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UNITED STATES DISTRICT COURT

12

NORTHERN DISTRICT OF CALIFORNIA

13

**SAN FRANCISCO**

14

VALERIA G., through her parent ) Case No. C98-2252 CAL  
and next friend YOLANDA G., et )  
15 al., ) DECLARATION OF

16

Plaintiffs, ) - CHRISTINE H. ROSSELL

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v.

18

PETE WILSON, in his official ) Date: July 15, 1998  
capacity as the Governor of the ) Time: 2:30 p.m.  
19 State of California, et al., ) Courtroom: 10

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Defendants. ) [Honorable Charles A. Legge]

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1 DECLARATION OF CHRISTINE H. ROSSELL

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3 I, Christine H. **Rossell**, declare and state:

4 1. I am a Professor in the Political Science at Boston University. I have been a faculty  
5 member at Boston University since 1975 and chairman of the department from 1992-95, as  
6 well as a Visiting Professor at Duke University in 1977, the University of California at  
7 Berkeley in 1981, and Canberra College in Australia in 1985. I have served on advisory  
8 boards of the U.S. Commission on Civil Rights and the Department of Education, and **have**  
9 been appointed to the National Review Panel on School Desegregation Research and the  
10 Citywide Coordinating Council in Boston. I have served as an expert for the parties or the  
11 court in 33 educational equity court cases, including two bilingual education cases (*Teresa P.*  
12 *et al. v. Berkeley Unified School District* and *Quiroz v. Orange Unified School District*). I  
13 have published four books, most recently *Bilingual Education in Massachusetts: the Emperor*  
14 *Has No Clothes* (co-authored with Keith Baker) in 1996, 49 articles (10 in the field of bilingual  
15 education) and 41 technical reports to government agencies and courts since receiving my  
16 Ph.D. from the University of Southern California in 1974. Exhibit B attached hereto is a true  
17 and accurate copy of my professional Vita. I have reviewed all the research, and the federal  
18 district court cases, on bilingual education in preparation for writing my first article on  
19 bilingual education in 1983 (published in 1986) and in preparation for my recent book  
20 published in 1996. In addition, I have personally visited and observed more than 100 bilingual  
21 education classrooms in numerous school districts in California, Massachusetts, and  
22 Minnesota. I am familiar with the practice of bilingual education in California over the last  
23 decade as well as the legislation, regulations, and policies of the State Department of Education  
24 regarding bilingual education.

25 2. My work has been cited frequently and is one of the four reviews of the research  
26 synthesized in the National Research Council Report cited by the experts in this case. I am  
27 frequently invited to appear at symposia on the effectiveness of bilingual education, most  
28 recently at the **American** Education Research Association Meetings in San Diego where I

1 appeared on a panel with Kenji Hakuta, Fred **Genesee**, and Catherine Snow to debate “Primary  
2 Language Instruction: Programs and Promises.”

3 3. My declaration will cover my opinions and the research on which these opinions are  
4 based with regard to whether Proposition 227 meets the requirements of **Castañeda** and State  
5 Board Policy (July 14, 1995) standards that educational programs for LEP children must 1) be  
6 based on a sound educational theory, 2) be adequately supported, and 3) achieve results--that is  
7 overcome English language barriers to educational success. My conclusion is that Proposition  
8 227 meets this test. It is based on a sound educational theory, it can be adequately supported  
9 within the current fiscal limitations of school districts in California, it is likely to produce  
10 better results than bilingual education and school districts can be held accountable for results in  
11 the same way that they are held accountable today for achieving results.

12 4. There are four basic approaches to teaching Limited-English-Proficient (LEP) students  
13 that are in widespread use throughout California and the U.S. : 1) “sink-or-swim,” also called  
14 submersion or “doing nothing;” 2) transitional bilingual education; 3) structured immersion,  
15 called “sheltered English” immersion in Proposition 227, and 4) ESL pullout.

16 5. In “sink-or-swim” Limited-English-proficient children are placed in a mainstream  
17 classroom with no special help at all other than what **the** classroom teacher can provide. Even  
18 today, a **sizeable** percentage of LEP children in California and the U.S. are in sink-or-swim  
19 situations. Most immigrant children in countries around the world are in “sink-or-swim”  
20 situations because it is believed by many educators that the benefits of integration and language  
21 role modeling by fluent speakers of the language in this situation outweigh the costs of the  
22 initial non-comprehensibility of the curriculum when the student literally knows nothing of the  
23 language of the country.

24 6. Transitional bilingual education (**TBE**) contains the following essential elements: 1)  
25 LEP children learn to read and write in their native tongue; 2) LEP children learn subject  
26 matter (math, science, social studies, etc.) in their native tongue; 3) LEP children are taught  
27 English for some portion of the day; and 4) when the child is literate in their native tongue and  
28 proficient in English, he or she is transitioned to all-English instruction. All of these elements  
29 must be there for the program to produce the benefits theorized by the advocates. Transitional

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<sup>1</sup> Section 11.64, American **Educational** Association **Annual** Meeting, San Diego, CA, April 14, 1998.

1 bilingual education is only practiced in the U.S. It is neither pedagogically respected outside  
2 the U.S. -the few experiments having produced dismal results-nor considered a fiscally  
3 prudent approach.

4 7. Structured immersion/sheltered English immersion/sheltered subject matter is similar to  
5 transitional bilingual education in the sense that LEP children are placed in a protected  
6 environment-a self-contained classroom consisting of LEP children taught by a teacher  
7 trained in second-language acquisition techniques. However, in a sheltered English immersion  
8 classroom, instruction is in English, but at a pace the child can understand. There may be a  
9 small bit of native tongue instruction in the program, but so long as the children are taught to  
10 read and write in English and taught subject matter in English and the native tongue instruction  
11 is only a small supplement to the English program, the program is structured immersion.

12 Sheltered English immersion is based on a sound educational theory-that comprehensible  
13 time-on-task is the single greatest predictor of achievement in a language and in subject matter  
14 that one will be tested on in that language. These programs have been practiced since the early  
15 1960's all over California and the U.S. (where they are called "bilingual," EDL, sheltered  
16 subjects, and SDAIE), Canada (where they are called "French Immersion" or "Early Total  
17 Immersion"), and the world (where they are called newcomer schools, reception classes, etc.).  
18 They are thus hardly experimental and undeveloped. Indeed, given the fact that only the U.S.  
19 practices bilingual education as a strategy to learn a second language, it is bilingual education  
20 that is experimental and undeveloped!

21 8. The final program is called ESL pullout. For the LEP child it consists of mainstream  
22 classroom enrollment for most of the day, accompanied by a pullout program of small class  
23 instruction in English-as-a-Second Language. This pullout program ranges in instructional  
24 time from an hour a day to an hour a week, depending on the need of the students and the  
25 school district's resources. Sometimes the ESL class is taught in a corner of the mainstream  
26 classroom rather than a separate room, but it is nevertheless a departure **from** the mainstream  
27 instruction for these children.

28 9. School districts do not accurately identify their programs for a variety of reasons and  
29 this only confuses the public debate. First, this is an extremely complex subject and school  
30 districts do not care about consistency in labeling programs. Second, there are fiscal, political,

1 and legal incentives to label as “bilingual” any program for LEP children of the same **ethnicity**  
2 taught in a self-contained classroom by a teacher of the same **ethnicity**, even if the children are  
3 taught to read and write in English and the language of instruction is English.

4 10. There are programs in California and all over the U.S. called “Chinese Bilingual”  
5 programs that are taught almost entirely in English. Indeed, in the decade that I have been  
6 observing bilingual classrooms throughout the U.S, I have never seen one taught in Chinese  
7 according to the theory-that is students learning to read and write in their native tongue--and I  
8 have seen only one school where the teacher even used a Chinese dialect in instruction.  
9 Children are not taught to read and write in Chinese because there are no teachers in the U.S.  
10 so crazy as to think that the skill of learning to read and write in Chinese, an **ideographic**  
11 language that bears no resemblance to English, is transferable to English. There are also no  
12 textbooks for the U.S. K-12 market written in Chinese. In addition, it is rare for a teacher to  
13 be able to teach orally in Chinese because there is no oral Chinese language. Spoken Chinese  
14 consists of dozens of dialects, and so the teacher would only be able to teach in Chinese if all  
15 the students in the classroom spoke the same dialect. Even in the rare occurrence when the  
16 teacher and all the students do speak the same dialect, the students will still learn to read and  
17 write in English and all their subject textbooks will be in English. Even if they receive some  
18 Mandarin instruction as was the case in the Berkeley School District’s Chinese “bilingual”  
19 program at Jefferson **Elementary**,<sup>2</sup> this does not make it a bilingual program since the Mandarin  
20 is not the primary language of the students nor of instruction. Thus, virtually all of the  
21 Chinese bilingual programs are structured immersion.

22 11. In fact, bilingual education according to the theory is only offered in languages that  
23 have a roman alphabet because the transferability of reading skills is too small to justify the  
24 effort if the primary language is a non-roman alphabet language. For example, I can read  
25 fluently in English, but I cannot read in Russian, Arabic, Hebrew, Chinese, Japanese, **Hindi**,  
26 or any other non-Roman alphabet language. I can only read in Roman alphabet languages.

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<sup>2</sup>I have evaluated the Berkeley bilingual program and published the results in “The Effectiveness of Educational Alternatives for Limited English Proficiency Children,” in Gary Imhoff (ed.), The Social and Cultural Context of Instruction in Two Languages: From Conflict and Controversy to Cooperative Reorganization of Schools. (New York: Transaction Books, 1990). I have also evaluated the bilingual programs in San Jose and **Oakland**, and the **results** are in reports.

<sup>3</sup> Although there is no spoken Chinese language, there is a written Chinese language.

1 The bilingual education theory is absolutely silent on the non-applicability of its theory to **non-**  
2 Roman alphabet languages. So the “bilingual” program teachers of LEP children with **non-**  
3 Roman alphabet languages just quietly subvert the policy and teach these LEP children to read  
4 and write in English in what are really structured immersion programs. The LEP children who  
5 are taught to read and write in English, most of them Asian, are the most academically  
6 successful language minority children in the school systems of California and the U.S.

7 12. Not even all Roman alphabet language LEP students receive bilingual education. For  
8 all practical purposes, bilingual education according to the theory is only offered to **Spanish-**  
9 speakers because Spanish is the only roman alphabet language with enough speakers of a single  
10 language or dialect (Spanish has no dialects) to fill a classroom and the only Roman alphabet  
11 language where there are a reasonable number of bilingual certified teachers in the language.  
12 It is also the only language with a **sizeable** number of intellectuals (all of them fluent in English  
13 and educated in all-English programs) who demand native tongue instruction for political  
14 reasons.

15 13. Thus, the plaintiffs are absolutely wrong when they say that the current system was one  
16 where an individual assessment determined whether it was necessary to provide each student  
17 with substantive academic instruction through the use of her primary **language...and** typically,  
18 students enrolled in bilingual education programs represented the least English-proficient  
19 students enrolled in a district” (p. 4, lines 10-14 of **Memorandum**).<sup>4</sup> The current system was  
20 one where only Spanish-speakers were placed in true bilingual educational programs and  
21 speakers of other languages were placed in all-English classrooms, some of them **sink-or-**  
22 swim, some of them ESL, and some of them sheltered (SDAIE) classes (occasionally labeled  
23 bilingual education). Indeed, as the plaintiffs themselves admit,**only** 30 percent of the LEP  
24 students in California were receiving bilingual education(p. 4, line 4 of Memorandum)-which  
25 makes the tone of hysteria in their brief obviously absurd. How can total chaos result from  
26 eliminating bilingual education when less than 30 percent? of the LEP children are receiving it?  
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<sup>4</sup> Plaintiffs “**Memorandum** of Points and Authorities in Support of Motion for **Preliminary** Injunction” July 15, 1998, in the case of **Valeria G. et al. v. Pete Wilson, et al. (No. C 98-2252** CAL), hereafter called Memorandum.

<sup>5</sup> Actually less than 30 percent are in true bilingual education because only the Spanish bilingual education programs are bilingual according to the theory.

14. Table 1

STAFF PROVIDING PRIMARY LANGUAGE INSTRUCTION IN CALIFORNIA,  
1997

Language	Roman Alphabet	Primary Language Literacy First	LEP Students	Bilingual Teachers	LEP/Bil. Teacher Ratio
Spanish	YES	If resources permit	1,107,186	14,410	77
Vietnamese	YES	No	45,530	85	536
Cantonese	No	No	25,714	248	104
Korean	No	No	15,884	38	418
Pilipino/Tagalog	YES	No	20,844	4	5211
Portuguese	YES	No	2,492	16	156
Mandarin	No	No	10,397	16	650
Japanese	No	No	4,970	4	1243
Cambodian	No	No	19,981	5	3996
Lao	No	No	9,212	4	2303
All Others			1,226,369	14,545	84
TOTAL			1,381,393	14,965	92

[Source: State Department of Education, Language Census Report for California Schools, 1997; www.cde.ca.gov]

As shown in Table 1, it would not be possible even for 'all Spanish-speaking LEP students to be in a bilingual program even if they were all in the same school district, since the ratio of Spanish bilingual teachers to Spanish LEP students is 77 to 1. None of the other languages even come close to having enough bilingual teachers to teach in the students' native tongue.

15. I am not the only one to notice that only the Spanish speakers are receiving bilingual education according to the theory. McDonnell and Hill (1993) also take note of this:

Because of the lack of bilingual teachers in the Southeast Asian languages, instructional strategies differ at the Visalia newcomer center for Spanish-speaking and Southeast Asian students. The Spanish speaking students are taught for half the day in their native language, while the Southeast Asian students are taught entirely in English using language development techniques(p. 94).<sup>6</sup>

16. In short, the current system is one of ethnic apartheid, not one of uniform and consistent standards as the plaintiffs claim. It is one where only Spanish-speakers get bilingual

1 education according to the theory. LEP students of other languages and **ethnicities** receive  
2 instruction in English and have been for decades and no one seems to be upset. The interesting  
3 question is why? Why is it a calamity if LEP Spanish-speakers do not receive instruction in  
4 their native tongue. Why have the plaintiffs never complained about the lack of native tongue  
5 instruction for the speakers of other languages? The plaintiffs are silent on this issue-their  
6 approach is to pretend that the ethnic apartheid does not exist because to acknowledge it raises  
7 troubling questions.

8 17. Are the Spanish-speaking LEP students receiving a superior education by being taught  
9 to read and write in their native tongue? Keith Baker and I are the only two people in the US.  
10 who have actually read and evaluated all the research on bilingual education.’ We have read  
11 over 500 studies, classified 300 of them as program evaluations in the sense that they intended  
12 to evaluate the effectiveness of a bilingual education program, and then further classified them  
13 into scientific and unscientific studies.<sup>8</sup> The scientific studies were characterized by a treatment  
14 and a comparison group and a statistical control for pre-treatment differences between the  
15 students in the two programs if there was no random assignment to the groups (which there  
16 almost always was not).

17 18. **TBE v. Sink-or-Swim.** This research, with the percentages shown in Exhibit A  
18 attached to this declaration, indicates that for second language reading (or oral comprehension  
19 for preschool and kindergarten students), 22 percent of the studies show transitional bilingual  
20 education to be superior, 33 percent show it to be inferior, and 45 percent show it to be no

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<sup>6</sup> Lorraine M. McDonnell and Paul T. Hill. 1993. Newcomers in American Schools: Meetine the Educational Needs of Immigrant Youth. Santa Monica, CA: Rand Corporation.

<sup>7</sup> Rossell and Baker. Bilingual Education in Massachusetts: the Emperor Has No Clothes. Boston, MA: Pioneer Institute, 1996. Rossell and Baker. “The Educational Effectiveness of **Bilingual** Education,” Research in the Teaching of English, February 1996, 30 (1): 7-74.

<sup>8</sup> There are two recent reviews of research that come to somewhat different conclusions from ours, but neither review is as comprehensive. There is a report by the National Research Council (NRC)--Diane August and Kenji Hakuta (eds.), Improving Schooling for Language-Minority Children. Washington, D.C.: the National Academy Press, 1997; and a report by Jay Greene, ‘A Me&Analysis of the Effectiveness of Bilingual Education,’ Claremont, CA: **Tomás Rivera** Institute, 1998. The NRC report referred to by plaintiffs’ experts was a review of reviews. The panel members did not read all the program evaluations on bilingual education, but instead focused on a few studies and research reviews, including Rossell and Baker. The **meta-analysis** by Jay Greene, a newcomer to bilingual education research, reviewed only the 72 (or 75 depending on how they are counted) studies that we found to be scientific. He eliminated all but one of the studies of structured immersion on grounds that are unrealistic and would eliminate virtually all educational evaluations published in referred professional journals. He was left with 11 scientific studies. In short, neither of these reviews is comprehensive.



1 different from sink-or-swim--that is, doing nothing. In a standardized achievement test of  
2 language, a test of a student's understanding of grammatical rules, transitional bilingual  
3 education does even worse than it does in reading. Seven percent of the studies show  
4 transitional bilingual education to be superior, 64 percent show it to be inferior, and 29 percent  
5 show it to be no different from submersion-doing nothing. All but two of these studies are of  
6 Spanish-speakers so Kenji Hakuta's suggestion in his declaration that programs using English  
7 "tend to be in populations different from the immigrant population served in California  
8 programs" is simply false.

9 **19.** In math, nine percent of the studies show TBE to be superior, 35 percent show it to be  
10 inferior, and 56 percent show it to be no different from TBE. Altogether 91 percent of the  
11 studies show it to be no different or worse than the supposedly discredited sink-or-swim  
12 approach in developing math proficiency.

13 **20. TBE v. ESL.** In seven studies, transitional bilingual education is specifically compared  
14 to reading achievement in the regular classroom with ESL pullout. None of these studies show  
15 TBE to be better than ESL pullout in reading. Five studies (71 percent) show no difference  
16 between transitional bilingual education and ESL in reading, and two studies (29 percent) show  
17 TBE to be worse than the regular classroom with ESL pullout. Of the three studies that  
18 examined language achievement, none showed TBE to be superior, two showed no difference  
19 between TBE and ESL, and one showed TBE to be worse. Of the four studies that examined  
20 math, one showed TBE to be superior, two showed no difference, and one showed TBE to be  
21 worse. Again, virtually all of these studies are of Spanish-speakers.

22 **21. TBE v. Structured Immersion.** We also compared TBE to structured (i.e. sheltered)  
23 immersion. Most, but not all, of these studies come from the Canadian immersion programs  
24 which come in several carefully documented types--early total immersion (late bilingual) which  
25 is the dominant model; delayed immersion (early bilingual) which was implemented to test the  
26 validity of the U.S. model, dual immersion which was developed so students could be  
27 immersed in two foreign languages, and so forth. In many cases, we had to "translate" the  
28 programs into U.S. terminology. The important point to remember, however, is that although  
29 all of the programs eventually became bilingual, they are defined as structured immersion if  
30 that was the only characteristic of the program up to the point when the students were tested.

1 It is irrelevant that the program became bilingual *after* the time the students were tested if our  
2 goal is to determine whether an immersion program is **successful**.<sup>9</sup> Thus, Hakuta confuses the  
3 issue when he states that “virtually all of the programs which have been evaluated also use the  
4 child’s primary language to assist with the instruction of the child,” (p. 2, lines 22-23) because  
5 the child’s primary language was not the language of instruction in the immersion programs  
6 until *after the* child was fluent in the second language and only then because it was the national  
7 language. In the U.S. immersion programs, it was sometimes a small supplement, that is, the  
8 language was studied for its own value, but academic content was always delivered in English.  
9 Moreover, the child’s primary language was not used in instruction in any of the sink-or-swim  
10 programs nor in any of the ESL programs that have been evaluated.

11 22. Hakuta is also wrong when he says “there are virtually no programs that have as a  
12 central thesis the essential withdrawal of all instruction in a child’s own language” (p. 2, lines  
13 25-26). The programs that included the “**child’s own** language” did so as an enrichment or  
14 because it was the language of the country. It was not the means of learning the second  
15 language or subject matter.

16 23. The immersion model described in Proposition 227 sounds pretty much like the  
17 description of the programs that have been going on in Canada and the U.S. for three decades.  
18 Here is the description of the program in Canada from a summary chapter in an edited book.”

19 The French immersion program that initially evolved was *early total immersion* (ETI)  
20 and was designed to: (a) capitalize on children’s apparent ability to learn language  
21 incidentally and apparently effortlessly...During the first three years of the **ETI**  
22 program (kindergarten to grade two), *all* [emphasis added] classroom instruction is  
23 presented exclusively in French by teachers with native or native-like competence in  
24 French. Thus, the children are taught to read, write, spell and do mathematics in  
25 French, their second language, *before* [emphasis added] they are taught these skills in  
26 English. During kindergarten and the first few months of grade one, emphasis is  
27 placed on developing listening comprehension skills in French.. The teachers are  
28 instructed to use French *at all times* [emphasis added] with the pupils, except during  
29 emergencies (p. 34).

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<sup>9</sup> Because English is the native tongue of these students and the dominant language in Canada, the parents did not want their students to lose English. After the students were fluent in French, English language arts, that is their native tongue, was introduced into the curriculum around grade 2, the third year of the program or later.

<sup>10</sup> Fred Genesee. 1984. “French Immersion Programs,” 33-54 in Stan Shapson and Vincent D’Oyley, (eds.) *Bilingual and Multicultural Education: Canadian Perspectives*, Clevedon, England: *Multilingual Matters*.

1 24. Here is a description of the structured immersion programs for Spanish-speakers that  
2 Ramirez, et al. (1991) studied (in two anonymous Texas school districts and two anonymous  
3 California school districts):

- 4 (a) Teacher uses L2 [English] exclusively for instruction; teacher's use of **L1** [native  
5 tongue] is informal, such as giving or clarifying directions.
- 6 (b) Content areas are used to teach L2.
- 7 (c) L2 is used to teach content.
- 8 (d) Students are free to use **L1** among themselves and with teacher.
- 9 (e) Teacher is bilingual, speaking.
- 10 (f) Children are mainstreamed into English-only programs as soon as they have  
11 demonstrated proficiency in English.. .
- 12 (g) There is a limited primary language component (p. 39)' <sup>1</sup>

13  
14 These structured immersion programs sound like the program described in Proposition 227.

15  
16 25. **Genesee**<sup>12</sup> reviews the results of early total immersion compared to late immersion (e.g.  
17 transitional bilingual education in the U.S.) and concludes:

18 In summary, the results of the French language testing of **ETI** students indicate that:  
19 . .the immersion students acquire "native-like" or near native-like proficiency in  
20 decoding French...and reduction in the use of French as a language of instruction  
21 [when the program becomes bilingual] appears to decrease the second language  
22 proficiency of participating students.. (p. 40). .the Ottawa results indicate that there is  
23 an advantage associated with early second**language** instruction. Instruction beginning  
24 in kindergarten, as it does in early immersion, makes available 12 to 13 years of  
25 schooling during which second language learning can take place. This contrasts with  
26 the 5 to 7 years that are available if second language instruction begins in grade seven  
27 or eight, as is customary for most late immersion programs. A corollary advantage  
28 associated with extended second language exposure in school is the opportunity for  
29 extended use of the language outside school.. **This** type of exposure is likely to be  
30 particularly important since it has been found that individuals who begin second  
31 language learning in childhood in natural settings generally achieve higher levels of  
32 proficiency in the long term that those who begin in adolescence or adulthood (p. 44).

33  
34 26. Swain and **Lapkin**<sup>13</sup> similarly summarize three decades of research on Canadian  
35 language programs with regard to second language achievement:

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<sup>11</sup> Ramiret, J., Yuen, S., Ramey, D., and Pasta, D. (1991) *Final Report: Longitudinal Study of Structured English Immersion Strategy, Early-Exit and Late-Exit Transitional Bilingual Education Programs for Language-Minority Children*. Vol. 1, prepared for U.S. Department Education, San Mateo, CA: Aguirre International, 1991.

<sup>12</sup> **Genesee**, 1984, *supra* note 10.

<sup>13</sup> Merrill Swain and Sharon **Lapkin**. 1982. Evaluating Bilingual Education: a Canadian Case Study. Clevedon, England: Multilingual Matters.

1 In view of the difference in accumulated instructional hours, it is not surprising that  
2 the late immersion students (in both programs) obtain scores well below those of the  
3 two early immersion comparison groups (both total and partial) on these tests (p. 45).  
4  
5

6 27. This research is dismissed by advocates of bilingual education in the U.S. as being  
7 appropriate for middle class students. but not the poor immigrants of the U.S. But the  
8 research indicates that social class is not an impediment to benefiting from structured  
9 immersion. Genesee<sup>14</sup> summarizes the research on the effects of French immersion on lower  
10 socio-economic students and on learning disabled students:

11 In sum, the extant research evidence indicates that children from lower socio-  
12 economic backgrounds can benefit from participation in an ETI [Early Total  
13 Immersion] program without apparent risk of native language deficits or academic  
14 difficulties. These findings are consistent with those previously reviewed for  
15 academically and linguistically disadvantaged children in demonstrating that students  
16 who might otherwise tend to do relatively poorly in school are not differentially  
17 handicapped in an immersion program(p. 49).  
18

19 28. Of course, these very same researchers will, because they must survive in the  
20 politically correct world of education and linguistics, disclaim these findings for Hispanics in  
21 the U.S. Although they will say that immersion is inappropriate for students who have a  
22 subordinate language, they do not even mean that since: nobody seems to be bothered by the  
23 fact that Asian, African, and European students are receiving sink-or-swim, ESL pullout, or  
24 structured immersion, all of them speakers of subordinate tongues and two of them also ethnic  
25 minorities. It is really just the Hispanics that they want to learn to read and write in their  
26 native tongue. No one is advocating having poor Chinese students learn to read and write in  
27 Chinese before they learn to read and write in English. Indeed, Lilly Wong Fillmore's  
28 research on what she calls successful "bilingual" programs for poor Chinese students in San  
29 Francisco describes the programs in such a way that it is clear that she is talking about a  
30 structured immersion program. Table 3(p. 3 17) in one published article" shows the teacher in  
31 the so-called Chinese "bilingual" class in San Francisco using English 92 percent of the time in  
32 whole-class instruction and the students using English 96 percent of the time responding to the  
33 teacher, six months after they started the year non-English-speaking. Indeed, as she puts it,

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<sup>14</sup> Genesee, 1984, *supra* note 10.

1 “nearly as much English is used by the bilingual teacher as by the English monolingual  
2 teacher” (p. 321). The students learned to read and write in English, although they also  
3 receive a lesson in Chinese reading and writing as an enrichment. In my opinion, this program  
4 would be acceptable under Proposition 227. Indeed, everything that Fillmore writes about the  
5 benefits of “bilingual” education is actually about the benefits of “structured immersion.”

6 **29.** Hakuta cites only one **project**--“Case Studies in Bilingual Education”--for his claim that  
7 “There can be no doubt that when implemented properly, bilingual education works” (p. 4,  
8 line 10). He even quotes statistics from this project that he claims in his declaration show how  
9 successful a properly implemented study can be:

10           Nevertheless, the program treatment did demonstrate measurable success. By 1986-  
11           87, after five years of the project, the median scores for the 3,500 children in these  
12           five schools had significantly surpassed district norms in English, reading, writing,  
13           and mathematics (p. 4, lines 19-21).<sup>16</sup>

14  
15 **30.** However, in his declaration he neglects to mention that in his NRC report he had  
16 declared the very same study to not be worthy of publication in a refereed journal:

17           The project was never designed to be an evaluation, and funding that might have been  
18           used for evaluation was cut. Nonetheless, there have been attempts to document the  
19           effectiveness of this bilingual project; see especially the studies presented in Krashen  
20           and Biber (1988). Yet, results of these studies are presented with very little  
21           documentation. For example, sample sizes are frequently not presented for the means  
22           given, and often there are no controls for socioeconomic status. As presented, the  
23           studies would not stand the test of evidence if they were submitted to a peer-reviewed  
24           journal. To their credit, Krashen and Biber (1988) admit the data do not “rigorously  
25           test” (p. 31) the effectiveness of bilingual education, but others have ignored these  
26           qualifications (p. 148).<sup>17</sup>

27  
28 Apparently these others who ignore these qualifications now include him.

29  
30 **31.** Although plaintiffs’ experts claim that access to the core curriculum will be diminished  
31 by a sheltered English immersion class, this obviously cannot be true. First, one of the  
32 plaintiffs experts, Kathryn Lindholm, devotes her entire declaration to describing the success  
33 of the two-way bilingual education programs where Anglo children apparently effortlessly

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<sup>15</sup> Lilly Wong Fillmore. 1980. “Learning a Second Language: Chinese Children in the American Classroom,”  
Georgetown University Roundtable on Language and Linguistics, 164, 309-325.

<sup>16</sup> Declaration of Kenji Hakuta, May 30, 1998, in the case of *Valeria G. et al. v. Pete Wilson, et al. (No. C 98-2252 CAL)*.

<sup>17</sup> See Hakuta and August (1997) fn. 7 *supra* note 8.

1 learn to read and write in Spanish **before they** learn to read and write in English, and they learn  
2 subject matter in Spanish. Indeed, her declaration contradicts completely the declarations of  
3 plaintiffs' other experts who claim that children will not have access to the core curriculum if  
4 they are not taught in their native language. In fact, this is obviously preposterous since  
5 currently 70 percent of LEP students are being taught in English and they are the most  
6 successful students in the state in math, a core curriculum subject.

7 32. As Swain and Lapkin<sup>18</sup> summarize several decades of research on this subject in the  
8 Canadian immersion programs: "The fact that academic achievement can be maintained at  
9 expected levels when the subject is taught in French leaves open the choice of subjects **to be**  
10 taught in that language "(p. 69).

11 33. The results of our systematic research review, shown in Exhibit A, comparing  
12 structured immersion to transitional bilingual education show no studies where TBE is superior  
13 to structured immersion in reading, language, or math. In reading, 83 percent of the studies  
14 showed TBE to be worse than structured immersion and 17 percent showed no difference. In  
15 language, the one study showed no difference. In math, five studies showed no difference and  
16 three studies showed TBE to be worse than immersion. The one study (Ramirez, et al. 1991)<sup>19</sup>  
17 that found no difference between structured immersion and early-exit bilingual education  
18 overestimates the benefit of bilingual education since 15 percent of the early-exit bilingual  
19 education students were classified as fluent-English proficient (FEP) upon entering the  
20 program compared to none of the immersion students. In addition, about ¼ fewer bilingual  
21 education students were tested than immersion students. Thus, the scientific research on this  
22 subject overwhelmingly indicates that sheltered or structured immersion is superior or at worst  
23 equal to transitional bilingual education.

24 34. These results probably overestimate the benefit of bilingual education and underestimate  
25 its harm for two reasons. First, these are all early-exit bilingual programs, which is one of the  
26 reasons why these students even have English language test scores. Early-exit bilingual  
27 programs transition the students to English reading and writing very early in the program. It is  
28 the long-term or maintenance bilingual programs that have received most of the criticism and

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<sup>18</sup> Swain and Lapkin. (1982) *supra* note 12.

<sup>19</sup> Ramirez, et al. (1991), *supra* note 1 1.

1 that are vigorously promoted by advocates as the ideal. The one scientific evaluation of a  
2 maintenance bilingual education programs found that after three years from kindergarten  
3 through the end of second grade, 16 percent of the students in the maintenance bilingual  
4 programs had made no progress in English **whatsoever**.<sup>20</sup>

5 35. The second reason why these studies overestimate the benefit and underestimate the  
6 harm of bilingual education is that there are differences in the rate of testing between the  
7 programs being compared. Testing of special needs students, including limited-English-  
8 proficient students, is by teacher discretion. This is a big problem for educational evaluation  
9 because if teachers are allowed to decide who is ready to be tested, it is not possible to tell if  
10 the program is failing students because failing students will not be tested. At the time we did  
11 our review of the research, we assumed that non-testing of LEP students was roughly constant  
12 across programs being compared. However, it turns out we were wrong-there is a much  
13 higher rate of non-testing for bilingual programs; In a recent evaluation of their bilingual  
14 education program, the Los Angeles Unified School District presented data in a February 18,  
15 1998 press conference, later revised in a March 4, 1998 report,\*' that showed that among  
16 Spanish-speaking students who had been in the bilingual program for five years, 1/3 did not  
17 know enough English to take the test whereas all the Spanish-speakers in the all-English  
18 program were deemed to know enough English to take the test.

19 36. Recent data from a 54 percent Hispanic school district of 17,000 students in California  
20 confirms both the Los Angeles Unified School District's study showing that students in  
21 bilingual education are tested at much lower rates than LEP students in all-English programs  
22 and our research review's finding that they are often less successful academically. This  
23 particular school district has been named an exemplary school district by the State Department  
24 of Education and is one of the exemplary programs in the Case Studies Project because  
25 students in the Spanish bilingual program learn to read and write in Spanish according to the  
26 theory. In the Spring of 1997, the Spanish-speaking LEP students, 83 percent of whom are in  
27 bilingual programs, tested at the 13" percentile, whereas the non-Spanish speaking LEP

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<sup>20</sup> Rossell and Baker, "Response," Research in the Teaching of English, October 1996, 30 (3): 70-86 (symposium).

<sup>21</sup> **Rueben** Zacaria. 1998. 'Clarification of English Academic Testing Results for Spanish-Speaking LEP Fifth Graders,' Report to the Los Angeles Board of Education, March 4.

1 students, who are in ESL pullout and SDAIE programs (some of them called bilingual), tested  
2 at the 24<sup>th</sup> percentile. This differential is not due to differences in social class because the %  
3 on free or reduced lunch for the non-Spanish speaking LEP students is 19 percent whereas it is  
4 only 13 percent for the Spanish-speaking LEP students. Thus, controlling for social class  
5 would only increase the disparity favoring the non-Spanish LEP students. In addition, the  
6 disparity is further underestimated by the fact that 83 percent of the non-Spanish LEP students  
7 were tested whereas only 36 percent of the Spanish LEP students were tested. So in this  
8 particular district, the Spanish bilingual program students have lower test scores than the  
9 students in the all-English programs although the Spanish-speakers would be expected to have  
10 higher test scores because they are of higher social class and only the most successful are  
11 tested.

12 37. My evaluation of the Berkeley Unified School District's programs for LEP students  
13 found that in the first year when there was very little native tongue used in the bilingual  
14 education program, there was no difference between the achievement of LEP students in the  
15 bilingual program and LEP students in the mainstream classroom.<sup>22</sup> After the State  
16 Department of Education put pressure on the district to increase the amount of native tongue  
17 instruction in their bilingual program, the bilingual students did significantly worse in reading,  
18 language, and math on the CTBS. Thus, increasing the native tongue instruction for these  
19 students, most of whom were born in this country, reduced access to the core curriculum.

20 38. Indeed, the reduction in access to the core curriculum is an unacknowledged problem  
21 with bilingual education. Since bilingual education students go to school for the same hours as  
22 students in mainstream classrooms, trying to wedge Spanish language arts into a **fixed** school  
23 day means reducing the time spent on English, social studies, science, and math. The Ramirez  
24 et al. (1991) study<sup>23</sup> found that the early-exit bilingual education students spent 29 percent less  
25 time in kindergarten, 24 percent less time in first grade, 19 percent less time in second grade,  
26 and 18 percent less time in third grade on the core subjects than the immersion students. The  
27 late-exit bilingual education students spent 43 percent less time in kindergarten, 39 percent less  
28 time in first grade, 36 percent less time in second grade, 28 percent less time in third grade,

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<sup>22</sup> Christine Rossell. 1990. "The Effectiveness of Educational Alternatives for Limited-English-Proficient Children," in G. Imhoff (ed.), Learning in Two Languages, New Brunswick, NJ: Transaction Publisher.

<sup>23</sup> See Ramirez et al (1992) *supra* note 11.



1 and 22 percent less time in fourth grade on the core subjects **than** the immersion students.  
2 Thus, whatever advantage one gains from having the core curriculum explained in your so-  
3 called “**primary**” language is offset by the reduced instructional time that of necessity must  
4 come about because of the need to squeeze Spanish language arts into a **fixed** day. It is also  
5 offset by the fact that because of logical problems with classifying students as LEP and having  
6 a non-English “**primary**” language, some unknown percentage of students classified as LEP are  
7 more fluent in English than in Spanish. This is why I have put quotation marks around the  
8 word primary and why in this declaration I try to use the word native tongue rather than  
9 primary language. It is easier to determine a student’s native tongue (the language they first  
10 spoke) than it is their primary language.

11 39. To summarize, the first prong of the **Castañeda** test has been met. Sheltered English  
12 immersion is based on a sound educational theory—the comprehensible time-on-task theory—  
13 supported by many experts in the field of **bilingual** education. It has been widely implemented  
14 throughout the world and is highly respected.

15 40. The classification of a student as LEP and thus in need of bilingual education or some  
16 other special program is a huge problem. There is widespread and extensive misclassification  
17 because determining English language fluency is extremely difficult. The procedures used by  
18 school districts in California and **throughout** the U.S. over-identify students **from** language  
19 minority families as LEP and this is particularly dangerous when the student is being taught in  
20 their so-called “primary” language. Some unknown number of Hispanic children in California  
21 are being taught in Spanish who do not know it at all or do not know it very well and who are  
22 more fluent in English than they are in Spanish. Thus, the guidelines and mechanisms used by  
23 the state and the school districts did not serve to properly identify, assess, and serve students  
24 as the plaintiffs claim (p. 6, lines 3-5 of Memorandum). Ironically, uniformity and consistency  
25 make these procedures worse, not better.

26 41. As the plaintiffs note (fn. 5, p. 4 of Memorandum) the typical guidelines required 1) a  
27 home language survey to determine if a language other than English was used at home, 2) an  
28 assessment of English comprehension, speaking, reading, and writing, and 3) an assessment to  
29 determine primary language proficiency if *the student was a Spanish-speaker and if the school*  
30 *district has enough Spanish speakers to run a Spanish bilingual program (See CCR 4304, 4305*

1 and 4306). The qualification I have added--that a primary language proficiency test was done  
2 only for Spanish-speakers--is left out of the plaintiffs' brief because the plaintiffs have been  
3 silent on the ethnic apartheid that actually exists under the current system.

4 42. The problem with the assessment in English comprehension, speaking, reading, and  
5 writing is that the standards found in the state regulations and used by school districts cannot  
6 tell the difference between students who do not understand English and students who do not  
7 know the answer. For example, oral English proficiency tests ask questions of students that  
8 require that the student not only know English, but understand and remember the question and  
9 have the self-confidence to stand up to a stranger when the question is not understood. They  
10 also have arbitrary cutoff scores. Language proficiency forms a continuum ranging from no  
11 proficiency to full proficiency, but school districts select an arbitrary point on this continuum  
12 to decide when a student is "limited-English-proficient." There is general agreement that  
13 language proficiency tests are unreliable and invalid despite the fact that they are used  
14 everywhere.

15 43. Illustrative of the problem is a study of relative language proficiency among Hispanic  
16 students by Duncan and De Avila (1979) conducted in California.<sup>24</sup> A majority (54) of the 101  
17 students classified by the Language Assessment Scales (LAS) as limited or non-proficient in  
18 Spanish in their sample were also classified as limited or non-proficient in English. Of the 96  
19 students found to be limited or non-proficient in English, less than half (42) were found to be  
20 proficient Spanish speakers.

21 44. Ulibarri, Spencer and Rivas (1980)<sup>25</sup> investigating the comparability of three oral  
22 English proficiency tests used in California (the LAS, BSM, and BINL) concluded that  
23 language classification is a function of the particular test used with each test identifying  
24 different numbers of eligible students. Studies by Gillmore and Dickerson (1979), Cervantes  
25 (1982) and Pelavin and Associates (1987) found similar results. They also found that the lack  
26 of agreement in classification is greatest when the student knows some English.

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<sup>24</sup> Duncan, S., and De Avila, E. 1979. "Relative Language Proficiency and Field Dependence/Independence at 39." Boston, MA: Paper presented at the annual meeting of TESOL.

<sup>25</sup> Ulibarri, D., Spencer, M. & Rivas, G. 1980. "Comparability of Three Oral Language Proficiency Instruments and Their Relationship to Achievement Variables." Report submitted to the California State Department of Education.

1 45. Berdan et al. administered the Language Measurement and Assessment Instrument  
2 (LM&AI) to Cherokee students at the request of the Cherokee Nation which wanted to  
3 determine the need for Cherokee bilingual education.<sup>26</sup> Through home interviews, Berdan et  
4 al. found that 82 percent of the Cherokee students were English monolinguals. The LM&AI,  
5 however, classified 48 percent of these monolingual English-speaking children as LEP  
6 presumably in need of instruction in Cherokee so they could improve their English. In 1984,  
7 the U.S. Department of Education had the LM&AI administered to a nationally representative  
8 sample of monolingual English speaking school-aged children. The test classified 42 percent  
9 of them as LEP (US Bureau of the Census Data, 1984).

10 46. A similar experiment in Chicago suggests that the problem of overinclusiveness of the  
11 tests is not limited solely to low achieving students. The Chicago Board of Education  
12 administered the Language Assessment Scales (LAS)--a test used widely throughout the U.S.--  
13 to students who spoke only English and were above the citywide ITBS norms in reading.<sup>27</sup>  
14 Almost half of these monolingual, above average, English speaking children were misclassified  
15 as non-or-limited English speaking. Moreover, there is a developmental trend. Seventy eight  
16 percent of the English monolingual five year olds, but only 25 percent of the 14 year olds were  
17 classified as LEP.

18 47. I am also familiar with a particular instance of misclassification. In 1988, the principal  
19 of an elementary school in the Berkeley Unified School District, upset over the State  
20 Department of Education's compliance review, decided not to wait for the results of the home  
21 language survey before testing students. She tested all new Spanish-surname students in her  
22 school with the IPT, an oral proficiency test used widely in California. The five year old child  
23 of a professional Hispanic family in Berkeley was administered the oral proficiency test in this  
24 mass testing. Although he knows no language other than English, he failed the oral  
25 proficiency test, was classified as limited-English-proficient, and assigned to the Spanish  
26 bilingual program. When the family received the notice, the mother called the school,  
27 informed them of their mistake, and after a heated discussion was allowed to withdraw her

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<sup>26</sup> Berdan, R., et al. 1982. "Language Among the Cherokee, Patterns of Language Use in Northeastern Oklahoma, Part 1, The Preliminary Report." Los Alamitos, CA: National Center for Bilingual Research.

<sup>27</sup> Perlman, C. & Rice, W. 1979. "A Normative Study of a Test of English Language Proficiency." San Francisco, CA: Paper presented at the annual meeting of the American Educational Research Association.

1 child from the bilingual education program. But what if the mother had not been a **fluent-**  
2 English-speaker and an assertive professional who understood what was happening? There is a  
3 very good chance that this child would have been assigned to the Spanish bilingual program  
4 and taught in a language he did not know. A year later this same child who at age 5 had been  
5 classified as LEP by an oral proficiency test, was classified as “gifted” on the basis of a  
6 standardized achievement test. Thus, it is possible for a gifted child to fail an oral English  
7 proficiency test and be classified as LEP!

8 48. To summarize, the research evidence indicates that language proficiency tests are  
9 unreliable and invalid and there is a good deal of disagreement between the different types,  
10 particularly when the students tested speak some English. The tests overidentify students as  
11 LEP because they cannot tell the difference between a student who does not know English and  
12 a student who does not know the answer.

13 49. If a child passes an oral proficiency test, they often are administered a standardized  
14 achievement test in order to meet the California Code of Regulations (CCR) **4305’s**  
15 requirement that “once a pupil has been determined to be a pupil of limited English proficiency  
16 on the basis of his or her English language skills, the pupil’s ability to comprehend, speak,  
17 read and write in his or her primary language shall also be assessed, to the extent assessment  
18 instruments are available in order to determine the language of basic skills instruction.” The  
19 reliance on standardized achievement tests and the assumption that they are a superior means of  
20 identifying students who need bilingual education is evident in the court decisions over the last  
21 decade. The CCR in section 4306 (i) suggests the 36th percentile and in section 4306 (ii)  
22 between the 31” and 35” percentile<sup>28</sup> as an appropriate classification and redesignation  
23 criterion, as well as other standards, including a district developed standard. The problem  
24 with this is that standardized tests are designed to produce a normal curve in which 36 percent  
25 of the English monolingual population of students will score at or below the 36th percentile.  
26 Therefore, a minimum of 36 percent of the students identified by the home language survey to  
27 be tested could be misclassified as LEP by standardized tests even if they passed the oral  
28 proficiency tests and were fluent in English.

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<sup>28</sup> The lower criterion is permissible “provided that the school district’s language appraisal team, with the pupil’s parents’ or guardians’ agreement, judges the pupil to have English language skills necessary to succeed in an English only **classroom**...(CCR 4306 (ii)).

1 50. Some school districts use the **50<sup>th</sup>** percentile as their criterion because **CCR** 4306 (iv)  
2 also suggests that students be at grade level in language arts, reading, writing, and  
3 mathematics. “Grade level” simply means the 50<sup>th</sup> percentile for that grade. It is a  
4 mathematical **definition** that half the students will be below grade level and half above grade  
5 level. If this standard is used to designate students for special programs, as it often is because  
6 many school administrators are as confused as the legislators and the lay public on these issues,  
7 roughly half the LEP students in bilingual education will never get out.

8 51. Since there is no way to know when students should be reclassified since there is no  
9 way to know what the student’s true score would be in the absence of a language barrier,”  
10 school districts tend to not reclassify students. There are also fiscal incentives for not  
11 reclassifying students. School districts receive more money for a student who is classified as  
12 LEP than for a student who is classified as **FEP**. The failure to reclassify is not a big problem  
13 if the student is in a mainstream classroom, but it is a huge problem if he or she is in a **self-**  
14 contained classroom taught in their so-called “primary” language. The failure to reclassify is  
15 also a problem, although smaller, if a LEP child is left in a sheltered immersion program too  
16 long, because the class is taught at a slower pace than a mainstream classroom.

17 52. The plaintiffs’ Memorandum (p. 6, lines 8-10) states that there are “objective and  
18 uniform reclassification, or “exit” criteria, which ensured that no LEP students in need of  
19 appropriate educational services, in the form of bilingual education or otherwise, would be  
20 denied them.” What they forgot to mention is that these criteria prevented thousands of  
21 students from ever being reclassified. Table 2 below shows California Department of  
22 Education statistics on the number of LEP students, and the number and percentage  
23 redesignated each year. I calculated the **final** column which is the cumulative percentage  
24 reclassified beginning with a hypothetical kindergarten cohort in 1991.

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<sup>29</sup> Had the State Department of Education cared about accurately classifying students as LEP, they would have long ago determined the relationship between scores on a valid non-verbal test of intelligence, such as Raven’s Progressive Matrices (RPM) and scores on a variety of oral proficiency and written standardized achievement tests by administering these tests to native speakers of English. Once the relationship between the non-verbal intelligence test scores and test scores from tests that require knowledge of English was determined, one would be able to tell from a student’s RPM score whether their English test score was close to what would be expected if there were no language barrier. Comparing Spanish **standardized** achievement test scores to English test scores is not adequate to determine a student’s true test score because the Spanish and English versions of the same test are **not** comparable and it is not possible to make them comparable, given the differences in the languages.

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53. Table 2

Redesignation Rates for Limited-English-Proficient Students 1982-1997  
and Cumulative Redesignation Rates for 1991 Kindergarten Cohort in California

Year	1991 Cohort School Grade	Number Of LEP Students	# of Students Redesignated FEP	% Redesignated of Previous Year's LEP	Cumulative % Redesignated FEP
1997	6th	1,381,393	89,144	6.7%	41%
1996	5th	1,323,767	81,733	6.5%	34%
1995	4th	1,262,982	72,074	5.9%	28%
1994	3rd	1,215,218	63,379	5.5%	22%
1993	2cd	1,151,819	54,530	5.1%	16%
1992	1st	1,078,705	55,726	5.6%	11%
1991	Kind.	986,462	49,001	5.7%	
1990		861,531	53,223	7.2%	
1989		742,559	54,482	8.4%	
1988		652,439	57,385	9.4%	
1987		613,224	53,277	9.4%	
1986		567,564	55,105	10.5%	
1985		524,076	50,305	10.3%	
1984		487,835	47,503	10.4%	
1983		457,540	52,504	12.2%	
1982		431,449	57,336	15.2%	

[Source: State Department of Education, Language Census Report for California Schools, 1997; www.cde.ca.gov]

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54. According to state statistics, we can expect only 42 percent of a cohort of LEP students who entered kindergarten in 1991 to be reclassified by 6<sup>th</sup> grade in 1997, after seven years. This is the current situation that the plaintiffs' are painting as the ideal. This situation is the result of systematic and uniform classification criteria suggested by the state, as well as those developed by school districts. It simply cannot be emphasized enough that because no one knows what a student's true ability is absent the language barrier, the tendency will always be to classify a student as LEP if they are from a language minority family and score below average.

55. Although many people think that low redesignation and mainstreaming rates are characteristic only of bilingual education programs, they are wrong. They are a problem with all programs in self-contained classrooms. According to Ramirez al. (1991), as of the fourth

1 year in immersion having been taught completely in English since kindergarten, only 58  
2 percent of the immersion students were mainstreamed. This is only somewhat higher than the  
3 percentage mainstreamed from the early-exit bilingual program-42 percent. (Both are, as to  
4 be expected, much higher than the percentage mainstreamed from the late-exit program which  
5 had no students mainstreamed.) What these results tell us is that teachers will keep their  
6 students in these sheltered programs far beyond the time period when they can benefit from  
7 them regardless of whether the program is in English or in Spanish. Since we have so far not  
8 developed any accurate or consistent way to identify precisely when a student is better off in a  
9 sheltered classroom than in a mainstream classroom, they must be forced out or they will be  
10 kept in and slowed down. The term “good working knowledge of English” which appears in  
11 Proposition 227 is actually more accurate than the 36<sup>th</sup> percentile or level 2 on the LAS,  
12 because the former allows for individual assessment of students and the latter is objective and  
13 uniform and thus likely to be wrong for any individual student.

14 56. Plaintiffs and their experts’ criticisms of the one year limit in a self-contained  
15 classroom found in Proposition 227 are based on a confusion of two different issues. The first  
16 issue is how long does it take to learn a language to the highest level one is capable of-that is,  
17 the point where there is no longer a language barrier? The answer to that question is at least a  
18 decade, if not more.<sup>30</sup> The second issue is how long does it take before a student can  
19 understand enough of what the teacher says so that the mainstream classroom is a better  
20 learning environment than a sheltered classroom? The answer to that question is no more than  
21 a year and perhaps as little as three months. The mistake of the plaintiffs and their experts is  
22 that they have confused these two issues.

23 57. The reason why students should be transitioned to the mainstream classroom as soon as  
24 they are able to understand the mainstream teacher’s English is because once the students

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<sup>30</sup> Although several of the plaintiffs’ experts have cited 5-6 years as how long it takes to reach academic proficiency, that comes from a single study conducted by Jim Cummins of immigrant children in Canada all of whom were being instructed in the language of the country or their region, not their native tongue. This study used as its standard for full proficiency, not what the student is capable of because that is difficult to determine, but the 50<sup>th</sup> percentile for fluent-English-speakers of their grade on a single test-a Picture Vocabulary Test--that did not involve writing. This study is valid only if we can assume that the true score of these different cohorts was the 50<sup>th</sup> percentile. It may have been higher than that, in which case the study underestimates how long it takes to reach full proficiency. See Jim Cummins. 1980. “The Cross-Lingual Dimensions of Language Proficiency: Implications for Bilingual Education and the Optimal Age Issue,” TESOL Quarterly, 14, June: 175-187.

1 understand English spoken at a normal pace, they are better off in a mainstream classroom  
2 where they will have fluent English speaking role models and grade level curriculum (as many  
3 of the plaintiffs' experts unwittingly pointed out) and we cannot depend on "objective and  
4 uniform" redesignation criteria to get them out of these self-contained classrooms. This is not  
5 the end of special help for them, however. That help can go on until they are deemed to no  
6 longer need it even if they are in a mainstream classroom as currently occurs for the half of  
7 LEP students who in fact spend all or most of their day in a mainstream classroom.

8 58. The source of my conclusion that it takes less than a year before the mainstream  
9 classroom is a better situation than a sheltered classroom for a limited-English-proficient  
10 student is research conducted in Canada and the U.S. on immersion programs, on newcomer  
11 centers, and my own interviews with LEP students in bilingual classrooms and formerly LEP  
12 students in my classes. The studies of French immersion programs in Canada indicate that the  
13 students were understanding what the teacher said to them sometime during the first semester  
14 of the first year. By the end of the second year they were almost the equal of native speakers  
15 of French on many tests.

16 59. A study of programs for immigrant children conducted by McDonnell and Hill<sup>31</sup> found  
17 a number of newcomer schools in every school district they studied, including the three  
18 California school districts, San Francisco, Los Angeles, and Visalia. The length of time for  
19 students in the newcomer school was six months to a maximum of one year. McDonnell and  
20 Hill describe them as follows:

21  
22 The newcomer schools in our sample are impressive places: In their clear sense of  
23 mission, innovative curricula, professional teaching staff, and links to the larger  
24 **community**, they represent the kinds of schools to which all children, immigrant and  
25 native born, should have access.. . The newcomer schools in our sample are all **self-**  
26 **contained** programs that students attend full-time for one or *two semesters* [emphasis  
27 added], and all but the Los Angeles high school operate in physically separate  
28 locations. However, there are a variety of other newcomer models, including ones that  
29 students attend for half day and then spend the remainder of the day in mainstream  
30 classes. In contrast to the schools in our sample, in which students from across a  
31 district are transported to a single site, some districts, such as Long Beach, operate

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<sup>31</sup> McDonnell and Hill 1993, *supra* note 6.



1 newcomer classrooms on as many as a dozen different campuses. For a description of  
2 these other program models see Chang (1990)<sup>32</sup> (McDonnell and Hill, 1993, pp. 97-98).

3  
4 **60.** In addition to newcomer schools, there are one year immersion programs for  
5 kindergarten students all over California and the U.S. In Chelsea, Massachusetts, there are  
6 **one year** kindergarten immersion programs for Cambodian and Vietnamese students. In New  
7 York City there are a number of one year kindergarten immersion programs (all of them called  
8 bilingual) for non-Hispanic LEP students, as well as newcomer schools. One in particular, is a  
9 one year kindergarten immersion program for Chinese students at the Sampson School (P.S.  
10 160) in Brooklyn. In Boston, there is a one year kindergarten immersion (called bilingual)  
11 program for Cape Verdean students at the Mason School. Although Mason School parents  
12 have the option of going on to a Cape Verdean “bilingual” program at another school for first  
13 grade, very few families do that.

14 **61.** Over the years I have asked LEP students in ESL and structured immersion classes, as  
15 well as formerly LEP students in my classes at Boston University “How long was it after you  
16 started school before you were understanding what your teacher was saying in English in your  
17 regular classroom?” The most common answer I have received is three months.

18 **62.** To summarize, one year immersion programs are common in California and the U.S.  
19 Thus, it is simply not true that this approach—a one year immersion program—is untried and  
20 untested. Moreover, a one year limit is a more effective and accurate exit criterion than any  
21 uniform criterion yet devised.

22 **63.** Thus, the concept of Sheltered English Immersion (aka structured immersion, sheltered  
23 subject) used in Proposition 227 is based on respected research and actual practice. The  
24 **definition** found in 306 (d) of the act defines it as “an English language acquisition process for  
25 young children in which *nearly all* [emphasis added] classroom instruction is in English but  
26 with the curriculum and presentation designed for children who are learning the language. ”  
27 This is an accurate definition of the concept and contrary to allegations one that allows for a)  
28 primary language tutors, b) primary language aides, and c) Spanish immersion programs for

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<sup>32</sup> H.N. Chang, 1990, Newcomer Programs: Innovative Efforts to Meet the Educational Challenges of Immigrant Students San Francisco: California Tomorrow.

1 fluent English speakers. Indeed, the definition is the core of a program that will essentially  
2 have to be developed by the individual school districts.

3 64. Elizabeth Cohen’s declaration (plaintiffs’ expert) suggests that she believes that  
4 Proposition 227 *requires* school districts to place students of different ages together. In fact,  
5 the act merely gives them the same permission to do so that they have now. Ms. Cohen  
6 appears not to be aware that currently school districts combine several grades in order to be  
7 able to have Spanish bilingual education classes. I have personally been in numerous Spanish  
8 bilingual classrooms in school districts in California (and throughout the U.S) that are  
9 combined K-1, K-1-2, 1-2-3, and 4-5-6 because the school districts do not have enough  
10 Spanish bilingual teachers to offer single age, single grade classes of a size that is fiscally  
11 prudent. Unfortunately, under the current situation this multi-age grouping could go on for  
12 years and does. Under Proposition 227, it is unlikely to go on for more than a year.

13 65. Under Proposition 227, most school districts will choose not to combine different  
14 grades even for a short period because many school administrators have the same fears about it  
15 that Professor Cohen has. But this is their choice. In fact, many school districts will have  
16 more choice about combining grades under Proposition 227 than currently exists since they are  
17 not limited by the shortage of Spanish-speaking bilingual teachers that necessitates the  
18 combining of grades even when there are pedagogically good reasons for not doing so.

19 66. Indeed, it is surprising how often the plaintiffs’ experts’ criticisms of what might  
20 happen under Proposition 227 are even more of a problem under the current situation without  
21 Proposition 227. For example, Lydia Stack states that Proposition 227 would cause harm to  
22 non-English speaking students who do not have qualified teachers. She states “Just because a  
23 teacher speaks English does not mean that that teacher is qualified to teach English to **non-**  
24 English speakers” (p. 1, lines 18-19 of Stack Declaration). This is, of course, true and it is a  
25 big problem with bilingual education teachers. Bilingual education teachers are hired for their  
26 ability to speak the student’s native tongue, not for their ability in English. Because of the  
27 shortage of bilingual teachers, school districts all over California have accepted Spanish  
28 bilingual teachers “on waiver” who are not credentialed and, in some cases, inadequate

1 teachers of English. This is legal under the current **regulations**.<sup>33</sup> Yet, these same teachers are  
2 expected to be the bilingual student's classroom teacher which means that they are the English  
3 teacher as well as the Spanish and core subject teacher. I have personally observed Spanish  
4 bilingual teachers whose knowledge of English is not adequate and who were making  
5 grammatical errors in their English lesson. Inadequate English language ability of the teacher  
6 is a greater risk for a Spanish bilingual program than for a sheltered English program because  
7 of the shortage of bilingual teachers and because the school districts believe the most important  
8 criteria for selecting a teacher for a Spanish bilingual program is their Spanish ability. And the  
9 current law encourages that because it gives them all kinds of ways to hire a teacher who is not  
10 qualified in English in order to get one who is qualified in the "primary" language.

11 67. Another instance of a criticism made by the plaintiffs' experts that is more applicable to  
12 the current situation than under Proposition 227 is contained in the declaration of Kevin  
13 Welner. He states that a one year sheltered immersion program would function as a "low-  
14 track classroom" with "teachers expecting, demanding, and receiving little from their  
15 students." Indeed, this goes on right now in bilingual education classrooms where the students  
16 are not only segregated into a low track, but they are ethnically segregated, and this ethnic  
17 segregation of Hispanic LEP students, the only LEP students taught in their "primary"  
18 language, may continue for more than half of them **until** they go to junior high school. Since  
19 under Proposition 227, different ethnic groups will be mixed together, that is, Asian students  
20 will now be in the same classes as Hispanic students, it is *less* likely that the immersion class  
21 will be stigmatized as a low track class because of the public perception of Asians as high test  
22 scorers. But even if the sheltered immersion class acquired the image of a low track class,  
23 unlike with bilingual education, the student will not be trapped in this program for years.

24 68. The plaintiffs' and their experts' insist on ignoring the fact that under the current  
25 situation at least half of the LEP students enter a mainstream classroom on day one. There is  
26 not even a one year cushion. So all of the complaints about what will happen to an LEP child  
27 in a mainstream classroom are even more applicable to the current situation. The current

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<sup>33</sup> CCR 4309 specifies only that teachers must meet the requirement of various education codes, all of which have sunsetted. CCR 4310 specifies only that school districts may request two-year waivers and that a teacher on waiver must be assisted for at least three hours a day by a bilingual cross-cultural aide. This aide may or may not know English better than the teacher since the only criteria is that they be able to understand, speak, read, and **write** English and the primary language (CCR 4309, section d).

1 situation can be summarized as one where half the LEP children enter a mainstream classroom  
2 on day one and have no cushion whatsoever and the other half are trapped in self-contained  
3 classrooms for years where as plaintiffs' expert Lilly Wong Fillmore puts it "neither the  
4 content nor the language used in such classes are at appropriate levels for the students"(p. 2,  
5 lines 18-19) because of the need to make the curriculum comprehensible. "Moreover, students  
6 in such situations often learn an imperfect pidgin-like variety of English.. ." (p. 3, lines 2-3).  
7 Of course, she also decries the fact that a year is too short a time period! She states "I can say  
8 without hesitation children do not learn enough English in a year to make schooling provided  
9 primarily in that language meaningful," (p.3, line 27, p.4, line 1). So in her mind a year is  
10 both too long and too short.

11 **69.** What is the solution? It cannot possibly be bilingual education if her worry is that  
12 students will hear a pidgin English from their classmates because in a bilingual classroom the  
13 students not only hear a pidgin English from their classmates, they often do not hear any  
14 English at all, and in some classrooms, they hear ungrammatical English coming from their  
15 teacher.

16 **70.** The solution cannot possibly be an unlimited time period in a sheltered immersion  
17 program because they will continue to hear pidgin English for many years, given the inability  
18 of the state and the school districts to devise a reclassification criteria that is both uniform and  
19 accurate.

20 **71.** Under Proposition 227, school districts have the freedom to solve virtually all of the  
21 problems raised by plaintiffs and their experts. The only programs currently operating in  
22 California that are prohibited by Proposition 227 are true bilingual programs where children  
23 learn to read and write in their native tongue and are taught subject matter in their native  
24 tongue. Indeed, Proposition 227 simply sets out some basic parameters around which school  
25 districts must develop their own programs. These parameters are 1) nearly all instruction must  
26 be in English, 2) students should be in a self-contained classroom for English language learners  
27 for a period of time "not normally to exceed" a year. After that it is up to the school districts  
28 to develop programs that do not stigmatize students into a lower track, that integrate them into  
29 mainstream classes as much as possible during that first year, and that provide ESL pullout,  
30 primary language tutoring, summer school programs, after-school programs, pre-school

1 programs, parent participation, adequate teacher training, and access for LEP students to all  
2 special programs that offer help to children who are having **difficulty** in school, such as Title,  
3 Reading Recovery, Success for All, etc.. The Asian bilingual programs where children are in  
4 a self-contained classrooms but taught to read and write in English with English language  
5 textbooks are, in my opinion, still permissible under Proposition 227. A mainstream  
6 classroom with ESL pullout programs is, in my opinion, also permissible under Proposition  
7 227 after a temporary transition period in a structured immersion classroom. In fact, probably  
8 most of the 70 percent of non-bilingual programs currently being offered by school districts are  
9 permissible under Proposition 227, although in my opinion students should not be in a  
10 segregated, self-contained classroom for more than a year except under unusual circumstances.

11 72. Plaintiffs also criticize the huge difficulties that the students in bilingual programs will  
12 have if they have to change to a structured immersion class in September. Once again  
13 plaintiffs fail to understand that this happens all the time under the current situation. The  
14 mobility rate for Hispanic LEP students is so high that the likelihood that any given student  
15 will be in the same program until they are reclassified and mainstreamed is extremely low.  
16 Currently it is possible for a Hispanic LEP student to start in an all-English program in a  
17 mainstream classroom in kindergarten at one school because they have no bilingual program,  
18 move to another school for first grade where they are put in a bilingual program, move to  
19 another school for second grade where they are put into a SDAIE program because they have  
20 no bilingual program, move to another school for third grade where they are put back into a  
21 bilingual program, and so forth.

22 73. These transition problems can also happen **within** a school because of the shortage of  
23 bilingual teachers. I personally observed a third grade Spanish bilingual class in Massachusetts  
24 taught by an ESL teacher who had all the Spanish-speakers reading and writing in English.  
25 Then a Spanish bilingual teacher was found in January of that year and the students were put  
26 back into Spanish reading and writing because the bilingual teacher did not feel that they were  
27 yet at the highest level of proficiency in Spanish. He was also not very comfortable speaking  
28 and teaching in English. The ESL teacher was appalled, but there was nothing she could do  
29 about it.

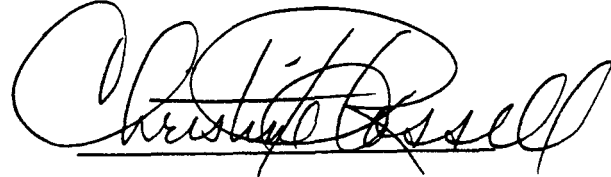
1 74. Even if a student does not change schools, we know that more than half of the students  
2 in a Spanish bilingual program may not be mainstreamed by the end of elementary school and  
3 because there are very few bilingual programs after elementary school, will be placed in a  
4 mainstream or SDAIE class in middle school or junior high school regardless of how prepared  
5 they are for it. The lack of preparation of these students for a mainstream classroom is a big  
6 topic of discussion in the bilingual literature-with many advocates arguing that the bilingual  
7 program should just continue through 12<sup>th</sup> grade so the students never have to go to a  
8 mainstream classroom and deal with the transition problem. In short, the transition problems  
9 under the current situation may be no worse than the transition problem that will occur this  
10 September. But once Proposition 227 is implemented, the transition problems that exist under  
11 the current situation with students moving from school to school will be eliminated. The  
12 benefit of Proposition 227 is that all LEP students will be in an all-English situations and there  
13 will be no more jerking of students back and forth from native tongue to all-English depending  
14 on where they live and the resources of the school.

15 75. In conclusion, Proposition 227 satisfies the requirements of **Castañeda** and State Board  
16 Policy (July 14, 1995) standards that educational programs for LEP children must 1) be based  
17 on a sound educational theory, 2) be adequately supported, and 3) achieve results--that is  
18 overcome English language barriers to educational success. The sound educational theory is  
19 the comprehensible time-on-task theory and it is supported by experts in the field. The  
20 program will be adequately supported because it should take no more resources than are  
21 currently being expended by school districts. The program can achieve results that are  
22 superior to bilingual education if the school districts actually adhere to these parameters and  
23 the state enforces it.

24 76. This can be done before the start of the school year if the school districts put their mind  
25 to it and believe that they must do it. Of course, most school districts will want more time  
26 because school districts always want more time to develop programs. But we have countless  
27 examples of school districts being ordered by courts to implement desegregation plans within a  
28 month and actually doing it. We also have countless examples of school districts being  
29 ordered by courts to implement special programs for special needs students within a month and  
30 actually doing it. Thus, Proposition 227 can be implemented by the fall if the school districts

1 believe that they must do it, although it will probably mean that school district and school  
2 administrators and many teachers will have to work through the summer.

3  
4 I declare under penalty of perjury under the laws of the State of California that the  
5 foregoing is true and correct. Executed this 19th day of June 1998 at Brookline,  
6 Massachusetts.

7  
8 

9 **Christine H. Rossell**

## Exhibit A

### % of Methodologically Acceptable Studies\* Demonstrating Program Superiority, Equality, or Inferiority by Achievement Test Outcome

	READING* *	LANGUAGE	MATH
<b><u>TBEv. Submersion (Do Nothing)</u></b>			
TBE Better	22%	7%	9%
No Difference	45%	29%	56%
TBE Worse	33%	64%	35%
Total N	60	14	34
<b><u>TBE v. ESL</u></b>			
TBE Better	0%	0%	25%
No Difference	71%	67%	50%
TBE Worse	29%	33%	25%
Total N	7	3	4
<b><u>TBE v. Submersion/ESL</u></b>			
TBE Better	19%	6%	11%
No Difference	48%	35%	55%
TBE Worse	33%	59%	34%
Total N	67	17	38
<b><u>TBE v. Struct</u></b>			
TBE Better	0%	0%	0%
No Difference	17%	100%	63%
TBE Worse	83%	0%	38%
Total N	12	1	8
<b><u>Structured Immersion v. ESL</u></b>			
Immersion Better	100%	0%	0%
No Difference	0%	0%	0%
Total N	3	0	0
<b><u>TBE v. Maint. BE</u></b>			
TBE Better	100%	0%	0%
Total N	1	0	0

\* Studies are listed in more than one category if there were different effects for different grades or cohorts.

\*\* Oral English achievement for preschool programs.

SOURCE: C. Rossell and K. Baker, "The Educational Effectiveness of Bilingual Education," Research in Teaching of English, 30 (1), February 1996: 1-74.



# EXHIBIT B - ABBREVIATED ACADEMIC VITA

6/19/98

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EDUCATION: (Summary) B.A., International Relations, UCLA, June 1967;  
M.A., Political Science, California State University **Northridge**, June 1969;  
Ph.D., Political Science, University of Southern California, January 1974.

FIELDS OF CONCENTRATION: Public policy; school desegregation and educational policy; bilingual education; urban politics and policy; methodology. Dissertation: The Electoral Impact of School Desegregation in 67 Northern Cities.

## ACADEMIC POSITIONS

Professor, **1989-present**; Chairperson, **1992-** 1995; Associate Professor (tenured), 1982-1 989; Assistant Chairperson, 1982-1 985; Assistant Professor, 1975-1982; Political Science Department, Boston University.

Visiting Lecturer, Canberra College of Advanced Education, Canberra, Australia, Fall 1985.

Visiting Assistant Professor, Graduate School of Public Policy, University of California, Berkeley, Jan June 1981.

Visiting Assistant Professor, Institute of Policy Sciences **Duke University**, 1977-78.

Research Associate, Bureau of Governmental Research; Lecturer, Institute for Urban Studies; University of Maryland, College Park, 1974-75.

Assistant Professor, Political Studies, **Pitzer** College of the Claremont Colleges, Claremont, CA., 1973-74.

Research Assistant, Center for Metropolitan Planning and Research, The Johns Hopkins University **1972-73**.

## ACADEMIC AWARDS AND RESEARCH GRANTS

Fellowship, Public Policy Institute of California, Sacramento, CA., January 1 - June 1, 1999.

Who's Who in America, **1995, 1996, 1997, 1998**; Who's Who in the World, 1995-96; Who's Who in American Education, 1994-95, 1995-96, 1996-97.

with Keith Baker, "Bilingual Education Reform in Massachusetts," Pioneer Institute, 1992-95.

with Keith Baker, "Bilingual Education as a Civil Rights Policy," Smith Richardson Foundation, 1991-92.

"Magnet Schools and Issues of Public School Desegregation, Quality, and Choice," (**contract** LC 90043001) awarded to American Institutes for Research by the Department of Education, subcontracted to me as **co-**principal investigator, **1990-93**.

“The Effectiveness of Desegregation Plan Characteristics in Producing Interracial Exposure,” funded by the Department of Education, 1987-88.

“The Long-Term Impact of Magnet Schools as Desegregation Tools,” **funded** by the National Institute of Education, **1983-1985**

Co-Investigator, “Assessment of Current Knowledge About the Effectiveness of School Desegregation Strategies,” funded by the National Institute of Education, 1979-81.

Abt Associates award for the best essay on social policy, 1979.

Co-principal Investigator with J. Michael Ross, “The Long-Term Effect of Court-Ordered School Desegregation on White Withdrawal **from** Central City Public School Systems: the Case of Boston, 1974-79,” **funded** by the Ford Foundation and the **Carnegie** Corporation, 1978-79.

“The Social Impact of School Desegregation,” **funded** by the National Institute of Education, 1973-76.

Graduate School Awards: Haynes Foundation Graduate Research Fellowship, 1972-73; Teaching Fellowship, Political Science Dept., 1970-72; University Grant, 1971; Graduate Tuition Award, 1970; University of Southern California.

## PUBLICATIONS

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\*with David **Armor**, "The Effectiveness of School Desegregation Plans, 1968- 1991," American Politics Quarterly, July 1996, 24 (3): 267-302.

"The Convergence of Black and White Attitudes on School Desegregation Issues During the Four Decade Evolution of the Plans," The William and Mary Law Review, January 1995, 36(2): 613-663.

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### TECHNICAL REPORTS

“The Compliance of the St. Louis Special School District with Desegregation and Vocational Educational Goals,” a report to the Federal District Court in the case of Liddell et al. vs. the Board of Education of the City of St. Louis, Missouri and the State of Missouri. et al., Dec. 12, 1997.

“A Rebuttal Report Analyzing the Cleveland City School District’s Compliance with Remedial Components,” a report to the Federal District Court in the case of Reed v. Rhodes, Oct. 6, 1997.

“The Effectiveness of Magnet Schools and Programs in the Cleveland City School District,” a report to the Federal District Court in the case of Reed v. Rhodes, Sept. 15, 1997.

with Robert Peterkin, Robert Shoenberg, and William Trent, “Report of the Court-Appointed Panel in Vaughns et al. v. Prince George’s County Board of Education. et al. Submitted to Judge Peter J. Messitte, June 30, 1997.

“Declaration of Christine H. Rossell,” prepared for the U.S. District Court in the case of Quiroz et al. v. Orange Unified School District and the State of California, September 9, 1997

“Declaration of Christine H. Rossell,” prepared for the Orange Unified School District for presentation to the California State Board of Education, June 8, 1997.

“School Desegregation in the Kansas City, Missouri School District, 1954- 1996” a report to the U.S. District Court in the case of Jenkins. et al v. State of Missouri. et al., January 2, 1997.

“Declaration of Christine H. Rossell,” prepared for the Magnolia School District for presentation to the California State Board of Education, 1996.

“An Analysis of the San Jose Unified School District’s Compliance with its Remedial Orders on Student Assignment and Transportation,” a report to the U.S. District Court, Northern District of California in the case of Vasquez, et al. v. San Jose Unified School District. et al., June 14, 1996.

“Supplemental Report on School Desegregation in the St. Louis Public Schools, 1995,” a report to the U.S. District Court in the case of Liddell, et al. v. St. Louis Board of Education. et al., December 29, 1995.

“School Desegregation in the **Rockford** Public Schools,” a report to the U.S. District Court in the case of People Who Care. et al. v. Rockford Board of Education. School District#205, November 29, 1995.

“School Desegregation in the St. Louis Public Schools, 1967-1995,” a report to the U.S. District Court in the case of Liddell, et al. v. St. Louis Board of Education. et al., November 30, 1995.

“Enrollment Projections for the Yonkers School District from Fall 1995 through Fall 2005,” a report to the Superintendent of Schools, Reginald F. Marra, Yonkers Public Schools, April 4, 1995.

\*with Peggy Davis-Mullen, Boston City Council, “A Proposal for Transitioning the Boston Public Schools from the Current Controlled Choice Desegregation Plan to Community/Neighborhood Schools,” June 2, 1994.

“School and Classroom Desegregation in the New Castle County, Delaware Desegregation Area (Brandywine, Red Clay, Christina, and Colonial School Districts) a report to the federal district court in the case of Coalition to Save Our Children v. State Board of Education, November 30, 1994.

“Results of the San Jose Unified School District’s 1994 Phase 11 Parent Registration Survey,” a report to the San Jose Unified School District, San Jose, California, November 15, 1994.

“Enrollment Projections for the Yonkers School District from Fall 1994 through Fall 2004,” a report to the Superintendent of Schools, Reginald F. Marra, Yonkers Public Schools, June 1, 1994.

“Results of the San Jose Unified School District’s Phase II Parent Registration Survey in Spring 1993,” a report to the San Jose Unified School District, San Jose, California, February 2, 1994.

“Enrollment Projections for the Yonkers School District from Fall 1994 through Fall 2004,” a report to the Superintendent of Schools, Donald M. Batista, Yonkers Public Schools, April 19, 1993.

“Supplemental Report Analyzing the San Jose Unified School District’s Compliance With the **Court** Order in the Area of Student Assignment (School and Classroom Segregation), a report to the U.S. District Court, Northern District of California in the case of Vasquez, et al. v. San Jose Unified School District. et al., November 1, 1993.

“An Analysis of the San Jose Unified School District’s Compliance With the Court Order in the Areas of Student Assignment (School and Classroom Segregation), Transportation and Bilingual Education,” a report to

the U.S. District Court, Northern District of California in the case of Vasquez, et al. v. San Jose Unified School District, et al., June 29, 1993.

with Lauri Steel, Roger Levine, and David Armor, "Magnet Schools and Issues of Desegregation, Quality and Choice, Phase I: the National Survey and In-Depth Study of Selected Districts," a report to the Department of Education, 1993.

"An Analysis of the Segregation of Alternative Proposals for the Reorganization of the Grant Union High School District and Its Feeder Elementary Schools," a report to the Robla School District, Sacramento County, CA, Aug. 3, 1992.

"Advertising on Channel One: Are Students a Captive Audience?" Report to the Superior Court of the State of California in and for the County of Santa Clara, July 29, 1992.

"Enrollment Projections for the Yonkers School District from Fall 1992 through Fall 2001," a report to the Superintendent of Schools, Donald M. Batista, March 23, 1992.

"Estimating the Effectiveness of a Voluntary Magnet School Desegregation Plan for the Stockton Unified School District. A report to the Superior Court of the State of California in the case of Hernandez v. Stockton Unified School District, September 19, 1991.

"White Flight and Elementary Classroom Segregation" in Report on the Desegregation of the San Jose Unified District, a report to the U.S. District Court, April 30, 1991.

"Enrollment Projections for the Yonkers School District," A report to the Superintendent of Schools, Donald M. Batista, May 4, 1989.

"Enrollment Projections for the Yonkers School District for the 1992-93 School Year," A report to the Superintendent of Schools, Donald M. Batista, January 25, 1990.

"Declaration of Christine H. Rossell," prepared for the U.S. District Court in the case of Zambrano et al. v. Oakland Unified School District, et al., May 30, 1989.

"The Effectiveness of Educational Alternatives for Limited English Proficient Children in the Berkeley Unified School District," a report to the U.S. District Court in the case of Teresa P. et al. v. Berkeley Unified School District, July 29, 1988.

\*with Ruth Clarke, "The Carrot or the Stick in School Desegregation Policy?" a report to the National Institute of Education, Washington, D.C., Grant NIE-G-83-0019, March 1987.

"Estimating the Effectiveness of a Magnet School Desegregation Plan for the Savannah-Chatham County School District," a report to the U.S. District Court in the case of Stell and U.S. v. Board of Public Education for the City of Savannah and the County of Chatham, August 19, 1986; revised Sept. 23, 1986.

"Estimating the Effectiveness of a Magnet School Desegregation Plan for the Yonkers School District," a report to the U.S. District Court, in the case of U.S. and NAACP v. Yonkers Board of Education, et al., March 17, 1986.

"Desegregating Estacado High School in the Lubbock Independent School District," a report to the U.S. Department of Justice, Jan. 18, 1986.

"Estimating the Desegregation Effectiveness of the San Jose Unified School District's Plan and "The Cambridge Plan," a report to the U.S. District Court, filed December 11, 1985.

“The Effectiveness of Alternative Desegregation Plans for Prince George’s County, Maryland,” a report prepared for the Laurel Amici, June 4, 1985.

“The Effectiveness of Alternative Desegregation Plans for Hattiesburg, Mississippi,” a report to the U.S. Department of Justice, March 21, 1985.

“The Effectiveness of School Desegregation Plans as Determined by Community Response,” a report to the U.S. Commission on Civil Rights, Feb. 1985.

“What Is Attractive About Magnet Schools?” a report to the U.S. Department of Justice, March 15, 1984.

“Options for Desegregating Howard and Madison Street Elementary Schools, Marion County, Florida,” a report to the U.S. District Court, Middle District of Florida, Jacksonville, Florida, Nov. 5, 1983.

“A School Desegregation Plan for East Baton Rouge Parish,” a report prepared for the U.S. Department of Justice, Washington, D.C., February, 1983.

\*with J. Michael Ross, “The Long-Term Effect of Court-Ordered Desegregation on Student Enrollment in Central City Public School Systems: the Case of Boston, 1974-79,” a report prepared for the Boston School Department, 1979.

“Statistical Measures of Effective Net Reduction in Segregation,” a memo to Shirle McCune, Associate Commissioner of Equal Educational Opportunity, Office of Education, February 1980.

Memo to Patricia Harris, Secretary of Health, Education and Welfare, on the causes of white flight, its characteristics, and policy options, August 1979.

“Assessing the Unintended Impacts of Public Policy: School Desegregation and Resegregation,” a report to the National Institute of Education, Washington, D.C., 1978.

“Monitoring Report of the Boston Public School System,” prepared for the U.S. District Court by the Citywide Coordinating Council, August 1977.

Reports to the Court in Carlin v. San Diego Unified School District, 1977, 1979; Seattle School District No. 1 v. State of Washington, U.S. v. Port Arthur Independent School District, 1980.

\*With Robert L. Crain, “Evaluating School Desegregation Plans Statistically,” (Baltimore, Md.: The Johns Hopkins University Center for Metropolitan Planning and Research, 1973).

#### PROFESSIONAL ACTIVITY

Advisory Board, Center for Equal Opportunity, Washington, D.C.

Advisory Board, U.S. Commission on Civil Rights study on school desegregation, 1986-1987 (Welch and Light, “New Evidence on School Desegregation”).

Member, The National Review Panel on School Desegregation Research, an 11 member panel of experts funded by the Ford Foundation, 1977-1980; Participant, “Ethics and Public Policy: Social Inquiry” project sponsored by the Hastings Center Institute of Society, Ethics and the Life Sciences, 1979-80; Article reviewer for The American Political Science Review, American Journal of Political Science, Urban Affairs Quarterly, Social Science Quarterly, Sociology of Education, American Political Science Quarterly; Review of Education Research; Member, American Political Science Association; American Educational Research Association.

#### RELATED POLITICAL/CIVIC ACTIVITY

Member of the Citywide Coordinating Council of Boston, 1976-77, a 15 member body appointed by Judge W. Arthur Garrity to monitor school desegregation and minority sub-committee representation. I was on the



working sub-committee which helped develop and train the nine parent-citizen community district councils in Boston.

DESEGREGATION PLAN DESIGN ASSISTANCE: Baton Rouge, LA (1983 & 1996); Marion County, FL; San Jose, CA; Yonkers, NY; Savannah-Chatham County, GA; De Kalb, GA; Natchez, MS; Knox County, TN; Ocean View, CA; Stockton, CA.

PARENT SURVEYS CONDUCTED: Yonkers, NY (1986); Savannah-Chatham County, GA (1986); Natchez, MS (1988); De Kalb, GA (1990); Topeka, KS (1990); Stockton, CA (1990); Knox County, TN (1991); Rockford, IL (1995), Hattiesburg, MI (1998).