

The History of the Limited English Proficiency Program in American Public Schools and Contemporary Issues Facing the Program

Jesus A. Campos, Ph.D.

Texas Southern University

ABSTRACT : The struggle of American migrants and their families has been a part of the American story since the beginning. These individuals faced unique challenges and barriers to assimilation, including the language barrier. As a response, the American Government was forced to enact laws to protect the non-English-speaking children of these migrants, ensuring their education. The current research paper examines the historical origins of the Limited English Proficiency label in American Public schools, the classification system utilized, and contemporary issues faced by participating students.

I. LEP STUDENT IDENTIFICATION

In 1974, the Supreme Court ruled that a San Francisco school district was not allowed to have an “English-only” policy which denied approximately 1,800 Chinese-American students an opportunity to participate in a meaningful or adequate public educational system based on their inability to speak English. A suit was filed by these students (Lau et al. v. Nicholas et al, 1974), and as a result, the Supreme Court ruled that non-English speaking students possessed the right to learn in the same environment as their English-speaking counterparts. This Supreme Court decision determined that such practices violated the Civil Rights Act of 1964, which bans discrimination based on the grounds of race, color, or national origin in any program or activity receiving Federal financial assistance (Sugarman & Widess, 1974) In making such determination, the stage was set to transform the way the education system handled non-fluent English-speaking students. As a result of this, programs for English Limited students were adopted and developed at a national level, and integration of non-English speaking students into mainstream American public-school campuses became a mainstay we see to this day.

When dealing with LEP students, we must remember that the methodology of identifying and educating LEP students is to some extent dictated by the U.S. Department of Education regarding general goals and avoidances; however, the actual process of completing this task is left to the states and the districts to employ whatever methods best suit their students. One of the primary goals dictated by the U.S. Department of Education is that to the extent reasonable, students shall not be segregated from other students based on their national origin or LEP Students. While some LEP students may be separated for a portion of the day for separate LEP-specific instructions, school districts in general are expected to carry out their LEP programs in the least exclusive possible manner (U.S. Department of Education, 2015). This general inclusion of LEP Students with non-LEP students aids the proposed research in that the heterogeneity of LEP students and non-LEP students in the school is high. More so, if both classifications of students are not segregated, the lived experiences of both students from an environmental standpoint may be more similar than unique.

One of the concerns when dealing with LEP students is that in classifying them for their English comprehension and proficiency, they may be misclassified as an inability to process language may be misclassified as a disability. To counteract this potential issue, students who are evaluated for LEP are evaluated in the appropriate language needed based on the student’s skills. This way, the risk of misclassification is minimized. Still, there exists the very real situation in which students are classified as both LEP and a disability, in which case the school is federally required to provide services for both of those statuses. Additionally, when discussing LEP students, we must discuss LEP students who are reclassified, meaning they were once labeled to be LEP but have since been classified as proficient in the English language. In terms of the numbers, 83% of high school LEP students spend their entire time in high school as LEP, or one year less than their entire time. Of the high school students classified as LEP, over half entered the school system between 7th and 9th grade. (Kim, 2011). Thus, high school students who are classified as LEP can be seen to be newer students to the state system they find themselves a part of. This brings specific issues and barriers faced by these LEP students relative to their younger counterparts.

II. DEFINING LIMITED ENGLISH PROFICIENCY

Similar to many other terms used to identify individuals, the term Limited English Proficiency was not always used when identifying this general group of students. Before 1978, the term used to identify this subset of students who benefited from federal bilingual education funding at the federal level was “limited English-speaking ability” (LESA), which has its origins in the 1968 Bilingual Education Act (Anstrom, 1996). In a 1978 amendment, the term was broadened to include students who had sufficient difficulty in reading, writing, or understanding the English language. The expansion into these criteria led to the abandoning of the term Limited English Speaking Ability and the adoption of the term Limited English proficiency (Stewner-Manzanares, G., 1988; Anstrom, 1996) This term was further defined in Title VII of the Improving America’s Schools Act of 1994 (Public Law 103-382), a student is LEP if he/she “has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of Instruction is English or to participate fully in our society due to one or more of the following reasons:

- 1) Was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant.
- 2) Is a native American or Alaska native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had significant impact on such individual’s level of English language proficiency; or
- 3) Is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant” (sec 7501).

While the federal criteria, which guides the state criteria, is established, it is only established as such through general guidelines and requirements. The implementation and operation of the LEP programs are still at the level of the state, in which they are expected to run the program in the best interest of service to the student. Therefore, when LEP procedures are applied at the state level, most states generally use the federal definition or a simplified and/or operational version of it (Cheung and Solomon, 1991). However, research has indicated that discrepancies in the manner in which students are classified and reclassified vary on a state-by-state basis. Despite the increased national accountability achieved over the past decade, states vary in terms of the design and rigor of their LEP programs; the weighting applied to the speaking, listening, reading, and writing portions of their LEP assessments; and the cut-points (standards setting) used to reclassify LEP students as non-LEP students (Abedi, 2008, Ramsey & O’Day, 2010). Despite the noted issues that arise due to state interpretation and implementation of federal guidelines for LEP classification and reclassification, the progress and development of guidelines in classification have resulted in a system that accurately identifies these students nationally.

III. LEP STUDENTS AND SCHOOL-RELATED ISSUES

LEP students are a diverse and growing group of K-12 students whose varied linguistic, economic, and cultural backgrounds present unique needs and assets for the school community (U.S. Department of Education, 2013). LEP students are more likely than their English-proficient classmates to live in poverty (Cohen and Clewell, 2005), reside in large, urban settings (Aud et al., 2012), and have parents with low levels of formal education (Arias and Morillo-Campbell, 2008). Given the series of characteristics that describe the LEP student population, it is expected that they likely offend disproportionately (Davies & Fagan, 2012; Shaw & McKay, 1942). There exists research into LEP students and deviant behavior on high school campuses. Given this empirically founded notion that immigrant status and crime have a negative correlation (Light et al., 2020; Martinez et al., 2010; Lopez & Miller, 2011; Ousey and Kubrin, 2009), one key element missing in these studies is the study of immigrant children. In examining the literature, sparse is the study that examines school-based deviance among immigrant students. Previous work has empirically shown that LEP Students have consistently lower odds than non-LEP students of having school behavior outcomes stemming from emotional disturbance (Bal et al., 2019). Additionally, findings indicate that Hispanic students show a 2.23 to 1 likelihood of out-of-school suspensions, while no higher level of misbehavior is displayed (Finnd and Servos, 2015).

In terms of academics, LEP students show a 25% dropout rate, which is even higher than former LEP students who reclassified earlier, which have a dropout rate of 15% (Kim, 2011). Also, students who are noted as LEP at a later stage (high school), tend to have significantly lower performance than their non-LEP counterparts who were reclassified at an earlier year (Kim, 2011). When considering LEP students and their access to school-based programs, research has shown that they are less likely than their non-LEP counterparts to have access to school-based programs (Anyon et al., 2013). This is particularly of importance when considering the limited access of LEP students to programs such as Restorative Interventions, which is designed to be small or large conferences which may include people affected by the incident directly or indirectly with the goal of developing a plan to repair the harm done by the incident and prevent future incidents. The idea is to introduce an alternative method of punishment and prevention and steer away from traditional methods of academic punishment, such as suspensions, which have been proven to disproportionately impact minority students (Huang and Cornell, 2021; Hashim et al., 2018; Gregory and Roberts, 2017). However, research has shown that LEP students are far less

likely to participate in such a program compared to non-LEP students (Anyon et al., 2016), likely due to language and cultural barriers.

IV. CONCLUSION

The history of immigrants and their children assimilating into America is as much a part of this nation as anything else one can consider. While the American Government has taken large strides to equalize the education of non-English speaking children, an array of problems continue to exist for the students who are classified as LEP in the American Public School system. Policymakers and researchers alike should focus on the history of this specific group of students and understand the contemporary issues being faced by them when considering measures to improve their circumstances. Continued research into this specific population is required to understand further the nuanced and unique barriers faced by LEP students.

REFERENCES

- [1]. Abedi, J. (2008). Measuring students' level of English proficiency: Educational significance and assessment requirements. *Educational Assessment*, 13, 193–214.
- [2]. Anstrom, K. (1996). Defining the Limited-English Proficient Student Population. *Directions in language and education*, 1(9).
- [3]. Anyon, Y., Moore, M., Horevitz, E., Whitaker, K., Stone, S., & Shields, J. P. (2013). Health risks, race, and adolescents' use of school-based health centers: Policy and service recommendations. *The Journal of Behavioral Health Services & Research*, 40(4), 457-468.
- [4]. Anyon, Y., Gregory, A., Stone, S., Farrar, J., Jenson, J. M., McQueen, J., ... & Simmons, J. (2016). Restorative interventions and school discipline sanctions in a large urban school district. *American Educational Research Journal*, 53(6), 1663-1697.
- [5]. Arias, M.B., & Morillo-Campbell, M. (2008). Promoting ELL parental involvement: Challenges in contested times. Lansing, MI: Great Lakes Center for Education Research and Practice
- [6]. Aud, S., Hussar, W., Johnson, F., Kena, G., Roth, E., Manning, E., Wang, X., & Zhang, J. (2012). The Condition of Education 2012 (NCES 2012-045). Washington, DC: U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics.
- [7]. Bal, A., Betters-Bubon, J., & Fish, R. E. (2019). A multilevel analysis of statewide disproportionality in exclusionary discipline and the identification of emotional disturbance. *Education and Urban Society*, 51(2), 247-268.
- [8]. Cheung, O., and Solomon, L.W. (1991). Summary of State Practices Concerning the Assessment of and the Data Collection about Limited English Proficient (LEP) Students. Council of Chief State School Officers: Washington D.C.
- [9]. Cohen, C., Deterding, N., & Clewell, B.C. (2005). Who's left behind? Immigrant children in high and low LEP schools. Washington, DC: The Urban Institute
- [10]. Davies, G., & Fagan, J. (2012). Crime and enforcement in immigrant neighborhoods: Evidence from New York City. *The Annals of the American Academy of Political and Social Science*, 641(1), 99-124.
- [11]. Finn, J. D., & Servoss, T. J. (2015). Misbehavior, suspensions, and security measures in high school: Racial/ethnic and gender differences. *Journal of Applied Research on Children: Informing Policy for Children at Risk*, 5(2), 11.
- [12]. Gregory, A., & Roberts, G. (2017). Teacher beliefs and the overrepresentation of Black students in classroom discipline. *Theory Into Practice*, 56(3), 187-194.
- [13]. Hashim, A. K., Strunk, K. O., & Dhaliwal, T. K. (2018). Justice for all? Suspension bans and restorative justice programs in the Los Angeles Unified School District. *Peabody Journal of Education*, 93(2), 174-189.
- [14]. Huang, F. L., & Cornell, D. G. (2021). Teacher support for zero tolerance is associated with higher suspension rates and lower feelings of safety. *School Psychology Review*, 50(2-3), 388-405.
- [15]. Kim, J. (2011). Relationships among and between ELL Status, Demographic Characteristics, Enrollment History, and School Persistence. CRESST Report 810. *National Center for Research on Evaluation, Standards, and Student Testing (CRESST)*.
- [16]. Lau et al. v. Nichols et al., No. 72-6520 <https://www2.ed.gov/about/offices/list/ocr/ell/lau.html> (January 21, 1974).
- [17]. Light, M. T., He, J., & Robey, J. P. (2020). Comparing crime rates between undocumented immigrants, legal immigrants, and native-born US citizens in Texas. *Proceedings of the National Academy of Sciences*, 117(51), 32340-32347.
- [18]. Lopez, K. M., & Miller, H. V. (2011). Ethnicity, acculturation, and offending: Findings from a sample of Hispanic adolescents. *Open Family Studies Journal*, 4(1), 27-37.

- [19]. Martinez, R., Stowell, J. I., & Lee, M. T. (2010). Immigration and crime in an era of transformation: A longitudinal analysis of homicides in San Diego neighborhoods, 1980–2000. *Criminology*, 48(3), 797-829.
- [20]. Ousey, G. C., & Kubrin, C. E. (2009). Exploring the connection between immigration and violent crime rates in US cities, 1980–2000. *Social problems*, 56(3), 447-473.
- [21]. Ramsey, A., & O’Day, J. (2010). Title III policy: State of the states (Policy Brief). Washington, DC: American Institutes for Research and U.S. Department of Education.
- [22]. Shaw, C. R., & McKay, H. D. (1942). Juvenile Delinquency and Urban Areas.
- [23]. Stewner-Manzanares, G. (1988). The Bilingual Education Act: Twenty Years Later. New Focus, Occasional Papers in Bilingual Education, Number 6. *New focus*.
- [24]. Sugarman, S. D., & Widess, E. G. (1974). Equal protection for non-English-speaking school children: Lau v. Nichols. *Calif. L. Rev.*, 62, 157.
- [25]. U.S. Department of Education, National Center for Education Statistics (2013). The Condition of Education 2013— English Language Learners (NCES 2013-037). Washington, DC: Author. Retrieved from https://nces.ed.gov/programs/coe/indicator_cgf.asp.
- [26]. U.S. Department of Education. (2015, January 7). English Learner Students and Limited English Proficient Parents [Press release]. Retrieved March 20, 2021, from <https://www.justice.gov/sites/default/files/crt/legacy/2015/01/07/eldcleng.pdf>