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RESEARCH ARTICLE

Towards the full potential of *Lau*: Interrogating the intersectional nuances of language, disability, & race

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ABSTRACT

Though *Lau v. Nichols* (*Lau*) has garnered substantial educational gains for multilingual learners (MLs), we address two limitations. Namely, there is a need to historicize the interlocking language, ability, and racial differences and to examine MLs through an intersectional lens. We delineate the historical entanglements of language, race, and disability that continue to shape practice. We then demonstrate the limits of *Lau's* unitary lens by discussing the figured world of MLs using exemplars from our research to illustrate how MLs may not benefit from its full protections. We conclude with recommendations for reconceptualizing *Lau*'s potential as an intersectional equity tool for all MLs.

Lau v. Nichols, 414 U.S. 563 (1974) has served as a major equity safeguard in reshaping the educational trajectories of multilingual learners[1] (MLs), often referred to as English learners, in the United States (U.S.). *Lau* started as a class-action lawsuit brought forward by Kinney Kinmon Lau and 11 other Cantonese-speaking students attending San Francisco Unified School District with no meaningful access to English-only curriculum and with an English proficiency requirement to graduate (Bankston & Hidalgo, 2015). The *Lau* ruling extended the 1964 Civil Rights Act protections to include MLs as a protected class (Bankston & Hidalgo, 2015; Hakuta, 2011), acknowledging that language also functioned as a proxy for ethnicity, race, or national origin, and schools carried a responsibility to ensure students had access to language programs that support their English development and access to the curriculum during that process (Jiménez-Castellanos et al., 2022; Orfield, 2014). The exclusionary practice of MLs sitting in classrooms with little access to English-only curricula was considered discriminatory and required meaningful action. *Lau's* legacy is evident today in school district practices and protocols for identifying MLs, providing them with teachers and programs to support their language development, assessments to document English language development, providing

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supports and exiting MLs from language services, and implementing and ensuring the effectiveness of district programs and services for MLs (US DOJ, 2024).

While *Lau* has undoubtedly brought about positive changes, we address in this article two major gaps in this legal decision, namely the need to historicize the interlocking of linguistic diversity with ability and racial differences and the importance of examining MLs' needs and experiences through an intersectional lens, with particular attention to the intersections of language with ability and racial differences.

Setting the context for the review of *Lau's* limits

We argue that historicizing linguistic differences makes the limits of *Lau's* assumptions and framing visible. We further contend that the unitary lens used by *Lau* and other legal frameworks disrupts policy implementation as professionals struggle to make sense of the racialization of language and its intersections with ability differences. Language and race have a long history of entanglement and conflation, resulting in what scholars have termed the racialization of language, which is especially pertinent to discussions of MLs. As Rosa (2016) has documented, "perceptions of particular non-standardized practices can, in fact, racialize populations by framing them as incapable of producing any legitimate language" (p. 163). Even without specifically naming race, MLs can become associated with certain ethnic and racial groups, and this is compounded for learners at the intersection of disability (Artiles, 2011). Interestingly, while the racialization of language is an accumulation of complex, multifaceted historical processes, the *Lau* ruling echoes this legacy of entanglement by connecting language and race through the determination that language acts as a proxy for race under the 1964 Civil Rights Act. Against this backdrop, we briefly discuss two consequential limitations of this seminal case.

- **Images of deficiency and foreignness**

Lau's potential is limited by how it framed MLs. To illustrate, *Lau* (1974) states,

> [E]very student brings to the starting line of his educational career different advantages and disadvantages caused in part by social, economic and cultural background, created and continued completely apart from any contribution by the school system … And bilingual instruction is authorized "to the extent that it does not interfere with the systematic, sequential, and regular instruction of all pupils in the English language." … Where inability to speak and understand the English language 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. (p. 2, 4)

Through seemingly benign language, *Lau* contributes to constructing MLs as having an "inability," a "deficiency," and as a "national origin minority group." Essentially, such language contributes to the ideologies of MLs as non-nationals with deficits that require a remedy. This crafting erases the fact that over 70% of MLs are U.S.-born (Bialik et al., 2018). *Lau* is also silent about the heterogeneity of this population. For instance, Indigenous MLs are invisible despite Yupik languages being the most commonly spoken language other than English in Alaska and Diné (Navajo) being one of the top languages spoken by students in Arizona and New Mexico after English and Spanish (U.S. Department of Education [USDOE], 2017).

As we document in the next section, foreign-born people have been historically targeted in racialization projects in which linguistic and ability deficits are centered. Aligned with this historical trope, *Lau* construes MLs as racial others in need of repair (Flores et al., 2018) through "the co-naturalization of language and race" (Rosa, 2016, p. 107). The *Lau* decision did not require a "specific remedy" (1974, p. 2), and yet the notion of MLs needing a *remedy* has remained current via the *Lau* Remedies and in prevailing legal and educational discourses. In fields like medicine and special education, "remedy" often carries implications of a deficit or a need for correction. Although *Lau* might be referring to adjustments to programs, practices, and processes, the notion of "fixing" to

accommodate a specific learner characteristic (i.e., language) could unintentionally evoke similar associations. Therefore, it's important to consider the lineage this term carries across multiple disciplines for MLs with disabilities.

- **A monolithic and unitary view of MLs**

Lau's framing contributes to shaping how researchers, districts, schools, leaders, and teachers understand MLs as a monolithic population defined only by their linguistic differences. *Lau* alone does not create MLs as monoliths but functions as a key mechanism for how MLs are constructed in tandem with a broader constellation of policies, ideologies, programs, assessments, practices, discourse, etc. Kibler and Valdes (2016), for instance, have examined how such mechanisms, together, construct the long-term English learner classification. Similarly, *Lau* and the Individuals with Disabilities Act (IDEA, 2004) are key macro-level mechanisms that contribute to the monolithic construction of MLs, especially through the siloed nature of these policy-shaping tools that fragment and limit the educational potential of MLs even with *Lau's* protections by inadequately addressing the complex intersectionality of MLs with disabilities. This tension is evident in both policy and practice. For example, almost a decade ago, the Department of Justice (DOJ) and Civil Rights emphasized the importance of addressing the unique needs of MLs with disabilities in a Dear Colleague letter (2015) that outlined common compliance issues, including timely and appropriate evaluations and services that consider language needs. Despite this clear guidance, many schools still hold monolithic views of MLs, overlooking the complex intersection of language and disability.

Recent DOJ investigations further evidence how these monolithic views impact practice. For example, the 2018–2019 investigation of Newark Public Schools (NPS) found that the district failed to provide adequate language services to MLs with disabilities. The report explicitly stated that "Several NPS staff expressly told us that 'SPED trumps bilingual'–i.e., special education services "trump" English language acquisition services in the District" (U.S. Department of Justice [US DOJ], 2020, p. 21), indicating monolithic understandings through explicit erasure of intersectional understandings. Furthermore, the investigation revealed a lack of communication between special education and bilingual education teams, with NPS admitting to having no policy for identifying and supporting MLs with disabilities. Beyond issues with the provision of dual services, the investigation also uncovered systemic failures in addressing the language needs of MLs with disabilities within Individualized Education Plans (IEPs; US DOJ, 2020)

Additionally, the investigation found instances where MLs with IEPs lacked language services and students were incorrectly labeled as English proficient without proper evaluation. Conversely, some MLs with disabilities were prematurely withdrawn from language services "based on a subjective determination that their lack of progress in achieving English proficiency was caused by a language disability" (US DOJ, 2020, p. 23). Other districts have been subject to similar recent DOJ investigations and subsequent agreements with mandates specific to MLs with disabilities. The further students move away from an essentialized vision of MLs and toward the territory of intersectional identities, the limits of *Lau* become increasingly evident as it translates into schools through the practices of teachers and administrators, who try to decide whose needs *Lau* meant, and whose needs it did not mean, to address. While *Lau* was undoubtedly not intended to limit services that MLs need to learn, its application in actual classrooms has become restrictive due to narrow interpretations of the law and to efforts to merely avoid litigation. As we show in this manuscript, schools need to prioritize both language and special education services simultaneously to improve educational opportunities for MLs with disabilities (Kangas, 2017). We argue that analytic attention to intersectional differences will disrupt homogeneous and unidimensional constructions of MLs and consequently expand the potential of *Lau* and IDEA.

These forms of erasure have significant consequences as policies and programs are built around unitary and siloed structures. This assemblage of ideologies, beliefs, and artifacts in policy, research, and professional practices craft the notion of MLs as unidimensional learners and are typically framed

through a deficit discourse (Chang-Bacon, 2021). We describe these practices as *figured worlds*–i.e., a "socially and culturally constructed realm of interpretation in which particular characters and actors are recognized, significance is assigned to certain acts, and particular outcomes are valued over others" (Holland et al., 1998, p. 52). In this figured world, cultural practices (e.g., instruction, assessment, classification) are deployed to craft the identity of MLs, generally in juxtaposition to a point of reference, namely English proficient learners. A unitary logic pervades in this figured world as the primary focus is linguistic differences.

At the policy level, the figured world is reproduced with particular cultural artifacts such as tests and other assessment tools. One outcome of *Lau* is that districts must identify via assessments who is (or is not) ML (US DOE, 2016). At the school and classroom levels, however, the figured world of ML becomes fluid as students wearing the ML badge interact, negotiate, resist, or appropriate the identity in unique complex ways (Boonstra, 2021). The neat contours of the ML identity sanctioned at the policy level through static assessment scores become dynamic and diffuse in the realm of classroom interpersonal interactions (Hatt, 2016). In other words, at the macro level, the figured world of MLs–i.e., the view afforded by *Lau*–does not capture the textured and intersectional dimensions of this complex identity as enacted in the moment-to-moment history of events at the classroom level.

In addition, we note that figured worlds are not deterministic. Indeed, they offer "sites of possibility" (Urrieta, 2007, p. 109) where individuals use their agency to recast themselves, rehearse and improvise new roles. At the same time, such improvisational work is not entirely animated by individuals' free will. As we note in the following section on the historical entanglements of language with race and disability, MLs – particularly Latine MLs – have been represented through *othering* narratives and racialized storylines that frame them as unassimilable (Rosa, 2016). Language has been used to index their *otherness*; thus, reproducing a raciolinguistic framing of this population–i.e., "the co-naturalization of language and race" (Rosa, 2016, p. 107). These circulating narratives make available or impose narrow and deficit identities to MLs that shape educational opportunities and socialize MLs to participate in learning activities in distinctive ways (Nasir, 2012). We dig deeper into the consequences of *Lau's* limits to demonstrate how these partial framings can create educational disruptions and inequities for MLs. We illuminate this point with a brief discussion of the intersections of language and ability differences and the dilemmas of difference they produced in practice.

Consequences of narrow and othering framings: The case of language/ability intersections

Though foundational, the legacies of *Lau* and IDEA have been insufficient in addressing the intersectional educational needs of MLs with disabilities. Specifically, when *Lau* and IDEA are not considered in tandem, language differences can be conflated as learning differences. A common practice is to explain such struggles as related to either lack of English proficiency or specific learning disabilities (SLD; Klingner & Eppolito, 2014), erasing the heterogeneity of this population and consequently shaping their educational trajectories (Artiles, 2022).

Evidence suggests that MLs can be under-identified as disabled (National Academies of Sciences, Engineering, and Medicine, 2017). A possible explanation is that due to a history of MLs being inappropriately assessed in English and labeled with intellectual disabilities (i.e., *Diana v State Board of Education*, 1970) or even segregated (i.e., *Méndez v. Westminster School District*, 1946), educators and schools *refrain* from identifying MLs with disabilities. A pattern of under-identification has been documented in the early grades. Whether MLs are over- or under-identified for special education, the point to stress is that when linguistic or ability differences are considered in isolation, we risk creating educational inequalities for these learners.

The uncertainties surrounding the intersections of language and ability differences have plagued bilingual and special education. To illustrate, 18 years ago, Lesaux (2006) stated that "given the high proportion of [MLs] who are failing in school . . . it is likely that many do not have [SLD]" (p. 2410). Yet, patterns of over- *and* under-representation of MLs in special education have been reported across

states (NASEM, 2017). We know little about disproportionality involving language differences, though unsettling trends are emerging. Consider this recent evidence:

- About [30%] of . long-term [MLs have] a disability (I. M. Umansky et al., 2017).
- The number of [MLs] with disabilities has grown by 30% in the past 10 years (Office of English Language Acquisition, 2021).
- 33 states identified MLs for SLD at a higher rate than the national average of 45% . . . as high as 65-70% of MLs in some states (WIDA, 2023).

Currently, about 10% of MLs are classified with disabilities, and identification is most often in two language-related categories: SLI and SLDs (US DOE, 2017). According to the US DOE (2017), about 50% of MLs with disabilities are classified with SLD compared to 38% of non-MLs, and 21% are classified with SLI compared to 17% of non-MLs. While there does not seem to be over-identification in other disability categories nationally, the patterns for MLs are complex. Artiles et al. (2005) shed light on this complexity by examining identification patterns for ML subgroups in California schools. They found that factors such as types of English support programs shaped identification patterns and whether they received special education services in more or less restrictive placements. Specifically, MLs in English immersion programs had a higher probability to be placed in more segregated special education programs than MLs in bilingual education programs. More restrictive placements and services have been noted, with MLs still being less likely to be in the general education classroom 80% of the day or more than non-MLs with disabilities (U.S. Office of Special Education Programs [OSEP], 2022). Samson and Lesaux (2009) reported that MLs tended to be under-represented in all disability categories in kindergarten and first grade and over-represented in third grade. Both over- and under-representation raise equity questions. The former is a problem when it is due to misidentification and the latter is problematic when MLs with disabilities do not get services. Although MLs with disabilities are entitled to the language supports mandated in *Lau*, the legal decision's singular-issue focus does not translate into support for disabilities. In fact, a perverse consequence is that due in part to a siloed infrastructure grounded in an intersectional-aversive framing, MLs with disabilities often lose language supports (Kangas & Cook, 2023).

An underlying contributor to these dilemmas of difference is the ambiguity that permeates the borders of racial, linguistic and ability differences via *Lau* and IDEA. For instance, MLs in the process of learning English can experience academic difficulties that may resemble the profiles of students with SLD (National Academies of Sciences, Engineering, and Medicine [NASEM], 2017). Another instance of the complications of these dilemmas of difference is observed in using instructional interventions for MLs that are not validated for MLs (Moore & Klingner, 2014). The assumption seems to be that remedial interventions work with *all* disabled learners irrespective of their English proficiency. In other words, the underlying logic is that ability differences trump linguistic or cultural differences. As O'Connor (1993) summarized,

> [p]eople labeled as having a disability essentially were (and in many cases still are) defined almost entirely by their disability. They were not described as a young/old man or woman who is African American, Latino, American Indian, or European American, or as a person who adheres strongly to the values, traditions, and beliefs of their culture. We knew only that they had a disability and knew/know well all of the clinical nuances that were attributed to that disability. (n.p.)

Lau, in contrast, calls attention to the key role of language in general education contexts as a key mediator of access to educational opportunities. *Lau* and IDEA have been instrumental in advancing educational equity, yet their singular focuses can leave students with intersecting identities, such as MLs with disabilities, inadequately supported.

To conclude, we need to mobilize efforts to counter the legacies of deficit thinking surrounding MLs and neglect of intersectionality and heterogeneity. Rather than relying solely on IDEA or *Lau* to address student needs, it is crucial to adopt an intersectional approach that considers how these

protections can be integrated to support MLs who may have disabilities. In the following sections, we situate *Lau* in its historical context to stress how language, race, and disability were entangled in ways that are neither accidental nor random. Next, we set out to make visible the limits of *Lau's* unitary lens through a discussion of the figured world of MLs at the ground level using exemplars from our own research in bilingual and English-only classroom contexts. We document how the unitary discourse of MLs collapses when practitioners grapple with language and ability intersections. This evidence illustrates how, even with *Lau's* safeguards, MLs may not benefit from full protections when intersectional complexities become visible. We conclude with recommendations for how the 50th anniversary of this seminal case could be a decisive moment for reconceptualizing *Lau*'s potential for MLs learning at the intersections of language, race, and disability.

Historicizing language intersections with race and ability

Lau does not acknowledge the complex historical intertwining of language, disability, and race. Historians have shown how the emergence of categories of deviance has been mediated by deep processes of social and economic transformation, such as the emergence of public schooling at the time of massive immigration, and the advent of modernity with its attendant shifts in economic production, social policies, and processes of nation building (Deschenes et al., 2001).

Franklin (1994), for instance, described the transitions from the idea of backwardness to the notions of at-risk and SLD. He quoted a speech from the 1910 annual conference on the Education of Backward, Truant, and Delinquent Children made by Howard McQueary, from Soldan High School in St. Louis, in which he explained that "[b]y 'backwardness,' we refer more to school attainment than to mental status, that is, our emphasis is upon failure to make regular progress in grades with the average group of children, or unbalanced accomplishments" (p. 14). Franklin noted the socioeconomic forces that shaped the advent of this notion were closely aligned with the dramatic demographic changes of the day. Franklin (1994) illustrated this point with statements made by Chicago Public Schools Superintendent, William Bodine in 1905 when explaining the increases in the incidence of backward children. "There was, Bodine stated, the problem of unrestricted immigration, which was allowing the entry into the country of 'illiterates' and others who would make 'undesirable citizens.' Such individuals, he believed, would not recognize the need to send their children to school" (p. 14). Advances in social sciences such as the coining of the idea of "normal" and the medicalization of the discourses on differences contributed to the entanglements of language, race, and disability. Deschenes et al. (2001) explained that many other derogatory names were assigned to the so-called backward children in the first half of the 20th century; these labels had in common a sharp emphasis on kids' deficits. "Increasingly as the century progressed, educators came to associate the character defects of the pupils with the moral and social inadequacies of their families, especially in the case of immigrants." (p. 531). The focus on immigrants in the early circulating narratives of backwardness indexed language, ability, and racial differences in most cases, with strong connections to a project of national identity building in the U.S.

We note the problematic nexus of language, disability, and race is also observed in other groups in which language differences play a central role, such as the Deaf. The history of educational services for Deaf people is full of examples of such thorny interlacing. Baynton (1996) documented how the publication of evolutionary theory shaped, to some extent, attitudes toward the use of sign language. Oralists, for instance, "associated sign language not with God and nature nor with gentility but with 'inferior races' and 'lower animals'" (p. 9). These views were not unique to professionals with a particular stance toward the education of Deaf people. In fact, over time, these problematic beliefs about the language of instruction with Deaf people became widespread across professional and popular circles. The prevalent stance on this topic signaled a troubling link "between speech and gesture, on the one hand, and humanity and lower evolutionary forms on the other" (Baynton, 1996, p. 38). Indeed, a generalized belief in the 19th century was that human beings had communicated with

sign language before they evolved to rely on spoken language. To speak was human, and to sign was subhuman (Baynton, 1996).

With the aid of new scientific tools and theories (e.g., evolutionary theory), the bonding of language differences with deviance was increasingly consolidated, and it eventually became nuanced with the layering of ability and racial differences. For example, Garrick Mallery, a prominent specialist on indigenous sign languages from the Smithsonian, argued that sign language was *not* an *inherently* inferior language; rather, he argued sign languages were historically inferior languages of inferior people (Baynton, 1996). Grounded in a misguided evolutionary perspective, "Mallery suggested it was likely that 'troglodyte' humans communicated 'precisely as Indians or deaf-mutes' do today" (as cited in Baynton, 1996, p. 42). Similarly, an author in a popular magazine of wide circulation in the early 20th century focused on the copious use of gestures among Italian immigrants and concluded that "'philosophers have argued that because among most savages the language of gesture is extensive,' the use of gesticulation with or in lieu of speech is a 'sign of feeble intellectual power, and that civilization most needs leave it behind'" (Baynton, 1996, pp. 42–43). Interestingly, at a time when oralists set out to provide programs for Deaf children and youth that would humanize them, the historical record shows Black Deaf people were not offered such "opportunity;" thus, crystalizing a language, race and ability nexus.

Evolutionary theory was (mis)appropriated in the early 20th century to advance the eugenics movement which aimed for racial purification through forced sterilization of various groups, including disabled people (Baynton, 2011). Eugenics logic seeped into educational systems largely through intelligence testing that was used to advance a White supremacist discourse and justify exclusionary practices (Artiles et al., 2016). Early efforts to measure children's IQ were conducted exclusively via verbally mediated measures, and were based on what was construed as the "average" child, that is, children that are White, English monolingual, and U.S. born. Generally, the eugenics logic was explicitly connected to racialized groups for the purposes of hierarchy building, though its narrative was also linked to language and ability differences, as displayed by a child psychologist of the time,

> There can be no doubt that the child reared in a bilingual environment is handicapped in his language growth. One can debate the issue as to whether speech facility in two languages is worth the consequent retardation in the language of the realm. (Thompson, 1952, as quoted in Hakuta, 2011, p. 164)

This shows how forms of speaking that differ from the imagined as "ideal" linguistic practices of the White and monolingual child are perceived as deficient. These can be attached to racialized bodies in ways that augment the perception of deviance from existing norms. That is, as a raciolinguistic ideology illuminates, "racialized speaking subjects who are constructed as linguistically deviant even when engaging in linguistic practices positioned as normative or innovative when produced by privileged white subjects" (Flores & Rosa, 2015, p. 150).

By the 1950s, the logic that equated multilingualism to cognitive disability was commonplace in education systems with IQ testing used as justification (Hakuta, 2011). Beyond language, Binet understood the limitations of IQ tests. He cautioned that decisions could not be made using IQ test results in isolation and that they could not be interpreted as an unchanging attribute. The idea that intelligence was a "fixed quantity" and an inherited attribute, however, was socially promoted (Binet, 1909, as cited in Hunt, 1981, p. 151). The erroneous belief of IQ as an inherited attribute that could be neutrally measured led to whole racial and ethnic groups being situated as having higher percentages of children with inferior intelligence, a core belief of the Eugenics movement in the 1920s and the 1930s. While in the 1960s tests started to include non-verbal sub-categories to ensure multilingual recruits for the U.S. Army, and more recently, tests have been translated to the languages of the children to be tested and normed for distinct populations, the tests are still culturally and linguistically biased (Glick & Jourdane, 2019).

Eugenics logic has historically required court intervention to protect students with racial and ability differences. *Lau* occurred amid intense U.S. educational equity battles ignited by school desegregation struggles following *Brown v. Board of Education* (*Brown*) and the Civil Rights Act of 1964. These legal

accomplishments for racial justice profoundly impacted equity germane to linguistic and ability differences. Three pivotal 1970s California cases—*Lau*, *Diana v. State Board of Education* (*Diana*) [CA 70 RFT (N.D. Cal. 1970)], and *Larry P. v. Riles* (*Larry P.*) .) *[495 F. Supp. 926* (N.D. Cal. 1979)]—unraveled the entanglement of race, language, and disability, expanding educational opportunities for marginalized students. While *Lau* highlighted the crucial role of language of instruction in equitable learning (Moran, 2005), *Diana* and *Larry P.* focused on assessment bias and overrepresentation in disability programs. *Diana* and *Larry P.* challenged the disproportionate placement of Spanish-speaking and African-American students, respectively, in intellectual disability classes based on culturally biased IQ tests. Both cases emphasized due process, parental involvement, unbiased assessment, and least restrictive environments, laying the groundwork for IDEA (originally known as the Education for All Handicapped Children Act or Public Law 94–142; MacMillan et al., 1988). Enacted by Congress in 1975, IDEA protects the rights of youth with disabilities and their families up to this day. These cases, alongside *Lau*, advanced educational desegregation and offer a stark reminder of the historical entanglements of language with racial and ability differences. Debates have ensued over decades about the origin and mediators of these entanglements of difference. It is necessary, therefore, that we not only call attention to the intersectional nature of language differences, but also historicize the formation of these intersectional differences.

To conclude, eugenic practices clearly violated foundational theoretical assumptions and methodological practices currently used in the test and measurement field. Unfortunately, the damaged representations of minoritized communities – including racialized MLs – generated through these pseudo-scientific efforts have not been fully eliminated in today's society and educational systems. The persistent trope in this history is steeped in an *othering* discourse that imbricates language with ability and racial differences. What happens to the historical debris of differences and deviance? Where do these ideological stances go and where do they lay in today's educational, social, and economic landscapes? The debates about English-only policies, immigration, and a post-racial society, among others, suggest these ideologies and tropes of difference continue to travel across institutional contexts and mediate contemporary life in the U.S. At a time when we witness what Collins (2009) described as the "erasure of social structure" in popular, political, and scientific discourses, it behooves us to ask, what does this mean for the scholarship on MLs and its intersections with ability differences?

We have documented thus far the limits of *Lau's* unitary approach and situated it in its historical context, calling attention to the intermingling of language, disability and race. Further, we highlighted how the historical intersections of these markers of difference are not accidental and forecasted that as we descend to the level of school practice, the unitary lens of policies collapses when professionals grapple with the intersectional realities of MLs' lives. Next, we illustrate the latter point with evidence from our research.

From policy to practice: How unitary visions of MLs leak in classrooms

Lau rests in a classification system predicated on linguistic differences, namely the category of ML. However, classification systems expunge the passage of time and contextual contingencies (Bowker & Star, 1999). This means that classifications have a protean nature. Thus, the distance between the ML category and the situated temporal circumstances of an individual's biography get lopsided in the midst of negotiations germane to conceptual ambiguities, technical decisions and measurements, and ideologies of difference (Artiles, 2022; Bowker & Star, 1999). In other words, principals, leaders, and teachers engage in everyday struggles to make sense of MLs' academic performance in relation to assessment and instructional tools available to them, policies guiding their practice, and their own beliefs about language, disability, and race.

In this section, we document how the unitary logic of the ML category embedded in *Lau* and other macro-level policies stemming from historical sedimentations of language, disability, and race intersections contribute to the unpredictable spaces of classroom practices. We do not argue that *Lau* causes the practices we see in the upcoming vignettes but rather that

macro-level mechanisms such as *Lau* and IDEA interact with other cases and policies to produce some of the predicaments that principals, leaders, and teachers grapple with in practice. In the first scenario, we illuminate how the protections purportedly afforded by bilingual education do not ensure meaningful access to learning, especially for MLs with disabilities. We contextualize this discussion with a description of structural features in educational systems that impose barriers for students living at the intersection of language and ability differences. For instance, research has shown that families are commonly advised to speak only in English to their children with disabilities, and professionals tend to recommend monolingual learning environments when children have disabilities (e.g., NASEM, 2017). MLs with disabilities and their families are sometimes required to choose whether to receive the special education services they need or to remain in dual language bilingual programs (Cioè-Peña, 2021; Cobb, 2015; Delgado, 2008). Impacted by these issues, and given the sole focus on English development, notwithstanding a wealth of research evidence documenting the effectiveness of long-term bilingual or dual language programs (e.g., Kabuto, 2010; I. Umansky & Reardon, 2014), there has been insufficient examination into how these programs support MLs with disabilities.

Despite research showing that long-term bilingual programs allow children to grow bilingual identities and achieve higher levels of bilingual and biliterate development among other cognitive strengths (Bialystok, 2010; Collier & Thomas, 2004), and current calls for dual language education to become the standard for all schools (Thomas & Collier, 2012), when MLs with disabilities are placed in bilingual programs, these tend to be remedial. This is notwithstanding the fact that research is already showing that MLs with disabilities can indeed learn bilingually and that this does not pose an additional burden to their development (Gonzalez-Barrero & Nadig, 2018; Kay-Raining Bird et al., 2005). Reasons for the prevalence of remedial bilingual programs for MLs with disabilities vary, but some of these include, for instance, the fact that special education teachers might counsel children out of long-term bilingual programs (Genesee, 2007); or that children with special needs might not be understood as being able to learn bilingually (Palmer, 2010); or the fact that educators still advice parents of children with autism and other language-related disabilities to quickly transition to a monolingual environment (Drysdale et al., 2015). That is, research shows how the primary aim when teaching MLs with disabilities is to transition children to the mainstream figured world of English-only contexts as early as possible rather than promoting and sustaining bilingualism and biliteracy (see Martínez-Álvarez, 2019 for a review of the literature). Traditional short-term bilingual programs limit children's opportunities to author new identities as multilingual and multicultural individuals (Bedore, 2010; López et al., 2015). In other words, the learning of English becomes the only recognized learning outcome for many MLs with disabilities in our "socially and culturally constructed" educational system, while other learning is dismissed, ignored, or impeded (Holland et al., 1998, p. 52).

The second scenario focuses on how *Lau* plays out for MLs in language-restrictive contexts in which bilingual education is not an option due to major policy shifts in language policies over the last few decades. In these contexts, teachers and students face the additional obstacle of teaching and learning being limited to English and thus, losing students' full linguistic repertoires as resources in the classroom. This places MLs with disabilities at heightened risk for loss of educational opportunities. This situation is compounded by the fact that most general, bilingual, and special education teachers are ill-prepared to understand linguistic and ability differences intersections. Most teachers are prepared with a unitary perspective that foregrounds typical development, disabled, or multilingual development. This has resulted in long-standing equity issues related to MLs with disabilities receiving either-or services that generally result in the loss of *Lau's* language supports when they receive a disability label (Kangas & Cook, 2023). The following vignettes illustrate how the classification of ML and *Lau's* protections leak in the complex contexts of bilingual and monolingual classrooms.

The limitations of Lau *for MLs learning in bilingual education*

MLs can be differentially exposed to their heritage language/s in the home or might use their multiple languages in ways that might differ from those of the U.S., even in bilingual programs. For instance, children might be exposed to indigenous languages at home that remain invisible when in school. For children with invisible indigenous languages, the connection to their various linguistic resources to learn is lacking, and therefore not used to help children learn and make meaning, showing the shortcomings of *Lau* in these cases. Likewise, MLs might not feel culturally comfortable with speaking to adults, or even to other children, if they tend to express themselves through means other than oral language while in the classroom. In short, the unitary normative model of ML underlying *Lau* and bilingual programs tends to constrain learners' opportunities to use their full communication repertoires. Such circumstances hinder children's linguistic production in distinct ways despite the supports afforded by bilingual and dual-language programs. Educators in dual-language bilingual programs might negatively compare the child's language skills with those of other MLs who are exposed more consistently or who respond to U.S. classroom dynamics in more "normative" ways. This might happen inadvertently, but it is no less damaging for MLs with and without disabilities. We present vignettes reported in Martínez-Álvarez (2023) describing the experiences of Deyanira and Dorita, both students labeled with soft disability categories and learning in a dual-language classroom to illustrate the limits of *Lau* in bilingual education contexts.

Deyanira was a second-grader and a first-generation Mexican immigrant labeled with SLD. During an afterschool program situated in her bilingual school, Deyanira revealed that she spoke Mixteco and not only Spanish at home, a dimension of her ML identity that had rarely been recognized in her bilingual school and a part of her linguistic repertoire that was therefore overlooked (Martínez-Álvarez, 2023). Deyanira also spoke about her learning experiences when she was in kindergarten, and before she started receiving special education services. Deyanira explained how she did not feel well because "me piden que escriba y otra vez y otra vez y otra vez [. . .] No me siento muy feliz porque estaba escribiendo y después estaba llorando" (they ask me to write again and again and again [. . .] I don't feel very happy because I was writing and then I was crying; [2023, p. 43]). Fast forward to second grade, Deyanira explained how she still did not like writing in the English class. For her, "en inglés era más difícil la escritura y solo podía dibujar" (in English it was more difficult to write and I could only draw; as cited in [2023, p. 44]). Deyanira was, however, capable of engaging in literacy events and making meaning using a variety of modes, including photographs she had taken and collaging with different multimodal tools, in addition to writing (2023). While historically, schools have solely focused on reading and writing in the most traditional sense, we now know that literacy includes the creation and use of social meanings that should include an assembly of systems and modes (Courtland & Lakerhead, 2010). Deyanira's description suggests an overreliance on MLs learning to communicate through writing only that did not allow her to safely demonstrate her ability by engaging in literacy events using all her meaning-making resources.

Deyanira's experiences illustrate the discontinuities and twists between the ML and disability classifications used in the bilingual school, her unique biographical trajectory with multiple languages, and the school's limited literacy approach. Indeed, her trajectory is a testament to how literacy learning for MLs with disabilities can act as an ableist tool. In this bilingual school context, Deyanira was asked to communicate using a single modality sanctioned in the figured world of school literacy. Although she agentively explained that she could draw, and was very able to make meaning through other modes, Deyanira was not allowed to do it, and her linguistic resources might not be fully utilized as her indigenous language was invisible in classroom routines.

In her study, Martínez-Álvarez's (2023) documented how Dorita, a second-grader student with SLI, spoke quite softly in the class "because sometimes I'm scare [. . .] que no puedo hablar bien (that I can't speak well)" and that sometimes she felt "speechless" and that "[t]hey interrupt" her which caused her to, at times, "lose" her words and to "forget my words" (2023, p. 108). Dorita explained how her friends made fun of her when she spoke in English because of her accent as they did not always understand her

and how she, at times took action such as when she "put some[thing] random," to remedy the situation (2023, p. 108).

As illustrated, processes of linguicism invade the learning experience of MLs with disabilities. Furthermore, linguicism and ableism intersect in dynamic ways because MLs like Dorita speak and use language in ways that often do not correspond with those that shape the figured world of school literacy learning. Dorita explained she felt the context made her "lose" and "forget" her words. She was able, however, to take action by, for instance, putting "some[thing] random" to add to her discourse. In this way, she was using a form of subaltern knowledge, which, as explained in Martínez-Álvarez (2023), is frequently not recognized in today's rapid rhythm of the bilingual classroom and could instead be easily misinterpreted as a lack of ability to produce language in a coherent way.

Unfortunately, research shows that when MLs are identified with disabilities, particularly with a soft disability, the special education services take priority over the English language support (Kangas, 2018; Oh & Mancilla-Martinez, 2024), which are services from which both Deyanira and Dorita would benefit, despite their disability-related needs. That this is even happening within dual language bilingual classrooms, which is perceived as a safe haven for MLs, points to the challenges that still lay ahead of us and highlights the spaces where there is potential to reconsider how *Lau* supports MLs at race and disability intersections. To summarize, access to bilingual education does not in itself ensure access to culturally and linguistically meaningful learning, especially for MLs with disabilities. As shown, while *Lau* has been pivotal in promoting efforts for more equitable learning spaces for MLs, when we center the linguistic rights of MLs with disabilities, it becomes clear that the case did not go far enough. *Lau's* prioritizing of "effective participation in the [English-mediated] educational program" and in situating MLs as experiencing "language deficiency" (*Lau*, 1974, p. 4), fails to meet the intersectional needs of children who do not fit the prevailing figured world of school learning.

Lau *and intersectional dilemmas in the English-only context*

Disability labels, while intended to increase educational opportunities, can create new educational dilemmas for teachers working with MLs. *Lau's* contribution to the figured world of MLs' unitary logic complicates opportunity pathways for MLs with disabilities. This logic compels educators to frame students as a ML *or* a student with a disability, but not both (Kangas, 2018; Kangas & Cook, 2023). The following vignettes reported in Salinas (2022) captures the dilemmas that often arise for educators teaching MLs with disabilities.

Mrs. Petrillo, a veteran special educator with over 20 years of professional experience, taught at a small elementary urban charter school in the southwestern state in which all official business, including education, must be conducted in English. Additionally, while the previous legislative session had repealed another law that mandated four hours of daily structured English immersion for MLs, most districts still continued such practices. We provide an overview of Mrs. Petrillo's work with two MLs, Jacqueline and Beatrice, as she grappled with alternative intersectional dilemmas that surrounded each student's trajectory (Salinas, 2022). Aligned in part with the figured word of MLs – reinforced by the *Lau* decision and state policies – Mrs. Petrillo relied heavily on factors like country of birth to determine whether these students were "real" or "fake" MLs. Building from ideologies of MLs, deficit assumptions, and a unitary logic of MLs existing in the figured world in which she taught, she constructed alternative identities for these learners as disabled or MLs (2022). Specifically, Mrs. Petrillo contested the accuracy of ML and SLD classifications. For Mrs. Petrillo, questioning the students' ML status was warranted due to her suspicions of incorrect home language disclosures. She confided, "... they are not [ML], but they are [ML]" (2022, p. 157), referring to other students without the official ML label, who she believed were actually MLs.

Regarding one of the focal students for this vignette, Jacqueline was a fifth-grade female Mexican student with a reading-related SLD who spoke Spanish as her first language. However, she was *not* officially classified as an ML. Mrs. Petrillo referred to Jacqueline as an "underground" ML, or unlabeled language learner (Salinas, 2022, p. 166). Mrs. Petrillo drew on evidence such as the student's

practice of translating between English and Spanish for her mother, her accented English, and being born in Mexico to support her conclusion that Jacqueline was indeed a ML (Salinas, 2022). The teacher's underlying assumptions about MLs as foreign-born and speaking accented English were consistent with a raciolinguistic ideology (Flores & Rosa, 2015). The one academic area of weakness, the teacher observed, was Jacqueline's hesitancy to write down answers and take low-stakes risks in classroom activities for fear of being wrong. Again, she attributed these behaviors to Jacqueline's (assumed) ML background, not to SLD. Mrs. Petrillo regarded Jacqueline's grammar, spelling, and pronunciation errors as excusable because of her second language development process, though such errors and her accent decreased over time. Moreover, because her reading comprehension improved over time, the teacher took it as evidence that Jacqueline's primary needs were related to her ML condition, not because of SLD. In fact, Mrs. Petrillo did not think Jacqueline's SLD label was accurate. Thus, while the teacher viewed Jacqueline's bilingualism as an asset and recognized her improved reading fluency, Mrs. Petrillo's binary framing (i.e., learning difficulties due to SLD *or* ML) prevented her from considering evidence closely aligned with SLD in the area of reading comprehension, such as Jacqueline's difficulties with the use of strategies to construct meaning across texts, summarize, identify main ideas, predict, and other metacognitive processes like monitoring thinking and understanding texts.

In contrast, Beatrice was in fifth grade with an ML designation and a reading-related SLD. In this case, Mrs. Petrillo questioned the accuracy of her language designation, referring to Beatrice as a "fake" ML. She drew on evidence such as Beatrice being U.S.-born, assuming the parents were second-generation, and she perceived Beatrice's mother as more fluent in English than Jacqueline's mom (Salinas, 2022). Mrs. Petrillo described Beatrice as a "gappy reader" who had inconsistent decoding and fluency skills, with attention issues who would switch tasks or topics when expected to work independently, "slow," and sometimes "lazy," due to a perceived lack of drive to work independently in class during small group and complete the reading decodable text assignments (Salinas, 2022, p. 83, 155). Mrs. Petrillo also attributed Beatrice's academic difficulties to a significant reading SLD, as Beatrice could not decode text beyond a first-grade level and did not master the reading comprehension strategies assigned daily in small groups. Mrs. Petrillo did not consider how instructional factors might have created some of Beatrice's learning difficulties. Nor did she consider how Beatrice had the right to receive language *and* special education supports. Mrs. Petrillo's difficulties in understanding these students' intersectional needs stem from the figured world constructed through policies, ideologies, and discourse shaping her teaching context. It is typically easier to understand those roles and identities reified by our historical cultural practices, shaping the figured world with which we are most familiar than to move to explore new possibilities.

Leaks in the classification of language and ability intersections

The vignettes demonstrate the complexities of addressing the heterogeneity of MLs' learning identities. The experiences of these learners and teachers illustrate how categories travel from the realm of policy to the fluid worlds of school practices. Teachers must navigate the interstices of unitary identities available in the figured world of MLs and the *Lau* decision as they face the messy contingencies of classroom practice and the nuances of learners' biographies, which leads to negotiated and contested identity work in the classroom. In these cases, the limits of *Lau* became apparent at the intersection with disability and constructions of race. In such spaces, students' identities trouble the artificial neatness of technical categories; thus, compelling teachers to make sense of the ambiguities of categories and identity intersections with limited resources. Their sensemaking processes are immersed in the figured world of MLs along with the institutional silos that structure it (e.g., bilingual programs, special education). In addition, raciolinguistic ideologies mediate teachers' interpretations, decisions and actions. As we learned, the result is that classifications leak at the intersections of identities.

In Deyanira's classroom, her Mixteco language and disability were pushed to the background; thus, curtailing meaningful access to learning within the bilingual classroom. Further, her attempts to participate through drawing, or other modes, were largely dismissed. Similarly, Dorita's accented English and communication preferences were marked through a process that negatively impacted her learning identity. While *Lau* garnered children like Deyanira and Dorita access to bilingual education, those protections were limited by not accounting for other differences, including Indigeneity, cultural preferences, and ability differences. The case of Mrs. Petrillo and her students Jacqueline and Beatrice, demonstrated how *Lau's* protections, via the figured world of ML, were contested and even negated, due to the figured world the teacher operated in, which entailed institutional infrastructures that led the teacher to doubt the accuracy of student classifications which in turn, undermined access to educational supports. In other words, the unitary logic built into the figured world of MLs through macro-level mechanisms leaks into classroom practices in ways that flatten, erase, and essentialize MLs, and in some cases, jeopardize their opportunity to participate and learn.

Building on *Lau's* legacy with a reimagined figured world

The 50th anniversary of *Lau* is an opportunity for policymakers, educators, administrators, education researchers, and other stakeholders to reflect on the legacy of this seminal case and to envision future educational possibilities. The *Lau* ruling was a transformative shift that significantly improved educational opportunities for MLs. It held school districts accountable for the learning and English development of MLs, and as a figured world, *Lau* has been an essential artifact in shaping educational policies and practices. As we reflect on this case's historical importance and legacy, we must acknowledge that *Lau* can continue to shape new understandings and be used in new ways. Just as *Lau* has shifted educational activity in response to socio-historical contexts and political pendulums, it also has the potential to respond to more complex understandings of MLs by attending to the intersectional reality of their experiences and needs. Returning to the notion of figured worlds as "sites of possibility" (Urrieta, 2007, p. 109), we see this 50th anniversary as a liminal juncture for building new possibilities and increasing *Lau's* potential for all MLs. We argue that analytic attention to intersectional differences, namely language, disability, and race, can disrupt static constructions of MLs and consequently expand the potential of *Lau*. What might an intersectional turn in *Lau* entail in policy, research, and practice? We provide possibilities for building a new ML-figured world.

A new ML-figured world cannot be shaped through single-facet solutions focusing on policy or practice alone. Consequently, we begin with and expand upon Zirkel's (2021) recent three-pronged recommendations at the confluence of language and disability legal frameworks with two additional recommendations to support new interpretations of *Lau*and IDEA. Zirkel's (2021) first recommendation is to create clarified interpretations of legal frameworks such as *Lau* and IDEA through class action and individual lawsuits that can test the contours of the law, specifically for MLs with disabilities. Historically, individual and class action lawsuits have helped shape societal understandings (i.e., ideologies), policies, and practices. Zirkel explains, "[Lawsuits], with special care in terms of selection of the cases, availability of expert witnesses, and consideration of the exhaustion issue may yield the precedents currently lacking in the jurisprudence" (2021, p. 88). Zirkel's second recommendation facilitates the first, focusing on increasing the number of attorneys who bring bilingual and bicultural understandings and have specialized knowledge of special education law. Zirkel's final recommendation is to increase the preparation of school-based education specialists such as administrators, school psychologists, and educators with bilingual and bicultural backgrounds (2021).

We build on these recommendations with two additional suggestions. The first is to increase the number of education researchers engaging in interdisciplinary and intersectional work. These scholars, through their vital roles in preparing the educational specialists Zirkel (2021) calls for, contribute significantly to shaping educational practice in collaboration with states and districts. For example, Boveda and Weinberg (2022) developed the intersectionally conscious collaboration protocol, a tool

stemming from their intersectional scholarship, that supports preservice teachers in understanding their own intersectional identities in relation to their students. Similarly, Martínez-Álvarez (2023) contributed robust interdisciplinary scholarship exploring language and ability differences in the context of bilingual education classrooms. Scholars working across disciplines can be critical bridges for persistently siloed disciplines, inspiring a more interdisciplinary and intersectional approaches in education.

Our second recommendation is to include racialized MLs with disabilities and their families in reimagining a new figured world for MLs. They know firsthand the fragmentation resulting from *Lau* and IDEA's singular foci on language or disability, and their voices, perspectives, and experiences can add important dimensions to our collective understanding of how policies shape their experiences. Recent research draws on the potential of youth dreaming of new futures into existence (Garcia & Mirra, 2023). Likewise, Gutiérrez et al. (2020) have used utopian methodologies as collaborative research to co-design "learning systems or ecologies that are equitable, resilient, sustainable, future oriented, and necessarily contextualized in participants' meaningful life activities" (p. 331). Brooks (2023) exemplifies this scholarship with women of color who experienced ML classification first-hand in their k-12 educations offering critical insights that are often overlooked. These methodologies start with the complexity of students' lives and identities as assets for dreaming and realizing new futures.

Lau's 50th anniversary presents a unique opportunity to reflect on the incredible contributions of this landmark case while also envisioning a future where the ruling can continue to evolve and expand its impact. By centering intersectional differences – language, disability, and race – we can move beyond the limitations of singular legal frameworks and bolster the potential of IDEA and *Lau* used in tandem to shape intersectional safeguards for MLs with disabilities while disrupting the monolithic understandings we saw Mrs. Petrillo (Salinas, 2022) struggling through. There is much more work to be done to ensure true equitable access for MLs with disabilities. Researchers, teachers, policymakers, and MLs must work together to expand the possibilities for all MLs, including racialized MLs with disabilities, to grow as bi/multilingual, bi/multicultural, and bi/multiliterate individuals (Martínez-Álvarez, 2023).

Note

1. We use the term multilingual learner in lieu of English learners to push back on deficit terminology that erases students' linguistic competencies and to highlight that "many of the students we call 'English learners' are actually already very bilingual, and some of the students we call bilingual are actually multilingual" (Martínez, 2018, p. 518). While we use this term to refer to students classified as English learners, we acknowledge its limitations, as noted by Kanno et al. (2024), which does not account for reclassified students.

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