

English First Foundation Issue Brief

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Attempts to Evade Proposition 227

A case study in how bilingual education advocates attempted to defy California's "English For the Children" Initiative.

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Folks determined to eliminate failed bilingual education programs need to understand that winning a referendum vote is far from the end of the matter.

The iron triangle of education bureaucrats, professional ethnic activists, bilingual education teachers and their allies will all collude to strangle any effort to insist that the children of immigrants are taught English.

California passed “English For the Children” (Proposition 227) in 1998, with an overwhelming 61% of the votes cast in favor of replacing bilingual education with English immersion.

The Los Angeles Times noted at the time that even though Proposition 227 “was opposed by President Clinton, all four candidates for governor, the leaders of both the Republican and Democratic parties and almost every education organization in the state, it still won big . . . [and was] one of the most popular contested initiatives in the state’s history.”¹

California’s bilingual education activists now knew that neither public opinion nor the law was on their side. They remained undeterred. In fact, their subsequent three-part strategy of defiance, litigation and redefinition is instructive.

Defiance

School systems that had spent years defending bilingual education from mounting criticism were not willing to retreat simply because a mere law had been passed.

No sooner were the ballots counted than the head of the Los Angeles Unified School District (LAUSD), Superintendent Ruben Zacarias, ordered staff members “not to change any procedures or methods of instruction” until further notice.²

One bilingual education teacher, Asrturo Selva, admitted to the *Times* that the initiative “would wipe me out completely.”³ This commitment to self-preservation may partly explain how LAUSD teacher, Steve Zimmer, recruited 1,500 pledges from teachers to defy the pro-English initiative prior to the vote.

Some teachers continued to espouse defiance after the vote. The initiative “forces us to be saboteurs. . . . Once you close your [classroom] door, people who don’t believe in English-only are going to sabotage it.”⁴ Zimmer agreed: “[Y]ou certainly still have defiance. It’s just being done behind closed doors.” In an interview with the *New York Times*, Zimmer elaborated:

Zimmer said that some teachers were simply teaching how they had always taught immigrant children, using bilingual methods, while others who otherwise comply with the law were still using a lot of bilingual methods because

¹“Prop. 227 Foes Vow to Block It Despite Wide Vote Margin,” *Los Angeles Times* (Washington Edition), June 4, 1998, at A1, A6.

they did not yet have the books and other materials necessary to put the proposition into effect.⁵

Even among teachers who claimed to be obeying the law, a considerable amount of Spanish continued to creep into their classrooms. LAUSD kindergarten teacher Maria Barajas complained:

They are picking up more English, but it's social English--I still have to present new concepts in Spanish. No matter how hard I try, we won't have as many readers in our class as we did last year, when we were all speaking only in their primary language.⁶

Meanwhile, the San Francisco Board of Education voted unanimously to continue bilingual education programs in defiance of the new law. Board President Carlota del Portillo denounced the requirement that immigrant children be taught English as “an absurd measure which has no educational basis and would set our students back 30 years.”⁷ (Since bilingual education has been tried and found wanting for 30 years, exactly how it would be a setback for the students involved was not made clear. Perhaps the goal of the program had nothing to do with teaching children English?)

Bilingual education supporters now complain that California’s English instruction is “fragmented and piecemeal” and that it “leads to massive inconsistency in instruction for children.”⁸ They seldom mention that they have encouraged precisely the inconsistency of which they now complain.

²*Id.*

³*Id.* at A6.

⁴*Id.* at A1.

⁵ “California Bilingual Teaching Lives on After Vote to Kill It,” *New York Times*, October 3, 1998, at A1 [<http://www.onenation.org/1098/100398.html>]. It is worthy of note that bilingual education supporters continued to point to a lack of English textbooks as an excuse for delayed implementation of English immersion programs. *See also* “Schools in quandary over implementation,” *San Jose Mercury News*, July 16, 1998, [“Some are buying English textbooks”], [<http://www.onenation.org/0798/071698gsub.html>]. Were there no English textbooks in California’s allegedly ‘bilingual’ programs prior to the passage of Proposition 227?

⁶ “L.A. Students Take to English Immersion,” *Los Angeles Times*, January 13, 1999, [<http://www.onenation.org/9901/011399.html>].

⁷ “Prop. 227 Foes,” *supra* note 1, at A6.

⁸ “Prop. 227 Makes Instruction Less Consistent, Study Says,” *Education Week*, May 3, 2000, at 7.

Litigation

Just one day after California's referendum vote, the Mexican American Legal Defense and Education Fund (MALDEF), the National Council of La Raza, the American Civil Liberties Union and other groups filed a lawsuit, claiming teaching English in California's schools would violate the civil rights of the 1.4 million children in the state who did not understand English fluently.⁹ This lawsuit was joined by school district officials in San Francisco, Oakland, San Jose and Berkeley.¹⁰

Genethia Hayes, Executive Director of the Southern Christian Leadership Conference of Los Angeles, said her group joined this lawsuit because "Proposition 227 will prove the most devastating piece of legislation for language-minority students in the history of public education in the state."¹¹

This effort to get the courts to undo the will of the voters failed in California.¹² In the wake of this unexpectedly swift court ruling, bilingual education advocates vowed to exploit loopholes in the law:

In the meantime, those advocates say they will consult with schools and parents to try to capitalize on Proposition 227's waiver provisions, which they hope may keep some bilingual education programs intact.¹³

Redefinition

The anti-English lobby now turned its attention to redefining the plain meaning of the wording of Proposition 227.

The Los Angeles County Board of Education said that the law's requirements that all students be taught "overwhelmingly in English" meant that another language could be used 49% of the time.¹⁴ Vista, located in San Diego County, set a 40% limit.¹⁵

⁹"Prop. 227 Foes," *supra* note 1, at A6.

¹⁰ "California schools find ways to evade anti-bilingual vote," *Washington Times*, September 13, 1998, at A2.

¹¹ "Defeat of Bilingual Education is Challenged in Federal Court," *New York Times*, June 4, 1998, at A25.

¹² "Prop. 227 court challenge fails," *San Jose Mercury News*, July 16, 1998, [<http://www.onenation.org/0798/071698g.html>].

¹³ *Id.*

¹⁴ *Washington Times*, *supra* note 10.

¹⁵ *Id.*

The LAUSD literally redefined English immersion classes as conducted nearly one-third of the time in Spanish. The so-called Model B Classes call for 30% of the instruction to be in Spanish.¹⁶

Proposition 227 also allowed parents to request that their children be placed in bilingual classes. The bilingual education lobby did its best to encourage parents to make this choice.

A University of California analysis of the initial impact of Proposition 227 found that “[School d]istricts that were strong advocates of bilingual education programs tended to solicit waivers from parents to keep the programs going . . . Statewide, 67 percent of districts formally notified parents of their rights to the waiver process.”¹⁷

In both Los Angeles and San Diego, these waiver forms were actually sent home with students, 100,000 in the case of Los Angeles.¹⁸ (This same evangelistic outreach effort by school officials was not undertaken in previous years prior to the passage of Proposition 227, when parents were required to formally request the removal of their children from bilingual programs.)

Interestingly, bilingual education advocates also complained of translation problems with the waivers. “[M]ultiple iterations and translations of forms” were considered undue delay by advocates.¹⁹ They also complained that “[t]ranslation of the waivers was also an issue . . . with teachers reporting that the waiver information was incomplete, misleading, and intimidating.”²⁰

It seems like errors of translation and potential intimidation were not limited to advocates of English-only instruction:

Initiative backers point, for example, to information given to parents in Ventura County's Oxnard Elementary district. It said choosing an English-only program would mean academics would be replaced with English-as-a-second-language instruction and kindergartners would receive no “reading/writing readiness.”²¹

¹⁶ *Id.*

¹⁷ *Education Week*, *supra* note 8.

¹⁸ *Washington Times*, *supra* note 10.

¹⁹ *The Initial Impact of Proposition 227 on the Instruction of English Learners*, U. C. LING. MIN. RES. INST., April, 2000, [<http://lmrinet.gse.ucsb.edu/RESDISS/prop227effects.pdf>], [hereinafter *Initial Impact*], at 13.

²⁰ *Id.* at 14.

²¹ “School districts far apart on Prop. 227,” *Sacramento Bee*, December 6, 1998, at A1.

Conclusion

Despite these massive efforts to do anything to continue bilingual education programs in defiance of California law, more California children were learning English and getting ready to take their rightful place in American society.

On August 20, 2000 the *New York Times* carried a story on its front page entitled: “Increase in Test Scores Counters Dire Forecasts for Bilingual Ban.” The story began:

Two years after Californians voted to end bilingual education and force a million Spanish-speaking students to immerse themselves in English . . . those students are improving in reading and other subjects at often striking rates, according to standardized test scores released this week. . . . The results are remarkable given predictions that scores of Spanish-speaking students would plummet.

Consider the experience of Ken Noonan, who . . . founded the California Association of Bilingual Educators 30 years ago . . . [he] warned in 1998 that children newly arrived from Mexico and Central America would stop coming to school if they were not gradually weaned off Spanish in traditional bilingual classes.

Now, he says he was wrong. “I thought it would hurt kids,” Mr. Noonan said of the ballot initiative, which was called Proposition 227. “The exact reverse occurred, totally unexpected by me. The kids began to learn -- not pick up, but learn -- formal English, oral and written, far more quickly than I ever thought they would.”²²

²² “Increase in Test Scores Counters Dire Forecasts for Bilingual Ban,” *New York Times*, August 20, 2000, at A1. One of the possible reasons for this marked improvement is buried in a report on the subject by the University of California Linguistic Minority Research Institute:

English-only testing was observed to have an extraordinary effect on English Learner instruction, causing teachers to leapfrog much of normal literacy instruction and go directly to English word recognition or phonics, bereft of meaning or context” (emphasis added).

Initial Impact, *supra* note 19, at 19. Curiously, bilingual education advocate Stephen D. Krashen is also a supporter of whole-language reading instruction as opposed to phonics. See KRASHEN, THREE ARGUMENTS AGAINST WHOLE LANGUAGE (1999) at 44-46. Krashen also discounts the effectiveness of phonics instruction in Spanish for Spanish-speaking children. *Id.* at 47, note 2.

There was more good news. While 29% of the state's limited-English-proficient students were enrolled in bilingual education programs prior to the passage of Proposition 227, the figure had dropped to 12% after the proposition was implemented.²³ "Even in the classrooms that had been designated as bilingual . . . teachers revealed that . . . their students were receiving much less literacy instruction in their primary language."²⁴

All this meant that more California children of immigrants were being taught English. And test scores showed they were learning both English and their academic subjects. Especially in the lower elementary grades, students who arrived at school speaking little or no English had made dramatic improvement in reading and mathematics.²⁵

Despite all the dire predictions, litigation, redefinition of terms and teacher defiance, Proposition 227 has enabled more California children to learn English.

²³ *Initial Impact* (unnumbered abstract page).

²⁴ *Id.* at 19.

²⁵ "English-learners show advances on state exam," *San Jose Mercury News*, August 15, 2000, at A1.