

# Seeking Equity for EL-classified Multilingual Learners through Language and Content Integrated Instruction: The Legacy and Tensions of the *Lau Decision*\*

Amanda K. Kibler, Martha Castellón Palacios

## Introduction

This year we celebrate the 50<sup>th</sup> anniversary of a milestone U.S. Supreme Court ruling, *Lau v. Nichols* (1974)<sup>1</sup>, which set the groundwork for equitable learning opportunities for students who were and would be classified as “limited English Proficient” (and who are now referred to as “English learners” at the federal level). The case was filed by parents of Chinese school children in San Francisco, CA who claimed that their children’s educational needs were not being addressed by the school district. Since all instruction was delivered in English and no attempts were made to improve students’ English proficiency, the parents argued that their children were unable to benefit meaningfully from their education. The high court agreed finding that San Francisco schools were in violation of § 601 of the Civil Rights Act of 1964, which bans discrimination based on race, color, or national origin in programs or activities receiving Federal funds. The *Lau* decision in tandem with the Equal Educational Opportunities Act, which was enacted by Congress later the same year, required that all public schools implement remedies to ensure students with “limited English proficiency” could participate meaningfully in their education.<sup>2</sup>

Although educators learn about this landmark case in teacher credential programs and in English Learner authorization coursework, it is easy to forget the significance of the high court’s decision—that providing multilingual learners of English with the same facilities, textbooks, teachers, and curriculum as students who are English proficient does not guarantee meaningful participation in the educational program. And yet, despite five decades of attempts to make classroom experiences meaningful for this significant subgroup, we still find ourselves struggling to design educational programs that succeed in developing students’ academic proficiency while at the same time meeting their language learning needs.

Why might this still be the case? From a policy perspective, the *Lau* decision only required “appropriate action to overcome language barriers” but did not specify a particular educational

<sup>1</sup> *Lau v. Nichols*, United States Supreme Court 414 U.S. 563 (1974).

<sup>2</sup> “Celebrating the 50th Anniversary of *Lau v. Nichols*” *Office of Public Affairs, U.S. Department of Justice*. February 4, 2024. <https://www.justice.gov/opa/blog/celebrating-50th-anniversary-lau-v-nichols>

approach or program. A subsequent court case, *Castañeda v. Pickard* (1981)<sup>3</sup>, attempted to define the criteria by which a program might be considered, but the lack of original specificity in the *Lau* decision “has plagued efforts to identify the essential components of equity with regard to the education of English learners,” according to language policy experts.<sup>4</sup>

With various degrees of success, educators have sought to solve the dilemma programmatically by offering transitional bilingual education, dual language immersion, or even full English immersion programs. Extensive research has found that students in well-implemented dual language bilingual educational (DLBE) models outperform those in programs taught in English alone,<sup>5</sup> but most English learner (EL)-classified multilingual learners still do not have access to DLBE programs in their home or community languages. Instead, they learn both language and academic content largely through the medium of English. In these English-medium settings, attempts have tended to focus on the integration of language learning strategies into content area instruction (e.g., using instructional approaches such as SIOP and GLAD), with English language development (ELD) instruction that is provided primarily, if not entirely, through separate or pull-out English as a Second Language (ESL) courses.

A practice that has become increasingly common in recent years—language and content integration through various forms of collaboration among general education teachers and ELD teachers—seeks to create learning environments which address the unique needs of EL-classified multilingual learners through content-area instruction. In these settings, such lessons or courses take the place of separate ESL courses, particularly for students at intermediate or more advanced levels of English proficiency but in some cases for even recently arrived students at emerging levels. In this article we describe a research study that we undertook to understand such practices and explore tensions that have emerged as these programs are developed and implemented.

## Language and Content Integrated Instruction through Collaboration

One of the greatest challenges in English-medium schools that enroll EL-classified multilingual learners is the shortage of secondary teachers who are well prepared and certified to teach content area courses (or content area lessons within general education classrooms in elementary schools) and English language development simultaneously. A similarly vexing

<sup>3</sup> *Castaneda v. Pickard*, United States Court of Appeals for the Fifth Circuit, 648 F.2d 989 (1981).

<sup>4</sup> Jimenez-Castellanos, Oscar. Eugene Garcia, & Claudia Rodriguez-Mojica. “Editorial Introduction: Revisiting and (Re)imagining *Castañeda v. Pickard* Through Critical Lenses.” *Language Policy* 21 (2022): 295–303.

<sup>5</sup> Collier, Virginia P., and Wayne P. Thomas. “Validating the Power of Bilingual Schooling: Thirty-Two Years of Large-Scale, Longitudinal Research.” *Annual Review of Applied Linguistics* 37 (2017): 203–17.

problem exists in terms of the existence of standalone ESL classes that are not tied to core content. At the elementary level, these “pull-out” classes are challenging because students are removed from their classroom and miss the lessons happening there. At the secondary level, standalone ESL classes are problematic because they often only count for elective (rather than required-for-graduation) credit, and taking ESL courses usually means that students miss out on taking other courses they may need or want to take.

One way around these issues is through implementation of language and content integrated instruction that involves collaboration among ELD and content teachers. In our work with districts, we have found that this model is often implemented in one or more of the following ways:

- Co-teaching, in which a pair of two teachers work together side-by-side to plan and teach lessons. One teacher is a content area specialist with a single subject credential (or at the elementary level, with a general education credential that lets them teach all subjects); the other is a language specialist who is certified to teach EL-classified multilingual learners.
- Consulting, in which a language specialist who is certified to teach EL-classified multilingual learners consults with students directly in a content class (“direct consultation”) and/or with a content teacher as they co-plan learning targets, resources, and strategies for the content teacher to implement in their lessons, which are typically delivered without the language specialist present (“indirect consultation”).
- Dually endorsed teaching, in which a single teacher is certified in a content area (or general education) and in ELD and provides content instruction on their own, although they often collaborate with language specialists and content colleagues.

To prevent the linguistic segregation that often takes place in schools with large numbers of EL-classified multilingual learners, students in such classrooms are often a mix of fluent bilingual or monolingual English-speakers and EL-classified multilingual learners. In this sense, language and content integrated courses can also integrate peers of different language backgrounds and proficiencies together.

Our own research shows that these options may be relatively common nationwide: in a survey we conducted in May 2021, over 70% of the responding districts indicated that they used some form of teacher collaboration to provide integrated language and content instruction for

their secondary (grades 6-12) EL-classified multilingual learners.<sup>6</sup> Professional guidance on these models has grown significantly in the last 20 years, and recently districts themselves have started to provide guidance for each other in defining, developing, and improving these language and content integrated instruction through collaboration.<sup>7</sup> However, the design and implementation of these programs has not been explored extensively by researchers, especially when considering district-level policy and implementation.

## What We Did

We were interested in learning more about what happens when districts develop these language and content integrated programs through collaboration and implement them in their secondary schools. Any policy reform that addresses civil rights and equity issues for minoritized populations will surface ideological alliances and divisions, and such reforms are even more complex when they cross taken-for-granted institutional boundaries. For example, we studied secondary schools, where requiring collaboration among teachers represented a fundamental change to many educators' daily professional practices, and it often forced them to cross departmental and content-area boundaries for the first time.

Given such a context, how did district-level policies on language and content integrated instruction shape instructional opportunities for EL-classified multilingual learners at the school level? How did school administrators respond to and navigate the implementation of these policies? We hoped that the answers to these questions could help us better understand the potential of these programs for addressing the long-standing difficulties our educational system has experienced in trying to respond to the Lau decision.

To that end, in 2022 and 2023 we conducted interviews and observations across three different school districts: one (Mountain View School District, a pseudonym) of whom had a long-standing language and content integrated model (using co-teaching in particular), and two of whom had recently begun implementation of their integrated models, using a combination of co-teaching, consultation, and dually-endorsed teachers (Woodside and Deerfield School Districts, also pseudonyms). After more than 50 interviews with administrators and teachers and 80 hours of classroom observations, what did we learn?

<sup>6</sup> Kibler, Amanda K., Lesser, Virginia, Castellón Palacios, Martha, Sandstead, Martha, Wiger, Sara, Woodruff, Karrie S., & Jaclyn B. Bovee, J.B. "A national survey of collaborative practices for secondary multilingual learners designated as secondary English learners." (early view). *TESOL Quarterly*.

<sup>7</sup> Footnote to the Oregon Integrated ELD Guide when available (ADD LATER).

## What We Learned

Policies and their length of implementation were different in each district, but in each site, we saw district leaders carefully weighing options and making thoughtful decisions. Yet, none of the districts found “the solution” for successful implementation of language and content integrated program models. Such a reality is hardly surprising, given the complexity of these models and the challenges of addressing Lau’s mandate. What we did notice, however, was far more interesting: we found common underlying tensions across these three different districts that were strikingly similar.

The first set of tensions we encountered – focused on districts’ inevitably limited financial resources – are probably the most familiar to educators. A *truly* integrated model would imply that every content teacher in a secondary school is ready and able to provide high-quality instruction for EL-classified multilingual learners at all proficiency levels, but linguistically and culturally responsive educators remain in short supply in U.S. schools. As a result, districts had to make difficult choices about where to place their financial resources, typically in the form of ELD-certified teachers. Almost without exception, schools felt that they needed more district-funded staffing to fully implement an integrated language and content instruction model, including more planning time within the workday for teacher collaboration than they were currently allocated.

Such financial compromises were particularly fraught because newly arrived immigrant students often enroll after initial staffing decisions have been made. Requests for additional resources for these students (e.g., separate “newcomer” ELD courses, or funding for additional sections of those courses) were reasonable, but districts had to balance these demands against those needed to support the ELD-certified teachers needed to implement school-wide integrated language and content instruction for all EL-classified multilingual learners. Such was the case even in Mountain View School District, which had a long-standing integrated ELD model. These financial tensions suggest that although some issues in implementing integrated language and content instruction models can be solved through additional funding, such as hiring teachers to reduce class size, limited instructional capacity clearly burdens districts’ financial systems. In other words, without having *all* teachers with the capacity to effectively educate their EL-classified multilingual learners, districts are forced to make difficult choices that at least to some extent rely upon a limited supply ELD-certified teachers to compensate for those content or general education teachers who cannot not adequately educate the students in their classrooms.

The second group of tensions we found could be best described as “trade-offs”: situations in which districts and schools faced competing priorities and realities. One clear example was

district policies about how to place students in integrated language and content courses. All three districts set a maximum for the percentage of EL-classified multilingual learners to be “clustered” in one class, ranging between 40-50% depending on the district. The integration of EL- and non-EL-classified peers within integrated language and content classes is not mandated by Lau, but districts described a commitment to creating linguistically heterogeneous classrooms where EL-classified multilingual learners were not segregated by language proficiency and where they had access to a range of language users, including fluent bilingual and English monolingual students. Schools took this guidance seriously when scheduling students into integrated language and content courses, and overall tried to stay within these guidelines. However, what schools found is that the less students were clustered – in other words, the more they were dispersed into the school overall – the harder the ELD teachers’ jobs became: they had more classrooms and teachers to serve, more complex schedules, and less time to meet with each individual content teacher. On the other hand, grouping students together in a very limited number of classrooms made teacher collaboration easier but could not provide EL-classified multilingual learners with sufficient access to bilingual or fluent-English peers. Educators were genuinely committed to reducing segregated environments for multilingual learners, but they also wanted to ensure students were receiving linguistically responsive instruction. In the districts classrooms we observed, we noted that difficult teacher schedules were far more common than highly segregated classrooms, although there was variation, as we describe below.

Another trade-off was that serving EL-classified multilingual learners was still fundamentally “optional” for content teachers: given student clustering, it was never the case that *all* content teachers had a language specialist as a co-teacher or consultant in a given year. Even when it was an expectation (particularly in the district with the long-standing model) that all content teachers would collaborate at some point in their career, not all were doing so at a given time, and not all were enthusiastic volunteers. District and school administrators recognized the value of bringing new content teachers into language and content integrated course collaboration over time, however: they saw it as an important form of job-embedded professional development, and one that could build schools’ overall instructional capacity. School administrators had choices in terms of which content teachers were assigned to serve EL-classified multilingual learners, and they saw a trade-off between prioritizing this expectation to collaborate, with its goal of building school-wide instructional capacity, and placing students with content teachers who genuinely welcomed them (and language specialists) into their classrooms. One school administrator we interviewed, for example, has her language specialists rotate to new content colleagues every two to five years to help build stronger school-wide capacity. At times this can be challenging, however. She explained, “There are times where I hesitate...is that really what’s best for the kids if I put a specialist in with the teacher who doesn’t want them there anyway? I also don’t believe we can opt out...”

So then, how do I, as an administrator, support that?" She described needing to actively mediate between teachers in some such instances but explained that the school was making steady progress in this regard overall. Such examples suggest that school administrators are at the forefront of many trade-offs related to language and content integrated instruction: in making decisions about student placements and teaching assignments, they play a key role in deciding how access, integration, segregation, and shared responsibility for EL-classified multilingual learners will be addressed at their school sites.

A final set of take-aways relates to what we saw as tensions of flexibility. All three districts intentionally provided some measure of leeway to schools in terms of how they implemented their language and content integrated model. For example, in Mountain View School District, their policy required co-teaching to be used in all schools and by all teachers, but the two districts newer to language and content integrated program models (Woodside and Deerfield School Districts) allowed for co-teaching, consulting, and dual-endorsed teachers as options for serving students, which were decided by administrators and teachers at the school level. District leaders in the newer programs felt that co-teaching would be preferable but realized that it was a more resource- and time-intensive option, and so purposefully allowed schools to have consultation and dually endorsed teaching as possibilities. What we found in our interviews and observations at the school level was that when offered the three options, many administrators and teachers tended to rely on consultation, which was easier to implement with current staffing levels and schedules. As a result, Woodside and Deerfield district administrators' preferred option (co-teaching) was not fully implemented, at least in part because it was not required. We also saw that when school administrators in these two districts were not knowledgeable about language and content integrated instruction, they tended to rely upon their ELD teachers to help create their school model, which likely led to more informed programmatic decision-making but nonetheless added to these teachers' work responsibilities.

In efforts to allow schools to respond to their local contexts and needs, districts for the most part did not dictate specific staffing or scheduling arrangements, another area in which there was purposeful leeway. As a result, there was quite a bit of school-level variation in the number of content teachers with whom a language specialist was scheduled to collaborate: between one and eight teachers, depending on the specifics of the co-teaching or consultation arrangements. This leeway allowed for demographic and local differences to be accounted for, but it led to differences in scheduling and teacher pairing practices. We saw differences within districts and even within schools, meaning that some language specialists had very different workloads from each other. What each could be expected to accomplish in their workday was therefore also different in each setting.

An additional tension of flexibility related to the subject areas in which language and content integrated instruction should occur. The three districts varied in terms of policies and guidance for which content areas should be the focus of teacher collaboration. In Woodside School District, the district office preferred that teachers avoid collaboration in English language arts (ELA), largely because the special education program focused their co-teaching and inclusion efforts in that content area. Beyond that, however, they left the specific decisions up to schools and teachers. In Woodside, the district stated a preference for collaboration to focus on ELA because of the alignment between ELA and English language proficiency standards in place, but they also let school administrators and teachers make the decision on content areas. Deerfield was the only district to make the content area required, and they selected ELA for the same reasons Woodside did. Schools tended to abide by these district policies. In those districts with more flexibility, teachers tended to work in subject areas where they had some prior knowledge or experience. In the district in which ELA was required (Deerfield), there was both agreement and disagreement at the school and teacher level with this choice. This flexibility suggests an interesting tension, in that offering content-area flexibility might motivate ELD teachers and help them thrive in collaborations within their areas of expertise, but it adds to the complexity of systems of support. In this sense, particularly for districts newer to these programs, curricular resources and professional learning that teachers needed were easier to provide in a single content area, but focusing in this way might have limited teachers' ability to draw from their own expertise.

A final area of district policy flexibility that was prominent in each district and in the experiences of schools and teachers was guidance provided around the allocation of co-planning time for collaborating teachers that was specifically designated just for their work together to serve multilingual learners, rather than general planning or collaboration time allocated to all teachers. In this area, we saw differences between Mountain View and the other two districts. Mountain View was unique in requiring shared collaboration time for co-planning. The amount was minimal, however: just 45 minutes per teacher pair each week. Woodside and Deerfield suggested rather than required designated co-planning time, but they offered paid extended contract time for teachers who wished to plan outside the workday.

So how were these policies implemented at the school level? In Mountain View, school administrators and teachers reported staying true to the 45 minutes per week mandate, and in cases in which teachers did not have a shared planning period, they tended to find flexible ways to work together, like during grade-level meetings, professional learning team meetings, or other collaboration times. In Woodside, there was variation in shared planning time, with some pairs having no designated shared time but others having up to 90 minutes per day. In Deerfield, shared planning times were relatively rare for many reasons, several of which were outside the control of district or school administrators. In talking with teachers, we noticed

that there were differences in teachers' willingness to find additional times to collaborate outside of designated shared planning periods. In Mountain View, teachers often reported seeking additional times to collaborate either during or after the school day. In Woodside, some teachers reported this willingness, while others did not. In Deerfield, relatively few teachers reported willingness to find additional times, due at least in part to other stressors. This suggests that there are tensions for district and school administrators in "expecting" or strongly suggesting collaboration outside of designated times provided during the school day. We did see, however, that when teachers were required to have some co-planning time through district policy, however minimal, overall they tended to seek more time to work together rather than to resist collaboration.

Such issues of leeway and flexibility are not unique to the implementation of language and content integrated instruction, but they raise particularly important issues when considering the potential for such programs to meet their obligations to EL-classified multilingual learners.

### What Are the Implications?

The tensions that have been described here tell us much about the real challenges of meeting the promise of the Lau decision. Understanding these tensions clearly is an important first step for any district and school interested in developing or improving programs to serve their secondary EL-classified multilingual learners through language and content integrated instruction. To a large extent, addressing these tensions necessitates the clarification of values in each setting by the educators in that setting. For example, district and school leaders could ask themselves the following questions:

- How should we balance the allocation of financial resources to support as many EL-certified teachers (and as many EL-classified multilingual learners) as possible, while we also ensure that we take care of the most vulnerable students—those who are recently arrived and have very emergent English—with stand-alone ELD classes dedicated to building their general English language and literacy?
- How should we balance values of peer integration and those of teacher collaboration? Should we place groups of EL-classified multilingual learners into small cohorts where they can be surrounded by fluent bilingual and monolingual English speakers in their language and content integrated classes, or is it more important to place groups of EL-classified students into larger cohorts in order to increase the amount of time an ELD teacher can spend with a given content class and teacher?

- To what extent do we value language and content integrated instruction as a shared responsibility for all teachers? Is it better to make it mandatory for all content teachers to collaborate with a language specialist at some point in their career, or should this be voluntary, such that only those content teachers who want to collaborate be assigned to partnerships with language specialists? What level of school-wide instructional capacity for serving EL-classified multilingual learners is needed to ensure equity for these students?
- How should we address flexibility, both within and across schools? Is it more important to prioritize consistency in program implementation across school sites to ensure students receive comparable opportunities, or should we encourage leeway that can help individual schools and teachers respond to their unique contexts? In the latter context, what are our non-negotiables?
- How should these priorities change over time as programs develop and student and teacher populations evolve?

These questions do not have simple answers: they demand that schools and districts take a stand and act according to their values. In so doing they will be defining what they believe is fair and equitable for EL-classified multilingual learners and attract like-minded educators. The beauty and danger of the Lau decision is its flexibility. At a certain point, districts schools must answer these challenging questions and fully invest in their chosen approach to providing equitable services. Simply continuing educational programs despite evidence of unequal outcomes is unacceptable, but for those districts that choose to engage in language and content instructional models, neither can they fail to articulate and embrace honest discussions around the tensions of this model.