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# Analysis of National Association of Bilingual Education

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ANALYSIS OF THE NATIONAL ASSOCIATION FOR  
BILINGUAL EDUCATION

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PIM 66

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## **ABSTRACT**

This research illustrates the benefits in coalitions as mechanisms for bolstering advocacy by bringing together diverse perspectives to help fuel more creativity in the process of furthering bilingual education and social change. This case study examines the role of the National Alliance for Bilingual Education (NABE) and its policy advocacy approach in the midst of the debate surrounding how best to educate our nations school children. An examination of the historical context of the issue and the current political paradigm that NABE navigates illustrate their approach to tackling the contested issue.



## Introduction

The “American people have always regarded education and [the] acquisition of knowledge as matters of supreme importance.”<sup>1</sup> As a result of a nation created by immigrants it is imperative that society properly educates all immigrant children. There are children in our nations classrooms from all parts of the world, however given that the largest demographic of immigrants come from Latin America are nations schools are filled with Spanish speaking children who struggle to learn English. While it is imperative that this research acknowledges the importance of many languages beyond Spanish, because such a large Hispanic population exists in the US today, English/Spanish bilingualism is a major focus in this paper.

Living in the shadows of U.S. society, over 47 million Hispanic’s harboring rich stories of the glory of newfound economic and political stability, survival-seeking escapes from beloved homelands, life-risking entries into a resource-abundant foreign land, separation from loved ones and the vision of plentiful opportunities amidst new communities.<sup>2</sup> The immigration of such a large population of non-US natives has triggered a national debate of how best to educate these non-English speaking children and whether bilingual classrooms is a good solution. Not only is it imperative that these children be given the appropriate opportunity to learn English, bilingual classrooms also

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<sup>1</sup> Meyer v. Nebraska, 262 U.S. 390, 400 (1923).

<sup>2</sup> Motel, Seth. Pew Hispanic Center, Statistical Portrait of Hispanics in the United States. (February 12, 2012), <http://www.pewhispanic.org/2012/02/21/statistical-portrait-of-hispanics-in-the-united-states-2010/> (last visited March 12, 2012).

increase the competitiveness of the United States and its citizens by developing world language skills.

Issues related to the increasing population of non-English speaking individuals in the United States have created intense debate throughout social, economic and political circles. While U.S. bilingual education policy has remained unmoved since the inception of No Child Left Behind, an broad spectrum of sociopolitical groups has been pushing for change, spanning from English only education to pathways for developing bilingual and multilingual classrooms. This article examines the efforts of the National Association for Bilingual Education (NABE) and analyzes the effectiveness of its broad-based policy advocacy campaign devoted to equal and effective education for all.<sup>3</sup> In addition, the writer seeks to illustrate the context of the current paradigm under which NABE and the bilingual education debate has evolved and offers ideas as to where it should go and how it should get there.

The primary source of research came from primary documents accessible on the NABE website. Other research methods include secondary literature reviews including the Bilingual Research Journal, the Pew Hispanic Center and newspaper articles. Having completed law school, the author has incorporated case research into the context section of the paper. Additional research methods include interviews with NABE

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<sup>3</sup> National Association for Bilingual Education, *Bilingual Education: Building on What Children Know to Reach High Standards* <http://nabe.org/about.html>. (last visited January 3, 2012). [hereinafter NABE, *Bilingual Education*]. NABE advocat[es] for the bilingual education programs which enable all students to become proficient in English and at least one other language...[and] for language minority students to have equal opportunities for learning in both first language and English..." *NABE's Mission*.

President, Rosanna Boyd, Executive Director of Californians Together Shelly Spiegel-Coleman and former California State Assemblywoman, Jackie Goldberg.

### **Policy Advocacy**

To better understand NABE's approach to its' work in policy advocacy it is imperative that we understand how policy advocacy "works" and how best to analyze its effectiveness. Policy advocacy as defined Jeff Unsicker, is the process by which people, NGO's, other civil society organizations, networks and coalitions seek to enhance social and economic justice, environmental sustainability, and peace by influencing policies, policy implementation, and policy making processes of governments, corporations and other powerful institutions.<sup>4</sup> Here, NABE is the civil society organization seeking to influence policies pertaining to bilingual education.

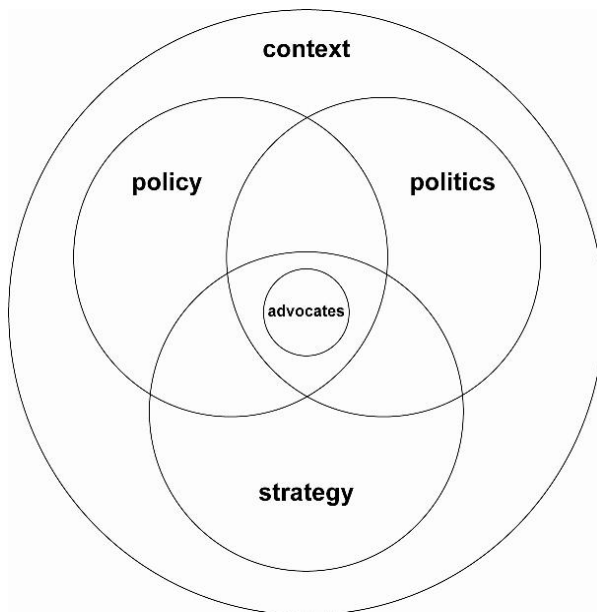
Analyzing and creating effective policy advocacy campaigns is best carried out through "maps" or "frameworks" that help to make the process of policy advocacy more understandable and less overwhelming. For instance in his book, *The Democracy Owner's Manual*, Jim Shultz uses a linear map to illustrate how a policy advocacy strategy might be carried out. I will use Shultz's linear map later in this paper to analyze how NABE advocates policy through various strategies, specifically lobbying.

This paper will utilize a framework that views policy advocacy as an intertwining web of politics, strategy and policy, which as the diagram below illustrates, at the heart of the various factors is the advocacy group, in this instance NABE. The largest and all-

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<sup>4</sup> Jeff Unsicker, *Confronting Power, The Practice of Policy Advocacy*. Kumarian Press. Bloomfield, CT. Forthcoming.

encompassing circle represents the political-social-economic context which shapes the historical dynamic of the smaller circle.



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This analysis will first introduce the smallest circle, “advocates” and will then explain the vast historical context shaping the political-social-economic dynamics. Lastly, the author will address the policy, politics, and strategy of NABE and offer recommendations in a critique of their policy advocacy approach.

### **Advocates**

The most effective policy advocacy campaigns are those that are carried out by well organized people, organizations and often times coalitions<sup>6</sup>. Often times students are too young to even understand their rights afforded to them under the law, so it is

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<sup>5</sup> Jeff Unsicker, *Confronting Power, The Practice of Policy Advocacy*. Kumarian Press. Bloomfield, CT. Forthcoming.

<sup>6</sup> Jim Shultz. *The Democracy Owner’s Manual, A Practical Guide to Changing the World*. Rutgers University Press. 2002.

imperative that a coalition of advocates stand up for the rights of those students.<sup>7</sup>

Founded in 1976, NABE is a collaborative organization established to represent both English language learners and bilingual education professionals in the United States. NABE's mission is to advocate for the nations bilingual and english language learners. The organizations objective is to cultivate a multilingual, multicultural society by supporting and promoting policy, programs, pedagogy, research, and professional development. The main goal of NABE is to yield academic success, through programs that value native languages and lead to English proficiency while maintaing a high level of respect for cultural and linguistic diversity.<sup>8</sup>

The coalition is made up of affiliate organizations in 23 states and over 20,000 advocates including teachers, administrators, paraprofessionals, university professors and students, researchers, policymakers, and parents. Rosanna Boyd, President of NABE, pointed out that NABE has joined efforts with 26 powerful Hispanic organizations such as MALDEF, LULAC, TESOL, and NCLR to become one voice who come to a common agreement about a bill that needs to be supported or opposed. These groups recognize the necessity of a broad national coalition of pro-bilingual education organizations and individuals in lobbying for national legislation devoted to bilingual education reform from a human rights perspective.<sup>9</sup>

Prior to introducing the policy problems and solutions surrounding bilingual education it is important to clarify the general term “bilingual education” as well as many

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<sup>7</sup> Randy Capps et al., Urban Inst., *The New Demography of America's Schools: Immigration and the No Child Left Behind Act*, [www.urban.org/UploadedPDF/311230\\_new\\_demography.pdf](http://www.urban.org/UploadedPDF/311230_new_demography.pdf)

<sup>8</sup> *Ibid.*.

<sup>9</sup> NABE, *Bilingual Education*, supra note 3.

of the terms associated with it. Bilingual education describes a wide array of educational programs whose objective is to provide an effective means of education for non-English and limited English speaking students.<sup>10</sup> Bilingual education programs include English-as-a-second language (“ESL”) courses and bilingual-bicultural courses.<sup>11</sup> The purpose of the ESL courses is to instruct English Language Learners (“ELL’s”) who are non-English proficient (“NEP”) and limited English proficient (“LEP”) students the English language, exclusively using English language instruction. ESL is distinguished from the bilingual-bicultural method because the latter’s purpose is to educate students to be “bilingual and bi-literate, in English and at least one other language.”<sup>12</sup>

### **Context under the NABE Paradigm**

According to a nonpartisan report prepared by the Pew Hispanic Center in 2010, the number of Hispanic students in the nation’s public schools doubled from 1990 to 2006, which accounts for nearly 60% of the total growth in public school enrollments.<sup>13</sup> The ramification of having a broad student population, whose native language is not English presents several challenges to providing access to a quality education. Students designated as English language learners (ELL) statistically produce lower standardized test scores than those whose native language is English.<sup>14</sup> It is commonly known that knowledge is power and if the students in the classroom do not comprehend the

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<sup>10</sup> Bilingual-Bicultural Education Act of 1976, Cal. Educ. Code 52160 (West 1989).

<sup>11</sup> *Ibid.*

<sup>12</sup> Venise Wagner, *Bilingual Classes Defended. Educators Say Students Keep Up Better By Learning in Native Tongues as Well as English*, SF Examiner, Dec. 9, 1994.

<sup>13</sup> Rick Fry, *Hispanics, High School Drop Outs and the GED*, Pew Hispanic Center, Pew Hispanic Center (May 13, 2010).

<sup>14</sup> *Ibid.*

knowledge set forth in the classroom, then the education system is broken and not serving its purpose. Some scholars assert that the schools either consciously ignore this problem or possibly do not make the necessary efforts to appreciate language differences, thus resulting in a system where the children's rights are disregarded.<sup>15</sup>

### **Implications of Litigation**

How did we get to where we are today? There are several variables that shape our educational system's development, but the greatest factors are legislative policies and judicial decisions. For example, in *Meyer v. Nebraska*, dating as far back as 1923, the Supreme Court of the United States heard a case in which a parochial school teacher was convicted for violating a Nebraska statute, which made it illegal to teach languages other than English to young students.<sup>16</sup> The Court held that the state statute was unconstitutional because teaching a foreign language to young students did not have an "injurious" effect on the general welfare of the public.<sup>17</sup>

The Fourteenth Amendment of the United States Constitution guarantees that no state shall deprive any person of life, liberty or property without the due process of law.<sup>18</sup> In *Meyer*, the Court held that the school teachers' liberty was being infringed upon through such a statute limiting foreign language education. Although the State of Nebraska argued that "the English language should be and become the mother tongue of all children reared" in Nebraska the Court found that the statute exceeds Nebraska's

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<sup>15</sup> Lupe S. Salinas, *The Equal Treatment of Unequals: Barriers Facing Latinos and the Poor in Texas Public Schools*, 14 Geo. J. on Poverty L & Pol'y 215, 216 (2007).

<sup>16</sup> *Meyer v. Nebraska*, 262 U.S. 390, 396 (1923).

<sup>17</sup> *Ibid.* at 403.

<sup>18</sup> U.S. CONST. amend XIV

police power.<sup>19</sup> Ultimately, the Court found that “no emergency [had] arisen which rendered knowledge by a child of some language other than English so clearly harmful as to justify its inhibition with the consequent infringement of rights long freely enjoyed.”<sup>20</sup> *Meyer* was the first language rights case ever decided by the United States Supreme Court when it defined the choice of language in educational settings as an important civil liberty.<sup>21</sup>

*Meyer* brings a context to the history of the long debated issue of how best to educate our nations multicultural children. As the Statute of Liberty welcomed more migrants over the years since *Meyer*, the debate evolved and was revisited in 1974 in San Francisco. In *Lau v. Nichols*, a class action suit brought on behalf of Chinese-American students against representatives of the San Francisco Unified School District, language instruction was again brought to the forefront of the United States Supreme Court.<sup>22</sup> Chinese migrants who built the nation’s railroads through the Sierra Nevada Mountains made San Francisco’s gold rush possible.<sup>23</sup> Post-integration in 1971, the non-English speaking students of Chinese ancestry in San Francisco’s school district were estimated to be about 2,800.<sup>24</sup> About 1,800 of those students did not receive any English language instruction, which sparked the suit for relief from education neglect and lack of equal treatment in the classroom.

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<sup>19</sup> *Meyer v. Nebraska*, 262 U.S. 390, 401 (1923).

<sup>20</sup> *Ibid.*, at 403.

<sup>21</sup> NABE, *Bilingual Education*, supra note 3.

<sup>22</sup> *Lau v. Nichols*, 414 U.S. 563, 564 (1974).

<sup>23</sup> Ronald Takaki, *A Different Mirror: A History of Multicultural America 191-192* (Back Bay Books/Little, Brown and Co 1993).

<sup>24</sup> *Lau v. Nichols*, 414 U.S. 563, 564 (1974).



The trial court held that the school district was not in violation of the Equal Protection Clause of the Fourteenth Amendment or of the Civil Rights Act of 1964.<sup>25</sup> Upon the Supreme Court reversing the trial courts' decision, it found that "students who do not understand English are effectively foreclosed from any meaningful education."<sup>26</sup> The Court in *Lau* cites Senator Humphrey who during the floor debates concerning the Civil Rights Act of 1964 quoted president Kennedy: "simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination."<sup>27</sup> The Court further reasoned, "where inability to speak and understand English excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students."<sup>28</sup>

The Supreme Court decided unanimously in *Lau* to outlaw the educational neglect of English language learners in public education institutions. Furthermore, the Court acknowledged the racial discrimination inherent in preventing minority groups from having access to education in violation of the Civil Rights Act of 1964.<sup>29</sup> Prior to this decision the Chinese students were not learning because all their instruction was in English and they did not understand. In *Lau*, the Court held that schools must take steps to make sure that Chinese students are no longer neglected in the classrooms. *Lau* represents a legal victory for bilingual education advocates because it acknowledges that

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<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.* at 566.

<sup>27</sup> *Ibid.* at 569.

<sup>28</sup> *Ibid.* at 568.

<sup>29</sup> *Ibid.*

students who do not speak English are neglected if other alternatives are not implemented. However, some scholars fear that by requiring school systems to take affirmative steps to provide a meaningful education to non-English speaking students, as the court in *Lau* held, our schools become re-segregated, which is contrary to *Brown v. Board of Education*.<sup>30</sup>

In 1954, *Brown v. Board of Education* was a milestone Supreme Court decision that acknowledged the inherent systemic oppression created by segregated school systems. A positive step in attaining a multicultural America was accomplished when the Court ruled that schools could no longer exist as segregated educational establishments.<sup>31</sup> As a result, children of different racial and ethnic backgrounds would have exposure to the same educational experiences in racially-integrated classrooms. However, more than fifty years following this decision many schools remain de facto segregated and academic achievement by poor and minority students continues to lag behind the wealthy white students.<sup>32</sup> Additionally, students in bilingual classes are typically placed in classrooms with other students of the same race or ethnicity, where they spend their entire school day.<sup>33</sup> An alternative that bilingual education advocates push for is to have classrooms for example, where Caucasian children and Hispanic children are educated with both English and Spanish instruction so that all the children are bilingual and will be more competitive in the global marketplace.

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<sup>30</sup> *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954).

<sup>31</sup> *Ibid.*

<sup>32</sup> Lupe S. Salinas, *The Equal Treatment of Unequals: Barriers Facing Latinos and the Poor in Texas Public Schools*, 14 *Geo. J. on Poverty L & Pol'y* 215, 221 (2007).

<sup>33</sup> Edward Lew, *Bilingual Education and Resegregation: Reconciling the Apparent Paradox Between Bilingual Education Programs and Desegregation Goals*, 7 *Asian Pac. Am. L.J.* 88, 90 (2001).

In 2006, the Mexican American Legal Defense and Education Fund (MALDEF) represented Latino parents who alleged that Preston Hollow Elementary School illegally used its ESL program to segregate Latino and minority students from Anglo students, irrespective of their language abilities.<sup>34</sup> With the objectives of *Lau* and *Brown* in play, some argue that a paradox appears to exist in trying to promote certain types of bilingual education programs while maintaining racially-integrated classrooms. However, the paradox presented by segregation resulting from bilingual education and the segregation prohibited in *Brown* are distinguishable in both purpose and effect.<sup>35</sup>

Ultimately, *Lau* presents a sound decision as a matter of public policy. The federal government should not fund systemic institutions that foreclose any meaningful education to students by way of not providing a curriculum that is inclusive of all individuals, including non-English speaking immigrants. Therefore, the bilingual education debate cannot be fully understood without consideration of the relevant facts pertaining to immigration, because the two topics are inextricably intertwined.<sup>36</sup>

The largest immigrant group in the United States is by far the Hispanic community, which according to the Pew Hispanic Center made up roughly 15% of the United States population in 2007, with over 45 million strong.<sup>37</sup> The second largest minority group in the United States is the African-American community with over 36

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<sup>34</sup> *Santamaria v. Dallas Independent School District*, No. 06-692 (N.D. Tex. Nov. 16, 2006).

<sup>35</sup> Edward Lew, *Bilingual Education and Resegregation: Reconciling the Apparent Paradox Between Bilingual Education Programs and Desegregation Goals*, 7 *Asian Pac. Am. L.J.* 88, 104 (2001).

<sup>36</sup> Pew Hispanic Center, *Latinos and Education: Explaining the Attainment Gap*, (October 7, 2009). <http://www.pewhispanic.org/2009/10/07/latinos-and-education-explaining-the-attainment-gap/> (last visited February 22, 2012).

<sup>37</sup> *Ibid.*

million comprising about 12% of the total population.<sup>38</sup> The Pew Center also points out that the Latino community accounts for half of the U.S. population growth since 2000.<sup>39</sup> This community is growing rapidly as a result of both documented and undocumented migrants.

“Undocumented residents” has been used to describe any person who “*resides* in the United States, but who is *not* a U.S. citizen, has *not* been admitted for permanent residence, and is *not* in a set of specific authorized temporary statuses permitting longer term residence and work.” Undocumented immigrants from Latin America composed over 80% of the 10.3 million unauthorized in 2004.<sup>40</sup> Projections have placed the current number of people in the country without governmental permission as surpassing 11 million.<sup>41</sup>

As numbers continue to climb, immigrants integrate themselves into communities, attracted by the magnetic pull of the labor market. Pia Orrenius, Senior Economist at the Federal Reserve Bank of Dallas, has claimed that U.S. economic growth in recent years would not have occurred in the absence of immigration.<sup>42</sup> From an economic standpoint, immigrants contribute by filling jobs in sectors that are lacking laborers because much of the native-born population has refused them.<sup>43</sup> According to

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<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

<sup>41</sup> Jeffery Passel, *Unauthorized Immigrant Population: National and State Trends in the U.S.* (2011) <http://www.pewhispanic.org/2011/02/01/unauthorized-immigrant-population-national-and-state-trends-2010/> (last visited March 3, 2012).

<sup>42</sup> Pia Orrenius, *U.S. Immigration and Economic Growth: Putting Policy on Hold* (2003), <http://www.dallasfed.org/research/swe/2003/swe0306a.html> (last visited on March 12, 2012).

<sup>43</sup> *Ibid.*

Dan Griswold of the Cato Institute, “Demand for low-skilled labor continues to grow in the United States while the domestic supply of suitable workers inexorably declines.”<sup>44</sup>

Despite this increasing need for laborers, the U.S. immigration system has not provided the legal means by which they can come. Griswold completed his previous statement, “yet U.S. immigration law contains virtually no legal channel through which low-skilled immigrant workers can enter the country to fill that gap.”<sup>45</sup> Because the option of legal access does not exist, immigrants have resorted to life-endangering methods of entry, resulting in threats to safety and family separation. Others bring their families with them which further explains why the number of Hispanic students in the nation's public schools nearly doubled from 1990 to 2006, accounting for 60% of the total growth in public school enrollments over that period.<sup>46</sup> Furthermore, once successful in arriving and obtaining employment, undocumented immigrants and their children live under the constant threat of deportation. However, given the critical Supreme Court decision in *Plyler v Doe*, undocumented children now have the right to access public education while they live in the United States.<sup>47</sup>

In *Plyler v. Doe* the Supreme Court addressed undocumented children’s right to access to education in our nations public schools.<sup>48</sup> The Court reviewed a Texas statute that denied access to public education for undocumented alien children and its

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<sup>44</sup> Frank Sharry, *Comprehensive Immigration Reform in the 109th Congress* (2007), <http://www.immigrationforum.org/DesktopDefault.aspx?tabid=732> (last visited on January 14, 2012).

<sup>45</sup> *Ibid.*

<sup>46</sup> Rick Fry, *One-in-Five and Growing Fast: A Profile of Hispanic Public School Students*, Pew Hispanic Center, Pew Hispanic Center (August 26, 2008).

<sup>47</sup> *Plyler v. Doe*, 457 U.S. 202, 205 (1982).

<sup>48</sup> *Ibid.*

implications on the Equal Protection Clause of the Fourteenth Amendment.<sup>49</sup> This class action suit was brought in September of 1977 on behalf of undocumented school age children of Mexican origin who lived within the Tyler, Texas Unified School District seeking an injunction against the statute.<sup>50</sup>

The statute in question was loosely observed by the public school district up until the 1977-1978 school year when it then decided to require undocumented children to pay a “full tuition fee” in order to enroll.<sup>51</sup> The appellants argued that because the undocumented immigrants were not recognized as citizens under immigration law they were not entitled to the rights constitutionally available under the Fourteenth Amendment.<sup>52</sup> The Court rejected this notion acknowledging that regardless of citizen status these individuals are in fact “persons” and therefore guaranteed that no state shall deprive them of life, liberty or property, without due process of law under the Fourteenth Amendment.<sup>53</sup>

Having established that the Fourteenth Amendment does protect all “persons” within the jurisdiction of the United States the Court further analyzed the Appellants argument that the State may withhold funds from those who disobeyed the law (undocumented immigrants). At the root of this issue Justice Brennan wrote, “even if the state found it expedient to control the conduct of adults by acting against their children, legislation directing the onus of a parent’s misconduct against his children does not

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<sup>49</sup> *Ibid.*

<sup>50</sup> *Ibid.* at 206.

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ibid.* at 210.

<sup>53</sup> *Ibid.*

comport with fundamental conceptions of justice.”<sup>54</sup> The Court is clearly saying that to punish a child for the acts of their parent simply perpetuates systemic oppression.

Some areas of the country are more inclined to perpetuate systemic oppression than others.<sup>55</sup> Senior United States District Judge, William Wayne Justice, denied relief in 2007 to Plaintiff-Intervenor, LULAC (League of United Latin American Citizens), who argued that the Texas Education Agency (TEA) had abandoned its duty to monitor, enforce, and supervise school districts' administration and ensure compliance with Texas's bilingual education program.<sup>56</sup> With overwhelming evidence introduced at trial that illustrated the gross disparity in Texas public schools among poor minority students and their wealthy white counterparts the Court wrongfully held that TEA had not abandoned its duty to make sure all students were getting equal access to education.<sup>57</sup> “Although evidence of poor and minority students’ educational neglect and deprivation in a public school system triggers the duty to act affirmatively to overcome those failures,” Judge Justice failed to do so in Texas.<sup>58</sup> In a similar Texas ruling MALDEF’s David Hinojosa remarked: “Fifty years after *Brown vs. Board*, our undisputed evidence at trial showed that the quality of education for certain Texas children still suffers as a direct

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<sup>54</sup> *Ibid.* at 220.

<sup>55</sup> Paulo Freire, *Pedagogy of the Oppressed* 44 (Myra Bergman Ramos ed., Continuum International Publishing Group Inc 1970) (2006).

<sup>56</sup> *United States of America v. The State of Texas* 2007 U.S. Dist. LEXIS 55732

<sup>57</sup> *Ibid.*

<sup>58</sup> Lupe S. Salinas, *The Equal Treatment of Unequals: Barriers Facing Latinos and the Poor in Texas Public Schools*, 14 *Geo. J. on Poverty L & Pol’y* 215, 216 (2007).

result of which side of the tracks you live on. Despite the glaring disparities between the haves and have-nots, the court refused to confront the issues head on.”<sup>59</sup>

### **Implications of Legislation of Bilingual Education**

As seen in Hinojosa’s remarks, discrimination plays a role in the debate surrounding access to quality education. Although case law has been instrumental in shaping the national dialogue surrounding bilingual education, state and national legislation has also served an important role in this arena.

#### 1968 Bilingual Education Act

The first major piece of legislation dedicated to bilingual education was Title VII of the Elementary and Secondary Education Act (ESEA), also known as the 1968 Bilingual Education Act.<sup>60</sup> This piece of legislation is important because it represents the first time that the federal government recognized the needs of students living in the United States, who attended public schools and were ELL’s.<sup>61</sup> NABE advocates recognize that Title VII was designed to promote education excellence by awarding competitive grants directly to school districts for serving ELL’s. Additionally, it placed strong emphasis on professional development programs both at the “undergraduate and graduate levels.”<sup>62</sup> Although the guidelines of the legislation were not specific and participation was voluntary, the Act was important because it allocated federal funding to

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<sup>59</sup> Intercultural Development Research Association, *West Orange Cove Ruling*. [http://www.idra.org/Education\\_Policy.htm/Fair\\_Funding\\_for\\_the\\_Common\\_Good/West\\_Orange-Cove\\_Ruling/Neeley v. West Orange-Cove Consol. Indep. Sch. Dist., Nos. 04-1144, 05-0145, and 05-0148](http://www.idra.org/Education_Policy.htm/Fair_Funding_for_the_Common_Good/West_Orange-Cove_Ruling/Neeley_v._West_Orange-Cove_Consol._Indep._Sch._Dist.,_Nos._04-1144,_05-0145,_and_05-0148_(Texas_Supreme_Court_Nov._22,_2005).) (Texas Supreme Court Nov. 22, 2005).

<sup>60</sup> See Bilingual Education Act of 1968, Pub. L. No. 90-247, 81 Stat. 783, 816, 19.

<sup>61</sup> Gloria Stewner-Manzanares, *The Bilingual Education Act: Twenty Years Later*, 6 New Focus, Fall 1998 at 1.

<sup>62</sup> NABE, *Bilingual Education*, supra note 3.



public schools that were willing to implement bilingual education opportunities to its students.<sup>63</sup>

Since 1968, the Act has been amended six different times. The first of which was in 1974. That amendment made bilingual instruction programs mandatory for public schools regardless if they received federal or state funding and it continued to emphasize the importance in maintaining students “native languages” and cultures.<sup>64</sup> Unfortunately this latter concept was removed in the 1978 Amendment, which cut funding from those educational programs that were designed to maintain the native languages of the students. The 1978 legislation limited native languages only to be used to the extent necessary for students to become proficient in English.<sup>65</sup>

After the 1984 Amendment, which pushed the onus of bilingual education funding onto the local and state governments,<sup>66</sup> a 1988 Amendment implemented a three-year limit on a student’s participation in transitional bilingual education programs.<sup>67</sup> In 1994 the legislature reauthorized the law for the fifth and final time. The 1994 reauthorization was the strongest version of the Bilingual Education Act in promoting the

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<sup>63</sup> Gloria Stewner-Manzanares, *The Bilingual Education Act: Twenty Years Later*, 6 *New Focus*, Fall 1998 at 1.

<sup>64</sup> “...the Congress declares it to be the policy of the United States ... to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods... and [to provide federal funds to state and local educational agencies to employ] effective ways of providing instruction to students of limited English proficiency designed to enable them, while using their native language, to achieve competence in the English language.” Education Amendments of 1974, P.L. 93-380, § 702.

<sup>65</sup> Educational Amendments of 1978, P.L. 95-561. (codified at 20 U.S.C. § 7501).

<sup>66</sup> Educational Amendments of 1984, P.L. 98-51, § 702(b)(3) (codified at 20 U.S.C. § 7202).

<sup>67</sup> Educational Amendments of 1988, P.L. 100-297, § 7002(b)(3) (codified at 20 U.S.C. § 7103).

goal of bilingualism for English language learners, rather than simply the transition to English.<sup>68</sup> A brief history of the Bilingual Education Act and its six amendments clearly illustrate how the debate surrounding bilingual education evolved on a national level, but states also enacted legislation that had a profound impact on the lives of English language learners also. Most recently the legislation morphed into the No Child Left Behind Act which will be discussed further below.

### **PROP 227**

Another important piece of legislation that pertained to the bilingual instruction discussion was California's Proposition 227, which the voters passed in June of 1998.<sup>69</sup> Proposition 227 was California's anti-bilingual education initiative, which was sponsored by millionaire Ron Unz.<sup>70</sup> Proposition 227 is an important piece of legislation in the context of the bilingual education debate because it mandates English-only instruction for most English language learners.<sup>71</sup> In some circumstances parents are allowed to waive the policy and have their child placed in a bilingual classroom, however there is no general waiver available to the school district even if the entire student body is non-English speaking.<sup>72</sup> These poor education policies not only have impacts on our society

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<sup>68</sup> NABE, *Bilingual Education*, supra note 3.

<sup>69</sup> Cal. Educ. Code §§ 300-340.

<sup>70</sup> Charu A. Chandrasekhar, *The Bay State Burries Bilingualism: Advocacy Lessons From Bilingual Education's Recent Defeat in Massachusetts*, 24 *Chicano-Latino L. Rev.* 43, 43 (2003).

<sup>71</sup> Cal. Educ. Code § 306(b).

<sup>72</sup> Cal. Educ. Code § 310 and § 311. Parents must personally visit the school to request the waiver which is only granted for three kinds of students: those who already know English, those who are 10 yrs. old or older (but only if, in the informed opinion of the school principal and educational staff the child will more rapidly acquire English skills in a bilingual environment), and those with documented "special needs."

as a whole but also on the local California families. Steve Zimmer, of the Los Angeles Board of Education for District 4 remarked, “Post-227 we've been so intensely focused on kids learning English quickly. The component that is not successful is having parents learn English. By 3rd or 4th grade, there is a real communication gap between parents and kids.”<sup>73</sup> California isn't the only state to pass anti-bilingual education initiatives. Arizona passed similar legislation in 2000, as did Massachusetts in 2002, each to the detriment of the families in those states.<sup>74</sup> The implementation of anti-bilingual education initiatives is unfortunate given the “excellent results” and levels of success for LEP students in programs where bilingual education is tailored to the LEP students' proficiency in English.<sup>75</sup> For example, English scores rose by 35 percent over a four-year period for children in classrooms where 9 out of 10 students were classified as LEP.<sup>76</sup> However, these damaging state education policies can be eliminated by a national policy that makes bilingual instruction mandatory on all schools. Advocates for such a policy were hoping that in 2002 the No Child Left Behind Act would do just that.

### **No Child Left Behind Act**

On January 8, 2002, George W. Bush signed into law the No Child Left Behind Act (NCLB), which consolidated and revised all former bilingual education and immigrant programs under Title III, which had been previously included in Title VII of

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<sup>73</sup> Los Angeles Times interview with Steve Zimmer, Candidate District 4 Los Angeles Unified School District (March 3, 2009).

<sup>74</sup> Rethinking Schools, *Bilingual Education is a Human and Civil Right* (Winter 2002/2003), <http://www.rethinkingschools.org> (last visited March 12, 2012).

<sup>75</sup> James Crawford, *Bilingual Education: History, Politics, Theory, and Practice* 13, (Bilingual Education Serv. 1999).

<sup>76</sup> James Crawford, *Bilingual Education: History, Politics, Theory, and Practice* 13, (Bilingual Education Serv. 1999).

the ESEA (Bilingual Education Act of 1968) and the Emergency Immigration Education Program.<sup>77</sup> According to the U.S. Department of Education, NCLB is based on stronger accountability for results, more freedom for states and communities, proven education methods, and more choices for parents.<sup>78</sup> NCLB uses annual standardized tests to measure school and student performance, however some scholars argue that “standardized tests, which are notorious for their discriminatory effect on students of color, clearly threaten whatever small measures of educational equity have been won in recent decades.”<sup>79</sup>

Title III provides formula grants for English learner programs, to be distributed by states on a per-capita basis and requires annual assessments of English proficiency. NCLB neither encourages nor prohibits native-language instruction, but it deletes from the ESEA all references to "bilingual education" and to "bilingualism" as an educational goal.<sup>80</sup> Title III of the NCLB is a symbolic piece of legislation in that illustrates a shift in the direction at which bilingual education is going in the national debate. Throughout the 1960's and 70's bilingual education was an important phenomenon for U.S. Hispanics to gain a sense of unity, and was viewed as an integral part of the Civil Rights Act of 1964.<sup>81</sup> As noted above in the initial 1968 Bilingual Education Act, the government was

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<sup>77</sup> Barbara J. Brunner, *Bilingual Education Under the No Child Left Behind Act of 2001: Se Quedara Atras?*, 169 Ed. Law Rep. 505, 505 (2002).

<sup>78</sup> U.S. Department of Education, *NLCB Homepage*, <http://www.ed.gov/nclb/overview/intro/4pillars.html> (last visited February 20, 2012).

<sup>79</sup> Terry Meier, *Why Standardized Tests are Bad 203* (Rethinking Our Classrooms, Volume 1, New Edition) (2007).

<sup>80</sup> NABE, *Bilingual Education*, *supra note 3*.

<sup>81</sup> Peter Duignan, *Bilingual Education: A Critique*, The Hoover Institution, <http://www.hoover.org/publications/he/2896386.html> (last visited February 5, 2012).

embracing the native languages and cultures of the students.<sup>82</sup> By eliminating this language in the previous statutes from the NCLB, the policy failed to take into account the needs of the students in our nation's schools. By the 2030s, say demographers, ELL's will account for approximately 40% of the entire school-aged population in the United States.<sup>83</sup> Furthermore, NCLB's silent discouragement of bilingual education and the laws' requirements rob ELL students of the content instruction and confidence necessary for high academic achievement.<sup>84</sup> Because NCLB is failing our ELL students, NABE has organized itself as critical entity in shaping the way advocacy surrounding bilingual education is playing out in Washington D.C.

### **Policy Analysis**

Having now discussed the all-encompassing large circle and the historical context forming the debate surrounding the bilingual education issue we can now focus on the three circles of policy, politics and strategy. As Jim Shultz points out, step one in conducting policy analysis is to define the problem. After the problem and its causes have been identified then a solution can then be addressed.

As illustrated in the above discussion bilingual education is such a crucial part of American history and so to continue that legacy, policy-making needs to compassionately confront the ineffective education system as it is today. In order to better understand the

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<sup>82</sup> Education Amendments of 1974, P.L. 93-380, § 702.

<sup>83</sup> Celeste Roseberry-McKibbin and Alejandro Brice, American Speech-Language-Hearing Association, *Acquiring English as a Second Language: What's "Normal," What's Not*, <http://www.asha.org/public/speech/development/esl>

<sup>84</sup> Bethany Li, *From Bilingual Education to OELALEAALEPS: How the No Child Left Behind Act Has Undermined English Language Learners' Access to A Meaningful Education*, 14 Geo. J. on Poverty L. & Pol'y 539, 540 (2007).

policy solutions that NABE offers as an alternative to our current system, one must look at how NABE defines the “problem.”

According to NABE President, Rosanna Boyd, the biggest obstacle confronting English Language Learners is that their educational needs are not being met in many classrooms across the country because there is no national mandate in the ESEA bill about native language instruction.<sup>85</sup> Specifically, there is a lack of inclusive language in the ESEA bill about native language instruction in the proposed Harkin/Enzin Title III law that will be discussed further below. As a result many ELL children are being left behind in classrooms contrary to the name of the governing piece of legislation, the No Child Left Behind Act. Furthermore, Boyd points out that it is not just the ELL’s who are being left behind but it is all children, even those whose have English as their first language because children in other parts of the world where bilingualism and multilingualism is mandated by foreign nation-states that are competing with the US work force.

NABE’s framing of the problem is indicative of the organization’s willingness to address a need for social change through legislation. From the above statement, one witnesses a call upon national policy-makers to address the multifaceted problems that are so embedded in the education system. The role of the political system will be addressed later in this paper however, it is important to recognize how NABE understands the causes of the bilingual education problem so that we can better critique their policy solutions. It is evident that NABE assumes that in order for the problems to be alleviated, the current policy, which they identify as the cause of the problem, must be

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<sup>85</sup> R. Boyd (personal communication, April 12, 2012).

reformed. The following four pillars are key policy foci by which NABE was founded and make up their framework for solutions to the bilingual education debate.

1. Key policy foci: federal and state legislation to address the unique needs of English language learners.

As pointed out in NABE's understanding of bilingual education problems, a solution must deal with the multifaceted dynamic of such a complex social issue. Therefore, advocacy for federal and state legislation must be mandated to ensure that a comprehensive and consistent policy is carried out not only by individual school districts but rather on larger state and federal scales.

NABE has advocated its core principles be included in the original authorization and each subsequent reauthorization of the NCLB since its inception. Although NCLB technically expired on September 30, 2007, Congress has voted to extend NCLB until a majority agreement can be reached on how to reauthorize it. Because of a lack of consensus in either party, no comprehensive proposal education reform has passed, although several bills have proposed amendments to various parts of the law.<sup>86</sup>

NABE has worked with various policymakers in introducing proposing amendments that would reauthorize NCLB with a focus in "promoting the use of native languages as a proven instructional methodology for academic achievement."<sup>87</sup> For example, NABE worked with Ted Strickland in introducing the Comprehensive Learning and Assessment for Students and Schools (CLASS) Act in Congress in early 2005.<sup>88</sup> The

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<sup>86</sup> NABE, *Bilingual Education, NABE's Principles on the Reauthorization of NCLB* (June, 2007), <http://nabe.org/advocacy/nclb.html> (last visited February 23, 2012).

<sup>87</sup> *Ibid.*

<sup>88</sup> Comprehensive Learning and Assessment for Students and Schools (CLASS) Act, H.R. 224, 109<sup>th</sup> Cong. (2005).

CLASS Act was a bill intended to amend NCLB concentrated in prohibiting the use of a single test score for high-stakes purposes. CLASS allowed for schools to be rated using multiple criteria including grades and dropout rates, and would receive credit for improvements rather than meeting arbitrary achievement targets.<sup>89</sup> CLASS would help to alleviate the decades of research that document the biases in standardized tests (like those used in NCLB), with minority and low-income students bearing the brunt of that discrimination.<sup>90</sup>

In the same year NABE worked with Sen. Jeff Bingaman in advocating the Quality Education for All Act.<sup>91</sup> The bill also amended the NCLB to give school districts leniency in calculating the “annual yearly progress” (AYP) assessments for students. The Act would also authorize grants to state education agencies to develop more valid and reliable assessments for English language learners.<sup>92</sup> NABE also lobbied Rep. Lee Terry for the State and Local Education Flexibility Act of 2005. This bill would have allowed states to exempt ELL’s from AYP calculations if students enrolled in a school for less than 3 years and if parents and administrators agreed that excluding them from achievement tests would be “educationally appropriate.”<sup>93</sup> Additionally, in January of 2007, NABE worked with Rep. Donald Young of Alaska on a bill proposed in Congress that would allow former ELL’s to be counted for AYP purposes for up to 3 years and

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<sup>89</sup> NABE, *Bilingual Education, Advocacy and Legislation*

<http://nabe.org/advocacy/legislation.html> (last visited March 12, 2012).

<sup>90</sup> Terry Meier, *Why Standardized Tests are Bad 203* (Rethinking Our Classrooms, Volume 1, New Edition) (2007).

<sup>91</sup> Quality Education for All Act, S. 15, 109<sup>th</sup> Cong. (2005).

<sup>92</sup> NABE, *Bilingual Education*, *supra* note 89.

<sup>93</sup> State and Local Education Flexibility Act of 2005, H.R. 1177, 109<sup>th</sup> Cong. (2005).



slightly ease sanctions for schools failing to make AYP.<sup>94</sup> Unfortunately none of these bills ever became laws but NABE has continued to advocate with resilience and strength especially following the 2008 election season.

NABE's most recent advocacy work has manifested itself through conversations with the Education/Policy and Hispanic Education Agenda Transition Team of President Barack Obama.<sup>95</sup> NABE illustrated in its advocacy that LEP student enrollment in the public schools has increased by more than 56% over the last decade, with the most significant growth in nontraditional Latino and immigrant states, such as South Carolina (714%), Kentucky (417%), and Indiana (408%).<sup>96</sup> NABE encourages the transition team to re-organize the department of education and primarily to pass the Dream Act.<sup>97</sup>

NABE advocates for the Development Relief and Education for Alien Minors ("DREAM") Act, which is proposed legislation that provides undocumented immigrant youth an opportunity to achieve higher education and legal status. The aims of the DREAM Act are to remove the high cost of out-of-state tuition rates as a barrier to the higher education of undocumented students and to make them eligible for legal permanent residence. The DREAM Act takes up where the United States Supreme Court case *Plyler v. Doe* left off by making it easier for undocumented students to pursue higher education and a place within the workforce as legal residents.<sup>98</sup>

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<sup>94</sup> No Child Left Behind Improvements Act of 2007, H.R. 648, 110<sup>th</sup> Cong. (2007).

<sup>95</sup> *Ibid.*

<sup>96</sup> *Ibid.*

<sup>97</sup> *Ibid.*

<sup>98</sup> Rene Galindo, *Dual Sources of Influence on Latino Political Identity: Mexico's dual Nationality Policy and The DREAM Act*, 11 Tex. Hisp. J. L. & Pol'y 75, 77 (2005).

The most recent construction of the bill introduced on March 26, 2009, has the following requirements of the students it would apply to: have arrived in the United States at the age of 15 or under; have lived in the United States for at least 5 years; have graduated from high school; serve in the military or attend college for at least two years; and have good moral character.<sup>99</sup> The 2009 bill generally has the same requirements of students as did the previous pieces of legislation that were introduced in prior years. It has been introduced in both the Senate ("DREAM Act") and the House of Representatives ("American Dream Act") at various times beginning in 2001.<sup>100</sup> The DREAM Act would help to overcome undocumented students' financial hurdles by allowing students access to federal financial aid. With the DREAM Act, universities would be confident that immigrant students receiving loans could repay them after graduation because the Act would grant work authorization through its provision of conditional permanent residency.

The most recent advocacy work NABE has carried out with regard to this first pillar pertains to the Harkin/Enzin bill named accordingly because it was introduced by Democratic Senator Tom Harkin and Republican Senator Mike Enzin. The purpose of the bill is to reauthorize ESEA later rebranded as the No Child Left Behind Act. However, NABE is concerned that the legislation does not address student's native language instruction, dual language instruction, nor the use of native language assessments to

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<sup>99</sup> National Immigration Law Center, *Dream Act: Summary*, <http://www.nilc.org/immlawpolicy/DREAM/index.htm> (last visited March 12, 2012).

<sup>100</sup> In the Senate: S.1545 (108th Congress), S.2075 (109th Congress), S.774 (110th Congress), and S.2205 (110th Congress). In the House: H.R.1684 (108th Congress), H.R.5131 (109th Congress), and H.R.1275 (110th Congress).

determine the academic progress in meeting the Common Core Standards and is advocating that such language be included in the ESEA reauthorization bill.

2. Key policy foci: adequate funding, well trained teachers, appropriate assessments, and other resources for English learner programs.

NABE views the many of the shortcomings with the current bilingual education system as a result of insufficient funding to train teachers. In order for the classrooms to be properly prepared to be bilingual the teachers in the classrooms must have a systemic training program. Furthermore NABE advocates for the implementation of a policy and procedures manual that would allow the Department of Education the opportunity to assess bilingual classrooms and the performances of the students and teachers alike. Additionally, more funding for English learner programs would provide other resources necessary including technology and computer programs to make the programs more effective for the learners.

3. Key policy foci: equal educational opportunity, including strong civil-rights policies and aggressive enforcement of the Lau v. Nichols decision.

As discussed above in the context and implications of litigation pertaining to bilingual education, Lau v. Nichols is an important U.S. Supreme Court decision that essentially holds that all students should be treated equally regardless of their ethnic or language differences. This third pillar of NABE's advocacy works is often cited by the organization when school districts, states or federal legislation attempts to counteract this important Court ruling.

4. Key policy foci: advocacy against political attacks on language-minority communities, such as the English Only movement and anti-bilingual-education initiatives.

As discussed later in this paper there are opponents to the advocacy work of NABE. NABE takes an active role in developing strategies that oppose organizations and movements, like English Only, and policy-makers who become allies of these opposition programs.

### **Politics**

NABE has a clear mission: “to advocate for our nations Bilingual and English Language Learners and families and to cultivate a multilingual, multicultural society by supporting and promoting policy, programs, pedagogy, research, and professional development that yield academic success, value native language, lead to English proficiency, and respect cultural and linguistic diversity.”<sup>101</sup> In order to achieve this goal, NABE has identified a target and understands the political and power system through which the target functions. In order to analyze the political system and actors, it is useful to draw a map of actors. This map allows us to make an assessment of: the target’s role, how decisions are made, potential allies and opponents.

### **The Target**

Indeed NABE has well defined its target in order to achieve what they consider the best solution to bilingualism across America. The target is the Legislative and Executive branches (i.e. Congress and the President) of the United States government.<sup>102</sup> In general, a proposal for reform is presented in Congress and after being approved goes to the Executive branch where the President makes the final decision. As illustrated previously, for many decades Congress and the Executive Branch have recognized that

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<sup>101</sup> *Ibid.*

<sup>102</sup> *Ibid.*

some sort of dual language instruction is necessary.<sup>103</sup> However, most recently there has been a lack of bipartisan support for a common legislative initiative. Despite this difficult context, NABE is applying pressure on these two branches to accept a progressive comprehensive education reform that takes into consideration the diversity of languages that students bring into the classrooms.<sup>104</sup>

### **Opponents**

Opponents to the NABE approach are represented at different levels and with different discourses. They are those organizations that believe the problem's solution should be concentrated more in English-only education and others who go as far as to advocate shutting down our nation's borders and stopping immigration all together under the premise that it is in the countries best interest. Following are some examples of opponents:

*U.S. English*: Nation's oldest, largest citizens' action group dedicated to preserving the unifying role of the English language in the United States.<sup>105</sup>

*English First*: National, non-profit grassroots lobbying organization dedicated to making English America's official language and eliminate costly and ineffective multilingual educational policies.<sup>106</sup>

*FAIR* (Federal Immigration Reform and Border Security): Membership organization of concerned citizens who share a common belief that the nation's immigration policies

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<sup>103</sup> Bethany Li, *From Bilingual Education to OELALEAALEPS: How the No Child Left Behind Act Has Undermined English Language Learners' Access to A Meaningful Education*, 14 *Geo. J. on Poverty L. & Pol'y* 539, 540 (2007).

<sup>104</sup> NABE, *Bilingual Education*, *supra note 3*.

<sup>105</sup> U.S. English, <http://www.us-english.org/> (last visited March 3, 2012).

<sup>106</sup> English First, <http://englishfirst.org/englishfirst/> (last visited March 3, 2012)

must be reformed to serve the national interest. FAIR seeks to improve border security, to stop illegal immigration, and to promote immigration levels consistent with the national interest—more traditional rates of about 300,000 a year.<sup>107</sup>

*9/11 Families for a Secure America:* National security watchdog organization of relatives of those murdered in the September 11 attacks. The goal is to educate the American people about the importance of the 9/11 Commission's conclusion "...that terrorists cannot plan and carry out attacks in the United States if they are unable to enter the country."<sup>108</sup>

*The American Resistance:* To confront the powers that would destroy our Republic and our way of life. We are a coalition of immigration crime fighters.<sup>109</sup>

*Minuteman Project:* To bring national awareness to the illegal alien invasion crisis of the United States.<sup>110</sup>

### **Allies**

Along with affiliate organizations in 23 states, NABE represents a combined membership of more than 20,000 bilingual and English-as-a-second-language teachers, administrators, paraprofessionals, university professors and students, researchers, advocates, policymakers, and parents.<sup>111</sup> However, NABE is always looking for allies willing to support a comprehensive education reform that incorporates adequate language

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<sup>107</sup> Federation for American Immigration Reform, <http://www.fairus.org/> (last visited March 3, 2012)

<sup>108</sup> 9/11 Families For a Secure America, [www.911fsa.org](http://www.911fsa.org), (last visited March 3, 2012)

<sup>109</sup> The American Resistance Foundation, <http://www.theamericanresistance.com/> (last visited March 3, 2012).

<sup>110</sup> The Minuteman Project, <http://www.minutemanproject.com/> (last visited March 12, 2012)

<sup>111</sup> NABE, *Bilingual Education*, *supra note 2*.

instruction. Some of these allies are: labor groups, religious, ethnic groups, the left-leaning Democratic Party members, as well as other education campaigns and documented as well as undocumented immigrants.

### **Strategy - Lobbying**

NABE's strategy in supporting the education of English language learners is multi-faceted. It includes professional development opportunities and building partnerships with other civil rights and other education organizations to fight for the interests of language minority students. Other strategies include lobbying at federal and state levels to ensure adequate funding of all programs that serve English language learners as well as grassroots advocacy to mobilize parents and communities on behalf of educational excellence and equity. Lastly NABE campaigns to educate the public about the effectiveness of bilingual education.

Although NABE uses its member organizations, annual conference and its website to get the message out to the general public regarding their advocacy work, in an interview with President Boyd, she pointed out that the most effective way to see the implementation of NABE policies is through direct lobbying efforts with policy makers. In *The Democracy Owner's Manual*, author Jim Shultz lays out an advocacy strategy in a nutshell. I will utilize the Shultz strategy to analyze the strategic approach NABE has taken in its work in policy advocacy. The Shultz strategy is as follows:

Objective, Target Audience, Messages, Messengers, Taking Action

#### **Objective**

According to Boyd, NABE's primary objective is to make sure that any reauthorization of ESEA contains specific statutory language addressing student's native

language instruction, dual language instruction, and the use of native language assessments to determine their academic progress in meeting the standards set by NCLB.

### **Target Audience**

The target audience that NABE is focusing on is both the legislative and executive branches of government on both federal and state levels. For example, NABE recently targeted Senators Diane Feinstein and Barbara Boxer, in the Senate, and has asked them to put pressure on fellow Democrat, Harkin to add the language in his bill regarding bilingual education. In contacting the California Senators NABE specifically asked that they ask Harkin for his help in amending the bill and did not mention that they also ask Enzin to get on board as well. Additionally, the decision to lobby the California Senators was a result of California having over 1.4 million English learners in the state. Other examples include lobbying the executive branch, including U.S. Education Secretary Duncan to make educational excellence among the Hispanic community a priority.

### **Message**

The message NABE used in their lobbying effort toward Senators Boxer and Feinstein included the following language: “therefore, I ask that you become our champion by speaking with Senator Harkin to encourage the inclusion of two amendments in the ESEA bill that support students’ native language development and an accountability system to measure the students’ academic achievement in two languages.”

### **Messengers**

The specific letter used to lobby Feinstein and Boxer was signed by Dr. Yee Wan who is on the NABE Executive Board and who works at the Santa Clara County Office



of Education. Mr. Yee was chosen as the messenger in this instance because the recipients were California Senators and NABE felt that the letter should be from a California native. Although the letter was directly from Mr. Wan it was on the behalf of the entire Executive Board. Additionally the letter cited statistics from Dr. Yee's county including that more than half of the K-12 students in San Jose speak a language other than English at home.

### **Taking Action**

NABE influences policy makers by lobbying them directly with written letters from its board members. Here, NABE directly contacted Senators Feinstein and Boxer of California because the state has been at the forefront of the bilingual education debate. NABE is essentially saying to the California Senators, look what is happening in your state, lets implement similar policies throughout the nation.

California has been at the forefront of the bilingual education arena because Governor Jerry Brown passed legislation that recognizes bilingual high school graduates with the State Seal of Biliteracy. The legislation was passed because of the advocacy work of Californians Together an organization that falls under NABE's coalition. At the NABE annual conference Californians Together was recognized with an award and similar organizations in Texas, Florida and New York were encouraged by NABE to follow the lead of Californians Together.

In speaking with Californians Together Executive Director, Shelly Spiegel-Coleman, I learned that for several years the organization had been working to change the way society viewed the bilingual education debate. Shelly said "we want the families to know that they should be proud that their children speak Spanish, Mandarin, etcetera and

that they should be rewarded for doing so.” Ms. Spiegel-Coleman said the reason why the debate ensued was because much of society felt that English was the only language in the United States and that many of the immigrant families felt shameful if their children were not speaking English. The Seal of Biliteracy in California gives these families a sense of pride and illustrates that our society not only recognizes students that are bilingual but rewards them as well.

Furthermore, Ms. Spiegel-Coleman said the biggest barrier to passing the legislation was the previous Republican Governor, Arnold Schwarzenegger. For years, Californians Together and NABE lobbied policy makers in Sacramento, constantly tweaking the legislation to gain bipartisan support and every time it made it to Schwarzenegger’s desk it would be vetoed. She pointed out that once Democrat Jerry Brown, was elected into office, passing the legislation was much easier because when they lobbied him directly with letters and in conversations he was immediately on board.

### **Evaluation - Lobby President Obama**

In evaluating NABE’s approach to tackling the debate surrounding bilingual education, I think they need to be more aggressive with their approach and lobby the President. On the other hand, NABE’s strategy to encourage the states to pass similar legislation to California’s is indicative that NABE recognizes that Washington D.C. is not capable of passing such legislation in Congress.

I think NABE should use what Californians Together has started and lobby President Obama to award high school graduates with a Presidential Seal of Biliteracy. By doing so they will change the attitudes of the populace on a greater scale and quash the debate surrounding bilingual education. Congress has proven to be very ineffective at

passing legislation since the Tea Party movement has been so stubborn about helping Obama govern.

While I think that writing letters to California Senators Boxer and Feinstein, encouraging them to include “bilingual education” language in the Harkin Bill is important, I do not think the Bill is going to go anywhere in Congress given the lack of bipartisan support. Like Spiegel-Coleman pointed out, years of lobbying was ineffective when the republican governor was in office but as soon as a democrat was appointed passing the Seal of Biliteracy in California was more feasible.

Given the current political context, specifically the lack of bipartisan support on the issue of bilingual education, I think NABE should lobby President Obama, a democrat, to issue an Executive Order creating a Presidential Seal of Biliteracy for all high school students nationwide who qualify to be bilingual. NABE should use the same language that they use in their letters to the Senators illustrating the growing language demographics nationwide and the importance of having a bilingual/multilingual society in the global marketplace.

The President has been using Executive Orders more frequently given the political deadlock Congress has been in. Therefore, he may be willing to do so especially given that he is in the middle of a campaign for re-election. Some may argue that it is too politically risky but if he is willing to get on national television and say he supports same-sex marriage, he might be willing to say “I think being bilingual is important for the future of America and I am going to recognize every high school graduate who becomes proficient in English and one other language.” Its a shot in the dark but I think NABE’s current approach in lobbying Congress is less effective. However, their approach to

encourage the state's to pass similar legislation will be effective in changing the way society views the debate.

### **Lessons Learned**

NABE is the largest coalition to have formed around the issue of bilingual education in the United States. It has been successful in pulling together pro-bilingual education groups from different sectors, attracting concerned constituents from a broad base of interests. Treading through the context of a polarized debate, NABE has gained some bipartisan support for bilingual education reform.

While appealing to economic and political interest groups, NABE has also valued the human face of the bilingual education issue by holding annual conferences where the impact on the family is highlighted. Through the state organizations like Californians Together the emphasis on family values reaches beyond the economic and sociopolitical realms to include humanitarian groups and individuals.

The basic language used in expressing the mission, goals and four advocacy principles serves to invite wide participation, which expands the coalition and ensures an effective impact on the target. Through specific strategies for action, NABE has been able to stimulate movement across the nation to put pressure on Congress.

This understanding has helped recognize the difficulties inherent to coalition building. Although all of the organizations that fall under NABE's umbrella are pro-bilingual education, it was an assumption on my part that all the organizations agree on the issues surrounding the debate. It is important to recognize the decisions made on the part of some of the organizations to compromise some ideas (Spanish only classrooms)

for others (dual language immersion). These decisions are what make the coalition-building process challenging but rewarding.

For these reasons, NABE's tactical decision to pave a middle road for bipartisan support is a realistic strategy in accomplishing their goal. Although this strategy is not a sustainable compromise it is sometimes necessary in order to make step-by-step social change. This research has illustrated that the benefits in coalitions as mechanisms for bolstering advocacy by bringing together diverse perspectives to help fuel more creativity in the process of furthering bilingual education and social change.

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