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Annotated Bibliography:

Adequate Education for Language Minority Students

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EDUC 9925: Principles of Legal and Ethical Leadership

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The history of language minority rights dates back to the Civil Rights Act of 1964 which asserts that equal accessibility of all persons to programs receiving Federal financial assistance is a Constitutional right. In particular, bilingual education and ESOL program services are important aspects to case law and legislation for language minority students. The sources referenced in this annotated bibliography add scope and detail to what constitutes a fair and adequate education for language minority students.

#### **Law Review Articles (4)**

Cortes, S. (2006). A good lesson for Texas: learning how to adequately assist language-minorities learn English. *Texas Wesleyan Law Review*. 13 Tex. Wesleyan L. Rev. 95.

This article provides an overview of the history of bilingual education in the United States and its effect Texas public schools. It focuses on the debate between bilingual education and English-immersion programs and what constitutes an appropriate education for language-minority students.

Myhill, W. (2004). The state of public education and the needs of English Language Learners in the era of “No Child Left Behind.” *The Journal of Gender, Race & Justice*. 8 J. Gender Race & Just. 393.

This article discusses the historical experience of language minority populations in public schools and brings to light the implications of No Child Left Behind on the definitions of adequate and appropriate education. It shares data regarding ELL

disparity in California since the implementation of Proposition 227 and the demise of bilingual educational programs at the state and local levels.

Scott, M. (2008). Resegregation, language, and educational opportunity: the influx of Latino students into North Carolina public schools. *Harvard Latino Law Review*. 11 Harv. Latino L. Rev. 123.

This article discusses the legal history of Latino education in public schools in the United States and, more specifically, North Carolina. It explores the state of Latino students in North Carolina schools within the contexts of desegregation, language education and achievement in spite of language and systemic barriers.

Wood, C. & Baker, B. (2004). An examination and analysis of the equity and adequacy concepts of Constitutional challenges to state education finance distribution formulas. *University of Arkansas at Little Rock Law Review*. 27 U. Ark. Little Rock L. Rev. 125.

In this article, the authors discuss the history of the struggle over fiscal resources for public education in light of efforts to provide adequate and equitable educational experiences for students. It details the federal roots of funding litigation and federal and state response to the presented disparities.

#### **Statute Sections or Fed/State Regulations (4)**

Civil Rights Act; Title VI, U.S.C. §2000d. (1964)

This statute generally provides for equal accessibility of all persons to programs receiving Federal financial assistance. In particular, Title VI recognizes the state's role in providing equal educational opportunities for language minority students.

May 25<sup>th</sup> Memorandum; Office of Civil Rights, 1970

Sent out by the Office of Civil Rights, this memorandum further delineated the responsibilities of school districts in providing an equal educational opportunity to Limited English Proficient (LEP) students. The May 25<sup>th</sup> Memorandum created a benchmark language minority enrollment of 5% for compliance, which was later eliminated.

Equal Educational Opportunities Act, §1703 (1974)

This statute explicitly instructs the state in its role in providing an equal educational opportunity for all students regardless of race, color, sex, or national origin.

Educational agencies must take action to ensure LEP students have access to all instructional programs.

*Lau Remedies*, Office of Civil Rights (1975)

Stemming from *Lau v. Nichols* (1974), the Office of Civil Rights developed specific, approved approaches and procedures for the instructional programming of LEP students. While not formal regulations, the specified procedures became de facto standards for ESOL programs across the nation.

**Case Law (6)**

*Lau v. Nichols* 1974 U.S. Lexis 151

This landmark case determined that San Francisco schools could not bar students from participation in the educational programming until they had acquired a sufficient level of basic English skills. The court agreed with the Plaintiff that it was the responsibility of the schools to teach these basic English skills.

*United States of America v. State of Texas* 1981 U.S. District Lexis 10317 (E.D. TX 1981)

The United States District Court decided that the residual effects of intentional discrimination by Texas state educational policies and practices must be accounted for and remedied. The Texas Education Agency was ordered to make complete relief of violations by providing a bilingual educational program with entry and exit criteria, as well as standards for local monitoring and enforcement.

*Casteñada v. Pickard*, 1981, as seen in Bérubé, B. (2000) *Managing ESL programs in rural and small urban schools*. Virginia: Teachers of English to Speakers of Other Languages.

In order to measure compliance with the EEOA requirement of “appropriate action,” the U.S. Court of Appeals developed a three-part test that connects language acquisition theory and practice along with evidence of appropriate results. This case allowed schools to make programmatic decisions as long as they were based in sound theory and student educational parity could be verified.

*Cintron v. Brentwood Union Free School District*, 455 F. Supp. 57; 1978 U.S. Dist. Lexis 20260 (E.D. NY 1978)

Relying on the *Lau* remedies, the Federal District Court ruled that the school district did not accommodate language minority students whose English language

deficiencies prohibited them from adequate understanding of mainstream English instruction. Furthermore, they were in violation of the Equal Educational Opportunity Act by keeping language minority students separated from English speaking students in certain classes. The school district was instructed to offer a transitional bilingual program and submit a proposed plan that was in accordance with the Lau guidelines.

*Rios v. Read* 1978, 480 F. Supp. 14; U.S. Dist. Lexis 14970 (E.D. NY 1978)

The court asserted the statutory obligation of the state in compliance of Title VI by taking appropriate action in meeting the needs of language minority students through a bilingual education program. This case also established that an objective, validated test must be conducted for entry into and exit from a bilingual or ESL program.

*Plyler v. Doe* 1982, 457 U.S. 202; 1982 U.S. Lexis 124 (1982)

The Supreme Court ruled in this case that it was unconstitutional to deny a free public education to undocumented immigrants residing within a state's borders. The Court maintained that denial of education violated the Fourteenth Amendment and went against the goals of the Equal Protection Clause.

### **Primary/Secondary Sources (6)**

August, D. & Hakuta, K. (Eds.). (1997). *Improving schooling for language-minority children: A research agenda*. Washington, D.C.: National Academy Press.

This comprehensive volume is dedicated to current trends in teaching and learning for language-minority students. It attempts to transcend the political arena by taking the focus off of the language of instruction debate and providing the knowledge base and

implications for future research in key areas related to language acquisition and classroom methodologies that benefit language-minority students.

Berube, B. (2000) *Managing ESL programs in rural and small urban schools*. Virginia:

Teachers of English to Speakers of Other Languages.

This handbook gives a basic overview of the legal background for providing ESL services in public schools. In addition it outlines essential elements for setting up and managing an ESL program in rural and small urban schools.

Cortez, A. (2004) Insufficient funding for bilingual education in Texas. Retrieved from

Intercultural Development Research Association website on June 30, 2008 at

<http://www.idra.org/Newsltr/2004/Feb/Albert2.htm>

This article provides a historical overview of bilingual education in Texas. It gives details about the funding formulae used to determine cost per pupil and makes a case for reviewing the data and increasing funding to provide adequate services to language minority students.

Francis, D., Lesaux, N. & August, D. (2006). Language of instruction. In D. August &

T. Shanahan (Eds.) *Developing literacy in second-language learners: Report of the National Literacy Panel on language-minority children and youth* (pp. 365 – 413). New Jersey: Lawrence Erlbaum Associates.

This article outlines the program types commonly used for language-minority students in the public school setting. It details studies involving English-only



instruction vs. bilingual instruction or transitional programs and offers an analysis of the findings in promotion of bilingual instruction.

Valdes, G. (2001). *Learning and not learning English: Latino students in American schools*. New York: Teachers College Press.

Valdes presents a qualitative study of four Latino students of varying fluency in English in Texas public schools. Through observation and interviews, she presents the experiences of these students and the struggles of the students and teachers to make meaning in the classroom. She also offers program recommendations and implications for future research.

Valenzuela, A. (1999). *Subtractive schooling: U.S.-Mexican youth and the politics of caring*. New York: State University of New York Press.

In this qualitative study, Valenzuela presents the struggles of U.S.-Mexican youth in the public education system. Using critical theory and a social justice lens, she offers a complex look at the attempts to secure an adequate and equitable education for an underrepresented population.



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