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An Historical Perspective of Federal Bilingual Policy: 1965-1994

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AN HISTORICAL PERSPECTIVE OF FEDERAL BILINGUAL POLICY:

1965-1994

The purpose of this dissertation is to explore the historical perspective of Federal bilingual educational policy in the context of the Civil Rights era (1965) through Educate America: Goals 2000 Act (1994).

The role of the Federal government and significant legislation pertaining to bilingual education during the following periods was examined: 1964: the Civil Rights Act; 1965: the Elementary and Secondary Act; 1968: the Bilingual Education Act; 1974: the Lau v. Nichols case; 1979: the establishment of the Bilingual Education and Minority Affairs Office; 1984: the Bilingual Education Act; and 1994: the Improving America's Schools Act.

The principles of historical documentary research were observed: primary source documents from Federal, State and school board archives were examined, as well as secondary sources.

The author's conclusions stated that during the course of the past three decades the Federal government has assumed the responsibility to provide funds for the establishment and maintenance of bilingual programs for limited English-speaking students (LEP). All public schools must provide appropriate services and a challenging curriculum for all students.

The recommendations of the author are:

1. Efforts should be made to develop national, State, and local education standards for all LEP students.
2. Assessments for LEP students must be valid and reliable.
3. Programs should be developed which focus on maintaining the full bilingual potential of LEP students.
4. Programs must be initiated which encourage schoolwide educational development for teachers and staff who work with LEP students.
5. Efforts must be made to encourage parental involvement in bilingual programs.
6. All American students should be given the opportunity to learn a second language, or maintain fluency in their native language while learning English.
7. Financial encouragement should be available for school districts who establish world language programs.

LOYOLA UNIVERSITY CHICAGO

AN HISTORICAL PERSPECTIVE OF FEDERAL BILINGUAL POLICY:
1965-1994

A DISSERTATION SUBMITTED TO
THE FACULTY OF THE GRADUATE SCHOOL OF EDUCATION
IN CANDIDACY FOR THE DEGREE OF
DOCTOR OF EDUCATION

DEPARTMENT OF EDUCATIONAL LEADERSHIP AND POLICY STUDIES

BY

FRANCES M. SALVATO

CHICAGO, ILLINOIS

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To my colleagues in Oak Park School District 97, and my family and friends, I acknowledge their concern and support of this writer's academic pursuits.

VITA

The author, Frances M. Falasz Salvato, was born in Chicago, Illinois on July 17, 1945. She was educated at St. Barbara Parish Elementary and High Schools in Chicago, Illinois.

In 1969, she was granted the degree of Bachelor of Arts in French and Secondary Education from DePaul University, in Chicago. In 1987, she was granted the degree of Master of Education with a concentration in Reading and Learning Disabilities, from DePaul University, Chicago. In 1997, the author was granted a Doctorate of Education in the Educational Leadership and Policy Studies Department of Loyola University Chicago.

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Currently, the author is the Coordinator of World Languages in Oak Park, Illinois, and is active in school and community affairs. She has travelled extensively around the world, and her current research is focused on the impact of sociohistorical events upon educational institutions.

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To my parents, Frank and Zita Falasz, who represent the past, and to my children, Mark and Nicole Salvato, my daughter-in-law Chris Buda, and my nieces and nephews who represent the future, I dedicate this work.

PROLOGUE

What is History? Is it a chronological order of events that affect a nation at a particular point in time? Are the events momentous, and are the people of legendary stature? John McCarron, writing in the Chicago Tribune on October 7, 1996 talks of long-forgotten asides and coincidences which help to focus intently on the record of human activity. To these sharpened insights he gives the name "Tuchman moments", in homage to the brilliant historian Barbara Tuchman, who had the gift for unearthing history's seemingly insignificant moments as part of the fabric of daily events. Together, these small moments along with significant actions make up the tapestry that we agree to call our history.

It was the goal of this researcher in examining Federal bilingual educational policy to determine who had initiated policy at the Federal level, how the policy evolved over the last three decades, what role educators and concerned community activists played in the creation of this policy, and what is the future direction of Federal bilingual educational policy.

This dissertation examined House and Senate documents during the period just preceding the Civil Rights Act of 1965 through the Goals 2000: Educate America Act of 1994, with the aim of examining the testimony of those individuals whose vision and insights helped to formulate and establish Federal Bilingual Policy.

In an attempt to give a balanced picture of the three branches of government: the legislative, executive, and judicial, and the role each played in the creation and establishment of federal policy, this researcher examined the published proceedings of Congressional Hearings held before the United States Senate and the House of Representatives over the course of the past three decades. Also, this researcher examined certain vital speeches by selected individuals, interviewed individuals connected with the landmark U.S. Supreme Court case: Lau v Nichols of 1974, and examined early and recent models of bilingual programs.

These documents included:

- * the proceedings of selected Senate and House Hearings from 1961 to 1993;

- * the examination of Inaugural and State of the Union addresses by Presidents Johnson, Nixon, Carter, Reagan, Bush, and Clinton;

- * the examination of school board minutes from the San Francisco School Board archives of 1970;

- * the 1970 bilingual policy statements from the California state archives;

- * the landmark Lau v. Nichols law case of 1974, and selected other law cases that focused on bilingual education; and

- * current bilingual blueprint strategies and policies for language-minority populations.

In addition, this researcher interviewed certain individuals who were connected with advancing the agenda of equal educational opportunity in the area of bilingual education.

The answers to who first established Federal bilingual policy from its inception in the Elementary and Secondary Education Act of 1965 to the current policies in Goals 2000: Educate America are complex. The roots lie in our constitution and Bill of Rights; yet, it is the "Tuchman moments" which sometimes provide us with insights into the motivations of those individuals who realized, as did John Dewey, that the words "common", "community", and "communication" are the basis of an informed and democratic society. If we are to endure and flourish as a democratic nation in the 21st century, we must consider the work of those who have gone before, and, acting upon their principles, continue to set high expectations and standards for all American children.

CHAPTER I

THE SCHOOL AS PART OF THE AMERICAN COMMUNITY

Each American president leaves his imprint upon the nation. His philosophy of life, his opinions of liberty and justice, and his personal pursuit of happiness become a paradigm for public emulation.

It is the aim of this researcher to examine certain events that had an impact upon the field of education, namely bilingual education. These events were grounded in a cultural response to such movements as the Civil Rights movement, the struggle for equal educational opportunity, the continued influx of immigrants, and the ultimate realization that all children, those with superior intelligences as well as those who need assistance in adapting to their physical surroundings, those who speak one of the myriad languages that enhance our language patterns, and those who live in families whose earned incomes fall below poverty guidelines, have the right to be educated in an inclusive, nurturing environment.

The Federal government exemplifies the law of the land, and Federal policies determine educational agendas. The Federal government votes to allocate funds for programs; thus, the data examined by this researcher consists of records of the hearings before the U.S. House of Representatives and the Senate, policy statements of those who advocated bilingual education, and recommendations for policies in bilingual education for the twenty-first century.

This chapter will examine: John Dewey's influence on American

education; America's diversity of cultures; the 1961 Public School Assistance Act; Lyndon B. Johnson: the Great Society and education; federal aid to education: the Elementary and Secondary Education Act of 1965; Dade County, Florida; a successful bilingual program; the demand for federal funds: introduction of Senate Bill 428; subcommittee hearings in the House of Representatives, Department of Education and Labor; California: an early advocate for bilingual programs; and the Bilingual Education Act of 1968. An analysis of leadership and policy will conclude the chapter.

To what extent immigration movements influenced decisions that were made regarding our educational institutions and policies will be examined in this paper, along with an historical perspective of federal legislation and policies from the period of the early 1960s to the Goals 2000: Educate America Act of 1994, and the reauthorization of the Elementary and Secondary Education Act (ESEA) known as Improving America's Schools Act of 1994.

John Dewey's Influence on American Education

Culture is the set of basic assumptions about reality, nature, and human nature through which people make sense of the world; cultural history is an explanation of the world view that underlies and gives meaning to institutions and movements.¹

American culture is a particular type of intellectual development, shaped and molded, bent and formed, by the collision of extraordinary personalities with monumental events. A great American educator and

philosopher of the nineteenth century, John Dewey (1859-1952), tells us that "philosophies that emerge at distinctive periods define the larger patterns of continuity which are woven in, effecting the enduring junctions of a stubborn past and an insistent future."²

This eminent philosopher, prolific teacher, and writer, once said that the most important endeavor is to discover the truth, and he stated that "a society is a number of people held together because they are working along common lines, in a common spirit, and with reference to common aims. These common needs and aims demand a growing interchange of thought and a growing unity of sympathetic feeling."³

According to Dewey, the school was primarily a social institution, and education was a social process, "a form of community life where all agencies were focused upon bringing the child to a point where he or she could share in the inherited resources of the race, but most importantly, where they could use their own powers for social ends."⁴

In order to promote the "interchange of thought", people must be able to communicate with each other. For immigrants to America, linguistic assimilation was the key for assimilation into American life. Schools, as a part of American community life allowed immigrant groups to incorporate their own linguistic and cultural traditions into the schools where there was a demand for them, while at the same time, instructing children in the English language. But, American culture has historically equated linguistic and cultural differences in immigrants as inferior positions, and the role of education has been one of shaping the school-age child from one who has been viewed as "disadvantaged" into one who is "acceptable" to fit in with the dominant culture.⁵

America: A Diversity of Cultures

Because America is a land of immigrants, we have had to face the demands embodied in our belief: E Pluribus Unum (out of many one).

A diversity of cultures has flourished in America since colonial times, and both immigrant and indigenous cultures have struggled to preserve their languages and traditions. But, we as a nation have often been ambivalent regarding our multicultural origins, fluctuating at times between pride at our cultural pluralism to the extreme of xenophobia.

During the period of the American Revolution the sounds of German, Dutch, French, Spanish, and Polish were frequently heard in New England, and in the coastal states, and as early as 1694, the Germans were operating schools in their mother tongue. Bilingualism was an accepted fact of life, and even the Articles of Confederation were printed in both English and German.

Previously in American history, minority languages were accommodated at certain times, and repressed at others, but most often they were ignored. The assumption was that non-English speakers would come to see the value of learning English in their newly adopted home. Assimilation into the mainstream culture was voluntary, and many abandoned their native languages and embraced English. Some immigrants did succeed in America without formal schooling and English language instruction, thanks to strong backs, entrepreneurial talents, or political skills.

By the mid-1800s, public and parochial German-English schools were

operating in Baltimore, Cincinnati, Cleveland, Indianapolis, Milwaukee, and St. Louis. In Louisiana, French-English schools were in operation, and in the territory of New Mexico, Spanish-English bilingual education was in operation. Pennsylvania, Colorado, Illinois, Iowa, Kentucky, Minnesota, Missouri, Nebraska, and Oregon had passed laws that sanctioned instruction in languages other than English.⁶

It was not until the extraordinary increase in immigration during the mid-nineteenth century from Central and Southern Europe, that, by 1923, thirty-four states required English to be the medium of instruction.⁷

Yet with the tide of immigrants came a rise in nationalism riddled with apprehension. Since declarant aliens were permitted to vote, it was feared that political balance would be upset when they exercised this important American right. Given this political scenario, public opinion began to shift towards a restriction in the use of foreign languages in the classroom, and restrictive legislation concerning the use of the German language in the public schools soon followed. It was not until the ruling in Meyer v Nebraska in 1923 where the U.S. Supreme Court struck down a Nebraska law barring the teaching of foreign languages to elementary school children, that proficiency in a foreign language, was declared not injurious to the health, morals, or understanding of the ordinary child, and that instruction could be given in English as a means of promoting homogeneity with American values.

In writing the opinion of the court, Mr. Justice McReynolds held that:

the power of the state to compel attendance at some schools and to make reasonable regulations for all schools, including a requirement that they shall give instructions in English, is not questioned.... No emergency has arisen which renders knowledge by a child of some language other than English so clearly harmful as to justify its inhibitions....⁸

After World War II, "cultural deprivation" and "language disability" were no longer considered factors responsible for low school achievement by minority children. Instead, environmental factors, such as parents' failure to stress educational attainment, lower class values that did not stress planning for the future, and inadequate English language skills were reasons for high drop-out rates. The schools were regarded as institutions of change, and their responsibility was to promote assimilation into the world of the dominant culture.

By the end of the decade of the 1950s, there appeared to be a growth in foreign language studies due to America's increased role in international activity, and the National Defense Education Act (NDEA) of 1958 allocated money for specific programs, foreign language instruction being one such area.

In response to the Russian launching of Sputnik in 1958, a series of government grants under the National Defense Education Act was appropriated to pay for these programs. Title VI of the NDEA emphasized the retention and expansion of our foreign language resources. There was no intent at this time to provide English language programs for groups such as: Puerto Ricans, Mexican Americans, Asian Americans, and American Indians, who also faced discrimination on the basis of race as well.

**The Public School Assistance Act of 1961:
Modest Proposals With Ambitious Goals**

In 1961, the Public School Assistance Act was introduced as Senate bill 1021 to the eighty-seventh Congress: **Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled that:**

(a) The Congress hereby finds and declares that responsibility for and control over education is one of the powers not delegated to the United States but reserved to the states or to the people under the tenth amendment of the Constitution.

(b) The Congress hereby reaffirms and reenacts a portion of article III of the Ordinance of Confederation adopted by the Confederation Congress, July 13, 1787, as follows: 'Religion, morality, and knowledge being necessary to good government, and the happiness of mankind, schools and the means of education shall forever be encouraged.'

(c) The Congress finds that further encouragement of the means of education requires the strengthening of State governments.⁹

The following members of Congress met to discuss this issue:

Lister Hill, chairman of the committee on education, and Senators Humphrey, Long (of Hawaii), Long (of Missouri), Pell, Randolph, Jackson, Clark, McNamara, Neuberger, Moss, Metcalf, Chavez, Williams, Byrd, Fulbright, Burdick, Magnuson, Muskie, Church, McGee, and Yarborough. Their consensus was that the Federal government had helped to serve the national interests regarding education for 175 years by funding certain specific needs, and that the government should continue to do so, for the future of America demanded that appropriate educational opportunities be freely available to all children, no matter what their background, circumstance, or place of residence.

On March 14 1961, Abraham A. Ribicoff, Secretary, Department of Health, Education and Welfare, addressed the Subcommittee on Education of the Committee on Labor and Public Welfare of the US Senate, in the first session. The Committee was charged with the responsibility of supporting President Kennedy's proposals in Senate bill 1021, which sought appropriation of public funds for education, and which, if enacted, would be hailed by future generations as one of the most far-reaching endeavors in the history of the nation. Secretary Ribicoff used this occasion to quote from a message delivered to the Congress on February 20, 1961 by President Kennedy:

our progress as a nation can be no swifter than our progress in education. Our requirements for world leadership, our hopes for economic growth, and the demands of citizenship itself in an era such as this all require the maximum development of every young American's capacity. The human mind is our fundamental resource. A balanced Federal program must go well beyond incentives for investment in plants and equipment. It must include equally determined measures to invest in human beings - both in their basic education and training and in their more advanced preparation for professional work.¹⁰

Speaking wholeheartedly in support of President Kennedy's proposals in Senate Bill 1021, Charles H. Boehm, superintendent of public instruction for the state of Pennsylvania, recognized the implicit importance of the bill that he considered the most important piece of legislation on education before the Federal Congress:

1. That education in the United States required a great effort to raise it to the level where it could meet the demands of the age, especially on the international scene;

2. That the total national effort required that Federal fiscal support be adjusted to the ability of the States to provide for

education;

3. That it provided for greater State control than any other federally proposed education measure;

4. That it provided an opportunity for each State to develop, encourage, and conduct programs to meet its own unique problems.¹¹

The following year, 1962, hearings were once again held before the subcommittee on Education to discuss a bill to improve the quality of elementary and secondary education.

Senators Morse (presiding), Yarborough and Javits met in the Senate on April 12, 1962. Once again, Abraham Ribicoff, Secretary of Health, Education, and Welfare addressed the committee:

The greatest resource of this nation is its young people who represent the leadership of the future. Fundamental to the assumption of leadership by these young people is the opportunity for an education of sufficient rigor and quality to enable them to meet the tremendous responsibilities to be placed on their shoulders. The creation of a high standard of excellence in education is essential to national survival.¹²

The testimony in 1961 indicated that Congress was aware of the growing needs in the education sector, of the increased demands for better trained, and more informed teachers, and of the demand for new construction of schools to reduce overcrowding.

Superintendent Boehm declared that the State's efforts to meet their educational needs would not be allowed to decrease as a result of Federal assistance. The underlying intent of this legislation was an equalization of the quality of programs in all states, especially those with less wealth and scarcer resources.

Title III of the National Defense Education Act of 1958 was not entirely a request for larger appropriations as it was a plea by

Superintendent Boehm, to expand the program to include English, reading, world cultures, and physical fitness. By looking forward to such areas as including English and reading, Superintendent Boehm expressed an awareness to promote change among the many local small units who were content to continue teaching as they had always done.

Another early advocate of expanded educational opportunities, both for the students, and the teachers, was the National Education Association (NEA).

Clarice Kline, who served as a president of the NEA from 1960-61, addressed the committee on Labor and Public Welfare.

Speaking as a representative of 800,000 NEA members, and 1,200,000 members of affiliated state and local education associations, Kline urged the committee to promote federal financial support for all public elementary and secondary schools. In addition to these remarks that noted the obligation of the State to be involved in decisions regarding program establishment, she indicated other areas of concern, the most important of which was the high drop-out rate of non-English speaking students in Arizona. (The NEA initiated and conducted a landmark study in Arizona that determined the need for bilingual programs and services.)

The NEA felt that attention should be directed at not only those students who were college bound, but to those who had trouble assimilating into the American culture due to language difficulties. By the 1960s there was a high dropout rate among language-minority children, and upward mobility was no longer an option for those without English literacy.

In 1960, in a study conducted by Herschel T. Manuel for the University of Texas Press, it was determined that one-sixth of the school-age population in the states of Arizona, California, Colorado, New Mexico and Texas were Spanish-speaking, yet the proportion of school dropouts was higher than one-sixth of the population. It was concluded that in most cases, Mexican-American children started school with a "decided handicap", and with each successive year, fell further behind until they left school.¹³

According to Kline's remarks, the NEA felt that one way to address this situation was to provide programs which stressed marketable skills.¹⁴

This researcher points out that the early committee reports reveal an underlying thread of Deweyan philosophy, supported by Superintendent Boehm, and Clarice Klein, that in order to sustain itself, a free society must develop the capacities of each individual, and that the essential purpose of a free society is to promote the development of each individual for the individual's sake.

Lyndon Baines Johnson: The Great Society And Education

Of the myriad personalities on the political scene during the mid 1960s, President Lyndon Baines Johnson, thirty-sixth President of the United States, embraced a philosophy that, when completely woven into the fabric of American life, would become known as The Great Society.

According to Doris Kearns, his biographer, he was an extraordinary individual, and his efforts to "provide a place where every child could

find knowledge to enrich his mind and to enlarge his talents" took root in the educational policies of the 1960s, and formed the basis of the government's commitment to addressing the needs of students with limited English-speaking skills.

"Whether it was Lyndon ... the Majority Leader producing legislation and electoral victory for his party, or the President of his country producing a Great Society for his people, ... the desire to benefit others was ever the prime motive for his quest for power."¹⁵

Early in his career Lyndon Johnson had been a teacher of Mexican-American children in Cotulla, Texas. This experience in 1927-28 led to his convictions and desire to improve the lives of Mexican-American students when he said in reference about his own students: "I was determined to spark something in them, to fill their souls with ambition and interest and belief in the future."¹⁶

Most of his young students in Cotulla knew no English; 75 percent of them spoke only Spanish, and school to them was an alien environment. Their lives were dedicated to the struggle of living in a harsh, barren climate, and although it was indeed necessary to learn English in order to thrive in American society, Johnson decreed that no Spanish could be spoken on school property. This belief was prevalent at the time: that one learned best from the "sink or swim" total immersion method. It did not consider the possibility of Spanish as the primary means of instruction, and it ignored the cultural traditions that could have been a source of strength and knowledge for these students.

Following the assassination of President John F. Kennedy on November 22, 1963, Lyndon B. Johnson assumed the role of thirty-sixth

president of the United States. In addressing the Congress, he urged them to enact a civil rights law that would honor the memory of President Kennedy who had worked so long for the eradication of discrimination and oppression based upon race or color.

A year later, President Johnson spoke at the University of Michigan in May, 1964, and discussed an idea that would come to be seen as the monument to his leadership. He spoke of the "Great Society", a place that "was not a safe harbor, a resting place, a final objective, a finished work." It was to be a "challenge constantly renewed ... and a place where men are more concerned with the quality of their goals than the quantity of their goods ... where the demands of morality and the needs of the spirit, can be realized in the life of the nation."¹⁷

What was the American philosophy that was emerging in 1964 and 1965 that would define the larger patterns of continuity?

In his Inaugural Address, Lyndon Johnson stated that the world adult Americans lived in would be a vastly different one than the world their children would live in. America was experiencing a time of rapid and fantastic change, but the American values had to remain constant. He beseeched the American public to practice the principles of justice and fairness that are implicit in our Bill of Rights, and, most importantly for educators, he commended them to teach our new generation to read and write.

Justice requires us to remember: when any citizen denies his fellow, saying: His color is not mine or his beliefs are strange and different, in that moment he betrays America, though his forebears created this nation.... Is our world gone? We say farewell. Is a new world coming? We welcome it, and we will bend it to the hopes of man.¹⁸

At a time when America was perceived as the wealthiest nation in the world, Johnson was determined that new opportunities for achievement be made available for all: "We have enough to do it all ... We're the wealthiest nation in the world. And I cannot see why, if we have the will to do it, we can't provide for our own happiness, education, health and environment."¹⁹

President Johnson's ideal society was one in which all shared in the progress and responsibility of the life of the nation, where equality of opportunity could become an essential component of American life in the 1960s.

Thus the agenda of the Great Society was established: equal opportunity for a trained mind and a healthy body, decent homes and employment opportunities, educational assistance for the young, improved schooling for the Indians, reduced quotas for immigrants, legal protection for blacks, vocational training for the unskilled, Medicare for the ill, and the promise of equality for all, fully kept.

In 1965, President Johnson pursued his education agenda. He recognized that John Kennedy had "lost a full legislative year in pursuit of federal aid to education"; Lyndon Johnson refused to let the education bill go to the Congress until the two major lobbying groups: the National Education Association which represented the nation's public schools, and the National Catholic Welfare Conference, which represented parochial schools, had come to an agreement regarding allocation of funds. The solution? Funds for instruction would go to impoverished children, whichever school they attended. Reflecting upon his own past experiences as a young teacher, Johnson said:

somehow you never forget what poverty and hatred can do when you see its scars on the hopeful face of a young child.... It never occurred to me in my fondest dreams that I might have the chance to help the sons and daughters of those students and to help people like them all over this country.... I do not want to be the President who built empires, or sought grandeur, or extended dominion. I want to be the President who educated young children ... who helped to feed the hungry... and who helped the poor to find their own way.²⁰

Federal Aid to Education:

The Elementary And Secondary Education Act

The Committee on Education and Labor was established under the provisions of the Legislative Reorganization Act of 1946. All proposed legislation, petitions, and other matters relating to education and labor were referred to this committee. Adam C. Powell of New York was Chairman of the Committee on Education and Labor in the eighty-ninth Congress, (1965-66). This period was marked by an unprecedented array of landmark legislation enacted in the fields of education and labor. More than 950 bills concerned with education and labor and related subjects were introduced to the Congress and then referred to this committee. Of the thirty-three bills which became law, twenty bills were in education.

The legislative activity of the Committee on Education and Labor reflected a historic commitment to the "fulfillment of the destiny of this Nation as a Great Society".²¹

The eighty-ninth Congress responded with vision and leadership in the struggle to provide full educational opportunity for children at all levels, and to bring better educational programs to needy and disadvan-

taged youth.

Efforts were made by Chairman Powell and the committee to marshal the resources of the Federal Government for the support of State and local efforts to allow them to provide a quality education for all citizens.

In 1965 the eighty-ninth Congress, characterized as the "Education Congress", passed the Elementary and Secondary Education Act; this was the first time the federal government gave comprehensive assistance to the improvement of education in the Nation's elementary and secondary schools for public school instruction. The major focus of the legislation was the education of the educationally deprived and disadvantaged; at the same time, the law was intended to stimulate "sound educational ideas, materials, techniques and leadership to serve all sectors of the population."²²

The Act authorized an initial \$1.3 billion in funds for:

Title I programs which provided funds for Education of Children from Low Income Families to school districts where there were concentrations of children from homes where the income was \$3,000 a year or less, or where the children were listed on the aid to dependent children (AFDC) lists.

Title II programs which provided funds for School Library Resources and materials.

Title III programs which provided Supplementary Educational Centers and Services or Projects to Advance Creativity (PACE) in education. These centers involved adults as well as children.

Title IV programs which provided Educational and Research and

Training laboratories aimed at developing new approaches to educational techniques.

Title V provided funds for salaries of the highest administrators of education at the State level.

Title VI provided equal educational opportunities for handicapped children, and all races and ethnic groups under its guidelines.²³

On April 11, 1965, President Johnson traveled to a one-room schoolhouse, a mile from his birthplace, to Stonewall, Texas, on the banks of the Pedernales River, and in the presence of Miss Kate Dietrich, his first teacher, he signed the Elementary and Secondary Education Act (ESEA) into law.

Other facets of the ESEA Act included the Higher Education Act (1965) which provided Federal scholarships for the first time to undergraduate scholars, and also provided insurance on college tuition loans, Federal subsidies on interest payments, and expanded work-study programs, as well as establishing The National Foundation on the Arts and the Humanities.

In a speech about the Voting Rights Act, President Johnson's sentiments echoed his feelings about equal opportunity in all aspects of American life: "At times history and fate meet at a single time in a single place to shape a turning point in man's unending search for freedom...."²⁴

This researcher points out that President Johnson echoed an idea that John Dewey expressed when he wrote several decades earlier: "I believe that all education proceeds by the participation of the individual in the social consciousness of the race. This process begins

unconsciously almost at birth, and is continually shaping the individual's powers, saturating his consciousness, forming his habits, training his ideas, and arousing his feelings and emotions."²⁵

Dade County, Florida: A Successful Bilingual Program

The demand for English services in the early 1960s was first sought among the Cuban immigrants who fled Castro's regime and settled in south Florida. In 1963 the Dade County (Miami) school district began an experimental education program in the first three grades of the Coral Way Elementary School. Both English-speaking and Spanish-speaking children participated in the plan since the goal, from the program's inception, had been to foster bilingualism among the participants. The program was considered successful; many refugee families were from the professional and educated classes and demanded excellent educational services for their children. Also, many teachers were among the first wave of immigrants, and they were able to offer their services to the state, thereby insuring a high quality program in English and Spanish.

For immigrant students in other parts of the country, monolingual education in English was not working for many reasons:

1. Students were not familiar with the language of instruction.
2. Teachers were not familiar with the language of the students.
3. Schools offered one relatively homogenized curriculum in all states.
4. Many school personnel believed that minority language groups were not interested in education.

5. Some school personnel neglected minority language groups and seemed not to be interested in their education because of certain historical, social, and economic features.

6. Minority language parents found it extremely difficult to relate to schools controlled and run predominantly by Anglos.

7. Public schools viewed their mission as one of assimilating minority children rather than educating them.

8. Schools lacked knowledge about how bilingual students learn best.

9. Not enough language minority candidates were trained or hired as teachers, counselors, or administrators.

10. Minority language citizens had little or no control over policy making in local school districts.

11. Many minority language students were recent immigrants or first generation, and considered to be inferior.²⁶

This researcher points out that the educators who worked directly with the immigrant students were among the first to express their concerns for bilingual programs and services. One vehicle for expression was the NEA. As noted earlier, Clarice Kline appeared before the U.S. House of Representatives and requested funds for bilingual education; this awareness helped to shift public opinion towards the value of bilingual programs as communities and politicians began to see the benefits such programs could reap. The concerns of this grassroots movement were not lost upon the Congress. In an interview with an early pro-bilingual activist, Professor Ling-chi Wang of San Francisco, he said: "the American people were in a generous mood", and were willing to

support bilingual education.²⁷

During this time (1965-1967) the Department of Health, Education, and Welfare (HEW), began to investigate alleged violations of Title VI provisions of the 1964 Civil Rights Act. Senator Yarborough of Texas sponsored Congressional Hearings which were held in different parts of the country; they disclosed the language and cultural problems experienced by language minority children. Strong public support for federal funding to school districts was expressed throughout the hearings.

The Demand For Federal Funds:

Introduction of Senate Bill 428: January 17, 1967

The Senate hearings revealed that there were individuals who were willing to speak out in support of minority issues, the most important of which involved support for bilingual programs.

The feeling of determination to promote change in the area of equal educational opportunities was addressed when, in 1967, Texas Senator Ralph Yarborough called for "money, coordination, and inspiration" as the requisites of a sound program. He, and six cosponsors introduced senate bill 428, The American Bilingual Act (BEA), an amendment to the Elementary and Secondary Education Act of 1965. This legislation was designed to address "the special educational needs of the large numbers of students in the United States whose mother tongue is Spanish and to whom English is a foreign language."

The motivation for this legislation was the failure of the schools

to educate Spanish-speaking students, and to encourage those students to complete their education. Senator Yarborough noted that inspiration would come from many eager teachers, parents, administrators, researchers, and from the students themselves who were dissatisfied with the old methods and eager to try new ones.

The bill provided a three-year authorization of appropriations, with a first-year limit of \$5 million and annual increases of \$5 million, for grants to local education agencies to: plan, establish, maintain, and operate programs for students who spoke Spanish.

Authorized activities included:

- (1) establishing a bilingual education program;
- (2) the teaching of Spanish as the native language;
- (3) the teaching of English as a second language;
- (4) establishing programs designed to impart to Spanish-speaking students a knowledge of and pride in their ancestral culture and heritage;
- (5) concentrating efforts to attract and retain Hispanic teachers;
- (6) establishing a network of communication between the school and the home.²⁸

The bill sponsored by Senator Yarborough was limited to Spanish-speaking students only, and because of this narrow classification, criticism was directed against it as ignoring the interests of the other limited-English-speaking people. This led to the introduction of other bills which became merged into a single measure known as Title VII of the Elementary and Secondary Education Act (ESEA).

Senate bill 428 was referred to the special subcommittee on

Bilingual Education of the Senate Labor and Public Welfare Committee. During the seven days of the hearings over one hundred witnesses testified in support of the bill and its objectives. The major arguments in favor of bilingual education for Spanish-speaking students were that bilingual education was necessary to:

1. prevent the academic retardation of children, who although proficient in Spanish, were limited in their English proficiency;
2. stem the "psychological damage" sustained by Spanish-speaking students who entered the linguistically and culturally alien environment of English-only schools;
3. prevent the loss of potential bilingual capability among Spanish-speaking students;

For Spanish-speaking parents, many poorly educated, witnesses argued that bilingual education helped to foster strong and effective home-school cooperation, and stressed the potential importance of bilingual education in conserving the nation's language and cultural resources.

The bill that emerged from the conference committee, and which was signed into law, differed from the original vision of Senator Yarborough.

The focus of the law changed from "Spanish-speaking students" to "children of limited English-speaking ability". This broadened the focus into a remedial or compensatory program to serve children who were deemed "deficient" in English-language skills. The new perception of eligible children as deficient in English rather than proficient in another language was reinforced by another provision added to the law in

conference committee, that schools who received grants would be required to have a concentration of students from low-income families.

Additionally, some activities specifically authorized in the Senate bill were dropped from the final law, with profound implications for the purpose of the Bilingual Education Act (BEA) and federally supported bilingual programs. One program would have developed the native-language skills of the students who were enrolled in bilingual programs, and another program was eliminated that would have encouraged English-speaking students to study another language.

Subcommittee Hearings in the House of Representatives:

Education and Labor: June 1967

In the House of Representatives a number of bills were introduced by Congressmen Augustus Hawkins and Edward Roybal of California, and Jerome Scheuer of New York, that expanded on the Yarborough bill, and examined the issue of bilingual programs in view of the Johnson administration's policies to rectify inequalities. In particular, any person who participated in any program that received federal financial assistance could not be discriminated against on the basis of race or national origin.

Congress eventually appropriated funds for bilingual educational programs after hearings at the House of Representatives on June 28, 1967.

A group of individuals met under the leadership of Roman C. Pucinski, Representative from Illinois, and Chairman of the General

Subcommittee on Education, of the Committee on Education and Labor; it included Representatives Hawkins, Hathaway, Scheurer, and Delenback.

On June 28 and 29, 1967, Mr. Pucinski called the committee to order and the text of bills H.R. 9840 and H.R. 10224 were read as follows: **Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Bilingual Education Act".**

The primary purpose of this hearing was to recommend funds for bilingual programs to enable the Commissioner to make grants to local education agencies and institutions of higher learning, to assist them in carrying out bilingual education programs. This hearing would result in the creation of Title VII as an extension of the original Title I-VI programs of the Elementary And Secondary Education Act of 1965.

The government had signaled its first commitment to address the needs of students with limited English skills. Federal funds were earmarked with specific guidelines. Grants could be used for:

(a) planning for, and taking other steps leading to the development of programs designed to meet the special educational needs of students from non-English speaking backgrounds, in schools having significant proportion of children from non-English-speaking low-income families, including research projects designed to test the effectiveness of plans so developed, and the development and dissemination of special instructional materials or use in bilingual education programs; and,

(b) the establishment, maintenance, and operations of programs, including acquisition of necessary teaching materials, designed to meet the special educational needs of students as described above, through activities such as:

- (1) bilingual educational programs;
- (2) programs designed to impart to students a knowledge of the history and culture associated with their language;
- (3) efforts to attract and retain as teachers those promising individuals from non-English-speaking backgrounds;

- (4) efforts to establish closer cooperation between the school and home;
- (5) early childhood programs designed to improve the potential for profitable learning activities by children from non-English-speaking backgrounds;
- (6) adult education programs related to the purposes of this title, particularly for parents of children participating in the bilingual programs;
- (7) the training in bilingual teacher aides involved in such activities;
- (8) other activities which needed the purposes of this title.

The purpose of this bill contained the following words:

That the Congress hereby finds that one of the most acute educational problems in the United States is that which involves millions of bilingual and bicultural children of non-English speaking background; that little headway has been made in finding adequate and constructive solutions to this unique and perplexing educational situation; and that the urgent need is for comprehensive and cooperative action now on the local, State and Federal levels to develop forward-looking approaches to meet the serious learning difficulties faced by this substantial segment of the Nation's school-age population.²⁹

Thus, the ESEA Act of 1965 was amended by an advisory committee whose role was to aid in the creation of policy regarding second-language acquisition. Mr. Pucinski, the Chairman of this committee, remarked that this constituted one of the most necessary programs for student development for it had been estimated that in 1960 there were about five million persons in the six-to-eighteen age group in the United States who spoke a principle language other than English. Approximately three million young people had been unable to acquire adequate proficiency in English to attend daily classes.

The Subcommittee summarized additional reasons for the necessity of funding these programs: first generation Americans had added immeasurably to the growth and success of American life, but children of

non-English speaking families found academic success doubly difficult to achieve. The language barrier resulted in frustration and failure, and students who experienced failure in academic areas often left school without a diploma, and failed to assume their rightful place in the American mainstream.

The committee noted that in many areas of the country large numbers of children were affected by this lack of mastery in English, and further it was noted that unless the learning gap was corrected at an age when instruction was appropriate, the future cost of providing the basic elements to adults would be cost prohibitive: "In our twentieth century, we know that job opportunities, income levels, economic advancement, and in fact, almost all facets of community life are closely associated with the level of educational attainment."³⁰

Further measures were undertaken by the committee to augment and improve the existing programs in bilingual education as they stood at that time: one bill required that joint applications be submitted by local school agencies and institutions of higher learning in order to develop the most efficient method of assisting non-English speakers to learn. The other bill allowed for a combination of local school bodies, institutions of higher learning, and research centers to phase together the best techniques of each organization.

Chairman Pucinski noted that some "experimentation" had been undertaken by some schools under Titles I and III of ESEA, in the realm of bilingual services. However, prior to 1967, the demand for bilingual services exceeded the ability to provide adequate programs; the Office of Education reported that about \$7 million was spent for programs in

1966 which provided services for about 142,000 children. Mr. Pucinski noted that this was a far cry from the estimated three million who needed such services.³¹

The Honorable Henry B. Gonzalez, representative from Congress from the state of Texas, spoke as one, who, perhaps, had experienced first-hand these problems that non-English-speaking people encountered:

it is not a simple thing to deal with the language barrier; there is a temptation to try and do away with foreign languages. This is at once impossible and undesirable. Language resources are of great value in our world, and ought to be preserved. Moreover, society is enriched by the admixture of cultures that we have, and I think that it would be our loss if we attempted to make our society a completely homogeneous one.³²

As proactive as Congressman Gonzalez' statement might seem, he was reluctant to endorse any particular bill. He had ideas about how a bilingual program should be drawn up. What is more interesting is the sociological perspective that he took:

bilingual education will not solve all of the educational problems or ills of the non-English-speaking.... There are simply no instant panaceas in automated gadgets, federal funds, or fragmented research and development activities... in fact the primary problem in achieving equal educational opportunity may not be in facilities at all.... Three types of factors do appear to relate to achievement. They are in descending strength of relationship: characteristics of the student's own home background; community cultural level as reflected in the backgrounds of the student's classmates; and, quality of the school's teaching staff.³³

The principle tenets for a bilingual education bill that he advocated were to apply to:

(1) Any bilingual education law that included all persons who spoke no English, or who spoke English as a second language, as eligible for assistance, including those who already spoke English but who had a

"language handicap", i.e. those who came from rural or remote areas who needed special training in English.

(2) Bilingual assistance programs that would be available for areas that needed it most, especially for schools with little expertise in "grantsmanship" as opposed to more "sophisticated" schools.

(3) Good programs that would seek superior teachers who had received specialized training, and would provide essential materials for students.

Called to address the subcommittee hearings, Dr. Herschel T. Manuel of the University of Texas sought to not only understand the situation, but to move forward with successful strategies. His recommendations are similar to other testimonies we have read thus far: society must first seek to:

- work toward a reduction of the teacher shortage in general; (this was something many speakers had indicated as a priority concern).

- promote programs in which school systems cooperate with institutions of higher learning in the training of good teachers who must develop skills for effective teaching with language minority children.

- continue and extend experimentation with scientific controls and measurement of results to improve policies, materials, and methods of teaching disadvantaged children who ... have entered school at varying ages, of different endowment, with different levels of achievement, and children who are taught in groups with varying proportions of children whose home language is not English.

- continue to emphasize English as a preparation for full

participation in the community at large, giving earlier and more extensive experiences with English in interesting activities, experimenting to find more effective ways of using tapes and other mechanical aids, and extending experiences with English-speaking volunteers.

- develop home language skills of the Spanish-speaking child, and ... teach Spanish in all grades of the elementary school.

- extend education downward to include the five-year old, and a least for disadvantaged children, the four-year-old and possibly the three-year-old....

- finally, cultivate in the school and the community the concept of a united community in which every person participates freely and effectively for the common good, with equal rights and responsibilities for all.³⁴

The passage of the Bilingual Education Act focused increased attention on the needs of the non-English-speaking students, and resulted in both State and Federal legal activity. A number of states passed legislation permitting the implementation of the new law: the New Mexico Legislature adopted in 1969 a law permitting any school district to set up bilingual-bicultural programs of study, and Arizona passed legislation in that same year for similar programs in the first three grades.

California: An Early Advocate For Bilingual Programs

California, on May 24, 1967, passed a law which authorized bilingual instruction "when such instruction is educationally advantageous to the pupils if it does not interfere with the systematic, sequential, and regular instruction of all pupils in the English language."³⁵

Dr. Miguel Montes, the first Mexican-American appointed to the State Board of Education in California, spoke at the 1967 Subcommittee hearings in Washington in support of bilingual programs, and expressed concern for the numbers of students who were not successful in the "sink or swim" type of program.

Some teachers, however, had recognized the Spanish-speaking ability of Mexican-American students as a distinct asset in learning a second language rather than an impediment to root out. They had found that Spanish could be a bridge to learning English instead of an obstacle, and that students could truly become bicultural as well as bilingual. In addressing the panel, Dr. Montes stated that both the English-speaking and Spanish-speaking children could be taught to become fluent in both languages. His recommendations for state-wide programs were as follows:

1. The bilingual program should first be started in districts with 50 percent or more Spanish-speaking children.
2. The state should require the foreign language to be taught at the first grade, instead of the sixth grade.
3. The California State Education Code should be changed so that it would no longer be necessary to conduct all instruction in English.

4. A federally funded office should be established through the Office of Education that would serve as a clearinghouse for the dissemination of research findings and materials that could benefit the entire country.

During the course of the hearings Congressman Hawkins raised the question of what was actually being done in the state of California with regards to meeting the needs of the Spanish-speaking population, when much had been initiated with ESEA programs, and Headstart programs. Mr. Roybal, a panelist, responded that little had been done to address this population, but a conference sponsored by the California Department of Education supported the ESEA legislation and pointed to a pilot group of 4,000 children which had completed a three-month training period where many students demonstrated increased reading attainment.

In an early policy statement, educators at the California State Board of Education in Sacramento, stated that it is believed that

a fundamental tenet of bilingual education is that a person living in a society whose language and culture differ from his own must be equipped to participate with his language and his culture in that society. It should not be necessary for him to sacrifice his rich language and culture to achieve such participation; rather, we should use his culture, language skills, and thought processes to improve intellectual behavior while at the same time systematically developing the English language.³⁶

The Bilingual Education Act: 2 January 1968

The Bilingual Education Act (BEA) was signed into law on January 2, 1968 by President Lyndon Johnson. This Act was an indication that the Federal government was willing to consider and address the needs of language-minority students.

This researcher notes that the issues raised during the hearings

before the House Subcommittee on Education and Labor were incorporated into the spirit of the Bilingual Education Law: agencies were to develop new and imaginative elementary and secondary school programs to meet the special educational needs of limited English-speaking ability students, teacher training programs were to be expanded, and English was to be emphasized as the way to participate fully in the life of the community.

Yet in spite of its name, the BEA did not require schools to use a language other than English to receive funding. The law's focus was explicitly compensatory and aimed at children who were poor and "educationally disadvantaged because of their inability to speak English." The question of whether the act was to promote bilingualism or to speed the transition to English was not resolved at that time.

Senator Ralph Yarborough, the measure's prime sponsor, stated: "It is not the purpose of the bill to create pockets of different languages throughout the country ... not to stamp out the mother tongue, and not to make their mother tongue the dominant language, but just to try to make those children fully literate in English."³⁷

This researcher spoke with Mr. James Lyons, director of the National Association of Bilingual Education (NABE), about the BEA, and learned that the Johnson Administration did not fully support the funding for this Act. Although President Johnson had supported the Elementary and Secondary Education Act (ESEA), the financial drains of the Vietnam War had put a strain on the federal budget, and the Johnson Administration had hoped to avoid a tax increase. In addition, Mr. Lyons stated that Senator Yarborough and President Johnson did not see

"eye to eye" on other issues.³⁸

Critics of the BEA, among them the Commissioner of Education, Harold Howe II, argued that funds were already appropriated under existing programs, and he also expressed concern that Senator Yarborough's program, by virtue of the wording, would benefit only Spanish-speaking children, to the exclusion of any other minority groups. Representative Gonzalez quickly introduced language that would include Louisiana Cajuns, American Indians, and others. He stated: "in view of our continuing efforts to promote mutual respect and tolerance, we would be inviting grave and justly deserved criticism from many ethnic groups if we recognize the problems of only one."³⁹

By the late 1960s much attention had been directed to the needs of Hispanic students, and federal support seemed to be a widely accepted idea.

The winds of controversy had shifted in other directions as Americans struggled to comprehend the violence of the Vietnam War protests, and the assassinations of John Fitzgerald Kennedy and his brother, Robert Kennedy, and Dr. Martin Luther King, Jr. But, during the ninetieth Congress (1967-68) thirty-seven bills supporting bilingual education had been introduced, and by this time, it seemed to be politically astute to support bilingual education.

Funding for these programs was another matter. Although the committee hearings had suggested dollar amounts for the Title VII programs which supported the bilingual projects, Congress, under pressure from the White House approved no funds for the first year (1968). For 1969, it appropriated \$7.5 million, which was enough to

finance seventy-six projects, that would serve 27,000 children. Even this small amount doubled the number of children enrolled in bilingual classrooms, and by 1972, the total number had risen to 112,000 of the estimated five million language-minority children of school age.⁴⁰

This researcher spoke with Roman Pucinski in an interview on August 4, 1996. Mr. Roman Pucinski who had chaired the first committee hearings in 1967, reminisced about the proceedings, and remembered the difficulty in convincing the Congress to vote for the appropriations saying: "they (Congress) were rednecks who didn't want to spend the money for these programs"!⁴¹

During the first few years when the new bilingual programs were in the developmental stages, many difficulties were experienced due to the inexperience of the educators, as well as the lack of trained professionals, who could implement the vague goals inherent in the legislation. The terms of the BEA did not explicitly require evaluation, but a succession of guidelines was issued to attempt to rectify this shortcoming. However, the guidelines varied themselves, and comparisons between programs was difficult. There was little or no research data available in the late 1960s about bilingual education, and some educators, and certainly the legislators looked at these attempts to provide bilingual services as a "leap of faith"; they had never attempted to, and perhaps could not, answer important questions such as: did young children really pick up new languages easily and effortlessly? Did a prolonged reliance on the native tongue reduce the child's incentive to learn English? Would bilingual instruction confuse the mind and retard achievement?

In the first decade of the Title VII appropriations (1968), Congress appropriated \$500 million for bilingual programs, but only one-half of one percent went for research. The original idea of the BEA had been to finance demonstration projects. Native language instruction was an untested approach in 1968, and summarizing experience was vital. To receive funding for an additional year, Title VII projects were evaluated at the end of each school year. A successful project could be funded for five years, after which time it was assumed that local districts would assume the costs.

Significant milestones in legislation and court decisions which have helped to promote bilingual education are:

1) Meyer v. Nebraska (1923) wherein the Supreme Court invalidated prohibitions against foreign language instruction in private schools. This was the first time that the Court had decided that the federal constitution protects civil liberties against infringements by states involving matters of liberty, including the right to teach and learn a foreign language.

2) Title VI of the Civil Rights Act of 1964 prohibited discrimination in federally funded programs and related activities. Under these regulations, no school system administering a federally-funded program could employ criteria or methods of administration which effectively frustrated the program's goals for persons of any particular national origin.

3) Title VII of the Elementary and Secondary Act (ESEA) of 1965 appropriated financial assistance to local education agencies for bilingual programs, and for the development of bilingual curricula to

familiarize immigrant students with their history and culture. The program was voluntary.

4) The Bilingual Education Act (BEA) of 1968 provided appropriations which recognized:

- a) that there were large numbers of children of limited-English-speaking ability.
- b) that many of such children have a cultural heritage which differs from that of English-speaking persons.
- c) that a primary means by which a child learns is through the use of such child's language and cultural heritage.
- d) that therefore large numbers of children of limited- English-speaking ability have educational needs which can be met by the use of bilingual education methods and techniques.
- e) that in addition, children of limited-English-speaking ability benefit through the fullest utilization of multiple language and cultural resources.

In concluding Chapter I, this researcher has examined the forces and personalities that came together and resulted in changes in policy towards language minority students in the 1960s. This researcher also wishes to point out those individuals who assumed leadership roles and helped to advance the agenda of bilingual education.

Representative Roman Pucinski who chaired the hearings on bilingual education invited a panel of experts to come forward and testify about the need for programs and services for language-minority students. The leaders in this movement include Superintendent Charles Boehm, who recognized the need for students who were fluent in more than

one language, and who recognized that local control, and the role of the State were crucial in developing appropriate programs.

Congressman Henry B. Gonzalez was another leader who spoke for immigrants, and urged Congress to provide language resources so all immigrants could work, raise their families, and contribute to society as they tried to make the American dream accessible.

Other leaders in the struggle for the establishment of bilingual education programs include Clarice Klein, and the members of the National Education Association. The dedicated teachers who worked with language-minority populations and realized the need for early intervention are to be commended for advancing the philosophy that all students are part of an educational community and deserve the right to an appropriate education.

Lyndon Baines Johnson is without question, one of the leaders in the area of Civil Rights. Without his influence and initiative the Elementary and Secondary Education Act might never have come to pass, and the subsequent Bilingual Education Act may never have been realized.

The common thread that unites these leaders is their firm belief that effective communication is the right of every individual, and that if an individual is to participate fully in society, they must communicate with their neighbors. This is the foundation of a democratic society.

The next chapter will examine the bilingual educational policies of the 1970s and the only decision ever rendered by the Supreme Court on the legal responsibilities of school districts for limited-English-proficient national origin-minority students: Lau v. Nichols.

ENDNOTES: CHAPTER I

1. Ron Miller, What Are Schools For? Holistic Education In American culture (Brandon, VT: Holistic Education Press, 1990), Ch. 4 passim.
2. John Dewey, Schools and Society (Chicago: University of Chicago Press, 1900).
3. Ibid.
4. Ibid.
5. Hernan LaFontaine, Barry Persky, and Leonard H. Golubchick, eds., Bilingual Education (Wayne, NJ: Avery Publishing Co., 1978), 3.
6. James Crawford, Bilingual Education: History, Politics, Theory, and Practice (Trenton, NJ: Crane Publishers, 1989), 33.
7. Arnold Leibowitz, The Bilingual Legislation Act: A Legislative Analysis (Rosslyn, VA: National Clearinghouse on Bilingual Education, 1980).
8. Meyer v. Nebraska, 262 U.S. 390 (1923).
9. Congress, Senate, Subcommittee on Education, Federal Assistance to Education: Hearing before the Committee on Labor and Public Welfare, 87th Cong., 1st sess., 14 January 1961, 2-95.
10. Ibid.
11. Ibid.
12. Ibid.
13. Roger D. Abrahams, and Rudolphe C. Troike, eds., Language and Cultural Diversity (Englewood Cliffs, NJ: Prentice Hall, 1972), 8.
14. U.S. Congress, Senate 1961.
15. Doris Kearns, Lyndon Johnson and the American Dream (New York: Harper and Row, 1976), Ch. 4 passim.
16. Ibid.
17. Ibid.
18. Lyndon Baines Johnson, Inaugural Address: Threshold of Tomorrow (Washington D.C.: GPO, 1965).
19. Kearns, 1976.

20. Ibid.
21. Congress, House of Representatives, Committee on Education and Labor, Activities and Accomplishments, 89th Cong., 1st sess., 8 March 1965, 3-40.
22. Ibid.
23. Ibid.
24. Kearns, 1976.
25. John Dewey, "My Pedagogic Creed," The School Journal 59 (January 1897): 77-80.
26. Raymond Padilla, ed., Theory, Technology, and Public Policy on Bilingual Education (Rosslyn, VA: National Clearinghouse for Bilingual Education, 1983), ix-xiii.
27. Ling-Chi Wang, interview by author, tape recording, San Francisco, CA, 7 July 1995.
28. Congress, House of Representatives, General Subcommittee on Education, Bilingual Education Programs: Hearings before the Committee on Education and Labor, 90th Cong., 1st sess., 28 June 1967, 214-217.
29. Ibid.
30. Ibid.
31. Ibid.
32. Congress, House, 1967.
33. Ibid.
34. Walter Coultres, "What Is Bilingual-Bicultural Education?", California Department of Education, Sacramento, CA, 1972-73.
35. Ibid.
36. Congress, House, 1967.
37. Congress, Senate, Special Subcommittee on Bilingual Education of the Committee on Labor and Public Welfare, 90th Cong., 1st sess., June 1967.
38. James Lyons, interview by author, telephone, Washington DC, 15 August 1996.
39. Congress, House, 1967.

40. Crawford, 1989.
41. Roman Pucinski, interview by author, telephone, Chicago, IL, 4 August 1996.

CHAPTER II

"NOR SHALL ANY STATE DENY ... EQUAL PROTECTION OF THE LAWS"¹

In the last year of the tumultuous decade of the 1960s, on January 20, 1969, Richard M. Nixon delivered his inaugural address. He asked all Americans to assume the mantle of peace, and reminded us that we were close to the achievement of a just and abundant society. His address did not imitate the oratory of Lyndon Johnson, and he made no bold promises. But, in his address he spoke an important word that symbolized, in this researcher's opinion, the key educational issue of the 1970s: communication.

This chapter will examine educational policy and the Nixon Administration; the National Institute of Education; Civil Rights and Federal Policy: 1970s; California and the Lau case; San Francisco: a school district dedicated to quality; the struggle for equal educational opportunities; the U.S. Supreme Court and Lau v. Nichols; the Bilingual Education Act (BEA); the Lau remedies; and the 1978 BEA amendments.

Educational Policy and the Nixon Administration

In March of 1970, education reform and renewal was the topic of Richard Nixon's address to Congress. He was concerned about several facets of the future of learning in America, and he indicated to the Congress that the approach his Administration would take on education

was intended to challenge them: "America's educators have the capacity and dedication to respond to the challenge."

For many American citizens, the educational system is successful, yet for others, it never delivered on its promises. Mankind has witnessed a few great ages when understanding of a social or scientific process has expanded and changed so quickly as to revolutionize the process itself. The time has come for such an era in education.²

During the Johnson Administration, the question of funding for programs continued to be a concern. Nixon stated that he was aware of this, and pledged that his Administration would commit itself to substantial increases in Federal aid to education, and he would give it a top priority in his budget: "as we get more education for the dollar, we will ask the Congress to supply many more dollars for education."

In 1971, he proposed to increase the educational research budget by \$67 million to a total of \$312 million, and funds for the National Institute of Education would be allocated in addition to the education research budget.

In quoting British Prime Minister, Benjamin Disraeli, who advised Parliament to recognize that the fate of England rested upon the education of its people, Richard Nixon stressed that his Administration was committed to the "principle and the practice of seeing that equal educational opportunity is provided every child in every corner of this land."³

The decade of the 1970s was to be a decade that not only continued a tradition of dedication to all students, but would visualize a thoughtful redirection to improve the ability to make up for environmental deficiencies among the poor; for long-range provisions for

financial support for schools; for more efficient use of the dollars spent on education; for structural reforms to accommodate new discoveries; and for the enhancement of learning before and beyond school. The proposals Richard Nixon advocated consisted of the following:

- A proposal that the Congress create a National Institute of Education as a focus for educational research and experimentation in the United States, which would oversee the annual expenditure of almost a quarter of a billion dollars.

- A proposal to establish a President's Commission on School Finance to help States and communities analyze the fiscal plight of local public and private schools, and to chart a sound fiscal course for the Seventies.

- A proposal to take steps to help States and communities to achieve the Right to Read for every young American, and a request for financial assistance totalling \$200 million be devoted to this objective during fiscal 1971.

- A proposal that the Department of Health, Education and Welfare (HEW) and the Office of Economic Opportunity begin to establish a network of child development projects to improve the first five years of life. In fiscal 1971, a minimum of \$52 million would be provided.

Nixon was determined that local school districts be accountable for the education of their students, and that the "flow of power in education would flow toward, and not away from, the local community."⁴

The 1970s was a period of intense competition between Russia and the United States, particularly in the space program, and priority was

given to scientific research and experimentation. There was a need for an objective national body to evaluate new departures in teaching for American schools, and a means of disseminating information about promising new projects.

The National Institute of Education

Bilingual education was not a particular focus of the Nixon Administration, yet, the President did state that the National Institute of Education would explore compensatory education which would focus on the gap in learning skills in large numbers of children from poor families. The Institute would be part of the Department of Health, Education and Welfare (HEW), and would focus on the development of programs in applied educational research.

In 1970 \$1 billion was spent for educational programs run under Title I of the Elementary and Secondary Act, but student progress in the area of improved reading scores was not significant. HEW urged the National Institute of Education to determine what was needed, and to formulate goals to make all compensatory education efforts successful.

Dr. James E. Allen, Jr., the nation's chief education officer, proclaimed the Right to Read program as a goal for the 1970s. The realization of the Right to Read program would require the effort to develop new curricula, and new strategies on how to implement existing programs.

President Nixon pledged that he would ask the Congress to appropriate substantial resources for two programs that could

immediately serve the Right to Read program: resources for school libraries to obtain new books, and resources that would go to the states for special education improvement projects. The exact figure that he quoted was \$200 million, for teaching children to read was to be regarded as the very highest priority in American schools.

By the mid 1970s there were approximately 3.6 million children in the United States that had limited speaking ability in English. About 73 percent of these children were Hispanic. The federal government desired to respond to educational issues that faced these English-language-minority children, partly as a response to the Civil Rights movement, and partly in the interest of response to ethnic groups who wished to maintain their language and culture. In general, the role of the federal government in bilingual education grew out of the social programs of the 1960s.⁵

Civil Rights and Federal Policy in the 1970s

In early 1970, La Raza Unida, a militant Chicano group in Crystal City Texas, organized school boycotts to protest unequal treatment of Spanish-speaking students. Bilingual education was among its demands, and, after the party had won a majority of seats on the school board, some programs were initiated. Meanwhile, Mexican American, Puerto Rican and Chinese parents began to file lawsuits challenging the schools' failure to address their children's language needs.

However, the litigation advanced the claim that "equal treatment" of children who came to the classrooms with deficiencies in the English

language could not be treated equally. "Submersion" in mainstream classrooms, the process wherein students are thrown into the curriculum to literally "sink or swim", meant unequal opportunities to succeed. It had been noted for some time that limited-English-proficient (LEP) students left school earlier, and with much less education, than their English-speaking peers. At issue was whether school officials should be held accountable. The Civil Rights Act of 1964 had forbidden discrimination on the basis of national origin, but up to this point, federal officials had confined their attention to race discrimination against Southern blacks.

Finally on May 25, 1970, J. Stanley Pottinger, director of the federal Office for Civil Rights, issued a memorandum to all school districts with more than five percent national-origin-minority group children that under the terms of Title VI of the Civil Rights Act discrimination in all federally supported programs was outlawed. Referring to LEP students, Pottinger said: "the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students."⁶

The memo did not direct school officials to establish bilingual programs, but some kind of special services were to be provided for LEP students, and furthermore, students could not be assigned to classes for the handicapped "on the basis of criteria which essentially measure or evaluate English skills." Students could not be directed to vocational education classes (which were considered to be "dead-end" tracks), and had to be taught English. And finally, parents had the right to expect communication from the schools in a language they could understand. The

last resort, according to Pottinger's memo, was a threat to terminate federal education subsidies.

Parents responded by filing lawsuits in federal court. This paper will examine two lawsuits brought by Spanish-speaking parents who sought to provide a meaningful education for their children, and this paper will examine the major court decision on the rights of language-minority students, and the only such ruling by the U.S. Supreme Court: Lau v. Nichols.

The first law suit to be filed in federal courts by Mexican-American parents in New Mexico occurred in 1972, and is known as Serna v. Portales.⁷

This case led to the first court mandate for bilingual education, whereby a judge ordered instruction in the children's native language and culture as part of a desegregation plan. This decision was upheld two years later in the U.S. Circuit Court of Appeals, where it was stated that Title VI gave Hispanic students a "right to bilingual education."

The second landmark case was Rios v. Read where a federal court found that the Patchogue-Medford, New York school district had violated the rights of LEP students by providing an inadequate bilingual program that relied mainly on English as a Second Language (ESL) classes without a bicultural component. The court maintained:

while the District's goal of teaching Hispanic children the English language is certainly proper, it cannot be allowed to compromise a student's right to a meaningful education before proficiency in English is obtained.... It is not enough simply to provide a program for language-disadvantaged children or even to staff the program with bilingual teachers; rather, the critical question is whether the program is designed to assure as much as is reasonably possible the language deficient child's growth in

the English language. An inadequate program is as harmful to a child who does not speak English as no program at all.⁸

California: The Lau v. Nichols Case

The major court decision on the rights of language-minority students, and the only one to be heard before the U.S. Supreme Court, was filed in San Francisco, California, by a former Chicago lawyer, Edward Steinman, and is known as the Lau v. Nichols case.

In 1965 there were momentous changes in the population in San Francisco, California due to a change in immigration policies, notably the abolition of the national origins quota system which had, up until 1964, mandated an annual entry quota of 105 Chinese immigrants to the United States. The influx of legal immigrants swelled the tide of newcomers to unimagined proportions, and exacerbated problems in housing, education, employment, health care, recreation, delinquency and poverty in the Chinese American community.

Traditionally, the Chinese community rose to meet these problems, for there had always been a "we take care of our own" feeling on the part of the Chinese Six Companies who represented the older, established business interests, but the spirit of the rebellious 60s inflamed the educated young in the community, as a sudden awakening of interest in Chinatown on California university campuses flourished. This was due, in part, as a response to the rhetoric of the Great Society programs, in particular to the anti-poverty campaigns, as second and third generation Chinese-Americans recognized that they were still excluded from enjoying the benefits of American citizenship. They had witnessed the birth of

black radicalism on American campuses in particular, and had learned of the efforts to provide limited bilingual programs to other ethnic minorities.

In 1968 there was a long, bitter Third World Strike at San Francisco State College, and those who participated emerged with a new awareness of the effects of lingering discrimination against all minorities, and their anger at the injustice was fueled by a renewed sense of identification with their own community.

In 1969, another Third World Strike took place at the University of California, Berkeley; the subsequent growth of the Asian-American student movement resulted in continued opposition to the war in Vietnam, and demands for Asian-American ethnic studies programs.

During this period, many young Chinese returned to their communities and became involved in service projects.

In an interview with this researcher, Henry Der, currently Executive Director of External Affairs for the California State Board of Education, Sacramento, stated that he and other student activists were involved in voter registration projects in the San Francisco Bay Area, with a group called Chinese for Affirmative Action. This group felt that too little was being done in the area of education and worker's rights. By organizing eligible voters to make their demands heard, the Chinese for Affirmative Action hoped to initiate English language classes for students and their parents, and better working conditions in the garment shops of Chinatown.

In his statement, regarding the attitude of certain school officials, Henry Der said "we had to hold their feet to the fire" when

asked about the attitude of the policy-makers towards implementing bilingual programs for Chinese students.⁹ (The implication here was that most officials felt that they were doing enough for the immigrant children.)

The effectiveness of the anti-poverty and education programs were largely dependent upon government funding, which was uncertain from year to year. The programs provided medical assistance, welfare funding, and English training programs for adults in Chinatown; there was a lingering atmosphere of disappointment and despair in the community, and it was noted by Barry Nee, the author of Longtime Californian,¹⁰ that the government could provide the residents of Chinatown only with "bandaid services". The real problems facing the Chinatown residents, in the opinion of some American-born Chinese, were psychological and cultural, as much as economic.

The radical students, on the other hand, sought neither government support, nor the approval of the merchant leaders, the Chinese Six Companies. They had developed a freedom of expression and movement that allowed them to express innovative ideas which kept them on the cutting edge of society. They worked to eradicate the images that existed for so long in mainstream culture of the "comic character, strangely dressed, a pidgin-speaking English Chinaman", which defined the Chinese in the popular imagination, and which continued to leave them alienated, and on the fringes of American life."¹¹

The public schools of America have always been at the center of American life. In the Chinese community, the first segregated primary school opened on April 13, 1885, at Jackson and Powell in San Francisco,

and the history of years of segregation and anti-Asian bias is a long and dismal one, both in the general history of California, as well as the educational history of the Chinese children.

In this century, as late as 1954 Chinatown was saturated by newcomers with social problems; in the immediate years following World War II, the San Francisco school board placed English-handicapped students in Opportunity classes in the elementary schools, or in the Americanization department in the secondary schools. During this period, the method of instruction was the immersion or the "sink-or-swim" approach, which resulted in unequal educational opportunities, and high dropout rates.

The public schools in San Francisco were among the first schools in California to experience the influx of Asian immigrants. Many Chinese came primarily to assure the education of their children and to escape the burdensome educational fees of the Hong Kong schools. Their understanding was that the free higher education in the San Francisco City College would provide upward mobility for their children. This was the case for Dr. Irene Kwok, currently serving as Chinese Language Coordinator for the San Francisco Public Schools.

In an interview with this researcher, she stated that her parents sought out the superior educational prospects in California as one important reason to emigrate to California in the late 1960s.

Dr. Kwok created the first Cantonese-English bilingual program in the United States, and she fits the profile that Barry Nee examines in his book: Longtime Californian; she is a professional educator who has adapted quite well to American life, yet she continues to work within

the school system to promote change and growth, and to provide opportunities for new Asian immigrants. Together with her husband, a medical doctor, she continues to serve the Chinese community both here and in China, where they both work in a Chinese clinic, established by her husband.¹²

San Francisco: A School District Dedicated To Quality And Equality

With the expertise and guidance of other Chinese-American professionals, and the realization by committed teachers in the San Francisco public schools that their Chinese-speaking students needed English-language services, parents in the Chinese community began to attend the School Board meetings in San Francisco where they heard remarks, such as the one made by Peter Mezey on December 16, 1969:

The proposed Quality/Equality Complex Plan is one we believe can so improve the overall quality of public education in San Francisco as to make this city a national example of educational excellence... a city is judged by the vitality of its commerce and the ever-flow of its population. At the human scale, the city may also be judged by the degree of intellectual, physical and spiritual nourishment that it provides for all its people. Sooner or later in the life of every city a moment comes when its institutions must be reappraised in the light of meeting the needs of its citizens. Such a moment has now come to our city. I hope it is clear to the members of the Board that the opportunity is here to utilize the momentum of public support you now have to improve the level of quality and equality in the San Francisco educational system. We urge you to go forward now with immediate and visible steps.¹³

The political scenario in San Francisco had now expanded beyond the angry young activists to include the parent and teacher community advocates, who raised the banner for equality of services. In the early

1970s, public support for bilingual services included the support of the first African-American state superintendent of public instruction, Wilson Riles. And as more parents continued to make their demands known to the School Board, the course of events took a different turn.

The Struggle For Equal Educational Opportunity

An attorney in the San Francisco Unified School District, Mr. Gordon Lau, addressed the School Board on August 4, 1969, and spoke on the behalf of the Chinese American Democratic Club and the Concerned Chinese for Action and Change:

there remains a great need for expanded and viable bilingual programs here in the city of San Francisco, and we believe that every man needs to be able to communicate with his neighbor and potential employers. The Chinese American Democratic Club, and the Concerned Chinese for Action and Change recognize that members of the Filipino community also have bilingual needs and that we are in one hundred percent agreement that the Filipino community's needs are not to be ignored....¹⁴

He further urged the Board to allow teachers to be involved in decisions regarding staffing, curriculum, and school site use: to bring about the highest quality education, teachers needed to have the opportunity to implement their selected programs, and they must be assured the freedom to investigate, to change, to review the changes, and to reinvestigate until more appropriate programs were developed.

In the San Francisco School Board minutes of November 5, 1970, Mr. Edison Uno addressed the members of the Board and implored them to disregard the cultural stereotypes of the Chinese students as ones who were "placid, subservient, obedient, and respectful of authority", but

urged them to look at the Chinese as citizens who saw the need to express their concerns, demand their rights, and be recognized as first class citizens:

The concerns you have heard tonight are indicative of the gross negligence of omission and total disregard for the interests of the segment of our community which now dares to ask for an equal share of what is rightfully ours. Asian Americans have too long been overlooked and ignored. Each of you have a responsibility to the taxpayers of this city. Each of you have a constituency that excludes Asian Americans. Each of you have perpetuated the type of institutional racism that is the cancer that is affecting all of our society.... Asian American students comprise approximately 20 percent of our students in enrollment in San Francisco schools. Asian-American teachers and administrators have less than 6 percent representation out of a force of nearly 5,000.... We are visible, vocal, and viable. As we get ourselves together to express our concerns, we hope that you will get yourselves together to solve some of the inequities in this school system.¹⁵

The winter of 1970 was a stormy one, as Dr. Ling-Chi Wang, community leader and parent of children at the Commodore Stockton, a large Chinatown public elementary school, remembered it, when he spoke with this author about a school board meeting that was held on January 20, 1970. The Chinese parent-activists had succeeded in convincing their neighbors that it was in their best interest to attend the Board meeting scheduled on that January night when a storm began to brew. Dr. Wang remembered that school busses were mobilized to transport the parents to the Board office on Van Ness Street, where Board President Alan Nichols presided over the meeting. In attendance were teachers from the Marina Junior High School, who had come to address the Board and the parents of the Chinese community about the "crisis" that existed in the Marina Junior High School.

Mr. Wallace Stewart spoke about the need to publicize the fact that approximately two thirds of the 1900 students at Marina represented

children of Chinese parentage, and of that number, approximately 50 percent lacked language skills necessary for the performance at a level commensurate with their abilities. Stated distinctly: they needed specialized instruction in the use of the English language. "The number of children in this category is increasing daily as a result of recent changes in the immigration law. (In October, 1965, Congress had passed Public Law 89-236, which had eliminated the national origins quota for allowing immigrants into the United States.)

This long overdue change in the law removed an inequity that had discriminated against people of Oriental descent. The subsequent increase in the number of immigrants had been reflected in the number of students who were required to learn English as a second language before they could pursue a normal academic schedule.

One important point was made by Mr. Stewart: before the influx of Chinese immigrants, all existing English as a Second Language (ESL) classes were developed based upon the assumption that the new students spoke a European language that shared many common linguistic characteristics with English. This was not the case with English and Chinese, which were quite dissimilar, and this dissimilarity compounded the problems of instruction. As we have noted, there were no bilingual programs in English and Chinese, either Mandarin or Cantonese, in 1970, and the teachers were among the first to recognize that they were not providing appropriate educational opportunities for their students.

Mr. Stewart requested that the school board provide special training in methods of instruction for teachers who would work with the new immigrants. In addition, he requested: specially prepared

materials, an intensive, articulate curriculum, a small student-teacher ratio, and adequate classroom space. None of this was provided, and the flood of students, who spoke Chinese, Japanese, Filipino, and Korean was close to becoming a deluge.

Newly arrived students were provided with some part-time ESL instruction, but most spent a large proportion of their day in regular classes. As enrollment swelled, students were put on ESL waiting lists, and were placed directly into regular classes. The results of this are best expressed in this remark:

ladies and gentlemen, regardless of the motivation of the child, regardless of the expertise of the teacher, regardless of the stimulation of the curriculum, the child that does not understand English becomes frustrated and bored. The school loses its meaning. It becomes painful, because every minute of class time accentuates the child's language inadequacies. How long would you tolerate a school where all classes were conducted in Cantonese before the boredom and frustration became intolerable?¹⁶

On that snowy night, Mr. Stewart, fully aware of the support rendered to him by his colleagues at the Marina Junior High, as well as other area schools, implored the Board members to appoint a committee comprised of ESL teachers, administrators, community leaders, and Board members to investigate the ESL program. Their responsibility was to find ways and means to accomplish the following:

- 1) compile a comprehensive, articulate curriculum for all levels of instruction;
- 2) increase the number of practical ESL in-service courses for teachers;
- 3) actively recruit teachers with professional training in teaching ESL courses;

- 4) reduce the student-teacher ratio for these highly specialized classes;
- 5) secure materials specifically designed to teach Chinese-speaking students in English;
- 6) establish a flexible teacher-student ratio that compensated for increased enrollment;
- 7) investigate the possibility of securing Federal and private funding for implementing the above programs, as have the cities of New York, Miami, Houston, and San Diego.

Mr. Peter Cerlanti, the Chairman of the English as a Second Language Department at Marina Junior High was the next person to address the Board: "In a school district dedicated to quality and equality these changes are imperative"; he challenged the Board to hold their meetings in other areas of the city, such as Chinatown, where they "might be able to see a different part of the city that you are serving."¹⁷

This implicit acknowledgement of the Board's failure to truly comprehend the severity of the problem was enhanced with a list of six concerns that were true of the entire school system, according to Mr. Cerlanti.

These concerns focused on a lack of adequate funding for the programs, a lack of adequate staffing at the central office to coordinate the program, a lack of trained specialists and teachers, a lack of a unified curriculum, coordinated through each grade level, a lack of appropriate texts and materials, a lack of bilingual teachers, bilingual counselors, bilingual clerks, and bilingual psychologists.

But, the most serious lack of all was the lack of funds to establish adequate programs, and to staff them.

In the course of the speech, Mr. Cerlanti referred to the reading scores in San Francisco, and noted that the ESL students' scores were not included in the general student population; if this had been done, he noted, the average grade-level score would have been markedly lower. This was undisputed testimony of the failure of the school system to meet the needs of the non-English-speaking students.

In the high schools, the ESL students were subjected to programs that were considered inadequate and, to make matters worse, ESL students were not allowed to attend Galileo High School unless they could read at a sixth grade level, while other students who read at a third grade level were admitted. This, in the eyes of many, was considered discriminatory and illegal. Mr. Cerlanti ended his speech with a plea for a true Equality-Quality Program whereby each and every student, regardless of where they were born, or lived, would reap the benefits of this program.

Mr. Jerry De Ryan, teacher, counselor, and Vice President of the San Francisco Classroom Teachers Association, followed Mr. Cerlanti. His comments urged the School Board to recognize that the failure of the schools to educate the immigrant children was "not a one-school problem, but a district community problem." He quoted from Mayor Alioto's San Francisco Chinese Community Citizens Survey and Fact Finding Committee, the Education Report and read:

For all the youths of whatever race, creed, or background, the right to an education is basic in the American way of life. It is guaranteed and it is implemented by the dollars poured into the public funds by all citizens. But for the youth of Chinatown...

the fact that there are public schools the doors of which can be entered side, by side, regardless of color or economic status, does not of itself carry out the guarantee of quality education. The reason lies in the fact that the curriculum relies upon the instruction of the English language, and to the highest percentage of Chinese students English is a foreign language.¹⁸

Mr. Ryan referred to the long history of discrimination that the Chinese suffered since 1885 when he reminded the School Board that at that time the Chinese were barred from integrated schools, and in 1970, they were still effectively barred from the curriculum because it was an incomprehensible tool of language, relegating them to continued ghetto living and unskilled jobs.

Many of my students have become tired of a curriculum that seems meaningless to them. The dropout rate in the secondary level is rising, and cutting of classes is on the rise. The Chinese child has great anxiety about speaking out, and builds up the problems inside that can affect his mental and physical health.¹⁹

Much of the testimony revealed in the minutes of the school board meeting indicated the level of concern of the teachers who worked with the immigrant children, and who witnessed Chinese students struggling with an English curriculum.

As he concluded his testimony, he faced the Board members and put this question squarely before them: is this the American dream? Or is it a nightmare for our newcomers? The minutes show that the School Board made no response.

At long last, the Chinese parents of the community spoke. Because many of them spoke haltingly in English, or no English at all, Dr. Ling-Chi Wang interpreted for some of them.

The first to speak was Mr. Y.B. Leong who spoke in Chinese, and Dr. Wang interpreted; he stated that he had five children in the

elementary school, and that he emphasized education and the ideals of good citizenship:

we want our children to receive the best education possible so that they in the future will not become parasites on our society. I noticed that the educational standard of our children is continually declining, and our educational system is not matching up to the European standard. We therefore request that the Board of Education accept our request and approve the educational system so that we will fulfill our dream.²⁰

The next parent to speak, a Mrs. Ruby Tom, addressed the historically poor showing of Chinese parent involvement at school meetings. This was attributed to parents' inability to communicate in English, large numbers of working parents who worked sixteen-hour days, or longer, in the kitchens and sweatshops of Chinatown, and the large number who attended evening English classes in local schools and at the Chinese Cultural Center.

First, let it be understood that the (immigrant) parents are innocent and trusting enough to believe the schools are providing the best for their children's education and welfare. Parents are aware that their children are suffering difficulties in the school work, but did not attach the significance of language deficiency as a prime factor. More likely, they would think the children were at fault.

Some parents were exposed to the fact that their children's language handicapped them for the first time. They were not aware of the channels through which they could take their children's problems. Many feel this is something the family must surmount within themselves.... Even if they wished to speak out, there was a language barrier, a timidity of strange customs, the awesome prospect of facing teachers and administrators, let alone appearing before an imposing tribunal of School Board members in a high auditorium, before a frightening microphone.²¹

Several other parents spoke that night, and each implored the Board to increase the budget and the number of teachers so their children could participate and become true Americans.

One of the last speakers was Dr. Dennis Wong, who represented the Chinese Consolidated Benevolent Association, know as the Chinese Six Companies. Speaking as the past president of the Association, and a still-influential member of the group, he addressed the problem of juvenile delinquency in the Chinese community, and linked it to the fact that of approximately 200 known delinquents, none had a high school diploma:

I came to America when I was 13 years old, and I can tell you some of the frustrations I experienced when I went to Francisco Junior High and there was not one Chinese teacher to guide our bunch along. Fortunately, due to some good paternal guidance, I came through ... but now you have these 200 kids causing trouble. And I can tell you in a few more years, the number will be doubled, unless you (the Board) can do something.²²

The U.S. Supreme Court and Lau v. Nichols

Chicago: "stormy, husky, brawling, City of the Big Shoulders". Thus wrote Carl Sandburg in 1889, as he described a city synonymous with growth, energy, struggle, and persistence.

If people can absorb the vitality of their environment and reflect it in their daily encounters, then Edward H. Steinman, a Chicago-born lawyer from the Rogers Park neighborhood, was a true Chicagoan.

In early 1970, recently graduated from the Stanford University Law School, Ed Steinman established a law practice in Chinatown. His clients, most of whom were Chinese, spoke no English, and their children had difficulties with the language as well. In an interview with this researcher he said that people see a lawyer when situations on the job aren't equitable; for each meeting with his clients he needed a

translator, and sometimes their children were called in to translate, but it was obvious to him that they had little facility in English.

At this time in Washington, D.C. a memorandum from the Department of Health, Education and Welfare was being prepared under the directive of J. Stanley Pottinger, which followed up on the general 1968 guidelines providing specific information on responsibilities to school districts whose national-origin minority group enrollments exceeded five percent. The memorandum, circulated to all school districts with large numbers of minority children just two months after the Lau case was filed in the United States District Court in San Francisco, noted a number of common educational practices which had the effect of discrimination on the basis of national origin.

On March 25, 1970, Mrs. Kinny Kimon Lau, represented by Ed Steinman, filed a class-action suit on behalf of her son Kinny Lau, along with twelve other non-English-speaking Chinese-American plaintiffs, and on behalf of nearly 3,000 other Chinese-speaking students against the San Francisco Unified School District. By denying these children special instruction in English, the school district had not only violated their rights to an education and to equal educational opportunities, as guaranteed by the Constitutions of the United States and State of California and by federal and state legislation, but the school district, according to the complaint, was also "dooming these children to become dropouts and to join the rolls of the unemployed."²³

In their complaint, the plaintiffs raised two issues: first, whether the San Francisco Unified School District was required to provide them with special instruction in English; and second, whether

such special instruction in English must be taught by bilingual, Chinese-speaking teachers. As for relief, the plaintiffs requested that the federal court order the school district to provide special English-language classes for all non-English-speaking students, for without bilingual teachers, the students would be merely "parroting" the teachers and not really learning English.

The Lau case was a last resort, and it came as a result of years of frustrating attempts on the part of the Chinese community to obtain relief from the School Board. In the course of time the Chinese had attempted to remedy the deprivation suffered by their children through such strategies as meetings, demonstrations, studies, and community alternative-language programs. The School Board did not consider the problem serious enough to address. Ed Steinman, in later testimony before the Committee on Ways and Means of the California State Assembly, after the U.S. Supreme Court Hearing, claimed that: "their token gestures in the form of bandaids here and there were made by an administration which had neither the interest, the willingness, the competence, nor the commitment to cope with the thousands of non-English-speaking children".²⁴

The school board members did understand, to some degree, the frustration of the children who were placed in classes without appropriate English skills: their low reading scores, coupled with the testimony over the years of concerned teachers and parents, was evidence enough. Following months of legal discovery and investigation, a hearing of the Lau case was held before the U.S. District Court Judge Lloyd Burke. At the hearing, the school district acknowledged the

concerns of the plaintiffs, but contended that such needs did not constitute legal rights. The Board added that they had satisfied their obligation to these children by providing them the same educational setting as was provided to other students in the district. Though the school district acknowledged a desire to provide additional bilingual classes, it would do so as money and personnel permitted rather than as a matter of right and duty.

Judge Lloyd Burke expressed sympathy with the plight of the plaintiffs but concluded that their rights to an education and to equal educational opportunities had been satisfied as "they received the same education made available on the same terms and conditions to the other tens of thousands of students in the San Francisco Unified School District." Although the education was not adequate, ruled the court, the school district had no legal duty to rectify this situation. Furthermore, although the school district cited the large increases in the number of new immigrants as part of the problem, they further sought to absolve themselves by stating that they had no control over immigration policies, and thus, had no responsibility for the consequences.

The case was appealed, and Lau went before the U.S. Court of Appeals for the Ninth Circuit. An amicus curiae brief was filed by the federal government, which argued that the United States Constitution and Civil Rights Act of 1964 required that non-English-speaking children be given educational opportunities which suited their needs, and urged the Appeals Court to overturn the decision of the federal court.

On January 8, 1973, a three-judge panel of the Ninth Circuit Court of Appeals affirmed the decision of the federal court.²⁵

This decision, said Ed Steinman,

exhibited a narrow and callous view of the situation, with the exception of Judge Shirley Hufstedler's strong dissent, who acknowledged that the Chinese children were more effectively segregated from their classmates than the Black children in Brown v. Board of Education because they could not even communicate with English-speaking students or teachers.²⁶

The Appeals Court stated that the San Francisco Unified School District had the responsibility to provide these plaintiffs "with the same facilities, text books, and curriculum as is provided to other children in the district." And further it said that the result of the deficiencies was created by the children themselves in failing to learn the English language:

Every student brings to the starting line of his educational career different advantages and disadvantages caused in part, by social, economic, and cultural background, created and contributed completely apart from the school system. That some of these may be impediments which can be overcome does not amount to a denial by the school district of educational opportunities... should the (district) fail to give them special attention.²⁷

The California Education Code states that English should be the basic language of instruction in all schools, and that a school district could determine when and under what circumstances instruction should be given. There is also a section that states that schools must provide for a mastery of English by all pupils in the state, and that bilingual instruction is authorized to the extent that it does not interfere with the systematic, sequential, and regular instruction of all pupils in the English language. In addition, section 8573 of the Education Code stipulates that no pupil shall receive a diploma of graduation from

grade twelve who has not met the standards of proficiency in English, as well as other prescribed subjects.²⁸

Faced with this response, the non-English-speaking children petitioned the United States Supreme Court to take their case and reverse the appellate court. On June 12, 1973, the United States Supreme Court granted the petition to hear the case, and oral argument was heard on December 10, 1973. The United States government continued to support the children at the Supreme Court level by filing an amicus curiae brief recommending the reversal of the lower court opinion. In addition, other organizations filed amicus curiae briefs in support of these students, such as the National Education Association, the Harvard University Center for Law and Education, the Lawyers' Committee for Civil Rights under Law, the Mexican American Legal Defense and Education Fund, and the Puerto Rican Legal Defense and Education Fund.

In a unanimous decision which reversed the appellate court on January 21, 1974, the United States Supreme Court ruled that the failure of any school system to provide English-language instruction to its non-English-speaking students constitutes a denial of a "meaningful opportunity to participate in the education program." The Supreme Court had relied on section 601 of the Civil Rights Act of 1964, 42 U.S.C.A. section 2000d, (which the federal trial and appellate courts found to be of no significance), and had no need to reach the Equal Protection Clause argument, to reach their conclusion. The Civil Rights Act bans discrimination based "on the ground of race, color, or national origin," in any program or activity receiving Federal financial assistance.

The Supreme Court reasoned that under the state-imposed standards there was no equality of treatment: the state of California had merely provided students with the same facilities, textbooks, teachers, and curriculum, and failed to recognize that the students who did not understand English were foreclosed from any meaningful education.

Basic English skills are at the very core of what these public schools teach. Imposition of any requirement that, before a child can effectively participate in the educational program, he must have already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful.²⁹

Chief Justice William O. Douglas delivered the opinion of the Court when he stated that there is no greater inequality than the equal treatment of unequals.

That the decision was unanimous from a body of legal scholars that had been conservative, speaks to the importance of the concept that non-English-speaking children have a right to a meaningful education.

The case was remanded to U.S. District Court in San Francisco, and the Court was required to fashion appropriate relief. In May of 1974, the District Court approved the creation of a Citywide Bilingual Education Task Force which, together with the plaintiffs, the school district, and the federal government worked to produce a master plan to remedy the situation in San Francisco. The plan was targeted for completion in 1975, and in accordance with the Supreme Court decision, the non-English-speaking children were to receive comprehensive bilingual instruction given by bilingual teachers.

It is important to note that supplemental instruction for a few minutes a day would not contribute to a "meaningful education". The

best way to learn another language is to utilize the one already known.

School districts were required to adopt the philosophy that demonstrated a culturally relevant educational approach that would assure equal access for all children. The burden fell upon the school to adapt its educational approach so that the culture, language and learning of all children, not just those of Anglo, middle class background, were accepted and valued. Children were not to be penalized for cultural or linguistic differences, nor should they be forced to abandon their own language or culture in order to learn another.

The State Superintendent of Public Instruction, Wilson Riles, testified before the General Education Subcommittee of the United States House of Representatives two months after the Lau decision that the ruling was a "wise" one to consider bilingual programs as a legal right for non-English-speaking students. The state of California had, indeed, recognized the need for bilingual programs, and had been one of the first states in the Union to pass legislation authorizing funds for the development of bilingual education:

inability to speak, read and comprehend English presents a formidable obstacle to classroom learning and participation which can be removed only by instruction and training in the pupil's dominant language.... The primary goals of such bilingual programs shall be to develop competence in two languages for all participating children, to provide positive reinforcement of the self image of participating children....³⁰

Within weeks, San Francisco signed a consent decree to provide bilingual education for the city's Chinese, Filipino, and Hispanic children, and it would seem that this was a victory for the Chinese community. However, the Lau ruling attracted little notice at the time, and only received a one-sentence mention in the January 22, 1974 edition

of the New York Times, but the Office for Civil Rights immediately grasped the significance of the decision, and realized the magnitude of the enforcement job.

**Title VII of the Elementary and Secondary Act:
The Bilingual Education Act (BEA): 1974**

By 1973-74, when the Bilingual Education Act came up for reauthorization, it had won influential allies on Capitol Hill. The 93rd Congress reappropriated \$45 million for Title VII's budget, which sponsored 211 school projects in twenty-six languages, including Russian, French, Portuguese, Cantonese, and American Indian languages: Pomo, Cree, Yup'ik, and Chamorro. The policy statement of Section 702 of the Education Amendments of 1974, note 5, read:

Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques and methods, and, (B) for that purpose to provide financial assistance to local educational agencies, and to State educational agencies ... to carry out such programs ... which are designed to meet the needs of such children ... and demonstrate effective ways of providing for children of limited-English-speaking-ability, instruction designed to enable them, while using their native language, to achieve competence in the English language.³¹

This was the first time that Congress amended the Bilingual Education Act, and it specified: the definition of a bilingual education program, formation of program goals, establishment of regional support centers, and the creation of capacity-building efforts.

The BEA defined a bilingual program as one which provided instruction in English and in the native language; more importantly, English as a second language (ESL) programs alone were considered insufficient. The goals of the bilingual programs were to prepare students to participate effectively, as soon as possible, in the regular activities of the classroom. One other change came about when the designation of Limited English Proficient (LEP) was adopted in deference to the recognition that reading, writing, understanding, and cognitive skills were as important as speaking ability, thereby replacing the previous designation: Limited English-Speaking Ability (LESA) in most public references.

Finally, Senators Edward Kennedy and Walter Mondale moved to expand the bilingual program by amending the 1968 act to drop low income criterion so that all LEP students were eligible to participate, and in 1974, President Gerald Ford signed the amendments.

The Act mandated the establishment of regional support centers of consultants and trainers to provide guidance and support, and a national clearinghouse for bilingual education, which was mandated to establish and collect and disseminate information pertinent to bilingual matters. As alluded to earlier, the Act stipulated capacity-building efforts where the federal government would fund major new efforts to expand curricula, staff, and research for bilingual programs. (This would enable districts to operate without federal assistance after the programs were established and running.)

In 1974 only approximately 6 percent of eligible children were being served. The Senate Labor and Public Welfare Committee expressed

their concern about the "continuing inertia on the part of the Office of Education in developing a comprehensive set of goals, directions, and policies for the Title VII effort ... and equally disappointing was that virtually no Title VII funds had been set aside for teacher training and professional development."³²

Subsequently, in the 1974-75 school year, Title VII of the ESEA Act had funded 383 school districts for classroom projects in sixty-five languages, including American Indian and Eskimo languages; fifteen training resource centers for educational and technical assistance had been established, five centers for materials development had been established, and three dissemination and assessment centers had been created. Funding had, by now, increased from \$7.5 million in 1969 to \$68 million in 1975, and 339,600 students received language instruction.³³

The Lau Remedies

To help school districts comply with the Lau requirements, that every school should have programs in place wherein each child could have a meaningful opportunity to participate in school programs, the HEW Office for Civil Rights (OCR) established, in 1975, guidelines that came to be known as the Lau remedies.

The guidelines were announced by Education Commissioner, and later Secretary of Education in the Reagan administration, Terrel Bell, and specified proper approaches, methods, and procedures for (1) identifying

and evaluating national-origin-minority students' English-language skills; (2) determining appropriate instructional treatments; (3) deciding when LEP students were ready for mainstream classes; and (4) determining the professional standards to be met by teachers of language-minority students. The purpose of the guidelines was twofold: first, to determine whether a school district was in compliance with the law, and therefore in observance of the civil rights of the LESA students, and second, to provide assistance to school districts in implementing the aforementioned guidelines. Under these Lau remedies, elementary schools provided LEP students with ESL classes while at the same time providing academic subject-matter instruction in the student's strongest language until such time as the student could function in an English monolingual classroom.

Three alternative instructional methods were specified for elementary schools; the exact method was left to the decision of the teacher-experts: one was a transitional model that utilized native-language instruction until the student was fully functional in English; a second model was a bilingual-bicultural one where ongoing programs in both English and the native language were conducted, with the end result being a student who was totally functional in both; and a third choice was a multilingual-multicultural one which provided instruction in English and at least two other languages.

These Lau remedies became the compliance standards across the nation in school districts that had twenty or more students of the same language group who had been identified as having a primary language other than English, and HEW moved to enforce them. Between 1975 and

1980, during the Ford and Carter administrations nearly 600 national-origin compliance reviews were conducted, and 359 Lau plans were negotiated by July 1980.³⁴

As Congress prepared to take another look at the 1978 Education Amendments, a civil rights consultant, Gary Orfield wrote:

it seems that we have moved from a harsh assimilationist policy to a policy of linguistic and cultural separation... I believe that there is a better middle position, one which would encourage integration of Hispanic children into schools which respect their cultural tradition and encourage children of diverse backgrounds to voluntarily study the Spanish language and literature in classes that actually have bilingual student bodies.³⁵

The 1978 Amendments

Many school districts had segregated their limited-English-proficient (LEP) students in English-language classes; some Hispanic leaders even theorized that bilingual "tracks" could be another kind of **de facto** segregation.

In the best spirit of attempting to balance integration and segregation, the 1978 Amendments sought to expand the eligibility for bilingual programs from those who were limited-English speaking-ability (LESA), to those of limited-English-proficiency (LEP), thus encompassing all aspects of learning, and to address those (LEP) students who were historically underserved. In addition, the following stipulations were made: transitional bilingual programs were to prepare the LEP students to enter the regular classrooms as soon as possible; the native language was to be used only to the extent necessary for students to become

proficient in English; and, programs designed only to maintain the native language were excluded from funding.

Total funding for Title VII Bilingual Education programs for 1978 was \$135 million. In 1979, the authorization was \$200 million. This included funds for: 565 school districts, bilingual education service centers that would provide training and technical services to school districts; fellowships for graduate students, and teacher training programs for undergraduates to become bilingual teachers. Dissemination and assessment centers were required to provide extra assistance to school districts in the evaluation of their bilingual programs, and The National Advisory Council on Bilingual Education was authorized.

Program funding to school districts was provided from one to three years; with this time restriction, it was established that school districts were to assume local control of their LEP students. By the end of 1978, it became clear that these programs were quite costly for the federal government, and there was pressure to cut the budget and to improve accountability for all expenditures; thus there would be no funds available for language maintenance.

In order to address Hispanic claims that some bilingual programs in the late 1970s tended to separate language-minority children from their English-speaking peers, the 1978 Amendments allowed up to 40 percent enrollment of English-speaking children in bilingual programs as a way to assist LEP students to learn English, thus providing an attempt to balance the classroom.

The far-reaching educational attitudes of the 60s and early 70s no longer prevailed; at that time there had been a great deal of political

awakening on the part of groups long excluded from the mainstream. But by the end of the decade, the philosophy that education was seen as a public good, and by extension, worthy of public funds, became to be seen as a matter of local concern. Betsy Levin, writing later in the Journal of Law and Education, said that the economic pie was expanding in the 60s, and by the end of the 70s there was no longer any pie left, and, indeed, those who were still excluded were fighting for non-existent crumbs.³⁶

When considering those who assumed leadership roles during this period, this researcher notes that the leaders of the 1970s were the community activists and certain members of the teachers union in San Francisco, who brought their concerns before the San Francisco school board. This researcher noted the dedication of community leaders such as: Dr. Ling-Chi Wang, Mr. Ben Tom, and Dr. Irene Kwok, as people who worked to mobilize the Chinese community in support of more teachers, better programs, more classrooms, and additional funding to meet these needs for the immigrants who flooded the San Francisco schools in the mid-1960s and early 1970s.

Individual teachers leaders, such as Peter Mezey, Peter Cerlanti, and Jerry De Ryan implored the school board to consider the poor quality of education that children would receive if they could not understand the language of instruction.

The State Superintendent of Instruction, Dr. Wilson Riles, a committed activist in the area of Civil Rights, supported bilingual-bicultural education as part of the realization of the American dream for all students.

The next chapter will examine the Carter and Reagan Administrations and bilingual education, and the emergence of the Lau Regulations.

ENDNOTES: CHAPTER II

1. U.S. Constitution, amend. 14, sect. 1.
2. Richard M. Nixon, "The President's State of the Union Message," Vital Speeches of the Day 39 no.8 (January 22, 1970): 22, 1.
3. Ibid., 227.
4. Ibid., 228.
5. Iris Rotberg, "Federal Policy in Bilingual Education", American Education 18, no 8 (October 1982): 33-40.
6. James Crawford, Bilingual Education: History, Politics, Theory, and Practice (Trenton, NJ: Crane Publishers, 1989), 34.
7. Serna v. Portales Municipal Schools, 499 F.2d 1147 (10th Circuit, 1974).
8. Rios v. Read, 73 FDR 589 (Eastern District of New York, 1977).
9. Henry Der, interview by author, tape recording, Sacramento, CA, 29 March 1996.
10. Barry Nee, Longtime Californian (New York: Random House, 1972), 358-359.
11. Ibid.
12. Irene Kwok, interview by author, San Francisco, CA, 27 March 1996.
13. Peter Mezey, remarks to the school board, school board archives (San Francisco, CA., December 16, 1969), 44.
14. Gordon Lau, remarks to the school board, school board archives (San Francisco, CA, August 4, 1969), 124-125.
15. Edison Uno, remarks to the school board, school board archives (San Francisco, CA, November 5, 1970), 82.
16. Wallace Stewart, remarks to the school board, school board archives (San Francisco, CA, January 20, 1970), 98-125.
17. Peter Cerlanti, remarks to the school board, school board archives (San Francisco, CA, January 20, 1970), 108.
18. Jerry De Ryan, remarks to the school board, school board archives (San Francisco, CA, January 20, 1970), 108.
19. Ibid.

20. Mr. Leong, and Ruby Tom, remarks to the school board, (San Francisco, CA, January 20, 1970), 112.
21. Ruby Tom, remarks to the school board, (San Francisco, CA, January 20, 1970), 113.
22. Dr. Dennis Wong, remarks to the school board, (San Francisco, CA, January 20, 1970), 117.
23. David Alexander and Alfonso Nava, The How, What, Where, When And Why of Bilingual Education: A Concise And Objective Guide For School District Planning (San Francisco, CA: R & E Research Associates, 1978), 21-22.
24. Ibid., 22.
25. Ibid., 24.
26. James Crawford, Bilingual Education: History, Politics, Theory, and Practice (Trenton, NJ: Crane Publishing, 1989).
27. Lau v Nichols 414 U.S. 563, 94 S. Ct. 786 (1974).
28. Kern Alexander and M. David Alexander, eds., American Public School Law (St. Paul, MN: West Publishing Co., 1992), 275.
29. Lau v Nichols, 1974.
30. Alexander and Nava, 28-29.
31. Congress. Senate. Subcommittee on Education: Hearing before the Committee on Health, Education, and Welfare. 93rd Cong. 2nd sess., 565, 21 August 1974, 531.
32. Crawford, 37.
33. Gloria Stewner-Manzanares, "The Bilingual Education Act: Twenty Years Later", National Clearinghouse for Bilingual Education no.6 (Fall 1988): 3.
34. James Lyons, "The Past and Future Directions of Federal Bilingual Education Policy," Annals of the American Academy 508 (March 1990): 8.
35. Crawford, 38.
36. Betsy Levin, "An Analysis of the Federal Attempt to Regulate Bilingual Education: Protecting Civil Rights or Controlling the Curriculum," Journal of Law and Education 12 (1983): 29-60.

CHAPTER III

"... TO TAKE AFFIRMATIVE STEPS":¹

FEDERAL POLICIES IN THE 1980S

The presidential imprint of the 1980s was that of Ronald Reagan's. The metaphors in President Reagan's speeches include such terms as "business", "tax burden", "sustained inflation", "self-rule", "excessive growth of government", and "reduction of the deficits". It is clear to this researcher that President Reagan was most interested in controlling government spending programs. Although the education programs were not singled out as reflective of uncontrolled growth, it is this researcher's opinion that job retraining, labor, and management programs were the educational priorities in the early 1980s, and not bilingual programs.

Nonetheless, the Reagan administration did seek to revitalize education by setting standards to improve science and math curriculums. If Ronald Reagan was not exactly a friend of bilingual education, neither was he a foe.

This chapter will examine federal bilingual policies in the late 1970s and throughout the 1980s. It will examine: education and the Carter Administration; hearings before the Committee on Education and Labor; the Lau Remedies and Federal Bilingual Education Policies in the 1980s; the Hearings on the subcommittee on Education, Arts and Humanities in 1982, and the Bilingual Education Amendments of 1981-82;

the Hearings on the Hispanic Population Demographic Profile of 1983; the Hearings of the subcommittee on Education and Labor; the Hearings of the Committee on Education and Labor, and a compendium of papers on bilingual education; and, Hearings before the subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor, the House of Representatives.

Education and the Carter Administration

When Jimmy Carter was still Governor Carter he agreed to debate President Gerald R. Ford on October 22, 1976, at the College of William and Mary, in Williamsburg, Virginia. On this date, just eleven days before the November election, the issues that were debated covered the environment, the sacrifices Americans would have to make in the years ahead, gun control, and slow economic growth. The topics of education, and the demands of educating an increasingly large number of immigrants, were barely mentioned by then-Governor Carter, and not mentioned at all by President Ford. Governor Carter told the audience that he had been a school board member, as well as a member of the library board, and had served on a myriad of advisory boards before serving as a state senator and Governor of Georgia. He felt that this background left him well qualified to work harmoniously with Congress as well as the people of America. His single reference to education came inserted in a paragraph that stressed unemployment figures as the main theme: "Our education system can be improved."²

After the election, President Jimmy Carter gave his Inaugural

Address on January 20, 1977, on the steps of the nation's capitol in Washington, D.C. On that frosty morning he acknowledged the inner spiritual strength of the nation as he quoted his former high school teacher, Miss Julia Coleman: "We must adjust to changing times and still hold to unchanging principles."³

Although the Inaugural Address omitted any direct reference to improving the educational system of the nation, President Carter did state that the ceremony marked a new beginning, a new dedication within the government, and a new spirit among all Americans. He reminded the nation to reject the prospect of failure, of mediocrity or an inferior quality of life, and stressed a renewed commitment to work for human rights and dignity:

The American dream endures. We must once again have full faith in our country - and in one another. I believe America can be better.... We cannot afford to do everything, nor can we afford to lack boldness as we meet the future ... let it be said that we had torn down the barriers that separated those of different race and region and religion and where there had been mistrust, built unity, with a respect for diversity; and that we had insured respect for the law and equal treatment under the law....⁴

President Carter concluded his address by stating that the goals he had set for his administration were merely the affirmation of the nation's continuing moral strength and belief in the undiminished, ever-expanding American dream.

This paper will later examine how the Department of Education, established during the Carter Administration in 1979, sought to expand the American dream, by issuing formal Title VI Lau regulations after a hard-fought partisan contest between the Carter administration and conservatives in Congress.

Hearings Before The Committee on Education And Labor: January 1980

In January of 1980 a compilation of papers was solicited from members of the educational community by the Subcommittee on Elementary, Secondary, and Vocational Education and organized by K. Forbis Jordan and Dennis L. Little of the Congressional Research Service. The purpose of this was to examine prospects for elementary and secondary education in the 1980s. The categories included: leadership and governance, pluralism and schools in the 1980s, needs of schools in the 1980s, recommendations for policy makers, and educational challenges.

One of the first to address the Hearing panel, chaired by Carl D. Perkins, was Harold Howe II, Vice President for Education and Research of the Ford Foundation. His prepared text focused upon pluralism and the schools of the 1980s.

In his remarks before the committee, Mr. Howe spoke about certain American myths, and the particular American myth of the "Melting Pot", (a term which was used by earlier generations of Americans), to express the idea that all American immigrants shared a common denominator based on patriotic traditions and beliefs. It was generally assumed that immigrants would want to acquire the tools of the English language so as to assimilate as quickly as possible into the mainstream of American life:

We were sure from the experience of past generations that the benign action of the melting pot would soon turn them (immigrants) into "real" Americans, who shared the traditions and beliefs of the rest of us and who would start climbing the ladder of success as soon as they were Americanized.⁵

This statement represented the thinking of past generations. But,

the concept of pluralism of the 1960s and 1970s appeared to favor loyalty to the minority group at the expense of the common denominator which binds the nation, a common language:

Group loyalties are so powerful that they impel people to deny the dream of an integrated school and an integrated society and to stick together in relative isolation, even though this may ultimately defeat the aspiration most people have for joining the mainstream of economic success and the guarantee of individual rights.⁶

Mr. Howe urged the House of Representatives to seek a solution where schools would revive some of the virtues of the melting pot, reduce some of the excesses of pluralism, and blend the two together in a new vision of American society that would simultaneously identify important common denominators for all people, while recognizing the richness and value of many traditions as a part of American strength:

Under a decision of the Supreme Court, the language of a minority must be recognized in the schools, and we have invented bilingual education.... Various groups demand that the curriculum of the schools recognize their past history and their cultural interests, and the schools regard it as their duty to respond. Group loyalties are so powerful that they impel people to deny the dream of an integrated school and an integrated society and to stick together in relative isolation, even though this may ultimately defeat the aspiration most people have for joining the mainstream of economic success and the guarantee of individual rights.⁷

Mr. Howe's point reflected a desire that schools needed to plan strategies for serving American society in the years ahead: state and national governments could help by providing funds and by refraining from writing lengthy, detailed prescriptions about how the money would be used. It was stated that the best rethinking and reform of practice in the schools would come from persons who encounter children every day, not bureaucrats who are removed from the that experience.

The speech recognized that districts which received large amounts of Title I funds should be allowed to combine funds from different sources for the benefit of children in the classroom: "The concept that the numerous federal programs for assistance to education must be separate and discrete in the school is a prescription for educational chaos."⁸

Mr. Howe concluded his speech by saying that the struggle for school improvement would be long and difficult, and that there would be no quick fix to remedy educational problems.

Another participant who presented his views as part of the panel on policy papers before the Committee on Education and Labor was K. Jordan Forbis, one of the organizers of the panel, and Senior Specialist in Education, of the Congressional Research Service for the Library of Congress. His policy statement, entitled: "Challenges To Education in the 1980s" examined the following issues: the extent of education to be provided at public expense; the relative share of that fiscal burden to be borne by local, State, and Federal revenue sources; equal access to education for all students; and, declining rate of growth in resources, among others.

The opening statement of the paper focused on factors that would have a social and economic impact on public attitudes that would affect education and the quantity and quality of services that would be provided from public funds. These factors included increases in: the aging of the population; the proportion of families where both spouses worked; the population mobility; the reentry of Americans into the labor market at midlife; the decline in the rate of economic growth; and the

pressures for support of other governmental services.

Rather than an activity sought by the young, education would likely become accepted as a lifelong endeavor, especially for those adults who had not completed their high school education. The employment market of the 1980s would require minimum competency in basic skills, and job related skills, that would enable employees to adapt to changing employment and job opportunities. The rationale that society would benefit from the increased earning power of its' individuals would be a factor to consider when educational institutions would be challenged to respond to increased programs at a period of competition for scarce resources.

The decade of the 1980s saw education as in a "less favored" fiscal condition than during the 1950s, 1960s, and to a lesser extent, the 1970s. Mr. Jordan stated that demographic, social, economic, and political indicators suggested that the trend toward a resistance in any property tax increase, which would effect the level of funding for local schools, would continue throughout the decade of the 1980s.

Increased cost for programs and services was an issue raised at the subcommittee hearings. The research economists and sociologists on the educational process committee focused attention on which educational expenditures had most affected student performance. The research findings at that time were not conclusive:

The findings have been somewhat mixed concerning the impact of additional expenditures on student performance. These findings have not aided the efforts of education advocates to secure more funds, and advocates for increased funding have been thwarted further by the decline in the level of public confidence in education and the reduced rate of economic growth throughout the 1970s.⁹

Mr. Jordan pointed out that advocates for increased education funds dwindled in number as the task that faced State level education policy-makers increased. The issues that had to be faced concerned the amount of the level of funding to be provided from State and local sources for education, and the degree of discretion that would be retained by local school officials as a decreasing percent of funds for education would come from local sources. Also, at the Federal level, local policy makers would have to determine if the Title I-VII categorical programs would continue to be funded, as they had been since the late 1960s, or if grants would be consolidated in some way. As Mr. Jordan saw it, the State might plan to assure that certain national priorities would be addressed with bilingual education as an example. But he acknowledged a potential problem:

this approach may result in the Federal funds being used for revenue displacement at the State or local level, depending upon the intricacies of the State school support program's statutory provisions. As consideration is given to Federal aid options, two issues emerge: (1) assuring that continued attention is given to such national priorities as compensatory (bilingual) education, and education of the handicapped; and (2) contending with the proprietary interest that persons have in initiating and maintaining a program which they support.¹⁰

Various advocate groups supported the concept of the Federal Government as a partner in funding the operational cost of the regular or basic educational program in local schools, but interest in nonrestricted Federal aid for elementary and secondary education was expected to continue if more litigation for equal treatment of students in educational settings was initiated.

This researcher notes that funding educational programs continued to concern the Congress. It was the aim of this panel to provide

testimony which would bolster support for programs to meet the needs of increasing enrollments in public elementary and secondary schools.

This compilation of papers, solicited from members of the educational community, provided information for the policymakers in Congress.

The Lau Remedies and Federal Bilingual-Education Policy

After the Supreme Court's 1974 decision in the Lau case, the Department of Health, Education, and Welfare (DHEW) officials in the Ford administration launched a major Title VI of the Civil Rights Act of 1964 (referred to as Title VI) enforcement program whereby HEW began the effort to develop "remedial" rather than "compliance" guidelines for districts not in compliance with Title VI requirements.

These Lau guidelines were created by a task force of mostly professional educators who were strong proponents of bilingual education, and the results were guidelines that some felt were ambiguous. They were applied in piecemeal fashion across the country for districts that were out of compliance with Title VI regulations.

Between 1975-1980 nearly 500 compliance agreements were negotiated on the basis of the Lau remedies for districts with large minority populations. Although there were no uniform standards to follow that would ensure that they were in compliance with Title VI, HEW's Office of Civil Rights had begun to treat the Lau remedies as if they were regulations. This meant that school districts with minority populations were expected to be in compliance with the stated Lau remedies.

During the period between 1975 and 1980, The Office of Civil Rights carried out nearly 600 national-origin compliance reviews of Limited English Proficient (LEP) students in school districts who had not developed compliance programs for language-minority children.¹¹

The guidelines, which had been developed by HEW, specified proper approaches, methods, and procedures for identifying and evaluating national-origin--minority students' English-language skills; determining appropriate instructional treatments; deciding when LEP students were ready for mainstream classes; and determining the professional standards to be met by teachers of language-minority children. Generally, under the Lau remedies, elementary schools were required to provide LEP students special English-as-a-second-language (ESL) instruction, as well as academic subject-matter instruction through the students's strongest language until the student achieved proficiency in English sufficient to learn effectively in a monolingual English classroom.

However, in 1978 Alaskan school districts sued the DHEW to block use of the Lau Remedies as a Title VI compliance standard, claiming that the remedies lacked the force of formal regulations since they had not been officially published for public comment. DHEW Secretary Joe Califano settled the case through a consent decree, and published formal regulations to determine a school district's compliance with the requirements of Title VI.

To head the Department of Education, President Carter chose Shirley Hufstedler, a federal judge on the Ninth Circuit Court of Appeals, who had authored the one dissenting opinion in the Lau case when it had been heard at the Appeals level. On August 5, 1980,

Secretary Hufstedler announced the issuance of proposed Title VI regulations applicable to language-minority students. These regulations required school districts which received federal assistance to provide special instruction to all LEP national-origin-minority students, and some native-language instruction in academic subjects to LEP students who were more proficient in their native language than in English.

In response to prior criticism about ambiguities in the Lau Remedies, the HEW's 1980 proposed rules included:

- (1) objective specifications for the identification of language-minority students;
- (2) the assessment of their English proficiency;
- (3) the provision of proper instructional services;
- (4) guidelines for exiting LEP students from special instructional programs.

These proposed rules, the first major regulations to be issued by the Department of Education, drew criticism from many areas; over 4000 letters about the Lau remedies were received, and most of them were critical. Members of Congress who had opposed the establishment of the Education Department used this opportunity as proof that their worst predictions about federal control of local education had come true. The Lau remedies became a campaign issue; after meeting with senior congressional officials, Education Secretary Hufstedler agreed not to take further action to finalize the new Title VI regulations.¹²

Hearings Before the Subcommittee on Education, Arts, and Humanities
Committee on Labor and Human Resources: April 1982

While the courts were dealing with the legal aspects of providing bilingual services to those students who were entitled to them, the Senate considered testimony on proposed amendments to the Bilingual Education Act, in Senate bill 2002. The bill would assure intensive English instruction as an integral part of bilingual programs, and that participation in these programs would have limits, in most cases, of a year.

This researcher considered the testimony of three senators and the director of the American Coalition for Bilingual Education, and the testimony of the Secretary of Education. Their selected remarks are important because they established the tone of the Hearings, and allowed for consideration of the issues that faced the policy makers who would allocate funds for programs.

On Friday, April 23, 1982, the Subcommittee on Education, Arts and Humanities of the U.S. Senate of the committee on Labor and Human Resources met in Washington, D.C.

The chairman of the subcommittee, Senator Robert T. Stafford, presided. The other two senators who were present and heard the testimony were Senators Stafford and Pell.

Senator Stafford called the Subcommittee on Education, Arts and Humanities to order, and welcomed his colleagues, Senator Hayakawa, and the Secretary of Education, Terrel H. Bell, to the hearing. The purpose of the hearing was to receive testimony from various sources which was

relevant to the Federal Government's role in encouraging and assisting bilingual education as it pertained to proposed amendments to the Bilingual Education Act.

Senator Stafford stated certain key observations that would be made prior to the testimony of the witnesses. The observations were:

First, the Federal role in education, which had been reaffirmed by Congress, was to provide access to, and equality in, education for all Americans. This included all programs from Chapter I which focused on disadvantaged children, to the Education of all Handicapped Children Act, to the Bilingual Education Act.

Second, the needs of the language minority students continued to be an area of concern to Congress. The cause for this concern was a projected increase in the school-aged population in the United States: by the year 2000 the population of school children would rise 16 percent while the population of language minority students would rise by 40 percent. These trends exhibited concerns for schools in many regions, and as a result, they deserved Federal attention.

Third, the Education Consolidation and Improvement Act had been passed in 1981, but Title VII of the Elementary and Secondary Education Act was specifically excluded from the legislation. The Title VII bilingual program's special characteristics needed to be granted separate status and separate consideration.

Senator Stafford urged the committee to consider the past, the present, and the future of bilingual education:

Now the time has come to consider the future of bilingual education. This process will continue against the backdrop of this Senator's belief in the fundamental Federal role of equality opportunity in education. The means and the methods of achieving

these ends may vary. They may be the subject of debate and disagreement. Yet they are the variables which contribute to the ultimate and inviolable goal of equal educational opportunities for all Americans.¹³

The Secretary of Education, U.S. Department of Education, the Honorable Terrel H. Bell, and Jesse Soriano, Director of the Office of Bilingual Education and Minority Language Affairs, and Dr. Gary Jones, the Deputy Under Secretary For Planning, Budget, and Evaluation addressed the committee. Secretary Bell spoke first. A summary of his statement indicates that:

- the Bilingual Education Program, authorized by Title VII of the Elementary and Secondary Education Act as amended has played a major role in furthering the Department of Education's goals to foster educational opportunity for all American children. In addition:

- the Federal responsibility as it relates to bilingual education is catalytic: it has the function of aiding school districts and State education agencies in their responsibilities of developing the capacity to provide the educational programs which must meet the needs of Limited English Proficient (LEP) students.

- the Federal government must provide resources for bilingual programs, but the programs must not sustain the programs indefinitely, and the limitations as specified by law must be supported.

- the Federal government must take care to avoid putting bilingual funds into block grants so as to avoid dispersion of the funds across the country, rather than targeting the limited resources to areas where there are large concentrations of LEP students.

- the Federal government must provide resources for the training

of qualified bilingual teachers.

- the Federal government must continue to provide resources for research activities.

The purpose of the Bilingual Education Act was to prepare LEP students to transfer into all English classes as quickly as possible without falling behind in other subject matter areas. In addition, all school districts funded under Title VII were to include an English language component as a major element of their instructional program.

The new proposal by Secretary Bell included these amendments to Title VII of the Elementary and Secondary Education Act, and which had been forwarded to Congress on April 8 of that year. The proposal contained three basic purposes:

(1) The new legislation would modify the definition of a program of bilingual education which would allow funds for a greater variety of educational approaches. It would establish a specific priority for funding projects which serve those children who have the greatest need for such programs: those who are both LEP students and who speak languages other than English.

(2) The new legislation would create a specific authorization for vocational training activities under the Bilingual Education Act.

(3) The new legislation would extend the authorization of the Bilingual Education Act through 1985.

Secretary Bell indicated that the language of the proposed legislation would not require school districts to use both English and non-English, but rather, the districts would be free to propose programs which used both languages or English exclusively. In this way the local

districts would be free to design programs that met the unique needs of their students.

Further explanation looked at the first issue, which was allocation of funds. Secretary Bell stated that only programs which demonstrated a high probability of success would receive funds, and each district would assess their own needs.

The second issue gave priority to programs serving LEP students whose usual language was not English, and specifically to those who had need of special programs.

The third issue proposed to allow the Office of Bilingual Education and Minority Affairs to continue to operate the bilingual vocational training program which had been authorized by the Vocational Act in 1980. The proposed language in Secretary Bell's legislation would provide an explicit authorization in Title VII to operate the program for out-of-school use and adult education.

The documents of the subcommittee hearings indicated that Secretary Bell believed that the amendments his committee proposed would improve the administration of the bilingual programs. He urged prompt and favorable consideration of these proposals by the Congress.¹⁴

The Senate subcommittee requested clarification of the types of bilingual programs available. Dr. Soriano, the Director of the Office of Bilingual and Minority Language Affairs, explained that this office funded many programs, most of which were in school districts with programs in the grades Kindergarten to twelve. He referred to these basic programs as "capacity-building programs"; other programs that were funded were training for doctoral students in bilingual education,

through universities, community colleges, and State departments of education. One fact he stressed was that 95 percent of the teachers who graduated were certified as teacher trainers, who would then be able to train other teachers should Federal funds diminish.

To support this testimony, Dr. Soriano cited results from districts where teachers worked with Navaho children in Arizona, Haitian children in New York, and Puerto Rican children in New Mexico. The test scores of LEP children in reading and math were higher as a result of bilingual educational efforts.¹⁵

Dr. Jones addressed the question, posed by Senator Stafford, which explained some types of bilingual programs. Under the current law, school districts were restricted in most cases to using the bilingual transitional method for LEP students. There were two other methods local school boards could use for LEP students: the English As a Second Language (ESL) program, and the "structured" immersion program. In the ESL program, English would be the primary classroom language, but the teacher, or teacher's aid would communicate with the children in their native language. In the immersion method, all subjects would be taught in English at a level understood by the students.

The concern expressed by some school districts was that the Federal government would prescribe teaching methodology. The recommendation proposed by Dr. Jones was that there was sufficient evidence to allow local districts to use the ESL approach, or the total immersion approach, based upon the needs of their students. The school would determine which approach would benefit the student most, thereby ensuring each student's opportunity for equal access to the curriculum

and equal opportunity for learning.¹⁶

Secretary Bell concluded this segment of the hearings by stating that many students were not getting services because of inadequate monetary appropriations. A projection was made that by the year 2000 the student population in need of English language services would increase by 35 percent.

Following the testimony of Secretary Bell, was that of Senator S.I. Hayakawa, the U.S. Senator from California. He agreed with his fellow speakers that he supported giving local school districts more flexibility in their teaching methods while targeting the immigrant population in greatest need of English instruction.

However, he addressed bilingual education as it related to a much broader issue, of what language would be used in the United States:

As most of you know, I have proposed a constitutional amendment, Senate Joint Resolution 72, which declares as the law of the land what is already a social and political reality; namely, that English is the official language of the United States. This amendment is needed to clarify the confusing signals we have been giving in recent years.... The problem is that all too often bilingual education programs have strayed from their original intent of teaching English.¹⁷

The method of instruction referred to as Transitional Bilingual Education was interpreted by Title VII regulations as the only acceptable method for bilingual education. The result of Congress' "unfortunate action" in 1978, according to Senator Hayakawa, was to deprive local schools of their flexibility to determine the best method of instruction for their students.

The Senator made several suggestions to rectify this situation: Section 2, Subsection 2 of the Bilingual Education Improvement Act would

allow funding for a variety of projects that would teach LEP students which included, but was not limited to, transitional bilingual education methods, ESL, or immersion techniques. Applicant schools would have to show that they had selected methods that complemented the special needs and characteristics of the Title VII student.

The second provision of the Bilingual Education Improvement Act would give priority funding to those Title VII projects which served children who were both of limited English Proficiency and whose usual language was not English. This plan would help the most limited children to learn English.

The third provision would authorize several programs under Title VII which had previously been authorized under the Vocational Education Act, and the Vocational Training for Immigrant Adults and Out-Of-School Youth Act, to operate under the Office of Education, which would set priorities for the use of these funds.

The final provision of Senator Hayakawa's legislation would require instructors of bilingual education to be fluent in English.

The researcher draws attention to the different focus of Senator Hayakawa's testimony, who felt that bilingual education programs had strayed from their original focus of teaching English. Based upon this hearing, it is the researcher's understanding that Senator Hayakawa wished to avoid the formation of a separatist movement, such as existed in Canada. (While interesting, the ideas do not directly bear upon Federal bilingual policy.)

On Monday, April 26, 1982, Senator Walter Huddleston, the senator from Kentucky, addressed the Committee on Labor and Human Resources. He

had introduced Senate Bill 2002, called the Bilingual Education Act, and spoke about the continued need for bilingual programs. However, he spoke about reports that were critical of current bilingual education programs, and given the limited funds for programs, he recognized the need to reexamine the direction of Title VII programs. The record revealed that his statement contained the following remarks:

- The Title VII bilingual education program remained controversial;

- The number of students who participated in Title VII programs for the 1980-81 school year was approximately 450,000;

- The census figures indicated an increase in foreign-born people in the United States from 4.7 percent in 1970 to 6.2 percent in 1980;

- The majority of students who participated in bilingual programs were immigrants who possibly were not citizens;

- The report of the American Institute for Research which completed a study in 1977 found that students in bilingual education programs did no better at learning English than non-English speaking students who were in regular classes;

- The time limit for a child in a bilingual program should be limited to three years or less;

- The Title VII program was established to promote English proficiency; it was not designed to promote learning languages other than English;

- The purpose of Title VII legislation was established to promote equal educational opportunities, not a separate system of education.

At the conclusion of his remarks Senator Huddleston said:

The legislation I have introduced would go a long way toward meeting some of the criticisms of the program and making the program more effective while reiterating the intent of Congress for a Transitional Program only. The bill would accomplish this by returning the definition of a limited-English proficient child to that which existed before the 1978 amendments.¹⁸

The statement of the American Coalition For Bilingual Education, which opposed the proposed Bilingual Education Improvement Act of 1982, was delivered before the committee by Mrs. Maria Lindia, Title VII Director for the Bristol, Rhode Island Public Schools. Mrs. Lindia questioned the proposal of Senate bill 2002 and the proposal of the Reagan Administration's because each would make fundamental changes in the Bilingual Education Act: the Administrations's proposed amendments would eliminate the requirement that Title VII programs provide instruction in both English and the child's native language. Senate bill 2002 would redefine the concept of limited English language proficiency by excluding consideration of a student's reading and writing skills. Both proposals would alter the student populations served by Title VII.

The committee hearings revealed that Mrs. Lindia made the following statements about the provisions of the bills:

The legislative proposals currently before the Subcommittee cannot be viewed as improvements to the Bilingual Education Act. If enacted, the proposals would fundamentally alter the kind of instructional services provided under Title VII. They would also limit the number of children eligible for Title VII assistance and restrict the amount of special language instruction school districts could provide to LEP students. Some of these proposals are contrary to sound logic and pedagogy. Others are highly speculative and methodologically flawed. For these reasons, we urge Congress not to act upon Senate bill 2002 or the Administration's proposed amendments of Title VII.¹⁹

Mrs. Lindia was a firm advocate for consideration of a student's reading and writing skills as part of any instructional services. Her contention was that non-bilingual programs would be cut under Senate bill 2002, and that countless students would be denied instruction in English, thereby limiting their chances for academic success. She was also adamant that the student's native language be an instructional component in the program, as opposed to the prevalent philosophy, at that time, of bilingual instruction entirely in English.

The Reagan Administration, however, moved quickly to cut funding for the Bilingual Education Act (BEA). In 1982, BEA appropriations were cut by \$23 million. The following year, the administration tried to cut nearly \$40 million more from the program. These drastic funding cuts in bilingual education coincided with dramatic increases in the number of LEP children who needed BEA-funded programs and services. Secretary Bell's 1982 report, The Condition of Bilingual Education in the Nation estimated that at least 3.6 million LEP students were attending school in the United States. This population was projected to grow through the year 2000, two and one half times as fast as the general school-age population.²⁰

**The Hispanic and Demographic Profile:
Hearings Before the Subcommittee on Census and Population: 1983**

The following year, on September 13, 14, 15, 1983, the week that had been designated Hispanic Heritage Week, hearings before the Subcommittee on Census and Population of the Committee on Post Office and Civil Service were held before the House of Representatives.

The Chairwoman was Congresswoman Hall, and among the witnesses were Louis Kincannon, Acting Director of the Census, members of Congress from the Hispanic Caucus, Dr. Gloria Zamora, President of the National Association for Bilingual Education, Dr. Carmen Perez of the bureau of bilingual education of New York State University, Congressman Baltasar Corrada of Puerto Rico, and Dr. Guillermo Lopez, Director of the California State Department of Education.

The purpose of the hearings, as stated by the Honorable Robert Garcia, was to study the Hispanic population, to consider the impact of the data derived from the census, and to determine future economic, social and political strategies for Hispanic populations. (This researcher points out that the primary focus here will concern bilingual policy and education.)

When considering the American population, the Honorable William E. Dannemeyer of California stated that the census did more than count people; it determined the economic, social, and political future of people. According to C. Louis Kincannon, Acting Director, Bureau of the Census, the census bureau had produced a wealth of statistics on the Hispanic population from the 1980 census and surveys. In 1970 there

were nine million Hispanics in the United States, and 14.6 million Hispanics in 1980.²¹

Congressman Baltasar Corrada of the House Education and Labor Committee, who stated that he had long been involved in the fight to bring equity to Hispanics in education, employment and social welfare programs, indicated that employment had been one of the most serious challenges faced by the Hispanic population. The testimony showed that he quoted a study by the National Committee for Employment Policy which stated that a lack of fluency in English was a major source of the labor market difficulties faced by Hispanics:

For this reason, bilingual education takes on a central importance for the economic future of our people. Bilingual education sets out participation in funded programs with those of limited proficiency in English language skills needed for success in schools.... Although local school districts and states are making an effort, schools in general, are not meeting the needs of limited English proficient children. Only about one-third of about 2.6 million children age five to thirteen identified in the 1978 study are receiving bilingual education....²²

Dr. Gloria Zamora of San Antonio, Texas, addressed the subcommittee as the current president of the National Association for Bilingual Education. She commended the subcommittee for having identified bilingual education as a policy issue of particular importance to the Hispanic community:

Although Hispanics have always valued education, the educational community has not always valued Hispanics. Historically, Hispanics have been excluded from our nation's schools and have been denied the benefits of an effective education.... The goals of the Bilingual Education Act are fundamental. Title VII is meant to help language-minority students learn English; learn subject matter skills and content; develop a positive self-concept; and complete schooling. To accomplish these fundamental objectives, Title VII helps State and local education agencies develop instructional programs which use both English and the student's native language.²³

Dr. Zamora cited ways in which the Title VII programs benefitted language-minority students: as a result of Title VII programs professionally trained teachers were able to use well-designed texts to teach LEP students; accurate tests had been developed to measure student educational needs and progress; students in bilingual programs were encouraged to stay in school longer and attend more regularly; there was a marked decline in discipline problems; there was a decline in the rate of false placement of language-minority students in special education classes; and, more Hispanics were seeking postsecondary education. One other important aspect of Title VII was the increased involvement of Hispanic parents in their children's education.

In the closing remarks of her statement, Dr. Zamora asked the subcommittee to consider evidence that the Nation's future was threatened, economically, diplomatically, and militarily, by the inability to communicate with most of the world's people, who use a language other than English.

The testimony before the subcommittee revealed that Dr. Zamora referred to transitional bilingual education as a political compromise of the Bilingual Education Act between the advocates and opponents of bilingual education, which resulted in the premature exiting of thousands of children from necessary programs.

In her concluding statement, Dr. Zamora stated that multilingualism is both possible and patriotic: America's linguistic and cultural resources, the richest but least developed in the world, should be expanded through bilingual education.

Dr. Carmen Perez, chief of the Bureau of Bilingual Education of

New York State Education Department, followed Dr. Zamora. A summary of the testimony revealed that Dr. Perez discussed four critical issues on bilingual education.

The first issue was a response to the continued use of limited or faulty information used to draw conclusions about bilingual education programs. Dr. Perez urged members of the committee to remove their "blindfolds and to be wary of reports that contained second or third-hand information" about the results of bilingual programs.

The second issue was a response to the continued misuse and misunderstanding of the term "bilingual education", and what it was designed to do for LEP students. Bilingual education was designed as a total educational program which used English and the students' native language to help LEP students progress alongside their non-LEP peers. This would allow the same opportunities for academic advancement by using both the naive language and English until LEP students had acquired an adequate knowledge of English.

The third issue was a response to the blind acceptance of negative statements about bilingual education in the popular press, in particular, remarks quoted by Diane Ravitch on the "McNeil-Lehrer Report." (In earlier testimony before the subcommittee, Diane Ravitch reported on her recommendation that the objective of elementary and secondary education in the United States was the development of literacy in the English language; she stated that her committee had not recommended an end to bilingual education.)

The fourth issue was a response to problems that were a result of Title VII evaluation requirements for projects based upon unique locally

assessed needs. Because of the local aspect of the programs uniform evaluation procedures would not be possible.

Dr. Perez concluded his testimony with several success stories about student achievement, and quantitative analysis which revealed student achievement at levels in Math, native-language skills, science, social studies and English As A Second Language (ESL) classes.²⁴

Dr. Guillermo Lopez, Director of the California State Department of Education, drew the subcommittee's attention to the state of California and the increase in numbers of LEP students in that state, as well as nationwide.

The number of LEP students in California had increased 58.6 percent between 1979 and 1983. Among this group was a Hispanic increase of 73.7 percent, and an Asian increase of 19 percent. The reasons for this increase, he stated, were the proximity of California to Mexico and South America, and the proximity to the Pacific Ocean and Asia.

Dr. Lopez stated: "pursuant to Lau, we attempt to safeguard the civil rights of these students, and we support bilingual education."²⁵

The testimony further revealed that Dr. Lopez stated that bilingual education was becoming "mainstream education" in the state of California, and had been acknowledged as the foremost educational strategy to meet the needs of the 457,000 LEP students, thanks in part, to the support of the Title VII appropriations.

Dr. Lopez continued to endorse the concept of granting local level educators the freedom and responsibility to make and implement programs based upon local needs. In California, there were six clearly defined program options for schools to consider. Balance was the key to a good

choice, for there had to be a balance between the flexibility and the obligation of Federal and State decision makers to consider the rights of language minority students so they could receive instruction in a "comprehensible manner".

Amalio Madueno, a legislative consultant for the Mexican American Legal Defense and Educational Fund, spoke as one of the concluding speakers in the hearings. He stated that equity in education was an issue of great importance to the organization he represented, and that bilingual education had been created in response to a history of discrimination and neglect toward language minority students in the public schools.

In the testimony, Mr. Madueno reminded the subcommittee members that the legislators had come a long way in the previous twelve years in meeting the needs of LEP children. He quoted the Lau v. Nichols Supreme Court Case which affirmed the HEW interpretation of the scope of Title VI: that merely providing students with the same facilities, textbooks, and curriculum is not to be considered equality of treatment for students who do not understand English.

In his statement which advocated the reappropriation of funds, Mr. Madueno acknowledged that the Bilingual Education Act was designed to provide access to education for LEP students, by establishing bilingual education programs in primary and secondary schools, by establishing training programs for bilingual education personnel, by developing and distributing bilingual education instruction materials, and by coordinating bilingual education programs. Opponents of bilingual programs, according to Mr. Madueno, had indicated that the Nation was

threatened by bilingual education, and that the English language was threatened; but the goal of bilingual education was simply to provide English language to students and teach them some skills in math and basic reading until they could function in a regular classroom.²⁶

This researcher points out that during the Hearings there was a great deal of support on the part of prominent Hispanic educators for bilingual education. One of the leaders was Dr. Gloria Zamora who had begun her teaching career as a first grade bilingual teacher in Texas. Her commitment to her students was evident as she spoke of the early trials of teaching without appropriate curriculum, materials, tests, and adequate instruction. She acknowledged that she was rewarded by the academic gains of her students.

Committee Hearings On Education and Labor:

U.S. House of Representatives: March 1984

Less than a year later, the Hearings before the subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education, and Labor of the House of Representatives took place before the 98th Congress, during the second session, on March 28, 1984, under the chairmanship of Congressman Carl Perkins.

The purpose of the hearings was to determine the extension of House Resolution 11, through fiscal year 1989, of the authorization of appropriations for certain education programs, and specifically the reauthorization of Title VII of the Elementary and Secondary Education Act of 1965 which related to bilingual education which was expressed in

House Resolution 5231.

The document showed that Congress had declared it to be the policy of the United States to establish equal educational opportunity for all children and to promote educational excellence for all.

Funds were to be provided for the establishment and operation of programs using bilingual educational practices; the amount for 1985 was \$400 million; \$450 million for 1986; and \$500 million for 1987.

This portion of the chapter will examine the testimony of three speakers at the subcommittee hearings: Mr. Gumecindo Salas, President of the Michigan State Board of Education; Senator Hayakawa of California; and Dr. Gloria Zamora, President of the National Association for Bilingual Education.

Mr. Salas spoke in support of the reauthorization of Title VII, and indicated that this resolution was important to provide increased strength and accountability for federally funded programs.

In his statement, Mr. Salas said that Michigan served 105 eligible language groups, for Michigan's bilingual education law required that any school district with more than twenty children of one language must be provided with a bilingual education experience. Michigan had demonstrated a commitment to approximately 20,800 students of limited English proficiency from sixty different language backgrounds, and had operated bilingual programs in English and: French, German, Spanish, Italian, Arabic, Vietnamese, Hmong, Finnish, Dutch, and others. But, there were 105 eligible language groups represented in Michigan and a lack of trained personnel prevented the state from providing services to these groups. His support of the reauthorization of Title VII, which he

stated in his conclusion, recognized the demand for accountability and a legislative foundation which promoted excellence: "Most importantly, provisions in House Resolution 5231 would ensure that excellence and equity become the twin educational goals which the National Commission on Excellence in Education maintains they must be."²⁷

The testimony which followed Mr. Salas was that of Senator Hayakawa of California, who spoke as the honorary chairman of the group: "U.S. English". His remarks referred to the "traditional process to total immersion in a foreign language."

This researcher points out the controversial nature of Senator Hayakawa's remarks; the record showed that Sen. Hayakawa remarked that when Genghis Kahn came and conquered China with his hordes of barbarians, the armies were absorbed into the Chinese population, and within a generation they were all speaking Chinese, without the help of bilingual programs!

His statements further supported the learning of English by immigrants through a total immersion in the culture, and without enormous Federal and state bureaucracies, or special training and research programs.

The point I am trying to make is that bilingual education is a luxury that is developing in an affluent society. Now, I am not opposed absolutely to bilingual education. I think it can speed up the process of acquiring a new language, and therefore, I believe very strongly in transitional bilingual education that lasts for about a year, ... at most not more than three academic semesters.... It is my impression, that among immigrant groups, most are perfectly content to learn English in a catch-as-catch-can way, but if they have to have a transitional program, they want it fast, they want it early, and they want it over with so they can get into the mainstream as quickly as possible.²⁸

In response to Senator Hayakawa's statements, Dr. Gloria Zamora, an advocate for bilingual education, spoke in favor of federally assisted programs which promoted the interrelated goals of academic excellence and equity.

Her statement referred to hearings which were held during the previous year on a bill drafted by the Reagan administration, (and which we have viewed in an earlier portion of this chapter), to amend and extend for one year ESEA Title VII funds; at that time, no one contested the need to extend the life of the Bilingual Education Act.

Dr. Zamora stressed that House Resolution 5231 was worthy of reauthorization for the following reasons:

1. The bill responded to concerns for effectively educating LEP students;
2. The bill allowed for state and local control of programs;
3. The bill strengthened program accountability under Title VII;
4. The bill provided grants for developmental bilingual education;
5. The bill provided for the instruction of LEP students and English proficient students in an integrated setting.

In conclusion, Dr. Zamora stated that America was at a critical historical point in which every effort had to be made to harness the human potential of all American children.²⁹

Later that year, the Bilingual Education Act (BEA) was adopted in 1984, and it amended the Elementary and Secondary Act of 1965.

This researcher points out that the impact of the impressive testimony at Congressional Hearings during the 1980s. The ideas and

requests of educators such as Dr. Zamora, Dr. Guillermo Lopez, and Ms. Maria Lindia were an integral part of the philosophy policies of the Bilingual Education Act.

The BEA addressed the need for increased flexibility in the implementation of programs for limited-English-proficient (LEP) students by giving local school districts a greater voice in determining how students should be taught.

It addressed the need for special alternative instructional programs. And, the Act required that 75 percent of each year's local school district appropriations be used to support transitional bilingual education programs.

Under the 1984 Amendments, grants were awarded for special programs for LEP students which included:

1. Transitional bilingual educational programs, in which English language instruction would be combined with a native language component, and up to 40 percent of the class could be non-LEP students;
2. Developmental bilingual education programs in which full-time instruction would be provided in both English and a second-language with the goal of achieving competence in both languages;
3. Special alternative programs in which English would be used but the native language need not be used to facilitate competency in English;
4. Academic excellence programs which would serve as models of exemplary special programs for LEP students;
5. Family English literacy programs which would offer instruction in English to parents, as well as instructions on how to assist LEP

students in educational achievement.

Total federal funding for Title VII programs in 1984 was \$139.4 million. This amount reflected a slight increase over the previous two years, but did not reach the 1980 amount of \$167 million. The emphasis was placed on local school districts to support programs for LEP students.

One other result of the 1984 Bilingual Education Amendments was the Bilingual Education Initiative of 1985, which was proposed by Secretary of Education William Bennett. He had concluded that because of high dropout rates of LEP students, previously implemented programs were not fully meeting the needs of these students. The Bilingual Initiative gave local school districts the mandate to determine the best method of instruction for their LEP students.

The Bilingual Initiative went beyond the 1984 Amendments, and suggested that school districts have the discretion to determine the extent of native language instruction required for special programs for LEP students; called for extensive parental involvement which required parents or guardians to be placed on mandatory advisory councils; and called for local school districts to demonstrate local capacity building to continue these programs without federal funds. Finally, the Initiative stated that the goal of programs for LEP students was the rapid acquisition of fluency in English.³⁰

**The Committee on Education and Labor:
A Compendium Of Papers On Bilingual Education: June 1986**

In the continuing search to define successful programs, the Committee on Education and Labor of the House of Representatives called for another presentation of policy papers on bilingual education.

Augustus F. Hawkins, chairman of the committee on Education and Labor in the House of Representatives of the 99th Congress, 2nd session, presided over a compendium of papers that investigated pertinent scholarly views of bilingual educational theory. The purpose was to provide the committee with current educational information about successful bilingual programs and practices.

This paper will examine the statements made by Dr. Rudolph C. Troike of the University of Illinois at Urbana-Champaign. His work is entitled: "Improving Conditions For Success in Bilingual Education Programs"; and the statements of Dr. Kenji Hakuta of Yale University, whose paper is entitled: "The Role of Research in Policy Decisions About Bilingual Education".

Dr. Troike defined the successful bilingual program as one which has reduced or eliminated inequalities of achievement between native English speaking students and LEP students as measured in English, for the latter, in their native language, by the end of six years after they entered a program.

As stated in his paper, Dr. Troike said that success must not be based on short term assessments, for academic competency may require up to six years of instruction. Also, bilingual education must provide

more than instruction in English; it must provide for the learning of educational content. Bilingual education is not a form of remedial education, intended to overcome what is seen only as a "handicap". Bilingual educational policy must value academic knowledge and skills acquired through the native language, and use this knowledge as a bridge to learning the English language.

Dr. Troike had criticized the 1984 revision of the Bilingual Education Act for the failure to advocate an increase in native language use in the bilingual classroom, and the overemphasis on English.

Increased use of the native language in the classroom resulted in higher academic achievement as measured in English, and in better English language skills.... Higher achievement test scores in English positively correlated with the amount of time spent using the native language in the classroom.... This correlation is predictable from the basic premise of bilingual education that students will be able to learn through the medium of their native language and transfer this learning to the second language as they acquire it. Thus, the more fully the content knowledge and skills are developed in the native language, the faster and more effectively they can be transferred in the second language (English).³¹

Dr. Troike summarized five reasons for the apparent widespread lack of success found among bilingual programs:

1. The programs overemphasized the use of English, and underemphasized the use of the student's native language in the classroom;
2. The programs were transitional in character, and discouraged the use of the native language;
3. The instructors in these programs relied primarily on English and not upon the native language to instruct their students;
4. The programs were viewed as compensatory and temporary by the

administrations;

5. The programs were frequently isolated from the rest of the school program, often in portable classrooms, or unused buildings.

Dr. Troike presented the following recommendations for Congressional action:

1. Clarify the distinction between bilingual education and other programs for students from non-English language backgrounds; and, specify that Title VII funds are to be directed solely to bilingual programs.

2. Establish a minimum level of native language use at 40% for proposals qualifying for Title VII support.

3. Create a category of experimental demonstration programs with long-term funding linked with universities.

4. Allocate funds for non-demonstration bilingual programs directly to states based on the number of projects approved, and provide administrative funds to states to monitor, evaluate, and provide technical assistance to projects.

5. Continue to limit regular funded projects to five years and require progressive assumption of costs by grantee, but permit an additional five years of funding for a program coordinator, with progressive assumption of costs.

6. Combine the present multifunctional support centers into a single, national technical assistance center to work directly with states, and merge the National Clearinghouse for Bilingual Education (NCBE) with it, or alternatively, merge NCBE with the Center for Language Education and Research at UCLA.

7. Continue to support a smaller number of doctoral fellowship programs at high quality institutions to prepare needed leaders and researchers in the field, and continue to support graduate-level teacher training programs.

8. Contract with established textbook publishing firms to develop, publish, and disseminate curriculum materials in various languages.

9. Assign research funds with the requirement that at least 50 percent be devoted to field-initiated research, in order to encourage new ideas.

10. Restructure offices within the Department of Education to bring foreign language and bilingual education into closer relationship and encourage more cooperation.

Dr. Hakuta, and his colleague, Dr. Catherine Snow of Harvard University, presented a paper entitled: "The Role of Research In Policy Decisions About Bilingual Education." Their paper presented several facts and conclusions about bilingual education.

This researcher will summarize the most pertinent facts of their research:

* Although some people think of language as a single, unitary capacity, research indicates that language is a complex configuration of abilities.

* Language used for conversational purposes is quite different from language used for school learning, and the former develops earlier than the latter.

* Bilingual education should be the development of the full

repertoire of linguistic skills in English, in preparation for participation in mainstream classes.

* Time spent learning in the native language in bilingual education is not lost time in developing English.

* Students can become fluent in the second language without losing the first language, and maintenance of the first language does not retard the development of the second language.

* There is no cognitive cost to the development of bilingualism in children; very possibly, bilingualism enhances children's thinking skills.

* Bilingual educational programs should have the flexibility of adjusting to the large individual and cultural differences among children. It is not abnormal for some students to require long periods of instruction in the second language.

* Reading should be taught in the native language, for reading skills acquired in the native language will transfer readily and quickly to English, and will result in higher ultimate reading achievement in English.³²

Hearing Before the Subcommittee on Elementary, Secondary, And
Vocational Education, of the Committee On Education And Labor:
House of Representatives: 2 April 1987

In preparation for the reauthorization hearings on the Bilingual Education Act, Augustus Hawkins again presided over the hearing before the Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor of the House of Representatives, during the One Hundredth Congress. The hearing was held on April 2, 1987, in Washington, DC.

This researcher will focus upon the testimony of Mr. Arturo Vargas, senior education policy fellow at the National Council of La Raza, one of the largest national Hispanic organizations, and the testimony of Dr. Eric Cooper, Chairman of the Ad Hoc Committee For Effective Schooling in Washington, DC.

Mr. Vargas, according to the testimony, stated that his organization supported legislation that ensured effective services for LEP students, especially legislation which was designed to channel Federal assistance to school districts with changing immigration patterns.

The first item that Mr. Vargas referred to was one of fiscal responsibility: he requested that in the spirit of accountability, all school districts which received Federal assistance should report how the funds were used, and submit these reports to the Department of Education. The Department of Education would compile the data, and make annual reports to Congress.

As an advocate for adult learning, Mr. Vargas spoke about the Emergency Immigrant Assistance Act, which provided for English-language classes for adult immigrants; the Act had been authorized at \$40 million but funded at only \$30 million. Mr. Vargas underscored the importance of providing English language services for adults because under the terms of the Immigration and Control Act of 1986 immigrants needed to fulfill English and civics requirements before they could legalize their status and become citizens:

It is ironic that the Department of Education is requesting the termination of the Emergency Immigrant Assistance Act which provides the ultimate flexibility in Federal Assistance, while it is seeking to weaken the Bilingual Education Act. It is even more amazing to us that the Department of Education contends that services provided under this act can be met by other severely underfunded programs, such as bilingual education and Chapter 1.³³

The voice of the people, which had become increasingly more vocal over the decade, was represented by Mr. Vargas of La Raza. Their request to Congress was to:

1. Reauthorize and expand the Emergency immigrant Assistance Act;
2. Focus the program on the most urgent needs of immigrant families;
3. Consider a priority to assist those individuals who need to comply with the English language and civics requirements;
4. Strengthen programs such as the Bilingual Education Act, the Adult Education Act, and Chapter 1;
5. Allocate funds to assist school districts to carry out local programs.³⁴

The testimony provided by Dr. Eric Cooper, Chairman of the Ad Hoc Committee For Effective Schooling, reflected the profiles of "students

at risk": 17 million Americans were functionally illiterate; one out of three Americans could not comprehend newspapers or other printed material; approximately one million students were estimated to drop out of school each year; and, only one 17-year-old student in twenty could read at the adept level as defined by the National Association of Educational Progress.

The loss and potential waste of human lives is incalculable and should serve as a warning signal to policy makers. In order to provide for effective schooling, an institution must set high expectations not only to the students served, but to its administration and its teachers. These expectations must apply equally to those who are academically gifted and to those who are considered to be educationally at risk. While equality in outcomes may not be possible, there is no place for differential opportunities or expectations of our students.³⁵

The testimony continued to show Dr. Cooper's statement which called for effective schooling to become a reality; the schools must set and hold students to higher expectations of performance on tasks which demanded comprehension and thinking skills.

In 1988 Congress reapproved the Bilingual Education Act (BEA) which authorized 75 percent of total grant funds to school districts for transitional bilingual education. Thus, up to 25 percent of grant funds may go to special alternative instructional programs, instead of the four to ten percent awarded in previous authorizations. The result of this is to provide school systems with a greater degree of flexibility to select effective alternatives to transitional bilingual education where that approach is not feasible.

In addition, the BEA determined that a three-year limit on a student's participation in a transitional bilingual education program would be observed, or a special alternative program, with an additional

two-year limit would be available for such students who needed to continue.

Importantly for adults, the BEA authorized Family English literacy programs for instruction in English and U.S. history and government for non-citizens who were eligible for temporary resident status under the Immigration and Naturalization Act.

Also, information to parents and guardians on the nature of Title VII programs and their right to decline enrollment for their children, if they thought this was in the best interest of the child, became part of the policy of the BEA, and such information was to be provided in appropriate language and form.

The 1988 BEA placed great emphasis on training and retraining of qualified personnel. Twenty-five percent of all Title VII appropriations would go to support this, and a minimum of 500 fellowships would be granted yearly to insure a pool of qualified personnel.

The final new feature of the BEA provided for a year-long period of preservice activities, as opposed to the previous six-month period. Grants for instructional materials development were to be discontinued, and the National Advisory and Coordinating Council on Bilingual Education were to be eliminated.

The fiscal year 1989 authorization for the BEA was \$152 million. The BEA specified that at least 60 percent of the total appropriations be reserved for transitional, bilingual education programs, 25 percent of the funds were reserved for training activities, and state education agencies would be eligible to receive \$75,000, an increase from \$50,000

in previous legislation.

The National Commission on Excellence in Education was created early in the decade by Secretary of Education Terrel Bell. The public attitude towards education can be determined by a statement from the 1982 Gallup Poll of the **Public's Attitude Toward the Public Schools**, which was included in the document A Nation At Risk: The Imperative For Educational Reform. The following statements represents public opinion about education:

People are steadfast in their belief that education is the major foundation for the future strength of this country it is more important than developing the best industrial system or the strongest military force, perhaps because they understand that education is the cornerstone of both. Education is extremely important to one's future success, and public education should be the top priority for additional Federal funds. Education occupied first place among twelve funding categories: above health care, welfare, and military defense, with 55 percent selecting public education as one of their first three choices."³⁵

During the decade of the 1980s there was much interest on the part of educators and the Hispanic community in particular regarding bilingual education. Although funding for programs which served an ever-increasing population continued to be a concern of Congress, the voices of the people became more vocal. Advocate groups such as the Mexican American Legal Defense Fund (MALDEF), the National Association for Bilingual Education (NABE), and the political group La Raza, spoke out loudly in support of the rights of language-minority children, and urged continued funding of the programs. The leaders during this decade certainly include those who spoke out in favor of native language instruction, such as Dr. Gloria Zamora.

In the next chapter, this paper will examine the decade of the

1990s, and the role of Title VII and new Improving America's Schools Act, bilingual education in the year 2000, and the inclusion of all limited English proficient (LEP) children in Goals 2000.

ENDNOTES: CHAPTER III

1. Lau v. Nichols, 414 U.S. 563,39 L.Ed. 2d 1 1974).
2. Waldo W. Braden, Representative American Speeches:1976-77 (New York: H.W. Wilson, 1977), 55.
3. Ibid., 56.
4. Congress. House Committee on Education and Labor, Harold Howe II, speech to 96th Congr., 2nd session, January 1980, 52.
5. Ibid., 53.
6. Ibid., 54.
7. Ibid., 55.
8. Ibid., 54.
9. Congress. House. Subcommittee on Elementary, Secondary, and Vocational Education, Committee on Education and Labor, Needs of Elementary and Secondary Education in the 1980s, report by H. Forbis Jordan, 96th Cong., 2nd sess., January 1980, 233. Washington, DC: GPO.
10. Ibid., 234-236.
11. James Lyons, "The Past and Future Directions of Federal Bilingual Education Policy," Annals of the American Academy 508 (March 1990): 8-10.
12. Ibid.
13. Congress. Senate. Subcommittee on Education, Arts, and Humanities of the Committee on Labor and Human Resources, report by Robert T. Stafford, 97th Congress, 2nd. session, 23 April 1982, 1-3. Washington, DC: GPO.
14. Congress. Senate. Subcommittee on Education, Arts, and Humanities of the Committee on Labor and Human Resources, report by Terrel Bell, 97th Congress, 2nd. session, 26 April, 1982, 6-9. Washington, DC: GPO.
15. Congress. Senate. Subcommittee on Education, Arts, and Humanities of the Committee on Labor and Human Resources, report by Dr. Jesse Soriano, 97th Congress, 2nd. session, 26 April, 1982, 11-13. Washington, DC: GPO.

16. Congress. Senate. Subcommittee on Education, Arts, and Humanities of the Committee on Labor and Human Resources, report by Dr. Gary Jones, 97th Congress, 2nd. session, 26 April, 1982, 12-13. Washington, DC: GPO.
17. Congress. Senate. Subcommittee on Education, Arts, and Humanities of the Committee on Labor and Human Resources, report by S.I. Hayakawa, 97th Cong., 2nd. sess., 26 April, 1982, 21-28. Washington, DC: GPO.
18. Congress. House. Subcommittee on Census and Population of the Committee on Post Office and Civil Service, report by Walter Huddleston, 97th Congress, 2nd. sess., 26 April 1982. 40-45. Washington, DC: GPO.
19. Congress Senate. Subcommittee on Education, Arts, and Humanities of the Committee on Labor and Human resources, report by Maria Lindia, 97th Cong., 2nd. sess., 26 April 1982, 195-204. Washington, DC: GPO.
20. Lyons, 12.
21. Congress. Senate. Subcommittee on Education, Arts, and Humanities of the Committee on Labor, and Human Resources, report by William Dannemeyer, 97th Cong. 2nd. sess., 26 April 1982, 86-86. Washington, DC: GPO.
22. Congress. House. Subcommittee on Census and Population of the Committee on Post Office and Civil Service, report by Baltasar Corrada, 98th Congress, 1st session, 14 September, 1983, 88-89. Washington, DC: GPO.
23. Congress. House. Subcommittee on Census and Population of the Committee on Post Office and Civil Service, report by Gloria Zamora, 98th Congress, 1st session, 14 September, 1983, 89-93. Washington, DC: GPO.
24. Congress. House. Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor, report by Dr. Carmen Perez, 98th Congress, 2nd session, 28 March, 1984, 94-97. Washington, DC: GPO.
25. Congress. House. Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor, report by Dr. Guillermo Lopez, 98th Congress, 2nd session, 14 September 1984, 102-103. Washington, DC: GPO.
26. Congress. House. Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor, report by Amalio Madueno, 98th Cong. 2nd. sess., 14 September 1984, 118-121. Washington, DC: GPO.

27. Congress. House. Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor, report by Gumecindo Salas, 98th Cong. 2nd. sess., 28 March 1984, 58-60. Washington, DC: GPO.
28. Congress. House. Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor, report by S.I. Hayakawa, 98th Cong. 2nd. sess., 28 March 1984, 63-64. Washington, DC: GPO.
29. Congress. House. Subcommittee on Elementary Secondary, and Vocational Education of the Committee on Education and Labor, report by Dr. Gloria Zamora, 98th Cong. 2nd. sess., 28 March 1984, 70-74. Washington, DC: GPO.
30. Gloria Stewner-Manzanares, "The Bilingual Education Act: Twenty Years Later", National Clearinghouse for Bilingual Education no.6 (Fall 1988): 3-4.
31. Congress. House. Compendium of Papers on the Topic of Bilingual Education of the Committee on Education and Labor, Improving Conditions for Success in Bilingual Education Programs, report by Dr. Rudolph C. Troike, 99th Congress, 2nd session, June 1986, 1-14. Washington, DC: GPO.
32. Congress. House. Compendium of Papers on the Topic of Bilingual Education of the Committee on Education and Labor, The Role of Research in Policy Decisions about Bilingual Education, report by Kenji Hakuta and Catherine Snow, 99th Congress, 2nd session, June 1986, 37-38. Washington, DC: GPO.
33. Congress. House Compendium of Papers on the Topic of Bilingual Education of the Committee on Education and Labor, report by Arturo Vargas, 99th Congress, 2nd session, June 1986, 19-20. Washington, DC: GPO.
34. Ibid.
35. U.S. Department of Education, The National Commission on Excellence in Education. A Nation At Risk: The Imperative For Educational Reform, passim. Washington, DC: GPO.

CHAPTER IV

"EDUCATION IS INVESTING IN OUR PEOPLE"¹

The future of America, and the directions we as a nation would take in the 1990s and on into the 21st century appear to be the themes of the Clinton administration. In speaking to the American people, President Clinton has used paternalistic images in urging Americans to care for one another, to act on idealism, to celebrate our heritage, and to reconnect our communities. The thrust of the Clinton educational policies, in this researcher's opinion, is towards an equal advantage and equitable policies for all American children. With the Goals 2000: Educate America Act, it appears that President Clinton will bring to completion, the ideals of the Elementary and Secondary Education Act of 1965.

This chapter will examine the federal bilingual policies of the 1990s, beginning with: The Reagan Administrations' Education Policies; Senate Hearings before the committee on Appropriations of the Departments of Labor, Health, and Human Services, 1990; The Hearings in the House of Representatives before a subcommittee of the Committee on Appropriations for 1991, of the Department of Labor, Health, and Human Services, 1990; The Hearings in the House of Representatives on Goals 2000: Educate America Act, 1993; The U.S. Senate Report to the Chairman, and the Committee on Labor and Human Resources, 1994; and, The Hearings Before a Subcommittee of the Committee on Appropriations, departments of

Labor, Health and Human Services, Education, and Related Agencies, House of Representatives, 1995; and the Congressionally Mandated Study of Educational Growth and Opportunity, 1995.

The Reagan Administration's Education Policies

On January 25, 1988, Ronald Reagan delivered his State of the Union address. Among his objectives, he referred to education as an area that needed reform. He called the 60s and 70s "a sorry story" of soaring spending and plummeting test scores. In his address he stated: "The most important thing we can do is to reaffirm that control of our schools belongs to the states, local communities and, most of all, to the parents and teachers."²

The educational policy of the Reagan administration focused on procedural considerations. His policy choices have been referred to as the five Ds: disestablishment (the elimination of the Department of Education), deregulation, decentralization, deemphasis (the reduction of the position of education as a priority on the federal agenda), and diminution (reduction of the federal budget in education). These were achieved by reductions in the budgets of social programs, eliminations of federal regulatory agencies, and encouraging local policy makers to deal with educational problems. As a result of these policies, local school districts experienced reduced financial support.³

**The Senate Hearings Before the Committee on Appropriations:
Departments of Labor, Health, and Human Services,
Education and Related Agencies: 1990**

The Departments of Labor, Health, and Human Services, and Education and Related Agencies held hearings before the U.S. Senate on March 9, 1989.

The chairman of the subcommittee of the Committee on Appropriations was Senator Tom Harkin. The purpose of the Hearings, as stated by the Chairman was to examine the administration's appropriations request and to hear the viewpoints of public witnesses. The Department of Education was in competition with the Departments of Labor, and Health and Human Services for shrinking Federal funds.

The focus of the Hearings would be on ways to eliminate areas of "waste, overlap, and excessive spending" of Federal funds:

I completely support the deficit targets and want to assist in helping to meet those targets. Needless to say there are endless demands for a very limited amount of money. For that reason ... I do intend to explore ... areas of excessive spending.⁴

Speaking in support of continued Federal assistance to education was Charles E.M. Kolb, Deputy Undersecretary of Education for Planning, Budget, and Evaluation, and Alicia Coro, of the Office of Planning, Budget, and Evaluation.

Speaking on behalf of the Department of Education, Mr. Kolb discussed the 1990 budget in the areas of elementary and secondary education, bilingual education, vocational and adult education, and special education and rehabilitative services. The budget he discussed

was the one submitted by former President Reagan on January 9, 1989, and would be followed under the Bush administration. If adopted, the Department of Education would see a decrease of \$185 million from the 1989 appropriated amount.

The testimony showed that Mr. Kolb presented an itemized outline of president Bush's initiatives, which started with the Presidential Merit Schools program, the Awards for Excellence in Education program, the Alternative Teacher and Principal Certification program, the Magnet Schools of Excellence program, the Urban Emergency Grants program, the Literacy Training for Homeless Adults programs, the Education of Homeless Children and Youth program, Compensatory Education programs, School Improvement programs, Strengthening Teaching and School Administration programs, Bilingual Education programs, Education for the Handicapped programs, and other school improvement programs.

The Bilingual Education program was designed to address the needs of the nation's Limited English Proficient (LEP) students. There continued to be a high percentage of LEP students who dropped out of school. The Reagan budget proposal included \$204.1 million for Bilingual, Immigrant, and Refugee Education which represented an increase of \$6.7 million. The Department of Education would continue its policy of making new awards based on the quality of the project rather than the choice of instructional approach.

Alicia Coro, of the Office of Planning, Budget, and Evaluation, spoke before the Committee to testify on the fiscal year 1990 budget for Bilingual, Immigrant, and Refugee Education. The record showed that Ms. Coro referred to the budget before the Committee as the one submitted by

former President Reagan on January 9, 1989.

This budget allowed for greater flexibility of local educational agencies to select the most appropriate educational methods. Most funds would be allocated to transitional bilingual education and special alternative instructional programs; these were two activities that focused on teaching English to limited English proficient children. In addition to funds that would support instruction, the budget would cover an increase in the level of activity of the evaluation assistance centers, and educational agency grants for data collection and a variety of technical assistance activities, research and evaluation studies, and a clearinghouse.

Another request focused upon the Bilingual Training Grants, which covered teacher education programs, fellowships, training development and improvement programs, and short-term training institutes. An amount for regional multifunctional Resource Centers was included.

Under the Immigrant Education Program, \$1 million more than the 1989 appropriation was requested. The Department of Education had transmitted a legislative proposal for Immigrant Education that prohibited the double-counting of refugee students under both the Immigrant Education and Refugee Education programs. The legislation required that grants be used only to provide supplementary education programs for these students.

The congressional hearings focused primarily upon the dollar amount of appropriations. No one questioned the "why" behind the appropriations, but rather the "how much". In addition, the Federal government preferred to let the academic community debate the relative

merits of the various bilingual instructional approaches. By placing responsibility for the selection of quality projects upon the State, the Federal government removed itself from that theoretical debate.

**Subcommittee Hearings of the Committee on Appropriations:
The House of Representatives, February, 1990**

On Tuesday, February 20, 1990, the Departments of Labor, Health and Human Services, and Education, and Related Agencies held appropriations Hearings for fiscal year 1991 before the U.S. House of Representatives, in Washington, D.C.

The hearings were chaired by Representative Jamie L. Whitten of Mississippi. The testimony of the Secretary of Education, Lauro F. Cavazos, the testimony of Rita Esquivel, Director of the Office of Bilingual Education and Minority Languages Affairs, and the testimony of Thomas M. Corwin, Director of Elementary, Secondary, and Vocational Analysis and Budget Service, of the Office of Planning, Budget, and Evaluation will be examined.

The testimony showed that Ms. Esquivel spoke first, and stated that the Department of Bilingual Education emphasized programs that served a generally disadvantaged population; without special intervention, this population would likely drop out of school, and the country would be deprived of their potential contributions.

In view of advice which was generated from the Office of Bilingual Education and Minority Languages Affairs forum, the Department of Bilingual Education requested an increase in their budget of 11 percent

over the 1990 budget, to a total of \$175.4 million. The increase would be used in Bilingual Programs which provided direct services to limited English proficient (LEP) students, and for in-service staff development for teachers. School districts which experienced an influx of LEP students would receive special consideration to cope with short-term difficulties. Bilingual Support services and training grants, and Immigrant Education, would receive the same appropriations as the previous year.

In response to questions by representative William Natcher of Kentucky, Ms. Esquivel stated that approximately three million school aged children needed bilingual education, and that the number continued to grow every year.

The transcript further indicated that a forum had been held with "huge success". The purpose of the forum was to address the shortage of trained bilingual teachers, to open channels of communication between local schools and universities, and to establish articulation programs with these institutions. The participants included superintendents from major areas where large numbers of LEP students lived: Los Angeles, Florida, Illinois, Massachusetts, Arizona, New Mexico, and Texas.

Ms. Esquivel then described to the committee the different programs that were best suited to meet the individual needs of children: in Santa Monica both transitional bilingual educational programs and special alternative programs were established. In the schools where children spoke one language other than English, transitional bilingual programs were in effect. In schools where the children spoke twenty-eight different languages, special programs were created. The local

districts were able to do this because of the ability to be flexible and tailor their programs to specific student needs, with the primary purpose being, to teach children English.

A member of the committee, Mr. Silvio Conte of Massachusetts, asked a question pertaining to apparent disagreement among minority language groups over what method of instruction was the best method to use. Ms. Esquivel responded that there is really no one best method, but rather, a local decision based upon the needs of the children should be the primary factor.

In a developmental program, created by Ms. Esquivel, English-speaking children were models for the non-English speaking children. They are seated side by side and work together. This program affords an opportunity for the English speaking children to learn a second language.

A great concern, according to the testimony of Ms. Esquivel, was the shortage of qualified bilingual teachers. This continued to be a problem for many districts.

The testimony continued with a question by Mr. Conte about the coordination of bilingual programs with Chapter I funds, where school districts reflected a large percentage of poverty factors, such as Aid to Families with Dependant Children, (AFDC), and money for LEP students. Ms. Esquivel responded that there was a misconception that all bilingual children received Chapter I funds; many children who were LEP did not receive Chapter I Funds, but since the 1974 Lau v. Nichols Supreme Court decision, school districts with large numbers of LEP students were required to provide some kind of special instructional service.

Ms. Esquivel stated that the Department of Education had limited information on districts where children received both Chapter I funds and bilingual funds.

In the conclusion of her testimony, Ms. Esquivel stated that in the budget request for fiscal year 1991, \$3 million would be reserved for developmental programs, and \$2 million for transitional bilingual programs.

The significant items in Congressional Appropriations Reports indicate the following actions to be taken:

The House Report: The Committee provided a \$5 million increase over the request level, indicating that it should be used for developmental bilingual projects. Similarly, the Conferees indicated that \$5,018,000 should be used for developmental bilingual projects. The Department's policy is to emphasize transitional bilingual education and special alternative instruction. These programs are more central than are developmental programs to the primary purpose of the Bilingual Education Act: to teach English to limited English proficient students.

The Senate Report: The Committee indicated that funds should continue to be used for projects exclusively designed to teach English to limited English proficient students and to assist them in meeting grade promotion and graduation standards. The Senate report language, which would have permitted no funds to be used for developmental programs, was superseded by the Conference report language which indicated that \$5,018,000 should be used for developmental bilingual education.⁵

The Account Summary of the Hearings:

Bilingual and Immigrant Education programs are an integral part of the Department's campaign to confront the Nation's educational deficit. These programs address the educational problems of limited English proficient students. Such students currently drop out of school at alarming rates, thus depriving the country of the significant human potential of these children. When bilingual programs are successful in assisting students to make the transition to regular classrooms, they help those students stay in school and complete their education, and thus help to reduce the Nation's educational deficit This important objective was recently endorsed at the Education Summit in Charlottesville, Virginia, when the President and the Nation's Governors committed

themselves to establishing goals related to the reduction of the dropout rate and the improvement of academic performance, especially among at-risk students.

Since the beginning of the Federal Bilingual Education program in 1969, educational services for limited English proficient (LEP) students have grown dramatically. While such services were rare in the 1960's, a Department of Education funded study found that, in 1983, 94 percent of the language minority students in the U.S., who were identified by school districts as limited English proficient, were receiving instruction specifically designed to meet their needs. This instruction might be transitional bilingual education, English-as-a-second-language (ESL), or some other method.

In 1991, the Department intends to continue its policy of making, to the extent possible under the law, new awards for transitional bilingual education and special alternative instruction on the basis of quality rather than instructional approach. This policy is consistent with the Hawkins-Stafford Elementary and Secondary School Improvements of 1988 which provided additional flexibility to local educational agencies to select the most appropriate instructional method.⁶

This researcher wishes to note here the level of commitment on the part of the Federal government to assure that Limited-English-speaking students would have an opportunity to develop English skills that would allow them to meet promotion and graduation requirements.

The Bush Administration was aware of the impact upon districts that experienced rapid enrollment of LEP students, and people such as Rita Esquivel, were eager to promote programs that would serve a generally disadvantaged population.

Ms. Esquivel was a leader in education, who was instrumental in establishing articulation programs between institutions of higher learning and superintendents; and, she encouraged the universities to consult with local educational agencies so programs that suited a particular populations' needs could be addressed.

**Hearing Testimony Presented to the House of Representatives:
Improving America's Schools Act of 1994**

On January 5, 1993, House Resolution 6, the Improving America's Schools Act of 1994, was introduced by Mr. Kildee, Mr. Ford (of Michigan), and Mr. Goodling.

The Subcommittee on Elementary, Secondary, and Vocational Education held 28 days of hearings in 1993 on H.R. 6, eight days of which were held outside of Washington, D.C. The hearing topics and dates that pertain to Bilingual Education were held in Houston, TX, on July 22, 1993. This researcher will examine that testimony as it pertains to bilingual policy.

H.R. 6 was approved, as amended by the Subcommittee on Elementary, Secondary and Vocational Education on February 1, 1994. On February 8, 1994, the Committee on Education and Labor considered H.R. 6 It was approved and ordered reported by a record vote of 29 to 14.

H.R. 6, the Improving America's Schools Act of 1994, reauthorized most of the Federal Government's programs of aid to elementary and secondary education. These programs are principally included in the Elementary and Secondary Education Act (ESEA) of 1965, and provide approximately \$10 billion of assistance to states and local school districts.

The purpose of H.R. 6 is not only to extend the authorizations of these programs; it is also to reshape these programs so that the Federal Government better assists states and local school districts as they reform the public schools. Most of these programs were fashioned in the

1960's before the current wave of school reform began, and thus they were in need of updating to fit better into how states and local school districts are making education more appropriate to meet today's demands.

In 1993 the House passed the Goals 2000, the Educate America Act, which established a new framework for the Federal government to provide this type of assistance, and H.R. 6 helps to fill in that framework by re-fashioning Federal programs to supplement state and local school reform efforts.

Goals 2000 helped the states to establish high standards for all children, to reshape testing in order to better measure whether children are achieving these standards, and to ease the rules and regulations so that efforts are concentrated on results and not only on technical compliance. H.R. 6 followed through on that bill by refashioning Federal programs so that they assisted states to achieve the same objectives.

H.R. 6 amended the array of programs in the Federal Elementary and Secondary Education Act and related laws to require that they support the efforts of the states to have all children attain high standards. Since the 1960's Federal programs have helped to raise the achievement of those who have traditionally lagged furthest behind in the schools. In fact, the only real achievement gains which have been made in the last 20 years have been among those who have been the principal beneficiaries of Federal programs.

All children are expected to achieve high standards even if they are from poor families, from families which do not speak English, or who are otherwise "educationally disadvantaged."⁸

H.R. 6 also moved toward providing Federal aid to schools instead of to individual children so that whole schools would be held accountable to bringing all their students up to high achievement, instead of separating the poor, limited-English speaking students, or other children with educational problems into separate classrooms.

The heart of the legislation demanded greater educational achievement in exchange for much more freedom in the use of Federal funds. The entire bill could be summed up in two words: Flexibility and Accountability.

The legislation gave educators the flexibility to combine Federal programs, to use Federal aid in whatever fashion would be necessary to improve education, and to seek waivers from rules and regulations whenever necessary to improve achievement.

It was equally clear that the states would be accountable for the academic gains of their students. If educational gains were not achieved, then school districts were expected to help schools to improve, and if there was not sufficient progress, then the states were expected to intervene to secure that result.

H.R. 6 called for the most important changes in Federal aid to elementary and secondary education since the assistance was first substantially established in the 1960's. The purpose was to make Federal programs "part and parcel" of school reform for all children instead of being separate programs for special children. Although Federal aid would be blended into the general reform effort, there would still be a demand for programs to aid those who had been left behind. In passing this legislation, Congress gave a substantial boost to

improving education for all children.

Since 1965, The Elementary and Secondary Education Act called attention to the special educational needs of the nation's educationally-deprived children, by providing funds for locally-operated "compensatory education" programs. In 1965-1966 the ESEA provided \$960 million in Federal funds, and in 1994-1995 a commitment of \$6.3 billion was appropriated. The significance of this reauthorization would set the course for ESEA funding into the year 2000. The changes proposed in H.R. 6 would reflect the increased understanding of current educational needs, and those that would be likely to change in the future.

The Report reflected the analysis of the Title VII Bilingual Education summary which stated that the need for quality bilingual education would continue to grow, due to the changing demographics of the student population. This population reflected schools where one child in seven would come to school speaking a language other than English. The Committee intended to broaden the scope and extend the reach of Title VII assistance to educational agencies, institutions of higher education, and non-profit community based organizations. The Committee acknowledged the importance of bilingual and bicultural students in the global economy of the 21st century. The development of native language, in addition to the goals of teaching limited-English proficient students English and academic content, would be vital to meeting National Educational Goals.

Provisions of H.R. 6

According to the report from the Committee on Education and Labor, the Committee chose to reauthorize Title VII, the Bilingual Education Act, with the intent of promoting systemic change and to insure the inclusion of language minority and limited-English proficient students in national education reform.

First four types of grants were authorized under Part A for the provision of bilingual services. Program development and implementation grants would be used by schools to develop and implement new comprehensive preschool, elementary, or secondary bilingual education programs for limited-English proficient students.

Second, program enhancement grants could also be awarded to schools to carry out highly focused, innovative, locally designed projects to expand or enhance existing bilingual education or special alternative instructional programs.

Third, grants could be awarded to applicants for whole-school programs designed to reform, restructure, and upgrade programs. Whole-school programs include activities such as upgrading in-service training for school staff and restructuring and improving instructional programs and curriculum.

Fourth, system-wide grants could be made to local educational agencies to improve, reform, and upgrade relevant programs and operations. Title VII also extended activities previously authorized under the ESEA Act which included research and evaluation activities and bilingual education teacher training.

Part of the Title VII funding included allocations for the Emergency Immigrant Education Program. This program provided funds to states on a formula basis to assist local educational agencies that experienced unexpectedly large increases in their student populations due to immigration. Funds would be used to provide high-quality instruction to immigrant children and youth, to assist such children with their transition into American society, and to help them meet the same challenging State performance standards expected of all students.

H.R. 6 contained provisions to simplify the distribution of state allocations, but maintained current legal eligibility for local educational agencies. For the purposes of the Act, an "immigrant" was defined as a child who has not attended school in the United States for more than two full academic years.

Once the appropriation for the program reached \$40 million, the bill allowed states to retain 20 percent of their allocations to help meet the needs of areas with especially high immigrant populations as well as the more rural areas that do not automatically qualify for assistance, but are faced with addressing the needs of new populations. Uses of these funds included: parent outreach and training; salaries of personnel; tutorials and career counseling; acquisition of curricular materials; and other related materials authorized by the Secretary of Education.

The testimony submitted to Mr. Ford and the Committee on Education and Labor included the Policy Statement of the Title VII Bilingual Education Programs, known as the "Bilingual Education Act". Inasmuch as this researcher has looked at the history of Federal bilingual

educational policy since the inception of Title VII, it is important to read this policy in view of the role that the government has assumed towards children of limited English proficiency.

The document read as follows:

Recognizing -

(1) that there are large and growing numbers of children of limited English proficiency;

(2) that many of such children have a cultural heritage which differs from that of English proficient persons;

(3) that the Federal Government has a special and continuing obligation to assist in providing equal educational opportunities to limited English proficient children;

(4) that, regardless of the method of instruction, programs which serve limited English proficient students have the equally important goals of developing academic achievement and English proficiency;

(5) that the Federal Government has a special and continuing obligation to assist language minority students to acquire the English language proficiency that will enable them to become full and productive members of society;

(6) that the instructional use and development of a child's non-English native language promotes student self-esteem, subject matter achievement, and English-language acquisition;

(7) that a primary means by which a child learns is through the use of such child's native language and cultural heritage;

(8) that, therefore, large numbers of children of limited English proficiency have educational needs which can be met by the use of

bilingual educational methods and techniques;

(9) that in some school districts establishment of bilingual educational programs may be administratively impractical due to the presence of small numbers of students of a particular native language or because personnel who are qualified to provide bilingual instructional services are unavailable;

(10) that States and local school districts should be encouraged to determine appropriate curricula for limited English proficient students within their jurisdictions and to develop and implement appropriate instructional programs;

(11) that children of limited English proficiency have a high dropout rate and low median years of education;

(12) that the segregation of many groups of limited English proficient students remains a serious problem;

(13) that reliance on student evaluation procedures which are inappropriate for limited English proficient students have resulted in the disproportionate representation of limited English proficient students in special education, gifted and talented, and other special programs;

(14) that there is a serious shortage of teachers and educational personnel who are professionally trained and qualified to serve children of limited English proficiency;

(15) that many schools fail to meet the full instructional needs of limited English proficient students who also may be handicapped or gifted or talented;

(16) that both limited English proficient children and children

whose primary language is English can benefit from bilingual educational programs, and that such programs help develop our national linguistic resources and promote our international competitiveness;

(17) that research, evaluation, and data collection capabilities in the field of bilingual education need to be strengthened so as to better identify and promote those programs and instructional practices which result in effective education;

(18) that parent and community participation in bilingual education programs contributes to program effectiveness; and

(19) that because of limited English proficiency, many adults are not able to participate fully in national life, and that limited English proficient parents are often not able to participate effectively in their children's education.

The Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children and to promote educational excellence (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual practices, techniques and methods, (B) to encourage the establishment of special alternative instructional programs for students of limited English proficiency in school districts where the establishment of bilingual education programs is not practicable or for other appropriate reasons, and (C) for those purposes to provide financial assistance to local educational agencies, and, for certain related purposes, to State educational agencies, institutions of higher education, and community organizations.

The programs assisted under this title include programs in

elementary and secondary schools as well as related preschool and adult programs which are designed to meet the educational needs of individuals of limited English proficiency, with particular attention to children having the greatest need for such programs. Such programs shall be designed to enable students to achieve full competence in English and to meet school grade promotion and graduation requirements. Such programs may additionally provide for the development of student competence in a second language.

Funds were authorized to be appropriated for the fiscal year 1989 and for each of the four succeeding fiscal years.

The Definition of Terms

The following definitions would apply to the terms used in this title:

(1) The terms "limited English proficiency" and "limited English proficient" when used with reference to individuals means -

(A) individuals who were not born in the United States or whose native language is a language other than English;

(B) individuals who come from environments where a language other than English is dominant;

(C) individuals who are American Indian and Alaska Natives and who come from an environment where a language other than English has had a significant impact on their level of English language proficiency; and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms where the language of instruction is

English or to participate fully in our society.

(2) The term "native language", when used with reference to an individual of limited English proficiency, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

(3) The term "low-income" when used with respect to a family means an annual income for such a family which does not exceed the poverty level determined pursuant of this Act.

(4) The term "program of transitional bilingual education" means a program of instruction, designed for children of limited English proficiency in elementary or secondary schools, which provides, with respect to the years of study to which such program is applicable, structured English language instruction, and, to the extent necessary to allow a child to achieve competence in the English language, instruction in the child's native language. Such instruction shall incorporate the cultural heritage of such children and of other children in American society. Such instruction, shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade promotion and graduation standards.

(5) The term "program of developmental bilingual education" means a full-time program of instruction in elementary and secondary schools which provides, with respect to the years of study to which such program is applicable, structured English language instruction and instruction in a second language. Such programs shall be designed to help children achieve competence in English and a second language, while mastering subject matter skills. Such instruction shall, to the extent necessary,

be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

(6) The term "special alternative instructional programs" means programs of instruction designed for children of limited English proficiency in elementary and secondary schools. Such programs are not transitional or developmental bilingual education programs, but have specially designed curricula and are appropriate for the particular linguistic and instructional needs of the children enrolled. Such programs shall provide, with respect to the years of study to which such program is applicable, structured English language instruction and special instructional services which will allow a child to achieve competence in the English language and to meet grade-promotion and graduation standards.

(7) The term "family English literacy program" means a program of instruction designed to help limited English proficient adults and out-of-school youth achieve competence in the English language. Such programs of instruction may be conducted exclusively in English or in English and the student's native language. Where appropriate, such programs may include instruction on how parents and family members can facilitate the educational achievement of limited English proficient children.

(8) The term "programs of academic excellence" means programs of transitional bilingual education, developmental bilingual education, or special alternative instruction (A) which have an established record of providing effective, academically excellent instruction; and (B) which can be used as models for effective schools for limited English

proficient students to facilitate the dissemination and use of effective teaching practices for limited English proficient students; or which are designed to serve as models of exemplary bilingual education programs and to facilitate the dissemination of effective bilingual educational practices.

(9) The term "Office" means the Office of Bilingual Education and Minority Languages Affairs.

(10) The term "Director" means the Director of the Office of Bilingual Education and Minority Languages Affairs.

(11) The term "Secretary" means the Secretary of Education.

(12) The term "other programs for persons of limited English proficiency" when used in this title means any programs within the Department of Education directly involving bilingual education activities serving persons of limited English proficiency, such as the programs carried out in coordination with the provisions of this title pursuant to part E of Title IV of the Carl D. Perkins Vocational Education Act, and section 306 of the Adult Education Act.

The regulations requirements stated that:

(1) The Secretary shall consult with State and local educational agencies, organizations representing persons of limited English proficiency, and organizations representing teachers and other personnel involved in bilingual education.

(2) The Secretary shall not prescribe under this title any regulations further defining the terms, or any regulations restricting or expanding the definitions.

Parents of children participating in programs assisted under this

title shall be informed of the instructional goals of the program and the progress of their children in such programs. Every effort shall be made to provide the information to parents in a language and form the parents understand.⁸

The significant aspects of the Improving America's Schools Act of 1994 focused upon these concerns:

1. it moved toward the inclusion of limited-English-speaking (LEP) children into as many areas of the daily curriculum as would be appropriate;
2. it moved away from strictly compensatory programs that looked at LEP students as having deficits, and considered the languages as strengths;
3. it encouraged local districts to extend school curricula to the community and institutions of higher learning;
4. it promoted and encouraged parents as partners in the education of their children; and
5. it promoted second language learning.

Report to the Committee on Labor and Human Resources:

U.S. Senate, 1994

In the continuing evaluation of national educational goals, Linda G. Morra, Director of Education and Employment Issues for the Department of Health, Education, and Human Services Division presented a report on January 28, 1994, to the Chairman and the Committee on Labor and Human Resources of the U.S. Senate.

The report was entitled: Limited English Proficiency: A Growing and Costly Educational Challenge Facing Many School Districts. The Chairman of the committee was Senator Edward M. Kennedy.

The policy already having been established for the Improving America's School Act of 1994, the Congress of the United States continued to be concerned about the ability of schools to educate the increasing numbers of students who speak little or no English.

In the last decade, according to the report, the number of limited-English proficient (LEP) students increased by almost 26 percent. More than 2.3 million LEP students live in the United States, representing many different linguistic and cultural backgrounds.

The Congress has reauthorized federal funds on a regular basis for elementary and secondary education programs. In order to determine how the nation's schools are educating LEP students the Department of Health, Education, and Human Services answered the following questions in their report:

(1) What are the characteristics of LEP students, nationally and in selected districts, and what are the challenges these districts face in educating these students?

(2) How do selected districts with LEP students from linguistically diverse backgrounds educate these students, including the extent to which academic subjects are taught in the students' native languages?

(3) What approaches have been identified as promising when diversity of languages spoken by students makes native language instruction difficult?

(4) Do key federal programs targeted to LEP students provide the types of support districts need to implement programs to serve these students?

The report stated that the nation's ability to achieve national educational goals depended on its ability to educate LEP students.

Seventy-two percent of LEP students were heavily concentrated in the six states of California, Florida, Illinois, New Jersey, New York, and Texas, and, about one-sixth of the counties (533 out of 3,140) located in forty-seven states have substantial numbers of LEP students. (A substantial number of LEP students was determined to be at least 5 percent of a county's population, or at least 500 students.)

The national reforms, such as Goals 2000: Educate America, stressed improvement for all students, not only reform for specific at-risk students, such as LEP students.

The report noted that districts with LEP students faced a multitude of challenges; one key challenge was language and cultural diversity: more than 40 percent of LEP students were also recent immigrants who represented many cultures, and spoke a variety of languages.

The poverty rate of districts with high concentrations of immigrant and LEP students ranged from 35 percent to 63 percent. (The standard federal definition of poverty status was based upon the number of students that (1) lived in households that received Aid to Families With Dependent Children (AFDC), or (2) were eligible for free or reduced-price lunches under the National School Lunch Program.)

In addition, health and emotional problems affected many LEP

students, especially those immigrants who had experienced the trauma of war and life in refugee camps. These students were transient, continued to arrive throughout the school year, and were sometimes illiterate in their native language. Many school officials experienced difficulties in communicating with the parents of LEP students, who also were often illiterate in their own native language.

District officials cited the shortage of qualified bilingual teachers and materials as an area of major concern for them, as well as a lack of adequate resources to provide special training for classroom teachers to prepare them for dealing with the substantial needs of the increasing LEP population.

In considering the role of Federal programs which support bilingual activities, the report noted that under Title VII of the Elementary and Secondary Education Act (ESEA) and Emergency Immigration Education Act (EIEA) funds were provided to districts to help meet the needs of LEP students. Title VII also provided state and national support. But, funding for programs has not kept pace with the increase in eligible populations.

Title VII funded national and state activities under nine different programs. Activities funded under these programs ranged from providing funds for direct instructional programs, graduate teaching fellowships and research, and technological assistance.

Although funds have been appropriated through 1996, this researcher notes that funding for federal programs targeted to LEP students has not kept pace with the increases in the LEP population. For example, when inflation was considered, the \$192 million that had

been appropriated for Title VII in 1990 was 40 percent less than the 1980 appropriation, though Census data showed that the number of LEP students had increased by more than 25 percent in those 10 years.

The report concluded that it would be difficult for LEP students to achieve the high standards that were developed and adopted to reach the national goals given their educational needs and the limited services available to them. Classroom teachers faced the challenge of educating students with whom they could not communicate easily because of language and cultural barriers. This appeared to be the critical aspect facing school districts: the successful training of classroom teachers to help these students achieve high academic standards.

The report concluded that:

- * the nation needed to continue to serve LEP students in nonbilingual as well as bilingual settings and to develop a teaching force to educate this group;

- * local districts and institutions of higher learning needed to develop appropriate curricular and instructional models and necessary assessment tools for LEP students;

- * efforts to improve education for LEP students should be consistent with systemic reform efforts that districts and schools implement to reach the national goals.⁹

**Hearings: The Committee on Appropriations:
U.S. House of Representatives: 1995**

On January 11, 1995, and on March 1-3, 1995, John Edward Porter of Illinois chaired the Hearings before a subcommittee of the Committee on Appropriations of the House of Representatives. These Hearings heard testimony from the Departments of Labor, Health and Human Services, Education, and Related Agencies for educational and other appropriations for 1996.

The Bilingual and Immigrant Education programs addressed the National Education Goals which promoted student achievement and high school completion. Bilingual programs assisted limited English proficient students in learning English, meeting challenging State performance standards, and completing elementary and secondary school. In addition to budget increases, the Department of Education proposed special appropriation language for Immigrant Education to provide additional flexibility to States in the distribution of funds to eligible school districts.

The testimony from the Department of Education consisted of a Summary of Request for funds which was presented in a form that showed the changes between the 1995 and the 1996 budget requests.

In 1995 \$155,690,000 was requested for bilingual and immigrant education instructional services. This same amount was requested in 1996 which represented no change in a request for additional funds. In 1995 \$14,330,000 was requested for support services. In 1996, \$15,330,000 was requested; this represented an increase of \$1 million.

In 1995 \$25,180,000 was requested for training grants. In 1996 \$28,980,000 was requested; this represented an increase of \$3,800,000. In 1995 \$50 million was requested for immigrant education. In 1996 \$100 million was requested; this represented an increase of \$50 million. The total request for Bilingual and Immigrant Education in 1995 was \$245,000,000, and the total request for 1996 was \$300,000,000. This represented an increase of \$54,800,000.

The purpose of the Bilingual Education program is to assist local school districts in building their capacity to operate high-quality instructional programs for limited English students. Grants to State Educational Agencies (SEAs) provide funds for coordinating services within the State consistent with State educational reform plans. Professional Development grants prepare new teachers to provide services to LEP students and improve the skills of existing teachers.

Under the reauthorization, the Bilingual Education Act now provides Federal assistance for three distinct kinds of activities related to improving the quality of instruction for limited English proficient (LEP) students. Under Subpart A: Instructional Services, the Department makes awards primarily to local educational agencies for the implementation of instructional programs designed to assist LEP students in meeting challenging State performance standards. Under Subpart 2: Support Services, authorization is given for grants and contracts for research and evaluation and grants for Academic Excellence projects that disseminate information on successful bilingual models. It also supports grants to State educational agencies for data collection and technical assistance to school districts with LEP students and a

contract for the National Clearinghouse for Bilingual Education to disseminate information on bilingual education. Under Subpart 3: Professional Development authorization is granted for professional development of personnel serving or planning to serve LEP students.

Federal assistance under the Bilingual Education Act is also designed to assist local schools, States, and institutions of higher education to build their capacity to operate on a regular basis, activities similar to those supported under the Federal program. Since the program began in 1969, Congress has appropriated more than \$3.3 billion to meet the goals of the Act.

The Immigrant Education Program, authorized by Part C of Title VII, provides formula grants to assist local schools that have large concentrations of recent immigrant students. When the appropriation exceeds \$50 million, States may use up to 20 percent of their allocation for competitive to local educational agencies.

The Department of Education provides two-to five-year competitive grants, primarily to school districts, to improve the quality of instructional programs for LEP students. While the previous statute required grant competitions differentiated on the basis of instructional method and the group to be served, the new reauthorization reduced the number of categories of competitive grants, and restructured them to promote systemic educational reform. The reauthorization permits schools to select the instructional approach best suited to their students and authorizes services to preschool students and to parents to assist in the education of their children in all categories. All programs must be designed to teach English and assist students in

meeting the same challenging State standards required of all students.¹⁰

A Look Towards the Future

In summary, this researcher notes that large numbers of Limited English Proficient students (LEP) are eligible for Title I services (formerly Chapter I services). The purpose of Title I funds is to help disadvantaged children meet high academic standards. It is probable that the numbers of people immigrating to this country will continue to grow, and that the demand for bilingual services will continue to be high. This researcher suggests that the Congress will probably continue to hear requests for Title VII appropriations from the U.S. Department of Education and State Educational Agencies (SEAs).

Title VII programs must be coordinated with Title I state plans. Title I programs are currently funded at over \$7 billion per year. This amount represents the single largest federal investment in American elementary and secondary education. Since the passage of the Elementary and Secondary Education Act (ESEA) in 1965, over \$70 billion has been distributed to local districts and schools. The distribution of Title I funds is especially broad, and more than 90 percent of districts nationwide receive some sort of Title I funding.

The Congress has declared that a high-quality education for all individuals and a fair and equal opportunity to obtain that education is in the best interest of our society as a whole. In order to support and sustain this educational philosophy, the Congress has consistently voted funds for educational programs throughout the last three decades, and

there is indication that funds will continue to be appropriated for the 21st century. The challenges that face us as a nation in providing adequate and appropriate services will be discussed in the next chapter.

ENDNOTES: CHAPTER IV

1. Bill Clinton, "American Renewal: We Must Care For One Another," Vital Speeches of the Day 59 (Feb. 15, 1993).
2. Ronald Reagan, "State of the Union," Vital Speeches of the Day 59 (Feb. 15, 1988): 260.
3. Karen S. Gallagher, and R. J. Gallagher, "Education and the Presidential Race: Looking Beyond the Rhetoric," in Contemporary Issues in U.S. Education, ed. Kathryn M. Borman, et al. (Norwood, NJ: Ablex Publishing Corp., 1991).
4. Congress, Senate, The Departments of Labor, Health and Human Services, Education and Related Agencies, Tom Harkin, remarks before the Subcommittee on Appropriations, 101st Cong., 1st sess., 9 March 1989. Washington DC: GPO.
5. Congress, House of Representatives, The Departments of Labor, Health and Human Services, Education, and Related Agencies, Hearings Before a Subcommittee of the Committee on Appropriations, 101st Cong., 2nd sess., 20 February 1990. Washington DC: GPO, 1135.
6. Ibid, 1137.
7. Congress, House of Representatives, Department of Labor, Health and Human Services, Education and Related Agencies, Report: Improving America's Schools Act of 1994, 103rd Cong., 2nd sess., 16 February 1994. Washington, DC: GPO.
8. Congress, House of Representatives, Department of Labor, Health and Human Services, Education and Related Agencies, Hearings Before the Subcommittee on Education and Labor, 103rd Cong., 2nd sess., Report: Improving America's Schools Act of 1994, 9 January 1993. Washington DC: GPO.
9. Congress, Senate, Department of Labor, Health and Human Services, Education and Related Agencies, Hearing Before the Committee on Labor and Human Resources, Report: Limited English Proficiency, A Growing and Costly Challenge Facing Many School Districts, 1994. Washington, DC: GPO.
10. Congress, House of Representatives, Department of Labor, Health and Human Services, Education and Related Agencies, Hearing Before a Subcommittee of the Committee on Appropriations, 11 January 1995. Washington, DC: GPO.

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CHAPTER V

CONCLUSIONS, SUMMARIES, AND RECOMMENDATIONS

"Paradigm Shift" has become a term often used interchangeably with the concept of change, and sometimes, growth. President Clinton reminded Americans in 1993 that the urgent question of our times is whether we can make change our friend, or whether we will perceive it as an enemy.

The American role in a global economy is a concern that faces all leaders. Thanks to technological advances, communication is now instantaneous; we compete daily on a global level, beyond the boundaries of time and space that were merely imagined in the 1960s.

To prepare our next generation for the challenges of the 21st century, we as leaders, educators, elected officials, and representatives of communities, must invest our time and talents into our collective future; as we shape the America of the 21st century we must prepare our students to demonstrate a competence in English, math, science, foreign languages, civics and government, economics, arts, history and geography. All students, especially those from educationally or economically disadvantaged backgrounds, must have an equal chance to learn and to meet national standards.

This chapter will summarize the role that federal bilingual policy has played in the American educational system from the period of the 1960s to the Goals 2000: Educate America Act of 1994. This section will

include: a summary of federal public education legislation from 1965, the Civil Rights Act, to Goals 2000: Educate America Act, 1994; a summary of the Supreme Court and the Lau case, 1974; a summary of federal statutes, directives, and case law regarding National Origin Minority pupils; a summary of the report by the Stanford Group: **a Blueprint for the Next Generation: Recommendations for Federal Education Programs for Limited English Proficient Students**; conclusions by the researcher; a glossary of bilingual education terms and program models; and, an epilogue.

A Summary of Federal Public Education Legislation:

The Civil Rights Act: 1964 to Goals 2000: 1994

1964 The Civil Rights Act prohibited "discrimination and denial of access to education on the basis of race, color, or national origin." (Funds for equal educational opportunities are provided under Title VI.)

1965 The Elementary and Secondary Education Act (ESEA) was passed, and Federal aid to education, for the first time, was provided on a direct basis, to schools. The Act authorized an initial \$1.3 billion in Title funds. Title I provided funds for the education of children from low income families directly to school districts.

1967 The Bilingual Education Act (BEA) was introduced in the United States Senate in January, 1967, and became Title VII of the ESEA Amendments of 1967.

1968, 1974, 1978 The BEA was approved, and reauthorized, and

Title VII was enacted to "provide short-term help to school districts with high concentrations of children with limited English speaking proficiency (LEP) from low-income families."

1974 The Supreme Court in Lau v. Nichols ensured that local school districts would provide appropriate services to LEP students.

1979 The U.S. Department of Education was created by the Department of Education Organization Act. The Office of Bilingual Education and Minority Languages Affairs (OBEMLA) "ensures access to equal educational opportunity and improves the quality of programs for LEP students and minority languages populations by providing support for programs, activities, and management initiatives that meet the special needs of these populations."

1984 The BEA Act passed which amended the ESEA Act of 1965. The Act provides educational services for school-age LEP students to assist them in learning the English language well enough to participate fully in all-English classes. The Act required that 75 percent of each year's local school district appropriations be used for transitional bilingual education programs. This Act also addressed the need for increased flexibility on the part of local districts to provide services for LEP students.

1987 The Secretary of Education proposed the BEA Amendments of 1987. The bill sought to remove funding limitations on alternative instructional programs.

1988 The Bilingual Education Act was reauthorized in the Hawkins-Stafford Elementary and Secondary School Improvement Act of 1988. This Act included reauthorizations that reflected the diversity of LEP

students and approaches to their education.¹

1994 The U.S. Congress approved H.R. 1804 Goals 2000: Educate America Act (PL 103-227). The Act sought to: improve learning and teaching by providing a national framework for education reform; promote research, consensus building, and systemic changes needed to ensure equitable educational opportunities and high levels of educational achievement for all students; to provide a framework for reauthorization of all federal education programs; to promote the development and adoption of a voluntary national system of skill standards and certifications.²

A Summary of the U.S. Supreme Court and the Lau v. Nichols Case: 1974

The United States Supreme Court in 1974 first addressed the rights of students of limited-English-speaking ability in Lau v. Nichols in a case which involved the San Francisco Unified School District.

The Lau opinion touched on the fundamental issues of what constitutes equal treatment. The Court considered whether students who do not understand English receive equal treatment when English is the sole medium of instruction. The Court reasoned that under state-imposed standards, there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum. Without the knowledge of English the students are "foreclosed" from a meaningful education.

The lower courts had ruled that offering identical services to all

students was sufficient to meet the strictures of the Equal Protection Clause of the Fourteenth Amendment and, implicitly, of Title VI of the Civil Rights Act of 1964, even though students actually received disparate benefits: by placing Chinese-speaking minority students in English-speaking majority classes, the school system denied them a meaningful opportunity to participate in the educational program.

A critical basis of the Court's decision was a memorandum issued by the Department of Health, Education, and Welfare (HEW) on May 25, 1970, regarding children of national origin minority groups with limited English skills. The memorandum informed school districts that they must take affirmative steps to rectify English language deficiencies which would go beyond providing the same books and teachers to all students. The Supreme Court reinforced the requirement.

Although bilingual education was the relief originally demanded in the complaint, by the time Lau reached the Ninth Circuit Court the request for specific relief had been abandoned, and all that was sought was effective affirmative steps on the part of the school district. Justice William O. Douglas noted at the outset of the Court's opinion:

No specific remedy is urged upon us. Teaching English to the students of Chinese ancestry who do not speak the Chinese language is one choice. Giving instructions to this group in Chinese is another. There may be others. Petitioners ask only that the Board of Education be directed to apply its expertise to the problem and rectify the situation.³

The Lau decision not only upheld the May 25 memorandum, but also reaffirmed the general authority of HEW to issue and reinforce reasonable interpretative guidelines consistent with the purpose of Title VI.

In the summer of 1975 the U.S. Office of Education and its Office for Civil Rights (OCR) jointly issued the findings of a task force set up after the Lau decision. The findings, referred to as the "Lau guidelines", outlined the educational approaches that were found to be appropriate affirmative steps toward opening the instructional program to non-English-dominant students.

Some school districts faced with Lau compliance directives from the OCR raised questions regarding the legality of the guidelines. The questions focused on: (1) the failure of the Department of HEW to publish, or formally elicit comment on the guidelines; (2) the force and effect of the guidelines; (3) the application of the guidelines as standards of compliance (determining violations of rights) and standards of remedy (determining the adequacy of programs sufficient to remedy a proven violation); and (4) the scope of discretion allowed local educational agencies by the Lau guidelines.

In cases where the federal courts were called upon to apply the Lau guidelines, school districts were directed to submit plans of compliance for it was stated that the guidelines carried "great weight"; the Lau guidelines were used by the OCR as a standard of compliance.

The Lau v. Nichols decision upheld and affirmed the general authority of HEW to issue and enforce reasonable interpretative guidelines that were consistent with the purpose of Title VI of the Civil Rights Act of 1964.

The Lau guidelines were found to be reasonable and consistent with Title VI. The OCR stated that although the Lau guidelines do not have the force of the law, the guidelines "are entitled to weight as an

agency of interpretation", and were to be considered comparable to the HEW 1970 guideline upheld by the Supreme Court in Lau v. Nichols.

The HEW May 25, 1970 memorandum, Title VI regulations, and the Equal Educational opportunities Act of 1974 clearly barred segregation and separate treatment of minority children, but they did not preclude bilingual programs in schools that were predominantly attended by minorities. The Lau guidelines also prohibited the creation or perpetuation of ethnically identifiable schools in order to meet the special language needs of children of national-origin minority groups. But, they did not prohibit maintaining existing bilingual programs in ethnically identifiable schools. Programs that failed to rectify English-language deficiencies, and instead separated and excluded individuals from programs are prohibited.

In summary, the obligations of school districts to address the educational needs of their language minority students are derived from federal civil rights and funding statutes, implementing regulations, guidelines, and court decisions. The requirement, federal or state, which is most productive of children's educational rights, and hence less compromising, must be followed.

While the Lau guidelines did not strictly specify or require a particular program, school districts must demonstrate that any alternative educational approach is equally effective to those outlined. Some options might be "partial bilingual instruction", "full bilingual instruction", or "bilingual, bicultural education", but all programs must be consistent with federal requirements. Every linguistic minority child has the right to receive a linguistically comprehensible

education.

Federal and state requirements regarding notice to parents and the right of parents to withdraw their children from bilingual programs are wholly compatible with the law.

Finally, compliance with the law should be swift and voluntary, undertaken in good faith and with a view to installing quality programs in the classrooms; it should not be regarded as paper compliance with legal obligations.⁴

Summary of Federal Statutes, Directives, and Case Law Regarding National Origin Minority Pupils: 1964-1978

All three branches of the federal government have contributed to a comprehensive set of legal responsibilities for state and local governments regarding the education of national origin minority pupils. These students must derive equal benefits from the educational process. These include:

Civil Rights Act of 1964, Title VI

No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Memorandum, Department of Health, Education, and Welfare, 35 Federal Regulation 11595, Mat 25, 1970

Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.

Lau v. Nichols: U.S. Supreme Court Decision, 1974

... 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.

Equal Educational Opportunities Act of 1974, 20 U.S.C. 1703(f)

No state shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by ... (f) the failure by an educational agency to overcome language barriers that impede equal participation by its students in its instructional programs.

Task Force Findings Specifying Remedies Available for Eliminating Pat Educational Practices Ruled Unlawful under Lau v. Nichols (Lau Guidelines), 1975

School districts developing educational plans which are not consistent with the Lau guidelines must demonstrate affirmatively that such plans will be equally effective in ensuring equal educational opportunity for national origin minority students.

Rios v. Read, 73 F.R.D. 589,595 (Eastern District of New York, 1977)

It is not enough simply to provide a program for language disadvantaged children or even to staff the program with bilingual teachers; rather, the critical question is whether the program is designed to assure as much as is reasonably possible the language deficient child's growth in the English language. An inadequate program is as harmful to a child who does not speak English as no program at all.

Cintron v. Brentwood, U.S. District Court, Eastern District of New York, Decisions of August 22, 1977, and January 10, 1978

The goal of instruction for limited-English-speaking students is instruction by competent bilingual teachers in the subject matter of the curriculum while at the same time teaching non-English-speaking children in the English language.

Memorandum from David S. Tatel, Director of the Office for Civil Rights, July 1978

... school districts must continue to provide bilingual education programs to all school children eligible under the **Lau** guidelines to receive such services. Therefore, bilingual teachers must be made available in sufficient numbers to allow the school district to meet its obligations under **Lau**.... The absence of funds cannot justify a failure to comply with Title VI.⁵

**Blueprints For the Next Generation: Federal
Education Programs for Limited-English-Proficient Students**

In 1993 the Stanford Working Group on Federal Education Programs for Limited-English Proficient (LEP) Students convened to investigate strategies that would ensure that LEP students would benefit from the new directions undertaken by the Federal government in the reauthorization of the ESEA Act.

The two most important principles that guided the work of the Stanford Working Group were:

1. Language-minority students must be provided with an equal opportunity to learn the same challenging content and high-level skills that school reform movements advocate for all students.

2. Proficiency in two or more languages should be promoted for all American students. Bilingualism enhances cognitive and social growth, competitiveness in a global market place, national security, and understanding of diverse peoples and cultures.

The Working Group recognized that these principles represented a marked departure from common practice; LEP students had been kept on the margins of American education and American reform. The unique needs and

bilingual potential of LEP students must be addressed within the context of raising the education for all students, was their theory.

The Working Group established a set of comprehensive recommendations for three major pieces of Federal legislation that addressed the education of LEP students. These recommendations included that efforts should be made to:

(1) develop national, State, and local education standards and to assess these standards;

(2) supplement instruction for underachieving students in schools with relatively high-poverty enrollments;

(3) increase national, state and local capacity in addressing the unique situation LEP and language-minority students; and,

(4) develop the full bilingual potential of these students.

The opinion of the Working Group was that many language-minority students were languishing in school programs, and were behind their peers in content areas. Some felt that there was a "fixation" on teaching English as quickly as possible at the expense of instruction in other areas, and most bilingual programs did not offer the opportunity for students to fully develop dual language fluency. In short, the idea remained that the language and culture of LEP students were obstacles to achievement, or academic deficits, rather than potential strengths. Further, the education of LEP students was not conceived as part of any larger mission, for, programs that addressed their needs were isolated within State Education Agencies (SEAs), Local Education Agencies (LEAs) or schools.

The Stanford Working Group stated that reforms of Title I and VII

must be considered within a broader context that would enable the planning, implementation, and evaluation of reforms so that all efforts would be part of the continuous fabric of systemic improvement.

Specific Major Recommendations:

State Education Agencies and Local Education Agencies were encouraged to:

- * develop high content and performance standards for LEP students that were the same as those established for all other students, with full inclusion in the development process of persons knowledgeable about the education of LEP students;

- * develop opportunity-to-learn standards adapted to the unique situation of LEP students;

- * develop assessments of student performance and opportunity to learn that are appropriate for LEP students;

- * develop a system of school accountability for LEP students that combines assessment of student outcomes and opportunities to learn; and

- * make special efforts to ensure an adequate supply of teachers who are well prepared to educate LEP students.

Specific Reforms for Title I:

SEAs and LEAs were urged to:

- * require State education plans that would include provisions to ensure that LEP students have access to the same challenging curriculum and instruction as all other children;

- * increase access to Title I programs by targeting funds to high-poverty schools or districts and by requiring that all eligible LEP students be equitably selected for Title I services;

- * ensure that instruction and materials are adapted to the unique needs of LEP students;
- * reserve resources for staff development efforts to support the reforms and meet the needs of LEP students;
- * promote and focus school improvement efforts through school and local education agencies that are developed through a broad participatory process that includes those with knowledge and experience in the education of LEP students;
- * promote efforts to inform and involve parents in the education of their children;
- * develop assessment, school, improvement, and accountability provisions that are consistent with the overall State standards, and that contain a graduated series of state and local responses to failing schools, ranging from technical assistance to direct intervention and even school closure.

Specific Reforms for Title VII:

Seas and LEAs were urged to:

- * redefine the role of the U.S. Department of Education's Office of Bilingual Education and Minority Language Affairs so as to ensure full inclusion of Language-minority students in national reform efforts; to direct national research agenda on bilingual development; and to coordinate all Federal language education programs;
- * enhance and improve the State's role in planning, coordination, program improvement, evaluation, dissemination of effective practice, and data collection;
- * reformulate the types of grants awarded to schools and school

districts so as to encourage innovation and limit fragmentation of services;

- * give priority to program applications that promote full bilingual development, demonstrate consistency with State Plans, and provide innovative programs for underserved students;

- * develop a comprehensive program of self-study, evaluation, and research for purposes of program improvement and dissemination;

- * promote efforts to address the continuing shortage and to enhance the preparation of educational personnel who serve LEP students;

- * create a new focus on language conservation and restoration efforts in schools that serve Native American students; and

- * enhance Title VII's role in language policy, especially in promoting the conservation and development of language resources.⁶

Conclusions

Within the American political framework of the Executive, Legislative and Judicial branches of government, this researcher initially stated that this document would consider the following questions: who had initiated bilingual policy at the Federal level and, how the policy evolved over the last three decades; what role educators played in the creation of this policy; and what is the future direction of Federal bilingual policy and its impact upon language-minority students.

Public policy, as it affects American life in general, flows from

the presidential vision of each administration. It is often the inaugural speech that sets the political tone of the administration, and is an indication of the priorities of the following four year period. This researcher points out various rhetorical phrases used in the past three decades.

The rhetoric of Lyndon Baines Johnson's Great Society indicated that he wished to establish a society where all could enrich their minds and explore their talents. His speeches are replete with phrases such as "the dignity of man", "the destiny of democracy", and "there is cause for hope and for faith in our democracy". During his term in office the Civil Rights Act and the Elementary and Secondary Education Act of 1965 became law. His vision for a society based on equality surely set the foundation for equality of educational opportunity.

This was a momentous period in American history. The Civil Rights Act prohibited discrimination on the basis of race, color and national origin in the operation of all Federally-assisted programs. The ESEA indicated, for the first time, that the Federal government would assume an active role in improving educational opportunities for all American children.

President Richard M. Nixon in 1969 delivered an inaugural address that did not refer to educational opportunity, but alluded to fulfillment through the use of one's talents. His "State of the Union" address, delivered a year later, alluded to the need for welfare reform, and other reforms of which education was one of them, but there was no rhetoric that directly promoted educational opportunity for all. Rather, Nixon's general rhetoric employed such terms as: "unity that keeps us

free", "a just and abundant society", and "those we have left out, we will try to bring in."

The most important event during the 1970s in relation to bilingual instruction was the Supreme Court case of Lau v Nichols. Chief Justice William O. Douglas stated that no educational experience could be equal if there was merely an illusion of equality when students were provided with the same teachers, books, and curriculum.

The Lau case was a significant milestone in American public school law for it established two important points:

1. Equality of education was not achieved by merely providing all students with the same materials, curriculum, facilities, and teachers; students who do not understand English are deprived of a meaningful education, and the opportunity to participate fully in American life.

2. The Office for Civil Rights (OCR) has the authority to establish regulations for Title VI enforcement which prohibits discrimination even when the intent to discriminate is not apparent.

The impact of the Lau case is significant as well for these reasons:

Lau established the precedent of general legal protection of Title VI, and the Equal Educational Opportunities Act of 1974, as they pertain to concrete school issues, including language identification and assessment, student grouping and assignment, curriculum, staffing and training.

Lau gave rise to the Lau remedies which enabled school districts to understand their responsibilities to national origin-minority students. These guidelines were specific, detailed approaches for

identifying and evaluating national origin-minority students' English skills; determining appropriate instructional treatments; deciding when limited English-speaking students are ready for mainstream classes; and, determining the professional standards to be met by teachers of language minority children.

Lau made it possible for expanded numbers of national origin-minority students to seek appropriate services from local school districts.

Amendments to Title VII, which emphasized the transitional nature of native language instruction, and expanded eligibility to students who were limited English proficient, were also enacted in 1978.

President Ronald Reagan in 1981 used his inauguration speech to talk about inflation, tax burdens, and the "business of the nation." Education was mentioned in his "State of the Union" address a year later, but only in reference to soaring spending and plummeting test scores. The Reagan rhetoric generally used phrases such as: "government is not the solution to our problem; government is the problem", "let us take inventory", "peace is the highest aspiration", and "it is my intention to curb the size and influence of the Federal establishment."

During the Reagan administration in 1982, the Supreme Court denied the state's right to exclude the children of illegal immigrants from public schools, in the case of Plyler v. Doe. And, amendments to Title VII in 1984 allowed for some native language maintenance, and provided funds for LEP students with special needs.

In the first half of the decade of the 1990s, President Bill Clinton took the opportunity in his "State of the Union" address to urge

Americans to invest in our own people, in our jobs and in our future, and reminded us that as a nation, it is in our own best interest to care for one another. Clinton's rhetoric generally employed phrases such as: "not change for change sake but change to preserve America's ideals," "warmed by the sunshine of freedom", and "ambition for a better life is now universal."

In 1994 the Goals 2000: Educate America Act was signed into law, and national educational goals for all students were established. State participation was voluntary, and the Senate urged each state to develop strategies for equal opportunities to learn, rather than standards (which would be voluntary).

The leaders throughout the past three decades, in addition to our elected leaders, have been the community activists who have embodied this spirit of the common good. People in California, such as Dr. Ling-Chi Wang, Professor of Linguistics at the University of California, Chinese community leaders, Ben and Ruby Tom, Dr. Irene Kwok, of the San Francisco Unified School District, Department of Teacher Training, and the representatives of the San Francisco teachers union, Peter Mezey, Peter Cerlanti, Jerry De Ryan, and the attorney Edward Steinman who brought the case for Kinney Kimmon Lau, all sought to provide equal educational opportunity for those students who were in need of English language services.

In the field of education, early advocates such as Clarice Kline of the National Education Association, recognized the large numbers of students who had dropped out of school in the 1960s in Arizona, because of English language problems. She urged the Congress to appropriate

funds for bilingual education.

During the 1980s, educators such as Maria Lindia, Dr. Gloria Zamora, Dr. Guillermo Lopez, Dr. Gumecindo Salas, Dr. Rudolphe Troike, Dr. Kenji Hakuta, and Dr. Arturo Vargas, appeared before numerous congressional hearings in the House of Representatives and the Senate to promote the continued support of bilingual education through appropriation of funds that included expanded services, promoted increased teacher training, and urged support for innovative programs.

Bilingual policy evolved, therefore, through the combined vision and effort of concerned and dedicated individuals who realized that in providing equal educational opportunities for all students we would be improving the quality of American life for all Americans.

The role of the federal government has also evolved in this process over the past three decades, from that of Civil Rights catalyst through the Office of Civil Rights and the Department of Education, to that of advocate for a high-quality education for all students. In cooperation with the states, and supported by legal precedent, all facets of government work to ensure that all students meet high performance standards.

Nearly one of five American students⁷ who enters school knows a language other than English. Nearly half of these students are limited in English-language proficiency. In the future, language-minority and LEP students will compose a greater proportion of our school-age population.

Three decades of federal concern in improving America's schools, and providing the funds to Local and State Education Agencies to meet

the educational needs of all American children, especially the linguistically and culturally diverse, resulted in the Improving of America's School Act of 1994.

Title VII of this Act provides educators with the flexibility to implement and expand programs that build upon the strengths of LEP students with the goal of helping them to achieve high academic standards. The reauthorized Title VII strengthens the comprehensive approach of funded programs; streamlines program definitions to enhance flexibility; strengthens the State administrative role; improves research and evaluation; and emphasizes professional development.

Recommendations

The school is a unique microcosm of community life. Each community is distinct and demonstrates its' own strengths and weaknesses. For the fabric of the community to remain strong, the community must adapt to new populations and prepare to meet the needs of those who come with a diverse array of talents and needs. No learning takes place in a vacuum for we are all social creatures who desire to interact with each other; it is this desire to reach out and make a positive difference in the lives of other learners that marks the superior teacher.

In this researcher's opinion these concepts should guide school policy:

- * high standards for all children;
- * a focus on teaching and learning;

- * flexibility with all students;
- * better communication between home and school; and
- * resources must be targeted where needed.

In light of recent initiatives for school reform, the following recommendations for bilingual policy are made:

1. An all-inclusive policy must be established in educating LEP students;

2. Challenging standards should be set for all children to meet state objectives, and LEP students must be included, with program modifications;

3. Efforts must be made to create appropriate assessment instruments for LEP students;

4. Efforts should be made to encourage schoolwide staff development;

5. Efforts should be made to promote increased parental involvement;

6. Continued efforts should be made to work cooperatively with institutions of higher learning to develop curricula that enhances the skills and strengths of all learners, especially LEP students;

7. Efforts should be made to promote opportunities for dialogue among those educators who work directly with LEP students and other educators, and with elected representatives, who need to be aware of the concerns that face the students, their parents, and the educators.

As we approach the 21st century, educators and communities must turn away from old assumptions and create new paradigms if we are to prepare all our children for productive and useful lives. This systemic

change must evolve through the communication and the cooperation of all the stakeholders: teachers, parents, community leaders, administrators at local and state levels, and the students themselves, whenever appropriate. In this way, we can begin to anticipate new communities of learning for the 21st century.

Glossary of Bilingual Education Terms and Program Models

LEP: Limited English Speaking

Transitional Bilingual Education (TBE): the program that provides a portion of instruction in LEP student's native language to help them keep up in school subjects, while they study English in programs designed for second-language learners. The goal is to prepare students to enter mainstream English classes, a transition usually completed within two to three years. By law, the bulk of federal Title VII grants must support this approach.

Developmental-Maintenance Bilingual Education: the program that attempts to preserve and enhance students' skills in the mother tongue while they acquire a second language. This is perceived as an enrichment model, while transitional programs are compensatory models. In the maintenance model there is less emphasis on exiting students as quickly as possible from the program; generally, instruction continues through the sixth grade.

Basis Interpersonal Communication Skills (BICS): the level of English most children reach after two years of bilingual instruction, or less.

Cognitive-academic Language Proficiency (CALP): the linguistic foundation that children need for academic pursuits. It takes generally five to seven years to achieve proficiency in a second language. A LEP child must reach a minimum level of cognitive-academic proficiency in the native language before literacy skills will transfer to English.

Additive Bilingual Instruction: the program that continues development in two languages, which some researchers have linked to increased cognitive ability.

Subtractive Bilingualism: the program that attempts to replace a child's native tongue with English as quickly as possible; it is usually associated with low levels of proficiency in both languages.

Two-way Bilingual Education: the program that features an integrated model in which speakers of two languages are placed together in a bilingual classroom to learn each others' language and work academically in both languages. The most common programs in the United States are the ones that pair English and Spanish students together, while cultivating the native-language skills of each group.

Immersion Programs: the program where children are taught a second language through subject-matter instruction in the target language, with an emphasis on contextual clues and with lessons geared to the students' level of competence. The key is to provide comprehensible input through which students internalize grammar and vocabulary in the target language as they learn other academic subjects.

Submersion or "Sink-or-Swim": the program in which LEP children receive no special language assistance. Under the US Supreme Court's 1974 Lau v. Nichols decision, submersion is a violation of federal civil

rights law.

Enrichment Immersion: the program in which English speakers acquire a second language.

Alternate Immersion: the program, also known as sheltered English, that is a component of many bilingual programs. Children receive second-language instruction that is "sheltered" from input beyond their comprehension, first in subjects that are less language-intensive, such as mathematics, and later those that are more so, such as social studies. In some programs, lessons are taught in the native language in the morning, and through sheltered English in the afternoon.

Preview-review Method: the program, sometimes used in team teaching, where lessons are taught in one language first, and then the other language, followed by a review session in both languages to reinforce what has been learned.

Concurrent translation: the method of bilingual instruction whereby the teacher shifts between languages to communicate each idea. Studies reveal that this is not a successful way to teach a second language for the students often ignore the second-language portion of the lesson.

English as a Second Language (ESL): the program that is a component of almost all bilingual programs in the United States. In many districts where there is a shortage of bilingual teachers, or where there are students of many languages, "pullout classes" is the only instruction that students receive.

ESL: Grammar-Based Instruction: the audiolingual method that emphasizes memorization, mimicry, and drills.

ESL: Grammar-Translation: the method that concentrates on perfecting reading and writing skills, with less attention to listening and speaking skills. (This method often fails to make fluent communicators.)

ESL: Direct-Method: the method that uses the natural approach of simplified speech and visual and physical cues to help students comprehend second-language input. The theory is that language is acquired through exposure to comprehensible messages rather than "learned" through the conscious study of syntax and vocabulary. It aims to create a low-anxiety environment for the ESL student and the lower the psychological factors that prevent input from getting through. In the natural approach, the teacher focuses on meaningful and interesting communication and avoids overcorrection of student errors. Also, they respect the students "silent period" of up to six months, in which the ability to produce speech lags behind comprehension of the language.⁸

Epilogue

This researcher undertook this research project in order to look at the social and political events which pertained to the 1974 Supreme Court case entitled Lau v Nichols. One of the first questions this researcher considered was why this case was brought before the Supreme Court by a Chinese plaintiff at that particular time, when Americans had struggled with immigrants and myriad languages since the earliest days of our country.

The answers are complex. During the 1960s the struggle for Civil

Rights appeared to overshadow all events except for the assassinations of President John F. Kennedy, his brother, Robert Kennedy, and Dr. Martin Luther King, Jr. The words in our most cherished documents are replete with themes of equality for all, and government by consent of the governed. So important are they that we hold them to be self-evident. Yet, the provision of equal opportunity for all was an endeavor marked by blood, sweat, and tears.

Felix Frankfurter once wrote that the most important job in society was the education of the young. If this is true, then society, and the educational establishment, cannot distinguish between those who are worthy of our efforts, and those who are deemed to be only somewhat worthy. Every individual deserves a minimum level of educational experience, and the definition of "minimum" needs to be revised and expanded to meet the demands of a constantly changing global environment.

The answer to the question of why the Lau case became so significant is that it came at a propitious time: the Civil Rights Act had been passed, which was followed by the Elementary and Secondary Education Act. The political scenario had been set; a young, ambitious lawyer, in the person of Edward Steinman, arrived in San Francisco, and established a practice among the Chinese residents, many of whom could not speak English. Their children, despite an education in the San Francisco schools, possessed inadequate English skills. The Chinese community for years had demanded better English language programs, but the political fervor of the times, the recent activities by the U.S. legislature, the visions of leaders in the Chinese community such as

Ling-Chi Wang, Irene Kwok, and Henry Der, the grassroots movement of activism in the Chinese community, and the ambitions of Edward Steinman, all culminated in bringing the case to trial.

This inquiry into the Lau case has lead this researcher to examine the role of the Federal government as it relates to education. Through the vision of our president and elected leaders comes the inspiration for change. Through the efforts of the Senators and Congressmen come the necessary programs and the appropriations to fund these programs. Through the courts comes the interpretation of the law, and the tradition of the implementation of the spirit of the law. Working synergistically, they represent the promotion of the common good.

The "Tuchman moments" that were alluded to in the prologue bring us full circle to the question of leadership. Every generation identifies its leaders, but true leaders transcend time and location. The leaders are all those who spoke out for equal opportunity long before the Civil Rights Act was passed; they are those teachers, like Clarice Kline of the NEA who petitioned Congress for funds to develop appropriate programs in Arizona which would stem the high tide of high school dropouts. They are citizens like Ling Chi-Wang and Ben and Ruby Tom who requested adequate language programs in the San Francisco schools. And they are nationally recognized educators like Kenji Hakuta who urge inclusion for all students in the current Goals 2000: Educate America Act.

In conclusion, this researcher makes the following suggestions: change is not something that all people welcome. If our schools are to prepare students for the next century, adequate continuing teacher

education programs must be provided in order to put teachers on the cutting edge of theory and practice.

In addition to providing appropriate bilingual educational experiences, every effort should be made to provide and maintain dual, or second language proficiency, with the goal of increasing the number of bilingual and trilingual students. Every American student should be cognizant of, and conversant in, the three major languages of this hemisphere: French, English, and Spanish.

Finally, local governing bodies must look at how education is funded, and if needed, petition state legislatures to provide equal educational experiences based upon a minimum educational standard.

ENDNOTES: CHAPTER V

1. "Evolution of Public Education Legislation", Congressional Digest 66, no.3 (March 1987): 68-73.
2. Congress, The Senate and House of Representatives, The Departments of Labor, Health and Human Services, Education and Related Agencies; Hearings: H.R. 1804, Goals 2000: Educate America Act. 103rd Cong., 2nd sess., 25 January 1994. Washington, DC: GPO.
3. Lau v. Nichols 414 U.S. 563, 39 L.L Ed. 2d 1 (1974).
4. California. "Bilingual Program, Policy, and Assessment Issues," California State Board of Education, Sacramento, 1980, 103-109.
5. Ibid, 110-111.
6. Kenji Hakuta, and Diane August, "A Blueprint for the Second Generation: Federal Education Programs for Limited-English-Proficient Students," Stanford University, 1993.
7. James Crawford, Bilingual Education: History, Politics, Theory, and Practice (Trenton, NJ: Crane Publishers, 1989).
8. James Lyons, "The Past and Future Directions of Federal Bilingual Educational Policy," Annals of the American Academy, no. 508 (March 1990).

BIBLIOGRAPHY

Books and Periodicals

- Abrahams, Roger D., and Rudolphe C. Troike, eds., Language and Cultural Diversity in American Education. Englewood Cliffs, NJ: Prentice-Hall, 1972.
- Alexander, David, and Alfonso Nava. The How, What, Where, When, and Why of Bilingual Education: A Concise and Objective Guide for School District Planning. San Francisco, CA: R & E Research Associates, 1978.
- August, Diane, and Kenji Hakuta, eds. "For All Students: Limited English Proficient Students and Goals 2000." NCBE Focus 10 (Fall 1994).
- Baker, Keith A., and Adriana De Kanter, eds., Bilingual Education: A Reappraisal of Federal Policy. Lexington, MA: D.C. Heath, 1983.
- "Bilingual Education". Congressional Digest 66, no.3 (March 1987).
- Borman, Kathryn M. et. al. Contemporary Issues in U.S. Education. Norwood, NJ: Ablex Publishers, 1991.
- Cervantes, Robert. Bilingual Program, Policy, and Assessment Issues. Sacramento, CA: California State Dept. of Education, 1980.
- Coultes, Walter. Manual for Project Applicants and Grantees. Sacramento, CA: California State Dept. of Education, 1972.
- Crawford, James. Bilingual Education: History, Politics, Theory, and Practice. Trenton, NJ: Crane Publishers, 1989.
- Dewey, John. "My Pedagogic Creed." The School Journal 54 (January 1897): 77-80.
- Dewey, John. School and Society. Chicago, IL: University of Chicago Press, 1900.
- Douglas, William O. Go East Young Man: An Autobiography. New York: Random House, 1950.
- Douglas, William O. The Three Hundred Year War. New York: Random House, 1972.

Books and Periodicals (continued)

- Dworkin, Martin, ed. Dewey on Education. New York: Teachers College Press, 1965.
- Frankfurter, Felix. Reminisces. New York: Reynal & Co., 1960.
- Frankfurter, Felix. Of Life and Law and Other Things That Matter. Cambridge, MA: Harvard University Press, 1965.
- Garcia, Gilbert Narro. "Bilingual Education: A Look to the Year 2000." NCBE Focus 9 (Spring 1994).
- Garcia, Ofelia, ed. Bilingual Education. Philadelphia, PA: John Benjamins, Publishers, 1991.
- Hakuta, Kenji, and Diane August. "A Blueprint for the Second Generation: Federal Education Programs for Limited-English-Proficient Students." Berkeley: Stanford University Press, 1993.
- Jennings, Pinkwei Chu. Chinese Students in America: Qualities Associated with their Success. New York: Columbia University Press, 1922.
- Johnson, Lyndon Baines. Threshold of Tomorrow. Washington, DC: Presidential Inaugural Committee, 1965.
- Kearns, Doris. Lyndon Johnson and the American Dream. New York: Harper and Row, 1976.
- Keller, Robert H. In Honor of Justice Douglas: Individual Freedom and the Government. Westport, CT: Greenwood Press, 1979.
- Kinkead, Gwen. Chinatown: A Portrait of a Closed Society. New York: Harper Collins, 1993.
- La Fontaine, Hernan, et al. Bilingual Education: Issues and Strategies. New Jersey: Avery Publications, 1978.
- Leobowitz, Arnold. The Bilingual Education Act: A Legislative Analysis. Rosslyn, VA: National Clearing House on Bilingual Education, 1980.
- Leighton, Mary S., et al. Model Strategies in Bilingual Education: Professional Development. Washington, DC: GPO, 1995.
- Low, Victor. The Unimpressible Race. San Francisco, CA: East/West Publishers, 1982.
- Lyons, James. "The Past and Future Directions of Federal Bilingual Educational Policy." Annals of the American Academy 508 (March 1990): 66-79.

Books and Periodicals (continued)

- Maciel, David R., and Isidro Ortiz. Chicanas/Chicanos at the Crossroads. Tucson, AZ: University of Arizona Press, 1996.
- Miller, Ron. What Are Schools For? Holistic Education in American Society. Brandon, VT: Holistic Press, 1990.
- Moss, Marc, and Michael Puma. The Congressionally Mandated Study of Educational Growth and Opportunity. Washington, DC: U.S. Department of Education, 1995.
- Nakanishi, Don T. The Education of Asian and Pacific Americans: Historical Perspectives and Prescriptions for the Future. Phoenix, AZ: Oryx Press, 1983.
- Nixon, Richard M. "Education for the 1970s: Renewal and Reform." Vital Speeches of the Day (February 1, 1970).
- Padilla, Amado, et. al. Bilingual Education: Issues and Strategies. London: Sage Publishers, 1990.
- Padilla, Raymond V., ed. Theory, Technology, and Public Policy on Bilingual Education. Rosslyn, VA: National Clearinghouse for Bilingual Education, 1983.
- Reyes, Vinicio H. Historical Developments Which lead to the Need for Bilingual-Bicultural Education. Chicago: University of Chicago Press, 1976.
- Simon, Paul. The Tongue-Tied American: Confronting the Foreign Language Crisis. New York: Continuum Press, 1992.
- Stencil, Sandra. "Bilingual Education: The Issues." Congressional Quarterly Researcher 30 (August 13, 1993).
- Stewner-Manzanares, Gloria. The Bilingual Education Act: Twenty Years Later. Washington, DC: National Clearinghouse on Bilingual Education, 1988.
- Thonssen, Lester, ed. Representative American Speeches: 1963-1964. New York: H.W. Wilson Co., 1964.
- _____. Representative American Speeches: 1964-1965.
- _____. Representative American Speeches: 1968-1969.
- _____. Representative American Speeches: 1975-1976.
- _____. Representative American Speeches: 1980-1981.
- _____. Representative American Speeches: 1982-1983.

Books and Periodicals (continued)

- Troiike, Rudolphe, C., and Nancy Modiano. Proceedings of the First Inter-American Conference on Bilingual Education. Arlington, VA: Center for Applied Linguistics, 1975.
- Unger, Irwin. The Best of Intentions: The Triumphs and Failures of the Great Society Under, Kennedy, Johnson, and Nixon. New York: Doubleday, 1996.
- Zierkel, Perry A., and Sharon Richardson. A Digest of Supreme Court Decisions Affecting Education. Bloomington, IN: Phi Delta Kappa, 1988.

Congressional Hearings

- U.S. Congress. Senate. Subcommittee on Education of the Committee on Labor and Public Welfare. Federal Assistance to Education. 87th Cong., 1st sess., 14, 15, 20, January 1961.
- U.S. Congress. Senate. Subcommittee on Education of the Committee on Labor and Public Welfare. Improvement of the Educational Quality Act of 1962. 87th Cong., 2nd sess., 11, 12 April 1962.
- U.S. Congress. House. Subcommittee on Education of the Committee on Education and Labor. Bilingual Education Programs. 90th Cong., 1st sess., 28 June 1967.
- U.S. Congress. Senate. Special Subcommittee on Education of the Committee on Labor and Public Welfare. Bilingual Education. 90th Cong., 1st sess., June 1967.
- U.S. Congress. Senate. Subcommittee on Education of the Committee on Health, Education, and Welfare. Education Amendments of 1974: P.L.93-380. 93rd Cong., 2nd sess., 21 August 1974.
- U.S. Congress. House. Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor. Needs of Elementary and Secondary Education in the 1980's: A Compendium of Policy Papers. 96th Cong., 2nd sess., January 1980.
- U.S. Congress. Senate. Subcommittee on Education, Arts and Humanities of the Committee on Labor and Human Resources. Bilingual Amendments of 1981. 97th Cong., 2nd sess., 23, 26, April 1982.
- U.S. Congress. Senate. Subcommittee on Elementary, Secondary, and Vocational Education of the Committee of Education and Labor. Discussion of English as a Second Language. 98th Cong., 1st sess., 7 June, and 3,4, Aug. 1983.

Congressional Hearings (continued)

- U.S. Congress. House. Subcommittee on Census and Population of the Committee on Post Office and Civil Service. The Hispanic Profile: A Demographic and Issue Profile. 98th Cong., 1st sess., 13-15 September 1983.
- U.S. Congress. House. Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor. Hearing on Bilingual Education. 98th Cong., 2nd sess., 28 March 1984.
- U.S. Congress. House. Committee on Education and Labor. A Compendium of Papers on the Topic of Bilingual Education. 99th Cong., 2nd sess., June 1986.
- U.S. Congress. House. Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor. Hearings on Elementary and Secondary Education Programs. 100th Cong., 1st sess., 2 April 1987.
- U.S. Congress. Senate. Committee on Labor, Health, and Human Services. Hearings on Title VII: Bilingual Education Programs. 100th Cong., 1st sess. June 1987.
- U.S. Congress. Senate. Committee on Labor, Health and Human Services, Education and Related Agencies. Hearings on Appropriations. 101st Cong., 1st sess., 9 March 1989.
- U.S. Congress. House. Committee on Labor, Health and Human Services. Appropriations for 1991. 101st Cong., 2nd sess., 20 Feb. 1990.
- U.S. Congress. House. Department of Labor of the Committee on Labor, Health and Human Services. Improving America's Schools Act of 1994. 103rd Cong., 2nd sess., 9, Jan. and 16 Feb. 1994.
- U.S. Congress. Senate. Report to the Chairman of the Committee on Labor, Health and Human Services. Limited English Proficiency, A Growing and Costly Challenge Facing Many School Districts. Washington, DC: GPO, 1994.
- U.S. Congress. Senate and House. Departments of Labor, Health and Human Services, Education and Related Services. Goals 2000: Educate America Act. 103rd Cong., 2nd sess., 25 Jan. 1994.
- U.S. Congress. Committee on Appropriations of the Department of Labor, Health and Human Resources, and Education. Hearings on Appropriations for 1996. 104th Cong. 1st sess., 11 Jan. 1995.

Interviews

Steinman, Edward. Interview by Frances M. Salvato, 6 July 1995. Tape recording. San Francisco, CA.

Wong, Ling-Chi. Interview by Frances M. Salvato, 7 July 1995. Tape Recording. San Francisco, CA.

Tom, Ben. Interview by Frances M. Salvato, 26 March 1996. Tape Recording. San Francisco, CA.

Kwok, Irene. Interview by Frances M. Salvato, 26, March 1996. San Francisco Unified School Board, San Francisco, CA.

Der, Henry. Interview by Frances M. Salvato, 29 March 1996. Tape recording. Sacramento, CA.

Moore, Ralph. Interview by Frances M. Salvato, 6 July 1996. Tape recording. Washington, DC.

Lyons, James. Telephone interview by Frances M. Salvato, 15 August 1996. Washington, DC.

Pucinski, Roman. Telephone interview by Frances M. Salvato. 4 August 1996. Chicago, IL.

San Francisco, California: School Board Minutes

Mezey, Peter, to San Francisco School Board, regular meeting. 16 December 1969. School Board Archives, p. 44.

Lau, Gordon, to San Francisco School Board, regular meeting. 4 August 1969. School Board Archives, pp. 124-125.

Uno, Edison, to San Francisco School Board, regular meeting. 5 November 1970. School Board Archives, p. 82.

Stewart, Wallace, to San Francisco School Board, regular meeting. 20 January 1970. School Board Archives, pp. 98-125.

De Ryan, Jerry, to San Francisco School Board, regular meeting. 20 January 1970. School Board Archives, p. 108.

Leong, Mr. translated by Ruby Tom, to San Francisco School Board, regular meeting, 20 January 1970. School Board Archives, p. 112.

Wong, Dennis, to San Francisco School Board, regular meeting, 20 January 1970. School Board Archives, p. 117.

Legal Citations**Supreme Court**

1974 Lau v. Nichols, 414 U.S. 563, S.Ct. 786 (1974).

1982 Plyler v Doe, 457 U.S. 202 (1982)

Federal Courts

1974 Serna v Portales, 499 F. 2d 1147 (10th. Cir., 1974.)

1978 Rios v Reed, 73 F.R.D. 589, 595 (Eastern District of New York, 1977.)

1981 Castenada v Pickard, 648 f. 2d 989 (5th Cir., 1981).

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