

Federal Education Legislation: *Before NCLB*

- NDEA 1958 (after *Sputnik* satellite of the USSR)
National Defense Education Act
Funds to improve Math, Science, & Foreign Language Instruction
- **ESEA 1965**
Elementary and Secondary Education Act
- IASA 1994
Improving America's Schools Act
- NCLB 2001/2002
No Child Left Behind Act

ESEA 1965

- Legacy of Great Society, War on Poverty
President Lyndon Johnson
Title I - “Educationally disadvantaged,” poor students
(Economic Opportunity Act, 1964)
Title VI - Students of color
(Civil Rights Act, 1965)
Title VII - English Language Learners
(Bilingual Education Act, 1968)

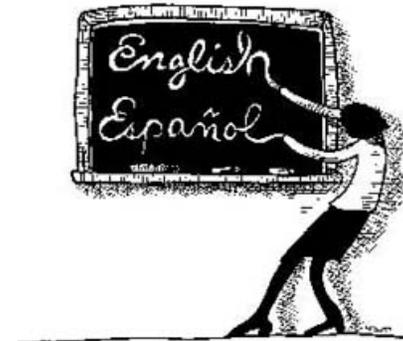
Bilingual Education Act 1968

- Targeted ELLs in high poverty areas, but didn't require schools to use bilingual instruction to receive funding; “bilingual” refers to the population of children it aimed to serve, not a particular instructional program
- A supplemental grant program included a measure of quality control:
 - Awarded based upon quality ranking of applications, with priority for those projects working to develop bilingual proficiency
 - Program development, implementation, or enhancement
- Symbolic, low funding, unresolved question of goals
 - Additive or subtractive; Anti-poverty or anti-discrimination



BEA Reauthorization 1974

- Influenced by *Lau v. Nichols* (1974)
- Defined a bilingual education program as “one that provided instruction in English and in the native language of the student ... to allow the student to progress effectively through the educational system.” (20 USC Sec. 1703)
- Funded TBE and DBE/MBE programs in 65 languages, including Eskimo and Native languages
- Regional training centers and national clearinghouse to collect/distribute information were established



BEA Reauthorization 1978

- Literacy skills were added to program goals; personnel were required to be proficient in L1
- Specified the goals of **transitional** bilingual education programs to prepare LEP students to enter the regular classroom as quickly as possible. Programs designed to maintain the native language (DBE) were excluded from funding.
 - *“To mollify skeptics of the promotion of bilingual programs, the modifications clarified that native instruction would be used in the classroom to promote English language acquisition and classroom mainstreaming” (Tinajero, 2009).*
- \$135 million - funds for 565 school districts for 1-3 years for training and fellowships. \$20 million of this was spent on research to evaluate the programs
- At its apex, the BEA only served 12% of ELLs

BEA Reauthorization 1984

- In recognition that bilingual programs were “administratively impractical” in some districts, allowed a 4% cap on Title VII funds to be given to Special Alternative Instructional Programs (SAIP) or English-based programs
 - Therefore, the 1984 BEA provided more “flexibility” for state and local school districts
- “The Reagan administration was not a supporter of bilingual education and began efforts to redirect government funds to English only programs. Broadly speaking, federal support for bilingual education programs has been in decline ever since” (Matsudaira, 2004).*

BEA Reauthorization 1988

- Determined that Title VII program information pertaining to parents'/guardians' rights *for declining services* needed to be in a language and form that was understandable to them.
- 500 fellowships to increase teaching pool
- 25% for funding Special Alternative Instructional Programs (SAIP).
- Three-year limit on a student's participation in a transitional bilingual education program or SAIP.

BEA Reauthorization 1994 (IASA)

- Retained 25% allotment for SAIPs, but dropped the three-year limit on a student's participation
- “There is no pedagogical justification for imposing any arbitrary date for students to exit a bilingual program. To the contrary, language minority students should be provided opportunities to continue studying in the native language after they become proficient in English” (as cited in Osorio-O’Dea, 2001)
- Gave preference to programs that promoted bilingualism, including Native languages (*but only 5% of ELLs nationally were in bilingual programs*)
- Two years after the reauthorization, a new Republican majority in Congress cut appropriations by 38%, forcing deep cuts in grants for instructional programs, terminating aid for teacher training, and reducing the budgets for research, evaluation, and other support services (Crawford, 1997)

In sum . . .

- The Bilingual Education Act (BEA)
= Title VII of the ESEA
- Began in 1968
- Five Reauthorizations:
1974, 1978, 1984, 1988, 1994
- Repealed after 34 years with NCLB



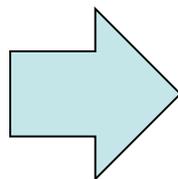
No Child Left Behind Act (2001/2002)

- **A continuation and alteration of federal legislation**
 - The alignment of content standards and assessments began with IASA (1994)
 - The focus on holding schools accountable for student achievement on standardized assessments sets NCLB apart from previous version of the law
 - \$2 billion dollar testing industry



From Title VII to Title III

- **Title VII under ESEA/IASA is now Title III**
 - “Language Instruction for Limited English Proficient and Immigrant Students”
 - Bilingual Education, Bilingualism, and Biliteracy replaced with “English Language Acquisition”



Changes in Funding

- Combined into a single, formula-driven, state grant program; funds awarded at the state level on a per-capita basis (Census figures)
 - Formerly a competitive grant program awarded to districts, which helped control quality
 - “This effectively eliminates federal control over pedagogy, and the preference for native language programs that existed under the BEA” (Matsudaira).



You've Got Funding!

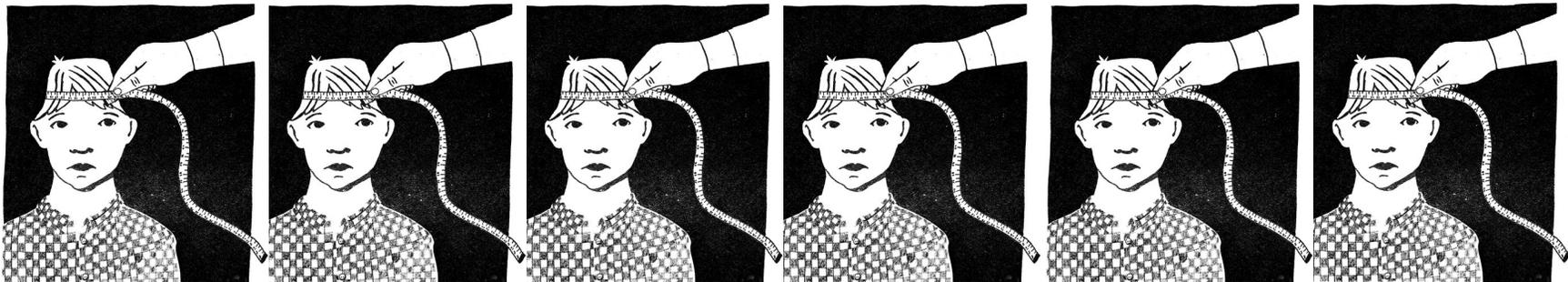
There were **65,398** ELLs in Oregon in 2009-2010

- Of those eligible, **61,853** Oregon students chose to enroll in ELD programs last year.
- Oregon state law provides districts with an average of about \$2,700 in State School Funds
- The federal government provides about \$149 per student in supplemental funding to school districts each year.



Specifications of NCLB Act

- Requires 100% of students to be at grade level in reading, writing, and math by 2014
 - Students are tested in grades 3-8, and in 10th
 - Schools must meet AYP (Adequate Yearly Progress) each year
 - *Estimated that achievement gap will actually close in 2034*
- Added Science in 2007
 - One test in each of three grade spans (3-5, 6-9, 10-12)
 - States need to administer 68 million tests to comply with this feature of NCLB
- “Serious consequences for districts that fail to make AYP” (Wright, 2010, p. 63).



- When a school fails to meet its AYP goal for two straight years, it is labeled **“in need of improvement.”**
 - 48% of schools in California failed to meet AYP in 2007-2008
- If it fails to make AYP for a third consecutive year, the school is required to offer students the chance to **transfer** to a different public school, the first in an annual series of steps designed to improve student performance.
 - As of 2009: Only **1%** of eligible students have utilized this option
- In subsequent years, schools must spend money from the NCLB law’s Title I program of aid for disadvantaged students to pay for **tutoring** and then take steps to improve themselves.
 - As of 2009: Only **14%** of eligible students have utilized this option
- If schools still haven’t made AYP after five years “in need of improvement,” their districts must make **major changes**, such as replacing the schools’ staffs or turning the schools into charter or privatized, for-profit schools.
 - As of 2009: Has worked in some situations but not effectively across the board

Test scores must be **disaggregated** by subgroups

5 ethnic groups, ELL, low income, and special needs

- Positive: Inclusion of ELLs in school-wide measures
 - Gauge progress of English language acquisition
 - Makes sure these students aren't lost in schoolwide averages
 - Holds schools accountable for “underschooled” population
- Negative: Type of assessment
 - Reliance on a single test to label schools as failing
 - An ELL who doesn't pass the test could be counted in 3 areas
 - Standardized tests are normed for native English speakers; Content tests are not valid for ELLs
 - Summative, not formative, so teachers cannot use the information to improve instruction
 - Measure OUTCOMES, not improvement

Accommodations for ELLs

CONTENT

- Native language test can only be used in first year for content assessment
- ELL students who have been in the U.S. for three years must be tested in Reading/Language Arts using a test written in English

Side note: Because standardized assessments aren't considered valid [measure what they say they measure] and reliable [get the same result on different days] for ELLs (and SpEd), they HAVE to offer accommodations. Accommodations may be reading the instructions aloud or offering more time. Accommodations are intended to improve the validity and reliability of standardized tests, but you should be extremely cautious about making judgments based on test scores.

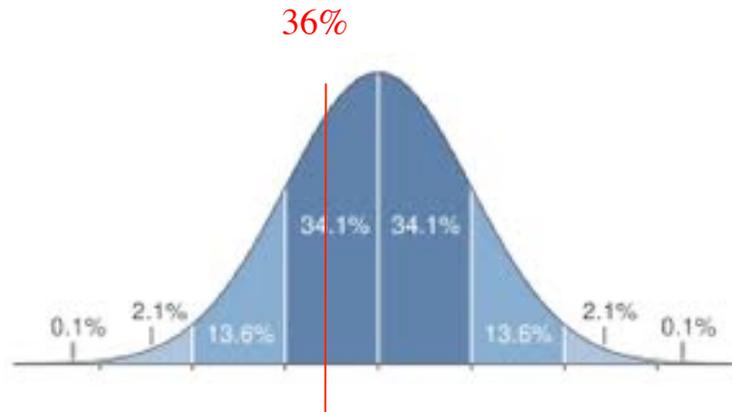
Oral English

- States must develop English Language Proficiency [Language] Standards and an assessment that align with Academic Content Standards
 - Usually align with English Language Arts (ELA) Standards
- Oregon's **ELP (English Language Proficiency) Standards** were published in 2004
- **ELPA: English Language Proficiency Assessment**
 - Tests oral English on the computer
 - Must be tested each year
 - Most districts use this test for reclassification and redesignation



Why is NCLB problematic for ELLs?

- The ELL subgroup is a problematic construct.
Grouping individuals with different educational needs
 - Highly fluid, changing (newcomers and FEPs exiting)
 - Diverse (SES, prior education, background)
- A common exit criterion is the **36th percentile** in English reading/language arts. (Being “on grade level” is the 50th percentile). In other words, ELLs are *defined* by their low achievement level.



- It is not merely unrealistic - it is a mathematical impossibility - for the ELL subgroup to reach full proficiency

(NABE, 2004, p. 3)

[the “treadmill effect”]



- *“Taken together, these changes create incentives for schools to reclassify and move LEP students to mainstream classes as quickly as possible” (Matsudaira, 2004).*

Reauthorizing NCLB – 2007? 2011?



- **Advocates: Small changes need to be made**
- **Opposition: “Measure and punish” is a fundamentally flawed system that needs replacement**
 - Narrowed curriculum (arts, p.e., social studies)
 - Drill and kill test preparation over critical thinking/best practices
 - Standardized tests, designed for English proficient students, are not valid/reliable, yet make high stakes decisions for ELLs
 - Creates a two tier system: remediation for ELL and other groups, with enrichment for privileged students
 - Values subtractive English language acquisition over additive biliteracy (and cultural competence)
 - Demoralizing to dedicated teachers who are not deemed “highly qualified” (e.g., native language speakers like Shoko)
 - Does not address social segregation (70% of ELLs are in 10% of public schools); In effect, schools are being “held accountable” for the demographic profile of their students