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Breaking One Law to Uphold Another: How Schools Provide Services to English Learners with Disabilities

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Inadequate and incomplete educational services for English learners (ELs) with disabilities is a common civil rights issue in the U.S. K–12 education system. Although the federal government has documented that schools are instituting policies of providing only one set of services, such as special education or EL supports, there is little understanding as to why this practice persists in spite of educational laws and policies. Through a qualitative comparative case study that draws on two complementary theories, intersectionality and the language planning and policy onion, this study examines two schools' service provision practices for ELs with disabilities. The findings reveal that educators' beliefs about the differential weight of federal special education and EL laws and policies resulted in practices that bar ELs with disabilities from receiving the dual services to which they are legally entitled. The findings underscore the significance of bolstering school leaders' knowledge of federal language education laws and policies, while also instituting greater protections for ELs with disabilities, to safeguard these learners' educational opportunities and rights.

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With an estimated 4.6 million English learners (ELs), multilingual students who are in the process of acquiring English in K–12 public schools across the United States (National Center for Education Statistics, 2017c), ensuring that ELs receive their legally required language supports is a central matter in education. So critical is the need to adhere to federal mandates that the U.S. Departments of Justice and Education (2015) issued a “Dear Colleague” letter to remind state educational agencies (SEAs) of “their legal obligations to ensure that EL students can participate meaningfully and equally in educational programs and services” (p. 2). Outlined in this letter are the 10 most common civil rights violations in EL education, one of which is service provision for those ELs with identified disabilities. ELs with disabilities, who constitute 13.8% of the entire EL population (National Center

for Education Statistics, 2017c), are frequently the recipients of inadequate services, with some services eliminated altogether. The departments reaffirmed that SEAs “must provide EL students with disabilities with both the language assistance and disability-related services to which they are entitled under Federal law” (p. 24) and that a failure to do so constitutes a violation of these students’ civil rights.

Despite the commonness of noncompliance with education law in service provision for ELs with disabilities, research has yet to uncover why this lack of adherence is occurring. This comparative case study investigates both how and why schools are misinterpreting federal policies as they provide educational services for ELs with disabilities. The analysis shows how educators created service provision policies largely based on their beliefs about the legal weight of federal special education and EL policies and laws. These beliefs reified in practices that ultimately marginalized ELs with disabilities.

LITERATURE, POLICIES, AND LAWS

Understanding the discrepancy between federal policies and their local enactments in schools for ELs with disabilities requires knowledge of both contemporary practices and historical policies and laws governing both EL and special education. Thus, in the subsections that follow, I first provide a review of empirical studies germane to service provision for ELs with disabilities and then offer an analytical synopsis of macro special education and language education policies and laws connected to these services.

Literature Review

ELs with disabilities are an underresearched student population. Of the modest amount of research focusing on this population, most studies to date have examined issues surrounding the identification of ELs for special education services (e.g., Klingner & Harry, 2006; Liu & Barrera, 2013; Orosco & Klingner, 2010). In particular, research has investigated special education referral processes for ELs, scrutinizing existing procedures that often fail to take ELs’ linguistic and cultural backgrounds into consideration (Klingner & Eppolito, 2014; Klingner & Harry, 2006; Liu & Barrera, 2013). For instance, the use of diagnostic assessments in identifying ELs with disabilities has been problematized by scholars in both the fields of EL and special education (Abedi, 2006, 2010; Klingner et al., 2005; MacSwan & Rolstad, 2006). These assessments continue to be used in schools although they are

normed for monolingual children (Abedi, 2006) and often conflate second language acquisition (SLA) with certain disabilities (Abedi, 2010; Collier, 2011; Klingner & Eppolito, 2014).

With inappropriate special education referral procedures in place, ELs run the risk of being disproportionately represented in special education in U.S. schools. A number of studies have found that ELs with disabilities are overrepresented in special education in some categories of disabilities, such as learning disabilities (LDs) and intellectual disabilities (Artiles, Rueda, Salazar, & Higareda, 2005; Ortiz et al., 2011; Sullivan, 2011). These so-called judgmental disability categories are determined by school personnel. Conversely, some ELs may actually have disabilities and yet not be diagnosed, thus depriving them of the special education services they need. This underrepresentation of ELs in special education can occur when educators delay classification procedures out of concern that ELs may be erroneously identified with disabilities (Hibel & Jasper, 2012).

With most extant research examining issues in special education identification and referral, little attention has been given to programmatic and instructional practices after ELs are referred to special education. Research on service provision implementations and policies is particularly scarce, with only a few studies published to date. The findings of these studies are grim, illuminating the complexities and challenges that riddle service provision for ELs with disabilities. For example, Zehler et al.'s (2003) large-scale survey of public schools identified several roadblocks to delivering services to ELs with disabilities, including the absence of institutional structures for collaboration among the teachers who support ELs with disabilities. Zehler et al. posited that by coordinating their efforts only through informal channels, EL and special education teachers were unlikely to be familiar with the services provided by other educators and to have the student data they needed to support ELs with disabilities. The highly fractured nature of service provision was also recently documented in Kangas's (2017a) ethnographic study, which found that EL, special education, and general education teachers worked largely in isolation, and thus the need for collaboration was moot. For ELs with disabilities, this piecemeal approach to service provision resulted in many of their needs being overlooked. Taken together, these studies suggest that improving service provision is in part a matter of bridging departmental and disciplinary boundaries in schools.

In addition to documenting service delivery barriers for ELs with disabilities, Zehler et al.'s (2003) study was among the first to document noncompliance with federal laws. In the survey, educators reported that when ELs had identified disabilities, their access to EL services became more restricted. Some ELs with disabilities received

less support for their language, and 16.1% were not provided with EL support¹ at all. This finding was corroborated by Kangas (2014, 2017b) in studies on the tension between EL and special education services, discovering that administrators systematically prioritized services stemming from disabilities, adhering to a de facto policy of “no dual services.” These studies, coupled by the Departments of Justice and Education’s (2015) guidance letter, confirm that noncompliance in service provision for ELs with disabilities is a pressing issue in EL education, but why this noncompliance is occurring remains unknown.

Analysis of Special Education and Language Education Policies and Laws

In the U.S. school system, the legal mandate for educational services for ELs with disabilities derives from both special education and language education policies and laws. These policies and laws trace back to the 1960s and 1970s, in which both the civil rights movement and the disability rights movement sparked additional protections in the education of historically vulnerable groups. Although the terms *law* and *policy* are often used interchangeably, in this article *law* refers to systems of rules, whereas *policy* refers to interpretations or guidance regarding how to follow the law.

When the landmark Rehabilitation Act of 1973 was passed, Section 504 of the law protected students with disabilities against discrimination by declaring discriminatory educational practices on the basis of disability unlawful. In addition to prohibiting schools from denying education to children based on the presence or severity of a disability, Section 504 also secured services for students with disabilities at schools receiving monetary assistance from the federal government. This law moved past granting mere entry into U.S. schools by mandating that children with disabilities be provided with an education attuned to their needs. Two years later, the Individuals with Disabilities Education Act (IDEA, 1975) determined that students with disabilities were entitled to a free appropriate public education and established a mechanism for accountability through individualized education programs (IEPs)—legally binding documents that specify the services students with disabilities must receive and their educational goals (National Dissemination Center for Children with Disabilities, 2012). IEPs increased accountability for schools because of their contractual

¹ *EL services* and *EL supports* are umbrella terms for a range of programs that schools use to support ELs. *English as a second language (ESL) services* refers to a specific program model in which ELs receive linguistic support in English only.

nature; schools are legally obligated to provide the services and supports delineated in each student's IEP (U.S. Department of Education, 2007).

The legal foundation for EL education can be traced to Title VI of the Civil Rights Act of 1964, which protected individuals from discrimination on the basis of their race, color, and national origin. A cornerstone court case, *Lau v. Nichols* (1974), ruled that failure to provide ELs with language services “denies them a meaningful opportunity to participate in the public educational program” (para. 1) and therefore violates the Civil Rights Act (1964) because their linguistic proficiencies are inseparable from their national origins (Office for Civil Rights, 2015). Deriving from this ruling was the issuing of the Lau Remedies, which mandated language support for ELs. The principles of the Lau Remedies were codified into the Equal Educational Opportunities Act (1974) but did not specify how schools should provide language support, just that schools needed to “take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs” (§1203).

Castañeda v. Pickard (1981) established a measure of adequate services for ELs, building on the foundation established by *Lau v. Nichols* (1974), as the latter case was insufficient in stipulating the conditions for language support. This loophole was brought to light when a Texas district segregated Latino ELs in the name of ability grouping. The ruling established three criteria to evaluate the effectiveness of English as a second language (ESL) and bilingual programs: (1) Is there a connection between language learning theory and the school's programs? (2) Is there feasibility to effectively implement the theory-based programs and practices with the amount of resources, including staff? (3) Are there evaluative procedures in place to monitor and alter practices to increase effectiveness? (Office for Civil Rights, n.d.). Although the Castañeda Guidelines provided greater protection to ELs, they have led to broad interpretations of what programs are deemed permissible (Crawford, 1998; Del Valle, 2003; Loos et al., 2014; Nieto, 2009). Such broad policy interpretations, according to some, can render the law ineffectual in protecting ELs. For example, Del Valle (2003) leveled a sharp criticism of the Castañeda Guidelines, arguing that by these criteria almost any type of EL program—even those that lack empirical basis—can continue.

Further protection for both ELs and students with disabilities occurred when the No Child Left Behind Act (NCLB, 2001) came into effect in 2002 as a reauthorization of the Elementary and Secondary Education Act (ESEA) of 1965. Although controversial, its primary purpose was to ensure educational equity for historically vulnerable student groups, such as ELs and students with disabilities, through a

system of accountability by determining whether these students were making academic progress. IDEA was amended in 2004 to align with the accountability-driven nature of NCLB; this reauthorization of the law increased accountability by requiring schools to institute performance targets for students with disabilities participating in annual academic assessments (U.S. Department of Education, 2016a).

In 2015, ESEA was revised into its newest version, the Every Student Succeeds Act (ESSA), which aimed to protect and expand the educational opportunities of ELs and students with disabilities, among other student groups, but relinquished both standards for student performance and school accountability for such performance to state governments (U.S. Department of Education, n.d.). ESSA required schools receiving federal funding to report on the academic achievements of these students. With the passing of this reauthorization,² ELs with disabilities, as a subgroup, were foregrounded, shifting the oversight of these students' academic achievement to state governments.

The aforementioned federal EL and special education laws and policies apply to students dually identified as ELs and students with disabilities (U.S. Department of Justice & U.S. Department of Education, 2015). It had long been the case under IDEA that IEPs should consider the English language needs of ELs (U.S. Department of Education, 2007). In fact, ELs with disabilities' IEP teams are obligated to include a professional with expertise in SLA, such as an ESL or bilingual education teacher/coordinator (U.S. Department of Justice & U.S. Department of Education, 2015). In 2015, the Departments of Justice and Education offered clarification about the application of both special education and EL policies for ELs with disabilities because of schools failing to provide both language and disability services. The guidance letter stated, "The Departments are aware that some school districts have a formal or informal policy of 'no dual services,' i.e., a policy of allowing students to receive either EL services or special education services, but not both" (p. 25). The departments then emphasized, "These policies are impermissible under the IDEA and Federal civil rights laws" (p. 25). Such reaffirmation of federal laws and policies was needed given the considerable number of reported cases of schools not providing dual services (U.S. Department of Justice & U.S. Department of Education, 2015), with even more cases likely remaining unreported. Little is known, however, about how and why schools are failing to comply with federal laws for ELs with disabilities.

² In March 2017, the U.S. Congress repealed some federal regulations in ESSA. Currently, it is unclear how the amending of the law will influence specific protective provisions for ELs.

THEORETICAL FRAMEWORK

This study draws from two complementary theories: intersectionality (Crenshaw, 1989) and the conceptualization of language planning and policy as an onion with multiple layers (Ricento & Hornberger, 1996). Utilizing these theories, this study examines how federal policies for ELs with disabilities are altered as they are interpreted in various layers of the education system and how such interpretations largely ignore the needs of ELs with disabilities.

Intersectionality

In its framing, this study includes *intersectionality* (Crenshaw, 1989), a theory used to understand the influence of the intersection of multiple minority social categories—minority statuses based on an individual's represented demography (e.g., racial minority, religious minority). According to Crenshaw (1989, 1991), when two or more minority social categories intersect, there is a compounding nature to the marginalization they experience, as they are positioned by external forces. In this study, because ELs with disabilities represent multiple minority social categories, including, but not limited to, first language (L1) background and (dis)ability, they experience multiple oppressions as a result of this intersection.

Intersectionality can be used as a lens in education to understand both policy and practice (Grant & Zwier, 2012). In its origins, intersectionality illuminates the role of policies, laws, and governing in constricting the opportunities of intersectional individuals (Cho, Crenshaw, & McCall, 2013; Crenshaw, 1989, 1991). It is often the case that laws and policies intended to mitigate an issue for a minority social group can inadvertently compound “the disempowerment of those already subordinated” (Crenshaw, 1991, p. 1249) within that group. In making this argument, Crenshaw cited the Immigration Act of 1990, which sought to protect immigrant women from domestic violence. The law waived the requirement that immigrant spouses of U.S. citizens remain married for 2 years or more before being eligible to apply for citizenship. Although this amendment aimed to improve the lives of immigrant women by protecting them from violent spouses, it marginalized them by failing to consider their class and language; many immigrant women did not have the financial means, information sources other than their spouses—who had a vested interest in their wives remaining unaware of the amendment—and English proficiency to apply for the waiver. Thus, they

remained effectively trapped by a law that failed to account for their intersecting needs.

Applied to education, and more specifically to ELs with disabilities, laws and policies in EL education can marginalize these students because they were intended to solve education issues for ELs, not ELs with disabilities. Likewise, special education laws and policies have the potential to disempower ELs with disabilities, because such measures were not created to represent the intersectional needs of these students.

In practice, institutions such as schools can construct and perpetuate inequalities between minority social categories for intersectional individuals (Anthias, 2012; Dill, 2009). Instead of being a vehicle for social change, schools can “function as oppressive systems that fail to meet some students’ needs and discriminate against them” in ways that may not even be known to members of the school (Grant & Zwier, 2012, p. 7). Examining schools in this way, an intersectional analysis can attend to institutions’ organization of intersectional individuals (Anthias, 2012), allocation of resources (Crenshaw, 1991; Yuval-Davis, 2009), and discourses produced about minority social categories and those who represent them (Anthias, 2012).

Language Planning and Policy Onion

Whereas intersectionality (Crenshaw, 1989) provides a lens for examining the impact of policy and practice on ELs with disabilities, the language planning and policy onion (Ricento & Hornberger, 1996) sheds light on the dynamic nature of laws and policies in the education system. The discrepancy between federal and schools’ de facto policies for ELs with disabilities is a reminder that policy interpretation and implementation occur throughout all levels of the educational system (Hornberger & Johnson, 2007; Menken & García, 2010). Emphasizing this multilayered nature of language education policies, Ricento and Hornberger (1996) liken policy planning and implementation in English language teaching to an onion, consisting of multiple layers. In this theory, the layers of the onion do not exist in isolation; instead, each “layer permeates and is permeated by the others” (Ricento & Hornberger, 1996, p. 408). Constituting the outermost macro layer is federal legislation and political action relating to language education, while the meso, or inner, layers consist of state government and agencies. Further inside are institutions, such as schools, and at the center are educators. Menken and García (2010) reaffirm this understanding of language education policy, emphasizing the influence educators wield: “Educators at the local level hold as

much responsibility for policymaking as do government officials” (pp. 3–4).

Research has demonstrated the pivotal role educators play in language education policy through their interpretation and appropriation of macro policies (Johnson & Freeman, 2010; Malsbary & Appelgate, 2016; Nero, 2014; Valdiviezo, 2010) as well as their resistance to them (Hornberger & Johnson, 2007; Warhol & Mayer, 2012). In fact, educators’ beliefs profoundly influence their interactions with policy (Johnson & Johnson, 2015; Nero, 2014; Sumbera, Pazez, & Lashley, 2014; Warhol & Mayer, 2012). Consonant with this body of literature, throughout the analysis I attended to how educators interpreted and appropriated federal policies in ways informed by their own beliefs.

In application to this study, I used intersectionality (Crenshaw, 1989) and the language planning and policy onion (Ricento & Hornberger, 1996) as the analytic lenses for examining educational policy and practice for ELs with disabilities, who represent the minority social categories of L1 background and (dis)ability. Language education policy for these students is undergoing significant changes from macro to micro levels. Both empirical research and federal agencies have uncovered that schools’ educational practices conflict with federal laws and policies in ways that fail to address the intersectional needs of ELs with disabilities (Kangas, 2014, 2017b; U.S. Department of Justice & U.S. Department of Education, 2015). With the understanding that federal policies and laws can be interpreted and implemented in ways that create and perpetrate inequalities for ELs with disabilities, this study investigated the following research questions:

- How and why are schools not complying with federal policies and laws in service provision for ELs with disabilities?
- How does federal policy for ELs with disabilities change as it filters down through layers of the education system?
- In what ways do educators’ beliefs influence policy interpretations and implementations?
- How do policy interpretations and implementations in schools reinforce intersectionality?

METHODOLOGY

This study was designed as a qualitative comparative case study, addressing the purported limitation of a single case study—a micro focus—by examining a phenomenon across multiple locations (Stake, 2006). In investigating educational policy, Levinson and Sutton (2001)

TABLE 1
Summary of School Sites

	Williams Elementary	San Pedro School
Type	Public elementary	Public charter elementary
Language(s) of instruction	English	English, Spanish
Size	600	550
Federal designation	Title I	Title I
Purpose in study	Atypical case	Typical case

advocate the use of multisited research, such as comparative case studies, to understand how policies in education are created and implemented.

Sites

There were two sites for this study, located in the northeastern United States: Williams Elementary and San Pedro School (see Table 1). Williams Elementary is a suburban K–5 elementary school with a large population of students with disabilities. All elementary students with autism in the district are taught at this school. Both Williams Elementary and San Pedro School qualify as Title I schools.³ San Pedro is a charter bilingual school with Grades K–8 (Table 1). The school dedicates 50% of instruction to English and 50% to Spanish through its dual-language immersion program. Although San Pedro contains both elementary and middle grades, the study only investigated elementary grades.

Stake (2006) avers that, in selecting sites, the researcher should seek above all else to build knowledge of the phenomenon. Typical and atypical cases are valuable in comparative case study research. Typical cases present the conditions that are commonly found, and atypical cases can further enhance understanding of the phenomenon because their conditions open the researcher to unusual related circumstances (Merriam & Tisdell, 2016). Having such variation strengthens interpretations (Merriam & Tisdell, 2016). Williams Elementary and San Pedro School were selected to achieve a comparison in typical and atypical service provision conditions based on their population of ELs with disabilities.

With the purpose of investigating why and how noncompliance is occurring in service provision, selecting sites that have typical and atypical ELs with disabilities is critical because the characteristics of these

³ Title I schools have a high percentage of low-income students and thus they receive federal funding to support the academic achievement of the student population.

students drive the services they are entitled to receive. At Williams, the focal students are atypical ELs with disabilities: They are L1 Arabic speakers and Bengali speakers, who constitute 1.4% and 0.4% of the EL population nationwide, respectively (National Center for Education Statistics, 2017b), and they have lower incidence disabilities (National Center for Education Statistics, 2017a). San Pedro, however, represents a typical case: Its students are L1 Spanish speakers, representing the largest group of ELs in U.S. schools at 77.1% (National Center for Education Statistics, 2017c) and 77% of all ELs with disabilities (Zehler et al., 2003). These students have speech or language impairments (SLIs) and/or LDs—the most common disabilities in school-age children (National Center for Education Statistics, 2017a).

Originally, I selected Williams Elementary for its atypical EL with disabilities population, but after initial fieldwork it became evident that Williams had a unique focus on students with disabilities. This was in part due to its autism support program in the school, in which all elementary-age students with autism attended in the district. With its programming for and commitment to students with disabilities, it did not come as a surprise to uncover that educators' interpretations of macro policies and laws resulted in EL services being frequently forfeited for ELs with disabilities, as will be discussed in the findings section. Thus, in selecting the second site, I sought a school not only with typical ELs with disabilities, but also with a commitment to language development. This led me to San Pedro School, a Spanish–English dual-language immersion school. At this site, I could examine service provision for ELs with high-incidence disabilities (i.e., a typical case) while also exploring a tentative assertion—that the distinct focus of a school influenced its policy and law interpretations, and thereby the services provided (or not) to ELs with disabilities.

Participants

Participants were 10 focal teachers who were instructing at least one EL with a disability. Participating teachers included four general educators, four special educators, and two ESL specialists (see Table 2). In addition, 23 key school professionals participated in the study. These individuals either supported ELs with disabilities or held administrative positions in the school, thereby influencing school policies. Key school professionals included administrators, school psychologists, program coordinators, speech pathologists, occupational/physical therapists, specialist teachers (e.g., technology, music), reading specialists, and paraprofessionals.

TABLE 2
Teacher Profiles

Teacher	School	Grade	Teaching Role	Years Teaching	Specialization
Mrs. Franks	Williams	K-5	ESL	11	Early Childhood Education ESL Certification
Ms. Glass	Williams	K-5	Special Education	2	Special Education ESL Certification
Mrs. Harris	Williams	3	General Education	2	Elementary Education
Mrs. Motts	Williams	K-5	Special Education	2	Special Education
Mrs. Roberts	Williams	1	General Education	13	Elementary Education
Mr. Alvarez	San Pedro	3	General Education (Bilingual)	9	Elementary Education
Ms. Calderon	San Pedro	K-1	Special Education	5	Special Education
Mr. Medina	San Pedro	3-4	Special Education	1	Spanish Certification Elementary Education
Mrs. Neal	San Pedro	1	ESL	3	Special Education Elementary Education
Mrs. Soto	San Pedro	1	General Education (Bilingual)	15	ESL Certification Early Childhood Education

Note: Mrs. Motts was a paraprofessional trained in special education. She was included as a focal teacher because she bore the main responsibility of teaching Ahmed in the general education classroom through push-in support.

TABLE 3
Focal Students

Student	School	Grade	L1	Disability	ACCESS English proficiency
Ahmed	Williams	3	Arabic	Autism	Expanding (4)
Lula	Williams	1	Bengali	Orthopedic impairment	Bridging (5)
Alexa	San Pedro	1	Spanish	SLI language disorder	Emerging/Developing (2.9)
Christian	San Pedro	1	Spanish	SLI language disorder	—
Alonso	San Pedro	1	Spanish	SLI language disorder	—
Zoe	San Pedro	3	Spanish	LD in reading and math	Developing (3)
Bruno	San Pedro	3	Spanish	LD in reading and math	Emerging/Developing (2.8)
Dominick	San Pedro	3	Spanish	LD in reading and math	Developing (3)
Rafael	San Pedro	3	Spanish	SLI language disorder	Emerging/Developing (2.6)
Darell	San Pedro	3	Spanish	SLI language disorder	Emerging/Developing (2.6)

Note. There were no ACCESS proficiency scores for Christian and Alonso at the time of the study. These students were initially assessed when they entered San Pedro with the kindergarten WIDA-ACCESS Placement Test (W-APT), which qualified them for EL services. ACCESS proficiency levels for Lula and Ahmed are based on teachers' reports and/or observation of ACCESS test performance. SLI = speech or language impairment; LD = learning disability.

Focal Students

In this study were 10 focal ELs, representing a range of L1 backgrounds, L2 proficiencies, and disabilities (see Table 3). Focal students were in either first or third grade. At Williams, there were two ELs with disabilities identified with autism and an orthopedic impairment, representing atypical cases. At San Pedro, there were seven ELs with disabilities, all L1 speakers of Spanish with SLIs and/or LDs, and there was one EL, Darell, with a suspected disability.

Data Collection

I began fieldwork in January 2012 at Williams Elementary and visited the site 42 times over 6 months. Fieldwork for San Pedro took place from November 2013 until May 2014, also for 6 months. The total number of visits to San Pedro School was 46. Fieldwork at both schools consisted of collecting the following data: (a) classroom observations, (b) interviews with staff, (c) meetings and conversations, and (d) school artifacts.

Observations. I conducted 133 observations across both schools, with 75 observations at Williams and 58 observations at San Pedro. Observations were split roughly evenly between the first- and third-grade ELs with disabilities. I observed the focal ELs with disabilities in a range of service provision contexts, including EL services; special education services, occurring in both inclusive classrooms and resource rooms (separate classrooms in which students with disabilities receive specially designed instruction); and related services, such as occupational and physical therapy, and speech–language therapy. All observations were participatory, lasting for 30 to 75 minutes depending on the allotted time of the class or service.

Interviews. Across both sites there were 40 semistructured interviews with participants: 17 interviews with teachers and 23 interviews with key school professionals. Interviews with teachers occurred twice, whereas interviews with key school professionals occurred once. The interviews varied from 22 to 63 minutes, depending on participants' availability. Following each interview, I drafted memos, identifying and synthesizing emerging themes, and transcribed all discourse.

Meetings, conversations, and artifacts. As I built rapport with participants and became more familiar to school staff, opportunities arose for informal meetings and conversations. Following these occurrences,

I wrote field notes detailing the interactions. Finally, I collected artifacts from participants and school websites, including instructional materials, school records and demographic data, district and school policies, and the focal students' grades and assessment scores.

Data Analysis

As a consequence of my fieldwork occurring sequentially—first at Williams then later at San Pedro—I coded data from Williams during the first cycle coding, using the method of descriptive coding, an approach that identifies the topic of a portion of data for the benefit of attempting to understand the prevalence (or lack thereof) of specific topics (Saldaña, 2016). After my fieldwork at San Pedro, I began the process of first cycle coding again. To group the data from both schools into broader synthesized themes (Saldaña, 2016), I began second cycle coding. Unlike first cycle coding, which tends to be inductive in nature with codes bubbling up from the data, this later stage is more deductive (Maxwell, 2013; Merriam & Tisdell, 2016). Here, I developed broader codes drawing on the theoretical framework.

FINDINGS

Williams Elementary and San Pedro School enacted a “no dual services” policy whereby EL services—including ESL and bilingual supports—were limited or not provided. The data analysis illuminated that non-compliance with federal laws and policies was primarily a consequence of administrators' and teachers' beliefs about the very laws and policies intended to protect ELs with disabilities. In what follows, I explore how language and special education policies and laws were influenced by educators' beliefs and delineate how these beliefs resulted in noncompliant service provision implementations. Through the lens of intersectionality (Crenshaw, 1989) and the language planning and policy onion (Ricento & Hornberger, 1996), I also demonstrate how policies were altered locally in ways that ultimately disadvantaged ELs with disabilities.

Beliefs About Federal Educational Policies and Laws

Each school had an overt prioritization of education services. Services targeting disabilities were at the top of the hierarchy, whereas EL services were at the bottom—a phenomenon I refer to as a *hierarchy of services*. When a student required both special education and EL

services, special education was perceived by educators, including administrators, as legally powerful and therefore obligatory, whereas EL services were interpreted as mere policy recommendations.

Special education: “There is no special education without law.”

At the schools, special education law left little room for interpretation. Special education services must always be provided. For example, when asked why the focal ELs with disabilities did not receive dual services, one general education teacher, Mr. Alvarez, at San Pedro responded, “We definitely have to prioritize one thing [special education] over another [EL], unfortunately.” In his reasoning for the hierarchy of services, he invoked students’ IEPs: “The IEP is a contract that the parents sign and if we don’t follow it, there could be legal troubles. And of course, a school doesn’t want to have the legal troubles.” Throughout the study, IEPs were cited as a principal reason for why special education services took precedence. It was a concrete manifestation of an accountability mechanism for IDEA. One assistant principal at San Pedro stated, “The IEP will supersede any-, basically anything really.” This sentiment about IEPs was echoed at Williams by an ESL teacher, Mrs. Franks: “Special ed is a legal issue. And so, for the district and for the teachers, there’s IEPs that they legally have to do.”

IEPs held great sway over service provision, yet IEPs must include the language needs of ELs in addition to their disability needs (U.S. Department of Education, 2007) and should not result in the elimination of EL services. When I asked special educators if IEPs included specific goals or specially designed instruction encompassing the focal ELs’ language proficiencies, many believed that IEPs pertained only to disability. Mr. Holloway, the special education coordinator at San Pedro, stated, “So potentially [IEP] teams could, you know, have some kind of almost like an ELL-type of goal . . . but I think because there’s so many other learning needs in particular that, that language piece is not always a priority.” Another special education teacher reasoned that because ESL teachers supply goals for ELs, IEPs need not be individualized in terms of language proficiency: “I believe, in general, they do have goals, and I’m assuming that, that’s with the, um, ESL [teacher].”

Specific referencing of IEPs was concomitant to a discussion of “legal troubles,” as evidenced by Mr. Alvarez’s earlier quote. Mr. Holloway explained how the legal force of federal special education laws informed practices at the school: “There is no special education without law. I mean, you have to start with law. It actually starts with federal mandates and then trickles down to states and then districts and schools.” After asserting how special education is legally driven, he explained further, “So at its very inception special education is a legal

matter.” These perspectives shared by the teachers and leadership comport with Sumbera et al.’s (2014) finding that internal factors—like educators’ beliefs—and external conditions, such as the threat of legal action, can work in tandem to influence policy implementation for special education services. These beliefs further demonstrate how the elevation of one minority social category (i.e., disability) over another (i.e., language background) transpires in schools.

EL education: “There’s not really any legal matters connected to EL.” During fieldwork educators shared their candid impressions of federal EL laws and policies, revealing that unlike special education, EL services were derived not from enforceable *laws*, but *guidelines* subject to interpretation. One ESL teacher, Mrs. Franks at Williams, summarized EL education in this way: “ESL, it’s, ‘What do I think they need?’ and ‘Oh, let’s try to follow this.’ It’s a much looser set of demands.” Further, San Pedro’s special education coordinator discussed how an administrative decision not to replace an ESL teacher who went on maternity leave was ensconced in the administration’s belief that “there’s not really any legal matters connected to EL.” As with special education, beliefs about the “flexible” nature of EL services were shared at all levels of the schools.

Having the status of guidelines, EL services were viewed as pliable and ultimately optional. As a former ESL teacher, Mrs. Avery spoke of the flexibility of EL services: “I don’t know how much on the radar it [ESL] is because of you can play around with, I mean, they [the state government] have recommended times that you should be with these kids.” Educators intimated that with EL policies, schools have more interpretive leeway because of the broad framework afforded by the Castañeda Guidelines. These criteria left some with the understanding that the guidelines served as a recommendation rather than an extension of the law. But in language education law at the federal level (i.e., macro layer), providing services is not optional:

No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by . . . the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs. (20 U.S. Code § 1703)

The same message is echoed at the state level (i.e., meso layer), and in no way does having a disability as an EL present an exempting condition: “It is not appropriate for an ELL with a disability to be denied access to general curriculum including an English language instructional program” (22 Pennsylvania Code §4.26). Despite these laws at the federal and state levels, administrators and teachers alike believed

that EL services had a quasi-legal status, demonstrating that language education policy transformation for ELs with disabilities is primarily occurring in the inner layers of the onion (Ricento & Hornberger, 1996) by institutions and their educators in ways that elide minority social categories while simultaneously promoting others.

To clarify, the focal schools did not have an intentional agenda against EL services; rather there was a pervasive misinterpretation about the scope of educational policies and laws for ELs. This misinterpretation also occurred at the district level. For example, a Williams district administrator shared the following: “While the [state EL] guidelines indicate they should be seen every day by an ESL or ELL person at the elementary level, we don’t necessarily use an ESL person to support them in the area of language arts; we use the classroom teacher.” The administrator shared that the district consulted with the intermediate unit⁴ on the matter, stating it served as a “great guide” for them in adhering to EL federal policies. This misinterpretation and errant guidance from a state agency, within the meso layer, underscores how language education policy is reconstructed as it filters down through levels of the education system—from agencies to districts and school administrators to teachers (Hornberger & Johnson, 2007; Menken & García, 2010). Under federal policy, however, the substitution of instructional support from an ESL teacher for the support of a general education teacher does not qualify as “EL services” unless the general education teacher holds a certification or endorsement in EL education (U.S. Department of Justice & U.S. Department of Education, 2015).

Even when educators were vaguely aware of federal laws and policies in EL education, many reasoned that ELs with disabilities presented a unique, exempting case. For a school educating ELs with disabilities, there are too many competing demands, which makes the already “negotiable” EL services even more unlikely to occur. These competing priorities, which one ESL teacher referred to as the “pecking order of demands,” were namely services specified in ELs’ IEPs. According to some of the focal educators, because EL education lacks a document equivalent to an IEP, the impetus to provide EL services wanes. Referring to a binding document, like an IEP, for EL education, Mrs. Avery opined, “Then it [EL services] would happen. Then you would have to be, you’re legally bound to that. If you deviate from that then you’re breaking the law.” Again, implicit in this discourse is the understanding that EL education is lacking accountability. Further, Mr. Holloway reasoned that a lack of knowledge and advocacy on the part of EL parents also contributed to the negotiable nature of EL services:

⁴ Intermediate units are regional educational agencies instituted by the state to support districts and schools.

So I think there's kind of a lot of interplay and assumptions that go along with, you know, they're [EL parents] not even very defensible themselves. You know, but someone who has a child with a disability can pretty much run the gamut. They can kind of do whatever they want. They can demand whatever they want from the school... There's a lot of rights, you know, associated with students with IEPs compared to, well, you're just learning English, you know?

His perspective provided insight into the role accountability plays in language education policy interpretation across the meso and micro layers of the onion. Further, his comments illuminated how accountability systems reinforce disadvantages for students with intersecting language and disability needs.

Beliefs in Implementation

The pervasive beliefs about special education as a legally binding service and EL education as a quasi-legal service with room for interpretation translated into policy implementations that reinforced a hierarchy. Through logistical practices and the distribution of resources, ELs with disabilities received inequitable access to their educational services.

Scheduling. At Williams Elementary, scheduling practices for students revealed the hierarchy of services operating as a de facto policy in the school. Both focal students, Lula and Ahmed, had schedules in which services stemming from their disabilities were prioritized over EL education. Ahmed had a complex schedule of services (see Table 4), including pull-out instruction in reading, speech therapy, and occupational therapy, in addition to his general education and

TABLE 4
Service Schedule for Williams Focal ELs

Student	Service	Setting	Frequency	Duration
Lula (Grade 1)	ESL	Pull-out	3 times/cycle	1 hour
	Physical therapy	Pull-out	1 time/week	30 minutes
Ahmed (Grade 3)	ESL	Push-in	3 times/cycle	1 hour
	Autistic support	Push-in	6 times/cycle	4 hours
	Occupational therapy	Pull-out	1 time/biweekly	30 minutes
	Reading intervention I	Pull-out	6 times/cycle	30 minutes
	Reading intervention II	Pull-out	6 times/cycle	30 minutes
	Speech therapy	Pull-out	2 times/cycle	30 minutes
	Social skills	Pull-out	1 time/cycle	30 minutes

Note. A cycle consists of six school days in the Williams district. Physical and occupational therapy schedules are based on a 5-day schedule.

ESL classes. As noted in Table 4, certain services operated on a traditional 5-day (Monday through Friday) schedule, while other services were provided according to the district's 6-day schedule. With services operating on two different cycles, there was ample opportunity for "double-booking." In such instances, when his services were "double-booked," ESL was the first to be forfeited; Ahmed was pulled into other classrooms to receive these services and even to participate in orchestra lessons. Missing ESL services were also common for Lula; on a biweekly basis, she missed a large portion of ESL for physical therapy.

The effects of scheduling, however, were particularly compounded for Ahmed, with ESL and autism support (AS) scheduled during the same time in the general education classroom. During this time, two teachers pushed into the general education classroom to provide instructional support for Ahmed and his peers: Mrs. Franks pushed in to provide ESL instruction (i.e., push-in ESL), and Mrs. Motts, an AS teacher, pushed in to implement the supports required in Ahmed's IEP. The simultaneous scheduling of these services, however, relegated ESL to the periphery. In all but one observation, Mrs. Motts sat in the vacant chair next to Ahmed, while Mrs. Franks performed a "checking in" role with their interactions lasting just a few minutes. Mrs. Franks commented on this prevalent pattern: "It's very much a challenge because a lot of times she's [Mrs. Motts] got Ahmed and I'll just kind of eyeball him and focus on the other two [ELs]." Although she was frustrated by the coteaching schedule and dynamic, saying, "I'm always complaining about schedule," she seemed to resign herself to the matter: "It is what it is. And we do what we can with what we've, what we've got. Hands tied the way they are." With Mrs. Franks's acquiescence, in this classroom there was an implicit understanding—by all teachers—that special education laws and services take precedence. For this reason, Mrs. Motts was given a privileged position both symbolically and physically in the classroom. Scheduling, as a policy implementation, countered educational policies and laws formed in the macro layers of the onion (Ricento & Hornberger, 1996), disadvantaging ELs with disabilities as their language learning needs were erased.

Student class placements. Whereas at Williams scheduling demonstrated educators' beliefs about EL and special education, at San Pedro, student class placement practices illuminated a similar belief. Although the school purported to have inclusive general education classrooms, as a school-wide practice students were placed into classes based on their institutional status as ELs or students with disabilities. In each grade, there were three types of classes: (1) classes for ELs, (2) classes for students with disabilities, and (3) classes for everyone

else. As dually identified students, ELs with disabilities were automatically placed in classrooms with other students with disabilities (see Figure 1).

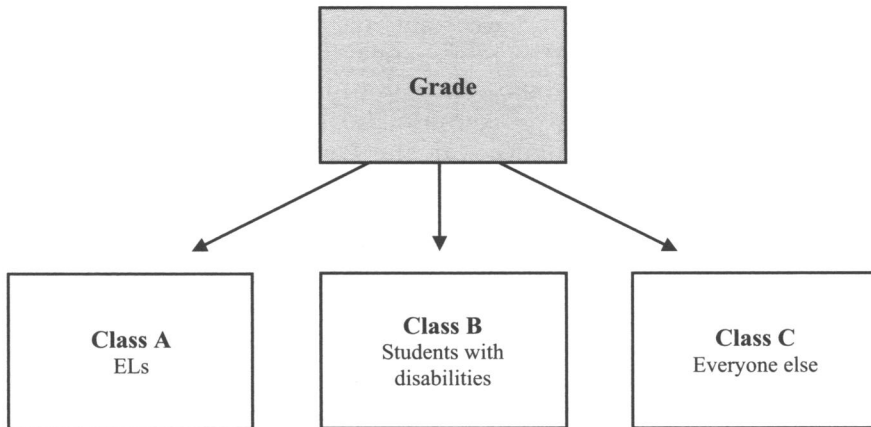


FIGURE 1. San Pedro's student class placements.

These class placements were consequential: Students' placement into specific classrooms directly corresponded to the services they received. For instance, third-grade ELs Zoe, Bruno, Dominick, and Rafael were all diagnosed with LDs and thus were placed in the same classroom with other students with disabilities. This placement, however, barred them from receiving EL support; unlike their EL peers (without disabilities), these focal ELs received little to no ESL push-in instruction, yet they received equivalent special education support as their non-EL peers with disabilities (Table 5). First-grade ELs Alexa, Alonso, and Christian had identified SLIs, so administrators placed in them in the classroom with other students with disabilities. This placement, however, resulted in these students receiving 1.5 hours of ESL push-in instruction per week.

TABLE 5
Weekly Hours of ESL and Special Education Support

Grade	Group	ESL	Special education
1	ELs	12	
	Students with disabilities		15
3	ELs with disabilities	1.5	15
	ELs	6	
	Students with disabilities		15
	ELs with disabilities	0	15

When asked about the rationale for ELs with disabilities receiving limited to no ESL services, educators pointed to other avenues through which they were satisfying federal EL policies. Mrs. Neal, a San Pedro ESL teacher, provided the following rationale: “They’re [ELs with disabilities] also serviced through the dual-language program as well because they have some instruction in their first language. Um, that’s one of the other strategies that we use.” But, after months of observing classroom instruction, I found that instruction in the L1 infrequently occurred despite the school’s designation as a bilingual school. In accordance with the Lau Remedies, providing L1 instruction is a viable language program, but for the ELs with disabilities, L1 instruction was frequently replaced with instruction in English. For example, in the third-grade class, English was used for approximately half of all teaching occurring during Spanish-designated times. I inquired with the general education teacher, Mr. Alvarez, about the prevalence of this pattern, to which he responded, “I would say at minimum two times a week.” This practice, however, resulted in ELs with disabilities being underserved for their language needs, receiving both inconsistent L1 instruction and limited L2 support. Through student class placement practices at San Pedro, the minority category of disability was elevated above language background.

Human resources. The allocation of human resources in the schools also extended from the beliefs of educators, particularly administrators. With special education having a privileged status at San Pedro, the ESL and Special Education Departments were inequitably staffed. For 143 ELs, there were just four ESL teachers, and this number was reduced even further when one ESL teacher, Mrs. Neal, went on maternity leave. Debates within the administration surrounded whether to replace her with a long-term substitute teacher, and a few weeks into Mrs. Neal’s maternity leave, ESL support began again—albeit for only 1.5 hours a week—for Alonso, Alexa, and Christian, but this ESL support was provided by a student teacher. For the 65 students with disabilities, the Special Education Department was staffed with four special education teachers, a speech pathologist, an occupational therapist, and several paraprofessionals. Like Mrs. Neal, one special education teacher was also going on maternity leave, but for her a long-term substitute was immediately procured.

In Williams’s district understaffing was also a concern: There were only two ESL teachers. Although the school district had a small population of ELs (less than 1%), these students were spread across the district’s seven schools. This resulted in the ESL teachers traveling between multiple schools each day, reducing the amount of support for ELs below the state requirements. Mrs. Franks shared, “It was a lot

of traveling, a lot of time wasted in traveling when I could have met with the kids.” Mrs. Franks is not alone in her frustration with traveling; previous research has shown that the itinerant nature of ESL teaching inhibits service provision by reducing instructional time and straining relationships with colleagues (see Batt, 2008; Liggett, 2010; Stephens & Johnson, 2015).

At a cursory glance, the ESL staff shortages could be attributed to budgetary constraints alone. San Pedro’s per-pupil spending (approximately \$11,000) was 14% lower than the national average of \$12,846 (National Center for Education Statistics, 2015) at the time of the study. Williams’s district had per-pupil spending 12% above the national average (approximately \$14,400), and according to a district administrator, Williams had a surplus of funds for ESL programming. Yet the district failed to provide ELs with disabilities equal educational opportunities through ESL services, despite having the means to do so. In these instances, beliefs and resources are interconnected. In both cases—budgetary surplus and retrenchment—administrators’ beliefs about federal policies and laws influenced their use of the resources at their disposal; the perceived negotiable nature of EL services led Williams’s administration to withhold the resources it possessed and San Pedro to cut back in replacing and hiring ESL teachers. In short, money made little difference in the ways in which services were provided for ELs with disabilities, because underlying the institutional resources, whether many or few, was a similar interpretation of the differential legal weight of EL and special education. These interpretations reified into implementations that failed to acknowledge the language learning needs of ELs with disabilities, thereby creating additional educational disadvantages for these students.

DISCUSSION

The purpose of this study was to understand how and why noncompliance with federal policies and laws occurs in service provision for ELs with disabilities. The findings demonstrate how language education policies for ELs with disabilities were altered as they were interpreted throughout the layers of the onion (Ricento & Hornberger, 1996). Whereas policies requiring services for ELs with disabilities held constant across the macro layer, within the meso and micro layers these policies were reconstructed as they were interpreted by district and intermediate unit administrators as well as teachers (see Figure 2; Hornberger & Johnson, 2007; Menken & García, 2010). In these layers, ELs services became negotiable, whereas throughout all layers, special

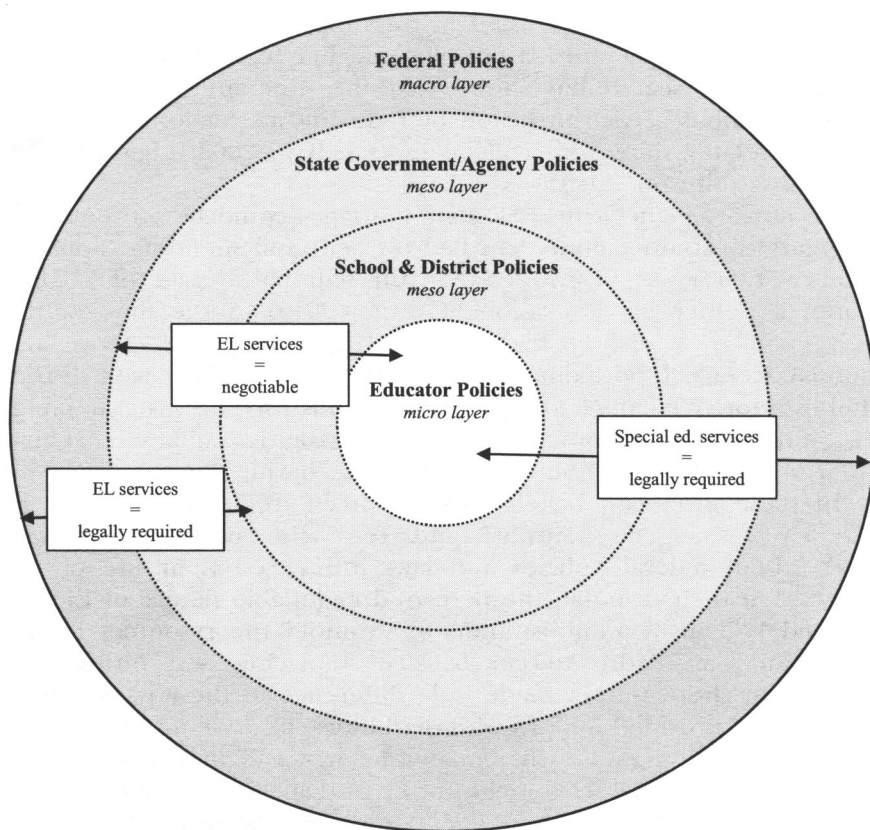


FIGURE 2. Language education policy onion for ELs with disabilities. [Colour figure can be viewed at [wileyonlinelibrary.com](https://onlinelibrary.com)]

education services were understood as legally required for all students, including ELs with disabilities.

Administrators' and teachers' beliefs about the differential weight of special education and EL education policies and laws resulted in a series of practices that barred ELs with disabilities from receiving the dual services they are entitled to under federal laws. These beliefs in practice are a manifestation of intersectionality, whereby certain minority categories are elevated while others are elided as educators viewed federal policies and laws through the lens of their own beliefs. This pattern was consistent across the schools, irrespective of the disabilities and language proficiencies of the focal ELs. In the end, my tentative assertion was disconfirmed: The distinct focus of the school—be it disability or language—wielded little influence on beliefs of the educators. Even at a school with a commitment to bilingual

language development, special education law was considered more powerful than EL law and policies, and consequently the minority social category of disability was elevated above language. Further, the organization of intersectional individuals inside of institutions illuminates intersectionality at work (Anthias, 2012). At San Pedro, ELs with disabilities were placed into classes based on the minority category of greater significance (disability), and Williams organized the schedules of educators and ELs with disabilities in ways that constructed a hierarchy between both minority categories and the educational services stemming from them. Across both sites, intersectionality reified in the allocation of resources (Yuval-Davis, 2009): Regardless of fiscal resources, both schools insufficiently staffed the ESL departments, which reduced EL services even more, suggesting that the availability of funding itself fails to promote equitable access to services for ELs with disabilities. Such resource allocation practices positioned the EL minority category as minimally significant in ways that influenced these students' educational opportunities.

Why do interpretations that create inequality as well as oppose macro laws and policies continue to persist? I argue the answer is two-fold: (1) a lack of understanding of educational laws and policies, and (2) the political and legal systems of accountability. First, among administrators and teachers, there was a lack of awareness about the purpose of EL and special education laws. In many respects, the schools were striving to adhere to educational law; therefore, they prioritized complying with the legal mandates stemming from special education, but this prioritization led to a violation of EL law. That is, the schools were breaking one law to uphold another. Lacking was the understanding that both EL and special education share the same legal foundation and purpose—to safeguard the educational opportunities of students who represent protected classes (i.e., disability and national origin) under both IDEA (1975) and Title VI of the Civil Rights Acts (1964). Most educators failed to understand that not providing dual services because a student represented multiple protected classes is discriminatory. One protected class does not nullify the “protectedness” of the other. In the schools, the intersection of these multiple protected classes resulted in a marginalization of ELs with disabilities. Yet educators thought their *beliefs* about the respective laws and policies were *facts*. Keating (2009) identifies how the distinction between beliefs and facts becomes blurred: “Generally, we don’t even recognize these beliefs as beliefs; we’re convinced that they offer accurate factual statements about reality” (p. 83). In actuality, their beliefs—and policies—were locally constructed in the walls of their schools, district offices, and intermediate units, not a policy trickling down from state or federal government.

Second, the legal and political systems of accountability weigh heavily in these educators' beliefs. The civil rights of students with disabilities and ELs are protected federally by the U.S. Office for Civil Rights (OCR). Special education services under IDEA wield greater accountability through the IEP, which can result in legal action if schools fail to provide services. Such legal recourse includes due process hearings, mediation, and formal complaints (Mueller, 2009). With 4,893 written complaints, 8,533 mediation requests, and 14,319 due process complaints filed in just one school year (National Center on Dispute Resolution in Special Education, 2014), the U.S. education context for students with disabilities is highly litigious. Educators at both schools cited the serious nature of IEPs, and although EL needs should be incorporated into IEPs (U.S. Department of Education, 2007), educators felt that these needs fell outside the document's purview. Therefore, EL services were not viewed as protected under the contractual obligations of the IEP, further compounding inequalities between disability and language in the schools.

Without the individual accountability afforded by the IEP, the legal recourse for ensuring language support for ELs is stifled by a nebulous accountability system. The decision from the landmark case *Lau v. Nichols* (1974) mandated that schools provide linguistic supports for ELs, and thus a failure to provide such supports can result in legal action. The Castañeda Guidelines, however, introduced a degree of ambiguity in terms of accountability for ELs. Although they stipulated that linguistic supports must be a viable language program built on empirical evidence, these policies are vague (Del Valle, 2003; Gándara, Moran, & García, 2004) and subject to multiple interpretations (Crawford, 1998; Loos et al., 2014; Nieto, 2009). One benefit of the Castañeda Guidelines is that schools have the freedom to create a system of language supports that best fits the demography and needs of the students. Schools can decide, for instance, whether services are delivered in the L1 or L2 and whether ELs are grouped together or with English-proficient peers to receive content instruction. A critical limitation of the policy is that schools can claim their programs adhere to the Castañeda Guidelines though empirical evidence for their program may be spurious. As Del Valle (2003) points out, the ambiguity of the policy undercuts its purpose:

The truth is that almost any program can be supported by an educational theory, and some "approaches" may need so few funds that adequate funding is not an issue. Yet the test [the three criteria] would allow some number of years to pass by before it can be determined whether a violation of law occurred. (pp. 246–247)

This ambiguity, in turn, constrains the OCR's ability to hold schools accountable. Del Valle's criticism illuminates that intersectionality manifests in federal policies: the Castañeda Guidelines are characterized by ambiguity to the point of losing legal force as they are interpreted in the inner layers of the onion.

Even if services categorically fail to meet the Castañeda Guidelines, accountability for schools rests heavily on a stakeholder—most likely a parent—filing a complaint with the OCR. This complaint is needed for the OCR to initiate an investigation (U.S. Department of Education, 2016b). Although complaint forms are available in a variety of languages for parents, filing a complaint requires both linguistic and cultural capital (Bourdieu, 1977; Bourdieu & Passeron, 1990) from the EL parents, who have varying levels of English proficiency, literacy skills, and familiarity with the U.S. education system. This corroborates De Gaetano's (2007) findings that ELs' parents do not possess the requisite linguistic skills and knowledge of the school system for parental involvement, let alone advocacy. Recall Mr. Holloway's description of EL parents as "not very defensible" and thus as an unlikely source of accountability for the schools. As a result of an ambiguous EL policy and an arduous complaint system, ELs with disabilities experience a marginalization that is both legally and structurally driven.

IMPLICATIONS

Just as language education policy unfolds at various layers of the education system, so too must the solutions for ensuring the educational opportunities of ELs with disabilities. At the school or micro level, it is critical for educators trained in ESL or bilingual education to dispel the belief among colleagues that EL services are negotiable for ELs with disabilities. This language specialist should take on an advocacy role to ensure EL services are both provided and stipulated in IEPs, which will help to bolster accountability in EL education. As previous studies have illuminated, educators are often unaware of macro policies (Nero, 2014; Sumbera et al., 2014; Warhol & Mayer, 2012). Thus, teacher education programs, particularly in educational leadership, must be diligent in teaching current and future administrators about federal and state policies, particularly the newer mandates germane to ELs with disabilities in ESSA (2015). If school leaders lack knowledge of educational and civil rights laws and policies, ELs with disabilities are doubly at risk because of their intersecting minority categories.

In addition to supplying in-service and preservice teachers with a strong foundation in language education policies and laws, teacher

education programs need to bolster the message that EL education is a civil rights issue. To accomplish this, content in teacher education programs must be nested within a civil rights frame. For example, as teacher trainers emphasize the *how* of teaching ELs, they must also emphasize the *why* by highlighting the civil rights and social justice issues at stake for ELs. Drawing on case studies of districts that have faced OCR investigations because of underservicing ELs would allow in-service and preservice educators to learn from other districts' missteps while fostering a civil rights lens for EL education.

Beyond emphasizing why federal laws exist in the first place for ELs, teacher education programs in both EL and special education need to ensure their courses dedicate sufficient attention to ELs with disabilities. In teacher training, if ELs with disabilities are lumped into either the EL or student with disabilities populations, their intersecting needs will go unmet by educators. Providing specific training in service provision and teaching ELs with disabilities, especially involving coteaching across disciplinary boundaries, is sorely needed (Kangas, 2017a). Even though there is a paucity of research on service provision and effective instructional practices for ELs with disabilities, leaving limited guidance for teacher education programs to draw on, EL and special education programs can collaborate together to begin identifying and implementing best practices for this student population. Another critical step in teacher training includes assisting teachers in developing IEPs that address the intersection of language and disability. Many educators in this study believed that IEPs pertained only to disabilities, although this is not the case: IEPs must include the ELs' language needs and goals (U.S. Department of Education, 2007). Special education and EL teacher education programs must partner to train in-service and preservice teachers in developing IEPs that specify supports, programming, and goals for ELs with disabilities based on their language and their disability. This would give educators practical skills in developing IEPs for ELs with disabilities and would foster accountability for EL services.

At the federal and state levels (i.e., macro and meso layers), stronger protections must be established by policymakers and educational agencies, because broad EL policies undercut the legitimacy of these policies in the eyes of educators. For this to be accomplished, EL policies require amending, especially to consider the intersectional needs of ELs with disabilities. Just as Crenshaw (1991) averred that policies intended to ameliorate an issue for a minority group can inadvertently marginalize specific members of that group, I argue that the vague composition of the Castañeda Guidelines perpetuates educational inequities for ELs with disabilities. Thus, these guidelines should explicitly address the legal and educational rights of ELs with disabilities, (a) explaining

how and why both special education and EL services must be provided, (b) mandating the inclusion of EL needs into IEPs, and (c) providing greater specificity in EL program guidelines beyond the three criteria for programs offered in schools. Although ESSA (2015) and the “Dear Colleague” letter (U.S. Department of Justice & U.S. Department of Education, 2015) were promising steps in this direction, without addressing the imprecision of the Castañeda Guidelines such attempts may fail to enact real change for ELs with disabilities. Even if policymakers amend the Castañeda Guidelines to represent the interests of ELs with disabilities, greater enforcement is still required. Increased accountability will ensure that schools are not misinterpreting what constitutes a viable program of EL services nor creating policies that knowingly or unknowingly defy the purpose the Civil Rights Act of 1964. Without bolstering enforcement, EL laws—current or future—will fail to adequately protect ELs with disabilities.

CONCLUSION

In this article, I discussed the legal imperative to provide educational services to ELs with disabilities. I want to conclude by emphasizing that complying with federal laws is just one reason to provide dual services; it should not be the only reason. Schools simply fulfilling the technicalities of the law to avoid punitive actions miss the ethical responsibilities of educators to the children they teach; ELs with disabilities need both educational services to advance in their academic and language learning. Without EL services, in particular, these students will likely be unable to attain proficiency in the language, which will likely inhibit their reclassification and academic trajectories. However, by providing dual services, schools can begin to educate ELs with disabilities as whole people with multiple, intersecting needs.

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