

Bilingual Education Within the Context of English-Only Policies: Three Districts' Responses to Question 2 in Massachusetts

ESTER J. DE JONG, MILEIDIS GORT,
and CASEY D. COBB

This article describes three medium-sized districts' responses to the successful passage of an English-only ballot initiative in Massachusetts. Through interviews with bilingual directors and document analysis the study found that programmatic changes as a result of the new law were primarily limited to elementary-level transitional bilingual education programs. Key leaders' detailed knowledge of the law and commitment to bilingual education, and the local context, influenced how the state-mandated policy was translated into practice.

Keywords: *English-only; language policy; bilingual education*

ON NOVEMBER 5, 2002, Massachusetts voters overwhelmingly passed Question 2, a ballot initiative that replaced a 30-year-old mandate for transitional bilingual education (TBE) with language calling for the implementation of structured English immersion (SEI) programs for English language learners (ELLs). This article considers programmatic responses to Question 2 as districts had to enact the law in September 2003. Although some parallels are drawn with similar policies across the nation, the article's scope is limited to the Massachusetts context. It explores how three districts aligned their district policies with the new state law. Using document analysis and interviews with bilingual directors in three medium-sized school districts,

the article examines the responses to the law. After a brief history of bilingual education in Massachusetts and a general outline of the new law, the study's findings and implications are presented.

BILINGUAL EDUCATION IN MASSACHUSETTS

The ELL population in Massachusetts is relatively small, compared to the other two states where English-only ballot initiatives have been passed (California and Arizona). Demographic trends show that while 14% of the nearly one million Massachusetts public school students speak a language other than English at home, ELL enrollment is about 5%, or 50,000 students (Massachusetts Department of Education [MDOE], 2004b). Most ELLs are Spanish speaking (70% of ELL population), followed by Portuguese speakers (10% of ELL population), and Khmer or Vietnamese speakers (both 5% of the ELL population; Office of English Language Acquisition, 2002). Although ELLs are increasingly becoming identified in suburban areas, the majority of ELLs can still be found in urban communities, such as Boston, Lawrence, Lowell, and Worcester (Bilingual Education Commission, 1994). To meet the linguistic needs of ELLs, Massachusetts has implemented programs under Massachusetts General Law Chapter 71A.

Chapter 71A (1971 to 2003)

On February 4, 1971, the Massachusetts legislature passed Chapter 71A, the Transitional Bilingual Education Bill. The law was the first in the nation to mandate bilingual education, compared to simply permitting native language (L1) instruction (Sacken & Medina, 1990). Another innovative aspect was that it provided additional funds to districts for implementing programs under the new law to ensure that the same minimum amount was spent on ELLs as on standard curriculum students (Kobrick, 1972). The law was the result of a 2-year campaign by community leaders and grassroots organizations for improved services for ELLs (Hailer, 1976). Specifically, the law responded to reports of high dropout rates and lack of school attendance among children who were Spanish speaking. For instance, conservative estimates placed the percentage of school-age children who were Spanish speaking in school at around 50% in Boston in 1970 (Task Force on Children Out of School, 1970). Support for the law, however, came from the Italian, Portuguese, Chinese, and Greek communities as well (Kobrick, 1972).

Chapter 71A required districts with 20 or more pupils from the same language background to implement a full-time TBE program with instruction in the students' L1 and English in all subject areas and in the history of their own culture and home country in a self-contained setting. Students were expected

to be transferred to a mainstream classroom after 3 years in the program, although longer participation was permitted with parent and district approval. ELL student segregation was avoided by requiring integration with native English speakers in the specialist areas (music, art, physical education) and access to extracurricular activities, and by recommending that bilingual classes not be held in separate facilities (Lewis, 1975, p. 31). The law reflected the direction in which district practices were already moving. Dissatisfied with the outcomes of pullout English-as-a-Second-Language (ESL) classes,¹ several districts had begun offering bilingual classes to facilitate the transition of students into the mainstream classroom and to provide better access to the curriculum. The transitional nature of these classes (as opposed to native-language maintenance) was replicated in Chapter 71A (Hailer, 1976; Lewis, 1975).

Challenges of teacher recruitment and preparation, class sizes, scheduling, financial issues, and district ideologies have had an influence on the nature of the programs implemented under Chapter 71A (e.g., Roos & Roos, 1975). School districts developed different kinds of programs under the TBE heading ranging from minimal L1 use to late-exit and maintenance bilingual programs for various language groups, including Spanish, Cambodian, Vietnamese, Portuguese, Haitian-Creole, and Russian (Bilingual Education Commission, 1994; Rossell & Baker, 1996). Unfortunately, few studies have systematically documented bilingual education practices in Massachusetts. Some studies have described effective bilingual classroom practices (e.g., Beykont, 2000; Brisk, 1990, 1991; de Jong, 1996), while others have identified effective programs and schools for immigrant children, including two-way bilingual programs (Berman, Minicucci, McLaughlin, Nelson, & Woodworth, 1995; Brisk, 1996; Cazabon, Lambert, & Hall, 1993; de Jong, 2001, 2002; MDOE, 1990; National Coalition of Advocates for Students, 1994).

Similarly, information about the academic achievement of ELLs in Massachusetts was sorely lacking prior to the institution of the Massachusetts Comprehensive Assessment Systems (MCAS) in 1998 (Barra, Raupp, & Zuman, 1992; Bilingual Education Commission, 1994). An early MDOE report concluded that students attending a TBE program performed better and had higher school attendance than non-TBE program students (Walsh & Carballo, 1986). When attempting to describe the current state of bilingual education in Massachusetts, Rossell and Baker (1996) were unable to point to any other studies that documented the effectiveness of bilingual programs in the state. Although districts have collected and submitted English proficiency data on an annual basis to MDOE for many years, limited resources have prevented the analyses of these data at the local and state level (Barra

et al., 1992). ELL achievement has been reported, however, since the first administration of the MCAS in 1998. In the spring of 2003 (before the implementation of Question 2), MCAS results showed ELLs failing at significant levels across the grades. They performed best on the third-grade reading test (30% failure rate) and worst on the eighth-grade math (70% failure rate; MDOE, 2004a). These data are not reported by program model, however, nor do they include background information, such as length of time in the country, parental education, and the like, making it difficult to use the MCAS scores for directing future policy.

Revising Chapter 71A: The Question 2 Ballot Initiative

ELL failure on the MCAS was only one of the arguments put forth to rationalize the need to change Chapter 71A. Prior to 2002, the law had never been without its critics. The traditional debate between bilingual versus English-only proponents was played and replayed on an annual basis. Proponents of bilingual education claimed that Chapter 71A did not go far enough as it did not promote or require maintenance or late-exit bilingual programs (e.g., Lam, 1993). Opponents proposed legislation to replace the law with English-only programs virtually every year during the past two decades. While the latter efforts were defeated year after year by committed bilingual educators and legislators, a growing awareness developed that the TBE law needed to change. First, the law's mandate for TBE was said to be impractical given the demographic differences among and within districts. It did not allow for sufficient flexibility and avoided program accountability (Porter, 1999). Second, the criterion of 20 students or more from the same language background excluded a formal state-monitoring process of services for low-incidence language groups, even though these students were entitled to such services under Title VI of the Civil Rights Act. Finally, the law was said not to encompass many of the reforms set out by the Massachusetts 1993 Educational Reform Act. It took the threat of an English-only ballot initiative, however, to galvanize advocacy groups into action to seek change.

Besides another English-only law, no less than three probilingual education bills were proposed during the year before the elections (Vaishnav, 2002). Acting Governor Jane Swift passed a bill that would "institute a more flexible system in which individual districts would determine the methods by which the students learn English" (Ryan, 2002, p. 517). The bill was a last-minute attempt to undermine the relevance of Question 2 in the eyes of the public and tried to avoid a complete ban on bilingual education. Despite these efforts, Question 2 passed on November 5th, 2002, with a two-thirds majority (Mitchell, 2002).

THE NEW CHAPTER 71A AND BILINGUAL EDUCATION

Petitioned by a Cuban high school principal, Lincoln Tamayo, Question 2 closely follows the texts of the California and Arizona ballot initiatives (for full texts see www.onenation.org). Ironically still titled “Transitional Bilingual Education” (search for M.G.L. Chapter 71A in www.mass.gov for the complete text), the intent of the new law is clear: ELLs shall be schooled in and through English only and the use of languages other than English should be curtailed. The law mandates that ELLs “shall be educated either in sheltered English immersion or English language mainstream classrooms with assistance in English language acquisition” (M.G.L. Chapter 71A, § 4) and provides parents and guardians with the legal standing to sue school officials if the law is not enforced (M.G.L. Chapter 71A, § 6). Several provisions in the law discourage school districts from using and developing the ELLs’ L1s. These include requiring initial literacy development and all textbooks to be in English, limiting the use of the ELLs’ L1 to when it is necessary only, promoting a 1-year SEI program duration, and a waiver requirement for programs other than SEI and two-way immersion (TWI; see below).

Two additional provisions indirectly undermine the use of languages other than English in public schools. First, the law specifies accountability in English only. Progress in English and content learning is to be assessed annually “through standardized, nationally normed, written tests of academic subject matter given in English” (§ 7). Second, the provision that personnel teaching in an English-language classroom be “fluent and literate in English” (§ 2) opens the door for recruitment practices that exclude or discourage hiring nonnative English speakers (cf. the reduction in bilingually certified teachers after Proposition 227; see Maxwell-Jolly, 2000).² In short, similar to its predecessors in California and Arizona, the new law allows “native language instruction through an exclusionary and complicated process and [promotes] English language instruction as the norm for ELL students” (Garcia & Curry-Rodriguez, 2000, p. 18).

One important feature distinguishes the Massachusetts context from California and Arizona. In summer 2003, the legislature exempted K-12 TWI programs from the waiver provisions in the law, overriding the governor’s veto.³ In a TWI program, a balanced group of native English speakers and native minority-language speakers (typically Spanish) are integrated for instruction and subject-matter teaching is conducted in the minority and the majority language with the goal of developing high levels of bilingualism and biliteracy for all students in the program (e.g., Howard, Sugarman, & Christian, 2003). The new Massachusetts Chapter 71A therefore permits two very different program types: maintenance and developmental bilingual edu-

cation through TWI and English-only through SEI. Waivers must be obtained for all other program types.

STUDY RATIONALE AND FOCUS

The events in Massachusetts mirror similar English-only efforts in other states during the past two decades. It is important to analyze and critique such educational policies and to highlight their ideological assumptions (for more detailed analyses of the English-only movement, see, e.g., Alatis & Tan, 1999; Crawford, 1992, 2000; González & Melis, 2000; Schmidt, 2000). Equally important is the documentation of the realities that emerge in the aftermath of educational policies to set the stage for further policy development.

For example, several studies have described the aftermath of Proposition 227 in California school districts across the state. Generally speaking, research in this area has focused on two areas. First, studies have documented ELL achievement pre- and post-1998 as measured by the SAT, the California English proficiency test, or exit rates (e.g., Amselle & Allison, 2000; Butler, Orr, Gutierrez, & Hakuta, 2000; Clark, 1999; Grissom, 2004; Linqianti, 2001; Parrish, Quick, Laird, & Esra, 2002; Rossell, 2002; Thompson, DiCerbo, Mahoney, & MacSwan, 2002). Second, researchers have conducted several classroom-based studies to explore the impact of Proposition 227 on teachers and classroom practices (e.g., *Bilingual Research Journal*, 2000 Special Issue on Proposition 227; Stritikus, 2002). Less attention has been paid, however, to the decision-making process at the district and program level. Some studies have reported the number of districts that maintained or abandoned bilingual education (e.g., Garcia & Curry-Rodriguez, 2000) or have documented the overall shift in services to ELLs across the state (e.g., Gándara, 2000). An exception is a study by Maxwell-Jolly (2000) that focused on, among other things, the interaction between district and school policy development in California. She found that although the district set the tone for the direction of change, there was much variation in implementation among schools, and even within schools from classroom to classroom, because of individuals' interpretations of the law. She concluded "reform is messy and may not have the intended consequences" (p. 55). The purpose of the current study was to further explore how policies are translated from one decision-making level to another, in our case from state law and state guidelines to the district level. Specifically, it focused on district-level administrators as they had to align their programs with the law's provisions and addressed the following two research questions:

1. What programmatic changes occurred in each district as a result of Question 2?
2. How did the administrators translate those sections of Question 2 that aimed at the erosion of the use of languages other than English in school into policies?

Participating Districts

The study took place in three medium-sized districts in Massachusetts, referred to here as Ashville, Patterson, and Winterport.⁴ Ashville is the largest of the three districts, enrolling more than 16,000 students K-12. Located in the eastern part of the state, the district is ethnically diverse: more than 50% of the school population is non-White. More than one fourth of the students speak a language other than English at home, although a much smaller percentage (about 7%) is identified as limited English proficient. More than one half the students are considered low income. The largest language group is Cape Verdean, followed by Spanish, and Haitian Creole. Although the district has had a TBE program for many years, community advocacy for bilingual education has been a more recent phenomenon as the Cape Verdean community has moved into the middle class and gained more political power.

The Patterson school district is located on the fringe of a large urban city and is considerably diverse in terms of student race and ethnicity, socioeconomic status, and L1. More than 60% of the students belong to a racial and/or ethnic minority group, roughly 40% are eligible for free or reduced-priced lunch, and about one third speak a first language other than English. The district has several long-standing bilingual programs for Spanish, Portuguese speakers, and Haitian-Creole speakers.

The third district, Winterport, is located 20 miles west of a major urban center and represents socioeconomic, racial, and ethnic diversity. It has a long tradition of providing bilingual education programs for ELLs since the late 1960s. More than one fourth of its students speak a language other than English at home, and more than one third of the elementary-school population receives free or reduced-priced lunch. Nearly one fifth of the pre-K-12 student population are enrolled in a bilingual or ESL program, which makes Winterport a district with one of the highest ELL enrollments in the state. The two largest language groups are Spanish and Brazilian Portuguese speakers.

In each district, a leadership person closely involved with the implementation of Question 2 was interviewed. For Ashville, this was Lee, a K-8 department head in charge of bilingual and ESL services for the district. Prior to coming to Ashville, she was a principal and assistant principal and taught second and fourth grade in a TWI program. She has a doctorate in educational leadership and two master's degrees (one in administration and social

policy and one in special education). In Patterson, Diane has been the director of Bilingual and English Language Acquisition Programs (K-12) for the past 8 years. Over time, she has had various roles in the system: assistant bilingual director, coordinator of assessment and curriculum for the department, staff developer, teacher in charge of programs, and middle school bilingual and/or ESL teacher. She has a master's degree in bilingual and multicultural studies with a dual major in English as a second language and a doctorate in education with a concentration in leadership and urban schools. The third interviewee was Pat, who has been the K-12 bilingual director for the Winterport Public Schools for the past 10 years. Prior to coming to Winterport, she was a principal in a suburban school, the bilingual director for a large urban district, and a Spanish bilingual elementary teacher. She holds a master's degree in educational leadership and a doctorate in administration, policy, and planning.

The rationale for choosing these three individuals is that they have extensive experience with bilingual education in Massachusetts, have a reputation as advocates for bilingual education, and play an important role in policy making for ELLs in their district. They would, therefore, potentially represent the largest shift from bilingual education to English-only practices. Moreover, by overseeing programs in medium-sized districts, they could have a more direct impact on what would ultimately happen at the school level.

Procedure

The three district administrators were interviewed for 1 to 1½ hours regarding their district policies and interpretations of the law using a semi-structured interview format during the summer 2004, at the end of the first year of implementation. The interviews were transcribed and analyzed with a focus on programmatic changes (pre-Question 2 and post-Question 2) and the provisions of the law that discourage the use of the L1. Documents outlining district policies regarding ELLs before and after Question 2 were also obtained from each district and examined.

FINDINGS

After presenting the programs offered prior to and after the passing of Question 2 in the three districts, the analysis shifts to the interpretation of Question 2 regarding three provisions intended to deter the use of languages other than English: the use of L1 in SEI classrooms, 1-year SEI program length, and the waiver requirement.

Instructional Programs Pre- and Post-Question 2

This section describes the program options available to parents of ELLs prior to Question 2 and after the implementation of the new law in the fall of 2003 in each of the three districts.

Ashville. Prior to Question 2, the Ashville public schools offered two types of programs for ELLs: TBE and ESL. A TBE program was implemented in Grades K-12 for students speaking Cape Verdean, Spanish, and Haitian. The main goal of the elementary TBE programs was to transition students from L1 to English instruction and to prepare the students to integrate into an all-English mainstream classroom within a 3-year period. Only the Spanish TBE program used the L1 consistently for literacy and content instruction (K-2). Native language use in the Cape Verdean and Haitian Creole program varied depending on student needs; however, much of the instruction was conducted through English. In all programs, the majority of instruction was in English by the end of Year 2. Students could exit the bilingual program when the teacher felt the student had sufficient English proficiency to perform in a monolingual classroom. The secondary program offered bilingual content area classes in the L1 in math, social studies, and science for students speaking Cape Verdean, Spanish, and Haitian (junior high and high school) and for students who spoke Hmong and Chinese (high school). The second program type for ELLs was an intensive ESL program for low-incidence groups (less than 20 of any one linguistic group). Students were pulled out for 2 hours/day and placed in a mainstream classroom for math, science, and social studies. An ESL teacher also supported students who were low incidence who had been mainstreamed and who required limited assistance in English while making the adjustment to the monolingual English classroom. It should also be noted that the district started a TWI program in kindergarten at one school site in 2001 and 2002 with support from a foreign language grant.

Since the implementation of Question 2 in the fall of 2003, Ashville offers SEI programs at the elementary level for ELLs and continues the TWI program for native English speakers and ELLs who are native Spanish speaking. At the secondary level, ELLs can attend a TBE program for the first 2 years and then move into a SEI component where all their classes are in English with some L1 support.

Patterson. Patterson offered four different programs for ELLs prior to Question 2: TWI, TBE, modified bilingual (MB), and ESL programs. It has had a long-standing K-8 TWI program for Spanish speakers and more

recently added a TWI for Portuguese speakers. The school system implemented a traditional TBE program for its population who were Haitian Creole and Spanish speaking in which instruction in English is gradually increased. Moreover, the district offered MB programs for students who were Korean and Chinese speaking. The MB program placed ELLs in a mainstream classroom setting with ESL support and accommodations as needed. In addition, students were pulled out for 45 minutes/day of L1 instruction. Moreover, all fluent English speakers also learned Chinese or Korean, thus bringing in an element of a TWI program. Other students who were low incidence were also placed in MB programs.

In the aftermath of Question 2, Patterson has continued its two TWI programs (Spanish, Portuguese). The MB programs (Chinese, Korean) prior to Question 2 are now referred to as modified world language programs (MWL) and enroll students who are fluent in English. The Haitian TBE program was changed into an SEI program. In addition, a 1-year SEI program has been established for new arrivals for other language groups. At the secondary level, the International Studies Program provides ESL classes for ELLs and language arts classes in languages other than English.

Winterport. Prior to the passing of Question 2, Winterport implemented three programs for ELLs: a TWI program, a general bilingual education (GBE) program, and a self-contained ESL program. Whereas the first program aimed at bilingualism and biliteracy for all students in the program, the GBE and ESL program ultimately aimed at mainstreaming students into standard curriculum classrooms. The district's TWI program was established in 1990 and was implemented K-12 at the time of Question 2. Literacy development occurred in the students' L1, and by third grade the program used both languages equally for instruction. The GBE program officially replaced the district's TBE program in 1998. Designed for ELLs who were native Spanish or Portuguese speaking, the GBE program was a late-exit and/or L1 maintenance K-5 program in which students developed strong L1 literacy skills and received content instruction through L1 and English throughout the program. To avoid extended student segregation, GBE and standard curriculum teachers integrated students for content area instruction in Grades 3 through 5. At the secondary level, students who were Spanish and Portuguese speaking at the beginning stages of English-language development received all their content instruction in their L1 in the GBE program. As they reached intermediate fluency, they took ESL content classes taught by ESL teachers. Advanced ELLs transitioned into standard curriculum content area classes. Finally, the self-contained ESL program was developed for students who were low incidence. More recently, speakers of Spanish and Portuguese

with limited L1 skills and limited English skills were also placed in this program where students received language and content instruction through English. At the secondary level, beginning to intermediate students who were low incidence were placed in English content classes taught by ESL teachers with support from L1 tutors whenever possible. Advanced students were transitioned into standard curriculum content classes.

As of the fall of 2003, Winterport provides the following program options to parents of ELLs. The district offers the K-12 TWI program for speakers of native English and ELLs who are native Spanish speaking and the ESL program for students who are low incidence. Speakers of Spanish and Portuguese with limited L1 skills are now placed in the SEI program (see below). The elementary GBE program has been reorganized to parallel the secondary level sequence, that is, beginning ELLs who are dominant in Spanish or Portuguese are placed in a bilingual program where the majority of the instruction is in the L1 with an increasing second language (English) component (L2) as students become more proficient. Intermediate and advanced students are placed in an SEI class, and fluent ELLs are exited into the standard curriculum program. The elementary SEI classes integrate with standard curriculum classes for content area instruction. The secondary schools offer bilingual programs for beginners to low-intermediate students and SEI classes for intermediate and advanced students. The advanced proficiency students are integrated into standard curriculum classes. Table 1 summarizes the programs available for ELLs pre- and post-Question 2.

Shifting Policies: Interpreting Question 2

The following sections consider how the administrators in the current study negotiated and interpreted the three antibilingual education provisions in the law (L1 use in SEI classrooms, 1-year program length, and the waiver requirement) and how they aligned their district policies with the new law.

L1 use in SEI classrooms. The law puts restrictions on the use of ELLs' L1s in the classroom. According to § 2, "Although teachers may use a minimal amount of the child's native language when necessary, no subject matter shall be taught in any language other than English, and children in this program learn to read and write solely in English." A question-and-answer document published by MDOE to assist districts with the implementation of Question 2 adds to this phrase "for clarification purposes" (MDOE, 2003, p. 8). The use of the L1 is further discouraged by the law's recommendation that districts create multilingual classrooms. Although not a mandate, § 4 nevertheless states "Local schools shall be encouraged to mix together in the

Table 1
English Language Learner Program Options in Ashville, Patterson, and Winterport Pre- and Post-Question 2

<i>District</i>	<i>Pre-Question 2</i>	<i>Post-Question 2</i>
Ashville	Elementary	Elementary
	TBE: Spanish, Cape Verdean, Haitian Creole	SEI
	TWI: Spanish (Kindergarten only)	TWI: Spanish
	Pull-out intensive ESL	Secondary
	TBE Year 1 & 2; SEI Year 3+	
	Secondary	
	TBE with L1 content classes	
Patterson	Elementary	Elementary
	TBE: Haitian Creole, Spanish	SEI
	TWI: Spanish, Portuguese	TWI: Spanish, Portuguese
	MB: Korean, Chinese	MWL: Korean, Chinese
	ESL	ESL
	Secondary	Secondary
	TBE: English with L1 support	International Studies Program
	ESL	ESL
Winterport	Elementary	Elementary
	GBE: Spanish, Portuguese	GBE: Spanish, Portuguese (beginners)
	TWI: Spanish	TWI: Spanish
	Self-contained ESL	SEI (intermediate to advanced)
	Secondary	Self-contained ESL
	GBE: Spanish, Portuguese: L1 content	Secondary
	GBE: Spanish, Portuguese: L1 content	
	TWI: Spanish	
	Self-contained ESL	Self-contained ESL

Note: TBE = transitional bilingual education; TWI = two-way immersion; ESL = English as a second language; SEI = structured English immersion; MB = modified bilingual; L1 = native language; MWL = modified world language programs; GBE = general bilingual education.

same classroom English learners from different native-language groups but with the same degree of English fluency.”

The intent of both provisions is to inhibit the use of ELLs’ L1s for instructional purposes. This intent went against the values of the three administrators, who had all advocated for L1 maintenance programs throughout their careers. They, therefore, did not take this section to read that the L1 should not be used but rather searched for a meaningful interpretation of this provision. The vague terminology of the law (*minimal amount, when necessary*), combined with parents’ legal standing to sue, initially resulted in a lot of confusion and fear for SEI teachers. In Ashville, for instance, the first reaction was to hide the L1: “we would tell teachers to use the native language and when the principal or superintendent or someone comes through [to] switch

to English . . . to continue what they had but to be aware of the politics involved.” Similarly, in Patterson,

my teachers would say, well the language police will come in and you know they’ll find that I might be saying something [in] . . . a language other than English, you know, I could get fired and all that, but within reason that’s just not going to happen. There aren’t language police and principals certainly aren’t going to do that.

In the course of the first implementation year, the three administrators advocated for the purposeful, pedagogical use of the L1 in the SEI classrooms. For instance, Ashville promoted “the role of native language [for] vocabulary and explanation of academic concepts and content. . . . We’ve tried to highlight that piece as we go through training.” Winterport also interpreted the law to provide maximum L1 access in the SEI classrooms. “The message absolutely is that the native language can be used, that the native language should be used in any way that would support the students.” However, it is also acknowledged that “the law does state that there can’t be native language materials used specifically for instruction.” Specific discussions about what the use of the L1 would look like therefore ensued in Winterport.

Does it mean that there can’t be anything in the room that is written in the native language? No. But does it mean that you have to use core textbooks in English? Yes. Does it mean that you can’t have any supporting materials in the native language in the classroom library? No. Because those are support materials. We have kind of defined it as the core materials have to be in English but the support materials can be in the native language. . . . But I would say we are still in the process of defining the role of the native language in the sheltered English classroom. We’ve only been doing it for a year so that’s still not as clear as it needs to be.

Policies regarding bilingual communications with parents and social or psychological services have been more straightforward. In Ashville, it was always clear that

all communications with families and parents needed to be in both languages, that’s been clear throughout. . . . And we’ve used Title VI Civil Rights Act to say that guidance services need to continue to be offered in the native language. So that has allowed us to keep guidance counselors who speak the two languages.

Similar to Ashville, Winterport made it clear that parent communications could always be through the L1 “because the law does not address what happens at home.”⁵

The second deterrent to L1 use in the SEI classroom, the recommendation that classrooms be multilingual, was handled differently in each district. In Patterson, the SEI that replaced the Haitian-Creole TBE program continues to cluster students who speak Haitian Creole to maximize L1 resources, including providing after-school activities in that language. Another SEI program serves a low-incidence population. Similarly, in Winterport, the SEI is part of the progression from bilingual program to SEI to standard curriculum. Spanish and Portuguese speakers are clustered by language group in the schools that offer this progression. The traditional ESL program continues to receive the multilingual population, as was the case prior to Question 2. In other words, these two districts created L1-based SEI classrooms based on their previous bilingual program structure and developed or maintained a separate SEI for students who were low incidence. In the case of Ashville, policies were initiated that tried to place students by where they lived regardless of language background, resulting in multilingual classrooms. The clustering that had originally established TBE programs within certain schools (and hence made bilingual resources available) was undermined by these attempts.

Another big problem and we still keep battling, we battled it at the end of last year, was this idea that we can mix languages [within one classroom], just organize the kids by where they live and create these SEI multilingual classes. And we continually fall back on Title VI and the law that says that native language clarification is required or necessary, and you can't do that if you have kids all over the place.

Commitment to provide ELLs with access to their L1 plays a role in how these administrators negotiated the ambiguity in the law regarding the interpretation of the use of L1 in the SEI classroom and how they promoted clustering of ELLs by language background to provide opportunities for access to the L1 to make instruction more comprehensible as needed.

One-year program length. The law's 1-year program attendance provision is also ambiguous in its language. Although not completely excluding the option for longer attendance, the law emphasizes a transition from SEI program into the mainstream within 1 year. Section 4 outlines that ELLs shall be "educated through sheltered English immersion during a temporary transition period not normally intended to exceed one school year." Yet, the section continues, "Once English learners acquire a good working knowledge of English and are able to do regular school work in English, they shall . . . be transferred to English language mainstream classrooms." This provision therefore leaves much room for interpretation, though it clearly discourages

programs that are designed as late-exit or bilingual maintenance programs. As Pat explained,

The media has chosen to emphasize one part of the paragraph over the other. And consistently I had to point out to people that you had a contradiction within the law itself. That on the one hand they're saying one year, on the other hand they shouldn't leave until they're ready and both are usually mutually exclusive but not always.

Their knowledge of the time that it takes to learn a second language and their understanding of the district's legal obligations to provide services for ELLs led each of the interviewees to emphasize readiness over the 1-year criterion for their districts. Ashville uses

[the] Title VI, the Civil Rights Act, and the Lau decision that say you can't put a limit on the amount of services. And we continually return to that. And we return to the text in the law that says "not normally to exceed one school year." And that means, to us, and we continually said, that it could be one year, it could be two, it could be three, or it could be four, could be five.

In Patterson,

we offer services to ELLs as long as they need it, whether that's through sheltered English immersion classrooms or once they reach our threshold and they can go into their other language environments, we continue to support them . . . —we know it takes more than a year.

Similarly, exit criteria were not changed to determine whether a student was ready to be exited from the program in Winterport.

We . . . interpret the one-year piece as what it says further down the paragraph. The end of the paragraph says that the students should not go into all-English classrooms until they are able to do regular class work in English and that's the standard we've always used. So we read that to say fine, we don't change our standard. . . . It is not an issue of one year, it's when they are ready to handle all their class work in English. That's what we've always used, that's what we will continue to use.

The 1-year program length has been advocated as a desirable goal for SEI programs, with the intent that ELLs quickly be placed in a mainstream classroom. Based on their understanding of second-language acquisition, the three administrators chose to continue existing exit policies that focus on English proficiency level rather than on a time limit to determine whether an ELL is ready to leave her or his specialized program. MDOE guidelines also explicitly state that the 1-year criterion

may not be interpreted to mean that there is cap or limitation on the amount of time that an English language learner may participate in a sheltered English immersion or any other type of language support program. Title VI of the federal Civil Rights Act does not permit such a limitation. (MDOE, 2003, p. 10)

Waiver requirements. The waiver requirement affects ELL placement in programs other than SEI or a mainstream classroom where sheltered English instruction is taking place. TWI programs are also exempted as a special case. The process as outlined by the law places a great bureaucratic burden on the parents and the schools. It requires, first, that parents personally come to the school to sign the waiver, and they must renew this waiver annually. Second, for students younger than age 10 years, the school must provide specific documentation for placing a student in a program other than English immersion. After 30 calendar days in an English-only environment, a school principal and his or her staff are permitted to place a child in an alternative course of study such as bilingual education if they document “special and individual physical or psychological needs, above and beyond the child’s lack of English proficiency” through a “written description of no less than 250 words documenting these special individual needs for the specific child” (§ 5).⁶ The cumbersome nature of the elementary waiver requirement sets it apart from the secondary waiver process.

At the secondary level, each district offered a bilingual program prior to Question 2. These bilingual practices continued in the fall of 2003 in the three districts, although some program labels changed. In Patterson, the SEI label appeared to more appropriately reflect actual practices prior to the new law. Although the L1 is used for discussions and clarification, most instruction and textbooks are actually in English.

At the high school level, we are continuing to pretty much teach the way we have taught. We provide a full array of content area courses for our students. We have native language teachers teaching these courses, and if the native language teachers need to facilitate in the native language they do. And truth to tell, they never actually taught the whole course anyway solely in a language other than English, they primarily taught in English and facilitated [in L1] at the high school level, so . . . textbooks mostly are in English. So . . . we’re continuing to do that. The law hasn’t provided us with any obstacles to doing that.

In Ashville, the choice was made to maintain the TBE program. As one of the largest bilingual programs in the district, the high school TBE program offers content classes in the L1, and waivers are obtained from parents. One change that has happened at the high school level is the conversion of the 3rd year of

the TBE program into an SEI strand. Thus, advanced students and students whose parents do not want to place their child in the bilingual program are placed in the SEI strand.

[T]he law allows us to offer TBE in junior high and high school so we use the waiver process to allow us to continue to offer that at junior high and high school. . . . You know how there are levels of kids and the highest level is usually the kids who've been here 2 or 3 years and usually those are kids who are about to exit? We changed that, which would have been our 3rd year of TBE into an SEI and placed students in that one who are in that advanced track or students whose parents didn't want TBE, and there are a handful of those kids in junior high and high school whose parents don't want that track, we then place them in the SEI strand. So it allowed us to keep everything the same just convert that highest strand into a SEI.

Winterport underwent a similar change. The middle and high school programs had been organized around a sequence from bilingual content classes (beginners and/or low intermediate) to ESL content classes (high intermediate and/or advanced) to mainstream classroom placement. The district maintained this program, obtained waivers for ELLs placed in the bilingual program component, and replaced ESL content classes with SEI classes. The latter represents a change in name only as the ESL content classed had always been taught using sheltered-content teaching strategies. At the secondary level, then, few content or instructional changes occurred in the three districts.

More complex issues emerged at the elementary level. In Ashville, the political will to maintain TBE was absent, influenced by the reality that its largest TBE program (for speakers of Cape Verdean) had, in essence, been an SEI program. Kriolu has a rich oral tradition; however, written materials are difficult to access. For example, it was not until 1998 that the language developed a unified written standard from three different written traditions (Veiga, 1998). Few school-age appropriate materials were, therefore, available to support L1 literacy instruction. Although teachers freely used the language orally to scaffold their instruction, English was the predominant language in these TBE programs.

Since most of our elementary students were Creole speakers, we sort of made a decision . . . that pushing for TBE programs in elementary schools was not going to be worth any of our efforts. . . . We could not provide native language instruction for Cape Verdean students to the extent that it was any different than SEI. So it was not a political sort of battle that we wanted to fight and not worth it.

The Spanish TBE program was a different case, as it had the resources and potential for a so-called true bilingual program. The district had started a TWI program in kindergarten with a foreign language grant the year before and resolved to continue the TWI program but to replace the Spanish TBE program with an SEI program.

The Spanish was the only one that had potential. We were in the process, and we've been in the process that we had had a kindergarten dual-immersion class start that year (2002-2003). . . . So this past year (2003-2004) that class was in first grade. So we made a decision that "let's develop our dual immersion program and have that be the option of bilingual programming for our Spanish families, so that our Spanish-speaking families could choose between the dual immersion and the SEI," instead of . . . offering a dual immersion, an SEI and a TBE.

A third decision in Ashville was to replace the 2 hours of pull-out ESL with an SEI program.

In Patterson, programs have been revised to be in alignment with the intent of the law. The district continued its TWI program and the MB programs now enroll students who are English fluent only (they have been renamed MWL). Efforts to change the Haitian-Creole program to a modified bilingual program failed the year prior to the implementation of Question 2. Similar to Ashville, at that time the decision was made to eliminate the TBE program and replace it with an SEI program.

In Winterport, there was a strong belief in the importance of bilingual programs. Pat stated, "I could not fathom running an English-only program for beginners. I just think that that is educational malpractice." Building on the existing GBE program, a new bilingual program sequence was therefore designed and implemented.

And that's where we really started looking at the differences between the needs of the beginners and the needs of the intermediate/advanced English language learners. From there it was a logical progression to say, okay so we need a sheltered English environment for the intermediate to advanced learners and we clearly need a bilingual environment for the beginners. We didn't look at the law and say what does the law tell us we have to do for kids. We looked at the kids and said, what do we need to do for the kids and then how do we reconcile this with what the law tells us we have to do.

Maintaining a bilingual program has required Winterport to develop and implement a waiver procedure that involves parents, teachers, the principal of the school, and the bilingual office.

DISCUSSION

The current study focused on three medium-size districts, which implemented bilingual education programs prior to the passage of Question 2 in Massachusetts. Patterson and Winterport had a long and strong history of probilingual education policies and practices; Ashville had a history of increasingly stronger TBE programs with an emphasis on L1 access. The three individuals who were interviewed for the current study were strong advocates for ELLs and for bilingual education and had all been bilingual teachers.

The first research question examined program options prior to and after Question 2 in each district. Whereas TBE programs at the elementary level were eliminated, TWI and secondary bilingual programs were maintained (see Table 1). TBE programs were abandoned in favor of SEI programs. Furthermore, pullout ESL programs were replaced by SEI in Ashville. Finally, Winterport was unique in maintaining a bilingual program at the elementary level by instituting a waiver process, although the current program now resembles a TBE rather than a late-exit program. In other words, the three districts attempted to minimize the impact of the law on their pre-Question 2 programs. These districts worked from existing program structures and attempted to reconcile these with the provisions of the law. Although the supporters of Question 2 intended to abolish L1 instruction altogether through a top-down policy mechanism, these findings illustrate that policies have intended and unintended consequences when they go through the implementation process (McLaughlin, 1987).

First, the original purpose of the law, to abolish bilingual education, had already been undermined by the TWI exemption amendment. It is ironic to note that, as a result, the current law aims at English-only practices and simultaneously promotes a bilingual program that extends L1 development and use much further than most TBE programs did prior to Question 2. The effect of this exemption can be seen in Ashville where the TWI program was continued and strengthened whereas TBE programs were eliminated. Patterson and Winterport maintained their TWI programs, illustrating districtwide support for these programs. Another unintended consequence of the law was the improvement of services for students who were low incidence. By focusing on all ELLs, the law has included this group of students in district policy. More research in other districts with low incidence is needed to ascertain whether this is a statewide trend. Finally, the law appeared to have achieved its intended result in the increase of SEI over other program options other than TWI at the elementary level in Ashville and Patterson. Essentially, nei-

ther district is currently able to provide continued access to L1 as students become more fluent in English, although some heritage language schooling may occur through the Chinese and Korean MWL programs in Patterson. Even in Winterport, where an elementary bilingual component was maintained, the use of the L1 drops significantly when students move from the bilingual to SEI classes. Young students will, therefore, be less likely to develop high levels of L1 literacy skills through school. It is important to note that inconsistencies in program labels further influence this picture (Maxwell-Jolly, 2000). Although the programs implemented under Chapter 71A for Creole speakers were labeled TBE prior to Question 2 in Ashville, actual classroom practices did not match the law's definition of a TBE program. The SEI label with access to L1 for explanation and clarification, therefore, seemed more appropriate for these programs. The same held true for the secondary bilingual program in Patterson. In these cases, the law did not effect much actual change even though the label changed. It underscores, however, the importance of going beyond program labels and instead focusing on actual program implementation (August & Hakuta, 1997). A large-scale study documenting changes in program options and further research into classroom practices are needed to see the extent to which and how teachers have shifted their use of the L1.

The second research question examined how the interpretation of three specific provisions (L1 use in SEI, 1-year program length, waiver requirement) in the law aimed at limiting the use of ELLs' L1s for instructional purposes affected policy implementation. Our analysis shows that the three district administrators did not limit themselves to a literal examination of the law. Their ultimate interpretation was the result of a close perusal of each section of the new law and existing legislation for ELLs (such as Title VI of the Civil Rights Act and the landmark court case *Lau v. Nichols*, 1974), combined with their commitment to providing access to bilingual schooling for ELLs and their expertise in the area of first- and second-language acquisition. As McLaughlin (1987) noted, "policy initiatives depend finally on what happens as individuals throughout the policy system interpret and act on them" (p. 172). Rather than being limited by the law, these administrators sought to create new opportunities within the confines of the law in different ways.

First, each district administrator promoted a so-called maximum use interpretation of the L1 in the SEI classroom that focused on student learning rather than a formulaic definition of *minimum amount*. Second, in all three districts, the SEI programs clustered same-language students to maximize access to L1 rather than dispersing students over different schools. Third, the three districts rejected the 1-year provision of the law and instead elected to

continue to emphasize the right of access to services and to use students' academic English skills to do well in the mainstream classroom as their criterion for exiting students. Finally, the districts decided to continue bilingual program practices wherever the law did not actively hinder such practices (at the secondary level) or exempted such programs (TWI, MWL). The establishment of SEI over another bilingual program at the elementary level was influenced by the nature of the L1, the strength of the previous bilingual program, and the political will at the school and district level. For instance, Winterport continued to offer a bilingual program option (in addition to TWI) for elementary ELLs. The administrator's strong belief that this was the best way to provide beginning ELLs with equal access to grade-level curriculum content did not allow the cumbersome waiver requirement to be a deterrent. The district could pursue this option because of the existence of a strong Spanish and Portuguese bilingual program with L1 books and materials prior to Question 2 and because of administrative support at the district and school level. The case was almost the opposite for Ashville where the largest elementary TBE program, the Cape Verdean TBE program, used a less standardized language and had, therefore, essentially been an SEI program with limited access to L1 materials. Without further political support at the district level, the TBE program was eliminated.

These examples illustrate how factors such as local capacity (e.g., training, infrastructure, resources) and willingness (i.e., commitment, motivation, a match between district values and the intent of the policy) work together to create local variability in policy implementation (McLaughlin, 1987; Timar, 1989). Even within the confines of a law that is perceived as one that allows little room for interpretation, these districts show the "dynamic character of the institutional settings in which implementation takes place" (McLaughlin, 1987, p. 176). The efforts of these three committed individuals did not take place in a political vacuum, however. Each district administrator obtained explicit support from the superintendent. For instance, the superintendent of Winterport showed his support by participating in public forums and debates outlining the negative impact that Question 2 would have on local control and flexibility. He also supported the implementation plan as was ultimately proposed by the bilingual director. The long tradition of bilingual education in Patterson continued in part because "we have put so much work into it and we do have the support of the administration, superintendent support," as another district-level bilingual administrator commented. The superintendent also played a central role in Ashville. As Lee pointed out,

In the community and the district as a whole we have a very supportive superintendent . . . who really was more politically savvy and wanted to keep groups happy and

so he played the political games and really didn't want to dismantle or do anything to programs without working with communities.

The translation of the law into practice in these three districts reflects not only the views of these three concerned educators and their commitment but also their ability to obtain the support at the district level to facilitate the shift from one system to another.

Study Limitations

The current study focused on three districts that supported bilingual education for ELLs. This limits the generalizability of the current study's findings. Furthermore, the current study relies only on the perspectives of one key leader in each district who was an advocate for bilingual education. To obtain a full picture of the impact of Question 2 it would be necessary to include the voices of other stakeholders such as principals, teachers, and parents.

CONCLUSION

Similar to the ballot initiatives in California and Arizona, Question 2 and the resulting revision of the state law represent a "mandated top-down reform" seeking to improve education "by regulating content and methodology" (Maxwell-Jolly, 2000, p. 38). The current study shows that the effects of such reforms can be unpredictable because of local contexts and underscores the importance of individuals at the local level (Lipsky, 1980). It is crucial that district leaders make themselves experts on details of the law so that they can not only understand its limitations but also utilize its opportunities for their district. The three administrators in the current study were deeply concerned about providing quality schooling for ELLs. Having been involved in bilingual education for many years and as experts in implementing good programs, they interpreted the various provisions of law through the lens of their experiences and expertise. With strong support at the superintendent level, these individuals managed to maintain a variety of bilingual schooling options for ELLs in the face of an English-only law.

NOTES

1. For instance, the Task Force on Children Out of School (1970) reported data from the Massachusetts Department of Education showing that more than 75% of students in ESL classes (i.e., 45-minute pull-out classes focusing on conversational English) were held back academically.

2. The provision reflects a belief that bilingual teachers are hired only because of their L1 proficiency (rather than educational credentials) and that they are not fluent in English (e.g., Porter,

1990). This myth probably emerged out of the early days after Chapter 71A passed when there were few bilingual teacher preparation programs and districts had difficult finding qualified bilingual teachers.

3. This was possible because Question 2 is an amendment to a law rather than a constitutional amendment (as is the case in Arizona and California). Hence, amendments can be made through the regular legislative process.

4. Names of the districts and the interviewees have been changed.

5. MDOE guidelines also refer to Title VI and the Massachusetts Access to Equal Educational Opportunity Regulations (MDOE, 2003, p. 11).

6. In this regard, the Massachusetts language follows the more restrictive text from Arizona's Proposition 203 rather than the California text, which simply required a parent to come to the school (e.g., Ricento, 2000).

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Ester J. de Jong is an assistant professor in the School of Teaching and Learning in ESOL/Bilingual Education at the University of Florida, Gainesville. Her research interests include two-way immersion and other integrated approaches to bilingualism and second language learning, language policy, and program effectiveness for language minority students.

Mileidis Gort is an assistant professor of bilingual education and coordinator of Bilingual Education Programs in the Department of Curriculum and Instruction at the Neag School of Education, University of Connecticut. Her current research examines the early bilingual and biliteracy development of English-dominant and Spanish-dominant learners in dual language programs, as well as educational policy issues affecting bilingual learners. Her work has been nationally recognized by the American Educational Research Association, the National Association for Bilingual Education, and the National Reading Conference.

Casey D. Cobb is an assistant professor of educational leadership and director of the Center for Education Policy Analysis at the University of Connecticut. He is currently researching policies related to accountability, school choice, and bilingual education, and is cowriting a forthcoming book on school policy. He teaches courses in policy analysis, research methods, and organizational behavior. He serves as president of the New England Educational Research Organization.