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## The Education of English Language Learners in Tennessee

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The Education of English Language Learners in Tennessee  
Project Title

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The Education of English Language Learners in Tennessee

Sarah Keeton

College Scholars Project

The University of Tennessee

April 19, 2004

### Abstract

The education of English language learners is an issue of growing importance in Tennessee and across the nation. The United States has a long history of educating language minority students and federal laws and policies have helped shape the educational services provided to English language learners by providing states with guidelines. Tennessee's population of English language learners has grown tremendously in the last decade and the recent No Child Left Behind legislation creates further pressure for Tennessee to respond to the needs of English language learners. While Tennessee's educational policies for English language learners have progressed greatly in recent years, there are areas that call for improvement.

## I. Introduction

The population of English language learners (ELL) in Tennessee has risen dramatically during the past decade. In fact, Tennessee is one of nine states that experienced greater than a 50% increase in the number of ELL students between years 1992-93 and 1995-96 (“Learners All,” 2000, p. 2). The dramatic increase in ELL students in Tennessee presents our public schools, state education officials, and lawmakers with a great challenge. The changing demographics of the K-12 student population in Tennessee and the quality of education provided to ELL students are topics that merit further discussion and investigation. This study seeks to provide a description of the evolution of Tennessee’s educational policies for ELL students and a summary of the challenges faced by our state. In addition, a review of relevant literature will provide a historical overview of bilingual education in the United States as well as a summary of federal and state laws and policies that have impacted ELL students. A special emphasis will be given to the implications of No Child Left Behind on ELL students. Throughout the paper, the term English language learner (ELL) will refer to students whose native language is one other than English and who have limited English proficiency. The term limited English proficient (LEP) student was used to identify these students in the past, but the term ELL is preferred today.

## II. History of the Education of English Language Learners in the United States

Although many Americans view the issue of educating English language learners as rather contemporary, the challenge of educating students whose native language is one other than English has deep roots in the United States. A review of the literature regarding the history of education for language minority students in the United States will provide an appropriate context for an overview of the federal laws and policies that have impacted the education of ELL

students. In order to more fully understand the implications of federal laws and policies, it is important to be aware of the historical situation of language minority groups in the United States.

The history of the United States is one of immigration. European immigrants from Germany, France, Spain, Sweden, Russia, and elsewhere brought with them a variety of languages and cultures. After the colonization of the Americas by the Europeans, many languages were commonly spoken in the United States. In fact, the Continental Congress had many of its proclamations printed in German translations (Kloss, 1977, p.26). Although English became the most commonly spoken language in the United States, it failed to be recognized as the official language. Thus, the United States declined the opportunity to designate English, or any other language, as its official language. As a result, German-English bilingual, French, and Dutch private schools were common prior to 1800 (Donegan, 1996, p. 60).

Ovando refers to the period from 1700-1880 as the “permissive period” because it seemed that “a fair amount of tolerance or benign neglect existed toward the many languages represented in the new society” (2003, p. 4). The maintenance of one’s ancestral language and culture was important to many European immigrants. It was this sense of identity that led many immigrant communities to hang on to their native languages for use in “religious services, community newspapers, and private and public schools” (Ovando, 2003, p.4). During the nineteenth century, it was common for both public and private schools to provide either bilingual instruction or instruction completely in the native language. In fact, several states passed laws that specifically permitted bilingual education (Hacsi, 2002, p. 67). For example, Spanish was used in the Southwest; French in Louisiana; and German in Pennsylvania, Maryland, Ohio, Indiana, Illinois, Missouri, Nebraska, Colorado, and Oregon (Ovando, 2003, p.4). Although many schools provided bilingual education, there clearly was an emphasis on teaching children

English (Hasci, 2002, p. 67). While bilingual education may have been common during this period, it was not actively promoted. Ovando mentions, “a policy of linguistic assimilation without coercion seemed to prevail” (2003, p. 4).

Immigration to the United States began to increase early in the twentieth century. Even though the United States seemed to have adopted a rather tolerant view of bilingual education during the nineteenth century, the new wave of immigrants from Southern and Eastern Europe was perceived much differently than were earlier immigrants (Hasci, 2002, p.67). In addition to eastern European immigration, 70,000 Mexicans became part of the United States in 1848 with the acquisition of the Southwest (Stein, 1986, p.3). It is worth noting that these new groups of immigrants were considered intellectually inferior to earlier Western European immigrants. The dean of Stanford’s College of Education described the Southern and Eastern European immigrants as “illiterate, docile, often lacking in initiative and almost wholly without the Anglo-Saxon conceptions of righteousness, liberty, law, order, public decency and government” (quoted in Stein, 1986, p. 2).

The time period from 1880-1945 was one in which persons of different cultures and linguistic backgrounds were treated with an attitude of military assimilation. This attitude can perhaps be best described by the words of Teddy Roosevelt in 1902:

“There is no room in this country for hyphenated Americanism. Our allegiance must be purely to the United States. For an American citizen to vote as a German-American, Irish-American, or Italian-American is to be a traitor to American institutions...any man who comes here...must adopt the institutions of the United States, and therefore, he must adopt the language which is now the native tongue of our people, no matter what the several strains in our blood may be. It would not be merely a misfortune, but a crime, to perpetuate differences of language in this country...we should provide for every immigrant, by day schools for the young and night schools for the adult, the chance to learn English, and if, after say five years, he has not learned English, he should be sent back to the land from whence he came” (quoted in Aaronson, 1980, p.6).

It was during this time period when fears of European nationalism began to surface, leading to an

even greater push for immigrants to quickly learn English and adopt American culture. An organization known as the American Protective Association advocated for laws that would require school instruction to be in English; Illinois and Wisconsin adopted such laws in 1889 (Ovando, 2003, p.5). In 1906, the Naturalization Act required that immigrants must be able to speak English in order to become U.S. citizens (Ovando, 2003, p.5).

The beginning of World War I led to increased hostility against immigrants who were unwilling to assimilate into American culture. A process of “Americanization” was implemented in order to rid immigrants of their former traditions and to ensure that loyalty would be given to the United States instead of their native country (Stein, 1986, p.5). Perhaps the most well-known image of Americanization was the graduation ceremony for Ford Motor Company’s Americanization School. During this ceremony, immigrants entered a symbolic melting pot wearing signs that designated their native country. Once in the melting pot, they were cleansed of their old culture and exited wearing a sign that declared them 100 percent American (Stein, 1986, p.5).

Another trend associated with Americanization was legislation that banned the use of any language other than English for teaching purposes. By the end of World War I, 15 states had established English as the language for teaching (Donegan, 1996, p.62). By 1923, 34 state legislatures had enacted English-only instruction in all private and public primary schools (Ovando, 2003, p.5). Nebraska took this legislation a step farther by prohibiting the teaching of any foreign languages in primary schools. However, in 1923, the Supreme Court ruled Nebraska’s actions unconstitutional in *Meyer v. Nebraska* (1923) (Donegan, 1996, p.62). The Supreme Court of the State of Nebraska had originally upheld the legislation saying that to allow children to be taught in the language of their mother tongue was “to educate them so that they



must always think in that language, and, as a consequence, naturally inculcate in them the ideas and sentiments foreign to the best interests of this country” (*Meyer v. Nebraska*, 1923, p.2). The U.S. Supreme Court, however, found that the Nebraska law violated the 14th Amendment. In the opinion, Justice McReynolds stated, “The protection of the Constitution extends to all, to those who speak other languages as well as to those born with English on the tongue” (*Meyer v. Nebraska*, 1923, p.2).

With many states banning the use of languages other than English for educational purposes, the situation for ELL students in many schools was best described as “sink or swim.” The common outlook of educators and policy makers was that the school should not be responsible for making adjustments in order to accommodate the needs of language minority students (Ovando, 2003, p.6). In the “sink or swim” method, students were not given instruction in their native language or specialized English instruction. Instead, they were expected to make the best of the regular classroom experience. Not surprisingly, many language minority students failed academically in these circumstances. Social scientists tended to blame the inferiority of the home language and culture of language minority students for their academic failure instead of criticizing the U.S. educational system (Ovando, 2003, p. 6). Clearly, language minority students were not expected to succeed, and given virtually no support to do so.

While much of the historical information provided thus far has focused upon European immigrants, the situation of Mexican-Americans merits discussion, particularly in light of the large numbers of Mexican-American students currently enrolled in schools in the United States. As mentioned previously, the acquisition of the Southwest by the United States in 1848 resulted in 70,000 Mexicans immediately becoming part of the United States (Stein, 1986, p.3). Many more Mexicans immigrated to the United States during the years that followed. The practice of

segregation became common in schools in the Southwest. Mexican students were normally segregated to their own school because it was believed that they did not deserve the same level or quality of education as other students. Puerto Ricans faced a similar situation upon entering New York (Stein, 1986, p. 5). Students continued to be segregated into lower-quality schools until the first half of the 1940's (Stein, 1986, p.5). Because they were subjected to inferior schools and submerged in English-only classrooms, Mexican-American and Puerto-Rican students faced especially difficult circumstances in the U.S. educational system. Even after integration of schools in Texas, many school districts restricted students from speaking Spanish anywhere on school grounds, even the playground (Donegan, 1996, p.62). In fact, language minority students were often punished severely for using a language other than English (Casanova & Arias, 1993, p.9).

While Mexican-Americans and Puerto Ricans were struggling in American schools, the first modern example of bilingual education in the United States was taking shape in Florida. When Fidel Castro overthrew the Batista Government in Cuba, many Cubans fled to the United States where a large proportion settled in Dade County, Florida (Donegan, 1996, p.62). Because many Cubans expected their situation to be temporary and planned on returning to Cuba, they wanted their children to maintain the Spanish language and Cuban culture. This desire led the Cuban community in Dade County to establish a two-way bilingual education program at Coral Way Elementary School (Ovando, 2003, p. 7). In this two-way bilingual education program, Spanish-speaking students and English-speaking students are in a classroom together. The goal was for the Spanish-speaking students to learn English and for the English-speaking students to learn Spanish. The ultimate goal of the program was to create bilingual students (Hacsi, 2002, p. 68).

Another development that took place during this time period was the establishment of the National Defense Education Act in 1958. The Soviet launch of *Sputnik* and World War II served as a wake up call to the United States that math, science, and foreign languages were not being emphasized enough in the American education system (Ovando, 2003, p. 7). The National Defense Education Act created additional funds for the teaching of foreign languages. Although the United States began pushing for more foreign language education, little was done to preserve the native language abilities of language minority students. Ten years after the National Defense Education Act, the Bilingual Education Act would address this issue.

Clearly, language minority students have faced a challenging situation throughout their history in the United States. While English was not established as the official language of the United States, it quickly became the majority language. Although early immigrants to the United States, especially those from Germany and other western European countries, sometimes received bilingual instruction, later immigrants from Southern and Eastern Europe and Mexico did not receive this luxury. They were often treated with the “sink or swim” method in which they either had to learn English on their own or succumb to failure in the American educational system. The United States government did not begin to respond to the treatment of language minority students in the public school system until the 1960’s. The next section will provide an overview of federal legislation and policy that has impacted the education of language minority students in the United States.

### III. Overview of Federal Law and Policy

As mentioned, the federal government did not begin addressing the situation of language minority students until the 1960’s. Until this point, states and individual school districts had jurisdiction over any services provided to this group of students. This section will provide an

overview of federal legislation and policy that has impacted language minority students in the United States, beginning with the Civil Rights Act of 1964 and ending with the most recent legislation, No Child Left Behind, which was passed in 2002. Descriptions of all major court cases and legislation will be provided, along with an analysis of their impact on educational opportunities of language minority students. While brief mention will be made of No Child Left Behind legislation in this section, a later section will provide a thorough analysis of the impact and implications of this most recent education law.

The Civil Rights Act of 1964 was the first federal legislation to provide the legal basis for language minority students to demand equal educational opportunity. Although the Civil Rights Act did not specifically address educational opportunity when it was passed, it applied to all programs receiving Federal financial assistance. Title VI of the Civil Rights Act states that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance” (1964). Thus, while ELL students were not specifically mentioned as a protected group, later court rulings would interpret the protection of persons based on national origin as applicable to ELL students (Osorio-O’Dea, 2001, p.2).

In addition to the Civil Rights Act, another legislative act of importance to ELL students was the Bilingual Education Act of 1968. Legislation for the Bilingual Education Act (BEA) was introduced in Congress during the 1967 session by Senator Ralph Yarborough of Texas (Stein, 1986, p. 30). Senator Yarborough had recently attended the National Education Association’s conference on bilingual education and reportedly became an advocate for bilingual education as a result (Stein, 1986, p. 30). The BEA became Title VII of the Elementary and Secondary Education Act (ESEA). While the title of the legislation gives the impression that it provided for

instruction in multiple languages, this was not the case (Stein, 1986, p. 30). The BEA would provide additional funding for school districts to devise programs to meet the unique educational needs of language minority students in low-income areas.

The legislation was expected to have a large impact on Hispanic students in particular, and Yarborough made specific references to Hispanic students in the legislation (Stein, 1986, p. 30). However, some federal officials feared that the BEA was actually to “provide jobs for Hispanics and give them a small piece of the action in the ESEA” (Stein, 1986, p. 30). This fear caused many to oppose the legislation and argue that funding for educational programs that serve language minority students was already provided in the original ESEA (Stein, 1986, p. 31). As a result of the controversy, Yarborough agreed to drop all reference to Hispanics in the legislation and apply it to all language minority students (Stein, 1986, p. 31). Congress passed the BEA during the 1967 session and it was signed into law in 1968. While funding for the BEA was initially a problem, federal funds were soon obtained and the Office of Bilingual Education, the precursor to the Office of Bilingual Education and Minority Languages Affairs, was founded (Stein, 1986, p.33). The BEA has been expanded and reauthorized several times, including 1984 and 1994 (Donegan, 1996, p. 59).

As mentioned, the Civil Rights Act of 1964 did not specifically mention ELL students as a protected group. Soon after its passage, however, the Department of Health, Education, and Welfare (HEW) began interpreting the implications of the Civil Rights Act on federally assisted educational programs (Lyons, 1992, p. 7). In 1968, HEW issued guidelines to school districts that interpreted the Civil Rights Act as meaning that federally assisted “school systems are responsible for assuring that students of a particular race, color, or national origin are not denied the opportunity to obtain the education generally obtained by other students in the system”

(quoted in Lyons, 1992, p. 7). The Office for Civil Rights in HEW became active in educating local educational agencies about practices that were denying language minority students equal educational opportunity.

On May 25, 1970, the Director of the Office for Civil Rights in HEW, J. Stanley Pottinger, issued a memorandum to school districts with more than five percent national origin-minority group students (Pottinger, 1970). The subject line of this memorandum read “Identification of Discrimination and Denial of Services on the Basis of National Origin” (Pottinger, 1970). The memorandum explained that compliance reviews that had been conducted in school districts having a large population of Spanish-surnamed students by the Office for Civil Rights had revealed several practices that denied equal educational opportunity to these students. The memorandum also noted that other national-origin minority groups faced similar discriminatory practices. In the memorandum, Pottinger stated that its purpose was to “clarify HEW policy on issue concerning the responsibility of school districts to provide equal educational opportunity to national origin minority group children deficient in English language skills” (1970). The guidelines presented in this memorandum gave responsibility to the local school districts to correct any practices that were denying language minority students an equal educational opportunity.

The memorandum presented four major concerns. The first concern was that school districts should “take affirmative steps to rectify the language deficiency in order to open its instructional program to these students” whenever an English language deficiency prevents a student from participating in the regular educational program (Pottinger, 1970). The second concern was that school districts had been tracking language minority students because of their language deficiency, not their mental ability. For example, language minority students were

being placed in classes for the mentally retarded or being excluded from the college preparatory track. A third area of concern was that school districts had been placing language minority students in groups or tracks that were permanent, instead of using grouping systems to raise their language proficiency level so that they could be moved into regular classrooms. The fourth and final concern was that parents of language minority students were not being adequately notified about school activities. The memorandum notes that such notice “may have to be provided in a language other than English” (Pottinger, 1970).

The memorandum issued by the Office for Civil Rights highlighted methods of discrimination that were being employed by many school districts throughout the United States. This discrimination was brought to the surface in *Lau v. Nichols* (1974), the landmark case in education for ELL students in the United States. *Lau v. Nichols* (1974) originated in San Francisco, California where there existed a large number of Chinese students who did not speak English. The court action was filed by thirteen of these students, on behalf of the approximately three thousand Chinese-speaking students in the San Francisco Unified School District (Grant & Goldsmith, 1979, p. 2). Their complaint was that due to their inability to understand the language of instruction, they were being effectively denied an education, which violated both the Equal Protection Clause of the Fourteenth Amendment and the Civil Rights Act (*Lau v. Nichols*, 1974). The case was first heard by the United States District Court in San Francisco. In earlier investigations, the school district itself had admitted that of the 2, 856 Chinese-speaking students in the district, 1,790 of them were not receiving any form of special assistance (Grant & Goldsmith, 1970, p. 4). However, when they were questioned in the district court, school officials denied that any discrimination was taking place because the students had the same facilities and instructors as all other students (Grant & Goldsmith, 1979, p. 4). The district court

agreed, saying, “all that was required was equal access to the school facilities and not the opportunity to derive equal benefits from such access” (Grant & Goldsmith, 1979, p.4). The case was then appealed to the United States Circuit Court of Appeals for the Ninth Circuit, but this court affirmed the ruling of the U.S. District Court.

Finally, *Lau v. Nichols* (1974) was appealed to the U.S. Supreme Court. The Supreme Court denied the argument made by the lower courts that equal access to educational facilities was sufficient for equal educational opportunity. Citing several relevant California codes and statutes that declare the mastery of English an educational goal and designate English as the basic level of instruction, Justice Douglas stated that “Under these state-imposed standards, there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education” (*Lau v. Nichols*, 1974, p.2). Although the Supreme Court did not validate the argument that the school district was in violation of the Equal Protection Clause, it ruled that the San Francisco Unified School District was in violation of the Civil Rights Act of 1964. The Court referred to the clarifying guidelines issued by HEW in the 1970 memorandum as support for his assertion that the Chinese-speaking students were indeed suffering from discrimination.

The ruling in *Lau v. Nichols* (1974) did not outline the exact methods that school districts should use to provide ELL students with equal educational opportunities. Even the Equal Educational Opportunities Act (EEOA), which was passed only weeks after the *Lau v. Nichols* (1974) decision, did not specify guidelines for school districts (Lyons, 1988, p.10). The EEOA was implemented in 1974 and stated that “no state shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by (f) the failure of an educational agency to take appropriate action to overcome language barriers that impede equal



participation by its students in its instructional program” (Equal Educational Opportunities Act, 1974). As in the *Lau v. Nichols* (1974) ruling, the term “appropriate actions” was not defined and it was left to the interpretation of the courts in future rulings to clarify the exact responsibilities of educational agencies. Nonetheless, *Lau v. Nichols* (1974) marked a huge victory for language minority students in the United States and served as an important precedent for future court rulings.

The first case to provide further explanation and guidance to educational agencies was *Serna v. Portales Municipal Schools* in 1974. The case was very similar to *Lau v. Nichols* (1974), but in the decision provided interpretation of the Supreme Court’s ruling in that case. Grant and Goldsmith explain that the *Serna* ruling discusses three main areas: “what constitutes an acceptable remedy, who can propound such a remedy, and when such a remedial program will be required” (1979, p.9). In reference to the question regarding what constitutes an acceptable remedy, the court said that a student that does not understand English and is not provided with bilingual instruction is excluded from a meaningful education (Grant & Goldsmith, 1979, p.9). The court was basically saying that the acceptable remedy should be bilingual education. The decision also explained that the court has the authority to prescribe a remedy for past discriminations and that only when a substantial number of students is being deprived of a meaningful education will a bilingual program be required (Grant & Goldsmith, 1979, p.10). However, the court did not specify the exact number of students that would require a bilingual program, so some confusion still existed over when bilingual education would be require of educational agencies.

Finally, in 1975 the Department of Health, Education and Welfare issued policy guidelines intended to clarify the responsibilities of states and individual school districts in

educating ELL students. These guidelines came in the form of an additional memorandum titled “Task Force Findings Specifying Remedies Available for Eliminating Past Educational Practices Ruled Unlawful Under *Lau v. Nichols*,” but the guidelines themselves are normally referred to as the Lau Remedies or Lau Guidelines. In this paper, they will be referred to as the Lau Remedies. The 1975 memorandum was extremely important because it outlined specific steps that local educational agencies should be taking to ensure that language minority students were receiving an adequate education. Although the guidelines were not actual laws and never became such, they were used to determine whether school districts were in compliance with Title VI of the Civil Rights Act, which had been used as the basis for the ruling in *Lau v. Nichols* (1974). In fact, between 1975 and 1980 nearly six hundred Title VI compliance reviews were carried out by the Office for Civil Rights and 359 school districts were required to submit plans for improving their services to language minority students (Lyons, 1992, p.13). These plans were based on steps outlined in the Lau Remedies.

The Lau Remedies outlined eight important steps that school districts found to be out of compliance with Title VI must address. Because these guidelines were used by school districts nationwide to design programs to serve language minority students, it is important to provide a brief discussion of each. First, school districts must determine the student’s primary or home language. The Lau Remedies described three circumstances when a student’s primary or home language should be classified as one other than English: “A. The student’s first acquired language is other than English. B. The language most often spoken by the student is other than English. C. The language most often spoken in the student’s home is other than English, regardless of the language spoken by the student” (“Task-Force Findings,” 1975, p.1). This determination was to be made based on observation of the student at school and at home. If the

student were found to have a primary or home language other than English, he or she would be placed into one of four categories of English proficiency.

Secondly, the Lau Remedies asked school districts to outline what diagnostic/prescriptive measures were to be used to “identify the nature and extent of each student’s educational needs and then prescribe an educational program utilizing the most effective teaching style to satisfy the diagnosed educational needs” (“Task Force Findings,” 1975, p.2). In other words, school districts were required to design an instructional method that would increase the educational performance level of the language minority students. The third step outlined by the Lau Remedies was the actual selection and implementation of an appropriate type of educational program (“Task Force Findings,” 1975, p.2). Several options were given depending on the grade level and English proficiency level of the students, with the main options consisting of transitional bilingual education programs; bilingual/bicultural programs; multilingual/multicultural programs; and ESL programs. While ESL was listed as an option, it was intended to be used in conjunction with instruction in the student’s native language for subject matter. The Lau Remedies noted that ESL is a necessary component of all the aforementioned programs, but an ESL program may not be sufficient as the *only* program operated by a district to respond to the educational needs of all students” (“Task Force Findings,” 1975, p.4).

The fourth step of the Lau Remedies required school districts to show that required and elective courses were not designed to have a discriminatory effect (“Task Force Findings,” 1975, p.5). Basically, this meant that required courses such as history should not exclude the contributions of minority groups and that minorities should not be encouraged to take certain elective courses or discouraged from taking others. This requirement was meant to prevent

schools from placing all language minority students in specific classes or excluding them from other classes based solely on their English proficiency level.

Requirements for the instructional personnel who would be teaching language minority students were outlined in the fifth guideline. School districts were told that these personnel should have both linguistic and cultural familiarity with the background of language minority students and that the student teacher ratio for the prescribed educational programs should be less than the ratio for the district (“Task-Force Findings,” 1975, p.5). This guideline also gave school districts the option of training existing teachers who lacked the required skills or using para-professionals with the appropriate linguistic and cultural background, but these options could only be used as a temporary solution. The next guideline informed school districts that it was neither educationally necessary nor legal to create schools or courses that were racially or ethnically identifiable as a means of educating language minority students (“Task-Force Findings,” 1975, p.6).

The seventh guideline addressed the school district’s obligation to provide information about school activities and the educational program of the language minority student both in English and in the native language of the parents (“Task-Force Findings,” 1975). Finally, the eighth guideline simply gave school districts the responsibility to create an evaluation design for periodic evaluation throughout the implementation state in order for the Office for Civil Rights to stay informed about the progress of school districts in reaching compliance with the Lau Remedies (“Task-Force Findings,” 1975, p.6)

Clearly, the Lau Remedies gave school districts targeted by the Office for Civil Rights the responsibility to modify many of their current practices to ensure that language minority students were no longer subject to discriminatory practices. As mentioned, 359 school districts

were required to submit Lau plans from 1975-1980 (Lyons, 1993, p. 13). In order to enforce the Lau Remedies, the Office for Civil Rights threatened to cut off federal funds for school districts that were not in compliance with the guidelines (Stein, 1986, p. 53). The Lau Remedies received a significant amount of criticism from school districts as well as officials at the Department of Education, one of whom said that they were “poorly drafted and ambiguous and were applied in a piecemeal fashion across the country” (quoted in Stein, 1986, p. 54).

Many school districts, faced with the threat of lost federal funds, rushed to throw together an educational program that would satisfy the Office for Civil Rights while others simply went through the motions (Stein, 1986, p. 56). In the end, those school districts that did not modify their educational program to comply with the Lau Remedies were not punished because the U.S. Department of Education continued to allow these districts to receive federal funds, including bilingual education grants (Stein, 1986, p. 55). Thus, while the Lau Remedies continued to be cited in Federal court cases involving Title VI compliance issues, many would argue that the Office for Civil Right’s failure to follow through with enforcement of consequences minimized their real impact.

As mentioned previously, the Lau Remedies were never actually written into law. In 1980, there was an attempt by the Department of Education to publish official Lau Regulations that would become law (Stewner-Manzanares, 1988, p.6). The two main goals of the Lau Regulations were to have ELL students become proficient in English as rapidly as possible and secondly, to allow ELL students to receive instruction in required subjects in their native language until they achieved English proficiency (Stewner-Manzanares, 1988, p. 6). These proposed regulations caused a great deal of discussion about the appropriate role of the federal government in education. Many school districts had already been forced to modify their

programs due to the Lau Remedies, and the possibility that they would now be required to find native language instructors for each language group present created many concerns among state and local educational agencies. They were concerned about the costs associated with the regulations, as well as the continued imposition of the federal government into education at the state and local level (Stewner-Manzanares, 1988, p. 6). Some members of Congress argued against the adoption of the regulations by expressing their disagreement with the requirement that students be taught in a language other than English (Stewner-Manzanares, 1988, p.6). Before Congress had the opportunity to adopt or reject the regulations, the Department of Education withdrew them from consideration and subsequently dropped the Lau Remedies as well.

Following the removal of the Lau Remedies, court cases involving the discrimination of language minority students continued to arise throughout the remainder the 1980's. One of the most important court cases, *Castaneda v. Pickard*, occurred in 1981. The plaintiffs in this case were Mexican-American children and their parents who alleged that the Raymondville, Texas Independent School District was "engaging in policies and practices of racial discrimination against Mexican Americans" (*Castaneda v. Pickard*, 1981). They claimed that these discriminatory practices were in violation of the 14<sup>th</sup> amendment, Title VI of the Civil Rights Act, the Equal Educational Opportunities Act, and several sections of United States Code (*Castaneda v. Pickard*, 1981). The United States Court of Appeals for the fifth circuit ruled in favor of the plaintiffs with respect to their complaint about insufficient bilingual teachers and assessment measures (*Castaneda v. Pickard*, 1981).

Perhaps the most important impact of this case, however, was the court's definition of the federal court's responsibility in cases such as these. The federal court's first responsibility is to examine the evidence about the soundness of the educational theory upon which a school

district's program for language minority students is based (*Castaneda v. Pickard*, 1981). The court made sure to mention that it was not responsible, nor should it be, for "choosing between sound but competing theories" (*Castaneda v. Pickard*, 1981). This function, according to the court, should be left to education officials. The second responsibility of the federal court is to determine whether "the programs and practices actually used by a school system are reasonably calculated to implement effectively the educational theory adopted by the school" (*Castaneda v. Pickard*, 1981). In other words, upon adoption of a sound educational theory, the school must show that it has implemented a program that puts that theory into practice. The final responsibility of the federal court in cases such as there is to determine whether the programs implemented "produce results indicating that the language barriers confronting students are actually being overcome" (*Castaneda v. Pickard*, 1981). Therefore, if a program, even one based on a sound educational theory, fails to increase students' level of English proficiency, the program can be declared insufficient by the federal court.

The analytical framework created by the court's decision in *Castaneda v. Pickard* set an important legal precedent. As noted by James Lyons, the Court of Appeals took on the challenging task of defining what constitutes "appropriate action" for schools serving language minority students (1988, p.25). Because Congress had given the courts very little guidance in this matter, the Court of Appeals felt it necessary to provide guidelines that determine whether a school is taking "appropriate action" to serve language minority students. The responsibilities outlined by *Castaneda v. Pickard* have had a great impact on later court rulings under Title VI and the Equal Educational Opportunities Act, and the Office for Civil Right's policies (Lyons, 1988, p.24).

The next major policy affecting the education of language minority students in the United

States was the second reauthorization of the Bilingual Education Act in 1984 and subsequent amendments and expansions in 1988 and 1994. The turmoil created by the proposed Lau Regulations had created much discussion regarding the extent to which the federal government should control the education of ELL students in the states. The reauthorization of the Bilingual Education Act in 1984 offered state and local school districts additional flexibility in designing programs and allocating funds (Stewner-Manzanares, 1988, p.7). States were permitted to spend up to four percent of overall funds on alternative programs for ELL students, and these programs were not required to use the students' native language (Stewner-Manzanares, 1988, p.7). Even with this added flexibility, states were still required to spend 75 percent of funds designated for instructional programs on transitional bilingual education (Stewner-Manzanares, 1988, p.7). Transitional bilingual education seeks to teach ELL students English while using the native language to teach other academic subjects until the student gains English proficiency. \$139.4 million was set aside for Title VII funding under the Bilingual Education Act, but the goal of this reauthorization was to enable states to build the capacity to educate ELL students without depending on federal funding (Stewner-Manzanares, 1988, p.8). The Bilingual Education Act was reauthorized again in 1994. This most recent reauthorization created new categories of local bilingual education grants and personnel training grants.

Of course, the most recent federal education legislation to affect ELL students is No Child Left Behind, which was passed in 2001. No Child Left Behind created new accountability standards for all students, including subgroups of students such as English language learners. This impact of this important and controversial education legislation on ELL students is discussed in detail in the following section. The laws and policies discussed thus far provide the historical perspective in which to view the education of English language learners. Because of



landmark court decisions such as *Lau v. Nichols* (1974) and legislation such as the Bilingual Education Act of 1968, ELL students gradually began gaining rights in the public school system in the United States. While the condition of education for English language learners has improved dramatically since the days when the “sink or swim” mentality predominated, the performance level of this group of students is consistently lower than other students and often lower than other subgroups of students (Abedi & Dietel, 2004, p. 1). Therefore, the education of ELL students remains an important issue for public schools in the United States.

#### IV. No Child Left Behind

No Child Left Behind is the landmark education legislation that was signed into law by President George W. Bush in January of 2002. The legislation outlines provisions for educational reform in America’s schools by focusing on four major goals: “accountability for results; greater flexibility for states, school districts and schools in the use of federal funds; more choices for parents of children from disadvantaged backgrounds; and an emphasis on teaching methods that have been demonstrated to work” (“Desktop Reference”, 2002, p.9). Hence the name, the legislation seeks to ensure that all students reach proficiency, regardless of their race, socioeconomic status, English proficiency level, or any number of other factors that have prevented students from succeeding in the public school system. No Child Left Behind has received much criticism in the few years since its passage, primarily from local and state educational agencies who feel that accountability standards are too strict and that the federal government has failed to provide sufficient funds to the states. While No Child Left Behind could be examined from the perspective of any number of stakeholders, its effect on language minority students shall be discussed in the paragraphs that follow.

In response to the increasing numbers of English language learners in America’s schools

and their low levels of educational attainment, The No Child Left Behind Act calls for important changes in the way that language minority students are educated and assessed. Although these reforms have received praises for attempting to ensure that language minority students can no longer slip through the cracks, serious concerns have been raised about the requirements of the legislation. This paper will provide a summary of the main provisions of the No Child Left Behind Act for language minority students and discuss the advantages and disadvantages of the legislation.

No Child Left Behind uses the term limited English proficient (LEP) subgroup to refer to the subset of students that are not proficient in the English language. However, the term English language learner (ELL) will be used in this paper due to its wider usage among most researchers. An entire section of the No Child Left Behind legislation is devoted specifically to the education of ELL students and is referred to as the “English Language Acquisition, Language Enhancement, and Academic Achievement Act.” The text of the legislation outlines nine main goals for ELL students. These include the attainment of English proficiency, achievement at high levels in core academic subjects; the development of high-quality language instruction programs for ELL students; assistance to state educational agencies to design programs to prepare ELL students for all-English instruction settings and to teach them English; the promotion of parental and community involvement in language instruction programs; streamlining language instruction programs into a grant program carried out by state and local educational agencies; holding state and local educational agencies and schools accountable for increases in English proficiency and core subject knowledge; and providing flexibility to state and local educational agencies to design language instructional programs based on sound research (NCLB, 2002, Title IX). The key provisions that will be discussed in the paragraphs that follow are attainment of English

proficiency and achievement at high levels in core academic subjects.

First, state and local educational agencies are required to show attainment of English proficiency among ELL students. No Child Left Behind requires that students be tested in English proficiency beginning with the 2002-2003 school year (Wenning, Herdman, & Smith, 2002, p. 39). This signifies the federal government's desire that all students become proficient in English as soon as possible. States are also given the flexibility to design their own programs for teaching English to students, provided that they are based on sound scientific research. Therefore, the federal government does not endorse one method of teaching English to language minority students over another. States can decide whether English as a second language instruction, bilingual education, or any number of other methods, is the most effective. They must, however, demonstrate that they are effective in increasing English proficiency and student achievement ("A Desktop Reference," 2002, p. 93). Secondly, states must show adequate yearly progress (AYP) for ELL students in core subject areas. In other words, scores on subject area assessments for ELL students must show improvement each year. Not only do ELL students need to show increased levels of English proficiency, but they also have to show that are attaining proficiency in other academic subjects such as language arts and mathematics.

The provisions for ELL students reflect the overarching goals of the legislation, which are to hold schools accountable for the success of every student and to give state and local educational agencies greater flexibility and local control. Specifically, school districts are required to show "demonstrated improvements in the English proficiency of ELL children each fiscal year and adequate yearly progress for ELL children, including immigrant children and youth" (NCLB, 2002, Title IX). Prior to passage of the Improving America's Schools Act in 1994, school were not required to disaggregate test results into categories of race, language

proficiency, and disability (Wenning et al, 2002, p.36). Therefore, the test results of low-scoring ELL students could be averaged in with the results for all students and thereby create an image that the school was performing well, even if certain subgroups of students were not attaining proficiency. This potential pitfall had been noted by groups such as the American Federation of Teachers, who have supported disaggregation of data for many years and warn that “without it, schools can appear to be doing a good job overall when, instead, they are inadequately serving particular subgroups of their students” (“ELL and AYP”, 2004). No Child Left Behind adds to this previous legislation by requiring annual testing for all students, including the aforementioned subgroups, and by requiring that the same assessment be given to all students. Thus, there is hope that requiring school districts to show progress specifically for the ELL subgroup will make schools more responsive to their educational needs.

There are several important features of the No Child Left Behind legislation that hold state and local educational agencies, as well as schools, more accountable to subgroups of students such as those with limited English proficiency. The first, as mentioned, is that schools are required to disaggregate data for each subgroup. Therefore, low results from one subgroup cannot simply be averaged into results for the entire school. Another important feature is that 95% of students in each subgroup must be tested. Prior to this requirement, students with disabilities or limited English proficiency were often excluded from testing to prevent their results from lowering overall averages for the school (Wenning et al, 2002, p.39). A third important feature is that all students are required to take the same assessment. Therefore, students with limited English proficiency are expected to attain the same level of proficiency as all other students. This prevents state and local educational agencies and schools from settling for a lower level of achievement from certain groups of students. Another key part of the

legislation, as mentioned, is that schools are required to show both improvements in English proficiency and adequate yearly progress in core subject areas each year.

While many have praised the requirement that school districts disaggregate data for specific subsets of students, there are certain characteristics of the ELL student subgroup that make such disaggregation worrisome to educators and state officials. Before discussing the characteristics of this subgroup, it is necessary to describe the methods by which states determine which students are classified as ELL. Keeping with the goal of giving states flexibility in the interpretation of No Child Left Behind requirements, states can use a variety of methods by which to classify students into the ELL subgroup. Title IX of the No Child Left Behind Act provides a definition of limited English proficient but allows states to determine exactly what methods they will use to classify students. The main criteria in the federal definition are that the student was either not born in the United States or has a native language other than English, and comes from an environment where a language other than English is dominant or has had a significant impact on the student's level of English proficiency (NCLB, 2002, Title IX). The definition provides that an ELL student's lack of English proficiency may be enough to deny them "the ability to meet the state's proficient level of achievement on state assessments, the ability to successfully achieve in classrooms where the language of instruction is English, or the opportunity to participate fully in society" (NCLB, 2002, Title IX).

As mentioned, states have the flexibility to determine exactly who is considered an ELL student. In a press release issued by the U.S. Department of Education, several examples were given to illustrate that states are using a variety of methods to make this classification. For example, North Carolina defines its ELL subgroup as only those students who receive direct ELL services, while California also includes those students who are no longer receiving services

but are still being monitored (“Charting the Course”, 2004). Although the legislation was designed to give states flexibility, the variations in what constitutes an ELL subgroup from state to state have raised concerns that it will be difficult to compare data across states. States are also given flexibility in deciding whether alternative assessments or accommodations will be allowed for ELL students. Some examples of accommodations include bilingual dictionaries, extra time, and the use of translators (“Charting the Course,” 2004). States may also test ELL students in their native language for up to three years on language arts, and as many years as needed for mathematics (“Charting the Course,” 2004). While some states have chosen to make these accommodations available to students, others do not. In fact, both Georgia and Tennessee conduct standardized testing only in English (Joyner, 2003).

Obviously, No Child Left Behind has made significant changes to the way in which state and local educational agencies instruct and assess students with limited English proficiency. While the goal of the legislation is, as its name suggests, to ensure that schools respond to the needs of all students, including those with limited English proficiency, disabilities, and other special needs, the new provisions have created concerns among state educational officials and local school districts. There are three main concerns that have been expressed by educators, advocates, and policy-makers. First, certain characteristics of the ELL subgroup make it difficult to attain valid or reliable test results for these students. Secondly, adequate yearly progress may be difficult for ELL students to achieve and may unfairly label some schools as failing. Third, the current inequities that exist in schools with large populations of ELL students create a barrier to achieving educational goals.

The ELL subgroup has certain characteristics that make valid and reliable assessment at very least challenging, and at most impossible. The first characteristic that makes the ELL

subgroup a unique one is instability. Many ELL students are new to the school and will not remain in the ELL subgroup for the entire time they are in the school. One researcher notes, “members of the ELL subgroup, by definition, will almost always be among the low-performing group of students and will hardly make substantial progress” (Abedi, 2004, p.6). This is because the legislation requires that students move out of the ELL subgroup when they attain a certain level of English proficiency. In response to this problem, some states have even proposed plans that continue to classify students as ELL students, even after they have technically reached English proficiency and have successfully negotiated with the federal government to do so (Abedi, 2004, pp. 6 & 11). Another initial concern was that students who had only recently enrolled at a school were originally required to be part of the annual testing in language arts and mathematics. This was especially worrisome for the ELL subgroup because of the high population of immigrant students. School were being required to report test results for these students, even though they had not had adequate time to educate them. School superintendents argued that use of these test results to determine adequate yearly progress was unfair (McFarlane, 2004). Early in 2004, this part of the legislation was modified to allow states to exempt test results of English language learners enrolling for the first time in a school district (McFarlane, 2004). While education officials were pleased with these changes, many are upset that these considerations were not made prior to passage of the legislation. In fact, an officer of the American Federation of Teachers said, “many schools and districts already branded as being in need of improvement would have passed muster had this rule been in effect from the start” (McFarlane, 2004). While hindsight is twenty-twenty, it will be important for the federal government and state and local educational agencies to work together in the future to make modifications that will improve No Child Left Behind.

An additional concern for ELL students is that the assessments used by states are not an accurate measure of a student's knowledge. While validity of educational assessments is a concern for all students, not just ELL students, it is especially relevant for students with limited English proficiency. ELL students are required to take both tests to measure their English proficiency and tests in core subject areas such as language arts and mathematics. However, many question whether the tests designed to measure knowledge in language arts or mathematics actually reflect a student's knowledge if they are given in a language in which the student has not yet reached proficiency. A report issued by the National Research Council notes that "a test cannot provide valid information about a student's knowledge or skills if a language barrier prevents the students from demonstrating what they know and can do" (Hakuta & Beatty, 2000, p.20). The No Child Left Behind Act does permit states and to allow accommodations for ELL students, but the allowable accommodations vary widely from state to state. Some states permit students to take tests in their native language, while others only permit tests to be administered in English. The American Federation of Teachers has noted that the federal government has been intentionally vague in allowing states to test ELL students in their native language ("ELL and AYP", 2004). Specifically, they mention the failure of the federal government to provide additional funds for the purpose of developing native language tests or to provide guidance "about the role of the state in translating or modifying assessments" ("ELL and AYP", 2004).

The requirement that states show adequate yearly progress for each subgroup of students is responsible for many of the concerns about the validity of tests for ELL students. While the validity of tests to measure progress in English proficiency is obviously not affected by the test being administered in English, the validity of core subject tests is compromised. That the results of these tests are used to determine whether a school is "in need of improvement," is a concern



that has been voiced time and time again. High stakes testing in general has been criticized for linking important educational decisions to assessment results that may not accurately reflect what a student knows. No Child Left Behind's heavy reliance on assessment and accountability has received much of this criticism. Under the provisions of No Child Left Behind, schools that do not show adequate yearly progress for any subgroup of students for two consecutive years will be labeled "in need of improvement." In other words, if the ELL subgroup fails to demonstrate adequate progress for two consecutive years, the entire school will receive this label. Thus, it is easy to see why schools are concerned that a mathematics test administered in English to students who lack proficiency in English is not an accurate measure of their mathematical knowledge. The American Federation of Teachers has criticized No Child Left Behind for requiring that assessments be "valid and reliable," yet allowing ELL students to be tested in English ("ELL and AYP," 2004). While it is important for schools to be held accountable for the performance of ELL students, the tests used to measure the performance of these students should be a valid measure of the knowledge they have about a particular subject. If they are not a valid measure, it is unfair to label a school as failing based solely on the test results of one subgroup of students. Not only does this create frustration on behalf of individual schools, but it may also give rise to feelings of resentment between parents and even students. To elaborate, students in a low-performing group such as the ELL subgroup may be blamed for a school's failing label (Abedi, 2004, p.5).

A third important concern about the effects of No Child Left Behind on ELL students is that inequities in the education of these students automatically makes it more difficult for them to attain educational goals. A report issued by National Council of La Raza highlights some of inequities experienced by Latino students, including inequitable funding of schools with large

Latino student populations and unqualified teachers (Gonzalez, 2002, p.5). Abedi notes that No Child Left Behind gives the impression that students in each subgroup begin at the same level as other students and should achieve the same level of progress as other students (2004, p. 10). However, this is not the case. In reality, ELL students begin the race with lower baseline scores and progress and a slower rate because of their limited English proficiency (Abedi, 2004, p.10). Furthermore, schools where large concentrations of ELL students exists are typically in high-poverty urban areas and they often lack important educational resources such as qualified teachers and adequate facilities (Hakuta & Beatty, 2000, p.24). These disadvantages compound the problems experienced by ELL students (Hakuta & Beatty, 2000, p. 24). Thus, it may be unrealistic to expect ELL students to make adequate yearly progress when schools do not have the resources necessary to help them succeed.

In summary, while No Child Left Behind recognizes the importance of tracking the progress of ELL students and ensuring that schools are responsive to their needs, serious concerns exist that question the fairness of current requirements. A participant in a workshop held by the National Research Council noted that a paradox exists for policy makers; although it is crucial to include all students in testing in order to hold teachers and administrators accountable for providing them with an adequate education, testing students who have not attained proficiency in the English language will lead to inaccurate results (Hakuta & Beatty, 2000, p.5). What, then, is necessary to make the requirements of No Child Left Behind acceptable to state and local educational agencies? It seems that there are two main areas that must be addressed. First, the federal government needs to continue working with states to determine which ELL students are included in annual tests. As noted previously, the federal government recently began allowing schools the option of including first-time enrollees in test

results. Additional efforts such as this will enable schools to establish a more stable measurement of the ELL subgroup. A second area that is crucial for the success of this legislation is the validity of core subject testing for ELL students. The American Federation of Teachers recommends that the federal government “attend to the conflict between No Child Left Behind’s requirement that all students be tested and the fact that few states have linguistically modified or native language assessments” (“ELL and AYP”, 2004). However, forcing states to translate tests into a student’s native language would compromise much of the flexibility that has been heralded as one of the trademarks of the No Child Left Behind legislation. Until students are given the opportunity to take exams that measure subject knowledge other than English in their native language, concerns about the validity of exams will persist. Although the impact of No Child Left Behind has both positive and negative aspects, it cannot be denied that the legislation has placed much importance on the quality of education being provided to ELL students. When viewed in the historical context of educational neglect that has plagued this group of students, No Child Left Behind seems to be at least a step in the right direction.

#### V. The Education of English Language Learners in Tennessee

Karen was in the third grade when she moved to East Tennessee from Mexico. She spoke no English upon arrival but was immediately placed in a regular classroom where English was spoken one hundred percent of the time. One can only imagine her confusion at being surrounded by a language she did not understand. Although she was pulled out of the classroom for a period of time each day to receive English as Second Language instruction (ESL), proficiency in the English language was a skill that would take much time to master. In the meantime, Karen sat alongside her English-speaking classmates as they learned multiplication, spelling, and reading comprehension. She tried to understand, and eventually began to learn a

few words and understand a small percentage of her teacher's instructions. However, more important than the few words she did understand are the many words whose meanings she did not grasp.

Situations like Karen's are becoming increasingly common in Tennessee as the number of students who are classified as English language learners continues to rise each year. Federal courts have ruled that children like Karen are entitled to the same educational opportunities as students with full English proficiency and that schools must do more than simply provide them with the same textbooks and facilities. Schools must provide services that enable these students to achieve English proficiency and progress in other academic subjects. Prior to these court rulings, ELL students in many states were subject to discrimination based on their limited English proficiency. For example, ELL students were often placed in special education programs or retained based solely on their level of English proficiency. Thankfully, practices such as these are no longer acceptable. Policies for English language learners, including those in Tennessee, have evolved dramatically since the Civil Rights Act of 1964 and the Bilingual Education Act of 1968.

States have chosen to respond to increasing numbers of ELL students in many different ways. States such as Texas, California, and Florida that have a very large population of ELL students have been forced to address the educational needs of these students at an earlier stage than other states with smaller populations. Although Tennessee has experienced a dramatic increase in its ELL population in recent years, historically the education of this group of students has not been an issue of great importance to policy-makers or educators in the state. However, the rising number of ELL students in Tennessee public schools and the impact of No Child Left Behind on the education of ELL students have pushed this issue higher on the policy agenda in

Tennessee. This section will describe the development of Tennessee's policies for English language learners and will analyze the policies that are currently in place. Additionally, this section will discuss important challenges that Tennessee will face in educating English language learners as a result of No Child Left Behind. Finally, I will summarize recommendations for policy improvements for English language learners.

The data used in this study was obtained predominately from the Tennessee Department of Education website. Several publications from this website were used to obtain data for the population of ELL students at different periods of time. Other documents were obtained from the Tennessee Comptroller's Office of Education Accountability. Further research was gathered from the website of the National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs. Limitations of the research include an inability to obtain information detailing the number of ELL students in Tennessee or a description of the services provided to them prior to 1988. Some information about the ELL population and educational services in the Nashville area in 1977 was obtained, but no statewide data was available. Generalizations about the status of education for ELL students prior to 1988 will be made based on information obtained in reports published after 1987.

The importance of this study is highlighted by the changing demographics of the State of Tennessee. U.S. Census data shows that the number of Tennessee residents who speak a language other than English at home has risen from 131,550 in 1990 to 256,516 in 2000 ("Census 2000," Summary File 3, Table 1). This is an increase of 93% during a ten-year period. The overall population growth during this same period was only 17%. Clearly, the growth in the population of Tennesseans who speak a language other than English far exceeded the growth in the general population. The U.S. Census data also shows an increase in the number of Spanish

speakers in Tennessee. In 1990 49,661, or 38%, of the population of Tennesseans who spoke a language other than English spoke Spanish. In 2000 133,931, or 52%, of the same population spoke Spanish. Not only has the number of people speaking a language other than English at home increased, but the percentage of this population that speaks Spanish has also risen. This data reflects immigration trends for Tennessee from 1990-2000. During this time period, Tennessee experienced a nearly 200% increase in its foreign born population (Camarota & McArdle, 2003, p.12). The number of immigrants from Mexico increased from 2,019 to 51,174, which explains the large increase in Spanish-speaking residents (Camarota & McArdle, 2003, p.12). Demographic trends in Tennessee indicate a growing number of Hispanic residents. The total number of Tennessee residents of Hispanic origin rose from 32,741 in 1990 to 123,838 in 2000 (“Tennessee Census Data,” 2003, p.1).

Clearly, the changing demographics of Tennessee signify a need to examine closely the education of English language learners and push this issue higher on Tennessee’s policy agenda. With the immigrant population, specifically immigrants of Hispanic decent, becoming a larger percentage of the total population, Tennessee should be concerned with the quality of education these students receive in Tennessee public schools. In order to become productive and contributing members of society, this population of students must receive an adequate education. This study seeks to analyze Tennessee’s policies for English language learners and provide recommendations for reforms that will improve the quality of education provided to this group of students. The research will begin with a description of Tennessee’s early practices of educating ELL students, including information from studies done in 1977 and 1988. Next, a description of current educational services will be given. Finally, present and future challenges of educating ELL students in Tennessee will be summarized and recommendation for policy reforms shall be

presented.

The overview of federal laws and policies impacting the education of ELL students provided earlier in this paper mentioned that following the landmark ruling in *Lau v. Nichols* (1974), many school districts were reviewed for compliance with the Lau decision by the United States Office for Civil Rights (OCR). The Metropolitan Nashville-Davidson County School System in Tennessee was one of the school districts reviewed by the OCR in 1977 and was found to be out of compliance (Jones, 1981, p.2). According to Jones, a preliminary survey of ELL students reported approximately two hundred students who were eligible for ELL services, but a more thorough report completed soon thereafter identified more than twelve hundred potential ELL students (Jones, 1981, p.2). In order to comply with the Lau Remedies, the Metropolitan Nashville-Davidson County system had to develop a plan “to assess, evaluate, provide compensatory linguistic programs, and keep records on all of the 1,218 potential LEP students” (Jones, 1981, p.2). Therefore, after applying for and receiving federal funds from Title I and III of the Elementary and Secondary Education Act, the school system established its first ESL/bilingual education program from ELL students (Jones, 1981, p.2). ESL education was instruction provided in English to help ELL students attain English proficiency. Bilingual tutors were provided to tutor students in their native language (Jones, 1981, p.3).

Prior to the OCR compliance review in 1977, it seems that the Metropolitan Nashville-Davidson County School System was doing very little to provide ELL students with an adequate education. In fact, the school system did not even have an accurate estimate of its population of ELL students. Information for other school systems in Tennessee during this time period was not obtained, but the situation in the Nashville system would indicate that Tennessee did not have structured policies in place for the education of ELL students. The Metropolitan-Nashville

system likely had one of the largest concentrations of ELL students at the time. If this school system was not addressing the needs of the ELL population, one can infer that school systems with fewer ELL students were not taking needed steps either.

Public opinion, or at least the opinions of Tennessee state legislators, regarding the education of English language learners is demonstrated in the passage of Chapter 381 of the 1984 Public Acts, which made English the official and legal language of Tennessee. Tennessee was not the first state to declare English its official language, nor would it be the last. The act mandates that “all communications and publications, including ballots, produced by governmental entities in Tennessee shall be in English, and instruction in the public schools and colleges of Tennessee shall be conducted in English unless the nature of the course would require otherwise” (Tennessee Code Annotated 4-1-404). Because English is not the official language of the United States, many states began passing measures to declare English the official language at the state level. The impetus for this action seems to originate from a fear that immigrants would begin demanding that government entities provide services to them in their native languages. Legislators discussing the passage of this bill cited potential demands for bilingual education as one reason the official English measure was needed. For example, one legislator, when asked what effect the measure would have, stated that it would “give school boards and local governments the basis for denying requests for other languages” and gave as an example the possibility that “if we get a big influx of Spanish-speaking people here they can just go down to the Board of Education or go down to the city and demand that you teach biology in Spanish for twenty people” (Tennessee House Calendar and Rules Recording, 1984, minute 35). It was clear that legislators were concerned about the potential for additional costs associated with bilingual education and wanted to prevent this from occurring. The House of



Representatives passed bill HR 2119 with only one opposing vote and very little discussion. However, one legislator did inquire whether the bill would prohibit teaching the English language to non-English speaking students and was told that it would not (Tennessee House Session Recording, 1984, minute 15).

Similar discussion took place when the official English measure was passed in the Tennessee State Senate as SB1724. Although comments from Senators were limited, the main rationale for making English the official language of Tennessee was clearly to prevent immigrants from demanding bilingual education from local education agencies. References were made to other states that had encountered such situations, and this bill was seen as a preventative measure that would save Tennessee money in the future (Senate Session Recording, 1984, minute 12). The full impact of the official English bill is not clear at this time, but there is evidence that transitional bilingual programs were used in school districts in Tennessee in 1988, after the bill was passed. These programs may have been allowed to exist despite the Official English law because they were completely federally funded. However, information from later report issued by the Tennessee Department of Education states that “Tennessee is by law an English-only state, and all instruction and assessment must be in English” (“Descriptive Report,” 2003, p.1). While the exact implications of Tennessee’s official English law are not clear, it is evident that Tennessee currently uses its English only status to require all testing and instruction to be performed in English. The passage of the official English law in 1984 and the discussion that ensued demonstrates that state lawmakers viewed immigrants as a burden on the government. Instead of questioning the educational services that were being provided to ELL students, lawmakers only wished to prevent immigrants from demanding more.

As discussed previously, the condition of education for ELL students at the time of

OCR's review of the Metro-Nashville school district in 1977 was inadequate. While one cannot determine conclusively that the education of ELL students in the rest of Tennessee was also inadequate, logic tends to point to that conclusion. By 1988, a thorough report of the status of ELL students in the state of Tennessee was issued by the Tennessee State Department of Education. The report, titled *Information on the Status of Limited English Proficient Students in Tennessee Public Schools*, was issued in accordance with "requirements of section 731 of Title VII of the Elementary and Secondary Education Act of 1986 and by Public Law 98-511" which require that states conduct a statewide survey of ELL students enrolled private and public schools (Smith, 1988, p.1). As a result, a statewide survey was completed and a report was issued by the Tennessee Department of Education providing information on the number of ELL students in the state, the methods used to identify ELL students, evidence of the educational condition of ELL students, and the educational services provided to these students (Smith, 1988, p.1).

According to the report, the total number of ELL students in Tennessee public schools during the 1987-88 school year was 2,354 (Smith, 1988, p.3). The total number of students in Tennessee public schools during this same year was 860,101 (Smith, 1988, p.3). Thus, 0.27% of Tennessee public school students were English language learners. However, the report notes that the actual number of ELL students was probably larger than 2,354 and estimates the actual number to be close to 4,000 (Smith, 1988, p.24). In 1988, the most common language spoken among ELL students in Tennessee was Lao, followed by Korean, Cambodian, and Chinese. Spanish was only the fifth most commonly spoken language (Smith, 1988, p.3). This is a key difference between the demographic makeup of the ELL population in 1988 and that of the current ELL population. Today, Spanish is the most common native language of ELL students.

The 1988 report also noted that no formal method of identifying potential ELL students existed in most school districts in Tennessee. Only school districts with 30 or more ELL students, including Chattanooga, Knox County, Metro-Nashville, Memphis, Murfreesboro, Clarksville-Montgomery County and Rutherford County, had a standard method of identification and assessment (Smith, 1988, p.6). Districts without any formalized process normally relied on teacher observation to identify potential ELL students (Smith, 1988, p.7). The lack of formal guidelines for the identification of ELL students was cited as an area that needed improvement by the Tennessee Department of Education. The report recommended, “the State Department of Education should take positive steps toward establishing state policies and procedures for the identification of LEP students” (Smith, 1988, p.24).

Most of the ELL students in Tennessee in 1988 were being served by one of two major educational programs. The first program, English as a Second Language (ESL) was defined as “structured instruction of English language” to ELL students, with the language of instruction being English (Smith, 1988, p. 8). The second program, transitional bilingual education, was a program that provided ESL instruction but also provided tutorial instruction in the student’s native language. Of the ELL students in Tennessee, 59.4% were served by the ESL program while an additional 39.8% were in the transitional bilingual education program (Smith, 1988, p.8). The remaining students were divided between a Chapter I funded English language development program, paid tutors, volunteer tutors of ESL, ESL through contact areas, or teachers on extended contracts (Smith, 1988, p.8). Thus, in 1988, a substantial number of ELL students were receiving tutoring services in their native language in the transitional bilingual education program. Still, English-only instruction through an ESL program was the norm for a majority of ELL students.

As mentioned above, the existence of transitional bilingual education programs seems contradictory to the official English bill that was passed in 1984. Three of these programs existed and were all federally funded by Title VII. The three programs existed in the Metro-Nashville, Memphis City, and Rutherford County school systems (Smith, 1988, p.11). All of these programs employed ESL teachers who taught English to ELL students in the English language, and at the same time employed bilingual aides or native language instructors who provided instruction in the student's native language in other subject areas (Smith, 1988, p.12-13). For example, the Memphis City School System employed native language instructors to teach students social science, mathematics, and science (Smith, 1988, p. 12). The percentage of students being served by transitional bilingual programs has decreased since 1988, as Tennessee has relied primarily on pull-out ESL instruction in English.

To summarize, in 1988 there were a significant number of ELL students in Tennessee, but they were mainly concentrated in urban areas such as Nashville and Memphis. There were no formal guidelines for the identification of these students and only educational programs receiving federal funding, such as the transitional bilingual programs, were detailed in the report. ESL was the most common educational service provided to ELL students in Tennessee, but other methods incorporating the student's native language were in use at the time. In the years to come, Tennessee would experience a large growth in the number of ELL students and the demographics of this group would change as immigration from Mexico increased.

Many states have addressed the education of ELL students through state legislation that outlines educational provisions for this subgroup of students. In fact, as of 1999 Tennessee was one of only seven states that did not have legislative provisions for ELL student instructional programs (McKnight & Antunez, 1999, p.2-4). The other states without such provisions included

Alabama, Hawaii, Louisiana, Mississippi, South Carolina, and West Virginia (McKnight & Antunez, 1999, p.2-4). With the exception of Hawaii, all are southern states without a long history of educating ELL students. Although Tennessee has not passed legislation specifically addressing the education of ELL students, it was the first state to enact Title VI of the Civil Rights Act as state legislation. Title VI of the Civil Rights Act states that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance” (Civil Rights Act, 1964, Sec.601). By enacting this as state legislation in 1993, state government agencies subject to the requirements of this act, such as the Tennessee Department of Education, were required to be in compliance with Title VI.

As a result, in 1995 amendments were made to the Civil Rights Act state legislation that created a compliance monitoring standards checklist for educating non-English language background students. The checklist outlines steps that school districts must take in order to be in compliance with Title VI of the Civil Rights Act of 1964 in regards to national origin minority students. Following these amendments, school districts were required to take several important measures to ensure that national origin minority students were not being denied the benefits of Tennessee’s educational services. For example, districts were required to show a policy of admitting students regardless of their immigrant status, as the ruling in *Plyer v. Doe* (1982) had mandated. In addition, school districts were to have “effective procedures to identify and assess non-English language background students” that are English language learners (“ESL Program Guide,” 2003, p. A.1). School districts also had to show that they were providing an alternative language program for ELL students, specifically a program of ESL education, and that this

program was effective. Finally, for school districts to be in compliance with Title VI they had to show that ELL students were not excluded from special programs or inappropriately placed into programs based solely on English proficiency and that they communicate with parents of ELL students as effectively as other parents (“ESL Program Guide,” 2003, p. A.1).).

From 1993-2003, the number of ELL students in Tennessee rose quite dramatically. In fact, Tennessee is one of nine states that experienced greater than a 50% increase in the number of ELL students between years 1992-93 and 1995-96 (“Learners All,” 2000, p. 2). During the school year 1993-1994 school year, the number of ELL students was only 3,450 (“21<sup>st</sup> Century Report Card”, 1997). In 2003-2004, the number rose to 19,352 (“ELL Child Count,” 2004). Thus, during the past decade the population of ELL students has increased by 460%. One must consider that the collection of that data that determines these numbers has grown more accurate in recent years and that numbers from earlier years may actually be higher than reported. However, even with this in mind, the explosion of growth in this population of students is truly extraordinary and demonstrates the impact of immigration trends on state and local governments.

A limited amount of information could be obtained regarding the educational services provided to ELL students during the 1990’s. An analysis performed by the Council of Chief State School Officers in 1995 provides some information about the policies that were in place for ELL students. For example, the 1995 study noted that the Tennessee Department of Education would be “establishing regulations on identification requirements (including a home language survey) and a standardized procedure for assessment of English language proficiency” (“Systematic Reform,” 1996, p.139). In addition, the report mentioned that Tennessee was in the process of developing its Goals 2000 plan but had failed to involve persons with knowledge about the education of ELL students (“Systematic Reform,” 1996, p.139). Despite the increasing

population growth of ELL students, it does not appear that the education of these students was an issue of extreme importance to the state. However, Tennessee did have some regulations regarding the education of ELL students. Specifically, Tennessee rules and regulations provided that “students whose native or dominant language is not English shall be provided English courses especially designed for speakers of other languages” (“Systematic Reform,” 1995, p.139). In addition, Tennessee required that teachers employed as English as a second language teachers receive an add-on ESL endorsement or obtain a waiver while in the process of obtaining this endorsement (“Systematic Reform,” 1995, 139).

The landmark year for the education of English language learners in Tennessee occurred in 2000. In July of 2000 the Office of Education Accountability issued a briefing paper titled “Learners All: Serving Students with Limited English Proficiency.” In this briefing paper, the state identified several major issues of concern for English language learners. The first concern was, as it should have been, the rapid growth of the ELL student populations. A second concern was the diversity of students within the ELL subgroup. English language learners in Tennessee speak over 80 different languages and are from over 100 countries (“Learners All,” 2000, p.3). A third concern was that the Basic Education Program (BEP), Tennessee’s funding formula for education, did not contain a component to fund the education of ELL students. A final issue for Tennessee involved the teachers of ELL students. The report highlighted the shortage of certified ESL teachers and noted that Tennessee waives the certification requirement for a large number of ESL teachers (“Learners All,” 2000, p.3). Furthermore, since ELL students spend a majority of the day in the regular classroom, there existed a need to provide additional training for regular teachers of ELL students. The importance of this report lies in the fact that it was the first such report issued by the state of Tennessee. That a briefing paper is issued for particular issue

demonstrates that it is gaining in importance. Thus, this report signified that ELL education was becoming a more important and pressing topic for Tennessee education officials.

In September of 2000, Tennessee entered into a voluntary agreement with the federal Office of Civil Rights (“Multiple Choices,” 2002, p.25). This agreement established the state of Tennessee’s intent for providing educational services to ELL students and stated that “The Tennessee State Department of Education voluntarily agrees to take the actions specified in this agreement to ensure that all national origin minority (NOM) LEP students in the state receive required educational services pursuant to Title VI of the Civil Rights Act of 1964” (“Multiple Choices,” 2002, p.26). As part of this agreement, Tennessee has submitted an ESL/OCR compliance report during each year of the agreement that describes Tennessee’s services to ELL students.

Tennessee took another important step to show its commitment to educating ELL students by adding an appropriation for ESL instructors and translators to the Basic Education Program (BEP) funding formula in 2001 (“Multiple Choices,” 2002, p.25). In 1999, Tennessee was one of fourteen states that did not have legislative provisions for funding ELL student instruction (McKnight & Antunez, 1999, p. 3). However, in 2001 the Tennessee legislature approved a component of the BEP that allocated \$5.2 million for teachers of ELL students (“State Board of Education Update,” 2001, p.3). The commitment of Tennessee legislators to specifically provide funding for the education of ELL students signifies the growing importance of this subgroup of students. The state of Tennessee has continued to provide funding for ELL education since 2001. During the 2003-2004 school year, the BEP provided funding for one ELL instructor per 50 ELL students and one ELL translator per 500 ELL students in the state (“Tennessee BEP,” 2003, p.2). This system gives school districts an incentive to accurately



report the ELL student population in order to be eligible to receive funds.

Clearly, the evolution of Tennessee's policies for ELL students has been a slow process and only recently has the state made significant gains in establishing educational services for this group of students. After Tennessee entered the voluntary agreement with the federal Office for Civil Rights, the information about the educational services provided to ELL students became much more detailed and clearly outlined due to a requirement of the agreement that each school district submit a plan to the Tennessee State Department of Education detailing services for ELL students. Each plan must include information regarding student identification, student language assessment, ESL program participation, student placement and services, personnel responsibilities, transition and exit, and program evaluation and monitoring ("Descriptive Report", 2003, p.1). The Department of Education also began publishing the "Tennessee English as a Second Language Program Guide" for educators and administrators, which outlines the responsibilities of school districts in educating ELL students. The following information regarding the services provided to ELL students in Tennessee is summarized from this document.

Tennessee's current services for ELL students can best be summarized by discussion of four main categories: identification, educational programs, and exit criteria. First, identification of ELL students begins with a Home Language Survey. This survey inquires about the student's first language, the language spoken at home, the language spoken by the student's parents, and the language spoken by the student outside of the home. If it is determined a language other than English has influenced the students, he or she is classified as Non-English Language Background and then tested for English proficiency using a standardized test. Using results of this test, the student is placed into one of three ranges: beginning/intermediate, transitional ELL, or fluent

English proficient. Students within the beginning/intermediate category are entitled to ESL services. Schools are required to notify the student's parents of their status and be provided with information about the educational services their child will be receiving.

Once a student is identified as a beginning or intermediate ELL, there are several appropriate models that can be used to deliver services to the student. The primary model used in Tennessee is pull-out ESL instruction. During this type of instruction, the student receives English instruction from a certified ESL teacher during the school day. Tennessee recommends that beginning and intermediate ELL students receive this instruction on a daily basis, or the equivalent, and that no more than 50 ELL students be assigned to one ESL teacher. Other models that can be used include cluster centers, which ELL students are transported to for ESL classes, regularly scheduled ESL classes, and resource centers/ESL laboratory. If a school district wants to use any other educational program, it must show that it is based on sound research and receive approval from the Tennessee Department of Education. With the exception of the period of time when an ELL student is pulled out of the classroom for ESL instruction, the student participates in a regular classroom at his or her grade level.

Transitional ELL students, those who only recently attained English proficiency but are still being monitored by ESL staff, are still entitled to support services and modifications in the regular classroom. Such modifications and support services may include the use of a bilingual dictionary, extra time on tests and assignments, pull-out tutoring, peer tutoring, after school programs, technology activities, and the use of native language aides to help students with content area classes. Of course, not all of these support services are available in every school district. In rural areas, or in schools with a small number of ELL students, native language aides may not be available. In addition, pull-out tutoring may not be feasible if no one is available to

work with the student. Therefore, it is important to remember that not all ELL students receive extra services such as those mentioned.

ELL students must meet certain criteria in order to prove English proficiency and exit from ESL services. This can be achieved in one of the two ways. The first criteria that can provide evidence of a student's English proficiency are scores of fluent on the oral, reading, and writing sections of the English language proficiency test. Alternately, a student may show English proficiency by scoring at a proficient level on the reading and language exams of state assessments. Additionally, students must also receive the recommendation of their classroom teacher and the approval of the ESL coordinator in order to exit from services. After exiting, ELL students are monitored for two years and continue to be counted as ELL for district reporting for these two years.

As with any policies, one must ask whether the policies are actually being implemented in reality. Are ELL students actually receiving the educational services outlined by the Tennessee Department of Education? While state data does not reflect the actual services each ELL student receives on a daily basis, a visit to a school with ELL students is evidence that the policies are not always reflected in practice. For example, Tennessee gives school districts instructions that "beginning and intermediate ELL students must be provided daily services, or if daily services are not possible, the equivalent with approval by the State Department of Education" ("ESL Program Guide", 2003, p.6.5). Even though the state recommends daily services, it leaves a loophole for school districts by allowing them to provide less than this if daily services are not possible. In many cases, daily services are not provided due to a shortage of ESL teachers. Are ELL students still receiving adequate services if daily ESL services are not being provided? Another important question to ask is what level of services is considered the

“equivalent” of daily services.

Most recently, the education of ELL students has been complicated by the No Child Left Behind Act. While more detailed discussion of the impact of this legislation on the situation of ELL students occurred in a previous section, it is important to highlight its specific effects on Tennessee and to describe Tennessee’s efforts to address its challenges. When asked about No Child Left Behind’s requirement that English language learners no longer be exempted from state assessments, Tennessee Commissioner of Education Lana Seivers replied “I think when we ask a child to take an achievement test in a language that he or she doesn’t even speak, it certainly shows very little common sense, much less best practices in education” (“Educators Upset,” 2003). Commissioner Seivers’ statement indicates her awareness that testing students in a language they do not understand is not an accurate measure of what they know. However, federal regulations require that these students be tested, regardless of the state’s viewpoint. Although No Child Left Behind gives states the option of testing students in their native language in subject tests, Tennessee does not provide native language exams. The reason for not providing native language tests is that Tennessee is by law an English only state.

While Tennessee does not offer native language tests for ELL students, other accommodations are made during mandated assessments. The Tennessee Department of Education posts the allowable accommodations on its website. The following information regarding allowable accommodations was obtained from this source. ELL students are allowed extended time for all tests. Students are allowed to use a bilingual dictionary on all tests except language arts, reading, spelling, word analysis, vocabulary and writing. In other words, bilingual dictionaries are allowed on all tests that do not seek to measure a student’s language ability. The internal test instructions are read aloud in English to ELL students on all tests, whereas regular

students read them on their own. In addition, individual test questions are read aloud in English for the same tests for which they can use bilingual dictionaries (“ELL Students and TN Mandated Assessments”, 2003). These testing accommodations provide at least some assistance for ELL students, but in reality state mandated assessments given in English will not accurately reflect the knowledge of someone who lacks English proficiency. Education officials across the United States who worry about the validity of the exams are echoing this concern. When results of these exams are being used to determine whether school districts achieve adequate yearly progress, questions about validity should not be ignored. Without native language tests for ELL students, school districts must focus on helping ELL students achieve English proficiency as quickly as possible. However, English proficiency cannot be achieved overnight, especially with a limited supply of ESL teachers.

Although concerns about the validity of testing ELL students in English exist, the fact remains that these students are required by federal law to be tested if they have been in the state for a full academic year. The No Child Left Behind Act says that state assessments should provide for “the inclusion of limited English proficient students who shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information on what such students know and can do, to determine such students’ mastery of skills in subjects other than English” (NCLB, 2002). Therefore, Tennessee schools can no longer exempt English language learners from state mandated assessments such as the Tennessee Comprehensive Testing Program. Only in cases where the total number of ELL students in a district is less than 45 are school districts not required to report test results for ELL students. If the number of ELL students in a district is less than 45, it is not considered a large enough sample to accurately gauge proficiency levels and therefore a failure for this subgroup alone to

reach stated proficiency levels will not result in the school becoming a target school. During the 2002-2003 school year, an ELL subgroup in all school districts which were required to report results for ELL students failed to reach proficiency in at least one area. A total of twelve school districts reported test results for ELL students, including all major urban districts (“Tennessee No Child Left Behind”, 2003). A review of statewide averages for third and eighth grade students on math and English assessments shows that English language learners are the second lowest scoring subgroup of students; only students with disabilities had lower average scores (“Targeting Resources”, 2003). Therefore, school districts with greater than 45 English language learners will feel pressure from state officials to improve the achievement of this group of students in order to meet federal benchmarks. While districts with fewer than 45 ELL students are not required to report assessment data at this time, one can hope to see the education of ELL students attain a higher policy importance at the statewide level.

Obviously, No Child Left Behind places a great amount of importance on the success of all subgroups of students, including English language learners. Tennessee has made progress is improving the condition of education for ELL students in the state, but there are still areas that need improvement. Tennessee faces many challenges in the coming years as the number of ELL students will continue to rise, particularly the number of immigrants from Latin America. Tennessee’s school districts must respond to these changes, especially considering the requirements of No Child Left Behind. The Tennessee State Board of Education created an ESL task force to prepare a status report of the education of English language learners in Tennessee. A report was issued on January 31, 2003 and made several recommendations that, if adopted, would greatly enhance the educational services being provided to ELL students. One such recommendation was that the BEP, Tennessee’s education funding formula, be modified to

allocate funds for one ESL teacher per 30 ELL students (“ELL Status Report,” 2003, p.2). Currently, the BEP provides funding for one ESL teacher per 50 ESL students. In order for schools to provide ESL instruction for beginning and intermediate ELL students on a daily basis, additional ESL teachers are needed. Tennessee would be wise to fund additional ESL teachers, but in a world of limited resources many Tennessee citizens would argue that these funds are more greatly needed elsewhere in education. The Task Force also recommended that the ESL certification process be made easier by dropping the requirement that ESL teachers learn a second language (“ELL Status Report,” 2003, p.2). Since Tennessee has a shortage of ESL teachers, any barriers to certifying additional ESL teachers should be removed (“ELL Status Report,” 2003, p.2). The task force also recommended that the ESL Resource Guide for Tennessee be updated in order to comply with Office for Civil Rights. This recommendation was adopted by Tennessee and the updated ESL Resource Guide is posted on the Department of Education website.

What could be most important for Tennessee in the coming years is to increase the level of parental involvement for ELL students. ELL students do not only confront difficulty within the school walls. They also confront it at home if their parents do not speak English and are unable to assist them with homework, communicate effectively with the school system and teachers, or provide them with information about college and career opportunities. Even if ELL students achieve English proficiency, they are still at a disadvantage if there is little parental involvement in their education. Tennessee is required provide information to parents of ELL students in a language they can understand, and the state Department of Education provides important documents in over ten languages through the TransAct® Translation Library (“ESL Program Guide”, 2003, p.2.3). Additionally, the state Department of Education recommends that

schools have access to persons who can communicate with the parents of ELL students, whether that means using faculty within the school or relying on community members (“ESL Program Guide,” 2003, p.2.3). Whatever the means, communicating with parents of ELL students is essential if Tennessee is to truly provide the students with an adequate education. Formal data detailing the methods used by schools to communicate with parents of ELL students was not obtainable, but this information is essential to accurately gauge the quality of education ELL students are receiving. A study that could provide this information would be very helpful to school officials and policy makers. School districts located within close proximity to a college or university have a distinct advantage over others because they can draw upon foreign language majors and faculty. The question is whether many school districts are currently utilizing these resources. Other school districts may have to rely on teachers within the school who may know a second language and members of the community.

An additional recommendation for the state of Tennessee is to encourage the professional development of teachers by providing additional training in the education of ELL students. Because ELL students in Tennessee are normally only pulled out of the regular classroom for a short period of time each day, at most, it is of utmost importance that regular classroom teachers be familiar with the needs of this population of students. According to a survey by the U.S. Department of Education using 1999-2000 data, only 1.4% of teachers with ELL students in their classroom had received eight or more hours of training in the last three years on how to teach ELL students (“School and Staffing Survey,” 2002, p.43-44). Only three states rank lower than Tennessee in this category: Montana, Wyoming, and West Virginia. The percentage of public school teachers in Tennessee who taught ELL students during the 1999-2000 school year was 22.3% (“School and Staffing Survey,” 2002, p.43-44). Tennessee has the 38<sup>th</sup> highest percentage



in this category. While a lower percentage of Tennessee teachers teach ELL students than in many other states, 22.3% is still a significant portion of teachers who could benefit from additional training. An interesting program in Georgia called the Georgia Project, a nonprofit education organization in Dalton, sends teachers in local schools to the University of Monterrey in Mexico on an exchange program (Baydala, 2003, p.2) Teachers from Mexico are placed in schools in North Georgia while in the meantime, American teachers learn Spanish in Mexico (Baydala, 2003, p.2). The program was started in response to a dramatic increase in Spanish-speaking students in Georgia. Innovative programs such as these are needed in Tennessee. Our teachers should have the opportunity to learn about the cultures of students they are teaching and gain skills that will enable them to communicate more effectively with the students and their parents. They also need training simply to become familiar with Tennessee's policies for ELL students. Tennessee should strongly consider devoting more resources to training opportunities for public school teachers who are teaching ELL students in their classrooms.

In conclusion, Tennessee has an interesting history of serving ELL students in its public schools. Early programs served a smaller number of students with different demographics than the ELL population today. As the number of immigrants to Tennessee increased, the number of ELL students, particularly Spanish-speaking students, increased as well. Tennessee has responded to the increase by producing more formal guidelines for educating ELL students and by entering into a voluntary agreement with the federal Office for Civil Rights to ensure that the state policies for educating ELL students are in compliance with federal law. No Child Left Behind has created additional challenges for Tennessee with its requirement that all ELL students be tested and that test results be reported for districts with greater than 45 ELL students. While Tennessee's policies are becoming more defined and the state's education funding

formula has recently begun to include funds for ESL teachers, there are still many improvements that can be made. Chief among these are recruiting and funding additional ESL teachers and providing additional training for regular classroom teachers who teach ELL students. Since the population of ELL students in Tennessee continues to increase, Tennessee should constantly be searching for ways to improve the educational services it provides to this important group of students.

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