

4 Everything on Its Head: How Arizona's Structured English Immersion Policy Re-invents Theory and Practice

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And I remember in frequent discourses with my master concerning the nature of manhood, in other parts of the world, having occasion to talk of lying and false representation . . . For he argued thus; that the use of speech was to make us understand one another, and to receive information of facts; now if any one said the thing which was not, these ends were defeated he leaves me worse than in ignorance, for I am led to believe a thing black when it is white, and short when it is long.

Gulliver's Travels, Part IV: Voyage to the Country of the Houyhnhnms

In Jonathan Swift's satiric novel *Gulliver's Travels*, Lemuel Gulliver travels to the land of the *Houyhnhnms*,¹ a race of intelligent horses endowed with reason, order and good sense.

The Houyhnhnms rule over a race of creatures called *Yahoos*, who are human in appearance, but are primitive, brutish and incapable of rational thought. Gulliver resembles the Yahoos physically 'in every part', but he is nonetheless profoundly different: he is a Yahoo capable of rational thought. Gulliver gradually learns the language of the Houyhnhnms and discovers that it has no words for lying or deceit. In order to communicate these concepts to the Houyhnhnms, he is forced to construct all manner of distorting circumlocutions to convey ideas that do not exist in the horses' reality. Thus, to describe the English and other European languages' words for lying, he uses a negative definition: *lying* becomes *the thing which was not*.

Gulliver's Houyhnhnm mentor is deeply troubled that words and speech, which are supposed to impart essential truths, could instead be used to misrepresent those truths. For him, uttering *the thing which was not* would be unthinkable, because such a practice leaves us 'worse than in ignorance'. We might be led to believe that something is black when it is white, or *true* when it is really *false*. Gradually, the Houyhnhnms realize that Gulliver is an intelligent Yahoo. Because Gulliver's behavior, thoughts and demeanor challenge the Houyhnhnm perception of other Yahoos in the land, he comes to represent a threat to the social order. The Houyhnhnms fear that he will corrupt the other Yahoos, so they expel him from their country.

I take Swift's fable as a rueful metaphor for the way in which language and education policies governing English language learners (ELLs) have been enacted in the state of Arizona. I argue that state ELL policy is a confusing and contradictory amalgam of numerous *things which are not*, that is, misinformed but authoritative declarations about the way that children learn a second language – in this case English, and how state schools should teach them English. I discuss a number of perplexing *things which are not*, and draw attention to serious contradictions in state ELL program policy and instructional practices. I also focus on the odd convergence of state and federal legislation, case law and policies that both determine and confound educational choices for English learners. This convergence represents a legal and policy conundrum for schools and school districts, one that confuses, challenges and or justifies the educational decisions districts make for their ELL students.

It is regrettable enough that the state policies affecting thousands of English language learners in Arizona have originated from an audacious fiction. It is even more unfortunate that these policies continue to morph into new and more *things which are not*, leaving us in a circumstance, if not entirely worse than ignorance, is one in which we shake our heads in disbelief. Indeed, *things which are not*, once expressed as vaguely worded ballot measures, convoluted legislation and folk beliefs about language acquisition and teaching, have now become codified as state law. As such, they have also become *fact*, however deceptive and hyperbolic.

The Convoluted History of Structured English Immersion in Arizona

Education policy from the Ballot Box: Proposition 203

In November 2000 Arizona voters approved Proposition 203 ('English for the Children-Arizona'), a ballot initiative that severely curtailed the

implementation of bilingual education programs in public schools, mandating instead a relatively untested program model known as ‘Structured English Immersion’ (SEI). Prior to the passage of Proposition 203, SEI had little support in the educational or applied linguistics research literature. Few studies conducted to date on the effectiveness of SEI in improving children’s English acquisition or academic achievement have indicated positive outcomes (Combs *et al.*, 2005; Mahoney *et al.*, 2005; Wright & Pu, 2005). Instead, public schools are increasingly contentious and contradictory sites in which the debate about the education of immigrant English language learners plays out (Rabin *et al.*, 2008).

Proposition 203 began as a so-called ‘citizen’s’ initiative. Titled ‘English for the Children,’ the measure was designed to replace bilingual education programs in public schools with an experimental program known as SEI. In an SEI classroom, instruction typically is in English only but teachers are expected to modify their instruction through ‘sheltered’ techniques to accommodate students’ developing proficiency in English (Combs *et al.*, 2005). The potential superiority of SEI over other approaches to teaching English language learners was largely unknown at the time. Nonetheless, its supporters promoted the program as the most effective way to teach immigrant students (Arizona Secretary of State Voter Education Pamphlet, Arguments for Proposition 203, 2000; Unz, 2001). After its supporters collected the required number of valid signatures, the measure qualified for placement on the November 2000 general election ballot. Proposition 203 was one of a total 14 ballot initiatives that Arizona voters considered that year (Rabin *et al.*, 2008).

The initiative process has become a popular means for creating or changing state policies on many issues. Between 1990 and 2009, for example, the number of initiatives appearing on state ballots nationwide was 746 (Initiative and Reform Institute, 2009). Fifty-four of these measures concerned a wide variety of education policies² (National Conference of State Legislatures, 2009). Voters approved 23 of them.

Historically designed as a means of circumventing state legislative special interests, ‘direct democracy’ ballot initiatives increasingly are being sponsored by special interest groups or wealthy entrepreneurs who exploit their appeal to further personal or political agendas (Broder, 2001; Chávez, 1998; Gamble, 1997; Haskell, 2001; Kraker, 2000). For these individuals, ballot initiatives represent a uniquely effective method for advancing causes that potentially would fail in a state legislature. Thus, the initiative process provides a free-wheeling arena in which almost any measure can qualify for an election ballot, assuming enough signatures are collected to place it there.

Taking an initiative measure all the way to an election requires enormous sums of money, initially to gather signatures, and then to run an effective campaign. Without money, the majority of initiatives never make it to the ballot (Broder, 2001). The relatively few that do are the ones supported by interest groups or individuals with access to big money, often their own. The campaign to pass Arizona's Proposition 203, for example, was bankrolled by a single individual, Ron Unz, a Silicon Valley software entrepreneur who earned millions of dollars after developing a financial software program used by the mortgage departments of banks and other lending institutions (Miller, 1999). Unz provided fully 81% (\$186,886) of the total \$229,786 spent to bring the measure to state voters (Crawford, 2001). Unz also sponsored antibilingual education ballot initiatives in three other states: California, Massachusetts and Colorado.³ Ultimately, Arizona voters approved Proposition 203 by 63%.

It is probably not surprising that the majority of Arizona voters appeared to believe claims that SEI would teach English more effectively than bilingual education. The theoretical or practical justifications for bilingual education are unknown to most voters. Whether Ron Unz and other proponents of antibilingual initiatives intentionally took advantage of voter ignorance about bilingual education is debatable. What is not debatable is that the campaign for Proposition 203 was waged primarily through misleading and inflammatory sound bites. In separate analyses of media coverage of the proposition, Johnson (2005) found that supporters of the measure used metaphoric and rhetorical language to disparage bilingual education and educators. Wright (2005) similarly noted that a 'political spectacle' had occurred, rather than a reasoned debate about the educational interests of immigrant English language learners. In fact, the political discourse leading up to the elections in all four states was 'highly contentious and largely unrelated to the practical and pedagogical issues facing public school administrators, teachers, parents, and students' (Mora, 2009: 16). Initiative proponents portrayed bilingual education as a failed and expensive Spanish-only, academic welfare program in which children languished for years, or as an entrenched bureaucracy seeking to preserve its financial stake (Ayala, 1999; Crawford, 2008; English for the Children-Arizona, no date; Unz, 1997).

Applied linguistic research vs. common sense

Research studies in second language acquisition may be a hard sell anyway, especially in political contests. For one thing, conclusions about second language acquisition seem counterintuitive to most voters,

especially the consistent finding that learning to read in the first language actually improves proficiency in English, or that the *quality* of exposure to English, rather than *quantity*, is a key factor in English acquisition. For another, elected officials and the voting public seemed unwilling to accept that a program designed to teach English, by teaching in students' first languages, could possibly be effective (Combs *et al.*, 2005). They simply did not believe that students immersed in English actually need *more* time to acquire it than students schooled in their home language and English, although this has been a consistent finding in the research literature on second language acquisition (Collier, 1987, 1995; Cummins, 1991, 1992; Cummins & Swain, 1986; Ramírez, 1992; Ramírez *et al.*, 1991; Wong Fillmore, 1991).

The text of Proposition 203 expresses at least three 'folk theories', or 'cultural models' – simplified versions of complex events or processes (Gee, 2008) – of second language acquisition: (1) that young children learn English better than older students; (2) that immersion in an all English setting would help students acquire the language more rapidly; and (3) that such an approach would teach them enough English in one year to be academically successful in the mainstream classroom.⁴ Since the proposition became a law, Arizona Department of Education (ADE) officials have repeated these folk theories in department policy documents, reports, press releases and professional development sessions.

These popular but questionable ideas about how, and how fast, young children can acquire English have influenced the educational programs state policymakers have ordered school districts to implement for English language learners. The consequences for not adhering strictly to state ELL policy are serious: the State Superintendent of Public Instruction, a vociferous supporter of SEI, has threatened to withhold funds from school districts that are slow to implement the law (Horne, 2004a,b).

Arizona Policy: A Palimpsest of *Things Which Are Not*

Flores v. Arizona

Arizona language and education policy is not solely determined by Proposition 203. The federal court resolution of the *Flores v. Arizona* lawsuit actually predated the ballot proposition by almost a year. This lawsuit originated in Nogales, Arizona in 1992 as a class action case in the Nogales Unified School District. In civil rights litigation, a class means a group of

people ‘similarly situated’, that is, people who are similarly affected by a particular policy, law, or practice. Because potentially people share the effects of a policy, law or practice, they may sue for themselves or for themselves and other members of the class (Alexander & Alexander, 1985).

According to Federal law, such a class is legally protected from discrimination. In the *Flores* case, the class would include English language learners in all 15 Arizona counties.⁵

The plaintiffs charged the State of Arizona with violating the Equal Education Opportunities Act (EEOA) by its failure to take ‘appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs’ [Title 20 U.S.C. § 1703(F)]. Specifically, the plaintiffs charged the state with inadequately funding public school districts that enrolled predominately low-income minority children (the majority of whom in Nogales were English language learners), and whether the lack of funding privileged predominately Anglo schools and resulted in fewer educational benefits and opportunities for low-income ELLs.

What constituted ‘appropriate action’ and whether the State of Arizona was meeting its responsibilities under the EEOA was a prominent feature in the trial and in subsequent state policy developments. In 1981, the 5th Circuit Court of Appeals had ruled in *Castañeda v. Pickard* that school districts had to a duty to provide assistance to their English language learners. Local education authorities, according to the Court, had to ‘make a genuine and good faith effort, consistent with local circumstances and resources, to remedy the language deficiencies of their students and deliberately placed on federal courts the difficult responsibility of determining whether that obligation had been met’ (*Castañeda v. Pickard*, 1981). The Court created an analytical framework for determining whether or not school districts were taking ‘appropriate action’ to help students overcome language barriers (for a description of the *Castañeda* Test, see Chapter 2, this volume).

Before passage of Proposition 203, school districts in Arizona were implementing four different ELL programs, and the plaintiffs in *Flores* did not challenge them. Thus the State could be said to have passed the theory requirement of the *Castañeda* Test. It was the second part of framework that plaintiffs charged the State had failed to pass, specifically, that the State’s failure to provide adequate funding of schools serving high numbers of English language learners had resulted in many deficiencies, including insufficient numbers of classrooms, qualified teachers and teacher aides, inadequate tutoring programs, and not enough teaching materials for content area and English as a second language classes (Hogan, no date). More important, the Court ruled that the State Legislature’s supplementary allocation of

funding for ELL education, a paltry \$150 to the per-pupil base minimum of \$2,410.56 (1992–1993 figures), was ‘arbitrary and capricious.’ In other words, it was not based on serious study about how much it would truly cost districts to educate children acquiring English as a second language. The case that finally went to trial considered only the funding issues, with both the State and plaintiffs agreeing to negotiate any curricular and instructional issues out of court. In January 2000, Judge Alfredo Marquez decided the case in favor of the *Flores* plaintiffs, agreeing with their claim that the State of Arizona had violated the EEOA (*Flores v. Arizona*, 172F. Supp. 2d 1225, D. Ariz. 2000). Six months later, both parties signed a legally binding Consent Order, which ‘acquired the same force and effect as a judgment and became judicially enforceable’ (Hogan, no date: 6).

Funding inadequacies were at the heart of the *Flores* case because of their disparate impact on low-income school districts. Nonetheless, the Court’s decision had important implications for the kinds of curricular programs that districts implemented for their English learners, as well as the kind of instruction occurring within those programs. Lack of funding prevented districts from providing ELLs ‘with a program of instruction calculated to make them proficient in speaking, understanding, reading, and writing English, while enabling them to master the standard academic curriculum as required of all students’ (*Flores v. Arizona*, 48 F. Supp. 2d. 937).

The Consent Order squarely addressed this issue with three specific mandates for ELL instruction (*Flores v. Arizona*, Consent Order, CIV 92-596 TUC ACM: 4–5):

- (1) English language learners must receive daily instruction in English language development (ELD). The English language instruction shall be appropriate to the level of English proficiency and shall include listening and speaking skills, reading and writing skills, and cognitive and academic development in English.
- (2) ELLs must receive daily instruction in basic subject areas that is understandable and appropriate to the level of academic achievement of the limited English proficient student, and is in conformity with accepted strategies for teaching LEP students.
- (3) The curriculum of all bilingual education and ELD shall incorporate the [State] Board’s Academic Standards and shall be comparable in amount, scope and quality to that provided to English proficient students.

The implications of these mandates were clear. If English language learners had to receive English as a second language instruction together

with comprehensible content area instruction *in the same classroom*, ELD ‘pull-out’ programs were no longer an appropriate means of supporting English language learners. Because pull-out programs were now illegal (at least in theory), all teachers in Arizona potentially were SEI teachers, regardless of content area or grade level.

How the state board of education defines a ‘highly qualified’ SEI teacher

The Arizona State Board of Education quickly grasped the significance of the Consent Order. Before passage of Proposition 203, the State had offered two specialty endorsements for teachers working with English language learners: an ELD endorsement (18 credit hours, or 6 classes) and a bilingual endorsement (21 credits hours, or 7 classes). The Flores Consent Order now made it necessary for school districts to consider how all teachers in the state could become ‘highly qualified’ to teach students acquiring proficiency in English. The State Board convened a series of meetings with ADE officials, teachers, administrators, and university teacher educators to consider requirements for the qualifications of ELL teachers.

Along with school district and university colleagues, I participated in one of these meetings. We argued that at minimum, ELL teachers should obtain an ELD endorsement to best prepare them for working with students acquiring English as a second language (we suggested that the Board could even rename it as an SEI endorsement). We were troubled that the Board had proposed a new SEI endorsement of only 15 hours (1 credit) and felt that a one-credit course was simply insufficient time in which to prepare teachers to become highly qualified educators of English language learners. We argued that 15 hours could not possibly cover the pedagogical, theoretical, linguistic, socio-cultural, assessment or literacy issues involved in the education of English learners, all subjects in which highly qualified ELL teachers should be knowledgeable. From our perspective, it made little sense for the Board to select an SEI endorsement of 1 credit over an ELD endorsement of 18 credits, if the Board’s goal was to help teachers become highly qualified.

The State Board compromised and established an SEI endorsement of 60 hours, or 4 credits (1½ classes), in effect, minimizing the importance of obtaining a specialist endorsement over a more generic one. Of the different endorsement options available, the State Board simply voted to support the least demanding plan (Mahoney *et al.*, 2005). The new endorsement required all individuals with a K–12 Arizona teaching certificate to complete the 1 credit hour course by August 1, 2006, and subsequently, a 3 credit hour by

August 1, 2009. The Board compromise also required any teacher seeking a certificate after August 1, 2006 to complete two SEI courses, or a total of 6 credits.

Universities and community colleges began to create courses focused on sheltered content teaching strategies. At the University of Arizona, where I am an instructor, we have designed SEI courses to address the instructional requirements of the Consent Decree, that is, courses that include a focus on both basic subject area instruction *and* English language development (ELD). SEI courses instruct teachers in principles of first and second language acquisition, the socio-cultural context of ELL education in the Southwest and borderlands, students' cognitive, linguistic, and social development, the role of culture in the classroom, English as a second language and thematic and sheltered instructional approaches to second language teaching in academic settings.

A funding roller coaster

While universities and school districts organized SEI teaching training programs, the Arizona State Legislature had a different agenda. The Flores Consent Order appeared to have little effect on the legislature, which took its time meeting the Court's requirement to provide more funding to school districts. Nearly two years after the *Flores* decision, and only because of additional prodding by the District Court, the legislature agreed to fund a cost study to determine the amount of funding necessary to adequately fund ELL programs. In February of 2001, the Arizona Department of Education contracted the Center for Equal Opportunity and the READ Institute, two well-known opponents of bilingual education, to undertake the task.⁶ Three months later, ADE released the 'English Acquisition Program Cost Study', which identified per pupil costs in six English immersion programs in Arizona, Pennsylvania, Texas and Washington State (Porter, 2001). The cost of educating English language learners in these programs ranged from \$0 to \$4600, a range so vast as to be comparatively unhelpful (Arizona Senate Research Staff, 2008).

In June of 2001, the District Court ordered the legislature to raise its minimum level of funding per English learner to a more realistic amount, that is, one that considered the actual costs needed to help students become fluent in English. This order notwithstanding, the legislative session came to an end without any action. Indeed, it was doubtful the legislature had ever intended to take action (Hogan, no date). The plaintiffs then filed a motion for yet another deadline, which the Court granted. The new deadline date was January 31, 2002, or at the conclusion of any earlier legislative session

'called for any other purpose' (Hogan, no date: 10, emphasis added). Tim Hogan, attorney for the plaintiffs, noted further ironies:

As it turns out, the legislature was called into special session by the Governor in December 2001 for a purpose unrelated to *Flores*. Rather than face sanctions from the Court, the legislature enacted legislation that addressed the judgment in *Flores* but only on an interim basis. The interim legislation, House Bill 2010, was premised on the notion that the state still did not have reliable cost data to establish appropriate funding levels for ELL programs. Given the data that was available, the legislature determined that doubling ELL funding was appropriate until more reliable cost data could be obtained. (Hogan, no date: 10)

The resulting temporary legislation raised the funding appropriation per English language learner – from approximately \$179 to \$340. HB 2010 also appropriated additional money for teacher training, instructional materials and another cost study (Arizona Senate Research Staff, 2008), although it postponed the deadline for the study for another two and a half years.

Not surprisingly, the *Flores* plaintiffs argued that like the earlier figure of \$150, the new total of \$340 was arbitrary and capricious. The District Court agreed and ordered the state to complete the second cost study by January 1, 2003 and by June to have complied with the Court order by producing a funding plan that actually satisfied the findings of the cost study (Arizona Senate Research Staff, 2008; Hogan, no date). The State returned to District Court, arguing that the new total did in fact satisfy the January 2000 ruling. This time however, the Court accepted HB 2010, perhaps hoping that the State would finally address its obligations to English language learners. This particular ruling also ordered the State to complete the second cost study by August 2004 so that the legislature could address whatever recommendations the study made in its January 2005 legislative session.

The contract for the second cost study was awarded to a less partisan entity, the National Conference of State Legislatures (NCSL). NCSL conducted a survey of 39 school districts across the state, of which 18 responded, to determine the costs of their ELL programs. This time the difference in ELL program expenditure ranged from \$670 to \$2571 per pupil. The figures were still widely divergent, but all 18 districts reported they spent more than the \$340 appropriated by the state legislature (Arizona Senate Research Staff, 2008; Hogan, no date). The legislature responded with HB 2718, which provided a temporary increase in 'Group B' weight funding for English language learners, and created an English language learner 'task

force'. But the bill also declared 'grave concerns' about the validity and reliability of the NCSL cost study because the study relied upon the judgments of educational professionals to identify ELL strategies, 'rather than research that actually shows a linkage between the strategy and student performance' (HB 2718, Sec. 17A, Intent). Instead of raising the amount of funding for English language learners, the legislation funded the development of cost effective 'research based models of structured English immersion.' The bill was unequivocal in stating that until the task force developed these models, the legislature would be unable to determine the costs of implementing ELL programs (HB 2718, Sec. 17C, Intent). According to Hogan, HB 2718 provided an increase of only \$75 per English learner, and after one year would be eliminated altogether (Hogan, no date). Governor Janet Napolitano vetoed this bill in May 2005, proposing an alternative version that increased the funding level to \$1289 per English language learner. Tim Hogan described what happened next:

The legislative majority's reaction to the Governor's proposal was instantaneous. The Speaker of the House declared that Arizona would become 'Mexico's best school district north of the border.' Other legislators denied that the state had any responsibility for educating non-citizens and insisted that children born in the United States to parents who had immigrated illegally were not citizens despite the U.S. Constitution's explicit language to the contrary. One legislator suggested that the children 'should be deported, along with their parents'. (Hogan, no date: 16)

Million dollar fines

After five years of noncompliance with the original consent order, the judge in this protracted legal drama was increasingly frustrated by the legislature's recalcitrance. In late 2005, after yet another motion by plaintiffs to force a funding resolution, Judge Raner Collins quipped that he 'might have to jail the governor and legislative leaders to secure proper funding for English-language learners' (Fischer, 2005: A1). Hogan, doubtful about the Court's ability to do this, suggested that incarceration would only work if the governor and legislators were put in the same cell and told they would not be released until they resolved the funding dilemma. Less drastic, but possibly more effective, according to Hogan, would be to withhold more than \$500 million in federal highway funds allotted to the state (Fischer, 2005; Judge gives Arizona education ultimatum, 2005; Scutari, 2005).

Ultimately, the Judge imposed a series of fines against the State, beginning with \$500,000 a day for every day after the beginning of the 2006 legislative session. The fines would increase to \$1,000,000 a day if the legislature still had not complied within 30 days of the lower fine amount; then \$1,500,000 and \$2,000,000 million a day until the State met its funding mandate. In the strongly worded Order for sanctions, Judge Collins expressed his frustration with the State:

The Court can only imagine how many students have started school since Judge Marquez entered the Order in February 2000, declaring these programs were inadequately funded in an arbitrary and capricious manner that violates ELL students' rights under the EEOA. How many students may have stopped school, by dropping out or failing because of foot-dragging by the State and failure to comply with the original Order and compliance directives such as the Order issued on January 28, 2005? Plaintiffs are no longer inclined to depend on the good faith of the Defendants or to have faith that without some extraordinary pressure, the State will ever comply with the mandates of the respective Orders issued by this Court. (*Flores v. Arizona*, 'Order W,' 2005: 3)

The legislature scrambled to pass *something*, which minimally raised the Group B weighted funds but also included extraneous corporate tax credits for private school vouchers. Governor Napolitano vetoed this bill, calling the legislature into special session; the very next day, it passed an *identical* bill, but one which imposed a \$50 million cap on the corporate tax credits (Arizona Senate Research Staff, 2008). After the governor vetoed this bill as well, the legislature passed HB 2064. By this time, the court ordered fines totaled \$21 million. The governor did not veto this bill but refused to sign it. Some of HB 2064's provisions eventually took effect, but the funding saga continues in court, at least as of this writing. Ultimately, HB 2064 profoundly altered the way that school districts were serving English language learners in SEI classrooms.

SEI 'models': Super pullout?

Like earlier ELL funding legislation, HB 2064 authorized an English Language Learners Task Force, which among other duties was charged with 'developing and adopting research-based models of structured English immersion' (HB 2064, 15-756.01.C)⁷ The legislative mandate to establish 'research-based models' was an ironic one given that state officials had touted the SEI model – with its combined sheltered content and ELD instruction – as

Table 4.1 Arizona ELLs task force SEI models

<i>AZELLA Pre-emergent & emergent</i>	<i>AZELLA basic level</i>	<i>AZELLA intermediate level</i>
<i>For the Elementary Grades (K-5)</i>		
45 minutes Oral english	30 minutes Oral english	15 minutes Oral english
60 minutes Grammar	60 minutes Grammar	60 minutes Grammar
60 minutes Reading	60 minutes Reading	60 minutes Reading
60 minutes Vocabulary	60 minutes Vocabulary	60 minutes Vocabulary
15 minutes Pre-writing	30 minutes Writing	45 minutes Writing

the most effective means of curing limited English proficiency. The new models ordered a minimum of four hours per day of ELD and limited a student’s participation in the program to a period ‘not normally intended to exceed one year’. According to the Task Force, English language development instruction would focus on phonology, morphology, syntax, vocabulary and semantics. In effect, the Task force transformed SEI classrooms into four-hour grammar blocks. With the typical school day comprising 6 to 6½ hours per day, four hours of English grammar instruction is a significant portion. Table 4.1 indicates how the Task Force conceptualized the blocks for the elementary grades (K-5). The learners’ English proficiency levels, as measured by the Arizona English Language Learner Assessment (AZELLA) instrument, determine the amount of time they receive oral English development and writing instruction.

Scheduling of the four hour grammar blocks at the middle and high school levels are relatively similar (Table 4.2).

Table 4.2 Arizona ELLs task force SEI models

<i>AZELLA Pre-emergent & emergent</i>	<i>AZELLA Basic level</i>	<i>AZELLA Intermediate level</i>
<i>For the Secondary Grades (6–12)</i>		
60 minutes Conversational english and academic vocabulary	60 minutes Conversational english and academic vocabulary	2 hours Language arts
60 minutes English reading	60 minutes English reading	
60 minutes English writing	60 minutes English writing	60 minutes Academic english reading
60 minutes English grammar	60 minutes English grammar	60 minutes Academic writing and grammar

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The 'time-on-task' principle

One justification for such a prescriptive approach, according to state officials, was that districts were not providing enough direct instruction in English to ELLs and that schools implemented too many different programs. A uniform approach to ELL education was therefore necessary to ensure students acquired enough English in one year to master other subjects (Kossan, 2007). Another explanation for the new approach was based on the 'time-on-task' or 'maximum exposure' principle, that is the belief that the more time students spend learning something the better they will learn it.

Time-on-task principles underlie much of the traditional opposition to bilingual education (see, e.g. the time-on-task arguments against bilingual education in Chavez, 1991; Clark, 2000; Epstein, 1977; Imhoff, 1990; Porter, 1990; Rossell, 1990; Walberg, 1986). With regard to the acquisition of English, time-on-task principles advance three general assumptions: (1) that immersion in English is more effective than other alternatives; (2) that immersion settings will enable English language learners acquire the language in one or two years; and (3) that young children are ideally suited for immersion because they are better at learning languages than older children or adults (and therefore immersion should begin as early as possible) (Baker, 1998; Porter, 1990, 2000; Siano, 2000).

In Arizona, time-on-task assumptions fundamentally underlie imposition of the four-hour English language development block. The notion that more exposure to English will yield greater fluency in English reflected the attitudes of the majority of members of the ELL Task Force created by H.B. 2064. Alan Maguire, an economist and investment banker and head of the Task Force, justified the state's approach this way: 'More time on task. That's a tried-and-true educational standard. If you want to learn how to play the piano, what do they tell you to do? They tell you to practice' (quoted in Kossan, 2007: A1).

As noted earlier, the time-on-task adage seems logical and likely makes sense to many individuals, including members of the ELL Task Force. However, second language acquisition is a much more complex process. The relative speed of English acquisition as well as the degree of proficiency acquired by English learners depends on many factors, including importantly, how one actually defines *proficiency*. Applied linguists and second language acquisition researchers generally agree that there are different dimensions of English proficiency and that children acquire these dimensions at different speeds. For example, children tend to acquire *social* or conversational language more rapidly than *academic* language. The former is aided by numerous contextual clues, like nonverbal communication in face-to-face interactions, visual or graphic support in a classroom, and is generally thought to less

cognitively demanding (Cummins, 1996). Academic language, on the other hand, is characterized by fewer contextual clues and relies on more advanced knowledge of English vocabulary, word order, grammar and pragmatics, or knowing how to act and interact in the second language in different environments (Kasper & Roever, 2005; Wong Fillmore & Snow, 2000). On average, English language learners tend to acquire social language in one to three years and academic language in four to seven years (Hawkins, 2005).⁸

Children's acquisition of English also depends on other variables, for instance, whether they can read and write in their first language (which has implications for their acquisition of written English), whether their parents are educated and literate in the home language (and thus able to assist their children in first language literacy development⁹), or whether children receive first language support in an instructional program at school. Students' socio-economic status may also intervene either positively or negatively as a predictor of student achievement, according to several researchers (Hakuta *et al.*, 2000; Krashen, 1996). With regard to a time limit on support for English language acquisition, children from working class families 'are the ones who on average are learning English more slowly and thus would be most . . . adversely affected by a time limit policy, whether it be one, two, three years or more' (Hakuta *et al.*, 2000: 14).

The belief that young children are better at learning a second language than older children and adults also has been contradicted by research in second language acquisition (Collier, 1987, 1988; Hakuta *et al.*, 2000). Young children tend to pick up the social aspects of language relatively quickly and to acquire the language with a native or native-like an accent. Together, these accomplishments may provide the impression that children are fluent in English, but it is not 'the elaborate, syntactically and lexically complex code of the proficient language' (Van Lier, quoted in Hakuta *et al.*, 2000: 2).

No research base for the four-hour language blocks

At one of the ELL Task Force meetings, university researchers pointed out the lack of a research base to justify placing students into a segregated language block. A better approach was to teach English through content subjects, and English grammar should be embedded in context and not taught as a separate phenomenon. They argued for fewer restrictions on the use of students' first languages within the SEI model, and reiterated the positive connection between the academic development of the first language and acquisition of the second language.¹⁰

Discussion about the need for research justifying the four-hour block occurred from time to time among task force members themselves. One exchange took place on March 14, 2007 between two members, Johanna

Haver, a former high school ELD teacher, and Eugene Garcia, the only university-based researcher on the task force.¹¹ Garcia was arguing about the need to back up the proposed four-hour block with research supporting its effectiveness in both language acquisition and academic achievement. Haver appeared to argue that the lack of a research base for the new policy was a moot point, because state law required the four-hour block regardless:

Haver: I just wanted to point out to Dr Garcia that . . . we do have to follow policy, whether we like it or not.

Garcia: [I've got] no problem with that.

Haver: And the policy has certain principles to it that you have to accept, whether you like it or not.

Garcia: I'll say the same thing about research, whether you like it or not, it tells us something about how kids learn, whether you like it or not. Many times we can make it fit into the policy, but we can't ignore it. That's what I'm saying.

Haver: I'm with you completely . . . but we do have differences on principles of learning a second language that the policy pretty much limits, for instance, bilingual education.

Garcia: Yeah, I'm not arguing that at all, but I would certainly argue that we have to lean on whatever policy is good for kids. That's really what our job is.

The lack of a research base for the four-hour block was a serious criticism of Arizona's English language learning policy. Thus it was probably not surprising that shortly after this exchange a literature review justifying the time on task approach to English language teaching appeared on the Arizona Department of Education Website.¹² Drawing largely from time on task studies, the review argued that more exposure to English would logically facilitate proficiency in the language. The review's credibility was challenged in an analysis by Krashen, Rolstad and MacSwan (this volume) because it did not include research that considered the instructional use of students' native languages to aid acquisition of English, and because the studies it cited were based on research with fluent English speakers, not English language learners.

A Prescriptive Teaching Methodology for a Prescriptive Model: The 'Discrete Skills Inventory'

In November of 2006, the English Language Learner Task Force heard a presentation by Kevin Clark, a California-based education consultant and

supporter of the four-hour English Language Development block. Clark argued that instruction within the block should focus on the ‘discrete skills’ aspects of language, that is, phonology, morphology, syntax and vocabulary, because English learners had to learn *about* English before they could effectively learn content *in* English. In a later article justifying the ELD block, Clark reiterated that the central focus should be language itself, ‘its rules, uses, forms, and application to daily school and non-school situations’. Academic content played a supporting but subordinate role; English learners had to have a strong understanding of the English language before they were taught grade-level content (Clark, 2009: 3).

Over the following year, Clark spoke at many task force meetings. A dominant theme in his presentations was the urgent need to ‘accelerate’ the acquisition of English. Because state law specified a one-year time frame for students to learn English, he proposed a methodology that ostensibly would accomplish this: the *Discrete Skills Inventory* (DSI). Designed as ‘a sequential series of English language skills’, the DSI was a method teachers could use in conjunction with the state English Language Proficiency Standards and the Arizona English Language Learner Assessment instrument (AZELLA). As Clark noted at one of the meetings: ‘if the ELL Proficiency Standards are the freeway for gaining English proficiency on AZELLA, then discrete skills are the surface roads’ (ELL Task Force meeting minutes, May 3, 2007). The DSI thus would provide students with the grammatical foundations they needed to achieve proficiency in English:

The skills presented in the DSI make lesson planning easier for teachers. Using the DSI, teachers can fashion lesson plans and implement classroom activities that provide their students with an understanding of the parts of speech, how they combine to form phrases and sentences, and the overarching structure of the English language. For example, if students are expected to describe items in the classroom, they need first to be taught certain parts of speech such as nouns, adjectives, verbs, as well as how to conjugate verbs, and then learn how to assemble different types of words in proper grammatical order. (*Discrete Skills Inventory*, n.d.: 1)

The task force ultimately adopted the DSI as the prescribed methodology for ELD teachers, with consistent objection from only two of its members.¹³

The Arizona Department of Education subsequently organized DSI training sessions for teachers and administrators in which trainers emphasized the prescriptive nature of the methodology. First, *language* itself was

Table 4.3 English language development components

<i>ELD components:</i>	<i>Non-negotiable SEI model components</i>
<ul style="list-style-type: none"> • Phonology: Speech, sounds • Morphology: Parts of words, prefixes, suffixes and roots (base), verb tenses. • Syntax: Grammar, Sentence structure, language rules • Vocabulary <ul style="list-style-type: none"> ○ Lexicon: Collection of words you know ○ Semantics: Meaning of words or sentences 	<ul style="list-style-type: none"> • ELLs not mixed with non-ELLs during ELD • Provide four (4) hours of ELD per the SEI Models • Group by proficiency • HQ Teacher • ELP standards
<i>ELD is . . .</i>	<i>Principles for accelerating English language learning</i>
<ul style="list-style-type: none"> • NOT a math lesson • NOT a science lesson • NOT a social studies lesson • NOT optional in an SEI classroom 	<ul style="list-style-type: none"> • Error correction • English only in the classroom • Complete sentences • 50/50 Rule

Source: Arizona Department of Education (2009a), Office of English Language Acquisition Services, Administrator's Model Implementation Training, <http://www.ade.az.gov/oelas>. Accessed 6.07.10.

narrowly defined as comprising five discrete, inter-dependent elements that had to be taught overtly (phonology, morphology, syntax, lexicon and semantics). Second, the four-hour ELD blocks and the segregation of ELLs from non-ELLs within them were non-negotiable, and third, grouping students by proficiency levels (rather than by age or grade levels) was mandatory. Finally, ELD block teachers were to adhere to the following principles for accelerating the learning of English: error correction, English only in the classroom, complete sentences, and the 50/50 rule (teachers speak 50% and students speak 50%). Table 4.3 presents information contained in a Slide Show part of a June 9, 2009 Administrator's training by the Arizona Department of Education); they spell out the non-negotiability of the models.

Failure to Adopt the SEI Models

Most recently, the Department issued a 'zero tolerance' memorandum to school districts ordering rigid compliance with the ELD block adopted by the English Language Learner Task Force (Arizona Department of Education, 2009b). The memorandum stated unambiguously that 'good faith efforts' to implement the four-hour grammar block were unacceptable, and that nothing short of full compliance would be tolerated. The memorandum also

threatened the legal sanctions originally introduced in Proposition 203 (and now state law):

Any school board member or other elected official or administrator who willfully and repeatedly refuses to implement the terms of this statute [ARS 15-752 and 15-753] may be held personally liable for fees and actual and compensatory damages by the child's parents or legal guardian, and cannot be subsequently indemnified for such assessed damages by any public or private third party. Any individual found so liable shall be immediately removed from office, and shall be barred from holding any position of authority anywhere within the Arizona public school system for an additional period of five years.

The timing of the memorandum and the Department's heavy-handed reiteration of sanctions is not surprising given well publicized defiance of the ELD block by several school districts (Fischer, 2008; Sánchez, 2008a, b). In early 2008, the Sahuarita Unified School District publically rejected the state order, fearing it would violate students' civil rights. School officials stated that placing English learners in the four-hour blocks would be discriminatory if they were prevented from receiving the same curriculum as other students (Sánchez, 2008a). The Tucson Unified School District governing board also had been critical of the state order and explored the legal ramifications of ignoring it. Stated one of the members, 'We could send a real message and say we are not going to do it, so sue us.' After being told the district's funding would be jeopardized, the board voted under protest to approve the four-hour English Language Development Blocks (Sánchez, 2008b).

Discussion

How *folk theories* about language acquisition have become *fact* in the State of Arizona

As noted above, state ELL policy (based on Proposition 203) includes several false statements about how children acquire a second language. That these statements sound logical to the uninformed does not make them accurate. Nor does their ubiquitous presence in state government discourse and directives give them credibility. For example, the State Office of English Language Acquisition Services (OELAS) has a website that provides administrative forms, announcements, links to policy and legal documents and training materials. School districts can access these materials as they wish. One of the documents available is a 107-slide PowerPoint presentation called

‘Nuts and Bolts,’ which OELAS staff has used in periodic seminars throughout the state.¹⁴ The presentation explains state policy mandates as deriving from case law (*Lau v. Nichols*, *Castañeda v. Pickard*, *Flores v. Arizona*), Proposition 203 and House Bill 2064. Only two slides reference research in any form: the first states that the Task Force ‘identified critical research based components on which to build the models’. The second slide

lists four broad principles which ostensibly justify the four-hour English Language Development block, but without attribution: (1) English is fundamental to content area mastery; (2) Language ability based grouping facilitates rapid language learning; (3) Time on task increases academic learning; and (4) a discrete language skills approach facilitates English language learning (Office of English Language Acquisition Services, ‘Nuts & Bolts,’ slides #39 & #40). Another slide, titled ‘One Year to Proficiency,’ advances the idea that students can become fluent in English in one year through prescriptive means¹⁵:

One (1) year to proficiency

Task Force charged to produce models that will lead to proficiency in one (1) year

- Demands PRESCRIPTIVE models;
- Prescriptive curriculum developed in DSI;
- Prescriptive time allocations;
- Prescriptive class content;
- Prescriptive training.

Arizona Department of Education, Office of English Language Acquisition Services, Administrator’s Model Implementation Training, <http://www.ade.az.gov/oelas>.

Arizona language policy: The reification of *things which are not*

In Swift’s fable of the Houyhnhnms, Gulliver converses with his mentor about life among the Yahoos (humans). He is forced to invent all manner of lexical circumlocutions to convey the meaning of behavior completely unfamiliar to the Houyhnhnms. These strenuous discourses focus mostly on the commission of crimes and the practice of certain vices. Such an endeavor takes several days to accomplish, but eventually he manages:

To clear up which I endeavoured to give him some ideas of the desire of power and riches; of the terrible effects of lust, intemperance, malice and envy. All this I was forced to define and describe by putting of cases, and

making suppositions. After which, like one whose imagination was struck with something never seen or heard of before, he would lift up his eyes with amazement and indignation. (Swift, 2003 [1726]: 244)

Comparing Arizona language policy to crimes and vices might be a stretch. Yet there is undeniably a Gulliverian feel to the discourse of Proposition 203 and the policy documents arising from the Flores case. The paradox is that the text of the proposition, once expressed as part of a vaguely worded measure later approved by voters, is now codified in the Arizona Revised Statutes as law. And as law, the statements – misleading and false though they may be – have become part of the official state discourse about the education of English language learners. And as official discourse, *cum* law, these statements have become fact.

I would also argue the presence of legal *things which are not* in Arizona language policy. For example, state education officials have used the *Castañeda v. Pickard* decision to justify segregating English learners into four-hour English language blocks. They specifically invoke the Court's finding that grouping children into 'language remediation programs is unobjectionable . . . so long as such a practice is genuinely motivated by educational concerns and not discriminatory motives'. Officials also routinely remind us that the *Castañeda* Court gave school systems free reign to 'employ ability grouping, even when such a policy has a segregative effect' (*Castañeda v. Pickard*, 648 F.2d 989; 1981).

Indeed, *Castañeda* authorizes a degree of latitude in school district selection of instructional programs for English language learners. School systems also can decide whether to teach language and content *simultaneously* or *sequentially*. However, the legal reasoning in the case is far more nuanced and cautionary. For one, the Court acknowledged the claim that 'pressing English on the child is not the first goal of language remediation'. For another, the Court also affirmed that the Equal Educational Opportunities Act imposed upon school systems an obligation to 'provide limited English speaking ability students with assistance in other areas of the curriculum where their equal participation may be impaired because of deficits incurred during participation in an agency's language remediation program'. In other words, the 'appropriate action' school districts undertake to help English language learners overcome language barriers must be 'reasonably calculated to enable these students to attain parity of participation in the standard instructional program within a reasonable length of time after they enter the school system' (*Castañeda v. Pickard*, 648 F.2d 989; 1981).

The Arizona state legislature and education officials may believe that one year is a reasonable length of time for ELLs to acquire enough English to perform well in the mainstream classroom, but no one familiar with the

research on second language learning and teaching does. There is still no evidence that children can learn a second language well in just one year, regardless of the approach used. As noted earlier, the typical public school day is approximately 6 – 6½ hours, and four hours of English language development instruction is a significant portion. If the rest of the day is divided between lunch, recess and math (the other assessed content area on the state’s high stakes test), there is little time for science, social studies, music or art. State Education documents make plain that English learners will remain in SEI/ELD classrooms until they reach the ‘proficient’ level on the state’s proficiency test.¹⁶ If students do not achieve proficiency in one year, however, they could remain segregated in remedial classrooms a second, third, even fourth year.

Let us return for a moment to the ‘time on task’ argument made by members of the ELL Task Force. One of the Task Force members suggested that learning English was like learning to play the piano, that is, the more one practices, the more skilled one becomes. While logical, maximum exposure to English in a short amount of time does not result in full acquisition of English. The applied linguistics literature is clear about this. Still, there is an equally powerful argument to be made against the blanket imposition of ELD policies for all English language learners in the state. Consider, for instance, that practicing the piano for hours and hours may lead *some* students to virtuosity, but it could just as easily frustrate and discourage others. What if two students were forced to practice in the same way for four hours a day? What if one student had an aptitude for music but poor dexterity? What if the other had a Steinway Baby Grand rather than an upright? Or a family with the economic means to afford lessons from a concert pianist? What if one student preferred baseball? Or the other came to the lesson hungry? What if both students were the same age but different in their maturity levels?¹⁷ And so on. The point is that a ‘one size fits all’ model for any discipline is counterproductive. It may ultimately be harmful. In the end, like Gulliver’s Houyhnhnm mentor, we can only react with amazement and indignation.

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Notes

- (1) Pronounced ‘hwi-hn’m’ (Oxford English Dictionary, 1989), an onomatopoeic combination of letters meant to resemble the whinnying of a horse.
- (2) In addition to ballot initiatives regulating the language of instruction in public schools were others covering a wide range of topics, including teacher salaries,

charter schools, vouchers, testing, curriculum content, funding, school start dates, affirmative action and so on.

- (3) The measures passed in California, Arizona and Massachusetts and failed in Colorado.
- (4) From the Findings and Declarations of Proposition 203: ‘Young immigrant children can easily acquire full fluency in a new language, such as English, if they are heavily exposed to that language in the classroom at an early age.’ Now officially part of Arizona Revised Statutes, Title 15, Section 752: English Language Education: ‘Children who are English learners shall be educated through sheltered English immersion during a temporary transition period not normally intended to exceed one year (Arizona Revised Statutes, Title 15, Section 752: English Language Education).
- (5) The U.S. District Court, District of Arizona certified the class in August of 1997, defining it as ‘all minority “at risk” and limited English proficient children (LEP), now or hereafter, enrolled in Nogales Unified School District (NUSD), as well as their parents and guardians’. As a class action lawsuit that challenged the State of Arizona’s school funding formula, the Court at trial determined that the State had failed to provide adequate funding for minority at risk LEP students ‘attending public school systems in districts like NUSD’. (*Flores v. Arizona*, 48 F. Supp. 2d. 937: 2).
- (6) At the time of the cost study, CEO was headed by Linda Chavez, former President of U.S. English, a national organization dedicated to making English the official language of the US. The READ Institute was funded by U.S. English (Crawford, 2008).
- (7) The English Language Learner Task Force was composed of nine members, three of whom were appointed by the Superintendent of Public Instruction, two appointed by the governor, two by the President of the Senate, and two by the Speaker of the House. Of the nine individuals, only one had extensive research expertise in the education of English language learners: Arizona State University professor and College of Education Dean Eugene Garcia.
- (8) These are estimates. Some researchers posit that the acquisition of social language actually requires up to three years, and even from three to five years (Hakuta *et al.*, 2000).
- (9) Steve Krashen (1996) calls this phenomenon ‘de facto bilingual education’, that is, when students learn English at school but continue to develop L1 literacy at home.
- (10) Richard Ruiz from the University of Arizona, Christian Faltis from Arizona State University, and Norbert Francis from Northern Arizona University. They spoke at the November 20, 2006 Task Force meeting. The minutes of that meeting are available on-line at <http://www.ade.az.gov/ELLTaskForce/2006/minutes/11-20-06-MinutesELLTaskForce.pdf>. Last accessed 21.06.10.
- (11) The entire meeting is streamed on the Arizona State Government website: http://azleg.granicus.com/MediaPlayer.php?view_id=3&clip_id=731. Last accessed 2.06.10.
- (12) ‘Research Summary and Bibliography for Structured English Immersion Program Models,’ available on-line at <http://www.ade.az.gov/oelas/downloads/modelcomponentresearch.pdf>. Last accessed 2.06.10.
- (13) Dr Eugene Garcia, from Arizona State University, and Dr John Baracy, Superintendent of Scottsdale Unified School District.
- (14) Available from the website of the Arizona Department of Education, <http://www.ade.state.az.us/oelas>. Last accessed 2.06.10.
- (15) Retrieved 4 November 2009 from <http://www.ade.state.az.us/oelas>. Last accessed 2.06.10.

- (16) Nuts and bolts: Structured English Immersion models, round #1. Powerpoint slides #45 & 46. Online document: <http://www.ade.state.az.us/oelas>. Accessed 5 June 2010.
- (17) I thank Sal Gabaldón for suggesting this useful analogy.

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