

ENGLISH LANGUAGE LEARNER ACCESS TO BASIC EDUCATIONAL NECESSITIES IN CALIFORNIA: AN ANALYSIS OF INEQUITIES

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I. Introduction

English Learners (ELs) comprise one-fourth of the entire public school population in California, and one out of three students in the elementary grades (Rumberger & Gándara, 2000, Table 1). In total, they represent over 1.5 million students. Of these, the largest percentage--approximately 84%--speak Spanish; 89% of the students speak one of four major languages (Spanish, Vietnamese, Hmong, or Cantonese).¹ There are very few California schools that report having no English Learners among their student population. Today, the typical California school is composed of both English Learners and English speakers, and in many schools more than one-quarter of the student body is not fluent in English. One-third of elementary students are ELs, and more than 18 percent of secondary school students are also English Learners (Rumberger & Gándara, 2000, Table 1).

English Learners, who generally start out substantially behind their English-speaking counterparts, must be taught both English language skills (including academic English) and academic content to receive equal educational opportunities on par with their native English-speaking grade-level peers. To achieve this objective of equal access, English Learners must receive instruction from teachers with the specialized knowledge needed to teach English and academic content to second-language learners and must be provided access to specialized instructional materials geared toward those not yet fluent in English. These principles are recognized both as necessary pedagogical practice² and by long-standing legal requirements.³

* This report sets forth the opinions that I expect to offer as a testifying expert in *Williams v. State of California* and the bases for those opinions, which include, and this report adopts and incorporates in substantial parts, work of Professor Patricia Gándara of the University of California, Davis and Professor Russell Rumberger of the University of California, Santa Barbara from a draft of the paper they are preparing for publication, entitled "The Inequitable Treatment of English Learners in California Public Schools."

¹ <http://data1.cde.ca.gov/dataquest>. (CDE Education Demographics Unit, Dataquest query: Part II, English Learner Students, 2001-02: Statewide).

² As early as 1981, the state published and widely disseminated a book to support these principles and incorporate them into practice. This volume has undergone an update and multiple reprints, the latest being published through California State University, Los Angeles, Evaluation, Dissemination and Assessment Center (1994).

³ The Supreme Court's seminal ruling in *Lau v. Nichols*, 414 U.S. 563, 566 (1974), for example, concluded that "...there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education."

While the State of California has recognized the need to ensure its 1.5 million English Learners receive specialized instruction and instructional materials, the State has largely failed to assess the conditions of education for these students. It has not adequately monitored their educational opportunities in terms of access to critical resources such as qualified teachers, appropriate instructional materials, and learning environments. It has been unsuccessful in guaranteeing that EL students have the teachers, the instructional materials and the learning environments they need to achieve meaningful access to the same academic content as native English speaking students. In California, English Learners are more likely to be taught by uncredentialed teachers than their English-only peers and, more significantly, receive instruction in large measure from teachers without any training to teach them, often without the necessary instructional materials and disproportionately in facilities that are overcrowded and unsound. When the critical nature of deficiencies in these conditions is brought to the State's attention, it has largely failed to correct them. In other ways, for example, with an ill-planned class size reduction program and the poorly articulated implementation of Proposition 227, the State has worsened the learning conditions for these students.

As a result of the denial of basic educational necessities, the education of this quarter of California's student population is in serious jeopardy. Using the State's own measure for academic achievement—the annual SAT-9 exam, a sizeable and ultimately growing achievement gap between English origin and non-English origin students appears in California across grade levels. (Gándara & Rumberger, (forthcoming, 2002)). Without access to the teachers qualified to teach them and the instructional materials suited to their linguistic needs, many of California's EL students are unlikely to graduate from high school and be able to take advantage of post-secondary educational and employment opportunities to the great detriment of the State's future economic security. Indeed, the current pass rates for ELs on the English language arts portion of the California High School Exit Exam (CAHSEE) is 28%, compared to 74% for white, primarily English-only students.⁴

This paper will seek to quantify the extent of the inequities that exist for English Learners in terms of access to qualified teachers, appropriate instructional materials, and sound teaching and learning environments. In addition to identifying the actions and failures of action on behalf of the State which have led to and even exacerbated these conditions, the paper will propose some policy options for the State to adopt to address the unequal and substandard learning conditions for ELs in California.

⁴ <http://cahsee.cde.ca.gov/>.

II. Specialized Instruction from Teachers Trained to Teach English Learners and Specialized Instructional Materials for English Learners are Fundamental to Their Educational Needs.

A. Teachers Must be Qualified to Teach ELs

The academic success of all students rests in large measure in the hands of their instructors, and research suggests that this success is largely dependent upon teachers' professional preparation and certification (Darling-Hammond, 2000). Proper training is particularly critical for those who work with English Language Learners (ELLs), as members of the ELL population are not only vastly different from the native English speakers with whom teachers are familiar, but there is great variability even among ELL students. This heterogeneous group of students comes to California's classrooms with varying degrees of proficiencies in both their native language and English, differing amounts of academic content knowledge, and from varying socioeconomic and political circumstances, all of which affect learning readiness. Instructors of these students need explicit training in additional teaching skills and theoretical knowledge beyond that which is taught to mainstream teachers in order to effectively instruct this population (National Research Council, 1997). Without appropriate training, teachers may make assumptions and/or have unrealistic expectations about a student's ability to learn English or content-area knowledge through English, which may lead to a detrimental learning environment for students (McLaughlin, 1992).

The educational community recognizes the challenges of instructing ELL students and, by extension, the specialized training that ELL teachers need to facilitate their students' academic success. The international education association Teachers of English to Speakers of Other Languages (TESOL) states that "the field of teaching English to speakers of other languages is a professional activity that requires specialized training. The fact that someone speaks English as a native language does not qualify that person to teach it—especially to those who are learning English as an additional language." TESOL describes the field of English as a Second Language instruction as "...a multifaceted, academic discipline requiring training in linguistics, second language acquisition, language pedagogy, methodology, materials development, testing and research, curriculum and syllabus design, program administration, and cross-cultural communication."⁵

Similarly, the National Board for Professional Teaching Standards (NBPTS), which was developed as a voluntary system to assess, certify, and recognize accomplished teachers in all areas in an effort to establish more rigorous professional guidelines for the field of education, also recognizes the complex and varying skills demanded from ELL instructors and offers teachers guidance to better prepare themselves to work with this population. The National Board, affirming the multifaceted nature of the field, has created two differing certification options for ELL teachers to

⁵ TESOL, available at <http://www.tesol.org/careers/counsel/whatistesol.html>.

choose from—(1) a focus on students in early childhood through middle childhood or (2) an emphasis on students in early adolescence through young adulthood. These development levels are then further subdivided into two certification paths—one that focuses on issues specific to instructors of English Language Development (appropriate for those who teach English as a second language instruction and for those who focus on content-area instruction through English) and another that focuses on issues specific to Bilingual teachers (those that teach in the students' native language either across content areas or in a specific subject area) (National Board for Professional Teaching Standards, 1998). Since a major goal of the Board is to set the standard for the entire teaching profession, the establishment of this standard represents broad recognition of the specialized nature of effective teaching ELLs.

The conclusions of the professional practitioners are echoed by experts working in the field of ELL language acquisition. Lilly Wong Fillmore of U.C. Berkeley and Catherine Snow of Harvard were recently requested by the U.S. Department of Education to summarize what teachers need to know about language to provide effective instruction for English Learners. Among the conclusions in their report, Wong Fillmore and Snow (2000) conclude that all teachers should have a minimum of seven college-level courses on specified aspects of language to ensure their ability to teach children “academic English”.⁶ Academic English is the language of texts and often of tests, and it is not normally acquired in the course of conversation outside of academic contexts. For students who are not likely to “absorb” this form of English discourse in their homes or communities, it must be explicitly taught.

An increasingly large body of research supports the notion that teachers with good professional preparation make a difference in students' learning (Darling-Hammond, 2002; Haycock, 1998; Sanders & Horn, 1995; Sanders & Rivers, 1996). It follows that teachers trained to teach ELLs should likewise positively affect ELL learning. The National Research Council (1997) conducted a comprehensive review of the literature on the education of language minority students. I was the Chair of this committee, which consisted of 11 experts chosen by the National Academy of Sciences for their diversity in expertise and perspective. Chapter 7 of this report was on characteristics of schools that met objective criteria for effectively educating limited English proficient students. The analysis identified 33 studies for systematic review, and identified a large number of characteristics of effective programming for English Learners. The importance of staff development—especially staff development specifically targeted at the needs of English Learners—was among the characteristics identified as part of an effective English Learner program:

- “Staff development for all teachers in the school, not just language specialists, was an important component of many of these programs. Although the programs provided ongoing staff development directly related to resolving

⁶ These areas of competency include: language and linguistics; language and cultural diversity; sociolinguistics for educators in a linguistically diverse society; language development; second language learning and teaching; language of academic discourse; and text analysis and language understanding in educational settings.

new instructional issues for ESL and bilingual education teachers, they also recruited excellent content area teachers and trained them in English-language development strategies” (p. 183).

- “Often the training identified in the studies reviewed here is specific to teachers of these students, such as English-language development and the use of sheltered instruction” (p. 183).

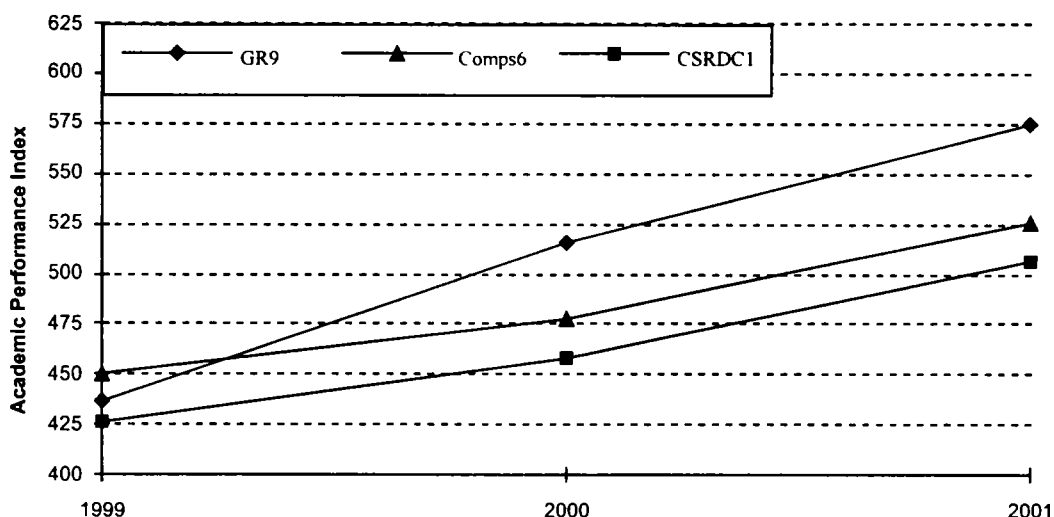
Thus, the overall conclusion of the National Research Council report supports the general finding of Darling-Hammond (2002) regarding the importance of high quality teacher training, and adds the important observation that most effective programs for English Learners have training that is specifically focused on the specific needs of ELLs.

Also reinforcing this point are various empirical studies documenting that EL-specific strategies can positively impact EL achievement. For example, one such effort derives from the research-based standards for effective pedagogy developed by the Center for Research on Education, Diversity and Excellence, a federally funded center at the University of California, Santa Cruz devoted exclusively to the education of English Language Learners. In their report (Center for Research on Education, Diversity and Excellence, 2002) titled “Research Evidence: Five Standards for Effective Pedagogy and Student Outcomes”, the researchers point to the critical importance of teachers transforming their practice into what they call “instructional conversations,” a methodology developed specifically for English Learners and which they define as “planned, goal-directed conversations on an academic topic between a teacher and a small group of students” (p. 5). Using random assignment, in one study, Saunders and Goldenberg (in press) tested the effectiveness of instructional conversations on 4th grade English Language Learners understanding a story theme. They found a large effect, by a margin of 63% meeting criterion for those receiving instructional conversations, compared with 13% for the control group. Similar results on the effectiveness of high quality instructional conversation for English Language Learners is reported in Saunders (1999).

Saunders, Goldenberg and colleagues have further integrated their work on instructional conversation with a model of school-based professional development, focusing especially on schools with high proportions of ELLs (Saunders, O’Brien, Marcelletti, Hasenstab & Goldenberg, in press). They describe how to design, lead and sustain improved teaching and learning through: (1) teacher work groups, (2) grade level or department meetings, (3) the academic achievement leadership team, and (4) faculty-wide settings and training workshops. They have recently released preliminary evaluation findings from implementation of this reform model (called “Getting Results”) in 9 Title I elementary schools in the Los Angeles Unified School District, serving predominantly poor and language minority students. Using a quasi-experimental design, they compare their results to 6 matched schools without this reform model, as well as to a group of schools funded under the Comprehensive School Reform Design (which employs models not specifically designed to meet the needs of ELLs). Their summary

figure for outcomes in terms of API score for the Hispanic subgroup of their population, who are overwhelmingly ELL, are shown in Figure 1.

Figure 1
1999, 2000, and 2001 Hispanic Subgroup APIs for GR9, Comps6, and CSRDP Cohort1



Source: Saunders (2002), with permission.

The figure shows a clear impact of the Getting Results program (GR9) for the Hispanic students, who are predominantly ELL, as compared to the two comparison groups.

Another model for teacher development specifically targeted for English Language Learners, known as SIOP (Sheltered Instruction Observation Protocol) “helps teachers use specific strategies to teach a content area in ways comprehensible to the students while promoting their English Language Development” (Center for Applied Linguistics, 2001), and is based on a widely acclaimed systematic observation protocol (Echevarria, Vogt & Short, 1999). In a direct test of the effectiveness of SIOP, English Learners in classrooms of teachers who were trained on SIOP were compared with those who were not on measures of writing. A comparison of gains for the SIOP with the control group shows a positive effect of about half a standard deviation unit (a medium-sized effect) in favor of the SIOP training model (Center for Applied Linguistics, 2001). These results also held for English Language Learners who were in special education (Center for Applied Linguistics, 2001).

On a broader level of analysis, I would also refer to the findings of a recent study by Hayes and Salazar that supports the conclusion that EL-trained teachers positively affect ELL learning. The study, conducted in Los Angeles City Unified School District (LAUSD), investigated the relationship between student achievement gains and the credential held by the teachers who taught them. Twenty-nine schools and 177 classrooms with large numbers of EL students were examined. Hayes and Salazar (2001) found that “state/district authorization of teachers does have an impact on student

outcome. For example, [Model B]⁷ students of teachers holding no state or district authorization achieved largely negative or very small positive. . . adjusted gains in reading and language” (pp. 37-38). (See Table 1). A follow-up study of grades 1–3 classrooms in the same schools during the subsequent school year (2001) found again that “students of credentialed teachers out-performed students of emergency permitted teachers” (Hayes, Salazar & Vukovic, 2002, p. 90).

Table 1
Actual and Adjusted Gains by Teacher Authorization
Grade 2, Selected Schools, LAUSD

	Reading		Language	
	Actual Gains	Adjusted Gains	Actual Gains	Adjusted Gains
BCLAD	1.8 (n=142)	1.6 (n=142)	4.1 (n=148)	2.4 (n=148)
CLAD/LDS	2.0 (n=32)	2.7 (n=32)	1.0 (n=34)	0.4 (n=34)
SB1969	*	*	*	*
A Level**	1.8 (n=155)	1.6 (n=155)	0.3 (n=155)	-1.5 (n=155)
No Authorization	-2.4 (n=74)	-2.9 (n=74)	0.5 (n=93)	-1.8 (n=93)

*Actual and adjusted gains were not reported here due to the small sample size.

** LAUSD certifies language competencies of its teachers if they do not already hold a BCLAD; A Level indicates fluent bilingual.

Source: Gándara & Rumberger (forthcoming, 2002) relying on Hayes & Salazar (2001), p. 36.

Finally, I would draw a strong inference from the analysis of the Houston Independent School District data by Thomas and Collier (2002) that teacher qualification matters for English Language Learners. Those data showed that students who were enrolled in *neither* transitional bilingual education nor ESL services had extremely poor educational outcomes (an achievement gap of 15 to 23 percentile points at 11th grade on a standardized English reading test) compared to those receiving services. These students were most likely *not* in classrooms with teachers trained in *either* ESL or bilingual education methodologies for, as Thomas and Collier report, in Houston, “only one percent of the bilingual/ESL teachers in a given year may not be certified when initially hired...[and subsequently] they take coursework and receive their teaching credentials during the first year of teaching.” Thomas and Collier also report considerable staff development courses and workshops for the district bilingual/ESL teachers. Thus, one can draw a straightforward connection between teacher qualification and educational outcomes.

⁷ LAUSD divides its Structured English Immersion classes into two types: Model A, which is English-only and Model B, which allows some primary language support. Data are more difficult to interpret for Model A because cell sizes are smaller and the authors report a lack of confidence in these small numbers.

B. The State, Recognizing that ELL Teachers Need Additional Training in Order to be Effective, has Established Specialized ELL Teaching Authorizations.

1. *The State Acknowledges that ELLs Need Specially Qualified Instructors.*

The State itself recognizes that providing specially trained teachers for ELL students is a fundamental prerequisite for their educational success. Norm Gold, long-time former director of the California Department of Education's unit for ensuring Statewide compliance with state and federal ELL laws, acknowledged a decade ago that "specially qualified teachers are essential to ensure that students receive an understandable and challenging curriculum... We should expect that special language, cultural, and methodological skills needed to ensure academic success for LEP students would be prerequisites for teachers assigned to instruct these students."⁸

The Legislature has recognized that ELL teachers need additional specialized training to effectively instruct ELLs and has sought, through its credentialing system and through the California Commission on Teacher Credentialing, to ensure that ELL teachers are minimally competent to teach ELL students. To that end, the Legislature has declared that:

[L]imited-English-proficient pupils have the same right to a quality education as all California pupils. For these pupils to have access to quality education, their special needs must be met by teachers who have essential skills and knowledge related to English Language Development, specially designed content instruction delivered in English, and content instruction delivered in the pupils' primary languages. It is the intent of the legislature that the Commission on Teacher Credentialing implement an assessment system to certify those teachers who have the essential skills and knowledge necessary to meet the needs of California's limited-English-proficient pupils.

Cal. Educ. Code § 44253.1.⁹

More recently, the Commission on Teacher Credentialing adopted its *Standards for Program Quality and Effectiveness for Professional Teacher Preparation Programs* (CCTC, September 2001). As part of these standards, the Commission set forth the Teacher Performance Expectations that it expects to be embedded within every preparation program and which it expects each graduate to be capable of executing. The

⁸ Norm Gold, *Solving the Shortage of Bilingual Teachers: Policy Implications of California's Staffing Initiative for LEP Students* (1992) at 1-2.

⁹ See also, Cal. Educ. Code § 44253.10(a): "All pupils should have the opportunity to learn. Pupils with limited English Proficiency (LEP) need equal educational access to the curriculum. Teachers of LEP pupils must have the skills and knowledge to provide appropriate methods of instruction..."

Commission has expressly recognized many specialized skills demanded of teachers of English Learners:

TPE 7: Teaching English Learners

Candidates for a Teaching Credential know and can apply pedagogical theories, principles, and instructional practices for comprehensive instruction of English Learners. They know and can apply theories, principles, and instructional practices for English Language Development leading to comprehensive literacy in English. They are familiar with the philosophy, design, goals, and characteristics of programs for English Language Development, including Structured English Immersion. They implement an instructional program that facilitates English Language Development, including reading, writing, listening and speaking skills, that logically progresses to the grade level reading/language arts program for English speakers. They draw upon information about students' backgrounds and prior learning, including students' assessed levels of literacy in English and their first languages, as well as their proficiency in English, to provide instruction differentiated to students' language abilities. They understand how and when to collaborate with specialists and para-educators to support English Language Development. Based on appropriate assessment information, candidates select instructional materials and strategies, including activities in the area of visual and performing arts, to develop students' abilities to comprehend and produce English. They use English that extends students' current level of development yet is still comprehensible. They know how to analyze student errors in oral and written language in order to understand how to plan differentiated instruction.

Candidates for a Teaching Credential know and apply pedagogical theories, principles and practices for the development of academic language, comprehension, and knowledge in the subjects of the core curriculum. They use systematic instructional strategies, including contextualizing key concepts, to make grade-appropriate or advanced curriculum content comprehensible to English Learners. They allow students to express meaning in a variety of ways, including in their first language, and, if available, manage first language support such as para-educators, peers, and books.³ They use questioning strategies that model or represent familiar English grammatical constructions. They make learning strategies explicit.

Candidates understand how cognitive, pedagogical, and individual factors affect students' language acquisition. They take these factors into account in planning lessons for English Language Development and for academic content.

³ Teachers are not expected to speak the students' primary language, unless they hold an appropriate credential and teach in a bilingual classroom. The expectation is that they understand how to use available resources in the primary language, including students' primary language skills, to support their learning of English and curriculum content.

CCTC, September 2001, at A-8.

It remains to be seen whether the CTC can ensure teacher preparation programs actually implement this new standard¹⁰ and, even more so, whether graduates will choose to teach in the high-poverty, high-EL schools currently experiencing shortages of credentialed teachers and EL-trained teachers. The State itself has nonetheless recognized a number of distinct teacher skills fundamental to the educational success of English Learners.¹¹

2. *Methodologies for ELL Instruction*

Currently, three central methodologies exist for the instruction of EL students. English Language Development (ELD) is the “systematic” instruction designed specifically for EL students to develop their listening, speaking, reading, and writing skills in English. The purpose of ELD is to provide English language skills at a level that will ensure equal access to the core curriculum once ELs are presented with academic content. (California Commission on Teacher Credentialing, 2001, at 3)

Specially Designed Academic Instruction in English (SDAIE) is defined as “a set of systematic instructional strategies designed to make grade-level and advanced academic curriculum comprehensible to English Learners with intermediate English language proficiency.” (CCTC, 2001, at 2). The primary purpose of SDAIE is to provide ELs with access to the same level of curriculum as provided to their native-English speaking counterparts by modifying the level of English taught according to the English proficiency of the students.

A third methodology for teaching EL students is through the primary language of the student. This methodology includes a continuum of strategies, from using the student’s primary language solely for clarification of concepts presented in English to providing all academic content instruction in the primary language.

3. *Settings for ELL Instruction in California*

Under Proposition 227, there are three primary instructional settings in which these methodologies are employed to instruct ELLs in California. Structured English Immersion (SEI) classrooms are classrooms with only ELL students, are taught “overwhelmingly” in English, and generally employ ELD or ELD and SDAIE strategies

¹⁰ While it is laudable that the state seeks to infuse these skills into all pre-service programs, there are reasons for concern. One is the capacity of the degree-granting institutions to staff the necessary courses for this training. There is no assurance that faculty at these institutions who teach the core courses are themselves knowledgeable about English Learner issues. In addition, there may be capacity issues with respect to the placement of student teachers with supervising teachers who themselves hold EL certifications. My experience with the Stanford Teacher Education Program as well as my collaboration with faculty at several California State University campuses give support to these concerns.

¹¹ See also, Declaration of Russell Gersten, submitted in support of Defendant Governor of California’s Opposition to Plaintiffs’ Motion for a Preliminary Injunction to Enjoin Proposition 227 (June 19, 1998) at 19:16-21 (“Currently, there are principles and practices of effective teaching of English-language learners that have been developed that merge content learning with English language acquisition. It is crucial that teachers learn these principles of instruction and have access to solid curricula that are effective with this group of students.”).

with or without occasional primary language support for clarification. Cal. Educ. Code §§ 305-306.

Once ELLs in an SEI classroom obtain a “good working knowledge of” or “reasonable fluency” in English, they are to be transitioned to an English Language mainstream classroom. These are regular education classes with native and/or fluent English speakers focusing on academic curricula. Cal. Educ. Code §§ 305-306. Because ELLs transferred from SEI classrooms have not yet obtained full fluency in English, they continue to need ELD and/or SDAIE support in their mainstream classrooms.¹²

Finally, for parents who desire that their children be taught with substantial use of the child’s primary language (such as takes place with traditional bilingual education approaches where academic content is conveyed in the primary language while English is being learned), they may have their child placed in what is now referred to as an alternative classroom. Cal. Educ. Code §§ 310-311.

4. *Authorizations to Teach English Learners in California*

The State of California also recognizes that EL teachers need specialized training by way of requiring additional authorizations beyond a teacher’s existing credential in order to teach any of the above three methodologies. The California Commission on Teacher Credentialing (“CTC”) has issued two basic credentials to EL teachers: (1) the Cross-Cultural, Academic, and Language Development (“CLAD”) certificate, and (2) the Bilingual Cross-Cultural, Academic and Language Development (“BCLAD”) certificate. As a prerequisite to either the CLAD or BCLAD authorization, an applicant must possess a valid teaching credential as opposed to an emergency permit. Alternatively, EL teachers can obtain the Multiple or Single Subject Teaching Credential with a CLAD or BCLAD emphasis, which allows the teacher to teach EL students by obtaining a general valid teaching credential in a CTC-approved program with a CLAD or BCLAD emphasis.

The holders of CLAD/BCLAD Certificates or Multiple/Single Subject Teaching Credentials with a CLAD/BCLAD Emphasis are teachers with professional clear teaching credentials and are considered as fully credentialed in the traditional sense. Many California teachers of ELs possess earlier versions of these specialized credentials that are considered as their equivalent. For instance, the Bilingual Certificate of Competence or the Bilingual Crosscultural Specialist Credential is regarded as equivalent to the BCLAD certificate. Likewise, the Language Development Specialist Certificate is considered the equivalent to the CLAD certificate.

The CLAD authorization requires teachers to have expertise in the following areas: language structure, methodology for first and second language development, and cross-cultural competency. An applicant can obtain the CLAD certificate upon possession of a valid teaching credential, supplementary coursework of 24 semester units

¹² Students in mainstream classrooms may also receive some primary language support to supplement the delivery of ELD and/or SDAIE services.

or 12 upper division/graduate semester units of coursework, and verification of experience learning a second language. In lieu of coursework, an applicant may substitute passing scores on a range of examinations. Although CLAD applicants must have some experience learning a second language, they are not required to have the high level of experience in a second language that is required for BCLAD applicants. The CLAD certificate authorizes its holders to teach either SDAIE or ELD, but CLAD holders are not authorized to teach in the primary language.

The BCLAD authorization is more rigorous than the CLAD in that the BCLAD requires teachers to have expertise in a second language and culture. Specifically, the BCLAD requires the three requirements necessary for a CLAD certificate, plus the following: methodology for primary language instruction, knowledge of the particular culture, and knowledge of the language of emphasis. To obtain a BCLAD certificate, an applicant must also possess a valid teaching credential and must pass specified examinations. Unlike applicants for a CLAD certificate, BCLAD applicants can only obtain certification through examination and not by completion of coursework. The BCLAD certificate authorizes its holders to teach in any of the three methodologies; namely SDAIE, ELD, or teaching in the primary language. Although BCLAD certification is the most comprehensive of all authorizations, it is also the least commonly held as only 8% of California teachers hold BCLAD certification.

In response to the shortage of EL teachers, the State has established alternative methods of authorization for teaching EL students that allow those without professional clear teaching credentials to teach EL students. First, the Certificate of Completion Program was created in 1994 by Senate Bill 1969 to satisfy the shortage of teachers lacking the educational requirements needed for a CLAD certificate. Although SB 1969 was intended to be a temporary solution, it was amended in 1999 by Senate Bill 395 to extend to 1/1/05. Both the SB 1969 and the SB 395 certificates allow a teacher with a basic teaching credential and permanent employee status in a school district to teach ELs upon completion of one or two 45-hour staff development programs, depending upon their level of experience. These programs need not be satisfied by way of college courses, and instead can be completed through staff development workshops which were not approved or monitored by the CTC until recently. An SB 1969 or SB 395 certificate authorizes its holders to teach either the SDAIE and/or ELD methodology, and is currently held by approximately 18,000 California teachers.

It should also be noted that EL teachers can bypass many of the above requirements for certification by pursuing emergency permits for either the CLAD or BCLAD authorization or an emergency permit for the Multiple or Single Subject Credential with a CLAD or BCLAD emphasis. The CTC also waives EL authorization requirements through its general waiver authority.

5. "Teachers in Training"

One of the most commonly used options permitted by the State does not require any certification of a teacher's abilities to teach ELs. This option labels under-qualified EL teachers as "teachers in training". "Teachers who do not hold appropriate authorizations may be given LEP assignments on an interim basis if the teacher is identified on the district's Plan to Remedy the Shortage approved by the California Department of Education." CCTC, *Credential Handbook* (April 2002), II-C-1 8/01.¹³ Thus, unlike the certifications detailed above, the "teacher in training" status is not monitored or enforced by the CTC. Instead, this status was developed by the CDE as a "plan to remedy" the shortage of certified EL teachers in certain school districts. A teacher in training can teach ELD and/or SDAIE and/or provide primary language instruction based upon an agreement that the required training for either CLAD or SB 1969/395 certification will be obtained within two years or BCLAD certification within three years. As set forth in Table 3 (see below), over 37,000 under-prepared teachers in training are currently teaching ELs in California classrooms.

The following tables summarize the State's EL authorizations, skills required for each, permissible methodology under each authorization, and the number of teachers holding such certifications providing instructional services to ELs in 2000-01.

Table 2
Skills and Preparation Required for EL Teaching Authorizations

Authorization and Skills	Preparation
<i>Bilingual Specialist</i> Language structure; Methodology for L1 & L2 language development; Cross-cultural competency; Methodology for L1 instruction; Knowledge of a particular culture; Proficiency in a particular language.	University or college post baccalaureate program of instruction often in conjunction with a Master's Degree Program.
<i>Bilingual culture language and development (BCLAD).</i> Same as bilingual specialist skills.	By exam ¹⁴ , college coursework, or a combination of the two. Teachers may earn by successfully completing: <ul style="list-style-type: none"> • Six exams (see Bilingual specialist skills) OR • CLAD certification and exams 4-6 OR • CTC approved credential program with a BCLAD emphasis OR • CLAD college courses (12 semester units) & exams 4-6 OR • CLAD coursework, a single subject teaching credential (not emergency) in the BCLAD language, & exam 5.
<i>Culture language and development (CLAD).</i> Language structure;	By exam, college coursework, or a combination of the two (see footnote above). Teachers must successfully complete: <ul style="list-style-type: none"> • 3 exams OR

¹³ See also, *id.* at II-C-3 8/01 ("The most widely used option through the CDE is the *Plan to Remedy* in which a district with the CDE, develops a plan to remedy the shortage of certificated English learner teachers. This is sometimes referred to as "teachers in training.")

¹⁴ Preparation for the exams offered by 12 bilingual teacher-training programs statewide.

Methodology for first and second language development; Cross-cultural competency.	<ul style="list-style-type: none"> • CTC approved credential program with a CLAD emphasis OR • 12 college upper div. or grad sem. units (18 qtr)¹⁵ OR • A combination of college units & SB1969/395 training
<i>SB 1969 certificate of completion of staff development</i> Rudimentary knowledge of either ELD, SDAIE or both SB 1969 certificates are being phased out and will no longer be issued after 1/1/03 (when they will be replaced entirely by SB 395 certificates)	Teacher w basic credential and documented EL experience must take 45 hrs (equivalent to one semester course) of staff development in either (1) SDAIE, (2) ELD, or (3) SDAIE and ELD combined according to guidelines established by the CTC Teachers with less EL experience must take 90 hours or two courses in order to teach both ELD and SDAIE.
<i>SB 395 certificate of completion of staff development</i> See SB 1969	Same as SB 1969 however CTC actually approves staff development programs and issues the SB 395 certificates
<i>Emergency Permits</i> For CLAD and BCLAD certificates Single/Multiple Subject Credentials with CLAD Emphasis Single/Multiple Subject Credentials with BCLAD Emphasis	Teacher must possess baccalaureate degree, pass the CBEST, and satisfy the following requirements: Possession of valid teaching credential; emergency BCLAD certificates also require verification of target-language proficiency. Verify intent to enroll in a Commission-approved CLAD emphasis program; verify subject-matter competence by proof of a valid teaching credential, passage of required exams, or completion of 18 hours of college course work Verify intent to enroll in a Commission-approved BCLAD emphasis program; verify subject-matter competence by proof of a valid teaching credential, passage of required exams, or completion of 18 hours of college course work; and verify target-language proficiency.
<i>Teacher in training status</i> Agreement to gain above skills.	Teachers agree to complete 1969 or CLAD training (2 years) or BCLAD (3 years.)

Source: Gándara & Rumberger (forthcoming, 2002).

¹⁵ If lower-division units are included, a total of 25 semester or 36 quarter units are required.

Table 3
 Authorizations for Teaching English Learners 2000-01¹⁶
 By Instructional Strategy and Numbers Teaching English Learners

Authorization	Can teach	Number teaching in 2000-01
CTC issued Bilingual specialist credential (BS)	Primary Language, SDAIE, ELD	Unknown (some subset of 8,450 since BCLAD is required for this specialist credential)
BCLAD: CTC issued certificate bilingual cross-cultural and language development: added to regular credential or earned as emphasis credential	Primary Language, SDAIE, ELD	8,450 authorized to and teaching content through primary language
CLAD: CTC issued certificate cross-cultural and language development: added to regular credential or earned as emphasis credential	SDAIE or ELD	69,394 have CLAD, LDS, or an ESL certificate and are teaching ELD &/or SDAIE.
SB 1969 certificate of completion of staff development, issued by employer school district or county office of education	SDAIE and/or ELD	18,000 (includes 1969 & 395) teaching ELD &/or SDAIE
SB 395 certificate of completion of staff development, issued by the CTC	See SB 1969	See above
Emergency Permits	Primary Language, SDAIE, ELD	4,110 (For CLAD and BCLAD certificates, and for Single/Multiple Subject Credentials with CLAD/BCLAD Emphasis)
Teacher in training status designated by CDE	SDAIE and/or ELD	33,466 (in training for SB1969 or CLAD); 3,571 (in training for (BCLAD))
SB 1059: all multiple and single subject credentials to infuse some knowledge or culture and second language learning	ELD and SDAIE	N/A (incrementally phased into all credential programs beginning in Summer 2002)

Source: Gándara & Rumberger (forthcoming, 2002).

B. Instructional Materials Must Be Appropriate for ELs.

As Oakes and Saunders have noted, “[n]ational and international research has established the overall educational importance of textbooks and instructional materials.” Oakes and Saunders (2002) at 3. Indeed,

Textbooks and instructional materials (including technology and other equipment) are the primary tools that teachers use to organize their lessons and make content knowledge and skills available to students. These textbooks and materials contain the content that students are expected to learn, and most teachers focus their

¹⁶ Data from California Department of Education Demographics Unit. Data files available online at www.cde.ca.gov/demographics/files/lcstaff.htm

instruction on the material included in the books they use (Freeman and Porter, 1989).

Oakes and Saunders (2002) at 7. Student access to textbooks and supplemental instructional materials positively impacts student achievement and allows students to pursue homework, which further positively impacts student achievement. *Id.* at 8-10. Moreover, there is evidence to suggest that, in the most disadvantaged schools—where, as will be shown, significant numbers of EL students attend—textbooks and instructional materials are relied on more heavily than normal in the students’ education. *Id.* at 10-11.

This evidence confirms what should be self-evident—that students need appropriate instructional materials in order to learn. As part of this general conclusion, it is also true that English Learners need specialized materials beyond that which is provided to mainstream students in order to make the curriculum comprehensible to them. State officials have confirmed that appropriate instructional materials are a component of the “basic necessities” for English Learners. Laurie Burnham-Massey, Director of the Comite Compliance Unit, has stated:

[ELLs] need instruction that they can understand. They need teachers qualified to provide that instruction, they need appropriate instructional materials, they need a supportive environment.

Deposition of Laurie Burnham-Massey (“Burnham-Massey Depo.”) at 43:11-25. Ms. Burnham-Massey also observed that “[t]extbooks are important because they contain information students need to know, and it’s important, if the district so designs its program that students have textbooks in a language they understand, if they don’t speak English, to help them understand what is going on in class.” Burnham-Massey Depo. at 46:7-12.

ELLs need specialized instructional materials beyond those provided their mainstream peers for many reasons. First, while ELLs come to the state’s classrooms with a variety of levels of English proficiency, many require a focus solely on the English language for at least the beginning period of their education. According to the California Department of Education’s Proposition 227 Task Force, materials that emphasize the explicit teaching of English (reading, writing, speaking, and listening skills) *without a focus on academic content*, as well as bilingual dictionaries to facilitate translation, must be available to English Learners (California Department of Education, *Educating English Learners for the Twenty-first Century*, 1999).

Moreover, ELLs come to California with a wide variety of academic experiences and content area knowledge as well. Therefore, the scope of ELLs’ instructional materials goes beyond the need for English Language Development resources. As stated by the California Department of Education’s Proposition 227 Task Force:

... to simply teach [ELLs] English does not put them on an equal level with native English speakers. Gaining access to a district’s core curriculum will still be an arduous process for English Learners who are striving to catch up and keep up

with their native English-speaking peers. Moreover, merely having reasonable fluency in English is insufficient to achieve high content standards in reading, mathematics, history-social science, and science. School districts must recognize both challenges, particularly if they are going to close the achievement gap between English Learners and native English-speaking students and increase student promotion and graduation rates.

California Department of Education, *Educating English Learners for the twenty-first century* (1999), at 3. Materials for SDAIE (Specially Designed Academic Instruction in English) instruction—*rather than mainstream instructional materials that assume native-like English proficiency*—must also therefore be available for ELLs.

As recognized by the National Board for Professional Teaching Standards, for both English Language Development and SDAIE materials, the variations among ELLs' classroom readiness mean that "...selecting materials for linguistically and culturally diverse learners presents special challenges. For example, age-appropriate literature, textbooks, and software in English may require higher levels of language proficiency than many learners possess, while materials in simpler English may not engage their interest" (National Board for Professional Teaching Standards, 1998, p. 27). Both English development and content materials should be available at a variety of skill levels, then, just as these materials are for mainstream students (California Department of Education's Proposition 227 Task Force, *Educating English Learners for the twenty-first century*, 1999).

The National Research Council (1997), in its review of characteristics of effective schools, also found evidence for the importance of instructional materials appropriate to the needs of ELLs. Many of the effective schools showed that teachers adapted specially designed materials to their situation and to the needs of their students. Thus, the studies suggest an important connection between appropriate materials and professional development to equip teachers with the capacity to make appropriate modifications.

C. California's Content Standards and the High Stakes Attached to Meeting Them Make it All the More Critical that ELLs be Taught by Specially Trained Teachers And be Provided Appropriate Instructional Materials to Permit Access to the Core Curriculum.

In recent years, the State has established content standards defining what all students need to know and be able to do at each grade level in the core curriculum subjects of English Language Arts, Mathematics, History-Social Science and Science. These standards are not merely guidelines for districts and schools to follow but now inform the curriculum frameworks, State textbook adoption, the State's school accountability program, grade promotion and retention policies and, with respect to English Language Arts and Mathematics, form the basis for the State's new High School Exit Exam (HSEE). All of these elements of the State's system of education are to be aligned with these new rigorous content standards. In particular, the HSEE, the school

accountability provisions (*i.e.*, the State's rewarding or sanctioning of schools and the rewarding of college scholarships based on student performance on standards-aligned examinations), and the potential denial of grade promotion based on standards-aligned test scores, have transformed learning the State's standards into a high-stakes enterprise for students and their schools. See Darling-Hammond (2002) at 4-5; Oakes and Saunders, 2002, at 11, 15-17.

In order for teachers to teach to these standards, and students to learn at the level of the standards, teachers must be trained in the content of the standards and in how to teach them. Through its teacher credentialing process, the State has established what it considers to be the appropriate preparation to ensure that recent credential recipients can teach students the content standards. See Darling-Hammond (2002) at 7-12; CCTC Bulletin, September 2001.¹⁷ Likewise, textbooks and supplemental materials that are aligned to the State's content standards have become critical necessities for students in order to acquire the knowledge and skills called for by the standards. (Oakes and Saunders, 2002 at 11-15).

For English Learners, the State's new high-stakes consequences are doubly troubling. Not only are ELs in need of teachers qualified to teach the standards and standards-aligned instructional materials the same as their English-only peers, but English Learners have the additional hurdle of needing specially trained EL teachers and specialized instructional materials so as to make comprehensible the standards-aligned, core curriculum instruction. Preliminary results indicate that ELs are faring poorly in surmounting these dual hurdles. Overall High School Exit Exam pass rates for English Learners are at 18% for Math and 28% on English; approximately one-third the rates reported for primarily English-only white students.¹⁸

III. English Learners in California Are Receiving Unequal and Inadequate Access to Qualified Teachers, Appropriate Instructional Materials and Learning Environments.

In April of this year, Lou Harris released a major statewide survey of school conditions in California. Many of the conditions investigated by Harris from a sample of over 1,000 teachers have not previously been investigated by the State. In addition to gathering important data on a number of teacher, textbook and facility issues, Harris compared conditions reported by teachers in the 20% of schools with the highest concentrations of English Learners and low-income students with conditions reported in

¹⁷ The State's failure to be able to ensure all teachers are properly trained in the content standards before imposing high stakes consequences is cause for concern. Despite schools and students already being sanctioned and rewarded and the high school exit exam set to begin denying diplomas in 2003-04, the State at best has only trained 1/3 of its teachers in the standards. Statement by State Secretary of Education Kerry Mazzone, *San Francisco Chronicle*, BEYOND THE SCORES: The State of California Schools Public schools show glimmers of hope State K-12 system finally proves it can improve, September 1, 2002.

¹⁸ <http://cahsee.cde.ca.gov/>.

the 51% of schools serving the fewest such children. Comparing the two groups, Harris found that the quintile of schools with the most ELs and low-income students are:

- Twelve times more likely to be in a school with a high concentration of untrained teachers than the majority of the State's students.
- Nearly four times more likely to be in a school with a serious teacher turnover problem.
- Nearly twice as likely to lack adequate textbooks and learning materials.
- Nearly twice as likely to lack functioning bathrooms.

Table 4
Significant Disparities Between the Majority of Schools and the 20% of Schools with the Highest At-Risk Students

	All Schools	Majority	20% Highest At-Risk
Percent of schools with 20% or more non-credentialed teachers	19%	4%	48%
Turnover of teachers serious problem	22%	11%	43%
Negative on way school involves parents	20%	9%	34%
Inadequacy of physical conditions	32%	22%	47%
Negative on teacher working conditions	23%	16%	35%
Long-term teacher vacancies	22%	16%	31%
Negative on seeing evidence of cockroaches, rats, and mice in school	27%	23%	37%
Negative on available technology	31%	25%	38%
Negative on textbooks, instructional materials	17%	13%	25%
Student bathrooms not working, closed	17%	13%	24%

Source: *A Survey of the Status of Equality in Public Education in California*, (Louis Harris, 2002).

These results point to a troubling array of substandard learning conditions experienced daily by many of California's low-income English Learners and warrants a closer examination of the access English Learners have to critical educational inputs.

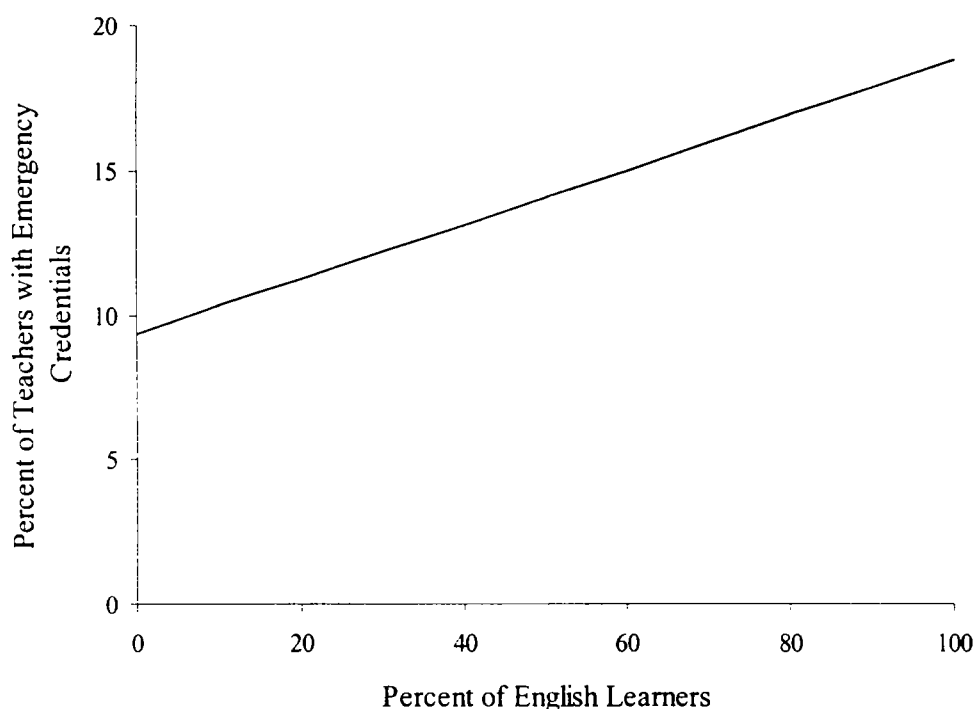
A. Unqualified Teachers and Unequal Facilities

1. *Disproportionate Exposure to Uncredentialed Teachers for ELs*

Even before addressing the issue of English Learners' access to specially trained teachers, it is significant to note that ELs in California are likely the group most at risk of being exposed to an emergency credentialed teacher. Schools with 40% or more ELs have 6 times the percentage of teachers who are not fully credentialed than do schools that have fewer than 7.5% EL students (Rumberger & Gándara, 2000). One might conjecture this disparate distribution is largely a function of poverty for, as various studies have documented, low-income students in California's public schools are among

the students most likely to receive instruction from a teacher on an emergency permit.¹⁹ While it is true that English Learners also tend to be found among low-income students, it is also true that, even when factoring out poverty, *English Learners are more likely taught by teachers on emergency credentials than their English-speaking peers*. Gándara & Rumberger (forthcoming, 2002). Figure 2, which holds poverty constant, shows that as the concentration of ELs in a California school increases, so too does the percentage of teachers holding emergency credentials.

Figure 2
The Relationship Between the Percent of English Learners and the Percent of Teachers with Emergency Credentials, Holding Constant the Percent of Students on Free or Reduced Lunch, California Schools, 1999-2000



Note: Relationship estimated from the regression equation: $3.553 + .119 \cdot \text{LUNCH} + .095 \cdot \text{ELL}$ ($N=6039$), with $\text{LUNCH} = 48.6$ (sample mean).

Source: Gándara & Rumberger (forthcoming, 2002) relying on 1999-2000 API Growth Data File.

Retrieved October 4, 2000 from WWW: <http://api.cde.ca.gov/datafiles.html>.

Inasmuch as Figure 2 holds poverty constant, one would expect to see a flat line if the discrepancy in credentialed teachers were purely a function of poverty. These data show that—even without considering whether their teachers have specialized training to teach ELs—English Learners are doubly vulnerable to receiving instruction from teachers without full credentials. Not only are English Learners disproportionately found among the low-income student population, but low-income ELs are significantly more likely to

¹⁹ Patrick M. Shields *et al.*, SRI, Center for the Future of Teaching and Learning, *The Status of Teaching Profession 2001*, pp. 24-25; Public Policy Institute of California, *Equal Resources, Equal Outcomes?*, pp. 77-82.

be taught by a teacher with an emergency credential than their low-income, non-EL peers.

2. *The Mal-distribution and Inadequate Supply of EL-Authorized Teachers in California*

The State's primary means by which it monitors EL access to qualified teachers is by way of the California Department of Education's annual Language Census survey, the results of which are reported in the California Basic Educational Data System (CBEDS). A critical shortcoming in the State's data collection system emerges, however, from the fact that the Language Census survey does not collect data at the classroom level but only at the school level. Thus, for purposes of overseeing EL access to qualified teachers, the State's system can only reveal the school-wide number of EL students in a particular type of instructional settings (e.g., Structured English Immersion (SEI), mainstream, alternative [bilingual] classrooms), the school-wide number of students receiving particular types of services (e.g., ELD, SDAIE, primary language instruction) and the number of teachers in the school which provide specialized instruction to ELs. Because the State does not match specific EL students with specific teachers at the classroom level, it is not possible to discern, on a systemic basis, how many students in the school are actually being taught by teachers without appropriate authorizations.

It is possible to discern from the Language Census survey, however, that significant numbers of ELs are receiving no specialized instruction whatsoever—not even from uncredentialed, untrained teachers or untrained paraprofessionals. In the 1998-99 school year, this number was over 96,000; for the most recently reported year, 2001-02, over 77,000 students lacking English fluency received no EL instruction of any sort—no English Language Development, no Specially Designed Academic Instruction in English, and no primary language instruction. This number represents approximately 1 in every 20 EL students statewide.²⁰ The CDE has acknowledged that the bulk of these students (some 62,420 students) are concentrated in some 205 districts around the State, where 10% or more of the districts' ELs are not receiving any EL instructional services. ([CDE 1/29/02 data run attached to 1/30/02 letter from Kara Read Spangler.]) Although California does not collect long-term information in terms of outcomes for students who have been in different types of educational interventions, data from elsewhere show harm if EL students do not receive any special services, such as ESL or bilingual education. Thomas and Collier in a large-scale study of students in Houston report an average achievement gap in Stanford 9 English scores at Grade 11 of approximately 15 to 23 percentile points for students not receiving services compared to students in ESL or transitional bilingual classes.²¹

Lacking a State data collection system which demonstrates outright the extent to which EL students are being taught by under-qualified teachers, Gándara and Rumberger

²⁰ See <http://data1.cde.ca.gov/dataquest/>, Subject: English Learner, Level: State. Report: English learners, Instructional Settings and Services.

²¹ See Figure C-1 at http://crede.ucsc.edu/research/llaa/1.1_sc_figures.html. The full report is at http://ucsc.edu/research/llaa/1.1_final.html.

have analyzed the CBEDS school level data (in ways the State has apparently not) in order to determine the likelihood EL students are receiving instruction from EL-trained teachers. Their conclusion based on an analysis of CBEDS data for the 1999-2000 school year is that there are more fully authorized EL teachers teaching in the State per EL student (5.1 teachers per 100 EL students) than fully authorized non-EL teachers per non-EL student (3.9 per 100 non-EL students).²² The situation changes dramatically, however, when considering not just statewide totals of EL-authorized teachers to EL students, but how those teachers are distributed among California's EL-populated schools. The results of their analysis indicates that:

[T]here are a large number of schools in California with no teachers authorized to teach English Learners, although they enroll only a small fraction of all ELs. However, many more schools in the state have fewer than 2.5 EL teachers per 100 EL students--equivalent to a 40:1 student-teacher ratio. At the elementary level, more than 200,000 English Learners--20 percent of the total--attend schools with 2.5 or fewer EL teachers per 100 English Language Learners. At the middle school level, more than 85,000 ELs attend such schools--almost 38 percent of the total. At the high school level, more than 75,000 attend schools with such low numbers of qualified EL teachers--almost one-third of all high-school EL students. Counting English Learners who attend other types of schools (e.g., alternative, continuation, etc.), more than 390,000 English Learners in California--one out of every four--attends a school with [a 40:1 EL-student to EL-teacher ratio.]

Gándara and Rumberger (forthcoming, 2002).

Table 5
Number of Schools by EL Teacher/Student Categories and Level, 1999-2000

Fully Authorized EL ²³ teachers per 100 EL students	Elementary		Middle		High	
	Number	Percent	Number	Percent	Number	Percent
No EL teachers	373	7.4	83	7.4	56	6.7
Fewer than 2.5	544	10.9	230	20.5	147	17.6
2.5 to 7.5	1910	38.1	459	40.9	348	41.7
Greater than 7.5	2185	43.6	351	31.3	283	33.9
Total	5012	100.0	1123	100.0	834	100.0

Source: Gándara & Rumberger (forthcoming, 2002) relying on 1999 CBEDS and 2000 Language Census.

²² This analysis counts as fully certified those 18,000 teachers who have received only the most minimal SB 1969/395 training.

²³ EL teachers are defined here as those who have any of the following certifications that authorize them to teach in the accompanying situations: BCLAD (primary language, ELD and SDAIE), CLAD (ELD and SDAIE), SB 1969/395 (ELD and/or SDAIE, depending on the hours of professional development). This does not include teachers who hold only emergency permits.

Table 6
Number of English Learners by EL Teacher/Student Categories and Level, 1999-2000

Fully Authorized EL teachers per 100 EL students ²⁴	Elementary		Middle		High	
	Number	Percent	Number	Percent	Number	Percent
No EL teachers	18689	1.9	5703	2.4	1675	0.7
Fewer than 2.5	193205	19.7	81954	35.3	74119	31.3
2.5 to 7.5	610629	62.3	120153	51.7	132402	55.8
Greater than 7.5	157331	16.1	24671	10.6	28933	12.2
Total	979854	100.0	232481	100.0	237129	100.0

Source: Gándara & Rumberger (forthcoming, 2002) relying on 1999 CBEDS and 2000 Language Census.

Based on these data, at a minimum, one can conclude that there is a serious problem in the State with the distribution of EL-trained teachers among the schools where these teachers are needed. Moreover, while at first blush the number of EL-trained teachers in the State may seem adequate to yield 20:1 student-teacher ratios statewide, this facile assumption ignores the fact that under the State's system of educating ELs, not all ELs are placed in classrooms with only other English Learners. Rather, under Proposition 227, large numbers of not-yet-fluent students are placed in mainstream classrooms with native English speakers. As the State has acknowledged,²⁵ these students—currently 1/3 of the total EL population, or some 500,000 students—still require ELD and/or SDAIE support as they transition to fluent English proficiency. Mainstream teachers with EL students also need to be specially trained to provide these EL instructional services. As of 2000-01, approximately 121,000 California public school teachers reported that they taught ELs in classes requiring ELD and/or SDAIE.²⁶ Of this figure, which includes mainstream teachers providing such EL instructional

²⁴ See above.

²⁵ See, e.g., Glossary, English Learner Students Enrolled in Specific Instructional Settings, available at http://www.data1.cde.ca.gov/dataquest/gls_ElPart2.html (defining English Language Mainstream Classroom as “[a class] where English learners who have met local district criteria for having achieved a ‘good working knowledge’ (also defined as ‘reasonable fluency’) of English are enrolled and provided with additional and appropriate services;” California Commission on Teacher Credentialing, Professional Services Division, “Policy Developments and Issues Related to the Delivery of Instructional Services to English Learners” (October 21, 1999), at 8 (“Under the new framework of law [Prop 227] teachers in “mainstream” classrooms should be expected to teach only those English learners who have attained at least a reasonable level of English fluency as determined by the English language development test. Though transitioning students may need additional instruction and support in English as well as remedial assistance in academic subjects as they move into mainstream classrooms, the primary job of the teacher in this type of classroom is to assist all students in maintaining progress across the curriculum. The preparation needed for this job will most certainly include some, if not all, of the knowledge and skills underlying the CLAD Credential...”); California Department of Education, *Report on the Proposition 227 Task Force: Educating English Learners for the Twenty-First Century* (1999), at 33 (recognizing that even students with “reasonable fluency” in English continue to need “ongoing, daily, and challenging instruction in English reading and writing,” and recommending that schools “provide access to resources in the students’ primary language to facilitate learning in the English-language mainstream classroom”) and at 49.

²⁶ <http://data1.cde.ca.gov/dataquest/>, Subject: English Learner, Level: State, Report: Teachers Providing Services to English Learners.

services, only approximately 90,000 were qualified to provide these services.²⁷ Additionally, of the 12,000 teachers providing academic content through primary language instruction in bilingual instructional settings, only approximately 8,500 had the appropriate credential to do so.²⁸ Thus, when one considers the actual number of different classrooms statewide needing EL-trained teachers under the State's system of educating ELs, an overall system shortage also appears of some 30,000 ELD/SDAIE trained teachers (requiring SB 1969/395 certification or greater) and 3,500 primary language qualified teachers (requiring a BCLAD credential or its equivalent). These figures represent the shortage of EL qualified teachers for classrooms currently providing EL instructional services; an additional 4-7,000 EL teachers are needed to teach those ELs currently receiving no instructional services.

The conclusion that large numbers of the state's EL students are receiving instruction from teachers without any specialized training is confirmed and reinforced by other data. According to the 2000 Class Size Reduction (CSR) teacher survey (Stecher & Bohrnstedt, 2002), 37 percent of all teachers who taught grades 1-4 in 2000 held a CLAD credential, 10 percent held a BCLAD credential, and 45 percent held either a CLAD or BCLAD (see Table 7). Even adding into these results an estimate of those teachers possessing the most minimal SB 1969/395 training,²⁹ one can conclude that only around 60% of teachers in grades 1-4 in 2000 had EL training of any sort, leaving 40% of the classrooms without EL-authorized teachers.³⁰

Table 7
Percent of Teachers in Grades 1-4 with CLAD and BCLAD Credentials
By Classroom Concentration of English Learners, 2000

Percent English Learners in the classroom	Percent of all English Learners	CLAD	BCLAD	CLAD or BCLAD
0	0	25	2	27
>0% & <=25%	17	47	3	47
>25% & <=50%	20	46	11	54
>50%	63	29	30	54
Total	100	37	10	45

NOTE: Results are weighted.

Source: Gándara & Rumberger (forthcoming, 2002) relying on 2000 Class Size Reduction Teacher Survey (N=774).

According to a statewide cross-sectional survey of 1,071 teachers conducted by Louis Harris in January 2002 (Harris, 2002), 28% of the 775 respondents who indicated

²⁷ Table 3, above (CLAD and equivalents: SB 1969/395).

²⁸ Darling-Hammond (2002) at 45.

²⁹ The survey did not identify teachers who had authorizations acquired through SB1969 or SB395.

³⁰ See Table 3, above, where SB 1969/395 authorizations statewide total slightly less than 1/3 of EL teachers holding either a BCLAD or CLAD (18,000 vs. 57,432).

that they had at least some English Learners in their classes lacked State authorized-training needed to teach ELs.³¹

Yet another indication that many EL students are not receiving instruction from qualified teachers—and that the State is fully aware of this reality—is reflected in the California Department of Education’s designation of more than 37,000 EL teachers as “teachers in training”. These teachers are individuals whom districts report to the CDE as currently providing EL instructional services (ELD, SDAIE or primary language instruction) but lacking the EL certification to do so. Districts typically enter into a “plan to remedy” its shortage of EL-authorized teachers by having teachers agree to complete training in either a two-year (for CLAD or SB 1969/395 certification) or three-year (for BCLAD certification) period. Putting aside for the present the question of whether the practice of identifying “teachers in training” and providing 2-3 years for training is an effective remedy for the State’s EL-teacher distribution problem, the acknowledged existence of 37,000 unqualified EL teachers is a damning admission from the State of a systemic breakdown in the delivery of education to California’s EL population.

Despite the California Commission on Teacher Credentialing (CCTC) counting “teachers in training” as a permissible assignment,³² the CCTC’s review of misassignments statewide routinely indicate that EL teaching assignments are one of the most frequently identified examples of teachers illegally teaching beyond their credential’s authorization. In its 1992-95 report on misassignments, the CTC identified teachers in ELL classrooms as the area having the greatest number of misassignments statewide; in its 1995-99 report, ELL teacher misassignments were second only to the broad category of electives. *A Preliminary Report on the Assignment of Certificated Employees by County Offices of Education for Four School Years, 1995-1999*, CCTC, November 10, 2000 at 4-5.

With so many EL students lacking qualified teachers, the State has acknowledged that ELs often receive the bulk of their instruction from the more than 30,000 bilingual aides and paraprofessionals in the public schools, most of whom are not specially trained (CDE Proposition 227 Task Force, 1999).

Finally, though the State (again) fails to track information about which types of schools, if any, experience EL-teacher shortages, evidence indicates that the available qualified EL teachers are not randomly spread across California’s public school system but (as with credentialed teachers generally) tend to concentrate disproportionately more in low-poverty, low-minority schools. For example, an analysis of K-3 teachers with the most common EL certification (the CLAD) teaching in classes where at least 10% of students were English Learners, reveals that “51% of teachers in low-minority and 55%

³¹ The Harris survey may have understated the problem inasmuch as it under-represented teachers without full credentials.

³² “...Teachers who do not hold appropriate authorizations may be given LEP assignments on an interim basis if the teacher is identified on the district’s Plan to Remedy the Shortage approved by the CDE.” Cal. Comm’n on Teacher Credentialing, *Credential Handbook* (2002), at II-C-1 8/01.

in low-poverty schools have a CLAD credential as opposed to only 30% in high-minority and 35% in high-poverty schools.” Darling-Hammond (2002) at 42-43.

3. *Poor Working Conditions for EL Teachers and Learning Conditions for EL Students*

At least one significant explanation for the mal-distribution of California’s available EL teachers appears to be the poorer working conditions in high-EL schools. Recent research suggests that working conditions influence teachers’ decisions about where to teach. (Darling-Hammond, 1997; Loeb & Page, 2000; Darling-Hammond, 2002 at 50-51.) An examination of the working conditions in high-EL schools paints a similar picture to the one for high-poverty, high-minority schools generally: poor facilities, inadequate textbooks, and other substandard working conditions make these schools undesirable places to work for teachers and more difficult places to learn. (See Darling-Hammond, 2002 at 46, 58-61). Harris observed, for example, that teachers from high-poverty, high-EL schools were approximately twice as likely to report negative working conditions (35%) and to report their school as experiencing long-term teacher vacancies (31%) as the majority of schools in the State (16% for both conditions).³³ Focusing on EL concentration alone, Gándara & Rumberger similarly found analyzing the Harris survey that schools with EL populations over 25% report poorer working environments, higher turnover in their schools, and greater school difficulty attracting long-term teachers and substitutes.

Table 8
Characteristics of California Schools
by Percentage of English Learners in Teachers’ School, January 2002
(percent of teachers reporting condition)

	25% or less	Over 25%	Total
Working conditions for teachers ONLY FAIR OR POOR	18	31	23
The way school involves parents ONLY FAIR OR POOR	13	32	20
Turnover of rate of teachers is very or somewhat serious	13	38	22
Had teaching positions that couldn’t be filled for long periods of time or could only be filled by substitutes	17	32	22
A lot of trouble getting substitutes	11	17	13

NOTE: Results exclude respondents who did not answer question or answered “not sure.” Results are weighted. All column differences are statistically significant at .05 level or better.

SOURCE: Harris Survey of a Cross-Section of California School Teachers, January 2002 (N=1071) analyzed and reported in Gándara & Rumberger (forthcoming, 2002).

³³ See Table 4, above.

Surely contributing to the poorer working conditions in high-EL schools is the greater incidence of poor physical facilities. For example, in the U.S. Department of Education-sponsored Early Childhood Longitudinal Study ("ECLS"), which included information on 2,826 California students who began kindergarten in 1998, only 8% of principals in schools with 25% or fewer ELs reported that their classrooms were never or often not adequate, compared to 35% in schools with more than 25% ELs.³⁴ Similarly, independent ECLS supervisor observations confirmed the principals' perceptions of the disparate nature of school facilities in California based on EL concentration.

Table 9
Characteristics of California Elementary School Facilities by EL Concentration,
Spring 1999

	25% or less	More than 25%
ECLS supervisor observations:		
Student bathrooms unsatisfactory	2.5	16.4
School building conditions unsatisfactory	0.0	17.6

Note: Results are weighted (S2SAQW0).

SOURCE: Gándara & Rumberger (forthcoming, 2002) analyzing ECLS base year data for California public elementary schools (N=69).

The Harris survey also demonstrated significantly more inadequate facilities in schools with higher percentages of ELs, including nearly a quarter of teachers from such schools reporting unclean and non-functioning bathrooms and 34% reporting evidence of vermin infestation.

Table 10
Condition of Facilities of California Schools
by Percentage of English Learners in Teachers' Schools, January 2002
(percent of teachers reporting condition)

	25% or less	Over 25%	Total
The adequacy of the physical facilities is ONLY FAIR OR POOR	26	43	32
Bathrooms ARE NOT clean and open for throughout day.	13	23	17
HAVE seen evidence of cockroaches, rates, or mice in past year.	24	34	28

NOTE: Results exclude respondents who did not answer question or answered "not sure." Results are weighted. All column differences are statistically significant at .05 level or better.

SOURCE: Harris Survey of a Cross-Section of California School Teachers, January 2002 (N=1071) analyzed and reported in Gándara & Rumberger (forthcoming, 2002).

³⁴ It is also interesting to note that 19 percent of all principals in California reported that their classrooms were never or often not adequate, compared to 9 percent of principals in the rest of the United States.

English Learners in California and the teachers expected to teach them are also more likely to be found in overcrowded facilities as a school's EL population increases. According to the ECLS data, 50% of principals in schools over 25% EL reported problems with overcrowding compared to half that figure in schools with a 25% or less EL population. Likewise, EL students are more likely than other students to be in multi-track year round schools designed to accommodate more students on a campus.³⁵ The year-round plan that accommodates the most students is Concept 6 – a schedule in which students attend school for only 163 days per year, instead of the typical 180 days. As Table 11 shows, English Learners comprise fully half of the students assigned to Concept 6 schools.

Table 11
Distribution Characteristics of California Schools, 2001
Percent English Language Learner Enrollment by School Calendar

Measure	Statistic	Calendar		
		Traditional/ Single-Track	Multi-Track Not Concept 6	Multi-Track Concept 6
Percent English Learners	Mean	21.06	36.48	50.97
	Median	15	35	53
	Number of Schools	5913	735	221

Source: California Department of Education, Policy and Evaluation Division as reported in Gándara & Rumberger (forthcoming, 2002) (<http://cdedata.com/hosting.pacbell.net/api2001base/dbapi01b.zip>) and School Facilities Planning Division (<http://www.cde.ca.gov/facilities/yearround/direct00.htm>)

When working and learning conditions are poor, they affect the attitudes of staff, and the ability of the school to attract and retain qualified teachers, Darling-Hammond (2002) at 51, 86.

4. *Inadequate Professional Development Opportunities to Help Teachers Address the Instructional Needs of English Learners.*

Given the difficult working conditions and the added demands placed on teachers of English Learners, it would be expected that the State would provide both training and guidance on how to address these challenges. The data, however, show otherwise. Teachers of English Learners are largely left to fend for themselves with inadequate guidance, resources, and training.

The instructional demands placed on teachers of English Learners are intense. They must provide instruction in English Language Development while simultaneously

³⁵ See, e.g., California Teacher Survey (Harris, January 2002) at Table 92, p. 310 (showing that almost one-third of schools with "very high" percentages [42-100%] of EL students are on multi-track year-round [MTYR] schedules, whereas only 8.2% and 3.1% of schools with "low" [4-10%] and "very low" [0-3%] percentages of EL students are MTYR).

or sequentially attempting to ensure access to the core curriculum. Yet, they have been provided very little support for these activities. Data collected for the state Department of Education's Class Size Reduction Study (Stecher & Bohrnstedt, 2000) show that even where teachers are teaching a majority of English Learners, the professional development they receive to help them instruct these students is minimal. The percent of professional development time that teachers reported focusing on the instruction of English Learners in 1999-2000 ranged from 3 to 10 percent with a mean of only 7 percent.

Table 12
Professional Development of Teachers in Grades 1-4
by Classroom Concentration of English Learners, 1999-2000

Percent English Learners in the classroom	Mean number of days	Mean number of hours ^a	Percent of hours on teaching English Learners
0	3.5	28	3
>0% & ≤25%	3.6	30	8
>25% & ≤50%	3.3	32	9
>50%	3.8	35	10
Total	3.6	31	7

^aNumber of hours estimated by recoding responses (8 hours or less = 4 hours; more than 8 = 12 hours).

NOTE: Results are weighted.

SOURCE: Gándara & Rumberger (forthcoming, 2002) relying on 2000 Class Size Reduction Teacher Survey (N=774).

Teachers responding to the Harris survey also reported disparities in the amount of professional development provided to them. Teachers in schools with higher concentrations of English Learners were significantly more likely than teachers with low percentages of English Learners to report that the quality of professional development at their schools was only fair or poor.

Table 13
Condition of Professional Development in California Schools
by Percentage of English Learners in Teachers' Schools, January 2002
(percent of teachers reporting condition)

	25% or less	Over 25%	Total
The quality of professional development ONLY FAIR OR POOR	22	29	25

NOTE: Results exclude respondents who did not answer question or answered "not sure." Results are weighted. All column differences are statistically significant at .05 level or better.

SOURCE: Harris Survey of a Cross-Section of California School Teachers, January 2002 (N=1071) analyzed and reported in Gándara & Rumberger (forthcoming, 2002).

These data are corroborated by Hayes and Salazar (2001) in their study of 177 classrooms in the LAUSD where they noted that teachers discussed "the problematic lack of resources and training to assist them to provide quality services to ELLs."

The State has funded the University of California to provide professional development for California's teachers through Professional Development Institutes (CPDIs). This is not the only professional development activity in the state. In fact, many districts sponsor extensive professional development programs; yet, this program is the largest statewide effort, with more than 45,000 teachers participating in workshops in 2000-01. In that same year, a total of \$50,866,000 was provided for this purpose. Of this amount, only \$8,358,104 was earmarked for professional development in the area of English Language Development. This constituted about 16% of the professional development budget, although English Learners constitute fully 25% of the students in the state and arguably one of the public schools' most significant professional development challenges. (Gándara & Rumberger, forthcoming, 2002). In addition to relatively small allocation of funding, my personal experience with the activities of the CPDIs and the related California Subject Matter Projects is that ELL issues are compartmentalized and are not a central concern in the subject matter areas. When effort has been given to cross-fertilize the subject areas with ELL concerns, it has been too little and too late.

The effects of the State's failures to ensure adequate numbers of qualified teachers in the first instance and adequate professional development training for those who are delivering instruction to English Learners has been observed systematically first hand. As reported in Darling-Hammond (2002):

In case studies of seventeen urban and rural California public schools with large proportions of uncredentialed teachers, Social Policy Research Associates found that teachers generally felt especially unprepared to meet the needs of their English language learners and typically received little or no professional development training in this area. Although most of the schools studied had large proportions of ELL students, few offered any focused instruction on English language development and fewer had teachers with any preparation to do so. Many teachers reported that EL students in their classes were frequently left to fend for themselves and were often unable to follow class instruction. With a few exceptions, the professional development offered in the small number of schools that provided any was deemed ineffective by the teachers who were interviewed.

Id. at 45, citing (Friedlaender & Frenkel, 2002, at 36).

B. Unequal and Insufficient Access to Appropriate Instructional Materials

All students need appropriate instructional materials to master the curriculum. As noted earlier, the need for appropriate materials has become all the more important with the imposition of new grade promotion requirements and the high school exit exam based on the State's curriculum standards. In addition to the types of materials that English-only students need, English Learners need additional materials in two areas. First, all English Learners need developmentally appropriate materials to learn English and to master the state's English Language Development standards. Second, English Learners

need appropriate materials to access grade-level academic content. For those receiving content through a Specially Designed Academic Instruction in English program, content materials include a mix of sheltered English materials, mainstream English materials, and, ideally supplemented as well, with at least some native language materials. For those receiving content through primary language instruction, native language materials are essential.

The evidence suggests that many ELs are not gaining access to specialized instructional materials. In the second year report of a study by the American Institutes for Research (“AIR”) sponsored by the California Department of Education, researchers found that 75.4% of the teachers surveyed said they “use the same textbooks for my English Learner and English only students” and fewer than half (46.5%) reported using any supplementary materials for EL students (AIR, 2002, IV-34). In the Harris survey, 50% of the 775 EL teachers surveyed reported that they did not have enough books and reading materials in the home language of their students and nearly a quarter (22%) reported not having enough materials in English appropriate to their EL students’ reading levels. (Harris, 2002). This raises the question of how much EL students can be expected to learn without materials adapted to their linguistic needs. AIR found that only 40.9% of teachers report they are “able to cover as much material with EL students as with [English-only] students” (AIR, 2002, IV-35). There is ample evidence in the research literature that when students cover less material than their peers, their skills decline relative to other students and they are prone to be placed in low academic groupings or tracks where educational opportunities are limited (Barr & Dreeben, 1983; Oakes, 1985; Goodlad, 1984).

Evidence also indicates that the quality of instructional materials appears to decline as the concentration of English Learners increases. Data from the Harris survey show that teachers with high percentages of English Learners are less likely than teachers with low percentages of English Learners to have access to textbooks and instructional materials, in general, and materials needed by English Learners in particular. (Gándara & Rumberger, forthcoming, 2002). Over 50% more teachers at schools with higher than average concentrations of ELs report that the textbooks and instructional materials at their schools were only fair or poor compared to teachers in schools with low percentages of English Learners. (Table 14). Similarly, teachers in high-EL schools were nearly 50% more likely than teachers in low-EL schools to report that the availability of computers and other technology was only fair or poor. Over two-thirds of teachers with high percentages of ELs in their classes reported not enough or no reading materials in the home language of their children and nearly one quarter of all teachers reported that they did not have any or enough reading materials at students reading levels in English, with—again—the lack of such materials proving significantly greater in classrooms with higher percentages of ELs.

Table 14
Condition of Instructional Materials in California Schools
by Percentage of English Learners in Teachers' Schools & Classrooms, January 2002
(percent of teachers reporting condition)

	School EL		Total
	25% or less	Over 25%	
Reported by all teachers (N=1071)			
Textbooks and instructional materials are ONLY FAIR OR POOR	14	22	17
Availability of computers and other technology is ONLY FAIR OR POOR	26	40	31
Classroom EL			
	30% or less	Over 30%	
Reported by teachers who have EL students in their classes (N=775)			
Not enough or no reading materials in home language of children	44	68	51
Not enough or no reading materials at students reading levels in English	19	29	22

NOTE: Results exclude respondents who did not answer question or answered "not sure." Results are weighted. All column differences are statistically significant at .05 level or better.

SOURCE: Harris Survey of a Cross-Section of California School Teachers, January 2002 analyzed and reported in Gándara & Rumberger (forthcoming, 2002).

Oakes and Saunders' review of the Harris data has revealed similar conclusions. See Oakes and Saunders (2002), at 37 (showing that teachers in schools with the highest concentration of ELs report significantly lower quality and older instructional materials compared to those in schools with the least EL concentration).³⁶

Case study and anecdotal information confirm the existence of instructional material shortages and convey their impact on EL educational opportunities. The case studies performed by Social Policy Research Associates occurred in many instances in

³⁶ What is more, Oakes and Saunders consistently found that instructional materials problems cluster in certain schools. Those schools that report shortages of materials, manipulatives and technology across subject areas also tended to report higher levels of shortages of primary language and appropriate English language materials for ELs. Oakes and Saunders (2002).

schools with large populations of EL students (32%-71% of total population). As noted in Oakes and Saunders:

[T]eachers [in the SPRA schools] reported a near absence of materials geared towards the needs of these students. In seven [of the seventeen] schools, teachers reported no materials for ELL students; many schools did not provide materials written in students' home language, believing that it was against the law. In one school where 71 percent of students are ELL, textbooks are only provided in English because the district, following the passage of Proposition 227, eliminated bilingual classes altogether and only offers English immersion. Many teachers also reported that the regular standards-based textbooks are completely inaccessible to students because they are far too advanced for the many students who read well-below grade level. In one rural high school, the 46 percent ELL student population is reading at only a 5th grade level....A few schools did provide materials for teachers to conduct ELD instruction....Often, time constraints limited the use of these materials. In other schools, teachers had insufficient [ELD] materials.

Oakes and Saunders (2002) at 24-25.

The testimony of teachers and administrators in *Williams v. California* plaintiffs' schools provide additional anecdotal evidence of the impact of EL textbook shortages:

Principal of Bryant Elem., (SF):

Alegre, v. 2, 208:20-209:2.

Q. And the ESL materials for kindergarten, what teacher was that?

A. It was Ms. Hoffer.

Q. Is that Jean Hoffer?

A. Jean Hoffer; that's correct.

Q. And for what period of time did Ms. Hoffer go without the required ESL materials?

A. It was for most of the year of '99-2000.

Teacher at Garfield Elem., Oakland:

Israel, v. 1, 218:19-219:14.

Q. So you said that at the beginning of the school year, you didn't have your "Into English" kit at the very outset of the school year?

A. Right.

Q. But you got it relatively soon after the start of the school year?

....

A. I know it was somewhere after September. I know it wasn't in the first month of school. So by the first couple of months, I probably meant sometime in October, which, that sounds about right, you know, in terms of being able to use it.

Teacher at Hawthorne Elem., Oakland Unified:

Salyer, v. 2, 280:5-17.

Q. And did you have a complete set of those materials during the 1998/1999 school year?

A. I shared the set of materials that belonged to Ms. Naranjo-Hall.

Q. And did you manage the sharing of those materials in the same way that you shared the materials with Ms. Naranjo-Hall in the other areas in which you shared?

A. Yes, we tried [to] stagger our lessons so that we could each use a different part of the program. We didn't let the student books go home at all because there were only ten copies for 40 kids, so if one was lost, it would have been pretty detrimental.

Teacher at Santa Paula H.S., So. Cal.:

Rodriguez, v. 1, 67:13-21.

Q. Okay. Now, with respect to the 2000/2001 courses that you identified, I think we discussed earlier that the algebra 1-A SDAIE course from the first term had textbooks but you felt that those textbooks were below the students' learning level; is that correct?

A. For the algebra 1-A?

Q. Yes.

A. Yes.

Similarly, many of the reports received by the State as part of the Immediate Intervention/Underperforming Schools Program ("II/USP") under the 1999 Public Schools Accountability Act document the reality of EL instructional material shortages in unmistakable terms to the State:

Table 15
ELL Textbook Issues Reported in II/USP Action Plans

District	School	ELL Textbook Issues
LAUSD	Wilshire Crest Elementary	"Barriers to achievement of English Language Learners include: 1) lack materials that specifically address their ELD levels and help to develop language usage, conventions of writing, and the structural principals of language"... (Bates #: DOE 37948)
Compton USD	Foster Elementary	The school has identified a need for additional materials in the area of English Language Development [and plans to buy them and consumable materials that support the state approved texts as well]" (DOE 40198)
San Bernardino City USD	Cajon Middle	"Some ELL students do not have access to a complete set of materials aligned to the ELD standards. This need is addressed in the action plan." DOE 42319. "The need for ELD materials is identified as a priority in this plan. The district, in collaboration with the school, has committed to providing each ELL student with appropriate ELD materials beginning with the 2001-2002 school year." (DOE 42319)
Fresno Unified	McLane High	"limited availability of materials and supplementary books" for ELLS. (DOE 49175)
LAUSD	Ninety-Second Street Elem.	Need better implementation of Prop 227 and serving needs of ELL in light of instructional materials and insufficient guidance linked to implementation of English Language Development standards.

San Bernardino City Unified	Ingraham (Howard) Elementary	Identifies "Few materials for Primary Language Support" for ELD as a barrier. (DOE 65466)
Waterford USD	Waterford Elementary School	Spanish language materials are not adequately provided for Spanish-speaking students and families. (DOE 78323)
Cutler-Orosi Joint Unified School District	Palm School	There is a need to improve bilingual program and resources, according to teachers. (DOE 79034, 79044)
Oakland USD	Bret Harte Middle	Many times ELL students must double up on textbooks.
Oakland USD	Havenscourt Middle	Teachers lack sufficient materials or training to implement the reading and ELD curriculum.
Oakland USD	Melrose Elementary School	No math materials in Spanish despite the fact that 78% of students are ELLs, although OUSD now adopting a math program that "may include Spanish materials." (at 19; DOE 31587)
West Contra Costa USD	Highland Elementary	ELD students have to share instructional materials.
Del Paso Heights	North Avenue Elementary	Lack of resources to address needs of ELL students:
National Elementary	Otis Elementary	Inadequate books and materials to meet different student needs. Insufficient technology equipment and software. (DOE 35825.) ELD materials inadequate. (DOE 35823).
San Diego City Unified	Kearny Senior High	"There is a lack of appropriate instructional materials to support EL students in mainstream classes. There is a specific need for primary language resources for EL students." (DOE 36020)
Corning Union Elementary School District	Maywood Intermediate School	"While there are classroom sets of books, textbooks are not checked out to ELL students. . . . Students, particularly ELLs need to have time to go over the day's lesson. Textbooks are essential to this process. It is strongly recommended that the school issue textbooks to its ELL students." (DOE 78709)

IV. The State's Role in Creating and Perpetuating EL Inequities.

A. Overview

The systemic denial of basic educational necessities to English Learners represents neither a development of recent vintage nor a matter of which the State has been unaware. Indeed, the current situation can be attributed to the State's actions and inactions in addressing the education of an increasing number of English Learners over the past few decades.

In recognition of a serious shortage of teachers for English Learners in the late 1980's, then State Superintendent of Public Instruction Bill Honig convened a task force of educators from the state and local level and from professional organizations to recommend interim measures to the Department of Education for addressing the shortage of EL teachers and to formulate a long-range proposal to increase the supply of teachers for English Learners. See CDE, *Remedying the Shortage of Teachers for Limited-English-Proficient Students* (1991), at iv. Over a decade ago, the Task Force recognized that :

the failure to meet the increased demand for trained personnel capable of providing bilingual support or strategies for English Language Development for the LEP student population constitutes a staffing crisis in the California school system. *The current shortage of appropriately trained personnel is related to a lack of strategic planning for the instruction of a student population unlike any previously enrolled. Changing demographics indicated a rise in the LEP student population as early as ten years ago. During the ensuing years these changes were not systematically tracked and analyzed for their effect on programs for teacher preparation.* The number of candidates entering teacher training programs in universities and colleges and in local school settings at that time and presently does not match the population growth of LEP students.”

CDE, *Remedying the Shortage of Teachers for Limited-English-Proficient Students*, at vii (emphasis added). In addition to recognizing that the State had failed to plan strategically to match the supply of EL teachers with the rising demand, the task force also recognized that the State was failing in its need to make EL teaching assignments desirable places to work, likely to attract and retain qualified teachers:

The CDE and [local districts] need to cooperate on improving the quality of the work environment for teachers of LEP students by lowering the teacher-student ratio, by providing preparation time for classroom instruction, and by establishing accommodations in the same quality of buildings and surroundings as that of regular classes. Too often bilingual and ESL resources are offered to LEP students in temporary or makeshift settings.”

CDE, *Remedying the Shortage of Teachers for Limited-English-Proficient Students* at 10.

Similarly, a decade ago, Norm Gold (the former Director of CDE's Bilingual Compliance Unit) wrote a report entitled, *Solving the Shortage of Bilingual Teachers: Policy Implications of California's Staffing Initiative for LEP Students* for the Third National Research Symposium on Limited English Proficient Student Issues. Mr. Gold recognized the following:

- "...with over one million LEP students and a current shortage of over 18,000 bilingual teachers and over 17,000 ELD teachers, California's success or failure in adequately staffing programs for LEP students will determine whether or not hundreds of thousands of students will be educated." Norm Gold, *Solving the Shortage of Bilingual Teachers: Policy Implications of California's Staffing Initiative for LEP Students* (1992) at 3.
- "The shortage of qualified bilingual and ELD teachers is the most important factor that inhibits improvement of instructional programs for LEP students. Without a teacher trained in language acquisition approaches, who has both general and specific cultural knowledge, and who can communicate effectively with LEP students, these students remain disconnected from the core curriculum of our schools." *Id.* at 5.
- "The second major barrier [to the improvement of instructional programs for English Language Learners] is the scarcity of materials for providing content instruction in non-English languages, English Language Development (ELD) instruction, or specialized materials for use with sheltered English approaches." *Id.* at 4.
- "The history of the last two decades, and the large shortages we face today, have led some to conclude that the production of sufficient bilingual and ELD teachers is a challenge which can never be met. If this were so, then current and future LEP students are doomed to an incomplete and inadequate education, since neither fully bilingual nor structured immersion and ELD approaches can be implemented without specially-qualified teachers. Such a conclusion, however, is not warranted because the production of sufficient bilingual and ELD teachers has never been seriously attempted." *Id.* at 23.

B. The State Has Failed to Ensure ELs Have the Qualified Teachers Needed for Equal Access to the Core Curriculum.

With respect to providing access to qualified EL teachers specifically, the State has failed on several fronts to detect, prevent and correct the instruction of hundreds of thousands of ELs by unqualified teachers. Initially, as noted earlier, the State fails to monitor the qualifications of EL teachers in a manner that allows the State, parents, and the general public to detect whether a particular classroom is being taught by a teacher without appropriate EL authorization. Indeed, the Director of the CDE's Comite Compliance Unit has testified that the State does not collect data at the classroom level on the qualifications of teachers of English Language Learners and that the State does not know what it would take to provide specially trained teachers for these children. Burnham-Massey Dep. 71:6-24, 152:6-9; 153:17-22, 186:19-23. In addition, the State's monitoring system masks the magnitude of the State's failures by making it difficult to discern the extent of the statewide EL teacher shortage and distribution problem.

As discussed above, the State has established standards to obtain CLAD, BCLAD, and 1969/395 authorizations (and their equivalents) to instruct English Language Learners. The State has also established standards relating to the provision of emergency permits and waivers and allowing for “teacher-in-training” status. (The latter standards establish a set of procedural hoops for schools and districts to jump through in order to staff teachers with no specialized training in classrooms with English Language Learners.) The State has failed, however, to establish a standard requiring that all ELL teachers must at least have the equivalent of CLAD or SB 1969/395 training before beginning their ELD and/or SDAIE instruction of English Language Learners and at least the equivalent of a BCLAD for primary language content instruction.

Beyond its failure to establish proper benchmarks for EL instruction, the State has failed to ensure the delivery of appropriately credentialed teachers to EL classrooms. Despite knowledge of changing demographics and an ongoing shortage of teachers, the State has not undertaken and implemented the comprehensive strategic planning that would ensure adequate numbers of teachers were being trained. Although ELs are significantly more likely than other students to have a teacher who lacks any credential, and more particularly, lacks a specialized credential to teach them, the State has failed to mount any significant system of incentives or recruitment for individuals to obtain EL certification. Despite evidence that salary and working conditions make a difference in where teachers decide to work,³⁷ the State apparently has never systematically studied how salary and working conditions in high-EL schools contribute to their inability to attract and retain qualified EL teachers. What is more, despite the existence of evidence that working conditions for teachers degenerate in California as the EL population of a school increases, the State has made no significant attempt to increase the desirability of these or other hard-to-staff schools as places to teach and to learn.

While the State has taken some minor steps in the right direction to increase the ability of schools, potentially, to attract EL teachers, (*e.g.*, SB 1666) these efforts have not been of sufficient scope, scale or comprehensiveness to ensure equal access to qualified EL teachers.³⁸ None of the State’s efforts have focused on increasing the supply of ELL teachers specifically, much less in high-need, high-EL schools. At best, where programs have made additional monies available for “low-performing” schools, such as with SB 1666, these programs have broadly defined “low-performing” to encompass essentially half of all schools statewide. Since the State’s recent “recruitment and retention” efforts have been put in place, the presence of large numbers of unqualified EL teachers in so many schools has not effectively abated.

As has been the case with credentialed teachers generally, California has responded to difficulties in hiring EL teachers in high-need schools primarily by reducing standards rather than by increasing incentives and supports. In 1994, rather than institute

³⁷ See, *e.g.*, Darling-Hammond (2002) at 49-51.

³⁸ See, *e.g.*, CDE Professional Development Task Force, *Learning . . . Teaching . . . Leading: Report of the Professional Development Task Force* (2001), at 4 (making a similar point as to the general problem with large numbers of uncredentialed teachers in California.)

programs to attract and retain sufficient numbers of CLAD and BCLAD-credentialed teachers, the State instituted a substantially watered down “CLAD” certification in the form of SB 1969 training. In permitting SB 1969 certification to function as the equivalent of a CLAD credential, the State effectively reduced a 24-unit undergraduate or 12-unit graduate-level training in (1) first and second language development and the structure of language, (2) methodology of English Language Development and specially designed content instruction in English, (3) cross-cultural competency to one or two 45-hour trainings—neither of which need be taught through an institution of higher education. Though this program was intended as a temporary stop-gap measure to sunset in 1999, it was renewed in 1999 through Senate Bill 395 and extended to 2005. Even though this watered down ELD/SDAIE certification is likely inadequate to address the needs of English Learners,³⁹ the State has still been unable to provide sufficient incentives to ensure all EL teachers meet at least the minimum that SB 1969/395 represents. Instead, the CDE regularly approves, and the CTC permits, tens of thousands of “teachers in training” to instruct ELs. These teachers are not qualified to teach ELs but have instead merely promised to obtain the requisite training. To date, the CDE’s monitoring and enforcement of these agreements appears to have been minimal for there has been no wholesale reduction in the numbers of “teachers in training”.⁴⁰

In effect, the State has further lowered the standards for EL teachers to the extent that teachers are allowed to teach English Learners without little or no appropriate training, and there appears to be little in place that ensures “teachers in training” are in fact ultimately trained. What is more, the “teacher in training” program as well as the ease of access to teachers on emergency permits, pre-interns, and waivers provide a disincentive for districts to hire teachers who may in fact be qualified to teach ELs. Experience in other states that have low numbers of uncredentialed teachers overall, supports the notion that state laws should restrict the hiring of unqualified teachers to limited circumstances and provide monitoring and enforcement mechanisms that hold districts accountable for—rather than systematically permitting—the hiring of unqualified teachers. See Darling-Hammond (2002), at 70-72.

Concerning credentialed teachers in general, it has been noted elsewhere that many districts (usually those that are large and urban) have ineffective hiring practices that result in the loss of qualified teachers during the hiring process. See Darling-

³⁹ “On paper, it appears that among those teachers in California who instruct English learners, a significant number (52 percent) have received some kind of preparation in instructing English learners. Unfortunately, this preparation is often cursory and only sufficient to make a teacher aware of what he or she does not know. Under SB 1969, CLAD certification can often be acquired with only forty-five hours of relevant training.” Elizabeth Burr, Gerald C. Hayward, Bruce Fuller & Michael Kirst. Policy Analysis for Cal. Educ., *Crucial Issues in California Education 2000: Are the Reform Pieces Fitting Together?* (2000), at 34.

⁴⁰ Since 1998-99, the number of “teachers in training” providing ELD and/or SDAIE services to ELs has only seen a reduction from 38,527 to 33,466. At that rate, teachers in training will not be eliminated for at least another 15 years. See, <http://www.cde.ca.gov/demographics/reports/statewide/lctch99.htm>; <http://www.cde.ca.gov/demographics/files/lcstaff.htm>.

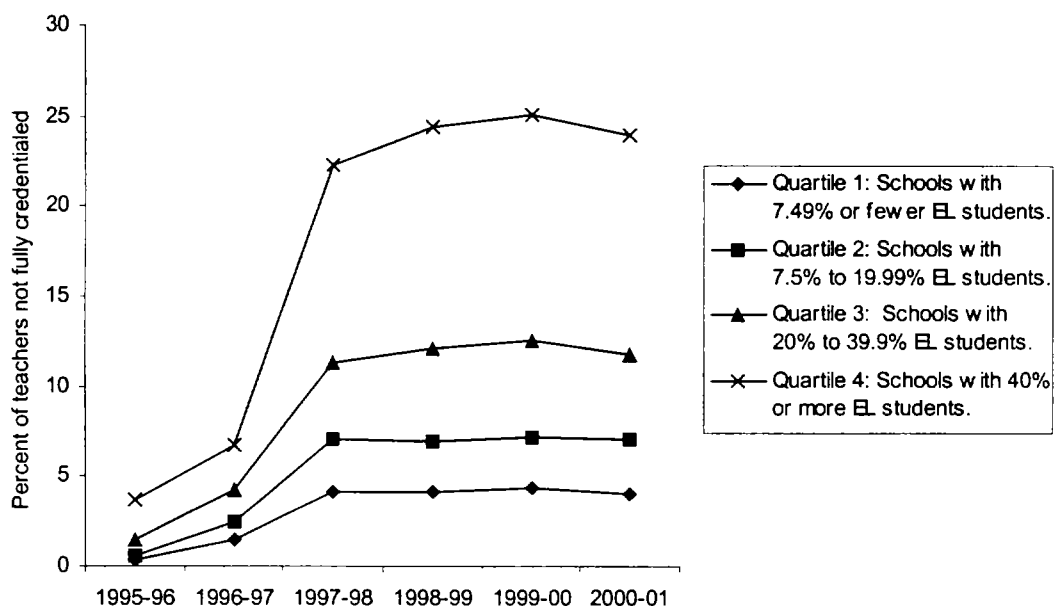
Hammond (2002), at 67-70. This observation applies equally to the hiring of EL teachers. The State's failure to oversee and improve these processes surely has contributed to the lack of EL-qualified teachers in many of the highest need schools.

Also, while substantial new emphasis has been placed on strengthening the skills of California's teachers through increased accountability and professional development, quite the opposite appears to be true for teachers of English Learners. The State is providing EL teachers with significantly fewer professional development opportunities that focus on the needs of English Learners than for other students.

In addition to the foregoing, the State exacerbated the shortage of credentialed teachers in low-income, high-EL schools with its ill-planned and poorly implemented Class Size Reduction (CSR) program beginning in 1996. Class size reduction had some largely unanticipated consequences for EL students because of the relative concentration of English Learners in the state's poorest schools. The migration of credentialed teachers away from these schools to more affluent ones with better working conditions was a direct result of the Class Size Reduction initiative (Stecher & Bohmstedt, 2002). For example, the percentage of teachers not fully credentialed in schools with the smallest proportion of ELs (less than 8% of school population) only increased from .3% in 1995-96 to 4% in 2000-01 (see Figure 3). However, the percentage of credentialed teachers in schools with the greatest proportion of English Learners (40% or more) increased from 3.7% to 23.9% over the same five-year period. As a result, schools with the most English Learners benefited the least from—indeed were harmed by—Class Size Reduction, at least in terms of access to fully credentialed teachers.⁴¹

⁴¹ See also Tafoya, Public Policy Inst. of Calif., *The Linguistic Landscape of California Schools*, Cal. Counts, (2002), at 3 (finding that Class Size Reduction resulted in the concentration of teachers with lower qualifications in schools with the highest percentages of ELL students); Burr, Hayward, Fuller & Kirst, Policy Analysis for Calif. Educ., *Crucial Issues in California Education 2000: Are the Reform Pieces Fitting Together?* (2000), at 34-35.

Figure 3
Percentage of Public K-3 Teachers Not Fully Credentialed
by School Quartiles of English Learners: 1995-96 to 2000-01



SOURCE: George W. Bohmstedt and Brian M. Stecher (Eds.), *Class Size Reduction in California: The 1998-99 Evaluation Findings* (Palo Alto: American Institutes for Research, 2002), Table B.17 as reported in Gándara & Rumberger (forthcoming, 2002).

CSR implementation also resulted in a proportional increase in ELL instructor availability to schools that were already better able to cope with their concentration of ELL students. “[S]chools with the smallest percentage of EL students gained substantially more BCLAD teachers per 100 EL students than did schools with the largest percentage of ELL students in the first five years of CSR implementation.” CSR Research Consortium, *Class Size Reduction in California: Findings from 1999-00 and 2000-01*, at 99.

C. The State Has Failed to Ensure ELs Have the Appropriate Instructional Materials Needed for Equal Access to the Core Curriculum.

Similarly, the State has failed to detect, prevent and correct a widespread lack of access to appropriate instructional materials for English Learners. The Director the CDE’s Comite Compliance Unit has testified that the State does not collect data at the classroom level regarding the provision of instructional materials to English Language Learners. (Burnham-Massey Dep. at 51:6-14.) She also was not aware how many districts in California provide appropriate materials to students in structured immersion classes. *Id.* at 48:20-49:5. Nor is there any system by which the State determines whether districts are providing appropriate materials to English Learners in bilingual

education programs or supplemental materials for ELs in mainstream classes. Consequently, the State, though aware that shortages exist, is unaware of the extent or the causes of widespread instructional material shortages for EL.

Despite the State's recognition of the role textbooks play in ensuring access to the core curriculum, the State has failed to adopt a standard requiring that students shall be provided with instructional materials for use in class and to take home for homework. This failure is problematic for all students who have been deprived access to instructional materials; it is even more problematic for English Language Learners who may be denied any access to the core content without ELD, SDAIE, and/or primary language instructional materials that they are able to understand.

Because the State does not know the extent or the causes of the shortages of EL instructional materials, it has also failed to respond in any effective way to prevent and correct the shortages. In particular, the State has failed to gauge what additional capacity the system needs, and at what level, to redress the ELL instructional materials deficits. To take a few examples, the State does not know whether redress would require additional funds from State or local resources, a re-direction of State or local instructional materials funds, no funds but instead clarification of the types of appropriate materials for ELs, or correction of district textbook mismanagement.

D. The State Has Exacerbated EL Access to Qualified Teachers and Appropriate Instructional Materials by Failing to Provide Guidance to Districts on Critical Implementation Issues Post-Proposition 227.

Proposition 227 passed in June 1998 when many schools were at the close of the school year. The proposition required districts to begin implementation of its requirements at the beginning of the 1998-1999 school year. This meant that many schools had little time to create entirely new ELL programs, hire qualified teachers, notify parents of their choices, and implement the other tasks required by the new law. See CDE, *Effect of the Implementation of Proposition 227 on the Education of English Learners, K-12*, at 35.

The State exacerbated the problems associated with the short implementation timeline for Proposition 227 by failing to provide sufficient guidance to districts on how to comply with the new law. CDE, *Effect of the Implementation of Proposition 227 on the Education of English Learners, K-12*, at 35. The State has allowed much of this confusion to continue unabated during the four years since implementation, impeding EL access to the core curriculum through appropriate instructional materials and appropriate instruction. As a member of an English Language Advisory Committee of one school stated, "Proposition 227 doesn't say anything about the materials the teachers have to use. The impact of Proposition 227 for the teachers was a lack of information and lack of clarity in the programs and content. The major challenge has been implementing a program without guidelines." CDE, *Effect of the Implementation of Proposition 227 on the Education of English Learners, K-12*, at 36.

Indeed, the CDE's own 1999 survey of teachers and the American Institutes for Research (AIR) Year One and Year Two reports (2001; 2002) note a great deal of continuing confusion about appropriate instructional materials to use with EL students, particularly in Structured English Immersion classes. Yet, to date, the State has failed to provide guidance about what types of specialized materials are appropriate for ELs and has failed to provide any such materials. For example, although the State Board of Education "has mandated that the basic textbooks that are used for non-ELs also be used for ELs, and that these textbooks should be used to teach English Language Development (ELD)," "the state and the textbook publishers have not yet released any supplemental materials for the textbooks that help teachers use these books with ELs, and the textbooks were not designed to be used for ELD instruction." CDE, *Effect of the Implementation of Proposition 227 on the Education of English Learners, K-12*, at 36.

In addition to the State's actions and inactions resulting in confusion as to what ELD materials are appropriate, the State's lack of guidance has resulted in primary language books being removed from use entirely in many classrooms despite clear benefits and despite their use being entirely legal.⁴² Both the AIR study as well as the University of California Consortium study of the implementation of Proposition 227 (Gándara, et al. 2000) found that in many classrooms primary language materials were forbidden from use and removed by district policy or administrator fear of violating Proposition 227. According to teachers interviewed during the AIR study of the implementation of 227: "After Proposition 227, the teachers were required to turn in their Spanish textbooks. After spending many years preparing to be bilingual teachers...overnight we were told to teach entirely in English without any training." CDE, *Effect of the Implementation of Proposition 227 on the Education of English Learners, K-12*, at 36. See also, PACE, *Crucial Issues in California Education* (2000) at p. 31 ("[S]chools reported that while Spanish language texts were discarded or stored away, no comparable texts were available for students in the new English-only program...".)

A report on the results of a California Department of Education survey of every California school district during the first year of Proposition 227 implementation (CDE 1999) showed that professional development to help teachers with English Learner instruction was one of the most significant unmet needs in the aftermath of the passage of the proposition. The later, more ambitious, CDE-sponsored study of the implementation of Proposition 227 being conducted by American Institutes for Research (2001; 2002) likewise reports a similar theme. The study documents a significant lack of guidance from the state about the nature of the instruction that should occur in the Structured English Immersion classrooms. (AIR 2001, at 36: "teachers were not provided appropriate materials or guidance on how to use materials appropriately.") Again, in the most recent report of this five-year study, researchers concluded that, "Barriers to the

⁴² Proposition 227 requires that Prop. 227 classes be taught "overwhelmingly" not exclusively in English. Cal. Educ. Code section §§ 305-06. As in the case of instructional settings providing "ELD and SDAIE with Primary Language Support," the State has recognized, the statute permits, rather than prohibits, some primary language support.

implementation of the Proposition include... confusion over what the law requires and allows; and lack of clear operational definition for the various instructional approaches for EL students. In particular, educators lack clarity on what constitutes best practice within Structured English Immersion instruction.” (AIR 2002, at ix).⁴³

Finally, the State has failed to ensure ELLs in mainstream classes are provided proper services. As noted earlier, the State has acknowledged that mainstream teachers with not-yet-fluent ELLs in their classes under Proposition 227 will still need to provide ELD and/or SDAIE services. Yet, the CTC appears to allow these services to be rendered by teachers without any training at all. According to the CTC, “teachers assigned to classes that are not designated LEP, regardless of whether they include LEP students, are only required to have the basic credential authorizing instruction in that class.” *Teacher Credential Handbook, Serving English Learners*, Subsection II-C-1 8/01. What is more, mainstream teachers report that the State has failed to provide them adequate guidance on what is required, post-Proposition 227, by way of instruction and instructional materials for the ELLs in their classrooms. (AIR 2001, at 14.)

E. The State’s Oversight System for ELs Has Not Prevented the Widespread Deficits in Qualified EL Teachers and Appropriate Instructional Materials.

1. *The PSAA Does Not Address EL Access to Qualified Teachers and Appropriate Instructional Materials.*

The State’s primary system of accountability for improving the public schools, the Public School Accountability Act of 1999, does not directly address ensuring either qualified teachers or appropriate instructional materials for ELs. The State’s system of accountability is focused solely on using test outcomes to measure the health of a school and its learning environment. The presence or absence of critical inputs like teacher quality or textbook sufficiency is ignored. Under the PSAA, schools with substantial numbers of under-qualified EL teachers or a serious lack of EL instructional materials can avoid State oversight and intervention entirely if they show any growth in overall EL test scores.⁴⁴ The serious shortcomings of the PSAA as a mechanism for preventing, detecting and correcting fundamental educational deficits for California’s disadvantaged students in general have been well-documented. See Mintrop (2002). The fact that the scores of ELL students on the PSAA tests are largely of questionable validity given their

⁴³ See also, PACE, *Crucial Issues in California Education* (2000) at 31 (noting that “teachers were uncertain about how to approach the instruction of their students.”)

⁴⁴ Under the PSAA, Immediate Intervention/Underperforming Schools Program (II/USP) schools failing to meet growth targets or show significant growth within 24 months of receipt of II/USP implementation funds are subject to State intervention. Cal. Educ. Code § 52055.5. “The definition of ‘significant growth’ is currently ‘any progress’ toward meeting the schoolwide API growth target.” CDE, Questions and Answers Request for Applications: Providers of School Assistance and Intervention Teams, at 3 [available at <http://www.cde.ca.gov/i/iusp/questions.html>].

limited understanding of English,⁴⁵ only further undercuts the meaningfulness of the State's test-based accountability system as a way to redress the denial to ELs of basic educational necessities.

2. *The CCR/Comite Oversight System Has Failed to Redress EL Access to Qualified Teachers and Appropriate Instructional Materials.*

The Coordinated Compliance Review process (CCR) and the related Comite compliance unit are the State's primary mechanisms for monitoring the provision of services to ELL students. CCR reviews occur at the district level on a four-year cycle. The dimensions of the CCR compliance process that are relevant to ELL issues here are: "Teaching and Learning" and "Staffing and Professional Development." See 2001-2002 Consolidated Programs Coordinated Compliance Review Checklist for Organizing Documentation (Revised 6/29/00), at 1-4.

The Comite Compliance Unit, which grew out of a consent decree in the *Comité de Padres de Familia et al. v. State Superintendent of Public Instruction* lawsuit, monitors whether selected districts are in compliance with CCR requirements relating to the provision of services to English Language Learners. The unit selects 10 districts each year for follow-up monitoring reviews. Burnham-Massey Depo. at 27:31-28:3. The ten Comite districts are chosen based on factors such as having: (1) a high percentage of English Language Learners, (2) a history of noncompliance with English Learner requirements, (3) 10% of English Language Learners receiving no services, (4) a lack of conclusive data indicating that English Language Learners are learning English and grade level content, or (5) a recommendation from the CCR unit, the Office of Civil Rights, or other entities that the district could benefit from Comite follow-up review. *Id.* at 29:2-31:17

As demonstrated below—and by the evidence above—neither CCR nor the Comite Compliance Unit has ensured that English Language Learners have access to specially trained teachers and appropriate instructional materials. Although the CCR and Comite monitoring mechanisms may constitute aspects of an oversight system, the system is inadequate in terms of preventing, detecting and correcting basic educational deficits for ELs.⁴⁶ In particular, the system is deficient due to the State's failure to enact meaningful standards, failure to adequately staff these monitoring efforts, failure to correct deficiencies that are uncovered through the monitoring process and failure to

⁴⁵ See, e.g., Standard 11.22. *Standards for Educational and Psychological Testing* (1999). American Educational Research Association, American Psychological Association, National Council on Measurement in Education. Washington, DC: American Educational Research Association.

⁴⁶ We know for example that many more of California's 1,056 school districts than the 10 annually covered by Comite reviews are substantially out of compliance each year with state and federal laws relating to the provision of services to ELs. Deposition of Norm Gold, then Director of Comite Compliance Unit, January 22, 2001, p. 368, lines 10-22; CDE 1/29/02 data run attached to 1/30/02 letter from Kara Read Spangler (identifying 205 districts around the State, where 10% or more of the districts' ELs are not receiving any EL instructional services).

ensure that system-level capacity issues are fed back to state policymakers for the necessary adjustments in State policies.

a. Inadequate CCR/Comite Oversight of EL Access to Qualified Teachers.

The staffing and professional development dimension of the CCR process requires districts to demonstrate that all teachers assigned to instruct English Learners in the core curriculum and ELD are *authorized or in training* to provide instruction to English Language Learners. See 2001-2002 Consolidated Programs Coordinated Compliance Review Checklist for Organizing Documentation (Revised 6/29/00) at 3. More specifically, districts must show that there are an adequate number of authorized teachers to provide ELD and academic core curriculum instruction and that there is the requisite training for staff who serve EL students. *Id.* at 3.

Despite all of the standards relating to credentialing and the staffing/professional development dimension of the CCR, the State's ELL teacher oversight system remains inadequate because it ignores the State's duty to provide English Language Learners with the specially trained teachers needed to "remedy the language deficiencies of their students." See *Castenada v. Pickard*, 648 F.2d 989 (5th Cir. 1981). The current oversight system allows unlimited numbers of teachers with limited to no training to teach English Language Learners via emergency permits, waivers, or through the "teacher in training" designation. Inadequate recruitment and incentive programs fail to attract adequate numbers of EL-certified teachers. Training and professional development opportunities are inadequate to ensure that existing teachers receive training to become BCLAD or CLAD or even SB 1969/395-authorized. Moreover, there is no feed-back loop in the State's system flowing back to State policymakers (much less the general public) so as to ensure appropriate adjustments can be made to recruitment and incentive programs and/or training and professional development programs.

b. Inadequate CCR/Comite Oversight of EL Access to Appropriate Instructional Materials.

With respect to requirements under the Teaching and Learning category, districts are asked to check for documentation relating to whether EL students are receiving English Language Development and access to the district's core curriculum. See 2001-2002 Consolidated Programs Coordinated Compliance Review Checklist for Organizing Documentation (Revised 6/29/00), at 1. Districts are required to maintain a list of all teachers assigned to teach ELD to EL students and to teach the district's grade level core content to EL students; to maintain a list of the number of EL students receiving ELD by proficiency, grade level, etc. and the number of EL students receiving academic instruction by proficiency, grade level or subject area, and program; and to keep a description of the ELD curriculum, policies, and data regarding acquisition of English language proficiency and how EL students are provided full and meaningful access to grade level core content. *Id.*

In light of the evidence above relating to widespread shortages of appropriate instructional materials for EL students, it must be acknowledged that the CCR and Comite monitoring mechanisms have been inadequate to ensure that English Learners have adequate access to instructional materials. As an initial matter, CCR and the Comite Compliance Unit are hampered by the fact that they do not have a clear standard to use as a benchmark for determining: (1) whether English Language Learners have adequate ELD materials and (2) whether ELLs have adequate academic content materials which can provide “access to the core curriculum.” The subcategories for measuring access to the core curriculum focus on how students are taught the core curriculum (simultaneous with English instruction or sequentially), how academic deficits are monitored and overcome, whether the district has policy statements relating to Specially Designed Academic Instruction in English (SDAIE) and other forms of language instruction, and data demonstrating that English Language Learners are learning the core curriculum. See 2001-2002 Consolidated Programs Coordinated Compliance Review Checklist for Organizing Documentation (Revised 6/29/00), at 1. None of the checklist items set a standard relating to whether English Language Learners are provided with appropriate instructional materials for use in class and to take home for homework.

CCR is further hampered by the fact that the review is cursory, largely based on the districts’ self-review, and there is little follow-up to ensure compliance. See Burnham-Massey Depo. at 284:16-285:23. Although the Comite Compliance Unit performs a more in-depth review, it is limited to a small fraction of the districts and has a staff of 8 consultants and 2 staff members. Burnham-Massey Depo. at 125:23-24. In addition, the Comite Compliance Unit does not have the authority to direct districts to follow its recommendations; it can only direct them to comply with the law. *Id.* at 306:22-309:8. Finally, there is no feed-back loop in the State’s EL oversight system directing information and recommendations back to State policymakers (and the general public) so as to ensure appropriate adjustments can be made to textbook policies should deficits be determined to flow from state-level causes such as inadequate funding or inadequate direction on what constitutes appropriate instructional materials for ELs.

V. Policies Exist Whereby the State Could Redress ELLs Lack of Access to Qualified Teachers and Appropriate Instructional Materials.

Despite past calls for a strategic plan and a comprehensive remedy to ensure ELs are provided the qualified teachers and appropriate instructional materials they need to achieve equal access to the core curriculum,⁴⁷ a genuine response from the State “has never seriously been attempted.”⁴⁸ California can ensure that all of its ELL students have adequate instructional materials and qualified teachers. To do this California must: (1) establish a clear standard of access for ELs with respect to qualified teachers and instructional materials; (2) build the capacity of districts and schools to implement the

⁴⁷ CDE, *Remedying the Shortage of Teachers for Limited-English-Proficient Students* (1991).

⁴⁸ Norm Gold, *Solving the Shortage of Bilingual Teachers: Policy Implications of California’s Staffing Initiative for LEP Students* (1992), at 23.

standard; (3) oversee and report to allow schools, districts and the State to determine whether the standards are being met; and (4) assist and/or enforce compliance when schools do not meet the standard.

A. Ensuring EL Access to Qualified Teachers.

1. *Establishing a Standard for Qualified EL Teachers.*

The State must first establish a standard that requires each English Language Learner be taught by a teacher qualified to teach them. At a minimum, under the State's certification system, that means all ELL teachers must at least have the equivalent of a CLAD or SB 1969/395 certification before providing ELD and/or SDAIE instruction and at least the equivalent of a BCLAD for primary language content instruction.⁴⁹ This standard must also apply to teachers in mainstream classrooms with ELL students in need of ELD and/or SDAIE services.

2. *Building the Capacity of Schools to Implement the Standard.*

The State should finally undertake and implement the comprehensive strategic planning that would ensure adequate numbers of EL teachers were being trained, attracted and retained for those high-need schools with substantial EL teacher and instructional material deficits. The State needs to undertake a labor market analysis to determine how salary and working conditions in high-need, high-EL schools contribute to their inability to attract and retain qualified EL teachers. See CDE Professional Development Task Force, *Learning . . . Teaching . . . Leading: Report of the Professional Development Task Force* (2001), at 22-23 (calling for a similar analysis to respond to the larger problem of significant numbers of uncredentialed teachers in certain hard-to-staff California schools). With this information the State needs to adjust its current policies where they have led to substandard salaries and working conditions. As with the general problem of large numbers of uncredentialed teachers in California, the State may need to raise and equalize salaries for EL teachers to ensure positions are reasonably attractive across districts. See Darling-Hammond at 55-58, 82-83. At a minimum, the State should target subsidies to prospective EL teachers, including current paraprofessionals (who often have dual language skills), who are willing to commit to teach in high-need, high EL schools. See, e.g., Gándara, Maxwell-Jolly (2000) at 20; CDE, *Remedying the Shortage*.

Working conditions in high-need, high-EL schools will need to be improved substantially to attract and retain sufficient numbers of EL-qualified teachers. What Darling-Hammond has observed with respect to addressing working conditions for credentialed teachers in general in hard-to-staff schools applies equally well to the need to attract and retain EL-qualified teachers:

⁴⁹ Of course, the State is also obliged to ensure that its certification system actually produces qualified teachers with the necessary skills to teach ELs and to resist any efforts to reduce credentialing standards in order to boost supply.

In the long run, more equalized funding in California that takes account of differences in the costs of education would allow schools to improve other aspects of their operations that influence the recruitment and retention of well-qualified teachers, such as facilities, availability of materials and supplies, and class size.

In the immediate run, categorical aid to improve working conditions and teaching conditions in hard-to-staff schools may be necessary to stem the flood of attrition in these schools. For example smaller classes, greater access to materials, time for co-planning and professional development, and high-quality mentoring would greatly impact the ability of disadvantaged schools to get, keep, and support new teachers

The California Professional Development Task Force recommended that, “California should expand the Teachers as a Priority (TAP) Block Grant program that provides funding for incentives to attract and retain fully credentialed teachers in low-performing schools.” To be effective, this program would need to be funded at a much higher level (it is currently only about \$44 per student) and available to schools that have large numbers of high-need students as well as in low-performing schools.

Darling-Hammond (2002), at 86-87.

As concerns ELs in particular, the professional development point is worth re-emphasizing. As noted above, EL instruction already represents one of the major professional development challenges in the State due to the size of California’s EL population and the complexity of delivering proper instruction to ELs. Those challenges were only increased by the State’s substantially altering, through Proposition 227, the primary manner in which instruction is delivered to ELs while at the same time, in significant ways, failing to provide adequate guidance, training, and materials to districts and schools for its implementation. Moreover, the State has only exacerbated these problems through the disproportionate under-attention thus far paid to EL-related professional development. Consequently—both to improve their training and their working conditions—EL teachers in high-need, high-EL schools should receive targeted professional development and mentoring support.

Increasing reciprocity with other States who have similar EL-certification requirements as California is another way to boost the supply of EL teachers without a substantial outlay of resources from the State. To date, California has been unnecessarily restrictive in recognizing credentials from other states. *See* Darling-Hammond (2002) at 63-64, 85.

Also, the State should modify its Class Size Reduction program to focus on the highest need schools and, thereby, avoid draining qualified EL teachers away from the students who need them the most.

3. *Monitoring to Ensure the Standard is Being Met.*

The State must modify its data monitoring system so that it tracks and reports, on a classroom level, the instances where ELs are taught by teachers without appropriate EL qualifications.

4. *Assisting and Enforcing the Standard to Ensure Compliance.*

The State must require evidence of annual progress toward a fully-qualified EL workforce as part of its accountability system. To guide progress and target assistance, California should develop a measure such as the annual Teacher Qualifications Index (Futernick, 2001) that should be published alongside the Academic Performance Index (API). The Teacher Qualifications Index should provide school-level and district information about the number of emergency permits, waivers, intern, pre-intern, clear credentialed, and National Board Certified teachers,⁵⁰ and the number of under-qualified teachers, including under-qualified EL teachers.

During the interim in which the State is building its EL teacher pool, high-EL schools with the greatest need for qualified teachers should be prohibited from having more than the state average proportion of unqualified EL teachers. As the Harris data indicates, low-income, high-EL schools have a nearly 1 in 2 chance of having over 20% of their faculty uncredentialed; they also experience serious teacher turnover problems and long-term teacher vacancies. (See Table 4, above.) When the State modifies its monitoring system and is able to identify the schools with the most substantial EL teacher vacancies, a mandate to reduce these schools' shortages should stimulate more aggressive recruitment, earlier hiring, and stronger supports to attract and retain teachers.

State laws should restrict the hiring of unqualified EL teachers to limited circumstances. The staff of the CCR and the Comite Compliance Unit or some other intermediate state oversight entity should be increased from present levels and should be authorized to order changes in district practices which result in unqualified EL teacher hires. The CDE should more effectively track and follow-up on "teachers in training" to ensure that these teachers are obtaining their training in a timely manner and to take steps to replace them with qualified EL teachers if they are not. Districts with schools with substantial EL teacher shortages should be provided incentives to streamline and improve their hiring systems. Where large numbers of under-qualified EL teachers continue to fill classrooms, increasing scrutiny and accountability should be imposed on those districts' hiring practices.

With districts that have several schools with long-standing EL teacher shortages, a state audit of the schools' hiring needs and the causes of the continuing shortages should

⁵⁰ See also, Shields et al. at 90.

be carried out. There must be built into the State's accountability system a "bottom-up" flow of this information to the responsible State policy-makers. Where the causes originate or can only properly be resolved at the State level, State policy-makers should be required to act. This notion of two-way accountability (*i.e.*, bottom-up as well as top-down) is well-expressed by the Legislature's recently issued Master Plan for Education:

To be useful, the state accountability system should monitor all levels . . . of the educational system, and include appropriate indicators that measure the effectiveness of each level . . . in exercising its responsibilities. Consequently, the State's indicators should enable the public to hold policymakers and governing bodies accountable for providing the commitment, policy mechanisms, resources, and conditions necessary to a high-quality system of education, as well as to hold schools, educators, and students accountable for the outcomes that result.

Joint Committee to Develop a Master Plan for Education, *The California Master Plan for Education*, at 109.

B. Ensuring EL Access to Appropriate Instructional Materials

1. *Establishing a Standard for EL Instructional Materials*

The State must first establish a standard that requires each English Language Learner be provided with appropriate instructional materials for use in class and to take home for homework. As with different subjects for English-only students, the definition of "appropriate" will differ depending on the instructional services being delivered. The State should clarify and define what are appropriate ELD, SDAIE, and primary language instructional materials and require that each student have sufficient access to the materials for use in class and at home for homework.

2. *Building the Capacity of Schools to Implement the Standard.*

The State should determine the causes of EL instructional materials shortages and respond accordingly. The State will need to increase funding for EL materials to the extent lack of funding is a precipitating factor. There is evidence that the State underfunds textbooks generally in California. Oakes and Saunders (2002) at 101. Given the evidence of instructional material shortages in low-income, high-EL schools, the State should provide targeted support to those schools to eliminate shortages in the interim while the State addresses long-term capacity issues.

The State will need to eliminate confusion about what types of materials are appropriate. This includes clarifying the appropriate types of materials for Structured English Immersion and mainstream classroom settings.

3. *Monitoring to Ensure the Standard is Being Met.*

The State must modify its data collection system to ensure that classroom level EL instructional materials information is tracked and reported. The system should be capable of identifying shortages regardless of the instructional setting (Structured English Immersion, mainstream classroom with ELs, primary language instruction class) and the instructional services offered (ELD, SDAIE, primary language content instruction or primary language support for ELD and SDAIE), and should be structured to notify parents of affected students and to allow individual complaints to be filed to rectify identified shortages.

4. *Assisting and Enforcing the Standard to Ensure Compliance.*

Oakes and Saunders discuss a variety of mechanisms involving public reporting, intermediate reviewing entities, input as well as outcome accountability measures, etc. which the State could establish to improve its oversight system for delivering instructional materials generally to the desk top.⁵¹ In addition to employing these options, the State should also increase staff for CCR and the Comite Compliance Unit, or some other intermediate State oversight entity, from present levels for enforcement of EL instructional material standards. The State should also provide these entities with the authority to order changes in district practice. Districts with schools experiencing substantial EL materials shortages should be provided support and incentives to streamline and improve their instructional materials acquisition and distribution systems. Where significant numbers of students continue to suffer from shortages, increased scrutiny and accountability should be imposed on those districts.

With districts that have several schools with long-standing EL instructional materials shortages, a state audit of the causes of the continuing shortages should be carried out. As with EL teacher shortages and other basic educational deficits, there must be built into the State's accountability system a "bottom-up" flow of the information identifying the causes of deficits to the responsible State policy-makers. Where certain causes originate or can only properly be resolved at the State level, State policy-makers should be required to act.

Conclusion

Equal educational opportunity for English Learners means more than the mere provision of the same textbooks, supplemental curriculum materials, and teachers as are provided for native English-speaking students. Teachers, materials and instructional methodologies must be tailored to English Learner needs, taking into account the students' English language proficiency and their need for both ELD and academic content.

⁵¹ Oakes and Saunders (2002) at 107-113.

The evidence presented in this paper shows that the State has clearly recognized over the last 20-plus years that English Learners have special needs which must be addressed in order to open to them equal access to the core curriculum. In spite of this acknowledgement, there has been a systemic failure on the part of the State to monitor and evaluate the provision of basic educational necessities to English Learners in California and to take preventative and corrective action, implemented with adequate resources, which would ensure that ELs have the qualified teachers and appropriate instructional materials they need to succeed on par with their English-only peers.

The remedies suggested here should have been in place a generation ago. In the meantime, a full generation of English Learners has received substandard educational opportunities and their achievement has lagged behind native English-speakers. It is the obligation of the State of California to ensure that these serious and substantial deficits are not allowed to continue or to recur and to ensure that the current and future generations of English Language Learners receive equal and adequate educational opportunities.

REFERENCES

- American Educational Research Association (AERA), American Psychological Association (APA), & National Council on Measurement in Education (NCME) (1999). *Standards for educational and psychological testing*. Washington, DC: American Educational Research Association.
- American Institutes for Research (AIR) and WestEd (2001). *Effects of the implementation of Proposition 227 on the education of English learners, K-12*. Palo Alto, CA: Author.
- American Institutes for Research (AIR) and WestEd (2002). *Effects of the implementation of Proposition 227 on the education of English learners, K-12*. Palo Alto, CA: Author.
- Barr, R. & Dreeben, R. (1983). *How schools work*. Chicago: University of Chicago.
- Betts, J., Rueben, K., & Danenberg, A. (2000). *Equal resources, equal outcomes* (pp. 77-82). San Francisco: Public Policy Institute of California.
- Burr, E., Hayward, G., Fuller, B., & Kirst, M. (2000). *Crucial issues in California education 2000: Are the reform pieces fitting together?* Berkeley, CA: Policy Analysis for California Education (PACE).
- California Commission on Teacher Credentialing (2000). *A preliminary report on the assignment of certificated employees by county offices of education for four school years, 1995-1999*. Sacramento, CA: Author.
- California Commission on Teacher Credentialing (2002) *Bulletin*. Sacramento, CA: Author.
- California Commission on Teacher Credentialing (2002). *Credential handbook*. Sacramento, CA: Author.
- California Commission on Teacher Credentialing, Professional Services Division, (1999). *Policy Developments and Issues Related to the Delivery of Instructional Services to English Learners*. Sacramento, CA: Author.
- California Commission on Teacher Credentialing (2001). *Standards for program quality and effectiveness for professional teacher preparation programs*. Sacramento, CA: Author.
- California Department of Education. (2000). *2001-2002 Consolidated programs coordinated compliance review checklist for organizing documentation*. Sacramento, CA: Author.

- California Department of Education. (1999). *Educating English learners for the twenty-first century: The report of the Proposition 227 Task Force*. Sacramento, CA: Author.
- California Department of Education. (2002). *Learning . . . teaching . . . leading: Report of the Professional Development Task Force*. Sacramento, CA: Author.
- California Department of Education. (1999). *Proposition 227 survey*. Sacramento, CA: Author.
- California Department of Education. (1991). *Remedying the shortage of teachers for limited-English-proficient students*. Sacramento, CA: Author.
- California State University, Los Angeles, Evaluation, Dissemination, and Assessment Center. (1994). *Schooling and language minority students: A theoretical framework*. (2nd ed.). Leyba, C. (Ed.). Los Angeles, CA: Author.
- Center for Applied Linguistics (2001). The effects of sheltered instruction on the achievement of limited English proficient students. Washington, DC.
<http://www.cal.org/CREDE/SI.htm>
- Center for Research on Education, Diversity and Excellence (2002). *Research evidence: five standards for effective pedagogy and student outcomes. Technical Report No. G1*. Santa Cruz, CA. Available: http://crede.ucsc.edu/pdg/evidence_g1.pdf
- Darling-Hammond, L. (2002). *Access to quality teaching: An analysis of inequality in California's public schools*.
- Darling-Hammond, L. (1997). *Doing what matters most: Investing in quality teaching*. New York: National Commission on Teaching and America's Future.
- Darling-Hammond, L. (2000, January). Teacher quality and student achievement: A review of state policy evidence. *Education Policy Analysis Archives* [On-line serial], 8(1). Available: <http://epaa.asu.edu/epaa/v8n1>
- Echevarria, J., Vogt, M. & Short, D. (1999). *Making content comprehensible for English Language Learners*. Boston: Allyn and Bacon.
- Freeman, D. & Porter, A. (1989). Do textbooks dictate the content of mathematics instruction in elementary schools? *American Educational Research Journal*, 26(3), 403-421.
- Friedlaender, D. & Frenkel, S. (2002). *School equity study documentation: Final report*. Oakland, CA: Social Policy Research Associates.
- Futernick, K. (2001). *A district-by-district analysis of the distribution of teachers in California and an overview of the Teacher Qualification Index (TQI)*. Sacramento: California State University at Sacramento.

Gándara, P. & Maxwell-Jolly, J. (2000). *Preparing teachers for diversity: A dilemma of quality and quantity*. Davis, CA: UC Linguistic Minority Research Institute, Education Policy Center.

Gándara, P., Maxwell-Jolly, J., et al. (2000). *The initial impact of Proposition 227 on the instruction of English learners*. Davis, CA: UC Linguistic Minority Research Institute, Education Policy Center.

Gándara, P. & Rumberger, R. (forthcoming, 2002). *The inequitable treatment of English learners in California's public schools*.

Gold, N. (1992). *Solving the shortage of bilingual teachers: Policy implications of California's staffing initiative for LEP students*. Paper presented at the Third National Research Symposium on Limited English Proficient student issues: Focus on middle and high school issues, Washington, DC.

Goodlad, J. (1984). *A place called school: Prospects for the future*. New York: McGraw-Hill.

Harris, L. (2002). *A survey of the status of equality in public education in California: A survey of a cross-section of public school teachers*.

Haycock, K. (1998). *Good teaching matters*. Washington, DC: Education Trust.

Hayes, K. & Salazar, J. (2001). *Evaluation of the Structured English Immersion program: Final report: Year 1*. Los Angeles: Program Evaluation Branch, Los Angeles Unified School District.

Hayes, K., Salazar, J., & Vukovic, G. (2002). *Teacher versus child characteristics in the education of ELLs*. Los Angeles: Program Evaluation Branch, Los Angeles Unified School District.

Mintrop, H. (2002). *State Oversight and the Improvement of Low-Performing Schools in California*. Los Angeles: University of California at Los Angeles.

Loeb, S., & Page, M. (2000). Examining the link between teacher wages and student outcomes: The importance of alternative labor market opportunities and non-pecuniary variation. *Review of Economics and Statistics*, 82(3), 393-408.

McClaughlin, B. (1992). *Myths and misconceptions about second language learning: What every teacher needs to unlearn*. Santa Cruz, CA: National Center for Research on Cultural Diversity and Second Language Learning.

National Board for Professional Teaching Standards. (1998). *English as a new language standards*.

- National Research Council. (1997). *Improving schooling for language-minority children*. August, D. & Hakuta, K. (Eds.). Washington, DC: National Academy Press.
- Oakes, J. & Saunders, M. (2002). *Access to textbooks, instructional materials, equipment, and technology: Inadequacy and inequality in California's public schools*. Los Angeles: University of California at Los Angeles.
- Oakes, J. (1985). *Keeping track: How schools structure inequality*. New Haven, CT: Yale University Press.
- Rumberger, R. & Gándara, P. (2000, October). *The state of education for English language learners in California*. Paper presented at the University of California All Campus Collaborative, Outreach, Research, and Dissemination (UC ACCORD) Conference, San Jose, CA.
- Sanders, W. & Horn, S. (1995, March). Educational assessment reassessed: The usefulness of standardized and alternative measures of student achievement as indicators for the assessment of educational outcomes. *Education Policy Analysis Archives* [Online serial], 3(6). Available: <http://epaa.asu.edu/epaa/v3n6.html>.
- Sanders, W. & Rivers, J. (1996). *Cumulative and residual effects of teachers on future student academic achievement*. Knoxville, TN: University of Tennessee.
- Saunders, W. (1999). Improving literacy achievement for English learners in transitional bilingual programs. *Educational Research and Evaluation* 5(4), 345-381.
- Saunders, W. (2002, draft version, cited by permission). *Preliminary findings from Getting Results four-year evaluation*.
- Saunders, W. & Goldenberg, C. (in press). The effects of an instructional conversation on transition students' concepts of friendship and story comprehension. In R. Horowitz (Ed.), *The evolution of talk about text: Knowing the world through classroom discourse*. Newark, DE: International Reading Association.
- Saunders, B., O'Brien, G., Hasenstab, K., Marcelletti, D., Saldivar, T., & Goldenberg, C. (2001). Getting the most out of school-based professional development. In P. Schmidt & P. Mosenthal (Eds.). *Reconceptualizing literacy in the new age of pluralism and multiculturalism* (pp. 289-320). Greenwich, CT: IAP.
- Shields, P., et al. (2001). *The status of the teaching profession 2001*. Santa Cruz, CA: The Center for the Future of Teaching and Learning.
- Stecher, B. & Bohrnstedt, G. (2002). *Class size reduction in California: Findings from 1999-2000 and 2000-2001*. Sacramento, CA: Class Size Reduction Consortium.
- Tafoya, S. (2002). *The linguistic landscape of California schools*. San Francisco: Public Policy Institute of California.

Teachers of English to Speakers of Other Languages (2001). *What is TESOL?* Alexandria, VA: Author. Available: www.tesol.org

Thomas, W. & Collier, V. (2002). *A national study of school effectiveness for language minority students' long-term academic achievement (Final Report)*. Santa Cruz, CA: The Center for Research on Education, Diversity & Excellence. Available: <http://www.crede.ucsc.edu/research/llaa/1.1pdfs/1.1complete.pdf>

Wong Fillmore, L. & Snow, C. (2000). *What teachers need to know about language learning*. Washington, DC: Center for Applied Linguistics. Available: <http://www.cal.org/ericcll/teachers/teachers.pdf>.