of Education Code Section 52163(h) or (i). Teachers and aides employed for secondary-level language learning programs must meet the requirements of Education Code Section 52163(h) or (i), or be language development specialists as defined in subdivision (d) of Section 4302 who are assisted by a bilingual cross-cultural aide.

(b) In grades K-6, school districts shall provide an additional full-time certified bilingual teacher or teacher on waiver as defined in Education Code Section 52177 or 52178.5 to assist in the implementation of the individualized instruction program defined in Education Code Section 52163, subdivision (f) where there are at least 20 pupils of limited English proficiency with the same primary language in the school not enrolled in program options described pursuant to subdivision (a), (b), or (c) of Education Code Section 52163. When the number of pupils of limited English proficiency of the same primary language not enrolled in program options (a), (b), or (c) exceeds 45, two certified, bilingual teachers or teachers on waiver are required. Pupils whose parents or guardians have voluntarily withdrawn their child from an (a), (b), or (c) program option shall not be counted for purposes of triggering the additional teacher(s). However, services rendered in program option (f) may be provided to such students by the teacher(s) designated by Section 4309(b). This requirement is contingent upon receipt of state or federal categorical aid funds (i.e., ECIA Chapter I, School Improvement Program, and/or Economic Impact Aid) allocated to the schools in an amount determined annually by the State Board of Education. In addition to providing education services to pupils of limited English proficiency, these teachers may also serve pupils participating in ECIA, Chapter I, State Compensatory Education, or School Improvement programs at school sites.

(c) Where the principal teachers and aides providing instruction in programs of basic bilingual instruction, bilingual-bicultural education, and experimental bilingual programs meet the criteria of Education Code Section 52163(h) or (i), respectively, they may be assisted by instructional personnel who do not meet such criteria.

(d) The governing board of each school district in which pupils of limited English proficiency are enrolled shall, no later than September 1, 1987, establish criteria for the position of bilingual cross-cultural teacher aide as defined in subdivision (i) of Education Code Section 52163. At a minimum, such criteria shall assure that each designated bilingual cross-cultural aide is able to understand, speak, read, and write English and the primary language of the pupils of limited English proficiency in the bilingual classes to which he or she is assigned and that such an aide is familiar with the cultural heritage of the pupils of limited English proficiency.

Note: Authority cited: Section 52162, Education Code. Reference: Sections 52163, 52165, 52166, 52168, 52172 and 52178, Education Code.

## History

1. Renumbering and amendment of former Section 4309 to Section 4310, and renumbering and amendment of former Section 4308 to Section 4309 filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

## § 4310. Waivers.

When a principal teacher is requested to be a bilingual cross-cultural teacher in program options (a), (b), (c), or (f) and no such teacher is available, the school district may request a renewable two-year waiver from

the Board in accordance with Education Code Section 52178. A teacher on waiver must be assisted for at least three hours a day by a bilingual cross-cultural aide.

Two-year waivers approved by the Board are subject to Board review after the first year and may be withdrawn if the teacher on waiver is not making satisfactory progress toward meeting the requirements for the bilingual cross-cultural certificate of competence or other appropriate bilingual credential.

All district applications for waivers shall be filed with the Board by October 1 of the appropriate year. If a teacher on waiver is dismissed or leaves district employment after October 1, the district must replace that teacher with another teacher eligible for a waiver or a certified bilingual teacher.

NOTE: Authority cited: Section 52162, Education Code. Reference: Section 52178, Education Code.

#### HISTORY

1. Renumbering and amendment of former Section 4310 to Section 4311, and renumbering and amendment of former Section 4309 to Section 4310 filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

### § 4311. Academic Assessment.

School districts reporting the presence of pupils of limited English proficiency shall conduct an annual assessment of the academic progress of those students. All pupils of limited English proficiency must be assessed in basic skills in their primary language and/or English as appropriate to their instructional program, except that students with little or no English language proficiency need not be assessed in English. Selected school districts shall be required to conduct and report to the Department the results of an annual assessment of the academic progress of pupils of limited English proficiency in English and the appropriate primary language in a form and manner prescribed by the Superintendent in order to carry out the evaluation required in Education Code Section 52171.6.

NOTE: Authority cited: Sections 52162 and 52171.6, Education Code. Reference: Sections 52171 and 52171.6, Education Code.

#### HISTORY

1. Renumbering and amendment of former Section 4311 to Section 4312, and renumbering and amendment of former Section 4310 to Section 4311 filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

### § 4312. Advisory Committees.

(a) District advisory committees on bilingual education will be established in each school district with more than 50 pupils of limited English proficiency in attendance. School advisory committees on bilingual education will be established in each school with more than 20 pupils of limited English proficiency in attendance. Both district and school advisory committees shall be established in accordance with Section 52176 of the Education Code.

(b) The parents or guardians of pupils of limited English proficiency shall elect the parent members of the school advisory committee (or subcommittee, if appropriate). All such parents shall be provided the opportunity to vote in the election. Each school bilingual advisory committee shall have the opportunity to elect at least one member to the Bilingual District Advisory Committee, except that districts with more than 30 school bilingual advisory committees may use a system of proportional or regional representation.

(c) Bilingual District Advisory Committees established pursuant to Education Code Section 52176 shall advise the district governing board on at least the following tasks:

(1) Development of a district master plan for bilingual education. Such a district master plan will take into consideration the school site master plans for bilingual education required by Education Code Section 52176.

(2) Conducting of a districtwide needs assessment on a school-by-school basis.

(3) Establishment of district bilingual education program, goals, and objectives.

(4) Development of a plan to ensure compliance with teacher and/or teacher aide requirements outlined in Education Code Section 52178.

(5) Administration of the annual language census.

(6) Review and comment on the district reclassification procedures established pursuant to Education Code Section 52164.6.

(7) Review and comment on the written notification of initial enrollment required in Section 4308(b).

(d) School districts shall provide all members of district and school advisory committees with appropriate training materials and training which will assist them in carrying out their responsibilities pursuant to subsection (c). Training provided advisory committee members in accordance with this subsection shall be planned in full consultation with such members, and funds provided under this chapter may be used to meet the costs of providing such training to include the costs associated with the attendance of such members at training sessions.

NOTE: Authority cited: Section 52162, Education Code. Reference: Section 52176, Education Code.

#### HISTORY

1. Renumbering and amendment of former Section 4312 to Section 4313, and renumbering and amendment of former Section 4311 to Section 4312 filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

### § 4313. Monitoring and Enforcement.

(a) The Superintendent shall develop a plan providing for adequate monitoring and enforcement of school district compliance with the regulations contained within this chapter as a part of an overall monitoring and enforcement plan and, at least annually, report to the Board the activities carried out under that plan.

NOTE: Authority cited: Section 52162, Education Code. Reference: Section 52177, Education Code.

#### HISTORY

1. Renumbering and amendment of former Section 4312 to Section 4313 filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

## Article 4. Special Funds to Assist Districts

### § 4320. Determination of Funding to Support Programs to Overcome the Linguistic Difficulties of Pupils of Limited English Proficiency.

(a) School districts are required to provide services to pupils of limited English proficiency in all schools in accordance with Education Code Sections 52160 et seq. In order to meet this requirement, districts shall allocate adequate resources from local, state, and other funds. To assist in providing adequate resources, a portion of EIA funds may be used to provide services to schools which otherwise may not be eligible for SCE funds.

(b) School districts may determine the amount and level of resources to meet the excess cost requirements of Education Code Sections 52160 et seq., and may use EIA funds for all or part of meeting such requirements. There are a variety of allocation patterns and levels which may be appropriate in local districts.

(c) Such determinations may be made in accordance with a standard to be established as outlined in subsection (d) below. The standard for the district will be described in the district's intradistrict allocation plan required by Education Code Sections 54004.3, 54004.5, and 54004.7.

(d) School districts may use a standard established by:

(1) Determining the number eligible educationally disadvantaged students in all schools eligible to receive state compensatory education funds.

(2) Determining the number of pupils of limited English proficiency who are not counted in subsection (1).

(3) Dividing the sum of subsection (1) and (2) into the total EIA allocation (after subtracting total district EIA indirect costs and EIA security, limited to not more than 10 percent of the total EIA grant).

(4) The resultant per pupil expenditure levels (as established in subsection (3)) will establish the appropriate minimum average per pupil level of funding to provide services to pupils of limited English proficiency in all schools in the district with such students in attendance.

(e) If a school district decides to provide EIA funding for services to pupils of limited English proficiency at a per pupil level either below or above the standard, the district must apply to the State Department of

© photographs/Hector Amezcua



In the letters released by the White House, Willey asked for positions representing the United States at foreign conferences, offered to work for the president's 1996 re-election campaign and re-

**Please see CLINTON, back page, A10.**

■ **Field Poll looks at President Clinton's job approval rating in state. Page A4**



**SIDE**

**Dr. Spock gave new parents a confidence boost with two words: Trust yourself.**  
**Scene, page C1**

## INSIDE

► **SCENE • CT**

A lucky day to wear  
something green

A nation's dark history,  
old legends and, just  
maybe, a four-  
leaf clover  
come together  
on St. Patrick's  
Day.



► PAGE B1

**An agency in Roseville that serves homeless families may be forced to close its doors.**

## ► FORECAST



SUNNY  
HIGH • 75, LOW • 44

► INDEX

### Bridge/Jumble E7

Classified Index **D6**Comics **C6**

**Crosswords C6, E7**



12499 20202

## Lungren questions need for bilingual measure

**By Dan Smith**  
**Bee Capitol Bureau**

After months of delaying a decision on the question, state Attorney General Dan Lungren on Monday said a recent court decision may have rendered "irrelevant" a June ballot measure that would largely end bilingual education in California's public schools.

Lungren is the only major candidate for governor who has not taken a stand on Proposition 227.

But he said the court decision, which ended the state requirement that local school districts provide bilingual education, ultimately may prompt him to oppose

**CAMPAIGN**  
**'98**

the ballot measure sponsored by Silicon Valley entrepreneur Ron Unz.

"If this decision is upheld, it appears to take care of the problem that I had with a mandate for bilingual education and (instead) allows local school districts to make the determination," Lungren said in an interview. "That was the one thing that had bothered me about the Unz initiative, was whether or not it created a straitjacket for local school districts. . . . I don't know why you'd need an Unz initiative."

Nonetheless, Lungren said, he still has no official position on

- Please see LUNGREN, back page, A10

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Miche  
Cohen  
CC: Ibarra  
Echavest-  
FYI  
Sketon

Karen Helton  
Fy4 Adh

...and her credible, agreed conclusion," she said.



Associated Press photograph

...llated Va., on Monday after he was sentenced for obstruction of justice. "We're going to move on," he said.

A jury cleared McKinney on misconduct charges, it guilty of one of the most serious — obstruction of justice — by encouraging an accuser to investigate during a telephone conversation, McKinney says to Felt tell them that we talked, propriety at all, just

the accusers were in the seated side-by-side as the verdict was announced by Whitfield, the foreman. ence, which must be senior Army leadership, McKinney's retirement

benefits. McKinney, who had already submitted his retirement request, will leave the Army as a master sergeant instead of a sergeant major. His annual base pay drops from \$41,742 to \$37,278.

But Gittins said he would attempt to invoke an obscure government statute that may allow McKinney to retire without losing any retirement pay. The statute says that retirement pay for a small cadre of very senior soldiers, including the sergeant major of the Army, should be at "the highest rate" possible for that position, according to the statute.

## s decline 'demoralizing'

commitment to outreach (to is) over the long term, hope-see results that overcome

nt Ward Connerly of Sacramento spearheaded the drive to consideration of race in aid he was surprised by the drop among underrepresented

we were giving preferences, r thought we were giving such," Connerly said. "It be task ahead of us to correct of secondary education." ns officials could not ex the number of white "ad they said the 8 percent in ing Asian Americans could ed partially to the new em- socioeconomic criteria, ht have helped students immigrant families.

in 1,900 students, 14 per- cent admitted, did not provide

nation, of people who don't want to check these boxes and don't know why the government is asking for this information if they don't intend to use it for malicious purposes," he said.

UC Davis plans alumni presentations, special mailings and phone drives to encourage enrollment.

Elsewhere in the UC system:

■ UC Riverside saw increases among all ethnic groups, including a 42 percent jump in African Americans and a 52 percent jump in Latinos. Officials credited aggressive outreach programs but added that the growing campus was able to admit 28 percent more students overall than last year.

■ UC Santa Cruz posted an 8 percent increase among underrepresented minorities, though there was a small decline among African Americans.

■ UC San Diego's 40 percent drop in admissions of underrepresented minorities included a 46 percent decrease among African Americans and a 40

## Lungren: Unz disputes Lungren's interpretation of ruling

Continued from page A1

Proposition 227. He said that the measure appears to be "far too restrictive" and that he has sought information from the Unz campaign to convince him that his concerns about local control are unfounded.

"I've asked his office to give me the analysis on that, and I'm still waiting," Lungren said. "I've asked for several months on that."

But both Unz and Proposition 227 spokeswoman Sherri Annis disputed Lungren's assertion.

"He's not asked us for any such analysis," Annis said. "He's asked us to set up a meeting, and we said, 'Fine,' and that's the last we heard. There has been no meeting. . . . He's been wishy-washy on this all along. I think he's trying to avoid it."

Lungren's indecision is reminiscent of 1994, when he waited until the day before the election before announcing his support for Proposition 187. That measure, aimed at restricting state services for illegal immigrants, passed easily with vocal backing from Gov. Pete Wilson and most of Lungren's fellow Republicans.

Unz said Lungren's failure to take a position on the bilingual education measure is not surprising.

"I really would hope that the leading political figures in California would support our initiative," he said. "So far, most of them seem to be ducking it."

Lungren's three Democratic opponents in the governor's race — Al Checchi, Lt. Gov. Gray Davis and Rep. Jane Harman — all oppose Proposition 227.

"He's obviously unwilling to make a decision," said Darryl Sragow, political consultant for Checchi, "because the Republican Party is acutely aware that it is in very serious trouble with Latino voters."

But Lungren, noting that famed teacher Jaime Escalante is honorary chairman of the campaign in support of the Unz measure, said the initiative is not being perceived as anti-Latino. "Even though there have been some that have suggested this would be divisive, it has not proven to be thus far in this debate," he said.

The latest statewide survey by independent pollster Mervin Field showed strong support for the measure. But Latino opinion was split, with 46 percent in favor and 45 percent opposed.

Unz disputed Lungren's assertion that the court decision renders the initiative irrelevant. Even if they are freed from the state mandate to offer bilingual education programs, many of the larger school districts will continue to do so unless the initiative is approved, Unz said.

"It isn't really clear what would change," he said.

Proposition 227 would essentially end bilingual education in most districts, allowing it only in narrow circumstances.

The state's 1976 bilingual education act required primary language instruction for non-English speakers, but that law expired in 1986. State officials, however, continued to force districts to provide native language instruction, saying it was one of the "general purposes" of the law.

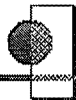
Sacramento Superior Court Judge Ronald B. Robie last month ruled that the general purpose of the act was to "effectively and efficiently as possible develop in each child fluency in English," and that primary language instruction was not required.

### SETTING IT STRAIGHT

A story on page A3 Sunday incorrectly named the news magazine that published an article last fall on the bilingual ballot measure proposed by Silicon Valley businessman Ron Unz.



Dan Lungren



Karen E. Skelton

03/18/98 09:23:46 AM

Record Type: Record

To: Michael Cohen/OPD/EOP

cc: See the distribution list at the bottom of this message

Subject: bilingual

I've done a little more research on the Ca Bd. of Ed. decision and talked to a few people about what it may mean for purposes of your memo. Here are some additional thoughts:

1. The Bd. of Ed. decision probably kills any compromise legislation. I talked to St. Senator Dee Dee Alpert and she believes the Rs now have no reason to support compromise leg. because the bd. dec. effectively gets the state out of the bilingual ed. business.
2. John Hein, CTA, believes the bd. dec. was instigated by Gov. Wilson. He thinks that Wilson banked on the Fed. Gov. / D. of Ed., Civil Rights Div. to sue the state over this decision. Heins thinks that if we do sue, this plays right into Wilson's hand. Wilson would want to use bilingual in the same way he's using 209/affirmative action in his conservative political arsenal.
3. The Bd. of Ed. dec. probably helps Unz because it takes away the major opposition to Unz: loss of local control. Now that you have a kind of "local control," why not go for Unz?

The bottom line for us is this: the bd. of ed. decision is probably a Wilson instigated attempt to make CA a trend setting State in abolishing bilingual education programs, in the same way it was a trend setter in abolishing affirmative action programs.

The question for us: how hard are we going to defend bilingual? I think our answer -- mastering English is the #1 priority; bilingual needs a face lift; mend it / don't end it; Unz is too extreme -- hits the rights tone.

Message Copied To:

Maria Echaveste/WHO/EOP  
Mickey Ibarra/WHO/EOP  
Elena Kagan/OPD/EOP  
Morley A. Winograd/OVP @ OVP  
Jonathan H. Schnur/OVP @ OVP



Delia\_Pompa@ed.gov  
03/18/98 10:08:00 AM

Record Type: Record

To: Michael Cohen

cc:

Subject: reactions to State Board

FYI

Delia

Forward Header

Subject: reactions to State Board

Author: Kenji Hakuta <kenji@lindy.Stanford.EDU> at Internet

Date: 3/17/98 11:58 AM

Delia:

Daria put this info from various press clippings; hope they're helpful!

Kenji

## EDUCATORS

Delaine Eastin's statement in response to the State Board's decision to abandon its prior policy regarding educational services to English learners:

"By their action, the State Board of Education has reversed its prior policy insofar as the provision of educational support to 1.4 million Limited-English-Proficient (LEP) students in California. I disagree with the State Board's decision. I have a constitutional responsibility to uphold the law, and until the law is changed formally, I will uphold the existing legal requirements to teach and provide support for all children to develop fluency in English and obtain high academic achievement. I pledge to continue working with local school districts, classroom teachers, parents, and others to realize the purposes of state law to provide equal educational opportunities for all."

Comments of Districts in favor of bilingual education :

"It is a very sad time for minority-language speakers. Instruction in the primary language provides them access to the core curriculum."

--Rosita Apodaca, head of bilingual education in SF to the SF Chronicle on 3/13/98

"We do not plan to change our services to our students regardless of the state's decision. We intend to implement our transitional bilingual education program because it is the best instructional strategy to support our students academically while they learn English."

--Maureen Munroe, San Jose District Spokeswoman to the SF Chronicle on 3/13/98

"Delivery of bilingual programs should be determined by school districts based on their needs. It should not be mandated by the state, because every school district has a different population that they need to serve."

--Linda Mayo, Mt. Diablo school board member

"We have proven that our programs work. We are seeing academic achievements growing in these youngsters; we're not going to make any changes."

--Yolanda Benitez, Supt. Of the Rio School District

"We're still going to be doing what we've been doing. It's successful, and we feel the program is showing good results here in Ventura. I'm just worried that some districts will choose to drop it completely, and that will be a sad day for kids."

--Joseph Spirito, Supt of the Ventura County School District

Comments of districts that oppose bilingual education:

The Capistrano Unified School District's board of trustees voted Monday night to switch from a bilingual program that lasts as long as six years to one that lasts only one or two. District officials were concerned that they might have to ask the state board for special approval.

"I was able to tell my bilingual director today, 'Hey, don't even worry about calling the state board to see if we need to have a waiver.' Now it doesn't matter," -- James A. Fleming, superintendent of the 40,000-student Capistrano Unified School District in Orange County.

In the Westminster School District, which obtained a precedent-setting waiver from bilingual education in 1996, a school official, Tracy Painter, said the 9,500-student system may face less red tape as it continues its English-immersion plan.

## COMMENTS OF BILINGUAL EDUCATION ADVOCATES

"The districts that implemented programs that bring students to English literacy through primary language instruction will continue to do so. The districts that have not moved in that direction will stay where they are." -Silvina Rubenstein, Executive Director of CAFE.

Silvina Rubenstein also criticized the board for "not taking leadership for schools that need to work with students whose first language is not English."

"I'm sure there are various school districts, particularly in Southern California, that will interpret this to say they don't have to provide primary language - that they can do what they feel is in their interest, but we believe there still has to be some accountability."

--Olga Sanchez, legislative staff attorney for MALDEF to the SJ Mercury, 3/13/98

"This is a bad decision. I think there was confusion on the board's part about what the judge [Judge Robie] meant. School districts need to provide academic instruction in primary language."

--Joseph Jamarillo of MALDEF to the SF Chronicle 3/13/98

"This decision shows school districts should be given more choice and the Unz initiative would mandate a program across the state of California," said Citizens for an Educated America spokeswoman Kathleen Barca.

"Local school districts need to have choices, and they're the ones that can best determine how to educate children. The problem with Prop. 227 is it will outlaw all of that choice." (Holly Thier, spokeswoman for the No on 227 campaign - statement made in reference to State Board Decision).

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