CHAPTER 3

Programs and Policies for Educating Emergent Bilinguals

This chapter:[1]

- Considers programs and policies for educating emergent bilinguals;
- Describes types of educational programs for emergent bilinguals;
- Reviews educational policies for these students in a historical context, including:
    - » The antecedents,
    - » Title VII: The Bilingual Education Act,
    - » Legal precedents,
    - » The 1990s,
    - » No Child Left Behind (NCLB),
    - » Common Core State Standards (CCSS), and
    - » Every Student Succeeds Act (ESSA); and
- Presents a critical review of the present.

Since the 1960s, language-minoritized students have been the focus of many U.S. educational policy decisions at the national, state, and local levels and in all three branches of government. As a result of top-down educational policies and negotiations with teachers and communities, different types of educational programs for these students exist in the United States. In what follows, we first review the educational programs that are available for emergent bilinguals. We then turn to a brief historical section in which we discuss the roots of bilingual education, as well as the evolution of federal and state policies to educate these students. It will become evident that federal bilingual education policy has moved away from the initial sociopolitical, as well as linguistic, demands of the language minoritized communities in the 1960s. Federal bilingual education policy has also changed over the past five decades from taking into account the students' home language practices and being flexible about educational approaches to being far more rigid in emphasizing English-only instruction or strict separation of languages in dual-language instruction. As we also illustrate, the high-stakes standardized testing movement, spurred by NCLB (2001) and continued under ESSA (2015) despite the greater flexibility afforded to states, has had much to do with this new rigidity. At the same time,

there has been a discourse shift in terminology—from *bilingual education* programs to *dual-language* programs. The latter term often carries a narrower focus on language and academics, frequently overlooking the sociopolitical issues of social and racial justice that were central to the bilingual education movement championed by Chicanx, Puerto Rican, and Native American communities in the 1960s. As we will see, dual-language programs often focus not on leveraging and developing the bilingualism of emergent bilinguals who are progressing toward spoken and written skills in English along with their home language, but on programs that often also include language-majority students, speakers of English who are learning an additional language for "enrichment." (We discuss the consequences of this discourse shift in more detail later in this chapter.) These developments mean that there is even greater dissonance today between policy and research on the education of emergent bilinguals than there has been in the past.

EDUCATIONAL PROGRAMS FOR EMERGENT BILINGUALS

Within the U.S. public educational system, there are different educational programs used in schools for working with emergent bilinguals. These programs range from those that expect students to learn English after simply exposing them to it and treating them like all other students, to those specifically designed to support students' academic, emotional, and linguistic development through the deployment of their home language practices. The educational policies we discuss in this chapter are critical to the form of instruction that emergent bilinguals receive.

The tendency over the past two decades has been for policymakers, and the public more generally, to provide more English-only programs for emergent bilinguals and move away from programs that use students' home languages. Before we discuss this shift and its (dis)connection with the research literature, we briefly describe these different programs or approaches and display them in Table 3.1.

In the first category, *nonrecognition*, often referred to as *submersion* or *sink-or-swim* programs, schools and educators provide emergent bilinguals with exactly the same educational services that are provided to monolingual English speakers. That is, they neither provide alternative educational services nor use the students' home language practices to teach them. These submersion programs were prevalent before 1970 and still are used in different ways in many parts of the country, especially in light of recent English-only initiatives in certain states.

A second category of educational programs falls under the umbrella of *English as a second language (ESL) programs*, also called *English as a new language (ENL)* in some states. There are *pull-out ESL/ENL programs*, which provide some support for students in special sessions outside of the regular classroom. Although these programs are meant to offer instruction exclusively in English, some home language support is allowed. There are also *push-in ESL/ENL programs*, in which an ESL teacher works collaboratively with the content-area teacher to support emergent bilingual students in the class. Some home-language support is also possible in these programs. Still another type of program, called *structured English immersion*, also

known as *sheltered English* or *content-based ESL*, provides emergent bilinguals with pedagogical support and scaffolding tailored specifically for these students. Usually, instruction is only in English in these programs, although some teachers do provide home-language support.

The federal government makes a distinction between English as a second language programs and *high-intensity language programs* (see U.S. Department of Education, NCES, 2015d). This latter term is being used in some localities for programs that focus on intensive instruction in the features of English (lexicon, phonology, morphology, syntax). Usually, this is combined with sheltered English content courses or with mainstream classes in English only. This type of instruction is used especially in middle schools and high schools. These programs are also used in states that deny bilingual education to emergent bilinguals. For example, in Arizona, emergent bilingual students at present spend two hours a day in these high-intensity language classes (Kaveh et al., 2022). Previously, students in Arizona had spent four hours in these classes (Gándara & Orfield, 2010; Johnson & Johnson, 2015). Because of their focus on the structure of English, and not its use, these programs fail to provide students with adequate opportunities to use English meaningfully and develop proficiency (Ríos-Aguilar, Gonzalez-Canché, & Sabetghadam, 2012). High-intensity language programs are also often implemented in *newcomer programs*. Newcomer programs are short-term, specialized educational initiatives designed to support newly arrived immigrant students, particularly at the secondary level. These programs serve as a bridge aiming to help students transition into the regular school system by providing intensive English language instruction, acculturation support, and academic skills development. Because these programs bring together immigrant students from multiple countries of origin and language backgrounds, providing bilingual education is not feasible, but individual teachers may still provide bilingual supports when possible. Not all newcomer programs rely on intensive English language instruction, as will become evident in our discussion of high schools that are part of the Internationals Network for Public Schools.

Moving toward the other end of the pedagogical spectrum, there is a third category of programs that takes a more *bilingual* approach, in that students' home languages are used to teach subject matter for a variety of reasons—sometimes to support their transition to English and other times to develop their bilingualism and biliteracy. The first such type is known as *transitional bilingual education*, also known as *early-exit bilingual education*. These transitional programs group students by home language and use it to some degree, but the focus is on students' acquiring English as quickly as possible and exiting them into mainstream English-only classrooms. Another type of bilingual program is known as *developmental bilingual education*, or simply as *maintenance bilingual education*[2] (also known as *late-exit bilingual education* or in some places as *one-way dual-language education*). This type of program also groups language-minoritized students by home language and supports the development of their bilingualism. In some localities, these developmental bilingual education programs are now called one-way dual-language bilingual programs and serve students of a language group other than English whose bilingualism falls along all points of the bilingual continuum. That is, these programs may serve emergent bilinguals, as well as more experienced bilinguals. In some cases, the emergent bilinguals are developing English, and in others, more experienced bilingual students are developing what is considered their heritage language. Developing students' bilingualism and biliteracy is the goal of these programs.

It is important to understand, however, that in some places, particularly in regions without a longstanding presence of bilingual education, so-called one-way dual-language programs may actually refer to programs serving exclusively English speakers who want to develop a new language from an early age through an *immersion approach*. In these contexts, developmental bilingual education and programs called one-way dual language differ in their goals and in the populations they serve. In some states these programs for language majority children who want to develop an additional language are called *dual-language immersion*. Because they concern mostly language majority children, they are not the focus of this book.

Significant attention has recently been focused on *two-way dual-language bilingual education* (DLBE), also known as two-way bilingual, dual-language, or two-way immersion (see, for example, Freire, Alfaro & de Jong, 2024). This increased interest warrants a more in-depth examination of this program type. DLBE programs support the development of two languages within classrooms that enroll, in theory, students of two distinct language backgrounds: speakers of the same language other than English (LOTE) (e.g., Spanish or Chinese) developing English, and English monolingual speakers developing a LOTE. These students learn academic content together through both languages. The goal is for both the language-minoritized students and the language-majority students to become bilingual and biliterate, achieve highly academically, and develop cross-cultural competence. The sociolinguistic reality of these programs, however, is much more complex, for it reflects the dynamics of bilingualism and bilingual use, as well as the politics of the locale. For example, in many places, the English-fluent children are members of minoritized groups, and their dynamic language practices also include what is perceived as the language other than English. That is, although originally conceived as a way to socially and racially integrate two different ethnolinguistic groups, in reality, as we will see, many language minoritized communities have used DLBE programs to provide an education for their bilingual students who are positioned along different points of the bilingual continuum.

In the current landscape of school choice, with the proliferation of charter schools and schools' competition for student enrollment, as well as increased public interest in the cognitive, economic, and sociocultural benefits of multilingualism, DLBE programs are often utilized to attract majority families (Bernstein et al., 2020; Cervantes-Soon et al., 2021; Duarte, 2022). DLBE programs have thus rapidly expanded across 41 states and the District of Columbia (Dual Language Schools, 2024). As we have said, these programs aim to integrate students linguistically and promote equity, but they are also seen as a means to integrate students racially and economically (Dorner et al., 2023; Gándara & Aldana, 2014; Uzzell & Ayscue, 2021), either implicitly or explicitly, such as to comply with desegregation orders (López, 2016). However, these programs are not inherently designed

to ensure racial or economic integration, and therefore this assumed benefit has been contested (Chávez-Moreno, 2023; Flores, Tseng, & Subtirelu, 2020; Palmer Cervantes-Soon, & Freire, 2024).

Students in these programs usually start in kindergarten or first grade and can continue, in principle, through secondary school (although there are few programs for older students). English speakers benefit from learning a new language from an early age and from practicing it with authentic speakers. Because English speakers participate in DLBE, these programs are supposed to escape the stigma of bilingual education as remediation. Therefore, they are seen as not only offering emergent bilinguals the possibility of developing their home language and accelerated English language acquisition, but also providing a context in which they can develop positive cultural and academic identities. The academic and linguistic gains of DLBE for emergent bilinguals compared to mainstream and other programs have been documented in the literature (Lindholm-Leary & Block, 2010; Steele et al., 2017), and thus at first sight, this appears to be a win-win solution to the education of emergent bilinguals.

However, research also suggests DLBE programs might disproportionately benefit privileged English-speaking students, marginalizing English learners and low-income students through a variety of ways, such as strict language separation and language allocation policies that exclude emergent bilinguals' authentic language practices or increased attention to the demands of parents from the dominant group (Cervantes-Soon et al., 2017). These findings question the equity vision of DLBE programs and highlight concerns about the gentrification of bilingual education, where wealthier, predominantly English-speaking families displace racialized emergent bilinguals, shifting the focus of teachers, resources, policies, curriculum, and instruction in ways that perpetuate inequities (Chaparro, 2021; Delavan, Freire, & Menken, 2021, 2024; García-Mateus, 2023; Heiman & Murakami, 2019; Valdez, Freire, & Delavan, 2016, 2021). These issues have often been documented especially in regions without a politicized history of bilingual education, such as Delaware, Georgia, North Carolina, and Utah, among many others (Cervantes-Soon et al., 2021; Freire & Delavan, 2021), or in rapidly gentrifying cities (Cervantes-Soon, Degollado, & Nuñez, 2020; Chaparro, 2021; García-Mateus, 2023; Heiman & Murakami, 2019).

Although the white-streaming of these dual-language programs is likely widespread, demographic gentrification of DLBE programs is not universal. For instance, most DLBE programs in Los Angeles serve mostly Latine students in segregated low-income communities (Asson et al., 2023). In this and other Latine majority settings, DLBE programs may serve Spanish-speaking English learners and Latine English speakers who have not had the privilege of bilingual education in the past. Furthermore, some students may be bilingual or have Indigenous home languages and cultures unrecognized by the program. Thus, while DLBE programs imagine two distinct language groups, there is significant diversity within them. Nonetheless, inequities persist, with African American students and students with disabilities often underrepresented, underserved, or implicitly excluded (Cervantes-Soon, Degollado, & Nuñez, 2020; Cioè-Peña, 2020; Palmer, 2010; Valdés, 2002).

Given the persistence of inequities, some advocate for the explicit inclusion of *critical consciousness* as both the foundation and goal of these DLBE programs (Cervantes-Soon et al., 2017; Dorner et al, 2022; Heiman, Cervantes-Soon, & Hurie, 2021). Drawing on Paulo Freire's (1970) notion of conscientization, critical consciousness refers to the ability of individuals to critically analyze and understand the social, political, and economic conditions that shape their lives. It involves questioning and challenging oppressive structures and ideologies. It requires individuals to engage in dialogue, reflection, and collective action or praxis in pursuit of social justice and human liberation. Heiman and colleagues (2023) describe actions integral to developing critical consciousness in DLBE, which include continuously challenging power structures to address injustice; examining and incorporating global, local, and personal histories in program planning, implementation, and curriculum; fostering meaningful connections through critical listening to historically marginalized voices; and confronting discomfort to understand and counteract personal privileges that perpetuate social injustices. These interconnected actions align with Freire's praxis cycle of reflection, dialogue, and action, aiming to humanize educational relationships. In DLBE, they involve teachers, students, parents, and policymakers fostering justice and nurturing critical consciousness.

We have presented the general characteristics of a variety of language education programs available for emergent bilinguals in U.S. schools. All of these programs vary in implementation and terminology depending on the context where they are established, the student populations that they serve, and the way practitioners understand the goals, components, and approaches of their program. In general, they develop from institutional structures that characterize themselves as being either monolingual or bilingual. Notice that throughout this book, we explicitly name the *bilingual* condition of all types of dual-language programs (whether one-way or two-way). For example, we refer to two-way dual-language as "dual-language bilingual education," or DLBE (see Sánchez , García & Solorza, 2017).

In contrast, some educational programs for emergent bilinguals function as a *blend* of ESL and bilingual education programs. To acknowledge their existence, we are calling this type here *dynamic bi/multilingual education*. The secondary schools that make up what is called the Internationals Network for Public Schools fall under this category.[3] In these schools, newcomer students of different language backgrounds are educated with teachers who teach in English but focus on leveraging the students' home language practices. They follow distinct pedagogical principles that include project-based experiential learning, language and content integration, and student/teacher collaboration (for more on these principles, see García & Sylvan, 2011).

To help differentiate programs in terms of their pedagogy, philosophy, and focus, we display all programs in Table 3.1, which is adapted and expanded from Crawford (2004). Readers are encouraged to study this table carefully, as it expands our descriptions of the programs (for other categorizations of programs, see Baker & Wright, 2021). Although we present different program categories, in practice, the most innovative and committed educators start with designing a program for their actual community of students. For this reason, we have found many times

Table 3.1. Types of Educational Programs for Emergent Bilinguals

Program	Language used in instruction	Components	Duration	Goals
I. Nonrecognition				
Submersion (sink-or-swim)	100% English	Mainstream education; no special help with English; no teachers qualified to teach emergent bilinguals	Throughout K–12 schooling	Linguistic assimilation (shift to English only)
II. ESL/ENL				
English as a second/new language (ESL/ENL) Pull-out (submersion plus ESL)	90–100% in English; may include some home language support or not	Mainstream education; students pulled out approximately for 30–45 minutes of ESL daily; teachers certified in TESOL	As needed	Linguistic assimilation; remedial English
English as a second/new language (ESL/ENL) Push-in	90–100% in English; may include some home language support or not	Mainstream education; ESL teacher works alongside the subject teacher as needed; teachers certified in TESOL	As needed	Linguistic assimilation; remedial education within mainstream classroom
Structured English immersion (sheltered English, content-based ESL, stand-alone ESL)	90–100% English; may include some home language support or not	Subject-matter instruction at students' level of English; students usually grouped for instruction; teachers certified in TESOL; should have some training in immersion	Usually 1–3 years	Linguistic assimilation; exit to mainstream education
High-intensity English language training	100% English; focus on English features; usually combined with mainstream or sheltered English for content	Focus on features and structures of the English language, usually combined with mainstream or sheltered English for content; teachers certified in TESOL/ELA for language instruction	Usually 1–3 years, especially used in high school and middle school, newcomer programs, and antibilingual education school districts	Linguistic assimilation; remedial English focus; exit to mainstream education
III. Bilingual				
Transitional bilingual education (early-exit bilingual education)	Initially 50–90% home language and 10–50% English; home language gradually reduced to 10% and English increased to 90%	Initial literacy usually in home language; some subject instruction in home language; ESL and subject-matter instruction at students' level of English; sheltered English subject instruction; teachers certified in bilingual education	Usually 1–3 years; students exit as they become proficient in English	Linguistic assimilation; English acquisition without falling behind academically
Developmental bilingual education (late-exit bilingual education, one-way dual-language bilingual education-for language minoritized students)	90% home language initially; gradually decreasing to 50% or thereabouts; *or* 50/50 from beginning; home language subject instruction always available	Initial literacy focus in home language, although English usually simultaneously introduced; always some subject instruction in home language; ESL initially and English subject-matter instruction at students' level of English; teachers certified in bilingual education	At least 5–6 years	Bilingualism and biliteracy; academic achievement in English

(continued)

Table 3.1. (continued)

Program	Language used in instruction	Components	Duration	Goals
Two-way dual-language bilingual education (DLBE) (two-way dual-language, dual-language bilingual, two-way immersion bilingual)	50/50 model *or* 90/10 model: 90% home language, 10% additional language in early grades; parity of instruction in both languages from the beginning	English speakers *and* speakers of a LOTE taught literacy and subjects in both languages; teachers certified in bilingual education	At least 5–6 years; more prevalent at the elementary level	Bilingualism and biliteracy; academic achievement in English
IV. Blend				
Dynamic bi/multilingual education	English and students' home languages in dynamic relationship; students are the locus of control for language used; peer teaching	Teacher-led whole classroom in English, coupled with collaborative project-based student learning using home language practices	Used especially at the secondary level, when students have already developed literacy in their home languages	Bilingualism, academic achievement in English

that educators blend features of different types of programs to fit their students' needs. And although we provide the percentage of time in which each language is typically used in instruction, in reality this *varies widely, and must be adjusted to the needs of the local community and students.*

As Table 3.1 illustrates, students' home language practices can be used in a wide variety of ways within educational programs. For instance, they can either be used *fully*, as in the case of bilingual education programs in which the students' home language is a medium of instruction and the goal is biliteracy, or *partially*, as when teachers teach only in English but use the students' home language practices for support. Sometimes students' home language practices are used to ensure comprehension or scaffold instruction in English; other times, they are used to support emergent bilinguals' work on collaborative projects. For example, the Sheltered Instruction, Observation Protocol model, a widely used program of sheltered English instruction for English learners, supports the use of the students' home language to clarify concepts and assignments. The developers of this approach state:

> [W]e believe that clarification of key concepts in students' L1 [first language] by a bilingual instructional aide, peer, or through the use of materials written in the students' L1 provides an important support for the academic learning of those students who are not yet fully proficient in English. (Echevarría, Vogt, & Short, 2004, p. 107)

Whether to use students' home language as a medium of instruction as in bilingual education or simply as a scaffolding mechanism in many ESL classrooms often depends on the number of students of the same language group in the same school and classroom, as well as the ability to find teachers who speak that language. Clearly, in classrooms where emergent bilinguals are from different language backgrounds, traditionally structured bilingual education is not feasible. However, some form of bilingualism in education *is always* attainable, as demonstrated, for example, by the work of the schools of the aforementioned Internationals Network for Public Schools (see García & Leiva, 2014; García & Nuosy, 2024; Sylvan & Romero, 2002) and other schools that are purported to provide only some form of ESL instruction (García, Flores, & Woodley, 2015; García & Kleyn, 2016; Manyak, 2004). Nevertheless, as we noted in Chapter 2, approximately three-fourths of all emergent bilinguals in the United States speak Spanish as their home language. Therefore, the recent shift toward increased efforts to teach Spanish-speaking emergent bilinguals exclusively in English, thereby omitting the use of their home language practices to transform their learning, can be attributed to a lack of public knowledge about the nature of bilingualism and its benefits (detailed in Chapter 4), as well as cultural politics that have little to do with what is educationally sound for the students.

Further, as Table 3.1 shows, the duration of different programs for emergent bilinguals varies considerably. These variations need to be considered in light of the research evidence that we introduce in Chapter 4, which suggests that to be able to use an additional language successfully in academic contexts takes considerably longer than to attain interpersonal communication skills in that language.

But first, we demonstrate how American language-in-education policy changes have placed limits on program options that aim to develop bilingualism and biliteracy.

A BRIEF HISTORY OF EDUCATIONAL POLICIES FOR EMERGENT BILINGUALS

The Antecedents

Before examining contemporary policies for emergent bilinguals, it is important to situate them within the colonial vestiges that led to the emergence of the nation state and that remain in various forms. Since precolonial times, the linguistic landscape of what is now the United States has been incredibly diverse and rich. Before European colonizers settled in what became U.S. land, Indigenous peoples spoke an estimated 300 languages across several major language families (Campbell & Bright, 2016). These languages represented diverse and intricate linguistic groups, each possessing distinct characteristics and cultural importance. Before colonization, the linguistic environment was vibrant, marked by robust trade networks, alliances, and interactions among various Indigenous nations, fostering multilingualism and the interchange of linguistic practices. Beyond mere means of communication, these language practices held profound significance for Indigenous peoples, shaping their identities, spirituality, and worldviews. Language played a pivotal role in their social structure, rituals, and profound connection to their ancestral lands. The arrival of European colonizers, however, brought significant disruption to this linguistic diversity. Although the colonial project encouraged the influx of Europeans from diverse language backgrounds, Native Americans were victims of disease, warfare, displacement, and forced assimilation policies, leading to a dramatic decline in the number of Indigenous language speakers (Iyengar, 2014).

Beginning in the 16th century, Spanish and French missionaries imposed their languages and cultures on Native American communities in regions that became Arizona, California, New Mexico, Texas, Canada, and along the St. Lawrence and Mississippi Rivers. These missionaries taught Spanish and French alongside Roman Catholicism and other worldviews. Despite later English efforts at Indian education and conversion to Christianity in the 17th century, which involved teaching English and Christian doctrine, earlier Spanish and French colonizers established their languages as primary among European languages in North America until the rise of English (Dussias, 1999). However, Indigenous resistance to colonization continued to be a problem for European settlers. In 1867, Congress established the Indian Peace Commission, shifting policy toward peaceful resolutions over military solutions for issues associated with Native American presence, as advocated by white settlers and others, and prompting the use of education to eradicate Indigenous languages. In the 19th century, boarding schools for Native American children were established to assimilate them through traumatic schooling and cultural genocide (Adams, 1995; Wolfe, 2006). Lieutenant Richard Henry Pratt, founder of the

Carlisle Indian Industrial School, described their purpose to "kill the Indian and save the man" (Pratt, 1892). The fabricated superiority of European languages and the construction and classification of Indigenous and African languages as primitive reinforced racial hierarchies that justified genocide and slavery (Iyengar, 2014). Newly developed social and biological sciences facilitated this hierarchy by providing methods to measure and classify human quality.

Furthermore, 19th-century U.S. imperialism was exemplified by events such as the acquisition of more than half of Mexico's land that significantly expanded U.S. territory westward to the Pacific Ocean, as well as the acquisition of Puerto Rico and other territories. This expansion triggered demographic shifts with important implications; for example, Mexicans living in newly acquired U.S. land were forced to navigate challenges concerning their cultural identity, language, and rights as they became U.S. citizens. In this context, Mexican Americans and Puerto Ricans (and later other Latines) emerged as a racialized group largely produced on the basis of language (García, 2015).

At the turn of the 20th century, education and psychological sciences began to view, classify, and study children in new ways, focusing on their brains and language practices. Children and their homes became subjects of research and policy interventions for social and cultural "improvement" with a particular focus on the poor, immigrants, and racialized groups who were perceived as a societal problem (Hernando-Lloréns & Cervantes-Soon, 2023). Within this context, minoritized languages emerged as a problem (Ruiz, 1984), and as in colonial times, educational initiatives aimed to make English the primary home language. This gave way to a normalizing view that labeled emergent bilingual children's behaviors as deviant. Intelligence tests, presented as scientific evidence, reinforced myths that bilingualism in non-white communities hindered learning (Flores, 2005). It was also believed that those who became bilingual later in life were "more real bilinguals" than those who grew up bilingual. These ideas had a significant impact on students from Spanish-speaking backgrounds. For example, during the 1920s and 1930s, Mexican segregation policies in the United States were instituted to separate Mexican American children in schools or classrooms from white children based on ideologies of white supremacy and English superiority (Menchaca & Valencia, 1990). These schools were often underfunded, lacked adequate resources, and provided inferior education compared to schools attended by white children.

However, the social protests and antiracist movements of the 1960s, which viewed language reclamation as a crucial form of resistance against colonization and assimilation, catalyzed significant federal policy shifts supporting bilingual education in the United States (García & Sung, 2018). The battle over racial equality and rights that dominated the civil rights era culminated in the 1965 Watts race riots. Drawing inspiration from the struggles for Black Power, the Mexican American, Puerto Rican, and Native American communities recognized their shared histories as a conquered and colonized people. For example, the Chicano Movimiento demanded "bilingual education, better school conditions, Chicano studies and more Chicano teachers," as well as "a return of our land, release of prisoners, jobs

education, housing, an end to the destruction of the environment" (Thirteen Point Program, 1970, n.p.). García and Sung (2018) concluded:

> To the extent that El Movimiento espoused bilingual education, it was always with connection to the broader *race radical political economic project of self-determination* as tied to alleviating inequality, exclusion, segregation, racism, and poverty. Bilingual education was never meant to be isolated from the structural racism and material oppression that needed to be alleviated in the larger U.S. society, as well as in schools. (our italics, p. 322)

In 1954, the U.S. Supreme Court had ruled in *Brown v. Board of Education* that segregated schools were unconstitutional. Congress passed the Civil Rights Act in 1964, prohibiting discrimination on the basis of race, color, or national origin. According to Title VI of this act: "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" (Civil Rights Act, sec. 601, 1964). Thus, Title VI of the 1964 Civil Rights Act has played an important role in protecting the educational rights of language-minority students in the United States (see Crawford, 2004; E. García, 2005; O. García, 2009a; and especially the National Clearinghouse for English Language Acquisition [NCELA], 2006). In addition to Title VI of the Civil Rights Act, the Equal Educational Opportunities Act of 1974 requires states to ensure that education agencies take "appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs" (20 USC Sec.1703(f)).

Title VII: The Bilingual Education Act

In 1968, the U.S. Congress reauthorized the landmark Elementary and Secondary Education Act (ESEA), the largest and most influential federal education policy to date. Title VII of that Act, known as the Bilingual Education Act, established a federal goal of assisting "limited-English-speaking" students in the acquisition of English. The Bilingual Education Act became a way to shift focus away from racial and political self-determination and more toward cultural pride and linguistic support of these language minoritized communities (García & Sung, 2018). This genealogy of bilingual education is described fully in Flores (2024).

At first, only poor students were eligible to participate. Title VII of the Elementary and Secondary Education Act did *not* require bilingual education. Rather, Congress put aside money for school districts enrolling large numbers of language-minoritized students that chose to start bilingual education programs or create bilingual instructional materials. The Bilingual Education Act (1968) stated:

> In recognition of the special educational needs of the large numbers of children of limited English-speaking ability in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out new and imaginative elementary and secondary school programs designed to meet these special educational needs. (Sec. 702)

When the Bilingual Education Act was first reauthorized in 1974, eligibility for educational services was expanded to include students of any socioeconomic status who had limited English-speaking ability (LESA). The 1974 reauthorization also defined bilingual education for the first time as "instruction given in, and study of, English and (*to the extent necessary to allow a child to progress effectively through the education system*) the native language of the children of limited English speaking ability" (quoted in García, 2009a, p. 169; emphasis added). The subsequent 1978 reauthorization of the Bilingual Education Act expanded eligibility for services even further, from students with limited English speaking ability to those with limited English proficiency while reinforcing the transitional nature of bilingual education. The central focus during this time of expanding access was to ensure that students who needed bilingual education services were receiving them; the pedagogy was left to the educators who were tasked with carrying out imaginative programs.

By the mid-1980s, the tone and focus of the federal Bilingual Education Act had begun to shift to support English-only programs. For the first time, the 1984 reauthorization of the Bilingual Education Act also provided funding for programs that used only English in educating English language learners, although only 4% of the funding was reserved for these types of programs. The 1988 reauthorization of the Bilingual Education Act further expanded the funding for programs in which only English was used to 25% of programs funded. Additionally, it imposed a three-year limit on participation in transitional bilingual education programs, meaning that schools had three years to move English language learners to fluency in English.

In 1994, Congress reauthorized the provisions of the Elementary and Secondary Education Act, including the Bilingual Education Act, this time under the new Improving America's Schools Act. Although this reauthorization gave increased attention to two-way bilingual education programs, the cap for English-only programs that was previously legislated was lifted.

These legislative efforts, beginning with the Elementary and Secondary Education Act in 1968, were the first to focus on the need to provide language-minoritized students with an equal opportunity for an education. Not long after the 1968 legislation, a series of legal battles began for an equitable education for emergent bilinguals.

Legal Precedents

In the early 1970s, a group of Chinese American parents brought a judicial case against the San Francisco school board on the grounds that their children were not receiving an equitable education. The case was brought under the equal protection clause of the Fourteenth Amendment of the Constitution and Title VI of the Civil Rights Act. The case, known as *Lau v. Nichols*, was eventually appealed up to the U.S. Supreme Court and was decided on the basis of Title VI. Justice William O. Douglas wrote the majority opinion of the Court, stating:

> [T]here 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. . . . Basic skills are at the very core of what these public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program, he must 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. . . . No specific remedy is urged upon us. Teaching English to the students of Chinese ancestry who do not speak the language is one choice. Giving instructions to this group in Chinese is another. There may be others. (*Lau v. Nichols*, 1974)

The Court offered no specific method of instruction as a remedy. It merely instructed school districts to take "affirmative steps" to address the educational inequities for these students and called upon the federal Office for Civil Rights, as part of the executive branch, to guide school districts (For a 50th year retrospective of Lau and its effects see Jiménez-Castellanos et al., 2024). The Office for Civil Rights set up a task force that eventually promulgated guidelines for schools and districts. These guidelines eventually became known as the Lau Remedies (1975). In addition to instructing school districts on how to identify and serve emergent bilinguals, these guidelines specifically required bilingual education at the elementary level. Emphasizing that English as a second language was a necessary component of bilingual education, the guidelines continued, "since an ESL program does not consider the affective nor cognitive development of the students . . . an ESL program [by itself] is not appropriate" (as cited in Crawford, 2004, p. 113). At the secondary level, however, ESL programs were permitted. In 1979, the Lau Remedies were rewritten for release as regulations. However, they were never published as official regulations, and in 1981, they were withdrawn by Terrel Bell, the incoming secretary of education under Ronald Reagan, who called them "harsh, inflexible, burdensome, unworkable, and incredibly costly" (cited in Crawford, 2004, p. 120).

Yet, even as the executive branch of the federal government was signaling retrenchment from meaningful bilingual education, emergent bilinguals continued to have the courts on their side. In another important federal court case (*Castañeda v. Pickard*, 1981), the U.S. Court of Appeals for the Fifth Circuit upheld the *Lau* precedent that schools must take "appropriate action" to educate language-minoritized students and that such action must be based on sound educational theory; produce results; and provide adequate resources, including qualified teachers and appropriate materials, equipment, and facilities. The case, however, did not mandate a specific program such as bilingual education or ESL.

English-Only Education at the Polls: The 1990s and the Aftermath

In the 1990s, the use of the child's home language to support learning came under political siege (see Gándara & Hopkins, 2010). The most effective attack against bilingual education was spearheaded by Silicon Valley software millionaire Ron Unz.

Proposition 227 (California Proposition 227, 1998, sec. 300–311), also known as the English for the Children Initiative, was presented to California voters in June 1998. The proposition prohibited the use of home-language instruction in teaching emergent bilinguals. It mandated English-only instruction for a period not to exceed a year, after which students were put into mainstream classrooms. Parents were able to request a waiver from the one-year English immersion program if the child was over 10 years of age, had special needs, or was fluent in English. Sixty-one percent of Californians voted in favor of this proposition, making it state law. The vote of the Latine population was two to one against the initiative. However, some Latine citizens also supported this proposition. In part, this was due to misinformation perpetuated by the political language used in the media, which cast a very negative light on bilingual education (Baltodano, 2004). Urrieta (2010) suggests that Mexican American parents who supported the English-only proposition did so because they were victims of cultural whitestreaming—the imposition of white norms, including language, as the societal standard, leading to the perception of English as superior to Spanish. This perception is reinforced in schools through whitestream curricula, which associate bilingual education with remedial programs and view students in bilingual programs as deficient. This stigma was exploited in the political spectacle surrounding Proposition 227. As a result, some Latine parents may have supported the English-only policy out of fear of the negative connotations associated with bilingual education.

Proposition 227 passed despite the fact that only a minority of emergent bilinguals were in bilingual programs in California in the first place. Prior to its passage, only 30% of emergent bilinguals were in bilingual programs, with the rest in either ESL programs or regular classrooms (Crawford, 2003). Of the 30% of California English learners in bilingual programs, less than 20% were being taught by a credentialed bilingual teacher (Cummins, 2003). A year after the passage of Proposition 227, California students in bilingual programs declined from 29.1% to 11.7% (Crawford, 2007). Four years after Proposition 227 was passed, only 590,289 emergent bilinguals (just 42% of the total in 1998) had become proficient in English, and annual redesignation rates—that is, the rates of English acquisition—remained unchanged. According to the California Department of Education (2006a, 2006b), in 2006, only 7.6% of English learners in California were in transitional bilingual education classrooms because their parents had signed waivers requesting these programs (California Department of Education, 2006a, 2006b). Baca and Gándara (2008) attest to the inadequate English-only instruction that emergent bilinguals in California were receiving, as well as their poor assessment results (also Wenworth et al., 2010). In fact, the number of students who were not able to become proficient in English for six or more years increased dramatically as a result. A space for bilingual education was found during this time in the gradual implementation of dual-language programs, a label that, as we have said, does not name its bilingualism, and in programs where English learners are said to be taught with fluent English speakers.

A year after California's Proposition 227 was passed, Unz took his English-only efforts to Arizona. In 2000, 63% of Arizona voters approved Proposition 203,

which banned bilingual education for emergent bilinguals in that state. Arizona's statute was even more restrictive than California's. It limited school services for emergent bilinguals to a one-year English-only structured immersion program that included ESL and content-based instruction exclusively in English. Waivers were almost impossible to obtain, and schools were continuously surveilled to enforce the policy and ensure that parents were not encouraged to request the waiver. This not only created an environment of fear among teachers and principals but also resulted in real emotional distress and psychological trauma for emergent bilingual children (Parra et al., 2014). In 2006, the Arizona Legislature passed HS2064, which reshaped the structured immersion programs into a very prescriptive four-hour-a-day block of instruction specifically on English language development (Johnson & Johnson, 2015). This four-hour requirement, which was in addition to the content areas core curriculum, left little room for anything else, such as elective courses or opportunities for extracurricular activities. It also resulted in the segregation of emergent bilinguals for most of the day, restricting their opportunities to interact with proficient English speakers despite being forced to an English-only education (Gándara & Orfield, 2012).

In 2002, a similar proposition to outlaw bilingual education in Massachusetts (Massachusetts Question 2, G.L. c. 71A) passed by 68%. Emergent bilinguals continued to be the lowest-performing subgroup in the state by every measure—English language arts and math, and graduation rates.

In 2002, Amendment 31 to Colorado's state constitution, which would have made bilingual education illegal, was defeated, with 56% of voters opposing it. Ironically, the campaign to defeat the amendment focused on the threat to parental choice and local control of schools, as well as the possibility that non-English-speaking children would be in the same classrooms as other children. A TV commercial warned that the Unz-backed English-only amendment would "force children who can barely speak English into regular classrooms, creating chaos and disrupting learning" (Crawford, 2004, p. 330).

No Child Left Behind

An important stage of the policy movement away from bilingual education and toward an English-only approach was the reauthorization of the Elementary and Secondary Education Act under the more ambitious No Child Left Behind Act (NCLB), which was signed into law by President George W. Bush in January 2002.

As we said in Chapter 1, NCLB's definition of *limited English proficient* as referring to those who could not meet *proficiency levels in English on state assessments* signaled a significant shift in political culture and ideology. From an earlier era that provided language-minoritized students and their families with greater access to educational resources and more equal educational opportunities to become truly bilingual, NCLB heralded a period focused solely on closing the achievement gap through testing in English and English immersion instruction.

NCLB mandated that, by the 2013–2014 school year, all students would achieve the level of "proficient" in state assessment systems. To accomplish this lofty goal, NCLB required schools and districts to ensure that all their students meet specific state-developed annual targets of adequate yearly progress (AYP) for reading, math, and science. In addition, it was not enough for schools or districts to meet their goals in terms of their aggregate data; they also were required to show that all subgroups of students—meaning students of different races, ethnicities, income groups, gender, and so on—were meeting AYP goals.[4] One of the subgroups that NCLB required schools and districts to keep track of was "limited English proficient students." As a result, local school officials had to pay attention to their emergent bilinguals' yearly progress in English proficiency (Capps et al., 2005).

NCLB required assessments for emergent bilinguals under Title I (funding for poor students)[5] and Title III (funding for limited English proficient students) of the act. Under Title I, which is the federal compensatory education program for poor students, if English learners or other subgroups did not meet their test score targets, their schools could be subject to interventions. Parents whose children attended schools in need of improvement were permitted to send their children to an alternative school in the same school district, provided that the school had room and the services each student required. Parents of students in schools designated as in need of improvement were also offered supplemental services such as after-school tutoring programs. If the schools continued to fail to meet the performance targets, they were to be eventually restructured or closed (NCLB, 2001).

Under NCLB, Title VII of the Elementary and Secondary Education Act, known as the Bilingual Education Act, was replaced by Title III. The purpose of Title III, now called "Language Instruction for Limited English Proficient and Immigrant Students," was "to help ensure that children who are limited English proficient, including immigrant children and youth, attain English proficiency" (2001, sec. 3102). Schools were required to evaluate the English proficiency of all students enrolling for the first time in school, establish criteria to determine eligibility for programs and services for emergent bilinguals, and implement appropriate educational services. States were to hold schools receiving Title III funding accountable for meeting annual measurable achievement objectives for their emergent bilinguals, which placed unprecedented demands on the states for improvements in both the academic proficiency and the English proficiency of emergent bilinguals. From the beginning, NCLB regulations proved problematic for emergent bilinguals. Unlike other subgroups, emergent bilinguals eventually become bilingual, and thus, they move out of the English learner category. Therefore, emergent bilinguals' progress toward proficiency was difficult to demonstrate, because only those who failed to progress remained in the category. By 2010, the difficulties inherent in NCLB were obvious: States lowered their standards so that more students would appear proficient, schools that missed a single target were considered failing, interventions were one-size-fits-all, and the focus was on tests, forcing teachers to teach to the test and eliminating subjects such as history and the arts (Duncan, 2013). Arne Duncan, Obama's then secretary of education, started granting states waivers from some NCLB provisions and giving them greater flexibility in exchange for commitments to adopt higher standards, target the lowest-performing schools, and choose

teacher and principal evaluation and support systems that took into account student growth.

The state waivers were coupled with the 2009 announcement of Race to the Top, the $4.35 billion U.S. Department of Education competitive grant that created incentives for states to adopt common standards (see the next section), performance-based evaluations for teachers and principals, and data systems, as well as to give increased attention to the lowest-performing schools. Race to the Top also gave extra points to states that expanded high-quality charter schools; this competitive grant officially ended in July 2015.

Common Core State Standards (CCSS)

In 2009, the Common Core State Standards (CCSS) in English language arts and mathematics were released. This was an initiative of the National Governors Association and the Council of Chief State School Officers, which outlined what students were expected to know at the end of each grade. But the CCSS document devoted only two and a half pages to English learners and acknowledged that "these students may require additional time, appropriate instructional support, and aligned assessments as they acquire both English language proficiency and content area knowledge" (www.corestandards.org, n.p.). By 2016, all but four states had adopted the CCSS; however, by October 2017, 10 states had either rewritten or replaced the CCSS. The withdrawal of states from the CCSS signaled increasing opposition to the role of the federal government in supporting the adoption of the CCSS and its attendant emphasis on testing. The passage of the Every Student Succeeds Act (ESSA) in 2015 (see the next section) explicitly forbids the federal government from requiring adoption of the CCSS by states. Texas, the state with the second highest number of emergent bilinguals in the country, has never adopted the CCSS.

With respect to emergent bilinguals, the problem with the CCSS was that the standards do not seem to have a coherent theory of language. At first glance, the English language arts standards seem to support a view of language as human action in the standards related to listening, speaking, reading, and writing. García (2016) summarizes this by saying:

> Students are asked to use a greater variety of complex texts—oral, visual, quantitative, print and non-print—that technology has enabled. The purposes for which language is used have also changed—from recreation or factual declaration giving way to analysis, interpretation, argument, and persuasion. Even language itself has gone from being acknowledged as simply grammar and vocabulary of printed texts to include its many levels of meaning—figurative language, word relations, genres, and media. Finally, students are now being asked to perform language socially through cooperative tasks. It is not enough to organize information on one's own and write as an individual; it is important to build upon others' ideas, whether those of peers, teachers, or authors of texts, to find evidence to articulate one's own ideas, adjusting the presentation according to the different purposes or audiences. (p. 48)

All of these are lofty goals, ones that emergent bilinguals can meet with the appropriate support, especially by leveraging their home language practices (for an analysis of the CCSS from a multilingual perspective, see García & Flores, 2014). However, on closer inspection, the strand of the CCSS known as the Language Standards requires something completely different. These standards reinforce the learning of grammar and vocabulary in English only—that is, of English as a system of structures that are to be taught in progressive and linear order. As we will see later on, emergent bilinguals need experience using English in legitimate academic tasks. They do not benefit by merely analyzing the structure of the English language in isolation; linguistic features are acquired in authentic use.

When the CCSS were adopted, educators immediately had to scramble to put together resources to help prepare emergent bilinguals for the new ways in which language was being assessed (see, for example, Heritage, Walqui, & Linquanti, 2015). As we said in Chapter 2, WIDA and ELPA21 emerged as two consortia of state departments of education, which focused on developing English language proficiency standards to indicate progression of language development. Both California and New York developed their own progression standards toward English language proficiency for emergent bilinguals. California adopted the California English Language Development Standards. All of the standards for language progression of emergent bilinguals support the use of home language practices to help emergent bilinguals meet academic standards. This is especially so for students situated along the beginning points of the English language progression.

Every Student Succeeds Act (ESSA)

On December 10, 2015, President Barack Obama signed the new reauthorization of the Elementary and Secondary Education Act (ESEA) of 1968, which was ESSA. This law continues the goal of preparing all students for success in college and career, while providing flexibility for some of NCLB's more prescriptive requirements.

As with NCLB, the needs of English learners are addressed in ESSA under Title III, now called "Language Instruction for English Learners and Immigrant Students." According to Section 3003, "English Language Acquisition, Language Enhancement, and Academic Achievement," the purposes of Title III of ESSA are:

1. to help ensure that English learners, including immigrant children and youth, attain English proficiency, and develop high levels of academic achievement in English;
2. to assist all English learners, including immigrant children and youth, to achieve at high levels in academic subjects so that all English learners can meet the same challenging State academic standards that all children are expected to meet;
3. to assist teachers (including preschool teachers), principals, and other school leaders, State educational agencies, local educational agencies, and schools in establishing, implementing, and sustaining effective language

instruction educational programs designed to assist in teaching English learners, including immigrant children and youth;

4. to assist teachers (including preschool teachers), principals and other school leaders, State educational agencies, and local educational agencies to develop and enhance their capacity to provide effective instructional programs designed to prepare English learners, including immigrant children and youth, to enter all-English instructional settings;
5. to promote parental, family, and community participation in language instruction educational programs for the parents, families, and communities of English learners. (Section 3102, 129 STAT. 1954)

ESSA reauthorized Title III of NCLB and in 2023 has continued to increase funding of awards to states. As with NCLB, ESSA requires that states establish and implement standardized statewide entry and exit procedures for emergent bilinguals.

As we said in Chapter 1, whereas NCLB focused on emergent bilinguals' achievement on assessments, ESSA looks at their achievement on academic standards, taking the onus off standardized tests, although not quite. It continues the requirement that states administer assessments in English language arts and mathematics aligned with their standards annually in grades three to eight and once in high school. It also requires testing of science content once in grades 3 to 5, once in grades 6 to 9, and once in grades 10 to 12.

One major change between NCLB and ESSA is that the accountability provisions for English learners were moved to Title I, incorporating the English language proficiency of these students not as an add-on but as part of the general life of the school. Schools are now required to have an English language proficiency indicator as part of adequate yearly progress (AYP), and to have goals and interim targets for emergent bilinguals. But as in NCLB, ESSA requires states to have standardized statewide entrance and exit procedures for identifying emergent bilinguals. It also continues the requirement that states annually assess emergent bilinguals' English language proficiency and specifies that it be "aligned with their academic standards in a valid and reliable manner" and provide "appropriate accommodations (including, to the extent practicable, assessments in the language and form most likely to yield accurate information on what those students know and can do in the content area assessed)" (ESSA, 2015, n.p). A noteworthy new requirement is that states identify languages that are present to a "significant extent" as well as those languages for which there are no assessments (CCSO, 2016; ESSA, 2015).

As with NCLB, the English language arts and math scores of emergent bilinguals who have been enrolled in U.S. schools for less than 12 months are excluded for accountability purposes. ESSA, however, does not require states to count the scores of emergent bilinguals until their third year of enrollment. Furthermore, ESSA expands NCLB in allowing states to include for accountability purposes students designated as English learners for four years after reclassification. ESSA also adds that states report not only the data for emergent bilinguals but also the data for two subgroups of emergent bilinguals: those with disabilities and those who have not achieved English proficiency after five years (now labeled long-term ELs) (U.S. DoE, 2016).

The future enforcement of the ESSA 2015 regulations is not clear, given the support for less federal oversight over education. States and school districts are encouraged to implement the law with flexibility (U.S. DoE, 2016).

A Critical Review of the Present

ESSA is only the most recent iteration of a broader change in policy orientation toward the education of language-minoritized students in the United States. In fact, as many have remarked, the word *bilingual*—what Crawford (2004) has called "the B-word"—is disappearing; public discourse about bilingualism in education has been increasingly silenced (Cervantes-Soon, 2014; Hornberger, 2006; Kaveh et al, 2022; Wiley & Wright, 2004). García (2009a) portrays this silencing of the word *bilingual* within the context of federal educational policy by illustrating some of the key name and title changes that occurred in legislation and offices in Washington, D.C., since the passage of No Child Left Behind. These changes are shown in Table 3.2.

As shown in the first row of Table 3.2, the replacement of Title VII of the Elementary and Secondary Education Act (the Bilingual Education Act) by Title III (Language Instruction for Limited English Proficient [English Learner for ESSA] and Immigrant Students) is indicative of the shift away from the support of instruction in students' home languages through bilingual education.

The greatest efforts to silence the complex multilingualism of the United States and its citizens have been made by proponents of making English the official language of the land. In the 1980s Senator Samuel Hayakawa and Dr. John Tanton founded U.S. English and proposed a constitutional amendment to make English the official language. But by the 1990s this movement was in disarray because it was said to have links to the "threats" of Latines and their "low educability" (cited in García, 2009). Although many states passed English only laws, the

Table 3.2. Silencing of Bilingualism

Title VII of Elementary and Secondary Education Act: The Bilingual Education Act		Title III of No Child Left Behind, Public Law 107–110: Language Instruction for Limited English Proficient and Immigrant Students
Office of Bilingual Education and Minority Languages Affairs (OBEMLA)	→	Office of English Language Acquisition, Language Enhancement and Academic Achievement for LEP Students (OELA)
National Clearinghouse for Bilingual Education (NCBE)		National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs (NCELA)

federal government paid little attention to the officialization of English. However, on March 1, 2025, President Trump issued an Executive Order designating English as the official language of the United States. This official English order restricted language access services for immigrants, and was based on the greater animosity toward immigrants and Latines in the country at the time.

It has not been only the government—whether federal, state, or local—that has carried out this discursive shift silencing multilingualism. Educators and scholars of bilingualism have also been complicit by not directly naming bilingualism, perhaps fearful of more backlash against it. One example of this discursive shift among educators and scholars has been the increased use of the term *dual-language* instead of *bilingual*. One speaks about *dual-language programs* instead of *bilingual programs*, about *dual-language learners* instead of *bilingual learners*, of *dual-language books* instead of *bilingual books*.

The change, however, is not just discursive; it is real. Crawford (2007) estimates that approximately half of emergent bilinguals in California and Arizona who would have been in bilingual classrooms in 2001–2002 were reassigned to all-English programs. In 2019–2020, only 8% of students served by Title III were in dual-language bilingual programs. In New York City, 79% of students designated as English learners were in English as a new language programs in 2022, with 10% in transitional bilingual education programs and 9% in dual-language bilingual programs (NYC DoE, 2022–2023). Clearly, most emergent bilinguals are overwhelmingly receiving instruction in English as a second language programs, with little use of students' home language practices. In 1997 Guadalupe Valdés issued a cautionary note about dual language programs. Cervantes-Soon (2014) noted that dual-language programs are often established and led by world-language education state departments and initiatives, which intentionally distance them from the field and history of bilingual education in the United States in order to sanitize them from any political baggage. This distancing may contribute to a greater focus on English speakers in dual-language bilingual programs.

Despite educational policy that has silenced the growing bilingualism of U.S. language-minoritized students, there are apparent new efforts to revive bilingualism in the United States under different names and for different purposes. Among the most promising measures is the implementation of the Seals of Biliteracy (also deliberately sidestepping the term *bilingualism* with its political implications) in many states. These seals are generally awarded at the time of graduation from secondary schools to recognize students who have studied and attained proficiency in more than one language. Significantly, California was the first state to award the Seal of Biliteracy in 2012. By 2024, all 50 states and Washington, D.C., offered the state's Seal of Biliteracy (www.sealofbiliteracy.org).

In a way, the Seal of Biliteracy can extend the ways in which policymakers and educators view the languages with which emergent bilinguals enter classrooms. If they consider these languages as a resource not only to acquire English but also for emergent bilinguals themselves, their high school graduation, and their future careers, perhaps emergent bilinguals would not be subjected to punitive English-only programs that rob them of the opportunity to be and become truly bilingual and biliterate. The danger, however, is that these awards would only become affirmations of foreign-language ability for language-majority students. The Seals of Biliteracy are but a step into a multilingual future that has the potential of changing the unequal education that emergent bilinguals are receiving today. It remains to be seen to what extent this first step will overcome the largely monolingual approaches to their learning and achievement.

The global economy is being used by proponents of these Seals of Biliteracy as a reason to bring back bilingualism and bilingual ways of educating. Faced with this movement, the questions for all educators who are working to provide an equitable education to language-minoritized students needs to be: Who are these policies for? And how do we ensure that they benefit the most vulnerable—those who are classified as English learners? Many have argued that this push to become multilingual in order to compete globally is related to a neoliberal economy (Cervantes-Soon, 2014). That is, the commodification of multilingualism is tied to the push for privatization and the free flow of capitalism in ways that benefit transnational corporations and economic elites (Flores, 2013). As Valdez, Delavan, and Freire (2014) argue, the economic logic of a neoliberal economy ultimately privileges those with the most access to wealth.

The neoliberal stance toward bilingualism in the United States in the second decade of the 21st century is evident even in states like California and Massachusetts, which had banned bilingual education at the turn of the century. Proposition 58, the California Multilingual Education Act, was passed in November 2016, effectively lifting restrictions on bilingual education. Proposition 58 passed by a 73% to 27% margin. The Massachusetts state senate passed a bill in July 2017 permitting school districts to reinstate a bilingual education option; in June, the Massachusetts house had passed a similar bill. This interest in reversing language education policy in Massachusetts is supported by a 2009 report compiled by the state showing that only about 20% of students receiving structured English immersion achieved proficiency in English, even after five years or more; that proficiency rates in science and mathematics academic content were also very low; and that high school dropout rates for these students were twice that of the state's language-majority students (English Language Learners Sub-Committee of the Massachusetts Board of Elementary and Secondary Education's Committee on the Proficiency Gap, 2009; Karp & Uriarte, 2010). Although Arizona has upheld Proposition 203, Senate Bill 104 passed in 2018 scaled back the restrictions of the Structured English Immersion (SEI) Program, reducing the English language development requirement to two hours daily from the original mandated four hours and providing flexibility about the programs that can be used to meet such requirement. This seemingly small change opened the back door in 2019 for students classified as English learners to access dual-language bilingual programs for the first time in 20 years. However, because Proposition 203 has not been overturned, this opening remains susceptible to proponents of English-only education, including the superintendent elected in 2022, who persists in opposing it (Kaveh et al., 2022).

The changes in California and Massachusetts point to the greater interest in the United States in teaching languages other than English for economic purposes. As López (2005) has said: "Educational opportunities for minority students exist only when the students' interests and the nation's interests converge" (p. 2016). Even in Arizona, where the policy change was enacted largely by invoking the harms inflicted by the restrictive four-hour structured English immersion (SEI) block, it succeeded because those harms converged with the overall national orientation toward choice and Arizona's core value of local control (Kaveh et al., 2022).

Callahan and Gándara (2014) have shown that bilinguals coming of age today are entering a different job and career market, one that has been transformed not only by globalization and the online era, but also by the growth of a multilingual consumer base. Yet, in a country where so many people speak languages other than English, especially Spanish, bilingualism and biliteracy cannot be valued only as an instrument of a neoliberal economy (Flores, 2013; Petrovic, 2005; Ricento, 2005). Bilingualism and biliteracy can only be sustained and developed if they also empower minoritized speakers and their communities—that is, if bilingualism connects with its social justice and equal education opportunity origins. The success of Seals of Biliteracy, as well as dual-language bilingual programs, can only be measured if indeed these policies encompass and benefit the most vulnerable students—those who have been minoritized and racialized as bilinguals and who have seldom been able to use their full linguistic repertoire in schools without fear, shame, or stigma.

PROGRAMS AND POLICIES FOR EMERGENT BILINGUALS: UNDERSTANDING THE SHIFTS

In this chapter, we have laid out the range of educational programs for emergent bilinguals and shown how U.S. language-in-education policies have shifted the program options away from focus on the home language and cultural practices and toward English-only instruction and assessment. We ended by arguing that present policies that seem to embrace bilingualism and biliteracy can only be measured as successful if they also work against the present minoritization of bilinguals in the United States.

In the next six chapters, we uncover the fallacies of present educational policy and practices with regard to emergent bilinguals. We explore what has been learned through research in sociolinguistics and psycholinguistics, education and curriculum, sociology, economics, and psychometrics, about educating emergent bilinguals to achieve high standards. We focus on the questions: *What does the research tell us about how best to educate and assess emergent bilingual students? Are we using accepted theories and evidence in the education of these students?* We provide evidence that the gap between policy and practices and the research is indeed wide. In addition, we offer descriptions of alternative practices that do benefit emergent bilinguals.

Study Questions

1. What are the different types of educational programs for emergent bilinguals in public schools? Discuss how they differ in their practices and goals.
2. How are emergent bilinguals being educated in your district? Give specific examples.
3. Discuss how it is possible to encourage students' home language practices in all classrooms regardless of whether there are a few or many who speak a language other than English, whether the group is diverse, or whether the teacher speaks their home language.
4. Discuss the development of educational policies targeting emergent bilinguals in our recent past. Make sure to address the changes in the Bilingual Education Act, as well as *Lau v. Nichols* and *Castañeda v. Pickard.*
5. How have federal and state policies, as well as judicial decisions, on the education of emergent bilinguals differed in purpose from those policies and decisions for Chicano, Puerto Rican, and Native American communities in the 1960s?
6. What have been the recent changes in educational policies with regard to emergent bilinguals? What is the difference between No Child Left Behind (NCLB) and the Every Student Succeeds Act (ESSA)?
7. Discuss the recent shifts in policies toward the education of emergent bilinguals. What have been some promising policies?
8. How do you view the commodification of bilingualism? Do you think it will benefit poor and racialized emergent bilinguals?