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# Equitable Access To Education For Adult English Language Learners

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EQUITABLE ACCESS TO EDUCATION FOR ADULT ENGLISH LANGUAGE  
LEARNERS

by

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A capstone submitted in partial fulfillment of requirements for the degree of Masters  
of Arts in English as a Second Language

Hamline University

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To the students I have had the honor of working with every day. I am inspired and humbled by your bravery and resilience.

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## **CHAPTER ONE**

### **Introduction**

#### **Inquiring About Equity**

Culturally and linguistically diverse students, including adult English language learners, bring a multitude of assets and abilities to contemporary classrooms, and at the same time, adult educators across the state and nation are challenged to identify and address these learners' particular learning needs (Auge, 2016). In the context of the adult education program where I have worked as the noncredit ESL coordinator for five years, students have asked - sometimes pointedly, and sometimes meekly - about the justification behind staff decisions regarding their placement into Adult Basic Education (ABE), Adult Secondary Education (ASE) or Adult ESL.

Throughout this period, because of my training in K-12 ESL education, I have been cognizant of the legal rights of English Language Learner (ELL) children to access equal educational opportunity in public schools, and I have wondered why adult English Language Learners seem to experience a lesser set of provisions in federally-funded free public education programs. For example, adult education programs in my community college district in east central Iowa have yet to significantly integrate ELLs in core subject areas such as ABE and high school math, science or writing courses. Instead, adult students identified as ELLs often must finish as many as four years of ESL instruction before being granted access to academic



subject-area courses. In recent years, despite the development of more rigorous academic standards for adult education, including for ELLs, adult ESL students in our local program have received only minimal access to math content, for instance, relative to their native-English speaking peers. Given my discussions with colleagues across the state, I have suspected that many federally-assisted adult education programs operate in the same manner. Although perhaps a question of resources and staffing in adult education, integration of ELL students into the K-12 mainstream began several decades ago, upheld by nondiscrimination provisions in civil rights and equal educational opportunity laws.

Owing to my role as a program administrator and my involvement in staffing, intake and placement, referrals, and data analysis, I have begun to notice other patterns over time related to educational access and opportunity. One such pattern I observed in my local context was huge growth in the adult ESL program - approximately 300% - in just four years. Along with that, adult ELL participants grew to 65% of our local adult education program overall. In recent years, Limited English Proficient (LEP) adults seeking our courses have encountered waiting lists or delays in service of several months or more.

I have also noticed patterns related to educational access that might be obscured from teachers, given their often part-time status, frequent turnover and more classroom-focused perspective. For example, I noticed adult ELL students were not guaranteed to have teachers with a background in pedagogy or training in Teaching English to Speakers of Other Languages (TESOL). As opposed to children in K-12 environments, adult learners placed in our ESL courses, in a program of significant size and resources covering urban and rural areas, were not guaranteed to encounter a

licensed professional. The minimum requirement for adult education instructors in Iowa is a bachelor's degree in any field (State of Iowa, 2014).

As adult ELLs have moved up and through our program, I have also seen that, for those moving on to ABE or high school completion courses, no research-based program of language support would be provided, a requirement in K-12 environments. In the context of my local adult education program, then, questions about equity and access have distilled my research question: *How can adult education programs provide more equitable access to education for adult English Learners?* To answer this question, I needed to know and understand more about the state and federal laws and policies pertaining to adults with limited English proficiency. This Capstone became an opportunity to explore unanswered questions about our legal and ethical obligations to adult English Learners.

### **Chapter Overview**

This chapter begins with definitions of the terms commonly used to describe culturally and linguistically diverse learners in our educational spheres, in government policy, and throughout this Capstone. Three stories will follow, along with education and employment statistics, to depict the high stakes involved in decisions adult education programs make about the education of language minority students. It will also explain how, despite relatively recent federal and state policies focused on prioritizing the needs of adult English Language Learners, issues of access and equity in local programs still merit urgent attention. And finally, this chapter presents a few allegories that inspired me to address institutional barriers that have emerged to the disadvantage of language minority students in adult basic education programs.

### **Who is an English Language Learner?**

For purposes of examining equity in adult education programs as it relates to adult English Learners, the following definitions will guide terms in this chapter and subsequent chapters:

*English Language Learner (ELL or EL).* Defined by the Title II, the Adult Education & Family Literacy Act of the Workforce Innovation and Opportunity Act (WIOA) of 2014, an adult English Language Learner is someone sixteen years or older who “has limited ability in reading, writing, speaking, or comprehending the English language, and whose native language is a language other than English, or who lives in a family or community environment where a language other than English is the dominant language (U.S. Department of Education Office of Career, Technical and Adult Education, 2016, citing WIOA Sec. 203(7)). Adult English Learners are not always foreign-born (Spruck Wrigley, Chen, White & Soroui, 2009).

*Limited English Proficient (LEP) Individual.* Other government agencies have used similar language to define adult ELLs in federally-funded programs. The U.S. Departments of Labor (DOL) and Justice (DOJ) use the term Limited English Proficient individual, which defines individuals “who have a limited ability to read, speak, write and/or understand English” with the ensuing caution that “failure to provide language assistance to limited English proficient individuals may be a form of unlawful national origin discrimination” (DOL, 2016, p. 87142; DOJ, 2002, p.41459).

Both “adult ELL” and “LEP individual” are important terms for describing adult learners, given that they define a protected class of participants in federally-assisted educational programs provided by either the U.S. Department of Education or the U.S. Department of Labor under the Title II and Title I of WIOA

(2014), which appropriates funding for adult education and workforce development training opportunities.

In addition, both terms refer to adult participants with widely varying degrees of oral and written proficiency, varying levels of educational attainment (Wrigley et al., 2009) and home language literacy, as well as varying cultural and linguistic backgrounds, individual values, dispositions, motivations, experiences and goals. In short, adult ELLs are not a monolithic group and have varying needs.

*Adult Education Programs and Adult ESL.* Adult ELLs participate in English language education in a variety of programs and settings known as adult ESL (Eyring, 2014) and may also seek adult basic education (ABE) or adult secondary education (ASE) services in order to access more opportunities in work and society. Such programs, which operate under the more expansive umbrella of the adult education system, are delivered through varying infrastructure across the U.S., including public school systems, faith-based or community organizations, and community college systems.

These programs, referred to throughout this Capstone as “adult education programs”, are generally free or almost free, noncredit, and are funded by federal and state funds tied to the Adult Education and Family Literacy Act, now Title II of the WIOA (2014). Adult ESL programs focus on English for everyday life skills, family literacy, civics education, and, in recent years, increasingly on academic and employment skills for higher education and career readiness. Programs of this nature will be referred to as “adult ESL programs”.

Meanwhile, *language minority student (LM)* will be used in this Capstone to describe adult learners who come from a home where the dominant language in

society (in this case, English) is not the primary language spoken (Colorin Colorado, n.d.). Language minority students may be fully proficient in English, may speak only English, may be bilingual or multilingual, or may have limited English proficiency. When language minority students apply to adult basic education programs, of critical importance is determining each individual's degree of English language proficiency as well as overall educational needs, in order to provide an appropriate program of instructional support. Language minority students often bring a multitude of assets, among them multilingualism and commitment (Eyring, 2014; Nuñez, Rios-Aguilar, Kanno & Flores, 2016); however, they may be initially viewed by program staff through a lens focused on their limited English proficiency.

### **Students Ask “Why?”**

New adult students often come to registration full of hope about the next step in their educational and career journey in the U.S. As an adult ESL program coordinator, whether or not I have been involved in the intake process, students have sought my help to explain decisions about their education. Being in a position to answer the question “Why?” from adult English Learners seeking to advance their education or secure a meaningful, living-wage job, I often found that I didn't have answers, as our adult education program lacked a transparent process when I began my work there. The following stories illustrate how my questions about equity developed at each stage of the learner encounter with our program, and why I became invested in finding out about our adult ELL students' educational rights.

\*\*\*\*

Guadalupe is 37 years old, was recently laid off the production line at an automotive parts factory. The local workforce center made a referral to the adult

learning center for high school completion programs, a stepping stone for further vocational training. Sitting in a classroom, Guadalupe looks up from the computer after finishing the reading placement test for the high school completion program. An instructor is speaking rather loudly outside the door to another student who attended the same testing session. The instructor explains that the student's test result qualifies them for high school preparation classes - English I and Math I - and outlines the course schedule. After they finish speaking, the instructor motions for Guadalupe to step out and discuss the placement test results in the same manner.

The instructor recommends ESL courses and begins to outline the ESL schedule, warning that there is a waiting list of a four to six months. Guadalupe's stomach tightens; the score was the same as the previous student, a native English speaker. Guadalupe hesitates, but asks, "Why can't I start the high school courses now?"

\*\*\*\*

At the local adult learning center, a student pauses at the door of the ESL coordinator, knocks shyly and asks for a minute to talk. The coordinator recognizes the student from the advanced ESL course, notices a downcast expression, and offers a seat.

The student explains that, after the first week of an ABE English course, it wouldn't be possible to continue. The teacher hadn't provided a reason for the dismissal, other than "You're not ready." In tears, the student asks, "Why?" The coordinator, in a position to explain, cannot. Instead, passing a tissue, the coordinator asks a few more questions, and promises to follow up. The coordinator suspects that the teacher may not have a background in ESL, and may not be aware of scaffolding

strategies for ESL students or ways to leverage the assets the student already brings, and wonders if this may have affected the decision.

\*\*\*\*

A few years ago, two parents came to register for our adult ESL program with their teenage child. I had to inform the family that their child wasn't old enough to participate in our program, but rather was eligible to enroll at the local high school and receive ESL services. Three years later, their child has graduated from high school with honors, and has plans to enroll in our community college. The K-12 system really worked for that student.

Meanwhile, the parents steadily improved in our program over the same time period, at just a few instructional hours per week. Unlike some other students in our program, they had at least one experienced ESL teacher with training in TESOL. However, due to our program's limited offerings, they'll be studying for a much longer time than their child. They may need some additional academic reading, math and writing skills before they're ready to access postsecondary training toward their next career goal. Along the way, they won't likely encounter any additional ESL-specific supports in the program.

\*\*\*\*

These stories illuminate the experiences of a few adult language minority students over the past five years as they have sought to enroll in an adult basic education and high school completion program in Iowa, and who encountered a number of institutional barriers, several of which appear to violate equal educational opportunity laws. The matter of program access has become vital. According to the National Council of State Directors of Adult Education (2009), waiting lists for adult

ESL programs exist in most states. I have found that, four years after the passage of the WIOA in 2014, which was supposed to streamline access and improve educational outcomes for the most vulnerable students, circumstances in my own local program compelled me to question the degree to which adult English learners' access to education and opportunity was truly advancing. Even though I knew many of our adult ELL students were simply grateful to be offered a free educational opportunity, they needed and deserved, and in fact, were mandated by law, programs well-equipped to meet their particular needs.

### **Educational High Stakes for Adult ELLs**

As a state with a long history of welcoming immigrants, my home state of Iowa has experienced “unprecedented growth” in newcomer immigrant populations in recent years, and a result, diverse ethnic and linguistic populations exist in a state of “microplurality” (Grey & Devlin, 2014). By 2016, 47% of all noncredit ABE/ASE/ESL adult education participants in Iowa were in English literacy programs (Iowa Department of Education, 2016), on par with 45% of participants in adult education programs nationally (U.S. Department of Education OCTAE, 2017). Such large numbers nationwide have brought considerable attention and policy to address the needs of language minority students, including adult ELLs.

While adult immigrants in Iowa have varying levels of education, as of 2015, nearly a third did not have a high school diploma (American Immigration Council, 2017). Refugees and immigrants with at least some postsecondary education have been shown to have drastically lower unemployment rates and 50% higher earnings (Parrish, 2015). Because access to education and workforce opportunities are also key social determinants of individual and public health (Jones, 2017; U.S. Department



of Health and Human Services, 2014), student and practitioner concerns surrounding adult English Learners' right to an appropriate education in federally-funded educational programs should be thoroughly examined and urgently addressed.

On the national level, recent issue briefs have underscored the imperative to meet educational needs of adult English learners so that they can compete for the fastest-growing, high-demand jobs in the workforce (Parrish, 2015 and Wrigley, 2015). Parrish's national issue brief (2015) emphasized a link between U.S. immigrants with low-skilled jobs and low skill levels in the areas of literacy, numeracy and digital technologies, as well as a much lower likelihood of accessing training programs if they have low skills in those areas. Wrigley (2015) pointed out the limited time and resources working adults have to complete all levels of an ELA program before being able to access workforce training. For this reason, it is concerning that adult ELLs have been found to experience malpractices in placement, suffering disproportionately low rates of high school completion, college enrollment and college graduation relative to the overall population (Nuñez et al., 2016).

Adults in adult ESL programs, in fact, often don't advance to postsecondary opportunities. While only limited research has studied course-taking patterns and college matriculation rates of adult ESL students, large longitudinal studies in Iowa and California - states which house ABE and adult ESL within the community college system - have found only a 5%-8% college matriculation rate after participation in the noncredit ESL program (Howsare Boyens, 2015). Not all adult ELLs aspire to earn a college credential, but rather have diverse goals for participation in noncredit ESL programs, so more research on student goals relative to course-taking patterns and outcomes could provide insight into low matriculation rates. However, as a result

of these initial studies, Howsare Boyens (2015) suggests that noncredit adult ESL programming within the community college system needs to be more adequately resourced and streamlined, including more co-linear course options for both high school completion and ESL programs. In order to meet Iowa's gubernatorial "Future Ready Iowa" goal of having 70 percent of Iowans in the state workforce have postsecondary training by 2025 (Iowa Department of Education, 2016), adult ELLs' transitions to ABE and HS equivalency courses should continue to be examined for potential barriers and opportunities.

In this context, WIOA (2014) set key priorities for preparing the "most vulnerable workers", including adult ELLs, to access higher education and career pathways leading to living wage jobs in high demand (Bird, Foster & Ganzglass, 2014). WIOA resulted in instructional shifts that integrate college and career-readiness standards into adult education programs across Iowa and other states, including adult ESL. It also tied ESL funding to integrated workforce training and education efforts known as vocational ESL, and placed a priority on seamless access to high-quality education and workforce services. What remains unclear is the degree to which WIOA has ensured expanded access to adult education programs in the five years since its implementation.

### **Personal and Professional Significance**

Ladson-Billings' (1995) theory of culturally relevant pedagogy positioned the role of teacher as central to addressing disparate educational outcomes for minority students. Gorski's (2018) work reflects this stance, arguing that teachers, whether we acknowledge it or not, are change agents, and confront or perpetuate bias and inequity as a matter of course. Gorski's work on equity literacy starts with an assumption that I

share: every educator has the best of intentions regarding the success of all learners, but good intentions do not themselves result in equity. Gorski's principles of equity literacy call us to recognize, respond to, and redress inequities (defined as the "unfair or inequitable distribution of (material or non-material) access and opportunity") in our individual "spheres of influence" (2018, Taking the Equity View section, slide 24).

A primary challenge in my professional sphere of influence, then, has been to engage with colleagues and administrators to establish timely and transparent identification and placement processes for English Learners, to push for the prioritization of teacher professional development in order to meet the needs of our ELL students, to ensure adult ELLs' meaningful access to mainstream academic courses along with language support, and to take the necessary steps to provide language access to LEP individuals throughout their encounter with our program.

Throughout that process, I have felt my advocacy skills come up short in a number of areas. I have failed to convince some of my colleagues that language minority students should *not* be required to meet a higher standard on the same standardized placement test in order to enroll in the same high school equivalency diploma (HSED) course open to native English speakers. When I explained to another colleague, for example, that we couldn't solely rely on our informal assessments to identify a student for ELL services, I was accused of implying that my colleague was a racist. Sometimes, these disagreements about placement decisions felt deeply personal to one or both parties.

At times, I also felt that our adult ELLs encountered a system caught up in a "deficit" view of English Learners, in which students are viewed as inadequately

prepared, rather than individuals with varying assets and needs, and one in which the institution fails to see itself as charged with the professional obligation of designing instruction to meet students' particular needs.

What's more, I could also see my role in perpetuating some of these barriers. While I became an adult educator to be of service to the public good, and to contribute to a more just society, at times I have failed to see and address inequities in my sphere of influence until they were brought to my attention in some way, by students or fellow educators. For example, a fellow teacher pointed out how several aspects of our intake process could be intimidating to non-English speakers, especially students with limited or interrupted formal education (SLIFE) learners. The process involved lengthy computer testing and provided inadequate interpretation and translation of orientation and intake materials. Because of that, we produced orientation videos in students' home languages and obtained certified translations of more program materials. Such feedback helped me develop more equity literacy, which I seek to continue to build through the process of this Capstone research.

While I have struggled with notions of institutional barriers in my corner of the state, I found encouragement from two friends, university researchers in public health (one a volunteer in my ESL classroom), who invited me to attend a lecture at by Jones (2017) of the American Public Health Association. Jones' lecture called for expansion of the public health debate beyond universal access to health care to address key societal determinants of public health, including access to quality education, with a focus on racial equity. In the lecture, Jones advocated analyzing and addressing systems that contribute to health disparities, rather than focusing on individual arbiters of those systems. Jones lecture was refreshing to me because it

framed questions of educational access in terms of public health disparities - and not just as a workforce development issue that so often dominates the discourse about improving adult education programs. These issues concern the health and well-being of nearly 700,000 adult ESL students nationwide (U.S. Department of Education OCTAE, 2017).

An experienced advocate, Jones discussed the importance of easing policy makers, administrators, and program professionals into direct conversations about access, opportunity, and institutional racism. Jones emphasized that the word racism describes “a system, not an individual character flaw, and not a personal moral failing”. In presenting “The Gardener’s Tale” (2017), Jones gently wove an allegory of how well-meaning “gardeners” - those who are in charge of systems that should promote and protect health in our society - can inadvertently reinforce racism. During Jones’ story, I began to think of the different flower boxes in her tale and wondered about the quality of the metaphorical soil as it related to adult language minority students in adult education programs.

Jones also shared another allegory about access to opportunities, a story about enjoying a meal with friends in a restaurant late at night. They noticed some hungry looking people peering in through the windows of the entrance door. They saw the “Open” sign on the door and couldn’t understand why the folks on the other side of the door wouldn’t just come in and eat -- until they remembered the two-sided nature of the sign. In order to address inequities where they exist, as Jones points out, we must first recognize and name them. Gorski (2018) goes so far as to say that this equity lens is far more important than cultural competence, which is commonly seen

as fundamental to educational programs serving the needs of a multicultural population.

Hearing such stories while immersed in real-life dilemmas at work encouraged me to keep working to address institutional barriers in my own sphere of influence and make equity for adult English Learners a focus of my Capstone. To start with, I decided to investigate standards of equity as defined by legislation and case law. I wanted to be a resource for teachers, administrators and students alike, and to be an advocate, where needed. All of these stakeholders may have differing views on the degree to which language support services should be provided to adult English Learners in federally-assisted education programs. This Capstone is an attempt to inform those conversations. And as WIOA (2014) has continued to evolve and expand adult education, integrating such dialogues around equity into the work of adult basic education are a logical and critical next phase.

### **Summary**

In Chapter One, I presented issues of concern regarding equity and access for language minority students in adult education programs, discussed the significant impact access to education has on the health outcomes of individuals and communities, and explained my personal and professional investment in the topic. In Chapter Two, I will present a literature review that identifies relevant federal policies and case law pertaining to the equitable education of adult English Learners. Chapter Two will also address gaps in policy and best practice, as well as de facto policies that have been created by complex factors at the federal, state and local levels. In Chapter Three, my Capstone will outline an advocacy project aimed at informing educators and adult English Learners of the status and rights of LEP adults as a protected class.

In Chapter Four, I will reflect on the major learnings from my Capstone and suggest next steps.

## **CHAPTER TWO**

### **Literature Review**

#### **Introduction**

The National Council of Teachers of English acknowledge that educators are “complicit in the reproduction of racial and socioeconomic inequality in schools and society,” and are called to critically examine pedagogy and practices through which “we can work against racial, cultural, linguistic, and socioeconomic inequalities” (2005, Preamble section, para. 1). A decade earlier, Ladson-Billings’ (1995) argued the need for a culturally relevant theoretical lens on disparate educational outcomes for students from racial and ethnic minority backgrounds. In addition to helping students achieve academically and fostering cultural competence, Ladson-Billings identified the development of students’ “sociopolitical or critical consciousness” as a key element of culturally relevant pedagogy (p. 483). Those positions surely resonate with many TESOL professionals in public education, who have often found their way into the field through an interest in social justice issues, language and culture. Such statements articulate the purpose of this chapter, which focuses a critical perspective on the policies and practices affecting language minority adults’ access to educational opportunity in programs that have been designed to address social inequities through education.



National public health initiatives recommend addressing societal determinants of health, including access to education, to address disparities in overall health and wellbeing in the U.S., and promote national security and prosperity (U.S. Dept. of Health and Human Services, 2010). Relative to the overall population, adults who lack a high school diploma are far more likely to live in poverty (University of California-Davis Center for Poverty Research, 2015). In 2014, approximately one third of all adults who lacked a high school diploma lived in poverty as compared to 14% for people with a high school diploma. According to the same analysis, only 10% of adults with at least some postsecondary training lived in poverty. Even though language minority adults have widely varying levels of education, and a substantial number of adult immigrants have college degrees, over approximately half of foreign-born adults do not have postsecondary education and at least one third of all immigrants in Iowa do not have a high school diploma (American Immigration Council, 2017; Spruck Wrigley, Chen, White & Soroui, 2009). Given that free, public adult education is perhaps the only open door for many adults with fewer resources to access higher education and training, assuring that the adult education system functions as a stepping stone for language minority students, rather than a barrier, is just as critical as the enormous efforts that have addressed the same issues in K-12 education.

Questions of equity surrounding English Language Learners' access to equal educational opportunity have long been examined by research on K-12 schools and children (Nuñez et al., 2016); however, less scrutiny has been applied toward this question as it relates to adult participation in federally-funded adult education programs, even though adult ELLs make up 45% of all adult education participants

nationally. Therefore, in order to shed light on inequities that may have been overlooked by institutions, government policy or courts, I have formulated this research question: *How can adult education programs provide equitable access to education for adult English Learners?*

The foundation of this question entails an understanding of the concept of “equitable access” to education as defined by law. Therefore, this literature review begins with a summary of legislation and case law that have governed U.S. education policy for English Learners and analyzes their relevance for adult populations. This review of literature will also seek to define a standard of equitable access by which to evaluate policies and practices for equity. Considerable attention will also be given to de facto policies created by vague or conflicting education policies and inadequate and inconsistent funding at the federal, state and program levels.

Later sections of this chapter will identify areas of concern related to equal educational opportunity for LEP adults. Finally, the chapter will suggest best practices for adult education programs and next steps for advocacy in an effort to dismantle institutional barriers and promote a more equitable educational system. As educators, we must start somewhere, and there are elements within reach.

### **How the Law Defines Equal Opportunity in Education for English Learners**

Determining the degree of equity in a federal, state or local program requires a working definition of equity in principle and in law. Questions of equity arise around program access, assessment, facilities, curriculum, instructor qualifications, appropriation of resources, interpretive services, student achievement and more. This section describes laws and court precedents as they relate to English Learners’ pursuit of equity in education. Most of the existing scholarship on the history of equity and

advocacy for English Learners has focused on children in schools; however, examining chronologies of policy and case law show how the rights of adults and children intersect, and are upheld by Title VI of the Civil Rights Act of 1964. All adult education programs are vulnerable to problems of bias and disproportionality that have affected young language minority students. This section examines how subsequent laws and court decisions have more closely defined equity related to language minority students of all ages.

### **Emergence of English Learners as a Protected Class in Education**

Over a century of progress had advanced equal opportunity rights in education for both children and adults in the United States prior to the emergence of specific policies codifying the rights of English Learners. Coinciding with the passage of 14th Amendment (1868), which granted all citizens “equal protection of the laws”, twelve year-old Susan Clark, an African American girl in Muscatine, Iowa, sued to be admitted to the local public school and won (Communication Research Institute, 2012). Clark’s case was the first in a series of lawsuits aimed at dismantling the notion of “separate and equal” in education almost a century in advance of the renowned Supreme Court decision in *Brown v. Board of Education* (1954). *Brown v. Board* addressed racial segregation, but also set a precedent for the integration of English Learners in schools (Wright, 2010).

Wright (2010) and fellow scholars have summarized how, with the advance of the Civil Rights movement in the 1960s, the Civil Rights Act of 1964 became the foundation for laws and court rulings protecting the educational rights of English Learners. Title VI of the law prohibited discrimination against all people on the basis of race, color, or national origin in all federally-funded programs, including public

schools and higher education (DOJ, n.d.; Wright, 2010). Language discrimination was later cited by the Supreme Court as a proxy for national origin discrimination (*Lau v. Nichols*, 1974), more fully articulating English Learners as a protected class, and expanding the reach of the Civil Rights Act.

Not long after the Civil Rights Act passed, the Bilingual Education Act (1968) was the first law to acknowledge the particular disadvantages faced by students with limited English abilities in K-12 schools. It sanctioned academic support services for English Learners, including appropriating funds for “innovative” (including bilingual) programs in schools, without mandating a specific course of action (Texas Education Agency, 2010). *Keyes v. Denver* (1973) followed, in which the Supreme Court ruled specifically that English Learners could not be segregated from their English proficient peers, another important development in nondiscrimination and language education policy (Zacarian, 2012). Almost a decade later, a group of Mexican students who filed a class action lawsuit in *Plyler v. Doe* (1982, as cited in American Immigration Council, 2016; Wright, 2010) ensured all learners’ rights to a public education, regardless of immigration status. All of these legal developments established the specific rights of domestic- and foreign-born language minority students to access public education and receive services designed to meet their particular needs, without being segregated from their mainstream peers.

**The impact of *Lau v. Nichols* (1974).** Out of all of these precedents, the Supreme Court’s ruling in *Lau v. Nichols* (1974) has been widely cited in language access protections for English Learners in all federally-funded programs. Chinese parents in San Francisco filed a lawsuit contesting their child’s placement into mainstream classes in which no language support was provided. While the school

district had followed the *Brown v. Board* (1954) prohibition against segregation, the Supreme Court ruled unanimously in *Lau v. Nichols* that merely allowing an LEP student to access a mainstream setting without taking steps to provide “meaningful” instruction was a violation of students’ civil rights; again, the major impact of this case was that it defined how language discrimination became a proxy national origin discrimination (Crawford, 1996; DOJ, 2002; DOL, 2016; Hakuta, 2011; Samson & Collins, 2012; Whelan, 2010; Wright, 2010). The major result was that “sink or swim” policies were deemed unlawful (Johnson, Stephens, Johnston Nelson & Johnson, 2017).

According to the decision, schools were required to provide meaningful access to content-area classes as well as language instruction, ruling that “there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education” (*Lau v. Nichols*, 1974). This decision led the DOE Office of Civil Rights to create the Lau Remedies (Figure 1), a set of compliance standards in effect today for all K-12 schools, but which have not been widely applied or articulated to adult education programs.

As a result of the *Lau v. Nichols* (1974 decision, in the same year, the Equal Educational Opportunities Act (EEOA) of 1974 codified the obligation of educational agencies, namely schools and school districts, to ensure equal access to education regardless of race, color, sex, and national origin by taking “appropriate services to overcome language barriers” that impede equal participation by EL students in instructional programs (U.S. Department of Justice, n.d.). This legislation not only acknowledged barriers to equal access by English Learners, but with *Lau v.*

*Nichols* as a precedent, required them to be redressed. The Lau Remedies outlined schools' and school districts' obligations related to the identification of English Learners, evaluation of skills and determination of instructional support services, and fulfillment of professional standards for teachers working with language minority students (Wright, 2010). On the 40th anniversary of *Lau v. Nichols* and the Equal Educational Opportunities Act of 1974 (EEOA), the U.S. Departments of Education and Justice released a reminder to states, school districts and schools of their obligations to provide access to an appropriate education (U.S. Department of Education Press Office, 2015). These criteria are defined in Figure 1:

✓	<i>identify English learner students in a timely, valid and reliable manner</i>
✓	<i>offer all English learner students an educationally sound language assistance program</i>
✓	<i>provide qualified staff and sufficient resources for instructing English learner students</i>
✓	<i>ensure English learner students have equitable access to school programs and activities</i>
✓	<i>avoid unnecessary segregation of English learner students from other students</i>
✓	<i>monitor students' progress in learning English and doing grade-level classwork;</i>
✓	<i>remedy any academic deficits English learner students incurred while in a language assistance program</i>
✓	<i>move students out of language assistance programs when they are proficient in English and monitor those students to ensure they were not prematurely removed</i>
✓	<i>evaluate the effectiveness of English learner programs</i>
✓	<i>provide limited English proficient parents with information about school programs, services, and activities in a language they understand.</i>

Figure 1. Joint guidance from U.S. Departments of Education and Justice concerning schools' obligations to ensure equal educational access for English Learners. (U.S. Department of Education Press Office, 2015)

In addition, according to Baker and de Kanter (1983, as cited in “Task Force Findings,” n.d.) the Lau Remedies required instructional staff to be linguistically and culturally familiar with the background of the students, and while staff inservices could be used as a temporary remedy for a lack of qualified staff, districts were obligated to chart a plan for ensuring qualified teachers; for this purpose, the incorporation and development of bilingual/cultural paraprofessionals was encouraged. The policies which uphold these Lau Remedies are annual plans required for all schools and serve as a monitoring tool for all school districts nationally; in Iowa, they are known as “Lau Plans”. An example can be found in Appendix B.

As indicated by the literature, the importance of *Lau v. Nichols* (1974) cannot be understated. The effect of that court decision was that schools could not simply integrate and neglect the particular needs of English Learners in schools (Wright, 2010; DOE Press Office, 2015; Samson & Collins, 2012), and services to LEP children were greatly expanded.

**Castañeda standards and de facto language education policy.** Following the passage of the EEOA in 1974, *Castañeda v. Pickard* (1981) has been widely noted in the literature as having a lasting impact on language policy in schools (Crawford, 1996; Gonzalez, 2010; Hakuta, 2000, 2011; Wright, 2010). Similar to *Lau v. Nichols*, the court defined the “appropriate action” required by the EEOA (1974) to provide some kind of instructional program for English learners, rather than mere access to mainstream classes (Hakuta, 2001). Neither decision required a specific type of instructional program, but the “Castañeda standards”, still the basis for measuring equitable access to this day, prescribed a three-pronged effort to uphold “appropriate action” under the EEOA, including:

- 1) a program that is based on sound educational research
- 2) one that provides adequate commitment and resources
- 3) one that is regularly evaluated and proven to be effective

If instructional programs do not meet these standards, they are subject to sanction and remedy. While *Castañeda v. Pickard* (1981) is often cited as a major victory in summaries of educational policy affecting English Learners, a few authors offer at least some skepticism. Although hundreds of schools did indeed adopt ongoing monitoring plans and expand services to support English Learners because of *Castañeda v. Pickard*, Crawford (1996) conceded that no school had at that point ever had funding withheld as a result of sanctions.

Hakuta (2001, 2011), too, has expressed more skepticism than most who have held up the *Castañeda* standard as a key development, recognizing the “anything goes” nature of the first standard on sound educational theory, which has been widely interpreted and politicized. Policymakers in Arizona, for example, had cited research broadly disputed by language minority education experts in order to prohibit bilingual education in schools and require Structured English Immersion programs instead (Mora, 2010). Mora describes such programs as “an extreme form of pull-out English as a second language (ESL) instruction”, in which students are segregated from academic classes with their English-only peers, an approach discouraged by the Commission on Civil Rights in 1975 as detrimental to long-term language and academic development (p.2).

Johnson et al. (2017) pointed out a similar defacto English-only policy in Washington state. They found that the policy of Sheltered English Instruction, a program designed to make academic content accessible to ELL students in



mainstream classrooms (such as the popular SIOP or GLAD models), frequently resulted in English-only classrooms with little more than additional visual support, which clearly violates *Lau*.

Overall, then, several researchers have noted that programs based on “sound educational theory” required by *Castañeda v. Pickard* (1981) have not been required to meet a high standard. The multi-layered nature of education and language education policies results in both top-down (legislative and administrative) forces and bottom-up (instructor-driven) appropriation of policy that the result is de facto policies that may run contrary to stated policy (Johnson et al., 2017). Hakuta (2011), therefore, places the most faith in the third *Castañeda* standard, which calls for continuous revision and improvement of any effort that has proven ineffective. This standard, at least, requires programs to be held up to a standard of ongoing scrutiny and provides for a pathway for continuous improvement in services to ELLs.

**Summary.** By the end of 1974, U.S. law and legal precedent had identified limited English proficient students as a protected class. Without mandating a specific course of action, it was established that some “appropriate action” must be taken to support students’ meaningful access to language and academic education without undue segregation from their peers. As a result of the Equal Educational Opportunities Act (1974), *Lau v. Nichols* (1974) and *Castañeda v. Pickard* (1981), the U.S. Department of Education’s Office of Civil Rights created the Lau Remedies, a set of compliance standards in effect today for all K-12 schools. Relative to other scholars who have noted the importance of these legal precedents, both Crawford (1996) and Hakuta (2011) have pointed out that these standards have had a significant effect, but have been compromised by minimal enforcement and the vague nature and

politicization of terms like “effective” or “appropriate”. As the next section will demonstrate, *Lau v. Nichols* (1974) has been cited by the U.S. Departments of Labor and Justice to protect the rights of adult ELLs in federally-funded programs, even though the initial case involved the rights of LEP children. Despite these federal proclamations, the implications of the *Lau* ruling have not been widely applied or discussed in adult education.

### **Equal Educational Opportunity for Adult English Learners**

Although adult English Learners participating in federally-funded adult education programs should, by law, receive the same equal educational opportunity protections of Title VI of the Civil Rights Act, the limited literature that exists on equity for adult ELLs suggests that the education of language minority adults, in particular English Learners, has been overlooked by research and policy relative to children in K-12 settings (Howsare Boyens, 2015; Nuñez et al., 2016). Even so, Nuñez et al.’s (2016) review of research on transitions to higher education, adult ELLs have been found to experience malpractices in placement and are disproportionately underrepresented nationally in high school completion, college enrollment and college graduation rates. Such disproportionality suggests that an area for further research should include examining the institutional practices that may factor in poor outcomes.

Because there is scarce research on institutional factors and equity in adult basic education, research that does exist on issues in higher education, developmental education and K-12 can point to challenges that may be present in the adult education field as well. According to Nuñez et al. (2016), a lack of classification for adult English Learners in higher education - often referred to with varying terminology as

limited English proficient (LEP), culturally and linguistically diverse (CLD) students, ESL learners, emergent bilinguals and adult English Learners - has problematized the advancement of scholarship and policy defining equal access for adult language minority students. As Nuñez et al. (2016) points out, school-aged children have benefited from the U.S. Department of Education's official classification of "English Learner", which has afforded them certain legal rights and academic support services in schools nationwide.

By contrast, Nuñez et al. (2016) says that the varying labels and definitions applied to adult English Learners in postsecondary research and in federal and individual state policies result in a lack of consistent data. Engle & Lynch (2009, as cited in Nuñez et al., 2016) argues that "students who are not counted won't count" (p. 80). This point is worth considering for LEP adults in adult basic education as well. Much has been made of data collection and accountability in adult education since the establishment of the National Reporting System in 1997, but the research on adult ELLs' transitions to secondary and postsecondary education found little analysis of course-taking patterns and college matriculation rates. Studies of community-college-based adult ESL programs such as those conducted by Howsare Boyens (2015) and Spurling et al. (2008, as cited in Howsare Boyens, 2015), as well as additional research on the same patterns in adult ESL programs run through K-12 districts, could bring more attention to factors affecting adult ELLs' access to adult secondary education and postsecondary education.

**Under-articulation of equity for adult English Learners in the U.S.** In order to understand an ethical and legal standard of equity as it relates to adult language minority students seeking to access federally-funded adult ESL and ABE

programs, an examination of the history and policies surrounding adult education in the United States offers some answers. The current discourse on the educational rights of adult English Learners in adult education programs is minimal and presents a somewhat obscure legal standard, one that today's adult educators would be hard-pressed to find in a quick Internet search or phone call to governing authorities.

For example, even though the DOE oversees both adult and K-12 education, all of the nondiscrimination policies on their Office for Civil Rights (OCR) website pertaining to English Language Learners appears to be directed at youth, addressing "public schools, school districts, and state education agencies" (DOE Office for Civil Rights, 2000). State education agencies do administer the WIOA grants for adult education in each state, however, the OCR text is clearly directed toward K-12 programs. In 2016, my email inquiry to the OCR asking for clarification on the equal opportunity rights of adult English Learners provided a redirection to their document about the rights of LEP children in schools. After a follow-up, a further response from a senior OCR attorney in 2018 provided, rather unhelpfully, a redirection to the same information directed at public schools and school districts, as well as a reference to Executive Order 13166 on language access for all federally-funded programs, and a suggested a further inquiry with the DOJ. The DOJ has not responded to my inquiries.

**Nondiscrimination provisions in AEFLA, WIOA - Title II.** With respect to nondiscrimination provisions for adult English Learners, further research in the federal law governing adult education is inconclusive. The Adult Education and Family Literacy Act (AEFLA), Title II of WIOA (2014), which regulates adult education across the country, defines the term "English Learners", but offers no articulation of nondiscrimination provisions, as is explicit in WIOA - Title I,

Workforce Development Activities. Nor does AEFLA, Title II refer to the Equal Educational Opportunities Act of 1974, which specifies protections for English Learners in public schools and school districts. It remains unclear whether this is because the authors of WIOA felt these educational rights had already been addressed or if it is because the articulation of these rights has been overlooked.

Lacking clarification from WIOA, Title II or the DOE itself, it's clear at least that the equal educational opportunity rights of adult ELs have their foundation in Title VI of the Civil Rights Act (1974), given its prohibition against national origin discrimination and court precedents identifying language discrimination as an unacceptable proxy.

#### **Nondiscrimination provisions for LEP individuals in WIOA - Title I.**

Legislative history attributes the creation of the federal adult education system to the civil rights movement of the 1960s. According to the Department of Education Office of Vocational and Adult Education (OVAE, 2013), President Lyndon B. Johnson's Economic Opportunity Act (1964) set the stage for a federal system of adult education as part of an antipoverty effort to address social, economic and political discrimination. The Adult Education Act of 1966 then created federally-funded adult education programs and moved their administration to the DOE (OVAE, 2013). Since then, however, education policy for adults in free public education programs has become intertwined with labor policy, both of which have impacted adult education for almost two decades. In the late 1990s, the Workforce Investment Act (WIA) Title II, the Adult Education and Family Literacy Act (1998) began to govern federally-funded adult education, and the passage of the WIOA (2014) was a significant shift into further marrying education and workforce policies. WIOA

mandated that Departments of Labor and Education work together to develop unified state plans for adult education and workforce development.

The Department of Labor is not, perhaps, where most would seek answers about equal educational opportunity, but a final ruling on WIOA - Title I (Workforce Development Activities) by the DOL in December 2016, very precisely outlines nondiscrimination provisions and guidance for serving adult LEP individuals.

According to this final ruling, which updated nondiscrimination and equal opportunity provisions for WIOA, Title I, “failure to provide language assistance to limited English proficient individuals may be a form of unlawful national origin discrimination” (DOL, 2016, p. 87142). The ruling cites “existing federal guidelines” (p. 87133) and the precedent of *Lau v. Nichols* (1974). This is significant because as previously discussed, this case ruled on language access for children, but has now become the basis of nondiscrimination provision for adults. The DOL ruling addressed concerns by advocacy groups that a special classification was necessary to better ensure access for such individuals (p. 87142), which echoes Nuñez et al.’s (2016) and Eyring’s (2014) argument that LEP adults should be distinguished among adult learners overall.

Thus, an articulation of nondiscrimination provisions for LEP adults exists in WIOA for participants in Title I, Workforce Development Activities (in contrast to Title II, Adult Education) with legal protections for “meaningful access” to appropriate education (DOL, 2016, p. 87133), as well as guidance for “reasonable steps” (p.87160) to ensure meaningful access to all services. In fact, the DOL (n.d.) outlined “safeguards” to ensure equal access for LEP individuals under WIOA. Its recommendation of an “LEP Plan” (p. 87223) reflects the Lau Remedies and guidance

from the DOL Civil Rights Center (CRC), which ties case law on the rights of ELL children to nondiscrimination rulings for adults. The ruling reads:

Courts have consistently found that a recipient's failure to provide meaningful access to LEP individuals violates Title VI's prohibition of national origin discrimination.[26] Consequently, this final rule provides that the definition of national origin discrimination includes discrimination based on limited English proficiency. The final rule sets forth recipients' compliance obligations for ensuring that LEP individuals have meaningful access to WIOA programs and services (DOL, 2016, p. 87133).

✓	<i>The process the recipient will use to determine the language needs of individuals who may or may seek to participate in the recipient's program and activities (self- or needs-assessment)</i>
✓	<i>The results of the assessment, e.g., identifying the LEP populations to be served by the recipient</i>
✓	<i>Timelines for implementing the written LEP plan</i>
✓	<i>All language services to be provided to LEP individuals</i>
✓	<i>The manner in which LEP individuals will be advised of available services</i>
✓	<i>Steps individuals should take to request language assistance</i>
✓	<i>The manner in which staff will provide language assistance services</i>
✓	<i>What steps must be taken to implement the LEP plan, e.g., creating or modifying policy documents, employee manuals, employee training material, posters, [sic] Web sites, outreach material, contracts, and electronic and information technologies, applications, or adaptations</i>
✓	<i>The manner in which staff will be trained</i>
✓	<i>Steps the recipient will take to ensure quality control, including monitoring implementation, establishing a complaint process, timely addressing complaints, and obtaining feedback from stakeholders and employees</i>
✓	<i>The manner in which the recipient will document the provision of language assistance services</i>
✓	<i>The schedule for revising the LEP plan</i>
✓	<i>The individual(s) assigned to oversee implementation of the plan (e.g., LEP Coordinator or Program Manager)</i>
✓	<i>Allocation of resources to implement the plan.</i>

Figure 2. Federal Fund Recipient Language Access Plan (LEP Plan) Guidance. (U.S. Department of Labor, 2016, p.87223 - 87224).

***Recommended LEP plans.*** One of the safeguards issued by the DOL is a recommended LEP plan (Figure 2), as described by DOL Civil Rights Center. The elements of the plan incorporate guidance from the DOJ (2002) for all federally-funded recipients.

***Implications for Title I job training programs.*** Because the Department of Labor oversees many workforce education & training programs for adults in the United States, these rulings cited by the DOL are significant for adult education participants. Such nondiscrimination provisions uphold language access to Title I programs, which may include career pathway training such as welding certificate programs, commercial driver's license training and certification, general job skills workshops, and other free vocational training programs for high-demand jobs. The excerpt from DOL the ruling, below, describes programs' obligations to remove language barriers for LEP individuals; in it, "recipient" refers to workforce development agencies and programs:

b) A recipient must take reasonable steps to ensure meaningful access to each limited English proficient (LEP) individual served or encountered so that LEP individuals are effectively informed about and/or able to participate in the program or activity.

(1) Reasonable steps generally may include, but are not limited to, an assessment of an LEP individual to determine language assistance needs; providing oral interpretation or written translation of both hard copy and electronic materials, in the appropriate non-English languages, to LEP



individuals; and outreach to LEP communities to improve service delivery in needed languages.

(2) Reasonable steps to provide meaningful access to training programs may include, but are not limited to, providing:

(i) Written training materials in appropriate non-English languages by written translation or by oral interpretation or summarization; and

(ii) Oral training content in appropriate non-English languages through in-person interpretation or telephone interpretation.

(c) A recipient should ensure that every program delivery avenue (e.g., electronic, in person, telephonic) conveys in the appropriate languages how an individual may effectively learn about, participate in, and/or access any aid, benefit, service, or training that the recipient provides. As a recipient develops new methods for delivery of information or assistance, it is required to take reasonable steps to ensure that LEP individuals remain able to learn about, participate in, and/or access any aid, benefit, service, or training that the recipient provides (DOL, 2016, p. 87223).

As in rulings on educational opportunity, this ruling makes clear that programs must remove language barriers to participation, rather than prohibit participation by LEP individuals or simply allow them to flounder in English-only instruction without support.

The DOL ruling on WIOA, that an individual cannot be denied or delayed the opportunity to participate in a training program based on language ability, took effect in December 2016, and it has profound implications for the vast network of programs providing education to adults through workforce development services. Recipients of

federal funding must provide “vital information” in frequently encountered languages (pp. 87144-87145) and overcome language barriers to provide meaningful access to educational programs, such as employment training.

One example provided by the ruling outlines the rights of LEP individuals seeking to participate in a welding training program; the ruling states that the individual must be provided language support services, rather than be denied placement into the course (87224). Whether that language assistance involves interpretation, bilingual instruction, or English-language support in or out of class is not specified; denial of enrollment or enrollment without some kind of language support to provide meaningful access is prohibited.

The increasing number of workforce development programs that offer adult English Learners language classes with content-based instruction in advance of workforce training or certificate programs, such as healthcare English or transportation English, may be meeting this standard. However, requiring adult LEP individuals to first demonstrate English proficiency before providing access to workforce training content appears to be a violation of the Department of Labor’s (2016) nondiscrimination provisions. Workforce development employees, similar to adult educators, may not fully realize ramifications for the DOL ruling on language access to provide meaningful instruction required by the law. And yet, in its extensive ruling, the DOL stated that the nondiscrimination provisions are “particularly important in light of the current severe underrepresentation of LEP individuals in Title I job training programs and the significant language access violations that CRC’s compliance reviews have revealed” (p. 87158).

Such a statement by the DOL underscores the need for additional attention to compliance issues involving LEP individuals seeking WIOA programs and services.

**The impact of Executive Order 13166.** An examination of WIOA illuminates the intertwined nature of adult education programs between the U.S. Departments of Labor and Education and the nondiscrimination programs that apply to participants in both. The executive branch has also taken steps to protect equal educational opportunity for LEP individuals. Executive Order 13166 (Executive Office of the President, 2000) clarified “existing Title VI responsibilities” (referring to the Civil Rights Act) to provide language access for LEP individuals seeking to participate in any federally funded program. Executive Order 13166 reasserted limited English proficiency as a form of national origin discrimination (DOJ Civil Rights Division, 2011, p.2). The order reminded all federally-assisted programs of the mandate to overcome language barriers to provide “meaningful access to LEP individuals” (DOJ, 2011, p.1). Policy guidance for the executive order by the DOJ (2002, p. 41458) cites *Lau v. Nichols* (1974) and incorporates to offer straightforward clarification for all federal programs, which include AEFLA adult education.

In its guidance on Executive Order 13166, the Department of Justice strongly suggests that recipients of federal funds develop written LEP plans which include “notice of language assistance services”, provision of language assistance through qualified interpreters, staff training, identification and assessment of LEP communities, and monitoring, evaluating and updating of the LEP access plan (DOJ Civil Rights Division, 2011, p.3). While the DOJ outlines each responsibility in detail, it does not prescribe a uniform LEP plan for all federal fund recipients. An example of the language access toolkit assessment for federally funded programs is

included in the Appendix A. Fidelity to language access guidelines by adult ABE/ESL programs, by measuring whether or not an LEP plan with those items has been created and monitored, would inform future discourse on how well such programs are meeting the needs of LEP individuals.

**Federally-assisted programs, defined by the Department of Education.**

Even though federally-funded adult education programs governed by the Department of Education are subject to Executive Order 13166, a review of the DOE's documents outlining nondiscrimination provisions for ELLs finds guidance directed somewhat narrowly to "school districts" rather than precisely articulating other types of education programs, such as adult education.

This lack of a more extensive definition, including on DOE websites for the Office of Career, Adult and Technical Education (OCTAE), suggests that the DOE has overlooked the particular language that would more specifically define the rights of LEP individuals in adult education programs. A lack of articulation places a burden on adult education instructors and students to find information about nondiscrimination provisions for adults. It may help, perhaps, if the DOE posted a new memorandum with updated information on nondiscrimination provisions for adult education and other federally-assisted programs and activities. The definition of such "programs and activities" was elaborated on by the DOE (2000) in its Final Ruling on Civil Rights Restoration Act (CRRA) of 1987. The then-Secretary of Education issued amendments to nondiscrimination regulations for Title VI, which apply to all programs, including the ones in Figure 3.

Sec. 100.13 Definitions.

\* \* \* \* \*

(g) The term program or activity and the term program mean all of the operations of--

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship--

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity that is established by two or more of the entities described in paragraph (g)(1), (2), or (3) of this section; any part of which is extended Federal financial assistance.

(Authority: 42 U.S.C. 2000d-4)

*Figure 3.* Conforming Amendments to the Regulations Governing Nondiscrimination on the Basis of Race, Color, National Origin, Disability, Sex, and Age Under the Civil Rights Restoration Act of 1987 (U.S. Department of Education Office for Civil Rights, 2000, Sec. 100.13, p. 68054).

According to these definitions by the Department of Education, state departments of education and local adult education programs are indeed governed by Title VI nondiscrimination provisions. Adult education programs that are run by community colleges, for example, would fall under (ii), 2(i), but also under (4), because they have been established by a recipient of federal assistance (the state department of education), and by a postsecondary institution (also a recipient of federal assistance) in conjunction with the state department of education.

**Discussion.** A review of the literature shows that children have long had vigilant parent, teacher and legal advocates fighting for their rights, and that these

rights oblige federally funded educational programs to take “appropriate action” to meet the needs of English Learners. Whereas the Department of Education has failed to provide easily accessible information about nondiscrimination provisions specifically for LEP adults, these regulations do exist. The foundation for these regulations was established by the Civil Rights Act of 1964 and cover adult education programs as one of the entities defined by Secretary of Education in the Civil Rights Restoration Act (1987, as cited by DOE, 2000). In addition, the language access rights of LEP individuals have been clarified since then by Executive Order 13166 (2000), and elaborated upon by the Department of Justice (2002, 2011), which cited the precedent against language discrimination as a form of national origin discrimination established by *Lau v. Nichols* (1974). Furthermore, final rulings issued by the Department of Labor (2016) for WIOA - Title I programs ultimately articulate rights for adult English Learners in workforce development training opportunities.

It remains likely that many adult education programs hosted by higher education institutions such as community colleges may not be fully in compliance with standards set by those precedents, and may not consistently possess language-access or LEP plans sometimes called “Lau Plans” in K-12 environments. Further research could explore the degree to which LEP plans are maintained and implemented by WIOA-funded adult education programs in community college and K-12 systems, which could stimulate more compliance with the Lau Remedies.

Research could also examine the degree to which adult English Learners are provided language access support for academic classes, noting the nature of each type of intervention (push-in, pull-out, bilingual support, sheltered instruction, etc.). As Howsare Boyens’ (2015) review of research on noncredit adult ESL populations

pointed out, more quantitative studies on adult ELLs course taking patterns and matriculation rates to high school completion programs, postsecondary and vocational training could contribute valuable knowledge about both demographic and institutional factors tied to outcomes.

With respect to LEP individuals' access to workforce development training programs and activities, another major realm of federally-assisted adult education, the compliance violations referenced by the Department of Labor (2016) are apparent in at least one workforce development region in Iowa. In that context, adults identified as LEP individuals who seek to access workforce training programs are referred first to a WIOA-funded ESL program for which there are insufficient placements available for classes.

Under such circumstances, LEP adults are delayed or foreclosed from the workforce training opportunities they seek, in what appears to be a violation of the Department of Labor's (2016) nondiscrimination provisions. New research could examine the functionality of referrals between WIOA workforce and education programs to examine whether insufficient resources are resulting in violations of Title VI of the Civil Rights Act. If it is found, as the Department of Labor has pointed out, that LEP adults are frequently denied placement in Title I workforce training programs and Title II adult education programs due to language barriers, or are admitted to academic and vocational courses without robust language support, or are referred to Title II adult education programs which may have long waiting lists, then more advocacy can turn to addressing these issues.

Finally, it should be acknowledged that in some cases, adult ELLs may be facing a wait of several months or more, only to find themselves in programs of

insufficient frequency or intensity of instruction, at just a few hours per week. In such scenarios, a student would require several years to develop sufficient English proficiency to achieve their original goal of participation in the employment training programs. One area addressing the question of access to rigorous academic instruction are relatively recent requirements for WIOA-funded adult education programs to implement the College and Career Readiness Standards (CCRS). More research would be necessary, state to state, to determine the degree of implementation, as it may vary due to high teacher turnover, attrition and varying degrees of accountability for local implementation. Given the current and ongoing efforts to realign federally-required assessments such as CASAS tests to the CCRS, future research may find increased implementation and rigor in federally-assisted adult ESL and ABE programs across the nation, as they strive to meet accountability targets for continued program funding.

Because of the lack of easily accessible information about legal standards of equitable access for adult ELLs in federally-assisted ABE/ESL programs, it may be challenging for some of the strongest advocates of language minority students - adult ESL teachers, who are often motivated by a strong commitment to social justice - to become well-informed. Teachers are important change agents who not only carry out policy, but who are the heart of multiple layers of policy, much like the core of an onion (Ricento and Hornberger, 1996, as cited in Johnson et al., 2017). Behind and beyond closed doors, teachers serve as important advocates for and with students. The legal research provided in this literature could become a helpful source of information to adult educators, but publishing this information more widely through agencies that



govern adult education (such as OCTAE and state-level divisions of adult education) would almost certainly provide greater awareness and benefit to teachers and students.

Finally, the historic overview of the educational rights of English Learners in this literature review has illustrated the impact that learner communities have made by pulling the judicial “levers” that have been key to institutional change in our schools and society (Samson & Collins, 2012). Cases such as *Clark v. Board of School Directors* (1868), *Brown v. Board of Education* (1954), *Lau v. Nichols* (1974), *Castañeda v. Pickard* (1981) and *Plyler v. Doe* (1982) have demonstrated powerful advocacy by underserved and marginalized groups. Comparing Susan Clark’s early desegregation victory with Linda Brown’s one hundred years later illustrates how court rulings can make an initial impact but often need to be revisited in the face of continuing discrimination; the case of *Alexander vs. Holmes County* (1969), which prevailed against continued school segregation in Mississippi fifteen years after *Brown v. Board*, demonstrates the same. These events affirm Gorski's (2018) principle of equity literacy that, once won, equity needs to be sustained.

### **Areas of Concern: Gaps in Equitable Policy and Practice**

Free, public, adult education is one of few open doors for low-income adults lacking the English or academic skills necessary for a living wage job or career. For many, it may be their best opportunity to improve their economic future. Because of that, examining institutional practices that may be disadvantaging language minority students is critical. Though the Workforce Innovation and Opportunity Act (2014) has been described as prioritizing the needs of English learners and low-skilled adults (Bird et al., 2014), three years into its implementation, adult ESL learners continue to face long waiting lists, insufficient instructional time, and inconsistent access to

rigorous, quality instruction. Even though many foreign-born adults are grateful for the opportunity to participate in free adult education classes in the U.S., they may or may not perceive how institutional barriers affect their ability to secure safe, healthy, and economically stable futures. More of these issues will be examined in this section.

As discussed above, standards of equitability have been defined by Title VII of the Civil Rights Act (1964), as well as by legal precedents including *Lau v. Nichols* (1974), *Castañeda v. Pickard* (1981), Executive Order 13166 (2000), guidance from the Department of Justice, and final rulings to WIOA by the Department of Labor (2016) and to the Civil Rights Act by the Department of Education (2000). Because of those policies and rulings, reasonable steps to ensure compliance with nondiscrimination provisions surrounding LEP individuals would include the following areas of scrutiny: adherence to an LEP plan, timely and appropriate identification of EL students, meaningful access to language and academic instruction, avoiding unnecessary segregation from native English-speaking students in mainstream classes, programming based on sound educational theory with adequate resources, ongoing monitoring of program effectiveness, and provision of vital information in a language LEP individuals understand, without delay. Areas of concern in the literature related to these criteria will be examined in this section.

### **Identification and Placement**

Culturally and linguistically diverse students, some of whom need English language support services, bring a "unique learning profile" to each classroom (Auge, 2016). This profile includes varied learning experiences, cultural values, mindsets, multilingual abilities, perceptions of education, learning styles and needs (Crandall & Sheppard, 2004, as cited in Bunch, 2009). Such characteristics, viewed by educators

as both assets and challenges, can be undervalued in the identification process due to time constraints for assessment and the current emphasis on standardized placement tests for adult education programs.

**Caution against use of a single high-stakes measure.** The high stakes nature of assessment, identification and placement at initial intake for ELLs has been described in reviews of research on K-12, transitions from high school to community college, but also has implications for adult ESL programs (Bunch, 2009; Mahoney, Haladyna & MacSwan, 2009). While researchers have acknowledged the usefulness of standardized tests as part of a broader assessment of a multitude of factors (Bunch, 2009; Spruck Wrigley et al., 2009; Wrigley, 2008), experts across educational levels caution against reliance on a single high stakes test score (Bunch, 2009; Castro & Wiley, 2008; Mahoney, et al., 2009; Whelan, 2010). Federally-assisted education programs rely heavily on test scores for initial placement as both a tool and accountability requirement for continued funding, and such tests are a practical necessity for assessing large numbers of students. Overall, research concurs that high stakes tests should be used as a starting point, but test scores may overshadow other factors that would steer students toward more beneficial services or streamlined pathways.

No intake process is perfect, but research on K-12 ELL populations and higher education identifying patterns of misplacement points to a similar need for adult education programs to use comprehensive assessments upon intake. Auge (2016) and Nuñez et al. (2016) critique the “deficit” framework frequently applied to English Learners, in which the more complex social identities and assets of English Learners are largely dismissed or ignored. Nguyen (2015, as cited in Auge, 2016) found that in

K-12 settings, ELLs' "complex linguistic profile" were seen as a "deficit and in fact the culprit of poor academic performance. It was not leveraged, considered, valued, or understood" (Auge, 2016, p. 5). Furthermore, Auge's review of research found a disproportionate number of ELs have been identified for special education services, and pointed to a need for more comprehensive assessment examining home language literacy, English language proficiency, and overall academic skills. By the same principle, in adult education, research could help illuminate whether or not language minority students are disproportionately referred to ESL or lower-level ABE classes based primarily on a narrow measure.

**Advantages and risks of alternative assessments.** Though research has acknowledged the need for more forms of assessment, some of which are more appropriately designed by local programs, Wrigley (2008) cautions against a "patchwork" (p. 186) of "homegrown assessments", which could prove less "trustworthy" than field-tested measures (p. 194). In addition to standardized placement tests, informal interviews and observations may contribute to placement decisions for adult English Learners. However, Brown's (2011) review of research documenting the effects of unconscious bias on listeners' perception of intelligibility when encountering non-native English speakers could be of consequence in non-standardized, non-field-tested oral assessments that factor into placement decisions.

Implicit bias towards non-native English speakers has also been discussed by Ricento (2014), who criticizes the unconscious bias that native speakers in "homogenous speech communities" carry of a "non-normative" linguistic and cultural lens. Such non-normative views can result in unintentional but false stereotyping of

emerging English speakers as monolingual or monocultural individuals and encourage misguided “classification schemes” in which a “refugee whose very identity is reduced, literally, to marginalia on the notepad of the unknowing government bureaucrat” rather than human beings with needs, assets and goals in the communities in which they reside (Ricento, 2014, p. 365-366). Ricento’s highly critical statement hardly describes the dedicated and caring ABE/ESL instructors that generally work with ESL students and other newcomers to make a learning plan that fits with their particular needs and goals. However, exploring the role of unconscious bias in assessment of adult ELLs merits more attention to determine if it impacts student opportunities on any level.

**Consequences of misplacement.** Research from higher education, K-12 and adult education points to the importance of appropriate identification and assessment of ELLs in any stage of their education. Bunch’s (2009) review of research on community college assessment and placement of language minority students concludes that high stakes testing can “significantly impact the trajectories of ELs as they attempt transitions into higher education” (p. 269)”. Although this research comes from higher education, it suggests a need to explore a similar problem for adult education programs. According to Bunch:

US-educated immigrant students in need of significant language support may be inappropriately placed in regular courses that feature no understanding or support for their language needs, little opportunity for them to improve their English and a high likelihood of failing the course. On the other hand, ESL classrooms, if not designed with the needs of Generation 1.5 students in mind, may delay their progress toward credit-bearing English courses required for

transfer to four-year institutions and separate them from the environments in which they might have greater opportunity to improve their English and academic skills (p. 274).

In addition, Bunch (2009) discussed a similar concern regarding US-educated language minority students being referred to ESL classes that are based more life and work skills, as well as cultural integration topics that do not align with their particular needs or academic goals. Even with the advent of College and Career Readiness Standards for implementation in adult ESL classes, the level of implementation varies. If inappropriately placed in a general ESL life skills class, learners may stagnate or drop out without sufficient instruction targeting academic skills. As a result, these learners may be out of place in conventional ESL and also seen as unready for ABE programs. A study by Bers (1994, as cited in Bunch, 2009) at a Midwestern community college (again, regarding remedial college-level ESL) showed little correlation between ELL students' test taking results, course placement and academic success. Such a finding suggests that adult ELLs can bring assets to overcome what educators may initially view as insurmountable academic deficiencies.

Similar to Bunch (2009), Spruck Wrigley et al. (2009) describe how adult English Learners with high oral skills and low literacy skills may be placed in general or life-skills ESL classes in the adult education system, rather than classes dedicated to academic literacy skills such as those found in ABE and high school completion programs with native English speakers. Even though errors in initial misplacement may seem relatively minor in consequence, since teachers would likely redirect students to the most appropriate opportunity over time, it is worth considering that busy adults with limited time to pursue opportunities that aren't really serving them

may stop-out rather early on. Alternately, adult ELLs may experience failure in an inappropriate placement before a change can be facilitated, reinforcing students' negative self-perceptions of their ability and potential. Both outcomes are likely to be demoralizing. Students who disappear tend not to complain, but do suffer delayed or lost educational and career opportunities all the same.

Overall, research on adult education has not thoroughly studied the consequential nature of high stakes placement assessments on opportunities and outcomes for adult ELLs. However, research in the fields of K-12 and developmental ESL education at the college level suggest that this could be an area worth scrutiny in ABE/ESL education also. As Bunch (2009) points out, it is important to understand the challenges community colleges face, given their often underfunded circumstances; by the same measure, adult education programs in any setting strive to appropriately assess adult learners while constrained by funding and the advantages and disadvantages inherent in various assessment practices.

**The literature on best practices in assessment.** How then can adult education programs ensure more equitable assessment practices at point of intake? While acknowledging the necessity of standardized testing to accommodate both large numbers of learners and participate in the prevailing accountability paradigm, a review of research overwhelmingly cautions against the use of a single high stakes measure to determine educational programming for English learners (Bunch, 2009; Castro & Wiley, 2008; Mahoney, et al., 2009; Whelan, 2010). Best practices include the use of information about students' home language literacy, English literacy, educational background and literacy practices, which offers more of a complete

picture of each student's language and literacy needs (Abedi, 2004; Bunch, 2009; Castro & Wiley, 2008; Mahoney, et al., 2009; Whelan, 2010).

Adult education programs face the particular challenge of balancing the required use of standardized placement tests to assess adults' English language proficiency with other assessments to build a more accurate and complex picture of individual students in the limited time available for intake. The Iowa Department of Education, in this regard, encourages the use of additional assessments to screen applicants, though they may be underutilized. These include the following:

- observations of a student's ability to fill out forms and complete additional writing tasks
- level of educational attainment
- results of CASAS writing screening (for ABE/ASE) or CASAS oral screener [for applicants to ESL programs] (Iowa Department of Education, 2017).

The use of such tools can support a more efficient, transparent and equitable process for all; however, research also underscores the need for inclusion of learner perspectives and self-assessments conducted by bilingual educators, as well as the involvement of trained educators in creation, delivery and evaluation of assessments measuring language and literacy (Auge, 2016; Wrigley, 2008). Experts suggest using such tests - and translating the directions to ensure more validity - as part of a more comprehensive and reliable profile of each individual student (Whelan, 2010). Many of these tools are regularly employed by local programs, while other programs may default to heavy emphasis on testing due to time constraints. Although all of this may



seem impractical to educators who have a high volume of students to assess, efficient tools and systems such as matrices, rubrics, and scheduling may help the process.

### **Meaningful Access to Language and Academic Instruction**

According to the legal precedents identified in this literature review, adult English learners also have the right to access all programs and activities provided by any federally-assisted entity, which would include access to both language and academic content instruction. This aspect of equity for LEP adults requires close attention given the large number of adult ELL participants in adult education.

**Access to academic content and rigor.** Regarding access to academic content, the *Lau* decision made it clear that programs must avoid unnecessary segregation of English Learners and must provide access to both language and academic instruction, including math, science or other content areas. However, a review of research on both adult ESL and higher education suggests that EL students receive less exposure to academic content in ESL programs (Bunch, 2009; Johnson & Parrish, 2010; Nuñez et al. 2016). Nuñez et al. cited research findings that students retained for longer periods in K-12 ELL programs, for example, received less exposure to academic content needed for college and career readiness; in addition, initial research on ELs enrolled in community college shows limited access to mainstream courses. Of concern is research by Johnson & Parrish (2010) which showed that adult ESL classes tend to focus more on foundational and life skills rather than academic skills considered to be critical by college faculty. Since 2010, however, a nationally-led effort to integrate academic skills into adult ESL classes has taken place. With this relatively recent shift to implementation of more rigorous College & Career Readiness Standards in both ABE and ESL classrooms, the rigor of adult ESL

classes may be increasing. However, the degree of implementation likely varies at the state and program level, which would be an important area for continued research.

To address adult ELLs' need to access content-based academic classes, Howsare Boyens (2015), in a study of noncredit adult ESL programs at an Iowa community college, suggested the development of more co-linear programming for adult ELLs with high school completion goals. In order to do so, individual states may need to come up with funding mechanisms or policies that allow dual participation. Bunch (2009), made a similar point, arguing from the field of higher education that community colleges, which also tend to separate language and academic instruction, should create more concurrent academic pathways for ELLs and "re-envision language support", including collaborations between ESL specialists and content-area teachers, to address "academic marginalization" (p. 283-284). There is no prescribed program of language support for content-based classes in any federally-assisted program, but it is worth keeping in mind guidance from *Lau v. Nichols* (1974) to avoid unnecessary segregation and assure that mainstream options contain language support for academic content, rather admission to a "sink or swim" environment.

**The existence of waiting lists.** Another critical issue with regard to adult ELLs' access to language and academic instruction relates to the widespread existence of waiting lists for ESL programs (Center for Adult English Language Acquisition, 2007; Eyring, 2014; Howsare Boyens, 2015; National Council of State Directors of Adult Education, 2010; Spruck Wrigley et al., 2009; Tucker, 2006). While the extent and frequency of waiting lists varies between and within individual states, students who face waiting lists are essentially "sentenced" to a period of months or years before they can proceed to courses geared toward earning their high school

equivalency diploma or developing additional academic skills required for transition to postsecondary education or workforce training.

Referring students to general ESL classes as the only support for access to other programs and activities, regardless, has been interpreted as unlawful by the Department of Justice (2002, p. 41457) in its policy guidance on Title VI prohibitions against national origin discrimination, in which it states that federal fund recipients may employ ESL courses “as an important adjunct to a proper LEP plan. However, the fact that ESL classes are made available does not obviate the statutory and regulatory requirement to provide meaningful access [to all programs and activities] for those who are not yet English proficient” (U.S. Department of Justice, 2002, p. 41457). Such statements would therefore apply to both academic content classes as well as employment training programs funded by the Departments of Education and Labor, but would certainly challenge individual programs to fulfill those requirements.

**The role of new standards in academic access.** The major shift on academic standards-based education in both ABE and ESL programs since the passage of WIOA is one reason for optimism, given its aim to integrate more academic skills into general ESL classes; however, very early and limited research (of a small group of practitioners in one state) showed that the degree of implementation of these standards in ABE/ESL programs is minimal to moderate (Conklin-Olson, 2017). High teacher turnover also likely contributes to a continued practice of focusing on general life skills in ESL classes rather than more complex and set of College and Career Readiness Standards (CCRS) that have been the focus of state and national professional development in recent years.

New English Language Proficiency Standards (ELPS) for adults have also been created to help both adult ESL and ABE instructors provide the access to academic rigor that all students deserve, and yet, in states like Iowa at least, implementation of ELP standards in both types of programs has thus far not received extensive state leadership in terms of professional development or monitoring, and is likewise undercut by frequent teacher turnover, given the extremely part-time nature of teaching positions (Center for Applied Linguistics, 2010). In order to ensure meaningful access to language and academic content for adult English Learners, integration of these standards should be more consistently supported and monitored by state and local program administrators, and involve ongoing professional development (Conklin Olson, 2017). With the revision of federally-required standardized assessments such as CASAS, used by many state programs to measure and report student learning outcomes, to assess more of the CCRS, academic rigor will likely get more of the emphasis that it deserves.

### **Access to Instruction Based on Sound Educational Theory**

Other challenges that merit urgent attention regarding equity and access for adult English learners relate to the qualifications of the instructor workforce. Refugees and immigrants who may be unfamiliar with the U.S. education system place their trust in schools, teachers and program staff to help them reach their educational and occupational goals. In terms of teacher qualifications, credentialing for adult educators of adult ELLs vary widely across states (Crandall, Ingersoll & Lopez, 2010), as national policy does not dictate teacher training requirements, although state requirements for licensure and subsequent EL training do exist in some contexts.

Both ABE and ESL adult educators may feel compelled by the large number of ELL participants to expand their instructional toolkit, but may not be proactive in seeking out training beyond a few occasional workshops. Leadership from adult education programs, then, is critical in requiring, arranging or incentivizing substantive professional development that will have a real impact. Conklin Olson's (2017) study of state standards implementation emphasizes the "mediating factor" of "the teacher in the middle" (p. 3) along with Ladson-Billings' (1995) theory of culturally relevant pedagogy, and Johnson et al.'s (2017) study of sheltered instruction programs revealed that teachers appropriate state language education policy in varied and significant ways.

According to Teachers of English to Speakers of Other Languages (TESOL, 2003), "qualified" ESL and EFL educators are those who not only have a high level of English proficiency, but also 2) teaching competency, 3) are aware of current trends and research, 4) should have credentialing "where applicable" and 5) "require ongoing professional development" ( p.1 ); yet, TESOL training requirements for adult ESL teachers are quite minimal in some states and local programs.

Adult ESL teacher credentialing and certification requirements vary widely in different states (Crandall, et al., 2010). Eyring (2014) identified an acute need for qualified adult ESL instructors. In Iowa, for instance, the requirement for teachers of adult English Learners is a minimum of a B.A. in any field (State of Iowa. (2014), though by contrast, K-12 ELL programs in Iowa require licensure based on 18 credit hours of ESL coursework, a practicum and passage of an ESL content-area test. In nearby Minnesota, where adult ESL is housed in public school districts, adult ELLs have access to ABE certified teachers or non-licensed instructors with a

TESOL-related degree. Still, and though this may have changed, Johnson & Parrish (2010) found that only 25% of adult ESL teachers in Minnesota had a credential or background in TESOL, though that may be changing. Such findings raise the issue of ESL learners disproportionately assigned to undertrained teachers, as caring and dedicated as they are likely to be.

According to data from the National Reporting System (2016) much of the adult education workforce is part-time. Eyring (2014) has pointed out that part-time adult ESL educators often serve critical roles as a community resource and ally for their learners. However, the underpaid and part-time nature of the workforce, as noted by the Center for Applied Linguistics (2010) and National Council of State Directors of Adult Education (2016) likely contributes to high turnover rates or minimal participation in professional development that helps them teach more effectively or serve as advocates for change in the field, and in the system as a whole. Smith's (2010) findings concurred that the adult education workforce is largely part-time and suffers from attrition and turnover, often lacks formal training on teaching adults, and faces obstacles to regular professional development. An uninformed or under-trained workforce in and of itself presents barriers to equity. Adult English Learners are potentially on long waiting lists for programs that do not provide qualified staff, and further research on attrition rates relative to qualifications of teachers could prove helpful in terms of stimulating more requirements or professional credentialing for teaching adult ELL courses.

**Addressing teacher quality.** According to several researchers, the traditional “piecemeal” approach to professional development in adult education is ineffective (Huerta-Macias, 2003; Smith, 2010). Smith's (2010) review of research has found that

more evidence-based professional development for adult basic education and literacy would include 1) *active learning* focused “on student work and thinking, and include time for analysis, reflection, practice, and observation,” 2) *duration* of twenty or more hours over the course of a semester and 3) *collective participation* within the same school or program (p. 68). This requires a shift from offering more traditional single-session professional development workshops to more collaborative and regular reflective practice contextualized to the teaching assignment. Bunch (2009) identified a similar need in community college developmental ESL programs, in which non-ESL educators were tasked with teaching developmental courses for ESL students, recommending collaborative efforts between ESL-trained faculty and instructors who do not specialize in ESL. State-driven peer professional learning communities, such as the Critical Friends initiative for adult educators in Iowa, is one example of fostering peer professional development, and has the potential to increase collaboration between ABE and ESL educators. As with the implementation of state standards, however, waning implementation after the initial rollout must be avoided and sustained focus and funding for this type of evidence-based professional development is critical.

In addition to Smith’s (2010) review of best practices for professional development of adult educators, literature on professional development for K-12 teachers of ELLs calls for stronger requirements for teacher preparation programs (Samson & Collins, 2012). Research suggests that effective teachers of ELs requires a strong foundation in linguistic knowledge, and skills to scaffold instruction for English learners (Gándara & Santibanez, 2016), which contrasts the popular belief found by Johnson, et al. (2017) in some school districts that teaching ELLs effectively

is “just good teaching” (Discussion & Implications section, para. 2). Samson and Collins’ (2012) review of K-12 research found a positive impact on ELL student achievement with more substantive teacher preparation required by Florida relative to other states. These results could be drawn upon to make the case for increased teacher preparation in adult programs also. Graduate certificate programs, such as the adult ESL certificate program at Hamline University, provide a substantive and ongoing professional development opportunities that align with current research about the need for trained professionals. Similarly, a professional ABE/ESL development institute sponsored by state departments of education, similar to Hamline’s nationally-recognized ATLAS ABE professional development system, helps develop current or would-be teachers into informed ESL instructors, but doesn’t require teachers to invest in an undergraduate degree or masters in a field that is largely part-time.

**Addressing the need for multilingual teachers and staff.** Hakuta (2011) summarized a strong body of research evidence including work by Goldenberg (2014) confirming that incorporating students’ home language into instruction promotes academic development. Translanguaging pedagogy, which values and encourages heritage language preservation and leverages students’ home language in communication and language learning, has gained traction in recent years in culturally and linguistically diverse classrooms (“What is translanguaging?”, *EAL Journal*, 2016). Regarding the multilingual competence of teachers, Gándara and Santibanez (2016) point out the “elephant in the room,” or monolingual teachers who don't see a need for bilingualism on their part in communicating with students and parents, and suggest that bilingual liaisons can be one alternative (p. 36). Huerta-Macias’ (2003)



review of research concurred, describing the importance of bilingual and biliterate staff. Huerta-Macias emphasized leveraging students' home language and literacy into second language development as part of culturally responsive teaching. Given the importance of multilingual and culturally responsive pedagogy, it may be important to actively recruit and develop teacher candidates from learner communities themselves.

**Use of bilingual education models.** The Bilingual Education Act of 1968 (as cited in Hakuta, 2001) sanctioned and encouraged the development of bilingual programs for LEP students. Bilingual education has been widely acknowledged by language education experts as part of a sound theoretical approach, even though much controversy has taken place in the public realm. Inconclusive research on sheltered English instruction has been used to justify English-only policies in several states in defiance of *Lau* (Hakuta, 2011), whereas bilingual education has been overwhelmingly shown by research to support second language acquisition (Goldenberg, 2008, as cited in Hakuta, 2011). Huerta-Macias (2003) reviewed research on the benefits of bilingual instruction in adult education as well. The bilingual education / sound-educational theory debate, however, has been a distraction and a losing battle, Hakuta (2011) argues.

Instead, Hakuta (2011) suggests focusing advocacy efforts on the third Castañeda standard, which requires ongoing evaluation and revision of a program-wide LEP plan. As Hakuta points out, both English-only and bilingual education programs can be run well or run poorly; the biggest threat to meaningful education for adult English Learners are programs that fail to devote vigilance and effort on meeting the particular needs of language minority students. According to Hakuta, bilingual education may not be getting the implementation it truly deserves. It

may also be impractical for adult education programs that serve a linguistically diverse student population. However, if the “sound educational theory” standard has become too polemicized for bilingual education to gain traction, as Hakuta cautions, adult education programs could then be held then to closer scrutiny with an overall LEP plan that is demonstrated to be effective and reviewed on an ongoing basis.

### **Adequately Resourced Language Support Programs**

A third standard by which to examine equity, according to the Castañeda standard, is a program of language support that is adequately resourced. As stated above, waiting lists for adult ESL programs has been noted in the literature for decades (Center for Adult English Language Acquisition, 2007; Eyring, 2014; Howsare Boyens, 2015; McKay & Weinstein-Shr, 1993; National Council of State Directors of Adult Education, 2010; Spruck Wrigley et al., 2009). Whitney (2012) also points out inadequate resources in terms of the number of adult ESL providers to meet the needs of refugee populations. The Human Rights Institute at George Washington University Law Center (2009, as cited in Whitney, 2012) found the quality of adult ESL instruction to be “poor” (pp. 21-22). Research has concurred that it takes 5-10 years for ELL children to acquire the academic English needed to access postsecondary education (Lewelling, 1991). With adult ELLs at times waiting several months or more to enter adult education programs offering just a few hours per week of instruction, this timeline becomes rather demoralizing. More funding could provide more streamlined access to programming.

It could be argued that, for years, K-12 schools have not been adequately funded, therefore Hakuta’s point about this standard being essentially unenforceable

seems to have merit, which makes advocacy for funding for adult education programs even more critical.

**De facto language policy.** Unfunded mandates have been a recurring theme in the literature on adult education. This collection of findings supports McKay and Weinstein's (1993) argument that a lack of availability and accessibility create de facto policy that "guarantees a workforce for menial labor" (p. 409). Such a viewpoint may be provocative for many adult educators who see themselves as part of a system helping people create better lives. Adult ESL educators care about their students' academic as well as social and emotional needs, but as very part-time or temporary in the system, may not be in a position to perceive how the system's unfunded mandates have themselves presented barriers to equity. Knowing this, they may begin to become interested in helping remedy the system.

Recent voices in the literature echo McKay and Weinstein's (1993) argument, demonstrating that inadequate resources have undermined federally-funded adult ESL programs for a long time. Several researchers (King & Bigelow, 2017; Pickard, 2016; Vanek, 2016; Whitney, 2012) have critiqued policies claiming to provide educational access for adult English Learners, describing how vague and conflicting policies, as well as inadequate funding mechanisms, have undermined official policy and limited English Learners' access to equal educational opportunities. Whitney (2012) raises concerns about vague language of policies such as "make available sufficient resources" and policies that adult EL refugees be "provided with the opportunity to acquire sufficient language training", calling the language "so indistinct so as to leave room for varied interpretations and entextualizations" (p. 52). King and Bigelow (2017) analyzed sections of the 2014 Minnesota LEAPS Act, which was also hailed as

championing English Learners, in which “opt-outs”, such as “where practicable”, as well as the use of modal downgraders essentially cancel the binding nature of those items (“Where Practicable” Opt-Outs section, para. 1 and 2). They also take a critical stance toward vaguely defined requirements in the law surrounding the idea of “cultural competence,” which can be interpreted widely by local programs (“Where Practicable” Opt-Outs section, para. 1 and 2).

Pickard (2016) reproached WIOA’s “rhetorical idealism,” criticizing the funding mechanisms that have disadvantaged certain populations of adult learners, creating a new de facto policy that discriminates against lower-skilled populations (p. 54). Pickard pointed out that increased focus and funding mechanisms tied to Integrated Education and Training Initiatives - also known as vocational ESL programs- are generally inaccessible to those with an 8th grade reading equivalency or lower, in spite of WIOA’s provisions for removing barriers to employment for the “most vulnerable” adult workers (Bird, et al., 2014, p. 3). Pickard was referencing the disproportionate number of African Americans at the lowest skill levels of all ABE/ASE participants in publicly funded programs. By the same argument, adult ELLs are also disadvantaged by this policy, given that they represent 47% of all adult education participants (Iowa Department of Education Division of Community Colleges, 2015), with many at the lowest levels of English literacy relative to the overall population. Simply, many adult English learners cannot access the vocational ESL or integrated education and training options that are a priority under the new law, either because of a lack of sufficient instruction in foundational levels to help them advance, or because of a lack of language support to create meaningful access to education in the programs themselves.

For decades, adult education has been held up as an expanding and evolving instrument for change in our society, providing educational opportunity for thousands of adults, many of them adult English Learners. However, even WIOA's recent focus on prioritizing the needs of the most vulnerable learners in our society should be questioned. Inadequate state and federal funding, resulting in waiting lists and programs that have been shown to be so insufficient in instructional time as to discourage learners from ever completing them, still present barriers. The interaction of these factors creates what Shohamy (2006) describes as de facto policies, or "the variety of devices that are used to perpetuate language practices, often in covert and implicit ways" (p. 45). Seemingly benevolent language and education policies for adults actually operate as barriers to equity when consistently underfunded for decades, and fall far short of meeting the Castañeda standards for adequately resourced programming. Some learner communities and educators, rather than criticize a shortage of funding, would likely be grateful for any degree of free basic education provided. For those who believe that adult education should be held to nondiscrimination provisions established by law, options include advocacy for increased funding, as well as pursuing educational rights through institutional channels, or even the courts.

### **Ongoing Monitoring and Continuous Improvement**

The third leg of equitable policies as ruled by the Castañeda standard involves ongoing monitoring of the program of language support and proven effectiveness. Adult education has undergone a shift toward increasing accountability through the use of standardized testing and state-negotiated performance targets, and ongoing evaluation of adult ESL programs happens to some degree. Student educational

outcomes are analyzed and two items on the Iowa Department of Education AEFLA monitoring tool ask programs to document how their programs are research-based and effective. However, the AEFLA monitoring tool posted by the Iowa DOE (2015) did not thoroughly scrutinize the program of support offered with regard to the Lau Remedies, a more stringent set of criteria. In that document, adult English Learners were grouped with all participants in the annual checklist used to evaluate combined adult education programs, whereas separate Lau Plans for ELLs in Iowa public schools more extensively address federal guidelines for providing appropriate education and language access for ELL students (Iowa DOE, 2017). In order to ensure compliance with federal nondiscrimination provisions for English Learners, implementation of monitoring tools that more closely examine items addressed by the Lau Remedies are a logical next step. Departments and institutions can begin with low-hanging fruit, with continuous improvement as both the requirement and the goal.

### **Rationale for Research**

This review of research aimed to provide the necessary groundwork to answer my initial research question *How can adult education programs provide more equitable access to education for adult English Learners?* by finding out what standards of equity exist for adult English Learners in federally-funded programs and where inequities may exist. To answer the *How?*, this chapter identified research-based best practices related providing meaningful access to education for adult English Learners.

### **Chapter Two Summary**

A review of the literature on adult English Learners and equal educational opportunity in adult education programs offers a confounding scarcity of direct

commentary, policy legalese, and even straightforward answers by the U.S. Department of Education. What remains straightforward are the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Executive Order 13166, and final rulings by the Departments of Labor and Education, which have asserted the rights of language minority individuals to be provided language assistance in any federally-funded program. These rulings have been based on the precedent of *Lau v. Nichols* (1974). Unfortunately, adult English Learners seeking access to academic classes or vocational education on their journey toward postsecondary opportunities may continue to face language barriers until these rights are more clearly asserted and articulated by Department of Education websites, by the courts, or by teachers and learner communities themselves.

Chapter Two also provided a review of literature about evidence-based best practices relative to standards of equity. Areas of concern were identified relative to appropriate identification and placement, qualified teachers and access to both language and academic instruction that meets the particular needs of adult ELLs. Research has asserted the need for documenting continuous improvement in adult ELL programs (Hakuta, 2011), concurrent enrollment of adult ELLs into ABE and high school completion programs (Howsare Boyens, 2015), increased teacher credentialing (Samson & Collins, 2012) and evidence-based professional development (Smith, 2010). According to Smith, this requires a shift to ongoing, contextualized, collaborative, active-learning of substantive duration rather than single-session offerings. In addition, at least one study suggested a need for more sustained implementation of academic College and Career Readiness Standards and English Language Proficiency Standards for adults (Conklin Olson, 2017). Finally,

research by Vanek (2016) and Shohamy (2006) suggests that inadequate funding mechanisms can lead to de facto language policies that disadvantage ELLs, which implies a need for continued advocacy for funding for federally-assisted adult education programs.

Chapter Three will outline my Capstone project, which consists of two professional development presentations attempting to inform adult educators and administrators about the language access rights of adult English Learners. The next chapter will also provide a rationale for the advocacy nature of this project and justify its format based on Knowles' (1992) theory of interactive adult learning for conference presentations.



## CHAPTER THREE

### Project Description

#### Introduction

The previous chapter reviewed the literature on the educational rights of English Learners. It chronicled the evolution of laws and jurisprudence establishing the rights of adult English Learners and highlighted areas of concern about equity. It identified researched-best practices that conform with standards of more equitable access for adult English Learners in federally-funded adult basic education programs. By noting underfunding of adult education programs going back decades, the chapter demonstrated how many language minority adults have faced chronic barriers to meaningful education. To answer the research question “*How can adult education programs provide more equitable access to education for adult English Learners?*”, Chapter Two presented a review of research on assessment, quality instruction and ongoing monitoring of LEP programs in adult education. To even begin to see those ideas taken up by local programs or state officials, one cannot discount the role of advocacy.

Chapter Three provides an overview of my Capstone advocacy project and offers a rationale for an advocacy project based on emancipatory action research and equity frameworks for addressing structural inequalities. The overview outlines the nature of the project, the setting, the audience and timelines for two professional

development presentations on the rights of LEP adults in federally-funded education programs. Next, the rationale provides a justification for the advocacy nature of this project and for the methods used to design the professional development presentations. Finally, a summary of the chapter precedes Chapter Four.

### **Project Overview**

The project that I undertook was an advocacy project that informed adult educators in my local context about the rights of adult English Learners (ELLs) with respect to equal educational opportunity in federally-funded adult education (AE) programs. I selected this educational advocacy presentation project because equity for adult ELLs in federally-funded adult basic education programs has been overlooked locally and nationally as supported by a review of the pertinent research. The rights of adult ELLs are often unknown to teachers, administrators and the learners themselves.

My project consisted of two live presentations on this topic in July of 2018 to adult educators and administrators at my local program and colleagues and administrators at a state's annual adult education conference.

Each presentation summarized the rights of adult ELLs participating in federally-assisted adult education, outlined areas of concern relevant to equitable language access, and suggested priorities and action steps to remedy inequities, such as the development of an LEP plan for increasing language access and monitoring for continuous improvement.

The live presentations were accompanied by a PowerPoint and fact sheet (see Appendix C) summarizing the same information presented in the live presentation, so

as to allow the information to be redistributed more widely in the community and in other cities or regions facing similar concerns in the U.S.

### **Rationale**

Critical theory in action research, or emancipatory action research (Mills, 2018) is the underlying theoretical perspective for this action research project. Along with the social sciences and humanities, the goal of emancipatory action research is to support individual liberation through building knowledge, freeing individuals from “the dictates of tradition, habit and bureaucracy”, and engaging target audiences in “democratic processes for reform” (Kemmis, 1988, as cited in Mills, p. 12). While this project itself did not involve research on human subjects, its goal was to share the research on educational rights that I found in my literature review. Research that stays tucked away in databases or libraries does not benefit educators or learners (Noffke, 1994, as cited in Mills). Therefore, this project attempted to engage teacher and learner communities in an interactive presentation to learn about adult ELLs educational civil rights, which may have challenged their current assumptions or experiences in the adult education system, as suggested by Mills. The presentation summarized legal research from my literature review to suggest avenues and action steps for change in each individual’s “sphere of influence” (Gorski, 2018).

As noted in Chapter Two, although there is variance across individual states, the nature of the adult educator workforce is highly part-time, transitory, and widely undertrained, which undermines capacity for advocacy. Under such circumstances, most adult educators likely possess minimal knowledge of laws and precedents governing the rights of adult ELLs beyond the Civil Rights Act (1964), and instructors may not be retained long enough to develop awareness of institutional

barriers that have persisted over time. Therefore, the goal of this project is to address teachers, identified by Ricento & Hornberger (1996, as cited in Johnson et al., 2017) as core change agents of policymaking. In the future, the project could be retooled to address learner communities and advocacy groups.

For the live presentation itself, my approach was based on Knowles' (1992) principles of adult learning for conference presentations. Knowles argued that the more interactive a presentation becomes, the more learning is created. According to Knowles, interaction occurs:

- *at the platform level* - with the platform being the speaker(s), and with interaction enhanced by visual aids. In this regard, I added digital visual support through PowerPoint software accompanied by intriguing and relevant images.
- *between the platform and audience* - perhaps involving a poll, response, or audience input or feedback of some type. To incorporate this principle, I structured periodic interactions between myself and the audience throughout the presentation:
  - To open the presentation, I asked participants to raise their hand if they represented a category of adult education professional - teacher, administrator, staff member, department of education official, current or former K-12 teacher, etc.
  - About twenty minutes into the presentation, I asked learners to make small discussion groups to identify barriers to success for adult English Learners and share their feedback with me afterwards as I wrote it on the board.

- About forty minutes in, I asked participants how much they already knew about nondiscrimination laws and provisions for adult English Learners and wrote their responses on the board.
- Throughout the section on legal obligations to English Learners, I engaged participants in a bingo game as I presented on several landmark cases and policy expansions. As they heard or saw me reference an item on their bingo grid, they checked it off; I handed out prizes to winners.
- I also handed out a green sticky note, in what educators often refer to as an “exit ticket” assessment, in which individual audience members demonstrate what they learned, or how they might apply it to their “back-home” situation (Knowles, p.13), or what challenges they anticipate when trying out new ideas in their local context.
- *among audience members* - involving interaction in small groups. In my presentation, I engaged participants in two “think-pair-share” activities related to discussion questions about barriers to student success as well as reflective questions about equity in their local programs.

In spite of the presentation being heavily informational, the goal was to make the presentation as participatory as possible, as Knowles recommended.

### **Setting and Audience**

The audience for this project included multiple stakeholders. My goal was to inform fellow adult ESL and ABE educators and administrators in Iowa, and I chose

to present at my state's annual adult education and literacy conference in July of 2018. Participants in my session included ABE and ESL instructors and local program administrators.

The presentations took the form of a live, interactive format assisted by PowerPoint or another digital presentation tool and were one hour and fifteen minutes in length. My presentation of information was punctuated by brief audience surveys and peer discussions to process new information. I also provided a paper and digital fact sheet that summarized information from the presentation in order for participants to share information with those not present at the live session.

Given that educators are part of a system that at times perpetuates inequalities, I took great care to ease members of the audience into conversations about national origin, discrimination and inequality. As Gorski points out, identity groups are not monolithic (Gorski, 2018), and this information may be well- or ill-received by both teachers and learner communities. I began by stating the assumption that all educators in the room care deeply about the wellbeing and success of our adult ESL students, and in that respect, I would share information that they may find compelling. I also presented an allegory by Jones (2017) to provide cause for talking about the issue of equal access. Finally, I shared a personal story involving one of my students (with name changed for privacy) to help my audience connect with the real impact of inequities caused by institutional barriers.

### **Timelines**

Phase 1 of the project involved completing my application in May 2018 to present at the state's annual adult education and literacy conference in July 2018. A request to present to my own institution in the month of July be made by July 1st.

During Phase 2 of the project in June and early July of 2018, I developed the PowerPoint presentation, notes and accompanying materials. Accompanying materials included a digital rendition of the presentation, a digital fact sheet, and paper materials for distribution during the presentation, such as printed self-assessments, the fact sheet, and an “equal opportunity” bingo game. In Phase 2, I also arranged for a presentation at my local adult learning center with my program director and department colleagues. In Phase 3, during July 2018, I gave the presentations.

### **Summary**

This chapter provided an overview of the advocacy project I undertook between May and August of 2018. The project consisted of presenting information on the rights of adult English Learners along with areas of concern and recommendations. Chapter Three also explained that the concept of an advocacy project rests on critical theory in action research described by Mills (2018) as having the goal of liberating individuals from oppressive circumstances through enlightenment and engagement in processes for change. Frameworks of equity literacy by both Gorski (2018) and Jones (2017) also undergirded this advocacy project, as well as principles of adult learning presented by Knowles (1992). Chapter Four will reflect upon the completed project in detail.

## CHAPTER FOUR

### Conclusions

#### Introduction

The research question for this Capstone was *How can adult education programs provide more equitable access to education for adult English Learners?*

This chapter begins with reflections on the Capstone process, including new learnings I experienced as a researcher, writer and learner. After that, I will discuss policy implications for my research as well as limitations and potential avenues for further research. Finally, I will discuss how I might continue the project to promote equity for adult English Learners.

#### Major Learnings

Undertaking this Capstone paper and project resulted in new learnings for me in three areas: research methods, writing and overall content knowledge.

As a researcher, I had never prepared something of this complexity or depth before, and not for public scholarship. I learned how to use RefWorks ProQuest to organize my research and references and even to find new and related material. In the future, conducting a literature review would not be so intimidating. I now have a sense of the entire process.

Regarding research methods, I also learned how valuable it is to seek guidance from content area experts in order to have both a starting and finishing point for a



literature review. To begin, I emailed a few professors who I thought might have knowledge of the body of scholarship on the topic. Each person replied with some leads. Many months later, one of those professors, Dr. Egan, became my content reviewer. Having the opportunity to run my findings by a scholar in the field helped me determine if I had sufficiently reviewed the literature. Indeed, I had missed some important research that I was able to then weave into my literature review.

Having a content reviewer made the prospect of public scholarship less intimidating. I knew that my work would be scrutinized and scrubbed and that my paper would be stronger as a result. Dr. Egan, as a national leader in the professional development of the Adult Basic Education/English as a Second Language (ABE/ESL) instructor workforce, offered valuable insights, including views and experiences that contrasted with my own as an adult educator and local program administrator in Iowa.

Because of Dr. Egan's input, I decided to moderate my arguments and adjust my tone in certain places. Despite research showing national trends, Dr. Egan helped me understand that quality varies state by state - that there is no monolithic adult education workforce, just as there is no one type of adult ESL learner. While I still felt that my overall research question and final conclusions were justified, Dr. Egan's input encouraged me to acknowledge a more optimistic reality, as educational leaders often do, even as my conclusions were rather a critique of the system. Working with Dr. Egan, I realized more than ever that my potential readership would have widely varying experiences, state to state. Therefore, in any future research I do, I would seek out a content reviewer throughout the process.

Finally, I learned that I really enjoy research, but probably wouldn't be interested in continued scholarship for publication. Research and writing are

inherently enjoyable in the moment, but I found the process to have an isolating and anxiety-producing impact on my life given the frequent deadlines over a long period of time. I have a new respect for my friends who are academics - for their discipline and generally cheerful affect in spite of looming deadlines.

In addition to developing as a researcher, I also grew as writer. I'm now more versed in the genre of literature review, which was a rather unfamiliar concept up until my linguistics course and Capstone practicum. I am also much more proficient with regard to APA style and would be more efficient with formatting and citations for future research papers.

In terms of tone and style, I now understand more about the type of voice that is expected for literature reviews. I employed a rather consistent professional tone throughout the literature review, but tone was still one of my biggest challenges in writing the paper. I struggled to find the right tone for a critique, and often had to force myself to sound more optimistic than I really felt in order to make my tone more constructive. In doing that, I think I actually wrote myself into thinking more optimistically and constructively about the issue itself, which surprised me.

In that regard, writing about issues that have caused a fair amount of personal turmoil was a somewhat therapeutic experience. This project allowed me to express and investigate major concerns I've had in recent years as a result of watching students suffer setbacks. When some of my concerns were dismissed at work, writing became a constructive vehicle and helped me see the problem from a more investigative rather than emotional viewpoint. Investigating the adult education system overall has allowed me to detach somewhat from it on a personal level and see

everything from more of a bird's eye view. Again, this was quite helpful to me personally.

Another area I grew in as a writer was the awareness that I really can manage a project of considerable size and complexity. A couple of years ago, I considered leaving the MA program because I didn't think that I could or would want to handle a project of this size. So, I'm quite thrilled that I have persisted and grown. From this experience, I realized the importance of small steps and great teachers and mentors. Hamline was very wise to provide both a Capstone paper and project course with a structured timeline and regular deadlines. Both professors I had for each course were outstanding - incredibly giving of their time and expertise, encouraging and exacting where needed.

I'm also grateful that the Hamline course built in the help of peer reviewers. While writing has mostly been a solo process for me throughout my school experience, for this assignment, I felt the value of peer reviewers like never before. My project would have been much weaker without the extensive feedback that I received.

Some of the feedback I received confirmed that I am a capable writer in terms of academic voice. At the same time, I struggled to be precise and concise. My chapters were generally much longer than they needed to be. The process of paring down information from my project to a parsimonious presentation, with a much reduced amount of information, helped me identify priorities in terms of my most important takeaways and message. As a result of doing this project, I felt I had more clarity about the most important aspects of my conclusions, and it led me to go back and revise even more. I also developed new conclusions as I prepared to present to an

actual audience. And I had to find a way to package that messaging in a digestible, memorable way. So, I was able to develop and prioritize key points as a result of doing this project.

As a learner, I believe I have realised my immediate learning goals, but understand there is always much more to learn. Knowing the educational civil rights of adult English Learners was the question I had initially wanted to answer for a couple of years prior to beginning this project, and yet my basic searches and inquiries yielded elusive answers. Even after researching for a few months, I still kept learning new things about the law. So, each time I found more information, I felt triumphant.

In searching for this information, I uncovered even more protections concerning the overall language access rights of LEP individuals in federally-assisted programs than I expected to find. This increased my awareness of additional barriers that I wasn't really informed about before. I can now identify policies and legal precedents that uphold the educational rights of adult English learners. So, I feel more empowered with information on behalf of our students, and can serve as more of a resource for my local program team and perhaps our state.

### **Revisiting the Literature Review**

Of the topics covered by my literature review, most important were the texts of the laws and court decisions themselves. That was partly because I could not really find summaries or commentary on the educational access rights of adult English Learners similar to the extensive scholarship on the language access rights of LEP children in K-12 schools. By investigating the rights of LEP children in schools,

however, I was able to see how their rights have a foundation in the Civil Rights Act (1964) and case law, which have also been applied to adults.

One important concept I learned from my literature review was about the role of de facto policy in shaping the educational opportunities of English Learners. Johnson et al. (2017), Pickard (2016), Shohamy (2006) and Hakuta (2001, 2011) have all scrutinized the way federal language on education policy has been appropriated to varying degrees by teachers, states, other education policies, or by underfunding issues. I learned that equity, once declared, may not be sustained. Hakuta's (2000, 2011) research influenced the conclusions I drew from my chronological review of English Learner rights. From that review, I observed that even though policies are articulated, they may not be upheld unless they are tested or addressed in courts.

A viewpoint that was not prominent in the literature but that resonated strongly with me over the course of this Capstone were voices that questioned the empowering role of the adult education system. I had started to reconsider the effectiveness of the adult education system based on my personal observations of frequent teacher turnover and student attrition, and encountering these writers certainly shaped what ultimately became more of a critique than a championing of the system. McKay and Weinstein-Shr (1993) noted two critiques decades ago suggesting that minimal support for language and literacy development “guarantees a workforce for menial labor” (p. 409). They were not arguing that the system itself should be abolished, but nevertheless, that is a disturbing viewpoint for many adult educators who have joined the profession driven by values of social and economic justice, myself included. I haven't thought about my role in adult education the same way since.

And even though adult education has seen an expansion of policy and funding since those critiques of the early 1990s, including very recently with WIOA (2014), certain populations are not seeing this benefit, as noted by Pickard (2016). Longitudinal research by Howsare Boyens' (2015) and Spurling et al. (2008) on non credit adult ESL classes offered by community colleges (as part of ABE programs) found extremely low program completion and college matriculation rates, especially for students who began the program at the lowest levels. The research on wait lists demonstrated to me that widespread barriers facing adult learners seeking to achieve English proficiency were not limited to my own program. These findings suggest there is much work to be done to improve educational access for adult ELL populations, and that systemic change is still necessary. It remains to be seen if WIOA will have the needed impact.

Work by Hakuta (2001, 2011) and Smith (2010) ultimately shaped the more optimistic conclusions from my literature review. If it weren't for Hakuta's work, I may not have developed clear ideas about moving forward from here. Hakuta's review of policies protecting LEP children focused on a standard of continuous improvement. Because of Hakuta, I realized that the choice we have is to be deliberate and intentional about what we do, and the need to start somewhere. Therefore, in my conclusions and project, one of my strongest recommendations for adult education programs (and state policies) is the development and ongoing review of an LEP plan every year, as recommended by Executive Order 13166 (2000). This effort does not require additional funding but would almost certainly improve service to adult English Learners.

Smith's (2010) work, which Dr. Egan pointed me to near the end of my research, has also been influential to the major conclusions of my literature review. Smith's review of evidence-based professional development demonstrates how much can be improved in adult education without additional funding if we are only willing to shift our efforts and practices. Additional funding is not required for a shift to more job-based, ongoing peer professional development, nor for altering schedules to allow co-linear enrollment of upper level ESL/ABE, nor for increasing minimum teacher qualifications for ABE and ESL. When presenting to adult educators, administrators and policy makers, it's important to focus on the things that can be done. Smith's research has and will help me focus a constructive message for my project presentation moving forward.

### **Policy Implications**

The history of equal educational access policies demonstrates how, even when policy has been articulated, it is appropriated by individuals at every level of the system and additional factors like underfunding create new de facto policies. What my research may do is help attract attention to the need to comply with existent policies for adult English Learners in federally-assisted programs, but also suggests the need for new policies and practices.

As I summarized in my literature review, the Civil Rights Act (1964), *Lau v. Nichols* (1974), the Civil Rights Restoration Act (1987), Executive Order 13166 (2000) and Title I - WIOA (2014) have already established the equal educational opportunity rights of adult English Learners. However, many of the nondiscrimination provisions do not seem widely acknowledged or applied. Therefore, one policy implication of my literature review is that this information

needs to be condensed, redistributed and reasserted more broadly. To start, the Department of Education's Office of Career, Technical and Adult Education could help adult education instructors and students by posting nondiscrimination provisions and policy information prominently on their website. At the state level, federal-funding recipients administering WIOA educational programs, such as state departments of education or labor, could also issue memorandums and make equal educational information resources more accessible to adult education practitioners and students on their websites.

Another area of policy implication relates to professional development. It is evident that WIOA's heavy emphasis on professional development - with the development of content and instructor standards as well as state and national professional development systems in recent years - is indeed professionalizing the ABE/ESL field. My experience, however, is that professional development is having only a limited impact given teacher attrition and turnover, and because of the continued prioritization by some state leadership for single-session professional development workshops rather than more evidence-based professional development of sufficient duration over time.

According to a review of research by Smith (2010) more evidence-based professional development for adult education would include 1) *active learning* focused “ on student work and thinking, and include time for analysis, reflection, practice, and observation”, 2) *duration* of twenty or more hours over the course of a semester and 3) *collective participation* within the same school or program (p. 68). While a state like Iowa instituted a peer professional learning community program aligned with these features a few years ago (named “Critical Friends” groups), it



hasn't sustained the implementation of that program since. Similarly, the state's initial rollout of College and Career Readiness standards was strong, but has not emphasized a continuation of training to mitigate the investment lost on teacher turnover and reach new teachers that have entered the field since. The result is that implementation is likely to be minimal, though more research on the degree of implementation would be helpful. My recommendation is that states should prioritize continued implementation for evidence-based professional development initiatives long after the rollout.

### **Summary**

In this section, I reflected on what I learned from the Capstone as a researcher, writer and scholar. I also discussed the most influential voices in my literature review and how the policy implications have more to do with attention to existing policies. In the next section, I will describe how I may carry this project forward. Finally, I will acknowledge some limitations of my work and identify areas for additional research that could provide more insight into adult education and equity for English Language Learners.

### **Where From Here**

Because learner communities may feel more urgency about remedying violations of nondiscrimination provisions while educators may feel more moderation about timelines, I may try to schedule a few meetings for a brief presentation to advocacy groups in my community. If they realize that they actually have a right to access all the services they have been requesting in focus groups without having to have proficient English first, they may decide to file a complaint with the Department

of Education Office for Civil Rights, or with the Department of Labor Civil Rights Center, or pursue legal action.

Those presentations may or may not elicit a strong response from learner communities. As I said, many adult learners are simply grateful to be provided any free education and would not be the first to pinpoint inadequacies the adult education system out of the great respect and gratitude they have for the programs that serve them, and out of a sense of personal responsibility for developing English proficiency as a means of opening their own doors in society. On the other hand, adult immigrant associations and advocacy groups do have members who are scholars, teachers, lawyers, and political dissenters. If they realize that their educational civil rights are being violated, they may take up the cause.

### **Limitations**

Limitations of my project include a lack of research on adult ESL populations overall, including in Iowa where I work. It would be helpful to have more data analysis on student outcomes (using NRS data) that can illuminate disparities and educational access issues, such as student attrition and college enrollment rates, teacher qualifications, and type and nature of professional development efforts offered in local programs and by state.

Another limitation of my project is that it attempts to call attention to inequities that appear to be widespread in adult education but probably actually vary from state to state. It would be helpful to focus more research on states with noncredit ESL embedded in community college systems vs. K-12. It would also be valuable to know more about how local programs identify and place ESL students and whether or not more comprehensive factors are being used and how transparent the process is for

students. I know that I have a sense that Iowa needs to do more to increase transparency and more equitably serve adult ELLs, but research could confirm these issues and compel more action to redress them.

An additional drawback of the project could be the lack of strategic timing for an advocacy campaign related to educational civil rights for immigrants, given the current political climate. There are so many fronts on which immigrants are fighting for their civil rights that advocacy groups may not be able to provide the support needed to take this on, too. Also, if too much attention is called to the rights of adult English Learners in federally-funded programs, perhaps some states would choose to reject that funding and it would result in a decrease of service to adult ELL populations. That would not really increase equity as I had hoped!

### **Contribution to the Profession**

Little discussion has centered on the educational rights of adult English Learners, so as a result of my Capstone project, more educators may feel open to discussing this topic if they held only private views before. The information in my project, a professional development presentation, helps educators understand and draw upon the legal research in my literature review to advocate for more equitable language access policies and practices or program in their institution or program. In order to help educators access this information and distribute it more widely, I have created a digital fact sheet and shared it with along with my presentation slides in a digital folder with participants in my presentations. This folder can also be shared with other interested colleagues or professionals.

In the future, I am considering a number of options for the continuation of this project. One avenue would be to present at more state and regional conferences to

share my research more widely. It could also be beneficial to produce a short video summarizing the issues, legal information, action steps and resources, though I don't see myself taking that step any time soon. Another avenue for contribution to the profession would be to submit my fact sheet to organizations such as Multilingual Minnesota or my state department of education's division for community college adult education and literacy programs.

This project potentially benefits the profession by providing some recommendations that don't necessarily require extra funding, such as incorporating more evidence-based professional development or increasing adult ESL teacher requirements and partnering with regional universities to offer a more substantive adult ESL credential. My project also asks educators to press the national Department of Education to reiterate or elaborate on nondiscrimination provisions for adult English Learners, which could benefit the profession and participants in adult education programs around the country.

### **Summary**

In this section, I outlined how I may carry the project forward beyond the two initial professional development presentations I have given. I have identified areas of additional research that could illuminate efforts to provide more equitable access for adult English Learners in adult education programs. I have also described how, in spite of limitations, my project still has the potential to benefit the profession and learners by bringing needed attention to an important topic that hasn't been widely discussed in the literature or in the adult education system in my state.

### **Conclusion**

I'm grateful for the opportunity I have had to undertake this research and project and have found the process to be immensely rewarding. I learned so much information that will help me be an advocate for continuous improvement for service to adult English Learners. I also surprised myself in learning that I could handle a project of this size and nature. The research and project themselves helped me think how I might be a more effective advocate for change and where I might begin. They also gave me an outlet for channeling some of the troubling concerns, turning an issue that initially felt more emotionally-loaded into one that felt more intellectually curious and empathetic.

Even though I am now equipped with new information about the rights of adult English Learners, I don't necessarily think that confronting colleagues and powers that be with the law is always the most effective form of advocacy. That may be my Midwestern sensibility at work, a form of conflict-avoidance known to some as "Minnesota nice" or "Iowa nice" (a tendency in the formation of language education policy that has been critiqued by King and Bigelow, 2017). Gorski (2018) also points out the tendency of privileged people to avoid spending their institutional likeability insofar as it puts them at risk. But I would argue that spending institutional likeability doesn't automatically advance the cause, either.

To help educators and administrators change things from the inside, developing positive working relationships based on trust, timing, and appealing to everyone's desire to serve students are key. Information on legal and ethical obligations needs to be shared and acknowledged widely, but is best received when shared in the spirit of trying to help protect the institution and serve students. Outside of adult education institutions, conveying the same information as widely as possible

among learner communities is also an important form of advocacy. Learners who have tested their rights have often expanded and won their rights even when schools contested their rights as unmerited or impractical. And learner communities need allies, many of whom can be found in the adult education workforce. These are the final thoughts I had as I have completed this project.

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APPENDIX A

Sample Self-Assessment for Development of a Language Access Plan (LEP Plan)  
provided by the U.S. Department of Justice

**B. A Sample Self-Assessment****1. Understanding How LEP Individuals Interact with Your Agency**

The following series of questions helps agencies understand how an LEP individual may come into contact with your agency:

1. Does your agency interact or communicate with the public or are there individuals in your agency who interact or communicate or might interact or communicate with LEP individuals?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Please describe the manner in which your agency interacts with the public or LEP individuals:	<input type="checkbox"/> In-Person <input type="checkbox"/> Telephonically <input type="checkbox"/> Electronically (e.g. email or website)	<input type="checkbox"/> Via Correspondence <input type="checkbox"/> Other: (please specify)
3. Does your agency provide federal financial assistance to any non-federal entities? (Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Recipients of federal funds can range from state and local agencies, to nonprofits and other organizations.)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4. If your agency does provide federal financial assistance to non-federal entities: a. Do you have an active program in place to require your recipients of federal financial assistance to comply with Title VI and language access standards? b. Does your agency inform recipients of federal financial assistance that they should budget for language assistance services? c. Does your agency inform recipients of federal financial assistance about which grants can be used, in whole or in part, to improve language access?	Yes a. Yes b. Yes c. Yes	No a. No b. No c. No

## 2. Identification and Assessment of LEP Communities

The following series of questions aims to identify the LEP population you serve:

<p>1. How does your agency identify LEP individuals? (Select all that apply)</p>	<input type="checkbox"/> Assume limited English proficiency if communication seems impaired <input type="checkbox"/> Respond to individual requests for language assistance services <input type="checkbox"/> Self-identification by the non-English speaker or LEP individual <input type="checkbox"/> Ask open-ended questions to determine language proficiency on the telephone or in person <input type="checkbox"/> Use of "I Speak" language identification cards or posters	<input type="checkbox"/> Based on written material submitted to the agency (e.g. complaints) <input type="checkbox"/> We have not identified non-English speakers or LEP individuals <input type="checkbox"/> Other (Please specify): _____
<p>2. Does your program have a process to collect data on:</p> <p>a. The number of LEP individuals that you serve?</p> <p>b. The number of LEP individuals in your service area?</p> <p>c. The number and prevalence of languages spoken by LEP individuals in your service area?</p>	<p>Yes</p> <p>a. Yes</p> <p>b. Yes</p> <p>c. Yes</p>	<p>No</p> <p>a. No</p> <p>b. No</p> <p>c. No</p>
<p>3. How often does your agency assess the language data for your service area?</p>	<input type="checkbox"/> Annually <input type="checkbox"/> Biennially	<input type="checkbox"/> Not Sure <input type="checkbox"/> Other: _____
<p>4. What data does your agency use to determine the LEP communities in your service area? (Select all that apply)</p>	<input type="checkbox"/> Census <input type="checkbox"/> US Dept. of Education <input type="checkbox"/> US Dept. of Labor <input type="checkbox"/> State Agencies	<input type="checkbox"/> Community Organizations <input type="checkbox"/> Intake information <input type="checkbox"/> Other: _____
<p>5. Do you collect and record primary language data from individuals when they first contact your programs and activities?</p>	<p>Yes</p>	<p>No</p>
<p>6. If you collect and record primary language</p>		

data, where is the information stored?		
7. What is the total number of LEP individuals who use or receive services from your program each year?		
8. How many LEP individuals attempt to access your programs or services each month?		
9. How many LEP individuals use your programs or services each month?		
10. Specify the top six most frequently encountered non-English languages by your program and how often these encounters occur (e.g., 2-3 times a year, once a month, once a week, daily, constantly).	Language 1. 2. 3. 4. 5. 6.	Frequency of Encounters 1. 2. 3. 4. 5. 6.

### 3. Providing Language Assistance Services

The following set of questions will help you assess how well your agency is providing language assistance services to LEP individuals:

1. Does your agency currently have a system in place for tracking the type of language assistance services it provides to LEP individuals at each interaction?	Yes	No
2. What data, if any, do you maintain regarding language assistance services? (Select all that apply)	<input type="checkbox"/> Primary language of persons encountered or served <input type="checkbox"/> Use of language assistance services such as interpreters and translators <input type="checkbox"/> Funds or staff time spent on language assistance services	<input type="checkbox"/> Number of bilingual staff <input type="checkbox"/> Cost of interpreter services <input type="checkbox"/> Cost of translation of materials into non-English languages <input type="checkbox"/> Other (Please specify):_____
3. Does your agency have a system to track the cost of language assistance services?	Yes	No
4. What types of language assistance services does your agency provide? (Select all that apply)	<input type="checkbox"/> Bilingual staff <input type="checkbox"/> In-house interpreters (oral) <input type="checkbox"/> In-house translators (documents) <input type="checkbox"/> Contracted interpreters <input type="checkbox"/> Contracted	<input type="checkbox"/> Language bank or dedicated pool of interpreters or translators <input type="checkbox"/> Volunteer interpreters or translators <input type="checkbox"/> Interpreters or



	<input type="checkbox"/> Telephone interpretation services <input type="checkbox"/> Video interpretation services	<input type="checkbox"/> translators borrowed from another agency <input type="checkbox"/> Other (Please specify): _____
5. Does your agency a) have a certification or assessment process that staff must complete before serving as interpreters or translators for LEP individuals? b) Does the process include use of standardized language proficiency exams?	a) Yes b) Yes	a) No b) No
6. Does your agency ask or allow LEP individuals to provide their own interpreters or have family members or friends interpret?	Yes	No
7. Does your agency have contracts with language assistance service providers (in-person interpreters, telephone interpreters, video interpreters, or translators)?	Yes	No
8. Does your agency provide staff with a list of available interpreters and the non-English languages they speak, or information on how to access qualified interpreters?	Yes	No
9. Does your agency identify and translate vital documents into the non-English languages of the communities in your service area?	Yes	No
10. Which vital written documents has your agency translated into non-English languages?	<input type="checkbox"/> Consent forms <input type="checkbox"/> Complaint forms <input type="checkbox"/> Intake forms <input type="checkbox"/> Notices of rights <input type="checkbox"/> Notice of denial, loss or decrease in benefits or services <input type="checkbox"/> Notice of disciplinary action	<input type="checkbox"/> Applications to participate in programs or activities or to receive benefits or services <input type="checkbox"/> Other (please specify): _____
11. Does your agency translate signs or posters announcing the availability of language assistance services?	Yes	No
12. When your agency updates information on its website, does it also add that content in non-English languages?	Yes	No

#### 4. Training of Staff on Policies and Procedures

The following series of questions will help you identify whether staff receive appropriate training on your language access policies and procedures:

1. Does all agency staff receive initial and periodic training on how to access and provide language assistance services to LEP individuals?	Yes	No
2. Who receives staff training on working with LEP individuals? (Select all that apply)	<input type="checkbox"/> Management or senior staff <input type="checkbox"/> Employees who interact with or are responsible for interactions with non-English speakers or LEP individuals	<input type="checkbox"/> Bilingual Staff <input type="checkbox"/> New employees <input type="checkbox"/> All employees <input type="checkbox"/> Volunteers <input type="checkbox"/> Others (Please specify): _____ <input type="checkbox"/> None of the above
3. Are language access policies and LEP issues included in the mandatory training curriculum for staff?	Yes	No
4. Does your agency staff procedural manual or handbook include specific instructions related to providing language assistance services to LEP individuals?	Yes	No
5. Does staff receive periodic training on how to obtain and work with interpreters?	Yes	No
6. Does staff receive periodic training on how to request the translation of written documents into other languages?	Yes	No
7. Do staff members who serve as interpreters receive regular training on proper interpreting techniques, ethics, specialized terminology, and other topics?	Yes	No
8. Do staff members who serve as interpreters receive interpreter training from competent interpreters or other trainers familiar with the ethical and professional requirements of an interpreter?	Yes	No

### 5. Providing Notice of Language Assistance Services

The following series of questions will help you assess how you provide notice of language assistance services to the LEP population in your service area:

1. How do you inform members of the public about the availability of language assistance services? (Select all that apply)	<input type="checkbox"/> Frontline and outreach multilingual staff <input type="checkbox"/> Posters in public areas <input type="checkbox"/> "I Speak" language identification cards distributed to frontline staff <input type="checkbox"/> Website	<input type="checkbox"/> Social networking website (e.g. Facebook, Twitter) <input type="checkbox"/> E-mail to individuals or a list serv <input type="checkbox"/> Other (Please specify): _____ <input type="checkbox"/> None of the above
2. Do your translated program outreach materials inform LEP individuals about the availability of free language assistance services?	Yes	No
3. Does your agency regularly advertise on non-English media (television, radio, newspaper, and websites)?	Yes	No
4. Does your agency inform community groups about the availability of free language assistance services for LEP individuals?	Yes	No
5. Does your agency inform current applicants or recipients about the availability of language assistance services?	Yes	No
6. Does the main page of your agency website include non-English information that would be easily accessible to LEP individuals?	Yes	No
7. Does your agency have multilingual signs or posters in its offices announcing the availability of language assistance services?	Yes	No

### 6. Monitoring and Updating a Language Access Procedures, Policy, and Plan

The following set of questions will help you assess whether you have an effective process for monitoring and updating your language access policies, plan and procedures:

1. Does your agency have a written language access policy?	Yes	No
2. If so, is a description of this policy available to the public?	Yes	No
3. How often is your agency's language access policy reviewed and updated?	<input type="checkbox"/> Annually <input type="checkbox"/> Biennially	<input type="checkbox"/> Not Sure <input type="checkbox"/> Other: _____

4. When was the last time your agency's language access policy was updated?	Month _____	Year _____
5. How often does your agency update its data on the LEP communities in your service area?	<input type="checkbox"/> Annually <input type="checkbox"/> Biennially	<input type="checkbox"/> Not Sure <input type="checkbox"/> Other: _____
6. Does your agency have a language access coordinator?	Yes	No
7. Does your agency have a formal language access complaint process?	Yes	No
8. Has your agency received any complaints because it did not provide language assistance services?	Yes	No
9. Do you monitor the system for collecting data on beneficiary satisfaction and/or grievance/complaint filing?	Yes	No
10. Do you obtain feedback from the LEP community on the effectiveness of your language access program and the language assistance services you provide?	Yes	No

U.S. Department of Justice Federal Coordination and Compliance Section Civil Rights Division. (2011). Language access assessment and planning tool for federally conducted and federally assisted programs. Retrieved from [https://www.lep.gov/resources/2011\\_Language\\_Access\\_Assessment\\_and\\_Planning\\_Tool.pdf](https://www.lep.gov/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf)

APPENDIX B

Example of Lau Plan from Iowa Department of Education for K-12 schools

Lau Plan Checklist  
Iowa Department of Education

Below you will find your Lau Plan district status. It will be important that you share this information with appropriate stakeholders and take the necessary steps (if not approved). Please note that professional learning around the Lau Plan requirements will be offered from the Iowa Department of Education as a technical assistance webinar, which will include a template to guide district planning. Please note that if your plan receives a “Not Approved” rating, your C-Plan will not be certified, and you will be required to revise your Lau Plan until it meets approval and to resubmit it for certification purposes.

**Overall Results- IDE Certified**

Approved                       Not Approved                       Not Submitted

	Component	Approved	Not Approved
Team Members	All required Lau Plan Leadership Team* members listed and included in Lau Plan: District Administrator(s), Building Administrator(s), Equity Coordinator (public only), EL Teacher(s), Content Teacher(s)	Lists all required members of the Lau Plan Leadership Team by positions and names	Neglects to list required Lau Plan Leadership Team members, including positions and names

	Component	Approved	Not Approved
I. Lau Plan Guiding Principles	A. English language development	Addresses English language development needs for ELs	Fails to address English language development needs of ELs
	B. Academic achievement	Addresses academic needs for ELs	Fails to address academic needs of ELs
	C. Cross-cultural	Includes overarching goals for the inclusion of ELs with specific attention to multicultural backgrounds	Fails to address inclusion of multicultural backgrounds of ELs

	Component	Approved	Not Approved
II. Identification and Placement of English Learners (ELs) in a Language Instruction Educational Program (LIEP)	A. "Home Language Survey-IA" (HLS-IA)  Must be collected and filed in the cumulative file for ALL students and includes parent signature	1. Uses TransACT website for "Home Language Survey-IA" for all students which includes student race and ethnicity reporting (beginning 16-17)  2. Process for reviewing HLS-IA and referring appropriate students for screening  3. Stores HLS-IA in the students' cumulative files	1. Fails to utilize the required Home Language Survey in its entirety, and/or utilizes an alternative document not aligned with required HLS-IA  2. Fails to describe a process for reviewing HLS-IA and referring for screening when appropriate  3 Fails to store HLS in students' cumulative files
	B. State-approved English language proficiency placement assessment (TELPA Screener)	Uses state-approved English language proficiency placement assessment  1. TELPA screener  2. Given by trained administrator  3. Specifies where certificates of completion are filed for trained screeners (e.g. personnel file or stored with ELL administrator)  4. Summary of results placed in cumulative file	Fails to use state-approved English language proficiency placement assessment 1. TELPA screener not used  2. Not given by trained administrator  3. Does not specify where certificates are filed for trained screeners  4. Summary of results not placed in cumulative file
	C. Process to place student in appropriate LIEP and content courses	1. Describes how teams gather additional academic and pertinent data to determine ELs needs.  2. Describes team-based placement process of ELs into <b>LIEP programming</b> matching their: a. English language development	1.Fails to describe how teams gather additional academic and pertinent data to determine ELs needs.  2. Fails to describe a team-based placement process of ELs into <b>LIEP programming</b> matched to their: a. English language development

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		needs b. academic needs  3. Describes team-based placement process of ELs into <b>content courses</b> matching their: a. English language development needs b. academic needs  4. Describes placement in general education setting that is age appropriate (within two years of actual age)	needs b. academic needs  3. Fails to describe team-based placement process of ELs into <b>content courses</b> matching their: a. English language development needs b. academic needs  4. Fails to provide placement in general education setting that is age appropriate (within two years of actual age)
	D. Parental notification of eligibility following state guidelines, in language most easily understood	Outlines a plan including the process and timeline for notifying parents in a language most easily understood using the:  1. "Determination of Student Eligibility, English Language Dev. Program Placement" (sent once upon placement) - eligibility notification and permission from TransACT  2. "NCLB - Notification of English Language Development Program Placement - Version A" for initial and annual placement notification and program description from TransACT  3. within 30 days if identified at beginning of year, or within two weeks if identified later in year)  4. signed forms are placed in student's cumulative file	Fails to provide a plan addressing systematic and consistent parental notification in a language most easily understood by parents:  1. by using incorrect forms for placement  2. by using incorrect forms for program description  3. fails to follow required timelines  4. fails to place required forms in student's cumulative file

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	E. Parent documentation of waiving/withdrawal from LIEP programming	Fully describes the parental LIEP waiver process, including: 1. documentation of the meeting held to discuss recommendations, concerns, ELPA21 assessment requirements and potential outcomes with parent(s) 2. signed documentation of the parents' decision on "Waiver-Refusal of ESL-Bilingual program" from TransACT in student's cumulative file 3. description of a process for ensuring English language development and academic progress along with appropriate accommodations	Fails to describe a plan for parental LIEP waiver process that includes: 1. documentation of the meeting held to discuss recommendations, concerns, ELPA21 assessment requirements and potential outcomes with parent(s) 2. signed documentation of the parents' decision on "Waiver-Refusal of ESL-Bilingual program" in student's cumulative file 3. description of a process for ensuring English language development and academic progress along with appropriate accommodations
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	Component	Approved	Not Approved
III. Description of the LIEP	A. LIEP Program Goals	Identifies goals that are measurable and based on district-level data tied to evaluation process	Fails to identify goals that are measurable and/or based on district-level data
	B. Description and implementation of specific state-approved LIEP model(s) used in district and the process to place students: <ul style="list-style-type: none"> <li>• Newcomer Program</li> <li>• Sheltered Instruction</li> <li>• English as a Second Language</li> <li>• Dual Language Program</li> <li>• Other Bilingual Program</li> </ul> (See Appendix B in Lau Plan template for Description of LIEP Models)	1. Identifies the LIEP model(s) with a description of how it is implemented in the district 2. Describes frequency and intensity of services by grade level/span (high school vs. elementary) and/or current English proficiency level addressing: a. English language development b. LIEP supports access to the district core curriculum 3. Addresses that identified Non Parental	1. Fails to identify and describe an approved LIEP model 2. Fails to describe frequency and intensity of services by student needs based on grade level/span and/or current English proficiency level addressing: a. English language development b. LIEP supports access to the district core curriculum 3. Fails to identify all identified Non

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		Waiver ELs at all proficiency levels receive direct LIEP instruction	Parental Waiver ELs receive direct LIEP instruction
	C. Description of annual parental notification of continuing placement and programming options in language most easily understood	1. Notifies parents annually within 30 days of the beginning of the school year using the "Notification of English Language Development Program Placement (A)" 2. Identifies district personnel by title/position responsible for implementing the parental notification process 3. Indicates records of this notification is stored in students' cumulative files annually	1. Fails to notify parents of placement in a LIEP within the required timelines and/or without the required "Notification of English Language Development Program Placement (A)" 2. Fails to identify title/position of district personnel responsible for implementing the parental notification process 3. Fails to indicate that records are stored in students' cumulative files each year
	D. Procedure for communicating with parents who have waived LIEP services is in place annually  Form available-"Waiver-Refusal of ESL-Bilingual program"	1. Reviewed annually with parent signature obtained each year 2. Documentation of parent waived on required "Waiver-Refusal of ESL-Bilingual program" form 3. Indicates a record of this notification is stored in students' cumulative files	1. Does not review and obtain signature annually with parents who have waived services 2. Fails to document parent communication about continuation of waiver on required "Waiver-Refusal of ESL-Bilingual program" form 3. Fail to indicate a record of this notification is stored in students' cumulative files
	E. Highly qualified staff	1. Provides staff who hold appropriate endorsements to deliver direct LIEP services (ESL endorsement) for all identified students 2. Ensures teachers providing instruction through content area classes are endorsed	1. Fails to provide ESL endorsed staff delivering direct LIEP services to ELs for all identified students 2. Fails to ensure teachers providing instruction through content area classes

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		in the content area in which instruction is being provided	are endorsed in the content area in which instruction is being provided
	F. Designated administrator oversight for LIEPs	<ol style="list-style-type: none"> <li>1. Identifies administrator in charge of oversight for the LIEP by name and position</li> <li>2. Administrator(s) supporting ELL receive training on ELL</li> </ol>	<ol style="list-style-type: none"> <li>1. Fails to identify administrator in charge of LIEP oversight by name and position</li> <li>2. Lack of administrator training on ELL</li> </ol>
	G. Access to Iowa Core and English Language Proficiency (ELP) Standards	<ol style="list-style-type: none"> <li>1. Describes process to ensure ELs have meaningful access to instruction based on both Iowa Core and ELP standards to ensure content is comprehensible</li> <li>2. Describes process for collaboration between ELL and content area teachers                         <ol style="list-style-type: none"> <li>a. systems and structures in place</li> <li>b. frequency of collaboration</li> </ol> </li> </ol>	<ol style="list-style-type: none"> <li>1. Lacks a process to support ELs meaningful access to the Iowa Core and ELP Standards to ensure content is comprehensible</li> <li>2. Lacks a process for collaboration between ELL and classroom and content teachers                         <ol style="list-style-type: none"> <li>a. no system or structure in place</li> <li>b. does not provide frequency for collaboration</li> </ol> </li> </ol>
	H. Curriculum and Supplemental Resources for LIEP	<ol style="list-style-type: none"> <li>1. Describes in detail the LIEP curricular materials the district is using</li> <li>2. Describes in detail how the instructional and supplemental resources are selected, purchased, and updated for LIEP curriculum and supplemental resources</li> <li>3. Describes how the district considers the needs of ELs in core curriculum reviews</li> </ol>	<ol style="list-style-type: none"> <li>1. Lacks a detailed description of the LIEP curricular materials the district is using</li> <li>2. Lacks a detailed description how the instructional and supplemental resources are selected, purchased, and updated for LIEP curriculum and supplemental resources</li> <li>3. Fails to describe how the district considers the needs of ELs in core curriculum reviews</li> </ol>

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	Component	Approved	Not Approved
IV. Process to Provide Meaningful Access to all Co-curricular and Extracurricular Programs and Activities	A. Process in place for identifying and serving gifted/talented (GT) ELs	<p>Describes a plan for ELs in GT programming</p> <ol style="list-style-type: none"> <li>1. Identification using criteria other than standardized assessments or language based measures to identify ELs for GT services</li> <li>2. Supporting language needs within the program</li> </ol>	<p>Lacks a plan for ELs in GT programming</p> <ol style="list-style-type: none"> <li>1. Does not identify ELs using criteria in other than standardized test scores or language based measures to identify ELs for GT services</li> <li>2. Does not support language needs within the program</li> </ol>
	B. Process in place for identifying and serving ELs in special education  Exclusionary factors are addressed (language difference, culture considerations, prior education and instruction)	<p>Explains a detailed, culturally-sensitive process that demonstrates awareness of exclusionary factors and EL-specific considerations</p> <ol style="list-style-type: none"> <li>1. Uses criteria other than standardized assessments to identify ELs for special education services</li> <li>2. Ensures students dually identified for special education and ELL receive direct instruction by highly qualified ELL teachers and special education teachers with support for language needs</li> <li>3. Describes an IEP team that includes someone with requisite knowledge of the child's language needs and training in second language acquisition [Joint Guidance OCR/DOJ, January 7, 2015, page 27]</li> </ol>	<p>Lacks a detailed, culturally sensitive process that demonstrates awareness of exclusionary factors and EL-specific considerations</p> <ol style="list-style-type: none"> <li>1. Fails to describe criteria other than standardized assessments to identify ELs for special education services</li> <li>2. Fails to provide direct instruction to students dually identified for special education and ELL by highly qualified ELL teachers and SE teachers with support for language needs</li> <li>3. Fails to describe an IEP team that includes someone with requisite knowledge of the child's language needs and training in second language acquisition [Joint Guidance OCR/DOJ, January 7, 2015, page 27]</li> </ol>

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	C. Process in place for identifying and serving ELs in all <u>co-curricular programs</u> (e.g., Title I, Reading Recovery, At-Risk, career and technical education programs, counseling services, Advanced Placement and International Baccalaureate courses)	<p>1. Describes the district's process for ensuring ELs are included appropriately in co-curricular district programs in addition to LIEP services</p> <ol style="list-style-type: none"> <li>identification</li> <li>supporting language needs within the program</li> </ol> <p>2. Provides parents and students with communication about programs and eligibility in a language most easily understood</p> <p>3. Includes ESL teacher in data review for placement/consideration in all programs (e.g. Title I and At Risk)</p>	<p>1. Fails to describe the process for ensuring ELs are included appropriately in co-curricular district programs in addition to LIEP services</p> <ol style="list-style-type: none"> <li>identification</li> <li>supporting language needs within the program</li> </ol> <p>2. Fails to provide parents and students with communication about programs and eligibility in a language most easily understood</p> <p>3. Fails to include ESL teacher in data review for placement/consideration in all programs (e.g. Title I and At Risk)</p>
	D. Process in place for identifying and serving ELs in <u>extra-curricular</u> (e.g., performing and visual arts, athletics, clubs, honor societies)	<p>1. Process in place for identifying and serving ELs in all other district programs</p> <p>2. Provides parents and students with communication about programs and eligibility in a language most easily understood</p>	<p>1. Fails to describe a process in place for identifying and serving ELs in all other district programs</p> <p>2. Fails to provide parents and students with communication about programs and eligibility in a language most easily understood</p>

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	Component	Approved	Not Approved
V. Ongoing, Embedded District Level EL Professional Development for Staff who Deliver Instruction or Support the LIEP for ELs	<p>A. Ongoing EL professional development (PD) provided for staff who support the LIEP:</p> <p>Professional development is provided to required staff as designated by the Iowa Department of Education for English Language Proficiency Standards <i>"(Beginning in 2016-2017, all licensed staff providing service to ELs (i.e. content teachers and other certified support staff) must complete the training. By 2017-18, in accordance with the new definitions in rule 281-60.2(280) in Chapter 60, all staff responsible for the LIEP service or supporting such services must be trained (e.g. paraprofessionals, instructional coaches)." memo from Dave Tilly Oct. 7, 2015</i></p>	<p>Includes an <u>ongoing</u> district-level EL professional development plan for staff who support the LIEP</p> <ol style="list-style-type: none"> <li>District and building administrators</li> <li>LIEP staff (certified &amp; support staff)</li> <li>Content/Classroom Teachers</li> <li>Paraprofessionals, Building/District Support Staff (Instructional Coach, Counselor, Curriculum Coordinator)</li> </ol> <p>or</p> <p>If a district has no ELs, there is a plan in place for administration to be aware of EL requirement updates</p>	<p>1. Lacks an ongoing district-level EL professional development plan for staff who support the LIEP</p> <ol style="list-style-type: none"> <li>District and building administrators</li> <li>LIEP staff (certified &amp; support staff)</li> <li>Content/Classroom Teachers</li> <li>Paraprofessionals, Building/District Support Staff (Instructional Coach, Counselor, Curriculum Coordinator)</li> </ol> <p>or</p> <p>Fails to provide a plan for PD for non-EL staff who are also responsible for serving ELs (e.g. grade-level and content teachers)</p>
	<p>B. District training of English Language Proficiency Standards and implementation</p> <p>Training options</p> <p>A. certified staff members directly responsible for delivering the LIEP (and others they deem appropriate) view the Modules individually or collectively via AEA PD Online and take the associated brief quiz to document completion and content attainment.</p>	<p>Has a plan which describes PD for required staff for the English Language Proficiency (ELP) Standards that addresses</p> <ol style="list-style-type: none"> <li>completion of required training</li> <li>implementation within the district</li> </ol> <p>District selects and identifies training option for ELP Standards from 3 choices (see options to the left)</p> <ol style="list-style-type: none"> <li>Identifies option for ELP standards</li> </ol>	<p>2. Fails to describe a PD plan for required staff for the English Language Proficiency (ELP) Standards that addresses (see Appendix A for options)</p> <ol style="list-style-type: none"> <li>completion of required training</li> <li>implementation within the district</li> </ol> <p>District does not identify training option for ELP Standards from 3 choices or does not select an available option</p> <ol style="list-style-type: none"> <li>Fails to identify district training option</li> </ol>

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	<p>B. use of the modules flexibly (chunk the content, provide training to groups where they watch the modules together with some facilitated discussion, alter the sequence, facilitate learning activities in conjunction with the modules, etc.) as long as the modules are viewed in their entirety through the delivery method determined by the AEA or the school district.</p> <p>C. deliver training using the content within the modules without use of the AEAonline modules or only use clips from the modules</p> <ol style="list-style-type: none"> <li>1. upload a training plan using the Option C training template and receive Iowa Department of Education approval prior to starting the training with staff).</li> <li>2. provide verification of training completed, the list of all participants who completed the training, and evidence of participant learning. The plan must include:             <ol style="list-style-type: none"> <li>a. The trainers and the target audience for each training session.</li> <li>b. The specific content and learning outcomes for each training session.</li> <li>c. The learning activities that will be used to deliver the content.</li> <li>d. How the trainers will assess whether or not the participants are meeting the intended outcomes.</li> </ol> </li> </ol>	<p>selected by the district (A or B; if using C attach state template for training)</p> <ol style="list-style-type: none"> <li>2. Identifies documentation of training procedures used (for options A and B uses certificates for completion from AEAonline modules; for option C outlines training documentation process district is using)</li> <li>3. Identifies where documentation of training is stored</li> </ol>	<p>or does not include a training plan if using option C</p> <ol style="list-style-type: none"> <li>2. Fails to identify training documentation process for A, B or C</li> <li>3. Fails to identify where documentation is stored</li> </ol>
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	Component	Approved	Not Approved
VI. Annual English Language Proficiency Assessment and Administration (ELPA21)	A. Annual training to staff assigned to administer ELPA21	<ol style="list-style-type: none"> <li>1. Identifies training processes for those assigned to administer ELPA21</li> <li>2. Specifies where certificates for completion of training are on file for trained test administrators (e.g. personnel file or with district ELL administrator)</li> </ol>	<ol style="list-style-type: none"> <li>1. Fails to identify training process of those assigned to administer ELPA21</li> <li>2. Fails to specify where certificates for completion of training are on file for trained test administrators</li> </ol>
	B. Dissemination of scores to stakeholders	<p>Describes the process for routinely sharing ELPA21 assessment scores with all stakeholders</p> <ol style="list-style-type: none"> <li>1. Administrators</li> <li>2. Teachers serving students identified as EL</li> <li>3. Parents</li> </ol>	<p>Fails to describe a process for sharing ELPA21 scores with all stakeholders</p> <ol style="list-style-type: none"> <li>1. Administrators</li> <li>2. Teachers serving students identified as EL</li> <li>3. Parents</li> </ol>
	C. Appropriate training to interpret results to staff	<p>Identifies how staff are trained to interpret ELPA21 assessment scores</p> <ol style="list-style-type: none"> <li>1. LIEP teachers</li> <li>2. Administrators</li> <li>3. Staff directly serving ELs</li> </ol>	<p>Fails to identify how staff are trained to interpret ELPA21 assessment scores</p> <ol style="list-style-type: none"> <li>1. LIEP teachers</li> <li>2. Administrators</li> <li>3. Staff directly serving ELs</li> </ol>
	D. Utilization of assessment results to guide instruction and programming	<p>Describes how the district uses ELPA21 data to guide:</p> <ol style="list-style-type: none"> <li>1. core instruction</li> <li>2. LIEP instruction</li> <li>3. direct services provided to the student</li> <li>4. future programming</li> </ol>	<p>Fails to describe how the district uses ELPA21 data to guide:</p> <ol style="list-style-type: none"> <li>1. core instruction</li> <li>2. LIEP instruction</li> <li>3. direct services provided to the student</li> <li>4. future programming</li> </ol>

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	Component	Approved	Not Approved
VII. LIEP Exit Criteria and Procedures	A. LIEP exit criteria	Lists accurate state-required exit criteria for exiting ELs from a LIEP 1. Achieves the required score for proficiency on ELPA21 2. Scores proficient on district-wide and statewide assessments in reading and math 3. Meets both of the above criteria in the same school year	Fails to list accurate state-required exit criteria for exiting ELs from a LIEP 1. Achieves the required score for proficiency on ELPA21 2. Scores proficient on district-wide and statewide assessments in reading and math 3. Meets both of the above criteria in the same school year
	B. LIEP exit procedures	Follows correct procedures to exit ELs from an LIEP 1. Occurs during the allowable window (end of school year to Oct. 1 student count) after ELPA21 results are received 2. Notifies parents using the "English Language Development Program - Exit Letter" 3. Entered into SRI by designated staff positions 4. Begins two year monitoring (pending ESSA guidance)	Fails to follow correct procedures to exit ELs from an LIEP 1. Within the allowable window 2. notifies parents using the "English Language Development Program - Exit Letter" 3. Entered into SRI by designated staff positions 4. Begins two year monitoring (pending ESSA guidance)

	Component	Approved	Not Approved
VIII. Monitoring procedures after students exit the LIEP program	A. Monitoring procedures in place after students exit the program  District data personnel responsible for entering data should refer to <i>Iowa Department of Education's Data</i>	Describes a process detailing how students are monitored for 2 years minimum (pending ESSA guidance) after they are exited from the LIEP including parent notification  1. Provides a determination of ELs	Fails to describe how students are monitored for 2 years minimum (pending ESSA guidance) after they are exited from the LIEP including parent notification  1. Fails to provide a determination of ELs

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	<i>Dictionary</i>	sustained academic progress that includes: a. data b. criteria  2. Names a certified, licensed professional(s) (name and position) who is responsible for the monitoring of students  3. Describes a team review process to determine monitoring status (i.e. continue monitoring, successful completion of monitoring, or consideration of re-entry due to language needs)	sustained academic progress that includes: a. data b. criteria  2. Does not name a certified, licensed professional(s) (name and position) who is responsible for the monitoring of students  3. Fails to describe a team review process to determine monitoring status (i.e. continue monitoring, successful completion of monitoring, or consideration of re-entry due to language needs)
	B. LIEP re-entry procedures in place, if indicated by data, including notification of parents/guardians	1. Identifies and describes a process detailing how students re-enter the LIEP, if need is indicated by data 2. Describes process to notify parents/guardians using the "Notification of English Language Development Program Placement" form	1. Fails to describe a re-entry process for students who need to re-enter the LIEP, indicated by data 2. Does not describe process to notify parents/guardians using the "Notification of English Language Development Program Placement" form

	Component	Approved	Not Approved
IX. LIEP Evaluation	A. LIEP evaluation in place	Describes team based process for how the LIEP is evaluated annually that: 1. identifies district person responsible for facilitating the team based process for LIEP evaluation (by name and position)  2. considers and responds to district data when planning for EL instruction in Core	Fails to describe a team based process for how the LIEP is evaluated annually that: 1. identifies district person responsible for facilitating the team based process for LIEP evaluation (by name and position)  2. considers and responds to district data when planning for EL instruction in Core

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		<p>classes and in English language development</p> <p>3. evaluates the impact on future programming and services for ELs for example:</p> <ul style="list-style-type: none"> <li>a. professional development needs</li> <li>b. adjustment of the LIEP</li> <li>c. staffing</li> <li>d. teacher scheduling</li> <li>e. curricular needs</li> <li>f. meeting the needs of individual ELs and/or subgroups</li> </ul> <p>4. Title III Assurances</p>	<p>classes and in English language development</p> <p>3. evaluates the impact on future programming and services for ELs for example:</p> <ul style="list-style-type: none"> <li>a. professional development needs</li> <li>b. adjustment of the LIEP</li> <li>c. staffing</li> <li>d. teacher scheduling</li> <li>e. curricular needs</li> <li>f. meeting the needs of individual ELs and/or subgroups</li> </ul> <p>4. Title III Assurances</p>
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\*Required Lau Leadership Team Members: District Administrator(s), Building Administrator(s), Equity Coordinator, EL Teacher(s), Content Teacher(s)

Suggested additional Lau Leadership Team Members: School Counselor(s), Title III Subgrantee EL Consultant(s), Native Language Interpreter(s), EL Parent(s), School Board Member(s), Community Member(s)

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June 16

Iowa Department of Education (2017). 2017-2018 Lau Plan checklist. Retrieved 8/12/2018 from <https://www.centralriversaea.org/wp-content/uploads/2017/03/2016-17lauplanchecklistfinal-checked.pdf>

APPENDIX C

Fact Sheet on Equity for Adult ELLs

# INCREASING ACCESS FOR ADULT ELLS IN WIOA ADULT EDUCATION PROGRAMS

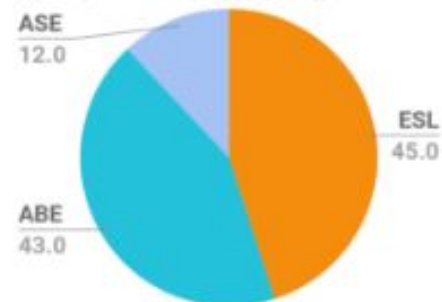
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Nationally, nearly 700,000 adult English Learners (ELLs) participate in federally-funded adult ESL programs in order to develop English skills for life, work and higher education. In Iowa, adult ELLs make up 47% of all AEFLA adult education participants. They have varying degrees of oral and written English proficiency, educational backgrounds, home language literacy, cultural values, degrees of acculturation, educational needs, life experiences and goals.

While much research and policy has articulated the rights of ELL learners in K-12 schools, the rights of adult ELLs have been somewhat overlooked in adult basic education. In order to truly help the "most vulnerable workers" access education and workforce opportunities

as intended by the Workforce Innovation and Opportunity Act (2014), WIOA partner programs must work to expand and streamline access to language and academic instruction, as well as workforce programs for adult ELLs.

% of AEFLA participants nationally by program type, 2015-2016



## High stakes for adult English Learners

Meeting the particular needs of adult ELLs is critical because:

- Adult ELLs make up nearly half of all adult basic education participants in WIOA Title II programs.
- Most immigrants do not have living wage jobs that can support a family, even though employment rates for immigrants are on par with those for native English speakers.
- Immigrants who don't speak English well earn 46% lower wages than those who do.
- Although many immigrants in Iowa are highly educated, nearly a third do not have a high school diploma.
- Adults who lack a high school diploma are twice as likely to live in poverty as those who do.
- Meeting the educational needs of adult English learners is vital so so that they can compete for the fastest-growing, high-demand jobs in the workforce.
- Waiting lists for ESL classes have been documented in most states, including in Iowa.
- Adult ELLs often lack access to teachers trained to meet their particular needs.
- Working adults, including ELLs, have limited time resources to complete all levels of noncredit ESL programs.
- Adult ELLs need streamlined, rigorous instruction that serves both their academic and language needs.

Schmitt, Colleen (2018). Fact sheet on equity for adult English Learners.

## Equal educational opportunity policies for adult ELLs

### Title VI of Civil Rights Act (1964)

*Prohibits national origin discrimination in all federally-assisted programs & activities.*

### Lau v. Nichols (1974)

*The U.S. Supreme Court declared language discrimination to be an unlawful form of national origin discrimination, and that schools and school districts must provide meaningful access to language and academic instruction for ELL students, rather than allow them to "sink or swim" in a mainstream setting.*

### Executive Order 13166 (2000)

*Reasserted "existing responsibilities" mandated by Civil Rights Act for all federally-funded programs serving LEP individuals.*

*Cited Lau v. Nichols (1974) in guidance to create and monitor an LEP plan of equal access to all programs and activities without delay or denial of service.*

### Department of Education, Final Ruling on Civil Rights Restoration Act (1987)

*Defined "programs activities" covered under Title VI of Civil Rights Act.*

*According to these definitions, adult basic education programs are subject to the same nondiscrimination provisions that apply to any federally-assisted program.*



### Department of Labor, Final Ruling on Title I - WIOA, Workforce Development Activities (2016)

*Detailed nondiscrimination provisions for Title I programs to ensure Limited English Proficient (LEP) individuals receive meaningful access to all programs and services. Cited Lau v. Nichols (1974).*

*Advises development of LEP plan including provision of vital info in frequently encountered languages by qualified interpreters/translators, and meaningful access to all training programs and services.*

## Recommendations

- **Commit to continuous improvement.** Help develop and monitor an LEP plan for your AE program.
- **Ensure that vital information is provided for all LEP individuals seeking services** using qualified translators/interpreters. Share resources among state-funded programs.
- **Urge the Department of Education to articulate nondiscrimination provisions for adult ELLs.** Request that Office of Career, Technical and Adult Education (OCTAE) post this information prominently on their website and issue reminders to all federally-assisted AE programs.
- **Streamline access to ABE/HS/ESL and career pathways programs** by structuring co-linear options with language support.
- **Consistently advance the implementation of CCRS and ELP standards for adults.**
- **Increase and sustain evidence-based professional development for adult educators.** Shift towards more collaborative, ongoing, job-based, reflective practice rather than single-session workshops.
- **Advocate for the development of an adult ESL credential in your state.**
- **Advocate for adequate funding.** Underfunded programs are in and of themselves a barrier to equity.
- **Support the use of learners' home language in the ESL classroom.** Recruit multilingual instructors, ideally from learner communities themselves.

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