

## State Language Policy and Immigrant Incorporation in Local Schools

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Draft: February 19, 2010

We examine the extent to which language policies enacted by state governments constrain or facilitate school-level practices with regard to staffing, instruction, and outreach for students who are English language learners (ELL) and their families. We hypothesize that state policies operate instrumentally, through legislation that reallocates resources, imposes new requirements, or creates incentives for school language accommodations. In addition, drawing on insights from social construction theory, we recognize that these policies (and political debates) also send symbolic messages to governmental actors and the public at large, thereby shaping the ways in which schools deliver language and other educational services to immigrant and ELL constituents. Using data from four waves of the *Schools and Staffing Surveys* (National Center for Educational Statistics, 1993-2007) we examine the school-level response—specifically, whether they adopt or resist—to changes in state language policies (i.e. English Only laws, regulations and guidance concerning instructional strategies). We find evidence of school-level adoption of state policy messages, particularly when they facilitate greater instructional accommodation. Yet, we also identify school-level responses that resist the state policies, particularly English Only laws seeking to reduce school-level accommodation. Further, these effects are more pronounced in schools with more ELL students—suggesting that the resistance is consistent with a bureaucratic control model of decision-making in which school officials draw on their expertise and priorities when determining which language accommodations to provide to ELLs. This model of decision-making stands in contrast to the political control model, in which school-level bureaucrats allow elected officials to determine the appropriate level of language accommodations schools should provide.

## Introduction

Lack of English proficiency is a persistent challenge for America's schools. As immigrant populations have swelled in recent decades, more and more children with limited English proficiency (LEP) are enrolling in American schools (McDonnell and Hill 1993). Today immigrants represent around 20 percent of children in elementary and secondary schools (Camarota 2007) and students with limited English proficiency, labeled as English Language Learners (ELLs), number around 5 million (roughly 10 percent of public school students) (Jostin 2009). Indeed, from 1995 to 2006 the enrollment of ELL students grew 57 percent, far outpacing total enrollment, which grew by only 4 percent over the same time period (Terrazas and Fix 2009). As a result of these demographic changes, many schools are faced with increasing demands for teachers who have been trained to work with English language learners and children from diverse cultural backgrounds. In particular, adjustments in curriculum, parent outreach, and school organization are required to meet the increasing demands that immigrant populations place on the school system, all of which require additional resources and administrative effort.

How schools respond to this challenge matters. Schools provide a primary venue for interaction between new immigrants and the U.S. government. As with all individual-government interactions, these exchanges convey information—in this case, about how Americans perceive immigrant groups, including the degree to which Americans value or fear cultural diversity in this country, and what immigrants can and should expect from their government (Newton 2005; Schneider and Ingram 1997; Soss 2000). In this way, school-level policies and practices regarding such things as language instruction, curriculum, staffing, and parent outreach play a key role in determining both educational outcomes for immigrant and ELL students and the process of immigrant incorporation for these children and their families.

In the American federal system, however, these school-level practices are not determined by school-level officials alone. Instead, local schools exist in an inter-governmental political context that continues to play an increasingly larger role in shaping the form and extent of language accommodations schools provide, as well as the more general ways in which classroom teaching and learning takes place (Jostin 2009). In this study, we examine the influence of a key set of actors structuring local school responses: state governments. Specifically, we ask whether state-level language policies constrain or facilitate school-level practices with regard to staffing, instruction, and outreach for ELL students and families. Further, we explore the form school-level responses take—assessing the ability of school-level bureaucrats to resist state-level policy changes with which they potentially disagree.

To do this, we use data from four waves of the *Schools and Staffing Surveys* (National Center for Educational Statistics, 1993–2007). First, we test the degree to which school-level language accommodation practices respond to changes in state-level language policy. Then, we focus on the meaning of these effects—asking whether failure to adopt or resist state-level policy messages can be interpreted as indication of whether schools serve as loyal agents for state policy or as rogue bureaucrats establishing policy on their own. To do this, we employ two criteria for labeling our findings as evidence of political versus bureaucratic control models of decision-making. First, we define school-level adoption (consistent with the political control model) as schools adopting both the instrumental aspects of state language policy, which require or incentivize changes in practice, but also the symbolic messages regarding the degree to which language accommodation is deemed important. Conversely, school-level resistance should extend beyond resisting these symbolic messages to actually counter-acting the instrumental

instructions embedded in state policies. Additionally, under this conceptualization both adoption and resistance require a conflict between school- and state-level language accommodation preferences—at least in order to apply our findings to the debate over political versus bureaucratic control. We test these requirements by examining the school-policy pairing most likely to elicit differing preferences, specifically the response of high ELL-population schools to state English Only legislation. To lend support to the bureaucratic control model of school decision-making, we would need to see evidence of full resistance (to symbolic and instrumental messages), particularly in those schools opposing state-level efforts to constrain language accommodation.

In fact, our findings confirm that schools often act as responsible agents by implementing state policy messages, even when they are only symbolic and therefore not required to adopt. Yet, we also identified situations in which schools resisted state-level policy messages, particularly the symbolic ones tied in with English Only policies at the state-level. As expected, we found these effects to be more pronounced in high ELL schools, suggesting that this resistance is driven by differences in priorities and preferences between state-level principals and their school-level agents, as well as a bureaucratic control model of decision-making in local schools.

## **Language Policy in the U.S.: Linguistic Assimilation vs. Multiculturalism**

English language learners (ELLs) represent a rapidly growing, culturally and linguistically diverse group in U.S. schools. Although roughly three-quarters are native Spanish speakers, ELLs include students from Native American communities, long-established language minority groups in the U.S., and immigrant parents and families from all over the world (Arias and Morillo-Campbell 2008). In the context of both schooling and education and in American society more generally, language policy has been contentious throughout U.S. history, involving issues of identity, citizenship, and even patriotism. Though the U.S. has never had an official language policy, when Congress has legislated in this domain, it has tended to promote linguistic assimilation and English monolingualism rather than multiculturalism and bilingualism.

### **Foreign Immigration, National Identity, and Linguistic Assimilation**

At the turn of the last century, as the first wave of foreign immigration to the U.S. reached its pinnacle and increasingly began to include southern and eastern Europeans as well as non-Europeans, Congress passed legislation that not only reduced the flow of immigrants, but also made English proficiency a requirement for citizenship. Americans' anxieties about national identity and assimilation heightened during WWI and states responded by passing laws that further promoted English monolingualism. For instance, several states banned the teaching of German, two states made it illegal to use any language other than English in public places or over the telephone (Linton 2004; Piatt 1990), a number of states required school children to take language loyalty oaths, in 1919 Nebraska even went so far as to ban the teaching of any language other than English before ninth grade (Dillard 1985). By the mid-1900s, linguistic assimilation had taken root and the notion that immigrants should assimilate as quickly as possible to English and by the third generation abandon entirely their native languages had become powerfully entrenched (Linton 2004:282).

### **The Civil Rights Movement and Multiculturalism**

In the 1960s, immigration reform and the Civil Rights Movement created a space for minority groups to articulate their ethnic identity and lobby for language policies that promoted linguistic diversity and multiculturalism. In 1967 Congress passed the Bilingual Education Act (BEA), which authorized an unprecedented \$85 million in federal aid for bilingual education. Although the law did not specify any instructional method for ELLs, it embraced ‘transitional’ programs to help children gain proficiency in English before transitioning into regular classrooms rather than full-fledged bilingual education (Linton 2004).

Katz (2004) argues that although the BEA never really promoted bilingual education, it nevertheless paved the way for subsequent laws and court decisions that moved language policy further away from English monolingualism and toward greater linguistic tolerance and diversity. For example, in *Lau v. Nichols* (1974), the Supreme Court required schools to take appropriate action to ensure that ELLs had the basic English skills needed to participate in their instructional programs. Later that year, Congress codified the Court’s decision with the Equal Educational Opportunities Act. In 1980 the Carter Administrator proposed regulations requiring bilingual education, and in 1981 a Federal appeals court in Texas found that the Raymondville Independent School District failed to establish sufficient bilingual education programs and established a three-part assessment for determining how bilingual education programs would be held responsible for meeting the requirements of the Equal Educational Opportunities Act of 1974 (Jostin 2009).<sup>1</sup>

### **Reactions to Multiculturalism and the English Only Movement**

Although actions on the part of federal courts and lawmakers in the 1960s and 1970s strengthened bilingual education in U.S. schools and promoted the use of students’ native languages, the early 1980s brought an outspoken opponent in the form of President Reagan and a growing nativist movement. The perceived emphasis on cultural maintenance rather than learning English led opponents to feel that the BEA and other programs had symbolically repudiated the ‘melting pot’ as the normative ideal in favor of multiculturalism (Citrin et al. 1990: 537).

Beginning with Virginia in 1981, the 1980s and 1990s, witnessed the adoption of Official English or English Only laws across the states. Conservative states and states that allow for the initiative have generally adopted English Only laws, though legal action in several states with substantial language minority populations has defeated some proposals (Preuhs 2005; Tatalovich 1995). Today about half of the states have English Only laws and research suggests that adoption of these laws has been closely tied to resentment toward immigrants and racial/ethnic minorities (Schildkraut 2001). While in most instances these laws do not explicitly restrict immigrant students’ access to educational resources, they constitute exclusionary policies that seek to further isolate, alienate, and stigmatize immigrants and their children.

In addition to the English Only movement, the 1990s also witnessed other important developments restricting multicultural policies and once again embracing the ideology of language assimilation. These policies are best exemplified by the “Save Our State” movement in California, which supported three ballot initiatives over two years. The first of these (Prop 187) barred anyone from attending a public elementary, secondary or postsecondary school who was

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<sup>1</sup> These include: (1) The bilingual education program must be “based on sound educational theory.” (2) The program must be “implemented effectively with resources for personnel, instructional materials, and space.” (3) After a trial period, the program must be proven effective in overcoming language barriers/handicaps [648 F.2d 989 (5th Cir., 1981)].

“reasonably suspected” of being an illegal alien and was passed by California voters in 1994 (Alvarez and Butterfield 1999).<sup>2</sup> That same year, voters approved Prop 209, the “California Civil Rights Initiative,” which sought to end most public affirmative action programs, including affirmative action in college admissions. Finally, in 1998, California voters passed Prop 227, also known as the “English Language Education for Immigrant Children” initiative. This law mandated that 1.38 million ELL students be placed in separate classrooms regardless of age, language background or academic ability, did away with most bilingual education and English language development programs, and brought about reversal in California’s widespread acceptance of the use of home languages in the education of English language learners (Contreras 2002:144). Although California remains the most aggressive user of the initiative process to limit immigrant access to educational resources, since 2000 voters in two other states have passed ballot initiatives ending end bilingual education (Arizona in 2000 and Massachusetts in 2002).

### **NCLB: The End of Bilingual Education in America (for now)?**

The 1994 Improving America’s Schools Act took leap forward by supporting proven effective, innovative bilingual programs, such as dual language immersion and developmental bilingual models, in which the goal was not just English acquisition but bilingual competence. (Katz 2004: 144). However this provision (Title VII) was replaced by Title III of NCLB or the “Language Instruction for Limited English Proficient and Immigrant Students.” This provision endorses the acquisition of English only and excludes any references to bilingual education. As a further symbolic gesture, the Bush administration also renamed the Office of Bilingual Education and Minority Languages Affairs the Office of English Language Acquisition, Language Enhancement and Academic Achievement for LEP Students.

Several other provisions of NCLB have direct implications for language instruction and teacher training and education. First, the Act requires that all teachers who instruct ELL students in both academic content and English language be ‘highly qualified’ in both fields (this means having a Bachelor’s degree, full state certification or licensure and proof that they know each subject they teach; Terrazas and Fix 2009). NCLB’s shift toward English acquisition and subsequent reduction in funding for bilingual teacher training has aggravated the already limited supply of bilingual teachers in the U.S. causing many districts to look outside the U.S. in their efforts to recruit native speakers of the target language from overseas to staff bilingual classrooms (Katz 2004; Terrazas and Fix 2009). Second, under NCLB schools must also report the academic progress of all students—including ELLs. If schools fail to demonstrate that ELL students have made progress in both English and subject matter they may be subject to sanctions that range from staffing reassignments to state takeovers (Terrazas and Fix 2009: 11).

## **Language and Education on the Frontline: What are Schools Doing to Promote Learning and Academic Achievement for ELLs?**

Schools serve as key governmental institutions: operating at the frontline of service-provision for new immigrants. At this frontline, schools respond to the learning needs of the students and parents they serve in the absence of clear state or federal policies and irrespective of

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<sup>2</sup> Opposition groups mobilized against Prop 187, and in 1998, U.S. District Judge Marian Pfaelzer ruled that Prop 187 was “unconstitutional from top to bottom” (Contreras 2002: 143).

the status of those in need (nativity, language, citizenship). These needs are considerable and, according to recent data, growing. Immigrant and ELL students continue to lag behind non-immigrant and non-ELL students in educational attainment (Hernandez and Charney 1998; McPartland 1998) and face higher levels of racial, ethnic, linguistic, and socio-economic segregation today than they did in previous decades (Massey et al. 2009; Orfield 2009). For example, in 2000, six out of seven elementary school ELL students lived in households where no English was spoken (Arias and Morillo-Campbell 2008), and in a recent study, Consentino de Cohen et al. (2005) found that nearly 70 percent of all K–5 ELL students in the U.S. were enrolled in only 10 percent of the nation’s elementary schools.

Despite the growing needs of these students and the increasingly anti-immigrant sentiments in public opinion and state and federal laws, recent research on immigrant bureaucratic incorporation finds that some local schools and districts are not only providing a range of educational services for immigrant and ELL students and their families, but are doing so in new and innovative ways (Jones-Correa 2008; Marrow 2009; Terrazas and Fix 2009). In fact, several studies argue that schools are one of the most responsive institutions when it comes to developing programs and policies to address the needs of immigrants (Marrow 2009; Odem 2008). Three areas in particular have the greatest implications for ELLs and their academic achievement: (1) language instruction, (2) teaching and support staff in the areas of ESL and bilingual education, and (3) outreach to non-English-proficient parents.

When it comes to instruction, there are a variety of methods for teaching ELL students, and schools typically rely on four in particular. While two of these provide little or no instruction in the students’ native languages (English immersion and ESL), the other two use students’ native languages part of the time for both English and subject matter instruction (bilingual and dual-language education). Debates about which method of instruction is most effective are prevalent, but evidence seems to suggest that there may be fewer differences in English language acquisition in the short term. Studies suggest, however, that more extended use of students’ native languages leads to greater cognitive development and higher academic achievement in the long term (Jostin 2009). From the school’s point of view then, offering multiple methods of instruction, including extensive support in students’ native languages, may be the most effective way to accommodate the instructional needs of ELL students.

Obviously, instructional methods are intrinsically linked to the quality and size of the teaching and support staff of the school. And, as noted previously, ESL and bilingual teachers are in increasingly short supply. Schools and districts have employed a broad range of strategies to address teacher shortages in the fields of ESL and bilingual education. Some of these include providing monetary incentives and/or additional training and support for teachers; implementing alternative certification programs; recruiting foreign teachers via the U.S. government’s temporary worker program or binational teacher exchanges; and hiring Teach for America (TFA) teachers (Shah and Marschall 2010; Terrazas and Fix 2009). To be sure, ELL students are likely to enjoy greater success in English acquisition and educational achievement if they attend schools with sufficient numbers of teachers who are qualified and trained to teach English language learners.

Finally, a large body of research links parent involvement in school to a host of educational outcomes, ranging from higher test scores and graduation rates to fewer drop outs and disciplinary problems (see e.g. Henderson and Mapp 2002 for a review of this work). Though less research focuses on immigrant and ELL students and parents, the same general pattern of findings exists (see Boethel 2003; Marschall 2006). For instance, although immigrant

parents tend to be less involved in their children's schooling than non-immigrant parents, research indicates that schools have a number of programs and policies in place that seek to engage them. In fact Kessler-Sklar and Baker's (2000) analysis of 200 school districts in 15 states found that districts with larger percentages of minority and non-English-speaking students had a greater number of policies that involved parents as decision-makers, fostered communication with parents regarding students' academic success, provided links to social services, and explicitly involved a diverse group of parents. While schools do appear to be addressing some of the special needs of immigrant and LEP parents, they may need to provide additional resources to help these parents overcome structural barriers that prevent their participation. For example, by providing translation services, transportation, child care, or greater flexibility in scheduling events, schools might increase participation rates among immigrant and non-English-proficient parents.

### **The Role of State Policy in Facilitating or Constraining School-level Language Accommodation**

Schools do not make language accommodations in isolation. Schools exist within an inter-governmental web of funding, regulations, and reporting requirements that often incentivize, if not direct them, to take particular actions in terms of the amount, nature, and form of language accommodation provided to ELL school children and their parents. Under a tradition model of bureaucratic behavior, school-level practices and procedures are presumed to be responsive to political control exerted by laws and regulations adopted by elected officials or, in some instances, the voters themselves (e.g., under the initiative and referendum process). In this way, schools operate as *agents* that implement the language priorities of *principals* (in this case elected officials, as communicated through their policy choices)—placing schools as key actors in the typical principal-agent relationship.

Yet, as with any principal-agent relationship, the school-level implementation of state policy change is not always guaranteed, automatic, or straightforward. School officials, like other "street-level bureaucrats," operate in a relatively autonomous environment that provides considerable discretion and thus power when it comes to policy implementation (Elmore 1979; Lipsky 1980). Further, elected officials have limited time, resources, and expertise to devote to effectively and efficiently overseeing and managing bureaucratic agents (Friedrich 1940). In fact, an alternative decision-making model, one of bureaucratic control, suggests that school-level agents serve as their own guides, making decisions about language accommodations based on their own expertise, priorities, and values—quite immune from the policy messages sent from state governments. In this paper, we aim to tease apart these competing expectations for school-level response to state-level language policies in two ways. First, by incorporating a broader range of policy messages (both instrumental and symbolic) we are able to distinguish among weaker and stronger forms of school-level adoption versus resistance. Second, we establish expectations for the types of schools most likely to resist state-level efforts to constrain language accommodation and examine the response of these schools—providing more insight into whether school-level adoption versus resistance can actually be interpreted as evidence of the political control versus bureaucratic control model of decision-making. This second step also helps identify where power to set language accommodation policies is actually held vis-à-vis the state versus the schools.

### **Instrumental vs. Symbolic Aspects of State Policy**

The process by which state policies shape school-level language accommodation decisions is two-fold. First, public policies relay instrumental messages—calling on schools to increase or decrease their language accommodations through changes in funding, curriculum requirements, teacher certifications, etc. This is the primary pathway of influence considered in most research on principal-agent relationships. However, these specific instructions are not all that public policies convey. Additionally, language policies send symbolic messages that convey information about who and what is most important in a society, as well as signaling governmental priorities for which constituencies schools should serve and which they should ignore or punish (Schneider and Ingram 1997; 2005). Like all public policies, language policies promote a particular social construction of groups, such as immigrants, which once codified in the policy, takes on the legitimacy and power of the state. Not surprisingly, the social construction reinforced through policy tends to gain broader acceptance and to persist over time through an institutionalization of these symbolic messages (Pierson 2000; Schneider and Ingram 2005). Through this process, public policies serve as powerful forces institutionalizing particular policy approaches and reinforcing socially constructed notions of which groups deserve governmental responsiveness and which do not.

The symbolic messages conveyed by public policies are particularly critical for the social construction of immigrants in American society. Newton (2005) emphasizes how susceptible immigrants are to elite social-constructions—as deserving or undeserving of governmental accommodation and assistance. Due to their legal status as non-citizens, many immigrants are limited in the demands they can place on government, as well as in their ability to counteract negative portrayals by politicians seeking a popular agenda. So it is not surprising that immigrants have historically been portrayed both positively, as the founders of our country, and negatively, as harmful to citizens' well-being (Newton 2005). And currently, the social construction of immigrants remains contested; such constructs are inherently unstable and vulnerable to shifts in political and policy discourse that re-define the “citizen ideal,” as well as drawing distinctions among those deserving to live in the United States (Newton 2005; Schneider and Ingram 2005).

### **School-level Response: Adopt or Resist?**

Due to the importance of both instrumental and symbolic policy message, we are interested in school-level responses to both types of messages. Considering schools in the principal-agent relationship, a policy conveying a negative social construction of immigrants (e.g., an English Only law) would likely lead the agent (the school) to restrict its language accommodation practices. This is most likely to occur as a result of instrumental messages, such as a reduction in funding for ELL teachers. But, less directly, the embedded symbolic messages may also serve to shift the orientation of the school away from language accommodation. This effect was reported following adoption of state-level English Only laws in the 1990s, which were said to produce a more hostile environment for school-level language accommodation (Arias and Morillo-Campbell 2008). In this study, we distinguish between a weaker form of school-level adoption in which only the instrumental aspects of the policy are implemented, in essence following the letter of the law, and a stronger form in which school-level actors adopt both the instrumental and symbolic aspects of state-policy. This latter provides stronger evidence that the school-level decision to adopt state policy stems from an actual acceptance of the priorities and values defined by state-level elected officials (or the public through referendum/initiative).

[Figure 1 Here]

As shown in Figure 1, we also distinguish between a weaker form of school-level resistance in which schools refuse to take on the symbolic messages of policies versus a form in which schools take action to counter-act both instrumental and symbolic messages sent to them by state-level principals. Although the principal-agent model has only occasionally been applied to study the effects of political actors on local school agents (see e.g., Meier and O'Toole 2006), a review of several prominent court cases and laws illustrate the ability of school-level actors to resist federal- or state-level policy directives. For example, after the challenges in implementing school desegregation in the wake of the *Brown v. Board of Education* decision, Congress was more successful in eliciting compliance after the 1965 Elementary and Secondary School Act tied substantial federal assistance to compliance with the *Brown* decision. However, even with these monetary rewards playing an important role in getting local schools to comply with the desegregation order, as Rosenberg (1991) details, the widespread opposition to desegregation severely constrained the Court's ability to politically control local school agents in the South.

### **Interpreting School-level Adoption or Resistance**

It is tempting to interpret strong adoption of both instrumental and symbolic policy messages as evidence of the political control model, in which schools take their cues from elected-officials and other external actors. Similarly, we could simply assume that strong resistance (to both symbolic and instrumental messages) would confirm the accuracy of a bureaucratic control model of decision-making in which professionalism and the characteristics of local context in which bureaucratic agents operate in order to understand bureaucratic behavior and variation in policy implementation across local units. However, these conclusions rest on incorrect assumptions about the relationship between political and bureaucratic actor: specifically that the preferences and goals of politicians and bureaucrats are always at odds. Indeed, Meier and O'Toole (2006) find that when bureaucratic interests are controlled, what appears to be political control over local school agents is actually more consistent with a model of goal consensus wherein bureaucratic action is simply consistent with the policy directives of higher level political agents. Therefore, we cannot simply assume that (even strong) adoption of compliance with state policy confirms the accuracy of the political model as well as the primacy of elected officials in setting school policy. Nor can we assume that (even strong) resistance is evidence of the bureaucratic control model at work, particularly when implementation may rest on schools possessing enough capacity to make the necessary changes.

In this study, we employ two criteria for interpreting our findings as evidence of political versus bureaucratic control models of decision-making. In order to lend support to the model of political control in the area of language accommodation, we will need to find two things to be true. First, we would expect schools to adopt both the instrumental and symbolic messages sent by state policy (strong adoption form in Figure 1). Second, we could expect to find this even in schools most likely to oppose state-level efforts to constrain language adoption. Conversely, to lend support to the bureaucratic control model of school decision-making, we would need to see evidence of full resistance (to symbolic and instrumental messages), particularly in those schools opposing state-level efforts to constrain language accommodation.

In order to make this distinction among schools, we focus on the proportion ELL students in local schools, since it represents perhaps the strongest measure of language accommodation

need. Research has found that contextual factors often play an important role in shaping policy implementation. For example, in her study of intrastate differences in Medicaid spending and participation, Weissert (1994) found that organizational environment, particularly the office director's goals and relationship to the community, as well as community values, support and cohesiveness played a key role in the culture of service giving and thus intrastate spending and participation patterns. More recent work by Jones-Correa (2005, 2008), Marrow (2009), and Lewis and Ramakrishan (2007) builds on this framework to develop a model of bureaucratic incorporation of new groups—immigrants in particular. These authors argue that under certain circumstances, administrators (acting out of a sense of mission, professional norms, or personal ethos) may create de facto policies that advance the interests of groups who are otherwise marginalized by local politics and affairs. Most relevant for the present analysis is Marrow's 2009 study of Hispanic newcomers in two rural North Carolina counties. She found that local educational bureaucrats' beliefs about fairness and appropriate action toward their clients led the bureaucrats to view themselves as advocates for these clients, rather than the system. This led school administrators and teachers to sometimes "ignore, stretch, bend, and if need be, break restrictive government policies in order to provide 'more-than-routine' services for newcomer clients" (759). For example, in both of the rural counties Marrow studied, districts had hired bilingual/ESL staff despite substantial costs and had established policies to encourage Latino parent involvement in their children's education. Similarly, in this study, we assume that school officials facing more extreme need for ELL services will be more committed to providing language accommodations and thus less likely to implement state-level language laws mandating English only provisions. In other words, the size of the ELL population will shape the gap in agreement between state-level English Only laws and the school-level bureaucrats charged with implementing its instrumental and/or symbolic messages in their schools.

## Methodology

We test these expectations using data on school-level language accommodation practices gathered as part of the federal Schools and Staffing Survey (SASS) during four school years: 1993–1994, 1999–2000, 2003–2004, and 2007–2008. This time period coincides with changes in state-level language policies; both the enactment of English Only laws and education-specific provisions related to instruction, parent outreach, testing, and so forth. In the following sections we explain each data set, and then describe our analytic strategy for modeling school-level response to state policy changes.

### State Language Policies, 1995–2007

Data on state language policies were gathered from the state policy database compiled by The Education Commission of the States<sup>3</sup> (ECS). Drawing on a range of data sources, primarily *Lexis-Nexis* and *Westlaw* legislation tracking services, ECS tracks the introduction of all bills with the potential to affect education practice. This includes two categories of bills related to language policy: English Only laws and Bilingual/ESL education. We selected all the enacted laws in either category beginning in 1995 and continuing until September 2007. This allowed us to capture all but the first year of state language policy change during the three time periods

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<sup>3</sup> Education Commission of the States, Recent State Policies/Activities, Bilingual/ESL, <http://ecs.org/ecs/ecscat.nsf/WebTopicView?OpenView&count=-1&RestrictToCategory=Bilingual/ESL>

between the four waves of school-level data collection (1994–1999, 2000–2003, 2004–2007).<sup>4</sup> These enacted laws include legislation signed by the Governor, legislation that became law without the Governor’s signature, rules changes, and laws passed by referendum/initiative. Excluded are those bills that had not been passed by the legislature or the voters, as well as five bills with insufficient documentation for coding their contents.<sup>5</sup> The set of coded language laws totaled 102, from 33 states. These included 85 laws that made movement toward language accommodation (pro-LA laws) and 17 laws that moved away from this goal (anti-LA laws). The number, timing, and geographic distribution of each type of law is depicted in Figures 2–4.

[Figures 2-4 Here]

Since we wished to distinguish among different types of language laws, we divided each law into provisional categories: *English Only*, *Instruction*, *Parent Outreach*, and *Other Provisions*. Each of these laws was coded on each provision, using a scale ranging from -2 (strong anti-accommodation) to 2 (strong pro-accommodation) for its intended impact on language accommodation for English language learners. The categories represent the policy areas directly addressed by each law. If a law did not address a certain provision, that provision was given a code of 0 for that law. Because it is possible for one law to include multiple provisions, the sample includes 128 coded provisions. The distribution of these provisions is presented in Table 1 below.

[Table 1 about here]

The first category, *English Only*, was further divided into those English-Only provisions that directly affect education and those that have broader implications. During the time period, several states enacted policies that established English as the official language of the state, requiring that all state documents be written in English and that all state affairs be conducted in English. Broadly speaking, public school instruction is considered an activity of the state; however, some laws explicitly exclude classroom instruction from the English-only requirement. These laws would be given a -2 for the *English-Only Exempts Education* category and a 0 for the *English-Only Includes Education* category. Conversely, some laws, for example Idaho’s S.B. 1172, establish English as the official language of the state—stating explicitly that all public school instruction must be conducted in English. These laws received a -2 in for the *English-Only Includes Education* category and a 0 for the other. In total, there were 10 English-Only laws: seven with an education exemption and three that included education in their purview.

The state language laws also addressed a number of other categories; most prominent among these were provisions addressing *Instructional Practice*. Laws that dealt with classroom instruction were given a code based on the impact that the policy would have on accommodating non-English-speaking students in the classroom. Policies that allow for native-language instruction (bilingual/dual-language) during the school day were given a code of 1 or 2, depending on the strength of the law’s incentive/mandate. Additionally, policies that define and

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<sup>4</sup> We would have extended the time series further back; however, 1995 was the earliest year in the ECS dataset.

<sup>5</sup> Four passed laws that fell within the established timeframe were excluded from the sample because the provided bill summaries were not sufficient to determine their effects on language accommodation for non-English-speaking students and because the full text of the bills was not accessible. These laws were from California, Connecticut, Florida, and Washington. A fifth law from Oklahoma was excluded because it dealt solely with the prohibition of recognizing Ebonics as language.

expand English as a second language (ESL) curriculum were coded positively as language accommodation laws, typically given a code of 1. Policies that prohibit native-language instruction or limit bilingual/dual-language programs were given a code of -1 or -2 depending on the strength of that prohibition. The *English-Only Includes Education* laws, such as S.B. 1172 mentioned above, would also be given a -2 in the Instructional Practice category, as they directly impact the language of classroom instruction. Conversely, provisions that encourage the expansion of bilingual or dual-language programs, such as those enacted in Texas in 2001, were given a code of 2. Laws that establish classroom standards or teacher training requirements for ESL instruction were given a code of 1. During the time period, there were 34 laws coded for the instruction provision. Most of these (27) were deemed movements toward greater language accommodations, while seven were coded -1 or -2 because each represents anti-language accommodation policy changes.

Another category of language laws addressed *Outreach to Parents*. Although none of the laws addressed outreach exclusively, nine of them included outreach to parents as one of the policy provisions. Parent outreach provisions that were given a positive value typically required that the school district communicate with parents in the parents' native language. Outreach provisions with a negative value represent policies that stipulated that the school district communicate with parents exclusively in English, regardless of the parents' native language. Only 1 of the 9 parent outreach provisions was given a negative value.

The final category, *Other Language Provisions*, includes any other provisions for the funding of school districts and state programs, school district compliance requirements, and teacher certification requirements related to language issues. The majority of the provisions (65) fall into this category, and over 92 percent have a positive value for language accommodation, as they represent a general trend toward addressing the educational needs of English language learners. Provisions with negative codes typically represent laws that increase funding or provide grants for English-Only instructional programs, while decreasing or eliminating funding for bilingual programs. These measures were taken in both California and Idaho in 2006.

In order to include these coded laws in the models predicting school-level response, we created a cumulative change score for each type of provision in each state. We treated the first wave of school-level SASS data as a baseline, coding each language law provision with a 0 (since no change from this baseline year had as yet occurred). We then created a summed score for the coded provisions up to August 1999 for use in predicting school responses in the 1999–2000 SASS data. To these values we then added the codes for each provision through August 2003 for use with the 2003–2004 SASS data. And finally, we used all the coded provisions for each state to predict state language accommodation practices in the 2007–2008 SASS data. Since states might have moved both forward and backward in language accommodation policy during the time period, these changes are not always in the same direction. To illustrate the general trends (or lack thereof) across the states, in Figure 5 we present the mean value for these cumulative change scores for each of the provision codes. Note that for ease of interpretation, we reverse-coded the two English-Only measures so that higher values indicate that stronger English-Only laws were enacted. We retained the coding for the other three measures, so that an increase on each indicates movement toward greater language accommodations.

[Figure 5 about here]

### **SASS Data on School-level Language Accommodation**

The state language policy data was merged with the NCES Schools and Staffing data, which are national surveys administered roughly every four years to a representative sample of all U.S. elementary and secondary schools. We used these data to construct all school-level variables, including our dependent variables. Note that since this study examines how state language policies affect school-level policies and practices for ELLs, we restricted our analyses to only on those schools that reported having at least some (>0) ELL students. This selection rule yielded a sample of nearly 8,000 schools across the four SASS waves, which span the period 1993/94-2007/08.

For this study, we rely on three dependent variables to measure each of the areas of language accommodation discussed previously: (1) language instruction, (2) the number of full-time equivalent (FTE) teacher/support staff in ESL/bilingual education, and (3) outreach to LEP parents. *Language instruction* is an additive index that combines two questions about how ELL students are instructed. The first asked school officials whether their school had any instruction specifically designed to address the needs of ELL students (1=yes; 0 otherwise), while the second asked if LEP students were provided instruction to maintain fluency in their native language (1=yes; 0 otherwise). The *Teacher/support staff in ESL/bilingual education* variable was constructed by dividing the total number bilingual/ESL aides (full- and part-time) by the total number of staff across all staff categories included in the survey. Finally, *Outreach to LEP parents* is an additive index constructed from two questions that asked whether the school provided interpreters for LEP parents at meetings or parent-teacher conferences (1=yes; 0 otherwise) and translations of printed materials, such as newsletters, school notices, or school signs (1=yes; 0 otherwise).

Table 2 reports summary statistics for the individual items and the two indexes we constructed for each of the survey waves in which these questions were asked. Note that the instruction questions were asked in all but the most recent survey (1993/94-2003/04), while the staffing and parent outreach questions were asked in the three most recent surveys (1999/00-2007/08). Because these measures are not perfectly overlapping across the SASS panels, our model for each of the dependent variables was estimated with only three of the four panel years.

[Table 2 about here]

As these data show, whereas ELL-focused staff make up a small proportion of overall staff on average, schools overwhelmingly offer some form of instruction for ELL students (from 81 percent in 1993/94 to 96 percent in 1999/00). In addition, more than two-thirds of schools engage in outreach to LEP parents by translating written materials and providing interpreters at school events. Overall, these data reveal that local schools with ELL students are doing quite a bit in the way of language accommodations for both students and parents. In fact, for the staffing and parent outreach measures, the trend is positive, indicating that over the 10-year period examined here, schools were providing increasing resources and services. Over this same period, the ELL population in the average school increased from 9 percent to 12 percent, suggesting that the increase in resources and services provided by schools is at least partly driven by increasing demand for services. Interestingly, this increase is not observed for instructional services, especially instruction in students' native language. Indeed, the proportion of schools offering native language instruction (bilingual or dual-language programs) dropped by half (from 26 percent to 12 percent) from 1993-94 to 2003-04, and the proportion of schools offering any ELL

instruction dropped from 96 percent in 1999–00 to 91 percent in 2003–04. This trend is consistent with data that shows an increasing shortage of bilingual/ESL teachers, which according to some research is partly a function of federal policies that have cut funding for teacher education programs in these areas and that have tended to favor English immersion over bilingual education programs (Jostin 2009). While the key explanatory variables in this analysis represent the state language policies and school-level measures of service need (here, the percentage of ELL students in the school), our empirical models also include a host of both state- and school-level control variables to capture other changes that may influence the relationship between state-level language policy and school-level responses.

*State-level Characteristics* includes a set of variables that capture changes in states' political, socio-demographic, representation, and policymaking contexts. These include socio-demographic factors that might affect the state's proclivity toward a particular language policy: government ideology (drawn from Berry et al. 1998), state wealth (drawn from the US Census and adjusted to reflect constant 2008 dollars), and the percentage of foreign-born residents in the state (also from the US Census). We also include three variables to capture characteristics of the legislature and policymaking process in the state that may affect the amount or nature of language policy to be enacted: the total number of education bills introduced since the last SASS wave (drawn from the ECS policy database described above), the total number of initiatives/referendum on the ballot (from Tolbert and Smith 2005), and the percentage of state legislators who are Latino in ethnicity (from the National Association of Latino Elected Officials, various years) since previous research has found a strong connection between descriptive and substantive representation (Marschall and Ruhil 2007; Meier 1993; Meier and England 1994)

*School-level Characteristics* include variables tapping the racial/ethnic composition of both students and teaching faculty in the school (% Asian, % Black, % Hispanic), as well as a measure of student need (% free lunch students). In addition, controls for school size and location (suburban and rural, with central city schools representing the excluded category) are also included, as are measures for charter schools (1=yes; 0 otherwise) and whether the school has a vacancy in ELL staff (1=yes; 0 otherwise). As noted previously, our key school-level explanatory variable is the percentage of ELL students in the school.

Descriptive statistics for this full dataset are presented in Table 3.

[Table 3 about here]

### **Analytic Strategy**

After merging together the four waves of SASS data and the cumulative measures of state language policy change described earlier, we estimated fixed-effect models with both state-level and year-fixed effects. Since our primary independent variables of interest are measured at the state-year (or state-wave) level, we clustered our standard errors for this analytic N of 200 state-years. These robust standard errors are presented for all models. The advantage of this modeling approach is that it absorbs the invariant characteristics of states (and time points) that may matter for school-level language accommodation practices, as well as the effect of state language policies. As a result, we did not control for stable characteristics of states, such as region, history of immigration, or previous language policy. Similarly, we did not control for important national events, such as enactment of the *No Child Left Behind Act*, since its effect was absorbed in the

dummy variables for the second two data waves. Of course, this modeling approach does not account for time-varying characteristics of states. For this reason, we included the state-level control variables described above.

With these data we tested for the first criteria specified above: whether schools demonstrate responses indicating strong adoption of state-level messages, weak adoption, weak resistance or strong resistance to state policy changes. To do this, we took advantage of the different forms of language policy changes enacted by states during this time period, noting that the effect of an English Only law that exempts education can only be symbolic, while the effect of one that includes education involves both types of messages. Then, we tested the second criteria – whether adoption and resistance is found in the schools most-likely to resist state efforts to constrain language accommodation. To do this, we proxied school agents' perceptions of the educational needs of students they serve with a variable capturing the percentage of ELL students in the school. Our assumption was that school officials facing more extreme need for ELL services would be more committed to providing language accommodations and thus less likely to agree philosophically with state-level language laws mandating English Only provisions. In contrast, in these high-ELL schools, the same process of bureaucratic professionalism and control would lead schools to respond favorably to state laws that promoted bilingual and native language instruction or language accommodation for parents and so adoption of those policies in high ELL schools does not provide support for either the political or bureaucratic control model. In order to test this expectation, we included a set of interaction terms: interacting the percentage of ELL students in the school with each of the language policy change variables. These interactions test whether school-level responses to state-level language policies differ across low- versus high-ELL schools.

## Findings

Table 4 presents the findings from our first set of models, which examine school-level responses to state-level language policies. We include all five variables capturing cumulative language policy changes in the same model because we wish to identify school-level responses to each while controlling for the other language policy messages the schools received during the same time period. For the first policy change variable, *English Only – Exempting Education*, we find positive coefficient for one of the three school-level responses: instruction for ELL students ( $b=.31$ ,  $se=.13$ ). Since this dependent variable is categorical, interpreting the coefficient from the ordered-Logit model is not straightforward. Translating this coefficient into predicted probabilities, it can be interpreted as a 43 percent increase in the probability of a school providing ELL instruction as well as subject matter instruction in students' native languages (a score of 2 on the instruction accommodations measure). This increase, from a probability of .14 to .20, follows enactment of an English Only law that exempts education.

As we explained previously, effects of this type of policy can be attributed exclusively to symbolic policy messages (since education is exempted). In this case, schools are responding to a symbolic call for English only by *increasing* (rather than decreasing) their instructional accommodations. Thus, rather than accepting a symbolic message that implies a social construction of immigrant and ELL students as potentially undeserving of governmental services, school responses in this case reflect a form of bureaucratic resistance to this policy message, although in a weaker form since they are resisting a symbolic, rather than instrumental, policy message.

For the second form of English Only laws, those that applied to education, we again find only one of three coefficients significant (in the parent outreach model); however in this case it is negative rather than positive. Specifically, following enactment of the English Only law, the likelihood that schools offer accommodations to parents in the form of translation and interpretation services decreased by 19 percent. Since parent outreach is not directly addressed by these English Only laws, we believe that this effect (reducing the probability from .70 to .59) is primarily due to the symbolic effects of the English Only law. The negative direction following the English Only law indicates that schools are implementing the symbolic messages they receive by English Only laws—a strong form of adoption—when the policy specifies that educational practices are included in the purview of the law.

In addition to these symbolic effects, we find instrumental school-level responses to state-level laws pertaining to instruction for all three dependent variable. We interpret these responses as instrumental because they mandate, encourage, or incentivize specific types of language accommodations. For the first two outcomes (staffing and instruction), the coefficient is positive—consistent with the notion of school-level adoption of instrumental policy messages. For staffing, this coefficient ( $b=.14$ ,  $se=.05$ ) can be interpreted as an increase of about a quarter (.28) of one FTE staff member devoted to ELL instruction following enactment of a strong language policy calling for more instructional accommodations (a shift from 0 to 2 on the instruction policy scale). For the instructional accommodations outcome, we estimate the same policy shift to increase accommodations 36 percent (from a probability of .14 to .19 that the school would provide both accommodations for ELL students). Yet, for parent outreach, we find an unexpected negative coefficient ( $b=-.12$ ,  $se=.04$ ). This coefficient represents a small decrease in parent accommodations (4 percent, from .70 to .67 probability of the school providing both parent accommodations) following enactment of a language policy calling for more instructional accommodation. We can only guess that this negative effect may be due to a shifting of school effort and attention toward student accommodation in a way that distracts from parent accommodations. But, this negative effect may also be driven by another process at work.

### **Differences in School-level Responses, by Percentage of ELL Students in the School**

Table 5 presents the results from our second set of models: examining differences in school-level responses when schools have a greater or smaller proportion of ELL students. We use these interactive models to test our expectation that a bureaucratic control model of decision-making would lead high ELL schools to resist both symbolic and instrumental messages conveyed by the English Only laws (i.e., anti-language accommodation) but to adopt the symbolic and instrumental messages associated with pro-language accommodation policies enacted by states. In fact, we do find three significant differences in school-level responses in low-, average-, and high-ELL schools. One is the positive interaction between the percentage of ELL students and the enactment of a state English Only law that *exempts* education in the parent outreach model. This interaction indicates a larger effect of the English Only law on parent accommodations in schools with *more* ELL students. We also find a significant (positive) interaction between the percentage of ELL students and English Only laws that *include* education in the ELL staffing model, indicating a larger positive response to this type of English Only law in schools with *more* ELL students. The third significant interaction is between the percentage of ELL students and instruction-focused language accommodation policy in the parent outreach model. But, contrary to expectations, this interaction is negative, suggesting that the main effect is even more negative in schools with high-ELL populations. In other words,

after enactment of laws that include language accommodations for instruction, high-ELL schools are less likely—not more likely—to provide outreach to parents in the form of translation and interpretation services.

[Figure 6 about here]

The easiest way to examine these interaction effects is to graph the predicted probabilities of each outcome in schools with low, average, or high ELL populations. Based on the distribution of schools, we define low as the 10<sup>th</sup> percentile of ELL populations (less than one percent in the school) and high as the 90<sup>th</sup> percentile (33 percent of the student body classified as ELL). These figures are presented in Figure 6. Panel A illustrates the increased probability of parent accommodations in high ELL schools following enactment of a symbolic English Only law. We classify this effect as a form of moderate resistance: a counter-resistance to the symbolic messages in the law, which is more pronounced in high ELL schools. Panel B illustrates the different school-level responses to an English Only law that does include education. Low ELL schools were found to reduce their ELL staff following enactment of the law, while high ELL schools responded in the opposite direction. Since these laws more directly relate to ELL staff, we consider this as adoption (for low ELL schools) and resistance (for high ELL schools) to an instrumental policy message calling for less language accommodation. Combining this finding with the previous one, we find resistance to English Only laws in high-ELL schools on both this instrumental (including education) and symbolic (excluding education) policy messages. These findings meet both criteria we set for interpreting our findings as support of the bureaucratic control model of language accommodation. However, Panel C illustrates the one unexpected finding—the shift in the predicted probability of parent accommodation following enactment of an instruction-focused accommodation policy, which is negative in high ELL schools. Again, we are uncertain of how to explain this effect other than the possibility that it represents a shifting of attention and focus toward student accommodation (as found in the direct effects presented in Table 4).

## Conclusions

In this study we examined school-level responses to state-level changes in language policy and found both adoption and resistance to the messages sent to school-level agents from their state-level principals. For the most part, we found resistance to symbolic messages sent in English Only laws that excluded education, particularly in schools with high ELL populations. This resistance was not found for English Only laws that included education, except for the resistance exhibited by high ELL schools in terms of staffing ELL programs. And both low and high ELL schools tended to adopt the instrumental messages encouraging more language accommodation in instructional practices, though our analyses consistently found an associated decrease in parent outreach following these instruction-laws.

Although we are interested in the form of school-level responses to state-level language policies, the motivating force behind this study is the desire to understand the distribution of the power to establish the level of language accommodation provided to ELL children and their parents. With schools operating in an inter-governmental context, it is possible that they are unable to make these decisions due to constraints from above. Yet, it is also possible that school-level agents identify as policymakers themselves—making decisions about the language

accommodations most important for their school population. In terms of response to English Only laws, we found more evidence of the second, bureaucratic control, model of decision-making. Specifically, in high ELL schools, we found substantial, strong resistance to state-level policies constraining language accommodation. It is in these schools that this effect is most expected. We also found weaker resistance (to the symbolic messages) across all schools; however our ability to interpret this as evidence of bureaucratic control is limited since we do not know whether administrators and staff in lower ELL schools were likely to agree or disagree with this state-level policy. Similarly, for the influences of state-level policies calling for more language accommodation, we primarily find school-level adoption. Yet, we hesitate to define this as evidence of political control since it is likely that school-level officials also supported this effort.

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