

Amendment 31 in Colorado

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On November 5, 2002, Colorado voters rejected Amendment 31, “English for the Children of Colorado,” a proposed amendment to the state constitution which would have dramatically altered K-12 bilingual education programs in Colorado schools. The tallied votes showed 55% of the voters opposed the Amendment, while roughly 44% voted in favor of it. In a sense, the results are encouraging, since Colorado voters were the first to reject the anti-bilingual education initiative, unlike Massachusetts voters in 2002, Arizona voters in 2000, and California voters in 1998. One relative constant in each of these votes has been the legal text of these initiatives, one that has varied slightly in each state, one that has received little scholarly attention. This essay analyzes Colorado’s Amendment 31, briefly comparing it to the previous initiatives in California, Arizona, and Massachusetts, and then locating the ideological underpinnings which emerge from the Amendment’s Findings and Declarations section, a section which has changed very little since its inception in California. That is, as a text, Amendment 31 helps substantiate Geneva Smitherman’s claim that “language policies are bound up with questions of political and economic power; they are not value free, nor are they immune to ideology” (287).

1. A comparison of the initiatives in California, Arizona, Colorado, and Massachusetts

Although the official number of the initiative has varied by state - Proposition 227 in California, Proposition 203 in Arizona, Amendment 31 in Colorado, and Referendum Ballot Question 2 in Massachusetts respectively – the legal text composed by Ron Unz and his anti-bilingual education cohorts has remained somewhat stable. All of the initiatives include “English for the Children” in their title, often followed by the name of the state. As James Crawford points out in *At War with Diversity: U.S. Language Policy in an Age of Anxiety*, the very title itself, “English for the Children,” is a shrewd - if misleading - rhetorical move on the part of the creators. He writes:

Here was a goal that no one could dispute. Who wanted to ‘vote against’ English – or against children? The label also established a false choice in voters’ minds: *either* teach students the language of the country *or* give them bilingual education” (106).

Not only do the initiatives share a similar title, structurally they are broken up into the following sections: 1) Findings and Declarations, which lays out the rationale; 2) Definitions, which defines the following key terms: English Learner or Limited English Proficient Student, English Language Classroom, English Language Mainstream Classroom, Sheltered (or Structured) English Immersion, and Bilingual Education/Native Language Instruction; 3) English Language Education, which mandates that children be taught in English, and that those students deemed English Language Learners “shall be educated through sheltered English immersion during a temporary transition period not normally to exceed one year”; 4) Parental Waivers, which explains the process by which parents can waive the requirements of the English Language Education section; 5) Legal Standing and Parental Enforcement, which details the legal options parents and legal guardians can pursue if they feel their children has been denied an English language education, as well as information which defines the punishment for the teachers or other school employees found to be in violation of the initiative; 6) Community-Based English Tutoring, which outlines the creation of English language tutoring in communities and funding for such programs; 7) Severability, which notes the applications of the statute; and 8) Interpretation, which states that the Findings and Declarations “contain the governing intent of the act.” Similar versions of these eight sections appear in the anti-bilingual education legal texts for all four states, and this is not surprising given the previous success of the initiatives in California and Arizona.

While there are similarities between the four texts, major differences can be found in two areas. The first is that California's Proposition 227 does not contain the Standardized Testing for Monitoring Education Progress section found in the Arizona, Colorado, and Massachusetts texts. This section mandates that standardized tests will be given each year, ones that will gauge the progress of all school children grades two and higher, including limited English/English Language Learners. Apparently, the anti-bilingual education creators felt the need to legally mandate tests in order to ascertain student progress in the learning of English.

The other major difference between the four texts is in the Legal Standing and Parental Enforcement section, which has grown with each subsequent version of the initiative. This section of California's Proposition 227 reads as follows:

As detailed in Article 2 (commencing with Section 305) and Article 3 (commencing with Section 310), all California school children have the right to be provided with an English language public education. If a California school child has been denied the option of an English language instructional curriculum in public school, the child's parent or legal guardian shall have legal standing to sue for enforcement of the provisions of this statute, and if successful shall be awarded normal and customary attorney's fees and actual damages, but not punitive or consequential damages. Any school board member or other elected official or public school teacher or administrator who willfully and repeatedly refuses to implement the terms of this statute by providing such an English language educational option at an available public school to a California school child may be held personally liable for fees and actual damages by the child's parents or legal guardian.

This wording appears in the Arizona, Colorado, and Massachusetts initiatives as well, but in each, more text is added.

Arizona's Proposition 203 contains a very similar section as the California initiative, but the following is added at the end after "legal guardian":

and cannot be subsequently indemnified for such assessed damages by any public or private third party. Any individual found so liable shall be immediately removed from office, and shall be barred from holding any position of authority anywhere within the Arizona public school system for an additional period of five years.

That is, Arizona's Proposition specifies the punishment for those found guilty, making it very clear that this is a major offense with serious consequences. Crawford summarizes the rationale behind the additions to the Arizona Proposition as follows:

in rewriting the English-only initiative for Arizona, Unz has severely limited the options of parents, educators, and elected officials. While preserving the illusion of parental choice, by allowing them to seek "waivers" of the English-only rule, Proposition 203 includes new restrictions that, in practice, would mean the elimination of parental choice. For example, it provides that school officials 'may reject waiver requests without explanation or legal consequence.' If adopted, the Arizona initiative would impose virtually air-tight restrictions on the use of native-language instruction in public schools.

(English Only vs. English Only)

That is, Unz and his colleagues have tightened up the language in an attempt to eliminate some of the loopholes found in their original California initiative. Not surprisingly, they added even more text to the initiatives created for Colorado and Massachusetts.

As a result, the same section of the Massachusetts initiative includes most of the original wording from Proposition 227 in California as well as the additions made in Arizona's Proposition 203, but the Massachusetts initiative also includes this information about possible lawsuits against school employees:

Parents and legal guardians who apply for and are granted waivers under Section 5 (b) (3) of this chapter retain full and permanent legal rights to sue the individuals who granted such waivers if they subsequently discover before the child reaches the age of eighteen that the application for waivers was induced by fraud or intentional misrepresentation and injured the education of their child.

Curiously, Colorado's Amendment 31 also incorporates the additions made in the Massachusetts text, but with one salient difference (in italics): "Parents and legal guardians who apply for and are granted waivers under Subparagraph (III) of Paragraph (B) of Subsection 4 of this section *still retain for ten years thereafter* full and permanent legal rights to sue the individuals who granted such waivers..."

This small but important addition in Colorado's Amendment 31 extends by ten years the time frame for which parents can sue the officials who granted waivers for their children.

Although there are only a few major differences between the four texts, the additions to the initiatives provide clear evidence that Ron Unz and those who oppose bilingual education are becoming increasingly vigilant and hostile towards school board members and school employees. Their addition of standardized tests reverts to the traditional and conservative call for one-size-fits-all tests that measure language acquisition progress, perhaps in an effort to keep schools "accountable" for their work. Similarly, the additions to the Legal Standing and Parental Enforcement section demonstrate Unz and company's desire to be as specific as possible when it comes to punishing those they conceive as wrongdoers: Arizona's additions define the punishment for offenders, who will be exiled from education for five years; the Massachusetts' text defines the time limit for such legal recourse, a time limit which Amendment 31 in Colorado extends by ten years. That is, perhaps these additions can be seen as evidence that the anti-bilingual education initiatives are becoming increasingly precise in their language, especially when it comes to the legal rights given to parents and guardians, as well as in the punitive measures for those found at fault. With this in mind, it is likely that the next wave of initiatives will continue this trend toward further accountability and punishment.

2. Amendment 31 in Colorado: the ideology behind the findings and declarations

In *Planning Language, Planning Inequality*, James W. Tollefson defines *ideology* as the "normally unconscious assumptions that come to be seen as common sense...such assumptions justify exclusionary policies and sustain inequality" (10). With historical ties to the English Only Movement, and with the legal texts' evolution towards greater surveillance and punitive measures, it is impossible to deny that these anti-bilingual education initiatives are ideologically motivated. But what ideologies drive these initiatives? As Mary McGroarty notes, "the educational language policies of any country reflect social judgments not only about language but a host of other factors, that, at first glance, bear no overt relationship to language" (19). The anti-bilingual initiatives are no exception. All of the initiatives contain a Findings and Declarations section at the beginning of the text, and this section can be seen as their ideological focal point, especially since, as the Interpretation section claims, the Findings and Declarations "contain the governing intent of the act." Thus, the Findings and Declarations section is perhaps the clearest statement of the intentions and the ideologies behind the initiatives, particularly since each of the Findings and Declarations contains some element of "common sense" thinking.

In Amendment 31, the Findings and Declarations read as follows:

The People of Colorado find and declare that:

- A. The English language is the common public language of the United States of America and of the state of Colorado. It is spoken by the vast majority of Colorado residents, and is also the leading world language for science, technology, and international business, thereby being the language of economic opportunity; and
- B. Immigrant parents are eager to have their children acquire a good knowledge of English, thereby allowing them to fully participate in the American Dream of economic and social advancement; and
- C. The government and the public schools of Colorado have a moral obligation and a constitutional duty to provide all of Colorado's children, regardless of their ethnicity or national origins, with the skills necessary to become productive members of our society. Of these skills, literacy in the English language is among the most important.
- D. The public schools of Colorado currently do an inadequate job of educating immigrant children, wasting financial resources on costly experimental language programs whose failure over past decades is demonstrated by the current high drop-out rates and low English literacy levels of many immigrant children.

- E. Young immigrant children can easily acquire full fluency in a new language, such as English, if they are heavily exposed to that language in the classroom at an early age.
- F. Therefore it is resolved that: all children in Colorado public schools shall be taught English as rapidly and effectively as possible.

At least four repeated, intertwined ideologies emerge in the Findings and Declarations: a monolingual ideology that relies on an ahistorical view of language and society in the United States; a clear correlation between English language literacy and economic advancement; a nationalist perspective that equates fluency in English with American citizenship; and finally a distrust of bilingual education research and its applications. Each of these ideological discourses reflects Tollefson's definition of ideology, just as they subordinate other languages to English and infringe on the linguistic rights of individuals. While each ideology will be addressed individually, it should be noted that they are interrelated, and in some cases help substantiate the other discourses.

3. Critique: the monolingual ideology behind the findings and declarations

Of all the ideologies contained within the Findings and Declarations of Amendment 31, the most salient is the monolingual ideology it embraces. Despite the historical realities about multilingualism in the United States, and in spite of the scholarship that demonstrates that multilingualism is the rule rather than the exception in contemporary nations, Amendment 31 subordinates all other languages to the English language, peripheralizing and condemning these minority languages to specific arenas thought to be less valuable economically, socially, and culturally in the United States. Moreover, it violates the linguistic rights of the speakers of these subordinated tongues in a very undemocratic fashion. In the process, the Findings and Declarations elevate the English language in terms of its value to the United States, imbuing it with political, economic, and nationalist importance that the other languages lack. The monolingual ideology is so pervasive that it undergirds the other ideologies which emerge from the Findings and Declarations, particularly those dealing with economic opportunity and membership in American society.

4. Critique: English as the language of economic opportunity

It cannot be denied that the English language is a major language in national and international economic relations. Nor can it be denied that economics have played an important part in the spread of English around the globe. At the same time, the English language is not the only important language in economics, in business, and in global trade, whether one looks at the national or international level. Nonetheless, Finding and Declaration A of Amendment 31 perpetuates an ideology that states fluency and literacy in the English language helps one achieve economic success. That is, Finding and Declaration A unequivocally claims that English is the "leading world language for science, technology, and business," thus making English the "language of economic opportunity." Not only is this claim reminiscent of the triumphant discourse about the spread of global English in the 19th century British colonial period, it also makes it clear that knowing English opens the doors of economic opportunity.

Finding and Declaration B elaborates upon this assumption and applies it to life in the United States: English language skills will allow "[immigrant children] to fully participate in the American Dream of economic and social advancement." Finding and Declaration B is helpful in this regard, as it clearly and unmistakably defines that murky notion of the "American Dream" as "economic and social advancement." Again, without question, many immigrants and citizens alike hope for their children to advance economically and socially, but one has to ask: is this all there is to the American Dream?

Moreover, as other scholars have noted, there are a number of problems with this English-as-the-language-of-social-and-economic-advancement line of reasoning. First, in an ethnocentric manner, it reiterates the monolingual ideology, one that devalues all other languages as incapable of helping one advance economically and socially. Second, it naturalizes the assumption that if one is fluent in English, they will attain social and economic "advancement." As Rosina Lippi-Green argues: "the promises made about the rewards of mainstream language use are usually merely implied, but there are

occasions on which they are verbalized more clearly” (69). Findings and Declarations A and B are obvious examples of the latter: explicit equations between English language skills and economic success. But why is this a false promise? Given the large number of poor immigrants who are fluent in English, as well as the large number of poverty-stricken native English speakers born in the United States, clearly fluency in English does not ensure economic and social advancement in any way, shape, or form.

The simplistic notion of English fluency equating to economic advancement obscures a larger social problem. As Robert Phillipson has pointed out, fluency in English is not an economic “panacea” - one that will cure the economic inequities in the United States and around the world - that many believe it to be (104). Rather, as Tollefson argues: “That some people must learn English to get a job is a result of unequal relationships of power – not a solution to them” (210). Nevertheless, the ideology behind Findings and Declarations A and B offer this false promise.

5. Critique: nationalist ideology and English as the language of productive American citizens

Finding and Declaration C picks up where A and B leave off:

The government and the public schools of Colorado have a moral obligation and a constitutional duty to provide all of Colorado’s children, regardless of their ethnicity or national origins, with the skills necessary to become productive members of our society. Of these skills, literacy in the English language is among the most important.

The third ideology found in Amendment 31 stems from the second: for an immigrant to be a “productive member of society” in the United States, they must possess English literacy skills. Once again, this ideology rests upon a monolingual ideology, one that denigrates all other languages in the United States. Moreover, Finding and Declaration C builds upon this monolingual ideology and applies it to being an American citizen. To put it more simply, according to Finding and Declaration C, Americans speak and write English. In this case, the English language becomes symbolic of being an American, for as Tollefson argues: “conflicts about language policy usually have their source in group conflicts in which language symbolizes some aspect of a struggle over political power and economic resources” (*Language Policies* 5). Once again, Amendment 31 is helpful in defining murky terminology. In this case, it - at least partially - equates “productive member of society” with certain “skills,” in particular “literacy [skills] in the English language.” Thus, English fluency is one of the most important skills needed to be a “member” of the United States, and a “productive” member at that. Leaving aside questions about what “productive” means or what other “skills” are needed to be productive members, Finding and Declaration C offers another simplistic equation, one that conflates American citizenship with English literacy.

This Americans-speak-and-write-English ideology is problematic as well. To begin, it both propagates a monolingual ideology and elides the fact that the US has never been - and never will be - a monolingual society. For example, Suzanne Romaine argues that during the 15th century, when the Europeans first arrived in North America, somewhere between 350 to 500 American Indian languages were being spoken (154-55). Thus, according to the Amendment’s ideological position, American Indians who speak their indigenous tongues and not English cannot be Americans, much less productive Americans. Moreover, there seems to be an additional stipulation that comes along with this assumption: it is not American to be bilingual. Immigrants are expected to learn English, and in the process, this will enable them to become members of the American society. Once again, the nationalist implications are clear: members of American society speak and write English. And it is for these reasons that Colorado educators have a “moral obligation” to teach any and all aspiring Americans to speak and write in English.

6. Critique: a distrust of bilingual education research and its applications

Finding and Declaration D of Amendment 31 condemns Colorado language education programs as failures. These programs

do an inadequate job of educating immigrant children, wasting financial resources on costly experimental language programs whose failure over past decades is demonstrated by the current high drop-out rates and low English literacy levels of many immigrant children.

While this Finding and Declaration further highlights the importance of economics to the Amendment's creators (i.e. "wasting financial resources on costly experimental programs"), it also points to a fundamental distrust of bilingual education research and the scholars who perform it. Once again, some simplistic logic is used to support the case: The failure of these unnamed "experimental" programs leads to "high drop out rates and low English literacy levels of many immigrant children." This line of thinking contends that bilingual education is the sole source for the drop-out rates of immigrant students. No other reasons exist - whether they be a state fiscal environment which has slashed school funding, a statewide economic downturn as a whole, not to mention issues of race and class, or the challenges facing immigrants - so the "experimental" methods of these programs must be at fault. As a result, the blame rests squarely on the shoulders of "the public schools of Colorado." Moreover, this Finding and Declaration makes no mention of the reasons for native-English speaking dropouts. It can be concluded that this Finding and Declaration is in the words of Tollefson, "ahistorical and astructural," located outside the realm of history or current social structures (*Planning Language*, 210). Along these lines, Finding and Declaration D substantiates what Rene Galindo has called a "mythic immigrant past," one where all immigrants to the United States learned English, never dropped out of school, and ultimately assimilated, becoming "productive members of society." Apparently, this mythic immigrant past sharply contrasts with today's immigrant situation, at least in the eyes of the initiatives' supporters.

Finding and Declaration E further underscores the ideological mistrust and misunderstanding of bilingual education research: "Young immigrant children can easily acquire full fluency in a new language, such as English, if they are heavily exposed to that language in the classroom at an early age." Two adverbs stand out in this section: *easily* and *heavily*. Most linguists – and many non-linguists for that matter – would question the claim that acquiring or learning a second language is done "easily," even by children. Similarly, many would challenge the notion that second language learners who are "heavily exposed" to English will learn it easily. Indeed, Krashen has argued convincingly that heavy exposure to a second language is not enough. Rather, the type of exposure is key: second language learners need "comprehensible input" (3).

This mistrust of bilingual scholars and practitioners can be seen elsewhere, too, particularly when one looks at Ron Unz, the chief financier behind the Amendment. In the September 14, 2002 issue of the *Rocky Mountain News*, there is a "roundtable" discussion about Amendment 31 featuring Unz and Colorado State Board of Education member Gully Stanford. The format entails the reporter asking questions, and then receiving responses from Stanford and Unz. One portion reads as follows:

News: Bilingual education in Denver in the early 1990s was a troubled program that kept kids in it for a long time. That's why the Denver district fought to reform the program, against the wishes of federal officials, and why its goal today is to get kids ready for regular classes within three years. Is it your position, Ron, that the three year program is still no good? Does the research show it to be inferior to the immersion programs you favor?

Unz: I would argue that all of the research is nonsense. The evidence from California is that when you get rid of these bilingual programs and you shift to intensive English immersion, test scores rise dramatically... ("Got English?" 20B)

For Unz, all bilingual education research is "nonsense," unless it supports his argument, as the test scores he refers to do.

But this is not the only time Unz's distrust of bilingual scholars surfaces. In his "UnzColumn" dated August 7, 2002 and entitled "A National Problem and a Colorado Solution?" Unz refers to bilingual education scholars and practitioners as "tainted sources" and goes on to characterize bilingual education research and its application as a "methodological absurdity." Unz then goes into more *ad hominem* arguments against academics, ones that reflect the hostility he feels for bilingual education researchers and practitioners, the same hostility and distrust that can be found in Amendment 31. Unz's blatant disregard for several decades of academic research on bilingual education, when combined with the similar sentiments found in the discourse of Amendment 31, and the increased surveillance and punitive measures found in the evolution of the initiatives, further substantiate the notion that the Findings and Declarations are ahistorical, astructural, and absolutely ideological.

7. Conclusions: Amendment 31, ideology, and future anti-bilingual education initiatives

Perhaps the most important lesson to be learned from Colorado and Amendment 31 is an actual historical event: in November 2002, Colorado voters rejected the Unz-led efforts to virtually eliminate bilingual education in Colorado public schools. While the methods used by anti-31 supporters will be questioned, and while Unz and his cohorts will certainly regroup and try again in Colorado and elsewhere, the fact that Amendment 31 was defeated remains incontrovertible. Similarly, if history tells us anything, a very similar version of Amendment 31 will be used and voted on in other states, and if successful, will amend those states' constitutions. The monolingual ideology the initiatives perpetuate, the economic success and productive citizenry the English language symbolizes, and the distrust of academic research, when taken collectively, these discourses form a powerful and formidable discursive regime, one that coalesces into much of the common sense thinking found in the United States about language and language education. With these factors in mind, it is imperative that the ideological undercurrents of these initiatives be recognized and contended with by bilingual education scholars and practitioners. That is, bilingual education advocates must educate the public about the realities of the multilingual United States and the benefits of bilingual education, for the ideologies which emerge within these initiatives run absolutely counter to the democratic ideal which this country claims to support, just as they trample on the linguistic rights of individuals throughout this country.

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