

The Emergency Immigrant Education Act of 1984:
Past, Present, and Future of Federal Aid for Recent Immigrant Education

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Abstract

The Emergency Immigrant Education Act of 1984:

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Doctor of Education, 2013

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The Emergency Immigrant Education Act of 1984 (EIEA) was passed by the 98th U.S. Congress to provide funds to states to “meet the costs of providing immigrant children supplementary educational services” (Emergency Immigrant Education Act of 1984, Title VI, Sec. 607). This study analyzes the culture, values, and political context in which the Emergency Immigrant Education Act of 1984 was developed, passed, and amended through its most recent reauthorization. EIEA is the only federal legislation that specifically targets new immigrant students. However, EIEA has been largely overlooked by education policy analysts, because new immigrant students are rarely considered as different from limited English proficient (LEP) students. The study employs historical document and content analysis, applying Kingdon’s (2011) theoretical framework of agenda-setting and Manna’s (2006) concept of borrowing strength to explain EIEA’s path to the agenda. In addition, it applies McDonnell and Elmore’s (1987) policy framework to EIEA to understand how policymakers sought to realize EIEA’s goals, as well as that of Wirt, Mitchell, and Marshall (1988) to identify the cultural and political values revealed in the rhetoric of the legislation. In tracing EIEA’s 30-year route, I describe how

the nature of the legislation changed from a primarily capacity-building policy to more of an inducement. In addition, the study revealed a change in an egalitarian culture to one that emphasizes quality.

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List of Abbreviations

BEA	Bilingual Education Act of 1968
EIEA	Emergency Immigrant Education Act of 1984
EIEP	Emergency Immigrant Education Program (1994)
ELL	English language limited
ESEA	Elementary and Secondary Education Act of 1965
ESL	English as a second language
IASA	Improving America's Schools Act of 1994
IRCA	Immigration Reform and Control Act of 1986
LEA	local educational agency
LEP	limited English proficiency
NCLB	The No Child Left Behind Act of 2002
SEA	state educational agency
SLIAG	State Legalization Impact Assistance Grants (1986)

List of Key Terms

agenda	the subjects that have captured the interest of those in and close to government at any given time
agenda-setting	the processes by which an issue changes from an insignificant one to one that has gained the attention of policymakers and is in line for decisive action by government
borrowing strength	one level of government seeking either license or capacity from another level of government when one or the other is low
capacity	the ability to carry out a policy action
capacity-building	a policy that offers funds in exchange for improvements
choice	characterized by policies with permissive language, policy options, and voter/constituent choice
democratic culture	one identified by the importance of elections and appropriate representation
efficiency	characterized by policies that emphasize authority, accountability, and process
egalitarian culture	one typified by an emphasis on equity
equity	characterized by policies that serve to redress societal disadvantages and to compel compensatory action
federal government	the Presidency, Cabinet-level departments, Congress, and the courts
federal system	the entire governmental system of the United States, including both federal and state governments
inducement	a policy that provides fiscal rewards for prescribed actions
interest	how much an issue is talked about in government
involvement	governmental action or willingness to act in a policy area
license	the government's ability to defend its actions in a given policy area

mandate	a policy that demands compliance
meritocratic culture	one characterized by an emphasis on professionalism, achievement, and standards of service
policy entrepreneur	individuals who have the time, resources, influence, and willingness to advocate for policy positions in the hope that they will someday be rewarded with material, purposive, or solidary benefits
policy stream	the set of proposals offering solutions to a given problem
policy window	a confluence of the problem, policy, and political streams, giving a policy entrepreneur the opportunity to push a policy issue higher on the governmental agenda
political stream	the political climate at a given time, including public mood, organized political forces, changes of administration, and election results
problem stream	the set of mechanisms that brings a problem to the attention of government officials and decision-makers
quality	characterized by policies that represent the belief that education is critical to individuals' success, and funding of such policies to achieve excellence or proficiency
system-changing	a policy that reallocates authority in exchange for systems transformation

Chapter 1: Study Background

The Emergency Immigrant Education Act of 1984 (EIEA) was passed by the 98th U.S. Congress to provide funds to states to “meet the costs of providing immigrant children supplementary educational services” (Emergency Immigrant Education Act of 1984, Title VI, Sec. 607). This study analyzes the culture, values, and political context in which the Emergency Immigrant Education Act of 1984 was developed, passed, and amended through its most recent reauthorization in 2002. EIEA is the only federal legislation that specifically targets new immigrant students. However, EIEA has been largely overlooked by education policy analysts, because new immigrant students are rarely considered as different from limited English proficient (LEP) students. The study uses Kingdon’s (2011) theoretical framework of agenda-setting and Manna’s (2006) concept of borrowing strength to explain EIEA’s path to the agenda. In addition, McDonnell and Elmore’s (1987) policy framework is applied to EIEA to understand how policymakers sought to realize EIEA’s goals, as well as that of Wirt, Mitchell, and Marshall (1988) to identify the cultural and political values revealed in the rhetoric of the legislation.

Significance of the Study

This is a propitious time for this historical case study. With the reauthorization of the Elementary and Secondary Education Act (ESEA) imminent, the findings reported here will contribute to legislators and other interested parties understanding the historical contexts influencing previous decisions concerning EIEA and identify which reasons for passage and choice of language are still valid today. In order to create relevant and

appropriate policy for a new generation of immigrant students, we must clearly distinguish the enduring challenges—such as needs for well-trained, caring teachers and for community and parent support—from transitory problems. This study provides perspective on the history of EIEA with an eye toward developing an immigrant education policy that will serve the next generation.

Immigration Context

Recent immigration history in the United States is often marked by the passage of the Immigration and Nationality Act of 1965. As described by Newton (2008),

The criteria and regulatory tools utilized to control immigration have shifted from the establishment of qualitative criteria designed to keep out those unable to support themselves (1875-1917), to overt restriction by race and national origin (1880s-1960s), to the post-1965 system that emphasizes family reunification, labor force needs, and humanitarian considerations (p. 5).

Portes and Rumbaut (2006) added that while the Immigration and Nationality Act made it easier for some to move to the United States, such facilitating legislation is not sufficient to explain the increasing number of immigrants in the last few decades. Rather, immigration depends on a complex interplay between “the desires and dreams of people in other lands [and] the designs and interests of well-organized groups in the receiving country, particularly employers” (p. 311).

Over the past 30 years, what has resulted is a near tripling of the foreign-born population in the United States: from 14.1 million in 1980 to almost 37 million—13 percent of the total population—in 2005 (Portes & Rumbaut, 2006; Salomone, 2010; U.S. Census Bureau, 2010), a staggering growth rate of more than one million per year. Approximately 2.7 million of these immigrants were under the age of 18 in 2009 (U.S. Census Bureau, 2010), most of whom were attending or will attend American schools.

Intersection of Schooling and Immigration

First, we have to recognize that schools play a central role in the lives of immigrant children and youth. Suárez-Orozco, Suárez-Orozco, and Todorova (2008) described school for immigrant students as “the first sustained, meaningful, and enduring participation in an institution of the new society” (p. 2). At school, students learn not only academic knowledge and skills but also cultural awareness of their new land. Beyond this basic observation, however, immigrant students make up a heterogeneous group so diverse that Ruiz-de-Velasco and Fix (2000) would have us believe, “it is impossible to generalize about immigrant education” (p. 45). Certainly programs specifics would be highly contextual. Nonetheless, these students often bring with them needs that differ from needs of the general school population. This study considers one facet of a national governmental effort to assist schools in meeting some of the educational needs of new immigrant students, namely the Emergency Immigrant Education Act.

Under EIEA, allowable services may include: English language instruction and other bilingual services; instructional and classroom materials; construction, transportation, and space; and in-service training. Once states disburse the funds to local educational agencies (LEAs), each LEA may use the funds for any or all of its students, as long as the services provided benefit new immigrant students in some way. This federal policy recognizes that new immigrant students and their teachers require services that come at additional cost to schools, while allowing substantial flexibility in how funds are used in response to the heterogeneity of recent immigrants.

The case of EIEA illustrates how the changing demographics of a school-age population, in this case immigrant students, demands continued examination of

applicable education policy. Further, these demographic pressures and dynamics may result in a wide range of policy responses. Here, I outline how immigrant students and their educational needs are supported by federal legislative, administrative, and judicial policies, as well as by state policies. These policy responses can be understood using the frameworks of Kingdon (2011), Manna (2006), McDonnell and Elmore (1987), and Wirt, Mitchell, and Marshall (1988), which guided this investigation. Before discussing the demographic stressors leading to the multiple policy responses that include the signature legislation, I present an explanation of what EIEA is, who it serves, and what EIEA funds may be used for.

The Emergency Immigrant Education Act

Originally part of the Education Amendments of 1984, EIEA became a part of ESEA with its reauthorization in 1988 and was again reauthorized with ESEA in 1994 as the Emergency Immigrant Education Program (EIEP). With the most recent reauthorization of ESEA in 2002, EIEP was included in Title III, Part B, the Improving Language Instruction Educational Programs for Academic Achievement Act of 2002, which focuses primarily on students with limited English language proficiency and, to a lesser degree, on new immigrant students.

According to the original EIEA, immigrant children are those “who were not born in any State and who have been attending schools in any one or more States for less than three complete academic years” (Emergency Immigrant Education Act of 1984, Title VI, Sec. 602). The number of children served by EIEA in its first year was 346,287. By the 2005-2006 school year, that number had more than doubled to 731,598 (Office of English

Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students, 2008, p. 14).

Local educational agencies (LEAs) qualify for EIEP funds when they have a new immigrant student population of 500 or more or when their new immigrant student population comprises at least three percent of the total student population. In addition, LEAs “that are experiencing a sudden influx of immigrant children and youth and that are otherwise not eligible for assistance” may also receive monies under EIEP (Improving Language Instruction Educational Programs for Academic Achievement Act of 2002, Title III, Part B, Sec. 3244). One consequence of these rules is that, although the number of new immigrant students in 2006 was 1,087,771 (Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students, 2008, p. 14), not all of these students’ schools were eligible for funds under EIEP. In addition, some districts choose not to request Title III monies, and some private schools do not apply for funds (Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students, 2008, p. 55).

Demography

To elaborate upon the impact of immigration on U.S. schools, immigrant children have been an especially rapidly-growing segment of the population. From 1970 to 1995, the number of new immigrant students in grades K-5 increased by over 200 percent and in grades 6-12 by almost 300 percent (Van Hook & Fix, 2000). The American Communities Survey estimated that the average number of new immigrant students in the United States for the years 2006-2008 was nearly one million (National Research

Council, 2011). In addition, many states that have historically attracted few immigrants are now drawing many immigrant families, including Nevada, North Carolina, Georgia, and Nebraska (Capps, Fix, Murray, Ost, Passel, & Herwantoro, 2005; Hernandez, 2004). The U.S. Census Bureau (2011) noted that the geographic distribution of immigrants has been widening even more in recent years.

Demographic Pressures

At the intersection of academics and culture for many immigrant children is English language fluency. With 40 percent of all foreign-born children of immigrants—regardless of recency of immigration—classified as LEP (Morse, 2005), English language acquisition is high on the list of new immigrant needs. For this substantial minority of new immigrants, who count among those speaking nearly 400 languages in America’s schools, the overwhelming majority are Spanish speakers, followed by noteworthy populations of Vietnamese, Chinese (including Mandarin, Cantonese, and other Chinese dialects), Hmong, and Korean language speakers (Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students, 2008).

In order to learn English, this group of new immigrant students needs teachers who are appropriately trained in teaching LEP students, as well as native language and simplified English textbooks and support materials, particularly in languages other than English and Spanish (McDonnell & Hill, 1993; Olsen, 2000). Additionally, appropriate English proficiency assessments are needed in order to place both immigrant and non-immigrant LEP students in a suitable learning environment (Chu, 2009).

Who Is the New Immigrant?

Understanding new immigrant education is often difficult because of the disparity in the definitions of new immigrant students. Although a definition is stated in Title III of ESEA, this definition is disregarded in much of the literature. According to Title III, “the term immigrant children and youth means individuals who (a) are aged 3 through 21, (b) were not born in any State, and (c) have not been attending one or more schools in any one or more States for more than 3 full academic years” (Improving Language Instruction Educational Programs for Academic Achievement Act of 2002, Title III, Part B, Sec. 3301). Nonetheless, several researchers have expressed no distinction between foreign-born immigrant children and U.S.-born children of immigrants and did not separate the two groups in any of their findings or recommendations (e.g., Arzubiaga, Noguerón, & Sullivan, 2009; Louis, 2005; Ruiz-de-Velasco & Fix, 2000; Salomone, 2010).

Another definition difficulty arises because many studies essentially equated immigrants with LEP students (e.g., Boyson & Short, 2003; Garrett & Holcomb, 2005; Smith-Davis, 2004). However, according to Lee (2010),

Understanding the distinction between immigrant and ELL students is important because it pushes educators and researchers to think more critically about the relationships between culture and language as well as variations in students’ individual identifications with being an ELL and/or immigrant (p. 455).

Similarly, Clarkson (2008) asserted that “the ELL category is not sufficient to report the diverse groups of immigrant students, their reasons for immigrating, their previous experience with formal education, and the resulting challenges that are faced in the classroom and the communities” (p. 24). Moreover, as described in Fong (2004) by her many contributors, there are strong and culturally-specific connections across family, community, and school contexts for immigrant children and youth. Thus, it is important

to understand the needs of new immigrant students other than—but still in conjunction with—the need of many to learn English.

Federal Education Policy and New Immigrants

Federal education policy is decided in many governmental arenas. The Congress sets legislative policy in federal laws and resolutions. Administrative policy, the rules that govern how federal laws are implemented, is determined within Cabinet departments. In the case of education policy, the Secretary of Education and the Department of Education control administrative policy. Decisions made by the Supreme Court establish judicial policy. All three types of policy work together to govern federal education policy in the United States.

Legislative policy. Because education is not mentioned in the Constitution, the federal government has historically left much of the education policy-making to the states. However, since the passage of ESEA in 1965, the federal government has had more influence over education policy (see McGuinn, 2006a). According to Cohen-Vogel and McLendon (2009), “the influence of the federal government in education has never been greater” (p. 735).

Except for EIEA, federal education policy that involves immigrant children is non-existent. According to McDonnell and Hill (1993),

Immigrant education is not a visible policy issue. Independent of their need to learn English and to escape the consequences of poverty, immigrant students are not viewed by federal and state policymakers as a distinct group requiring specific policy remedies. That immigrant students may have different needs than native-born students is not recognized nor widely accepted (p. xi).

Nevertheless, the need for clear immigrant education policy has become increasingly important because of the changing demographics discussed previously.

Other than EIEA, one policy that affected many immigrant students was the Bilingual Education Act (BEA). Originally passed in Title VII of the 1968 reauthorization of ESEA, it was designed to fund instructional programs for LEP students. The BEA was reauthorized and amended five times before it became the English Language Acquisition, Language Enhancement, and Academic Achievement Act under Title III of No Child Left Behind. With this latest reauthorization, Title III included the Emergency Immigrant Education Program as a subgrant program of the English Language Acquisition Grants, strengthening the ties between the two policies. However, although many new immigrant students are LEP, not all of them are; conversely, not all LEP students are immigrants. In a Congressional hearing on the impact of No Child Left Behind, Peter Zamora, Co-Chair of the Hispanic Education Coalition stated that “the commonly held stereotype of ELLs as foreign-born immigrants is inaccurate. The majority are, in fact, U.S. citizens whose academic and linguistic needs are not being met by our public schools” (*Impact of No Child Left Behind on English Language Learners*, 2007, pp. 28-29). According to recent estimates, only 20 to 30 percent of LEP students are recent immigrants (Calderón, Slavin, & Sánchez, 2011). Nevertheless, because of the clear overlap of the two groups, the discussion about new immigrant students often disappears in the debate over bilingual education.

Although not specifically designed to benefit new immigrant students, Title I of ESEA is also relevant to the immigrant student population. Part of ESEA since its original authorization in 1965, Title I provides funding for schools with a high percentage of students from low-income homes. Approximately 30 percent of foreign-born children live below the poverty line (Borjas, 2011), nearly double the rate for non-immigrant

children (Tienda & Haskins, 2011), although when disaggregated by country of origin, this number can vary from about 7 percent for immigrants from India to nearly 40 percent for immigrants from Mexico (Borjas, 2011). According to Louie (2005), poorer immigrants are more likely than not to settle in poor urban areas with Title I schools. In the 1989-1990 school year, between 50 and 60 percent of schools that received EIEA funds also received funds under what was then known as Chapter 1 (McDonnell & Hill, 1993). Thus, although Title I is not an immigrant student policy, it is often important to schools with high immigrant populations.

Administrative policy. Related to legislative policy is administrative policy, which concerns itself with the manner in which legislative policy is implemented and enforced. One set of regulations that relates to immigrant education governs the Immigration Reform and Control Act of 1986 and is concerned with the State Legalization Impact Assistance Grants (SLIAG). These grants were implemented in 1986 “to lessen the financial impact on State and local governments resulting from the adjustment of immigration status under the Act of certain groups of aliens residing in the States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam” (State Legalization Impact Assistance Grants, 2011). These grants may be used to aid public agencies in ways such as “making payments to State educational agencies for the purpose of assisting local educational agencies in providing certain educational services to eligible legalized aliens” (State Legalization Impact Assistance Grants, 2011) and includes services for both eligible adults, as defined under the Adult Education Act of 1966, and eligible children, as defined by EIEP. Although SLIAG are separate from EIEP grants, the programs are related in two ways. First, the definition of immigrant student for

SLIAG is exactly the same as the definition used in EIEP. Although the SLIAG regulation requires that the funds only be used to aid legalized aliens, EIEP does not distinguish between legalized and non-legalized immigrants. Second, States receiving EIEP funds are not eligible to receive the maximum SLIAG amount for immigrant education. Specifically,

The maximum amount of payment to a local educational agency with respect to eligible legalized aliens enrolled in elementary and secondary school will be reduced from the amount described in (e) (3) of this section, by an amount equal to the amount of funds received by the local educational agency with respect to such eligible legalized aliens pursuant to section 606 of the Emergency Immigrant Education Act (State Legalization Impact Assistance Grants, 2011, Section 402.11).

EIEP is governed by federal regulations on EIEP itself and on how states administer grants and subgrants (Emergency Immigrant Education Program, 1993; State-Administered Programs, 2011). Parts 581 and 76 of 34 C.F.R. provide detailed definitions of terms relating to EIEP and how to apply for EIEP funds. They also outline the procedures for requesting a State hearing if an application is denied. Clear definitions of cost categories, regulations for compliance, and specific directives concerning private and charter schools are given.

Judicial policy. Education policy is not restricted to the legislative and executive branches, however. Many education policy decisions are made by the judicial branch. Of much importance to immigrant students is the 1974 case *Lau v. Nichols*, which established that LEP students are entitled to special services to help them participate fully in the educational system. Basing their decision on Title VI of the Civil Rights Act of 1964, the Supreme Court left the decision to LEAs as to what specific services they would provide to LEP students. As with bilingual and English as a second language

education, although the *Lau* decision affects many new immigrant students, it does not affect all new immigrants.

Another significant case, which was almost certainly pivotal to EIEA, was 1982's *Plyler v. Doe*, which originated in the state of Texas. The Supreme Court ruled that states may not bar children of undocumented immigrants from attending public schools. Under the Equal Protection Clause of the Fourteenth Amendment, it is unlawful for the state to withhold free public education from a specific group. This case directly affects the education of a class of immigrant students that, according to Justice Brennan, represented a "substantial 'shadow population' of illegal migrants—numbering in the millions—within our borders" (*Plyler v. Doe*, 1982, p. 218). This recognition helped to bring immigrant education to the attention of many state and federal legislators.

State Education Policy and New Immigrants

While some states have policies regarding immigrant status, no states have policies that relate specifically to the instruction of immigrants. As with federal policy, the closest thing that many states have to immigrant instructional policy is legislation that governs bilingual education and LEP students. According to Suárez-Orozco et al. (2008),

We seem to rely on an unreasonable faith that once young immigrants cross the border, the logic of the market will work magically to transform them into proud, loyal, and productive citizens. Or perhaps if we ignore them, they will simply fade away (pp. 360-361).

However, because states must administer Title III funds and deal—to varying degrees—with immigrant students in their schools, they cannot ignore immigrant youth.

Agenda-Setting and Borrowing Strength

To understand how EIEA was developed and passed requires a clear grasp of agenda-setting in government. This study uses Kingdon's (2011) federal policy-making

framework to understand how the issue of immigrant education found its way to the federal agenda in the early 1980s. Agenda-setting is important because public policy is “determined not only by such final decisions as votes in legislatures, or initiatives and vetoes by presidents, but also by the fact that some subjects and proposals emerge in the first place and others are never seriously considered” (Kingdon, 2011, p. 2). Described by Tepper (2004) as “field-defining” (p. 524) and by Cohen-Vogel and McLendon (2009) as having “influenced the development of other contemporary theories of policy making” (p. 739), Kingdon’s approach to policy-making focuses on the agenda, because an issue cannot become legislation unless the important players first begin paying attention to the issue. I supplement Kingdon’s model with that of Manna (2006), whose framework is described by McDonnell (2009a) as a “systematic and coherent...conceptual framework linking the education [policy] case to the broader research literature on agenda-setting and federalism” (p. 65).

According to McLendon (2003) agenda-setting refers to “the processes by which an issue moves from relative obscurity to become one of a small number of priority issues that has gained the serious attention of policymakers and is being positioned for decisive action by government” (p. 482). This is similar to Kingdon’s (2011) definition of the agenda as the subjects that those in and close to government “are paying some serious attention at any given time” (p. 3). Kingdon clarified that this definition should actually be known as the “governmental agenda” to differentiate it from the “decision agenda.” The decision agenda is a subset of the governmental agenda and consists of the list of issues that are about to be decided upon (p. 4).

Also important to understand is the terminology used when referring to the different levels of government. When most people use the term federal government, they mean government at the national level or forms of government otherwise created by the Congress or the Constitution and administrative agencies filled by presidential appointment. Here, “federal government” is defined to include the presidency, Cabinet-level departments, Congress, and the courts. In contrast, the terms federalism and federal system encompass the entire governmental system of the United States, including both federal and state governments.

Returning to the discussion of agendas, Kingdon (2011) described three “streams” that influence agenda-setting: the problem stream, which is the set of mechanisms that brings a problem to the attention of government officials and decision-makers; the policy stream, which is the set of proposals of solutions to the problem; and the political stream, which includes public mood, organized political forces, changes of administration, and election results.

According to Kingdon (2011), navigating these three streams are policy entrepreneurs, who are individuals with the time, resources, influence and willingness to advocate for policy positions in the hope that they will someday be rewarded with “material, purposive, or solidary benefits” (p. 179). Briefly, policy entrepreneurs are “people who seek to initiate dynamic policy change” (Minton, 1997, p. 739). Policy entrepreneurs rely on the confluence of the problem, political, and policy streams, because when these streams converge, a policy window opens, and entrepreneurs may quickly move to secure a place on the agenda. In the words of Kingdon, “A problem is

recognized, a solution is available, the political climate makes the time right for change, and the constraints do not prohibit action” (p. 88).

Manna (2006) extended the specification of agenda-setting to encompass the entire federal system by introducing four new concepts. The first two, interest and involvement (p. 14), pertain to political speech and legislative action. Interest describes how much an issue is talked about in government, “the rhetorical commitment government officials demonstrate in a policy area” (p. 14). The amount of interest in a policy area is exhibited by its appearance in hearings, political speeches, campaigns, and party platforms. Involvement differs from interest in that it indicates the government’s willingness to act in a policy area. Thus, government involvement is demonstrated by the passage of laws or regulations or by the appropriation of funds.

Manna (2006) added that both interest and involvement are influenced by license and capacity (p. 14). These two concepts address legislative authority and governmental resources. License to act has to do with the government’s ability to defend its actions in a given policy area. License can come from many sources, including the “political capital that politicians cultivate, conserve, and spend at important moments of time” (p. 29); connections to other policy issues on the agenda; constitutional or statutory language; a history of policymaking; and perceived crises.

Although license is essential in garnering both interest and involvement, license alone is not enough. Capacity is also required. Capacity refers to the ability to carry out a policy action. Capacity to act may depend on adequate funding, the existence of bureaucratic structures, and “the knowledge, experience, and expertise of government personnel” (Manna, 2006, p. 15).

Manna (2006) posited that when capacity or license in a given policy area is low, a policy entrepreneur need not abandon the policy completely. Instead, the entrepreneur can borrow capacity or license from other levels of government. Manna referred to this as “borrowing strength” (p. 5). Borrowing strength can also work in the opposite direction; that is, state and local governments can borrow strength from the federal government when either capacity or license is low on the state or local level.

In Manna’s (2006) framework, policy entrepreneurs are people who are able to leverage both license and capacity to gain interest and involvement in policy areas. While we often abstract government into ideas and vague entities, “it is people, not faceless government institutions, that produce government agendas” (p. 29). According to Manna, policy entrepreneurs can successfully facilitate a policy area’s rise to the agenda by using all levels of government to increase capacity and license.

Manna’s (2006) theory of borrowing strength stands in contrast to the idea that capacity is always top-down; that is, that the national agenda is always set at the federal level. He asserted that many scholars have ignored the ability of state interests to influence the government’s agenda at the federal level. The idea that capacity is bottom-up is also inadequate to describe agenda-setting. In this view, the federal government uses state governments as “laboratories” to try out solutions to problems (p. 32). Manna contended that interactions between state and federal governments are rarely so simple.

Figure 1 describes how likely a policy issue is to make it to the government agenda, based on license and capacity to act on that issue. In order to make the quadrants understandable, I have used an airplane metaphor. The airplane itself is the policy issue. The first goal of the policy entrepreneur is to get the policy item on the agenda; that is, to

		Capacity to Act	
		High	
License to Act	Low	II. Ready for Take-off; Awaiting Tower Clearance	I. All Systems Go and Clear for Take-off
			High
		III. Grounded and Unready for Take-off	IV. Cleared by Tower but Unready for Take-off
			Low

Note: Figure adapted from Manna (2006, Figure 2.2, p. 34).

Figure 1. Metaphorical representation of the likelihood of a policy issue’s moving onto the agenda—an airplane taking flight—based on the government’s license and capacity to act—clearance for take-off and airplane readiness—on that issue.

get the airplane into the air. However, policy “flight” is preconditioned on license—clearance for take-off—and capacity—readiness for flight.

Conditions in quadrant I represent the situation when both capacity and license are high. This quadrant is called “All Systems Go” because it is highly likely that the policy issue will reach the agenda. That is, the policy issue plane may take flight.

When license and capacity are both low (quadrant III), the policy issue is “Grounded.” In this case, policy entrepreneurs must wait for a change in the status of license, capacity, or both, in order for the issue to make it onto the agenda.

The two quadrants in which the possibility of a policy item making it to the agenda is unclear are quadrants II and IV. Quadrant II—high capacity but low license—is similar to an airplane with fuel and fully functional working parts but no clearance from the tower. Operationally, the airplane—the policy issue—can take off, but without the tower’s permission, the possibility of that happening is ambiguous. In this case, the

necessary funds and structures are in place, but there is really no overpowering rationale for considering the policy issue.

In quadrant IV—low capacity but high license—the policy issue/airplane may be able to take off if it finds other sources of fuel at some point; that is, if the policy issue finds some way to supplement its funding or bureaucratic structures or the knowledge base of policymakers. Because license is high, the policy entrepreneur may be able to convince others that the issue is important enough to think about, but without capacity the possibility of the item making it onto the agenda is moderate at best.

In order to increase either capacity or license, one level of government can borrow strength from another level of government. For example, if policy lies in quadrant II—high capacity, low license—at the federal level, then the federal government can see whether license exists at the state level. To return to the metaphor, if the federal tower lacks authority to provide clearance, then the airplane pilot may be able to obtain clearance from the state tower instead. Similarly, if a policy lies in quadrant IV—low capacity, high license—at the state level, for example, then the state government can seek funding or other support at the federal level. Metaphorically, if the state airport is low on fuel, then the pilot may be able to obtain fuel through a federal supplier.

By emphasizing what is required for an immigrant education policy to make it onto the legislative action agenda, neither politics nor policy is privileged. Sroufe (1995) wrote that “policies are a principal outcome of political processes” (p. 77), complementing—rather than contradicting—Lowi’s (1972) assertion that “policies determine politics” (p. 299). McDonnell (2009b) made a similar point when she wrote

“policies enacted and implemented at one point in time shape subsequent political dynamics so that politics is both an input into the policy process and an output” (p. 417).

The interconnectedness of political and policy analyses is inherent to Kingdon’s (2011) three streams. And, inspired by Superfine’s (2005) study of accountability, placing EIEA firmly in its historical context will reveal the importance of Manna’s (2006) insights about how politics and policy reciprocally influenced each other as different levels of government borrowed strength from each other in order to push funding for immigrant education onto the federal government’s agenda.

Policy Instruments

The choice of the instruments used in forming any policy is an indication of policymakers’ explicit and implicit goals. Understanding how the characteristics of and processes associated with the different policy instruments can shed light on how legislators determined the shape of EIEA.

McDonnell and Elmore (1987) discussed alternative policy instruments, what they defined as “the mechanisms that translate substantive policy goals...into concrete actions” (p. 134). The four instruments described by McDonnell and Elmore were mandates, inducements, capacity-building, and system-changing. Policies framed as mandates govern individual and agency actions and demand compliance, while those designed as inducements provide fiscal rewards for prescribed actions. Capacity-building policies offer funds in anticipation of improvements, while system-changing policies reallocate authority in exchange for systems transformation.

McDonnell and Elmore (1987) hypothesized that different policy instruments can often accomplish the same goal. However, policymakers choose instruments over others

when aiming to realize their purposes. McDonnell and Elmore posited that two factors influence a policymaker's choice of policy instrument: "how a policy problem is defined, and the resources and constraints policymakers face" (p. 144). Problem definition is related to two of Kingdon's (2011) three streams because it relies on a clear understanding of the problem—the problem stream—as well as alternative solutions—the policy stream. Similarly, resources and constraints correspond to Manna's (2006) concept of capacity and license.

Political and Cultural Values

The cultural values of the time are made clear in which policies are supported and passed, as well as in the language used to craft these policies. Examining the rhetoric used in EIEA and its subsequent reauthorizations, as well as in proposed legislation that was not passed, shows which values were important to Congress and those who may have influenced lawmakers at critical times in EIEA's history.

These values contribute to all of Kingdon's (2011) three streams in some way. Most importantly, cultural values are a major component in shaping public mood. Because public mood helps to form the political stream, cultural values are an important part of the political stream. To a lesser extent, cultural values may affect the problem and policy streams by influencing what issues and policy solutions may come to the attention of lawmakers and may shape public opinions as to which alternatives are viable at a given time.

Wirt, Mitchell, and Marshall (1988) argued that all policies are products of cultures and hence reflect the intention of values. In their content analysis of the education statutes of two states, the authors identified three distinct political cultures,

those of merit, democracy, and equality. Meritocratic culture is characterized by an emphasis on professionalism, achievement, and standards of service. The values revealed in meritocratic culture are quality and efficiency. Efficiency tends to emphasize authority, accountability and processes, while quality-based policies represent the belief that education is critical to individuals' success, and funding of such policies is done to achieve excellence or proficiency. Democratic culture is identified by the importance of elections and appropriate representation. The chief value demonstrated in a democracy is choice. Choice emerges in policies through permissive language, policy options, and voter/constituent choice. Finally, egalitarian culture is typified by its emphasis on equity. The value of equity is seen in policies that serve to redress societal disadvantages and to compel compensatory action.

Research Questions

To summarize the foregoing discussion, this study takes up the case of the Emergency Immigrant Education Act, a uniquely immigrant-focused piece of federal education legislation that recognizes immigration as distinct from poverty and level of English language proficiency. The questions of how this law came into being and has persisted are precisely stated here:

1. What problem, political, and policy factors influenced EIEA's appearance on the government agenda?
2. How did different levels of government borrow strength in order to advance their interests?
3. What policy instruments were used to achieve implementation of EIEA?

4. How is the rhetoric of EIEA in its original form and its subsequent reauthorizations consistent with the political culture and values of the time?

In the next chapter, I will discuss literature relevant to immigrant education as well as to the historical approach to policy analysis. In Chapter 3, I describe the methodology that I used to answer the research questions. The analysis of EIEA takes place in Chapter 4 where I map the history of EIEA from its move to the agenda in the early 1980s through its current circumstances. In Chapter 5, I answer the research questions based on the findings of the historical analysis. I also present areas for further study and considerations for the future of immigrant education policy.

Chapter 2: Review of the Literature

Because EIEA is a federal education policy, it is important to understand its place within the larger structure of other federal education policies and how the theoretical frameworks of Kingdon (2011) and Manna (2006) can be applied to education policy. In addition, it is also essential to understand the literature about immigrant education policy and to identify what new immigrants students require in order to be successful in school.

Historical Analysis of Education Policy Using the Frames

Although McLendon (2003) observed that little research “has examined the extent to which Kingdon’s framework explains agenda formation...in the education policy arena” (p. 487), some exemplars do exist. Mintrom and Vergari (1997) found Kingdon’s agenda-setting model useful in their understanding the use of performance indicators, market models, and competition in education reform. The authors emphasized the concept that often solutions develop independently of problems and can even be well-developed before the problems related to the solutions are identified.

McLendon (2003) used case studies of higher education restructuring experiences in three states to examine Kingdon’s three streams and chronologically chart the issue’s rise on the different state agendas. McLendon found that the decentralization process in the three states closely resembled Kingdon’s model. In particular, “higher education decentralization emerged as a ‘hot-button’ issue when one or two individuals in each state recognized politically propitious moments in time to couple existing decentralization ‘solutions’ with previously unrelated problems” (McLendon, 2003, p. 504).

More recently, agenda-setting was the focus of Debray-Pelot's (2007) research on school choice and voucher initiatives discussed in the 106th and 107th Congresses. Employing Kingdon's analytic frame, Debray-Pelot traced the political, policy, and problem streams surrounding school choice issues between the years 1999 and 2002, basing her research questions on those proposed by Kingdon.

In her analysis of education policy finance, McDonnell (2007) cited Kingdon's (2011) frame as consistent with "most social policies whether they involve major changes or only incremental ones" (McDonnell, 2007, p. 3). McDonnell applied Kingdon's model to various finance reform policies, particularly the Kentucky Education Reform Act, noting how the three streams converged to produce the policy. She also supplemented Kingdon's model with that of Manna (2006), noting how states borrowed strength from local entities and other jurisdictions to accomplish their reform goals.

In all of these cases, the researchers relied on a variety of sources from which to gather their data. Debray-Pelot (2007) noted that "a multiplicity of types of sources [is] necessary for the development of a case study of agenda formation" and depended on interviews with congressional aides, governmental reports, internal staff memoranda, congressional policy briefs, and public statements on education policy by members of Congress (p. 931). Similarly, McLendon (2003) collected data from interviews, documents, and historical records, while Mintrom and Vergari (1997) and McDonnell (2007) relied almost exclusively on governmental reports.

In each study, the researchers stressed the importance of the confluence of the three streams, the importance of policy entrepreneurs, and the often erratic, unpredictable

nature of agenda-setting. These studies reinforce the applicability of Kingdon's (2011) and Manna's (2006) models to education policy analysis.

Immigrant Education Policy in the Literature

While some literature about new immigrant students exists, very little of it focuses on new immigrant education and even less on new immigrant education policy. Included on the short list of comprehensive studies of new immigrant students are those of McDonnell and Hill (1993), Ruiz-de-Velasco and Fix (2000), and Villegas and Young (1997).

McDonnell and Hill (1993) described the needs of immigrant students as “only dimly recognized by federal and state policymakers” (p. ix). After a comprehensive examination of the demographics of immigrant students, federal and state immigrant education policies, immigrant student needs, and programs for immigrant students, McDonnell and Hill suggested four areas for investment. These were recruitment and training of bilingual teachers; instructional support, including textbooks, curricula, and assessments, particularly in languages other than Spanish; adult-education programs, especially for parents of immigrant students; and “coordinated delivery of educational, health, and social services and the provision of such services by those familiar with the language and culture of immigrant children” (p. 105). Such investments, they suggested, can only take place when the political culture surrounding immigrant education changes. Unless the education of immigrant students can be seen as a benefit to society, such a change cannot occur.

Villegas and Young (1997) specifically focused on immigrant education in New Jersey, including EIEA, Chapter 1, and Title VII, which contained BEA. They stated that

“relatively little empirical attention has been paid to immigrant education in the United States” (p. 174), especially to specific programs that benefit immigrant students and to the policy context for immigrant education. In addition to their examination of federal policy, the authors discussed New Jersey’s state-level mandates concerning immigrant education. Their research revealed that at the state level, the only state support for immigrant students was the New Jersey Bilingual Education Act of 1975, which provided funds for ESL and bilingual education. Villegas and Young recommended that although an increase in the EIEA appropriation was unlikely, the government should designate a portion of the appropriation to professional development for teachers and other school personnel in order to work more effectively with immigrant students.

In their extensive report on new immigrant students, Ruiz-de-Velasco and Fix (2000) also suggested an increase in the resources targeted toward the education of new immigrants. Furthermore, they named, along with English language acquisition, the low achievement of immigrant students and “the new ethnic and linguistic concentration of immigrant children” (p. 17) as areas of policy concern that require more study. Ruiz-de-Velasco and Fix proposed the development of more appropriate assessment strategies, especially for immigrant ELLs while at the same time acknowledging that the policy trends seem to be toward uniform assessments for all. The researchers also offered several ways in which national and state policy can support reform for immigrant student education, including funding research, improving targeting of resources, and supporting professional development (p. 83).

One policy tool that may address the multifaceted needs of new immigrants is the formation of newcomer programs, ones specially designed to focus on the needs of recent

immigrants and “established to help reduce the underachievement of newcomers” (Boyson & Short, 2003). Studied by Friedlander (1991), Boyson and Short (2003), The Harvard Law Review Association (2007), and Feinberg (2000), these programs have the potential to meet the numerous requirements of newcomers effectively because of their comprehensive approach to new immigrant education.

An outgrowth of such programs is the establishment of newcomer schools. McDonnell and Hill (1993) found that, despite the arguments over immigrants and bilingual education that exist in the political realm, “the xenophobia that characterizes much public discussion about the preservation of the English language and protection of American workers’ jobs does not pervade these schools” (p. 56). Although there is some narrative evidence that newcomer schools can benefit new immigrant students, the McDonnell and Hill report pointed out that the effectiveness of newcomer schools compared to traditional schools has not been systematically researched. Instead, McDonnell and Hill suggested, “the best way to help immigrant students is to strengthen the school systems that serve them, not to create new categorical programs that single out immigrant students for special benefits” (p. xiii).

Nevertheless, The Harvard Law Review Association (2007) asserted that newcomer schools can help recent immigrant ELLs learn the English language, learn about American culture and how to balance the cultural environment at school with the native cultural environment many still find at home, and learn remedial academic content that will facilitate their transition into the mainstream classroom (p. 799).

The authors proposed a federal policy initiative to address the low literacy rate among immigrants and to aid in English language acquisition for new immigrants. The

two-part initiative called for federal funding to establish and maintain newcomer schools as well as comprehensive, long-term, quantitative research on newcomer schools. This initiative would cost approximately \$800 million per year once fully implemented. However, the authors asserted that “by instituting federal funding for newcomer schools, Congress could achieve that rarest of outcomes: it could do well by doing good” (The Harvard Law Review Association, 2007, p. 820).

New Immigrant Students’ Needs in the Literature

Although most of the literature on immigrant students focuses on what happens in schools and classrooms rather than on policy at the local, state, and federal levels, identifying the needs of recent immigrant students at the level of the students themselves is essential because it informs the shape that policy should take. That is, to the degree that immigrant education policy intends to provide effectively for the educational and socialization needs of new immigrant students as well as effective involvement of their parents in their education, such policy needs both a clear understanding of the educational and socialization challenges these new immigrant students face and the approaches that are most likely to successfully overcome these challenges.

Katz (1999) and Suárez-Orozco, Pimentel, & Martin (2009) wrote of the importance of teachers and school culture on the success of new immigrant students. By examining Latino immigrant students, Katz found that relationships with teachers were vital to school engagement. Similarly, Suárez-Orozco et al. (2009) found that relationships with non-parental adults “are critical to easing the journey of recently arrived immigrant youth,” both in positive and negative ways (p. 736). These studies underscore the importance of well-trained teachers, administrators, and support personnel

to new immigrant students. Teachers who work with recent immigrants must not only be competent in their subject area but also in the many cultures that the students represent (Bartolomé, 2010; Lee, 2010; Smith-Davis, 2004) and in appropriate instructional practices for immigrant students (Freeman, 1998). In addition, other school personnel who interact with students or their parents must also be trained in to work with those with cultural and language barriers (Garrett & Holcomb, 2005; Lipsit, 2003). Lipsit suggested that all personnel in districts with a high concentration of new immigrant students should be trained in working with immigrant children and their families. Such training should “highlight proper procedures for handling routine issues, such as parent-teacher meetings or placement in an incorrect class or grade” (Lipsit, 2003, p. 2).

New immigrant students require more than just well-trained, caring personnel. They also need appropriate support materials. Immigrant LEP students require appropriate English language and placement assessments (Chu, 2009) and simplified-language textbooks and support materials (McDonnell & Hill, 1993; Olsen, 2000). Schools with large influxes of new immigrant students also report space shortages that may affect the capacity for providing adequate educational services to the new population (McDonnell & Hill, 1993).

New immigrant students often need out-of-class services such as tutoring, mentoring, and counseling (Suárez-Orozco et al., 2009). This is sometimes due to gaps in schooling that many immigrant students experience (Boyson & Short, 2003; The Harvard Law Review Association, 2007; Ruiz-de-Velasco & Fix, 2000). Many immigrant students have had little schooling in their home countries or have had interrupted schooling due to war or other factors and may require extra tutoring in order to catch up

with their peers (Friedlander, 1991; Freeman, 1998). Even if students have not experienced academic gaps, they may still need some help adapting to the American school system (Friedlander, 1991) as well as to American culture (Fong, 2004; Freeman, 1998; Olsen, 1997). Villegas and Young (1997) suggested that the structure of the traditional American high school can exacerbate the acculturation difficulties for many students. For example, “many of them do not understand the grading system or social customs and do not know when and where to go for classes or for lunch or how to use the facilities” (Friedlander, 1991, pp. 3-4). Acculturation aid can take many forms, including classroom time devoted to learning social skills (Boyson & Short, 2003) and an entire course dedicated to cultural adjustment (Yeh, Okubo, Cha, Lee, & Shin, 2008).

In addition to academic and social counseling, new immigrant students often also require psychological services, due to trauma experienced in their home countries, family separation, the effects of poverty, or the strain of moving to a new place (Fong, 2004; Freeman, 1998; Perreira & Ornelas, 2011; Smith-Davis, 2004). They may also need counseling to help them understand “dating norms, dangers of gang involvement, and postsecondary education opportunities” (Morse, 2005, p. 12). Garrett and Holcomb (2005) stressed the importance of well-trained counselors who not only understand students’ needs but also their cultural differences and language barriers (see also Fong, 2004). Because immigrant students have a much higher dropout rate than their non-immigrant peers, academic, social, and psychological support are vital to their success (Boyson & Short, 2003; Van Hook & Fix, 2000).

New immigrant students have higher academic success when they have the support of their parents and families (Carreón, Drake, & Barton, 2005; Freeman, 1998;

Lipsit, 2003; Ruiz-de-Velasco & Fix, 2000; Suárez-Orozco, 2011; Suárez-Orozco et al., 2009). However, many parents face obstacles similar to those faced by their children—language barriers, unfamiliarity with the American educational system, and lack of knowledge of the importance of their role in their children’s education (Fong, 2004). Many of these barriers prevent parents from helping their children as much as they would like to (Suárez-Orozco et al., 2009). Lipsit (2003) and Smith-Davis (2004) emphasized the need for clear communication between the school and the home, including materials printed in the parents’ native language, parent outreach and training programs, and trained school personnel on hand to explain school procedures. Lipsit (2003) posited that because parents who were more comfortable speaking English and more acculturated were the ones more likely to respond to the research survey, the research may not have fully captured the scope of the home-school communication barriers. In their study of the disparity of resources within New York City’s school district, Schwartz and Steifel (2004) found that schools with greater percentages of immigrant students actually spent less money on such programs.

The same barriers that restrict the involvement of immigrant students’ parents in their children’s education often cause these parents to neglect their children’s health needs (Perreira & Ornelas, 2011). New immigrant students frequently lack access to adequate health care and screening (Fong, 2004). Because schools deal with large groups of people in proximity to one another, they must be concerned with students’ health. “Although school systems resist becoming comprehensive health-care agencies, they must prevent transmission of communicable diseases and seek help for students whose health problems make it impossible for them to attend school and learn” (McDonnell &

Hill, 1993, p. 83). Immigrant students are also less likely than non-immigrants to have health insurance and are often prone to many physical and mental health issues that can affect these students' achievement and well-being in school and into adulthood (Perreira & Ornelas, 2011).

It is also important to emphasize that new immigrant students bring more than problems and needs to a school. Suárez-Orozco et al. (2009) remind us that “they bring remarkable strengths, including strong family ties, deep-seated beliefs in education, and optimism about the future” (p. 713; see also Fong, 2004). They add that many new immigrant students outperform their U.S.-born peers in academic matters.

New immigrant children arrive at school with various needs. Although English language acquisition may be one such requirement, these recent immigrants and their families possess additional academic, psychological, social, and other needs. Understanding the historical path of EIEA can aid in shaping immigrant education policy that will help schools and LEAs meet these needs as they face the changing demographics of the 21st century.

Chapter 3: Methodology

This study employs historical document and content analysis methods to provide an articulation of the purpose and content function of the EIEA over its entire legislative history. This approach “examines a variety of different historical sources, such as the Congressional Record, statutory text, and implementation reports and attempts to weave a cohesive story from these sources” (Superfine, 2005, p. 12). Looking at the entire historical account rather than a single event allows us to understand not only EIEA’s past but also its future. As Sroufe (1995) explained,

While it is clearly a moral responsibility to pay attention to policy concerns (e.g., equity issues) at any point in time, it is equally imperative for scholars to seek to explain why such policies exist and under what circumstances they might be changed (p. 79).

The methods used to answer the four research questions that guide this study will be specified in the paragraphs that follow.

Question 1: What Problem, Political, and Policy Factors Influenced EIEA’s Appearance on the Government Agenda?

In order to determine the problem, political, and policy factors that influenced EIEA’s appearance on the government agenda, I examined text of the original legislation as passed, early drafts of the legislation, the Congressional Record, transcripts of Congressional hearings, and other historical documents.

Kingdon (2011) pointed out that it is important to understand the difference between a problem and a condition. A condition is simply a state of being while a problem is a condition that is perceived to require some action. In other words, “conditions become defined as problem when we come to believe that we should do

something about them” (p. 109). I identified items in the problem stream by language that called for intervention or action on the part of the government.

Alternatives are proposed solutions to problems and are what constitute the policy stream. Although policy alternatives often develop independently of problems, they must be attached to problems to make it to the governmental agenda. Kingdon (2011) described the policy stream as a sort of “primeval soup” in which ideas “float around” until they take hold as viable solutions to a problem (pp. 116-117). Items in the policy stream are characterized by language that presents them as ways to “deal with” or “handle” a problem. I was able to identify alternatives because of their presentation as solutions to given problems.

The political stream is influenced by national mood, events in government—such as a change in administration and pressure by organized political forces. Politics also comes into play when deciding upon the shape of the policy itself. Political rhetoric is sometimes difficult to distinguish from policy entrepreneurship. However, political debates are often centered on “conflicting senses of fairness, justice, rightness, and goodness” (Stone, 2002, p. 34) and the distribution of resources, whereas policy entrepreneurs have moved on to their next issue once the argument has moved to this arena. Therefore, discussions about politics often have to do with right and wrong, fair and unfair, and who deserves what. Using these rhetorical clues and definitions within Kingdon’s (2011) theoretical frame, I was able to map the three streams that led to the legislation that became EIEA.

Question 2: How Did Different Levels of Government Borrow Strength in Order to Advance Their Interests?

I examined the text of these historical documents, looking for evidence of state and local governments' appeals to the federal government in order to gain federal support for their goals. In addition, I also sought indications of federal recognition of state and LEA license to act in matters of immigrant education. By applying Manna's (2006) framework to the text of the documents, I was able to learn how different levels of government borrowed strength from each other to advance their interests.

Question 3: What Policy Instruments Were Used to Achieve Implementation of EIEA?

I examined passed legislation and Congressional reports as well as proposed legislation and the Congressional Record to determine what policy instruments were used to achieve implementation of EIEA. Application of McDonnell and Elmore's (1987) policy framework gave insight into which policy instruments were employed and why these particular instruments were chosen. Indicators of mandates are well-defined rules for compliance as well as punishments for noncompliance. Mandates require enforcement and the establishment of some sort of method of regulation. Although inducements are often accompanied by sets of regulations as well, they are different from mandates because they are characterized by rewards for performance or fulfillment of certain requirements. In addition, mandates require compliance by all, whereas inducements recognize the fact that "individuals and agencies vary in their ability to produce things of value and that the transfer of money is one way to elicit performance" (McDonnell & Elmore, 1987, p. 139).

Capacity-building also involves the transfer of funds but is identified by investments in the future and the development of materials or other resources. The

benefits of capacity-building are often uncertain and immeasurable, and an emphasis on the future rather than the immediate distinguishes capacity-building from inducements and mandates. Instead of focusing on transfers of monies, system-changing requires a transfer of authority to govern how and what goods and services are distributed. Such a change in authority may be expected to result in greater efficiency or a shift in political power distribution. System-changing will include the creation or selection of a governing agency and can also involve the dissolution of other agencies.

By recognizing these characteristics of the four policy instruments, I was able to classify the policy instruments used in EIEA and its three reauthorizations. I was also able to identify changes in instruments by examining the shifts in the language of the policy throughout the years.

Question 4: How Does the Rhetoric of EIEA in Its Original Form and Its Subsequent Reauthorizations Reveal Political Culture and Values of the Time?

To answer this question, I also turned to original documents, particularly text of the original EIEA in 1984 and that of its subsequent reauthorizations, early drafts of the legislation, and transcripts from hearings surrounding EIEA. Because, according to Rury (2006), historical research includes “utilizing historical exposition to consider certain values” (p. 326), this examination enabled me to describe and explain how the language of the law developed and changed to reflect the political culture and values of the time. I based my determination of values on the definitions provided by Wirt, Mitchell, and Marshall (1988). Egalitarian values are conveyed through language involving equity, equality, fairness, and justice. Rhetoric favoring excellence, quality, efficiency, and achievement are indicators of a culture of merit, while a democratic culture emphasizes choice, decisions, and budgetary procedures. Looking for such indicators allowed me to

identify the culture and values conveyed through the language of EIEA and its reauthorizations.

Overall, this study relied on historical documents and interviews to place the development of EIEA in temporal context. In doing so, I was able to identify “chains of causality or multiple causality to convey the idea of many factors operating simultaneously” (Rury, 2006, p. 325) that led to the rise of funding for immigrant education to the government agenda. It also enabled me to ascertain the ways in which the different levels of government cooperated in order to meet their goals. This interpretation allowed me to identify the political and cultural values conveyed in EIEA as well as the policy instruments that were implemented.

This study takes a historical look at EIEA in order to look ahead to the next generation of new immigrant students. While some federal and state policies that affect these students do exist, the changing demographic of the new immigrant requires us to continue to examine how best to serve this increasing population. I used the frameworks of Kingdon (2011) and Manna (2006) to map the path of EIEA to the government agenda. In addition, I applied McDonnell and Elmore’s (1987) framework to understand how policymakers’ choice of policy instruments reveals their stated and unstated goals. Finally, I examined the rhetoric of EIEA and its reauthorizations to determine which values were being conveyed in the language of the legislation. As McDonnell (2009a) explained, those “seeking either to change policy directions or to improve the status quo will be better equipped if they are informed by analyses that... understand the causal processes that constrain change or provide opportunities and critical junctures for new policies to emerge” (p. 68).

Chapter 4: Data Analysis

I examined EIEA’s rise to the agenda by examining original documents, including text of the original passed legislation as well as its subsequent reauthorizations, the Congressional Record, drafts of proposed and passed immigrant education legislation, Congressional hearings, Congressional reports, and other reports. Of the three reauthorizations—in 1988, 1994, and 2002—the 1994 reauthorization included the most extensive changes in language from the original legislation. Table 1 shows the short titles, bill numbers, and sponsors of Congressional bills relating to immigrant education from the 98th through the 112th Congresses. Table 2 shows the short titles, Congressional committees, and last major actions taken on Congressional bills relating to immigrant education, from the 98th through the 112th Congresses. Table 3 shows Congressional leadership from the 98th through the 112 Congresses.

Emergency Immigrant Education Act of 1984

The problem stream. According to Kingdon (2011), “the key to understanding policy change is not where the idea came from but what made it take hold and grow” (p. 72). Therefore, understanding EIEA requires us to understand why it “took hold and grew” when it did. EIEA arose in response to representatives from the state of Texas seeking federal funds to assist school districts overburdened with the costs of serving children of undocumented immigrants.

Table 1. Short Titles, Bill Numbers, and Sponsors of Congressional Bills Relating to Immigrant Education, 98th Through 112th Congresses

Short Title of Legislation	Session of Congress	Bill Number(s)	Bill Sponsor(s)	Bill Co-Sponsors
Special Impact Aid for Immigrant Children Education	98th	H.AMDT.360 to H.R.3520	James C. Wright, Jr. (D-TX)	
Emergency Immigrant Education Act of 1983	98th	H.R.2891	Eligio "Kika" de la Garza (D-TX)	
Emergency Immigrant Education Act of 1984	98th	H.R. 11 S.2496	Carl Perkins (D-KY) Dan Quayle (R-IN)	Orrin Hatch (R-UT) Paula Hawkins (R-FL) Robert Stafford (R-VT)
Improving America's Schools Act of 1993	103rd	H.R. 3130 S. 1513	Dale Kildee (D-MI) Edward Kennedy (D-MA)	1
Improving America's Schools Act of 1994	103rd	H.R. 6 S. 1513	Dale Kildee (D-MI) Edward Kennedy (D-MA)	William Ford (D-MI) William Goodling (R-PA) 1
Emergency Immigrant Education Act of 1993	103rd	H.R. 3228	Harry Johnston (D-FL)	
Undocumented Student Federal Responsibility Act of 1994	103rd	S.AMDT.2478 to H.R.4606	Bob Graham (D-FL)	Kay Bailey Hutchison (R-TX)
English Language Fluency Act	105th	H.R. 3680	Frank Riggs (R-CA)	
Student Results Act of 1999	106th	H.R. 2	William Goodling (R-PA)	1
Educational Excellence for All Children Act of 1999	106th	H.R. 1960 S. 1180	William Clay (D-MO) Edward Kennedy (D-MA)	1
Access to Excellence in Education for the 21st Century Act	106th	H.R. 2719	Ruben Hinojosa (D-TX)	1
Public Education Reinvestment, Reinvention, and Responsibility Act (Three R's Act)	107th	H.R. 345 S. 303	Tim Roemer (D-IN) Joseph Lieberman (D-CT)	1
No Child Left behind Act of 2001 (known in the Senate as Better Education for Students and Teachers Act)	107th	H.R. 1 S. 1	John Boehner (R-OH) James Jeffords (R-VT)	1

Table 1. Short Titles, Bill Numbers, and Sponsors of Congressional Bills Relating to Immigrant Education, 98th Through 112th Congresses (continued)

Short Title of Legislation	Session of Congress	Bill Number(s)	Bill Sponsor(s)	Bill Co-Sponsors
Setting Priorities in Spending Act of 2005	109th	H.R. 4018	John Boehner (R-OH) James Jeffords (R-VT)	2
Priorities in Education Spending Act	111th	H.R. 2274 S. 178	Buck McKeon (R-CA) Jim DeMint (R-SC)	2
Setting New Priorities in Education Spending Act	112th	H.R. 1891	Duncan Hunter (R-CA)	John Kline (R-MN) Buck McKeon (R-CA)
Spending Reduction Act of 2011	112th	H.R. 408	Jim Jordan (R-OH)	2
Student Success Act	112th	H.R. 3989	John Kline (R-MN)	1

¹Bill had numerous co-sponsors and was proposed as an ESEA reauthorization; co-sponsor support of immigrant education specifically is difficult to determine

²Bill had numerous co-sponsors and was a major finance bill; co-sponsor support of immigrant education specifically is difficult to determine

The 1970s saw what Stewart (1993) described as a “sharp jump upward” in illegal immigration, particularly from Mexico, Central America, and the Caribbean (p. 9).

Border states such as Texas, California, Arizona, and New Mexico were highly impacted by immigration, both legal and illegal. Between 1970 and 1980, the population growth in these four states was twice the national average with the rate in the 25 border counties almost four times the national average (Stewart, 1993, p. 15).

In the late 1970s, the state of Texas conducted several studies to assess the effects of immigration on the educational system. One study found that approximately 45,000 immigrants were enrolled in Texas public schools in the 1975-1976 school year with 26 percent of these students having been enrolled for less than one year. Another study reported that 61 percent of immigrant students were enrolled in schools along the U.S.-Mexico border (Stewart, 1993, p. 74).

Table 2. Short Titles, Congressional Committees, and Last Major Actions Taken on Congressional Bills Relating to Immigrant Education, 98th Through 112th Congresses

Short Title of Legislation	Session of Congress	Bill Number(s)	Committee	Last Major Action Taken
Special Impact Aid for Immigrant Children Education	98th	H.AMDT.360 to H.R.3520		Amendment passed in Committee of the Whole by Voice Vote.
Emergency Immigrant Education Act of 1983	98th	H.R.2891	House Committee on Education and Labor	Referred to Subcommittee on Elementary, Secondary and Vocational Education
Emergency Immigrant Education Act of 1984	98th	H.R. 11 S.2496	House Committee on Education and Labor; Subcommittee on Elementary, Secondary and Vocational Education Senate Committee on Labor and Human Resources; Subcommittee on Education, Arts, and Humanities	Passed in House Became Public Law No: 98-511
Improving America's Schools Act of 1993	103rd	H.R. 3130 S. 1513	House Committee on Education and Labor Senate Committee on Labor and Human Resources; Subcommittee on Education, Arts and Humanities	Referred to the Subcommittee on Elementary, Secondary and Vocational Education Indefinitely postponed by Senate by Unanimous Consent
Improving America's Schools Act of 1994	103rd	H.R. 6	House Committee on Education and Labor; Subcommittee on Elementary, Secondary and Vocational Education	Became Public Law No. 103-382
Emergency Immigrant Education Act of 1993	103rd	H.R. 3228	House Committee on Education and Labor	Referred to the Subcommittee on Elementary, Secondary and Vocational Education
Undocumented Student Federal Responsibility Act of 1994	103rd	S.AMDT.2478 to H.R.4606		Motion to table SP 2478 agreed to in Senate by Ye-Nay Vote
English Language Fluency Act	105th	H.R. 3680	House Committee on Education and the Workforce	Referred to the Subcommittee on Early Childhood, Youth and Families.
Student Results Act of 1999	106th	H.R. 2	House Committee on Education and the Workforce; House Ways and Means Committee	Received in the Senate and read twice and referred to the Committee on Health, Education, Labor, and Pensions (HELP)
Educational Excellence for All Children Act of 1999	106th	H.R. 1960 S. 1180	House Committee on Education and the Workforce Senate Committee on HELP	Referred to the House Committee on Education and the Workforce Read twice and referred to the Senate Committee on HELP
Access to Excellence in Education for the 21st Century Act	106th	H.R. 2719	House Committee on Education and the Workforce	Referred to the House Committee on Education and the Workforce
Public Education Reinvestment, Reinvention, and Responsibility Act (Three R's Act)	107th	H.R. 345 S. 303	House Committee on Education and the Workforce Senate Committee on HELP	Referred to the Subcommittee on Education Reform Read twice and referred to the Committee on HELP

Table 2. Short Titles, Congressional Committees, and Last Major Actions Taken on Congressional Bills Relating to Immigrant Education, 98th Through 112th Congresses (continued)

Short Title of Legislation	Session of Congress	Bill Number(s)	Committee	Last Major Action Taken
No Child Left behind Act of 2001 (known in the Senate as Better Education for Students and Teachers Act)	107th	H.R. 1	House Committee on Education and the Workforce	Became Public Law No. 107-110
		S. 1	Senate Committee on HELP	
Setting Priorities in Spending Act of 2005	109th	H.R. 4018	House Committee on Education and the Workforce; House Judiciary Committee	Referred to the Subcommittee on Education Reform
Priorities in Education Spending Act	111th	H.R. 2274	House Committee on Education and Labor	Referred to the Subcommittee on Early Childhood, Elementary, and Secondary Education
		S. 178	Senate Committee on HELP	Read twice and referred to the Committee on HELP
Setting New Priorities in Education Spending Act	112th	H.R. 1891	House Committee on Education and the Workforce	Placed on the Union Calendar, Calendar No. 60
Spending Reduction Act of 2011	112th	H.R. 408	House Financial Services Committee	Referred to the Subcommittee on Capital Markets and Government Sponsored Enterprises
Student Success Act	112th	H.R. 3989	House Committee on Education and the Workforce	Placed on the Union Calendar, Calendar No. 320

Because many of these immigrant students had crossed into the U.S. illegally, in 1975 Texas lawmakers passed a law under which state funds could not be used to educate undocumented immigrants. Instead, LEAs were allowed to refuse enrollment to illegal immigrant students or charge these students tuition. A class action lawsuit was filed against the superintendent and school board members of the Tyler Independent School District in September of 1977 “on behalf of certain school-age children of Mexican origin residing in Smith County, Texas, who could not establish that they had been legally admitted into the United States” (Plyler v. Doe, 1982, p. 206).

In the meantime, Texas school officials appealed to their representatives in the federal legislature to help them to deal with what they considered a problem in their

Table 3. Congressional Leadership, 98th Through 112th Congresses

Session of Congress	Years	House Leadership			Senate Leadership	
		Speaker of the House	Majority Leader	Minority Leader	Majority Leader	Minority Leader
98th	1983-1984	Tip O'Neill (D-MA)	James C. Wright, Jr. (D-TX)	Robert H. Michel (R-IL)	Howard Baker (R-TN)	Robert C. Byrd (D-WV)
99th	1985-1986	Tip O'Neill (D-MA)	James C. Wright, Jr. (D-TX)	Robert H. Michel (R-IL)	Bob Dole (R-KS)	Robert C. Byrd (D-WV)
100th	1987-1988	James C. Wright, Jr. (D-TX)	Tom Foley (D-WA)	Robert H. Michel (R-IL)	Robert C. Byrd (D-WV)	Bob Dole (R-KS)
101st	1989-1990	James C. Wright, Jr. (D-TX), 1/3/89-6/6/89 Tom Foley (D-WA), 6/6/89-1/3/91	Tom Foley (D-WA), 1/3/89-6/6/89 Richard Gephardt (D-MO), 6/6/89-1/3/91	Robert H. Michel (R-IL)	George Mitchell (D-ME)	Bob Dole (R-KS)
102nd	1991-1992	Tom Foley (D-WA)	Richard Gephardt (D-MO)	Robert H. Michel (R-IL)	George Mitchell (D-ME)	Bob Dole (R-KS)
103rd	1993-1994	Tom Foley (D-WA)	Richard Gephardt (D-MO)	Robert H. Michel (R-IL)	George Mitchell (D-ME)	Bob Dole (R-KS)
104th	1995-1996	Newt Gingrich (R-GA)	Richard Arme y (R-TX)	Richard Gephardt (D-MO)	Bob Dole (R-KS), 1/3/95-6/11/96 Trent Lott (R-MS), 6/11/96-1/3/97	Tom Daschle (D-SD)
105th	1997-1998	Newt Gingrich (R-GA)	Richard Arme y (R-TX)	Richard Gephardt (D-MO)	Trent Lott (R-MS)	Tom Daschle (D-SD)
106th	1999-2000	Dennis Hastert (R-IL)	Richard Arme y (R-TX)	Richard Gephardt (D-MO)	Trent Lott (R-MS)	Tom Daschle (D-SD)
107th	2001-2002	Dennis Hastert (R-IL)	Richard Arme y (R-TX)	Richard Gephardt (D-MO)	Tom Daschle (D-SD), 1/3/01-1/20/01 Trent Lott (R-MS), 1/20/01-6/6/01 Tom Daschle (D-SD), 6/6/01-1/3/03	Trent Lott (R-MS), 1/3/01-1/20/01 Tom Daschle (D-SD), 1/20/01-6/6/01 Trent Lott (R-MS), 6/6/01-1/3/03
108th	2003-2004	Dennis Hastert (R-IL)	Tom DeLay (R-TX)	Nancy Pelosi (D-CA)	Bill Frist (R-TN)	Tom Daschle (D-SD)
109th	2005-2006	Dennis Hastert (R-IL)	Tom DeLay (R-TX), 1/3/05-9/28/05 Roy Blunt (R-MO), 9/28/05-2/2/06 John Boehner (R-OH), 2/2/06-1/3/07	Nancy Pelosi (D-CA)	Bill Frist (R-TN)	Harry Reid (D-NV)
110th	2007-2008	Nancy Pelosi (D-CA)	Steny Hoyer (D-MD)	John Boehner (R-OH)	Harry Reid (D-NV)	Mitch McConnell (R-KY)
111th	2009-2010	Nancy Pelosi (D-CA)	Steny Hoyer (D-MD)	John Boehner (R-OH)	Harry Reid (D-NV)	Mitch McConnell (R-KY)
112th	2011-2012	John Boehner (R-OH)	Eric Cantor (R-VA)	Nancy Pelosi (D-CA)	Harry Reid (D-NV)	Mitch McConnell (R-KY)

schools. In 1981 and 1982, the House Committee on Education and Labor held hearings at which witnesses from Texas presented testimony about the severe economic problems in South Texas and “the tremendous impact of those conditions on the school districts struggling to educate its students” (*Hearing on Emergency Immigrant Education Act*, 1984, p. 14). However, despite the witness testimony, the entreaties from the Texas representatives were largely ignored.

This changed in June of 1982 when the Supreme Court ruled in the case of *Plyler v. Doe*. The lawsuit that had been filed in 1977 had made its way through the court system and had finally reached the U.S. Supreme Court. The case came before the justices in late 1981 and was decided in 1982. In a 5-4 decision, the Supreme Court ruled that Texas may not bar children of undocumented immigrants from attending public schools. Doing so would impose “a lifetime hardship on a discrete class of children not accountable for their disabling status” and would violate the Equal Protection Clause of the Fourteenth Amendment (*Plyler v. Doe*, 1982, p. 202).

The *Plyler* decision was important, not only because it changed existing education policy, but also because it recognized a class of people that Justice Brennan described as a “shadow population” and “a permanent caste of undocumented resident aliens” (*Plyler v. Doe*, 1982, pp. 218-219).

The Supreme Court’s decision was the turn in the problem stream that EIEA advocates needed. Using Manna’s (2006) terminology, the involvement of the Supreme Court created license for federal involvement in what was otherwise a state-level concern. While the state of Texas and its school districts certainly had the license to do something about the presence of undocumented immigrants in its classrooms, without a

profound change in the way it financed education, Texas lacked the capacity to act. In order to gain capacity, the policymakers from Texas needed to borrow strength from the federal government. Because EIEA was proposed almost exclusively by representatives from Texas, backers faced the challenge of convincing members of Congress that their seemingly local issue was not only of federal interest but also required federal involvement.

Following *Plyler*, in July of 1983, Texas Congressman and House Majority Leader James C. Wright, Jr. (D-TX), introduced a bill entitled “Special Impact Aid for Immigrant Children Education” as an amendment to the extension the Rehabilitation Act of 1973. This time, House members took notice. Introduced near the end of the 1st session of the 98th Congress, Wright’s bill would “authorize Federal assistance for the education of immigrant children” (Special Impact Aid for Immigrant Children Education, 1983). When passed in the House by voice vote, the bill became the Emergency Immigrant Education Act of 1983.

Because EIEA of 1983 had passed in the House, appropriations bill P. L. 98-151 appropriated \$30 million for the Emergency Immigrant Education Assistance Program. However, the Office of Management and Budget refused to release the funds because EIEA had not passed the Senate and had thus not been signed into law. This resulted in an exchange of many letters between House Democrats Jim Wright, Solomon Ortiz, and Kika de la Garza—all from Texas—Representative Carl D. Perkins (D-KY), and the Comptroller General’s office. The Comptroller General cited the fact that EIEA was only authorized for one year and not on a long term basis and would thus not create any sort of conflict. Milton J. Socolar, from the Comptroller General’s office, stated, “We believe

that Public Law 98-151 was complete and legally effective to create \$30 million in budget authority for the immigrant education program” (*Hearing on Emergency Immigrant Education Act*, 1984, p. 39). In the end, the funds were ordered to be released for one year only. Although EIEA had finally made it to the agenda, backers still faced obstacles to passage.

On March 29, 1984, the Subcommittee on Elementary, Secondary, and Vocational Education held another hearing on EIEA, and supporters were again given the opportunity to state their case. In the 1984 *Hearing on Emergency Immigrant Education Act*, Texas witnesses cited large numbers of undocumented students imposing great financial burden on south Texas school districts. The witnesses largely attributed many of districts’ financial struggles to *Plyler*. Representative Solomon Ortiz stated,

I guess that the profession—and I am talking about the education profession—is more or less like the medical profession. When they show up in the emergency room, there’s no way you can turn them down under the Constitution. You have to provide the education (*Hearing on Emergency Immigrant Education Act*, 1984, p. 22).

Ortiz continued, “Once they show up in Mr. Besteiro’s schools, he has to accept them. This creates problems” (p. 22).

The financial burden that many witnesses spoke about referred to the added costs incurred by having what the districts considered extra students in schools, such as the cost of buying textbooks, paying personnel, and providing facilities, and not necessarily the costs of meeting the needs of immigrant students. In fact, Raul Besteiro, Superintendent of Schools in Brownsville, Texas, testified before the subcommittee that he sought the passage of EIEA primarily to fund construction for the extra classrooms needed in his district (p. 44).

According to Sarah Weddington, speaking on behalf of Texas Governor Mark White and the Texas Education Agency, these students were only in public schools because “the federal government fails to adequately enforce our immigration laws” (p. 24). Her statement echoed that of Chief Justice Burger in his dissenting opinion on *Plyler v. Doe*: “The Court makes no attempt to disguise that it is acting to make up for Congress’ lack of ‘effective leadership’ in dealing with the serious national problems caused by the influx of uncountable millions of illegal aliens across our borders” (*Plyler v. Doe*, 1982, p. 242). Because of this lack of enforcement, witnesses reasoned, the federal government should relieve the extra financial burden this situation placed on the schools. While recognizing that the bill would benefit all recent immigrant students and not only undocumented ones, EIEA proponents made their message clear: If states were to be required to educate illegal immigrants, they would demand the federal funds to support their costs.

The policy stream. Policy alternatives, specifically alternative sources of funding, were proposed early in the discussion of EIEA. Some suggested that LEAs with large proportions of recent immigrant students should be responsible for their own students. These districts or even entire states could impose tax regulations to deal with the extra expenses within their own jurisdiction. An exchange between Representatives from Pennsylvania, California, and Texas underscores the idea that some believed states should manage their own problems.

Mr. Goodling: As I told the majority leader last year, we are interested in sales taxes and income taxes and all of those good things for the citizens of Texas, like those in Pennsylvania have to bear, and we would encourage some of the funds to come that way since you are such a rich State in comparison to Pennsylvania.

Mr. Hawkins: Would you deprive the other States, including California also?

Mr. Goodling: California, I believe, has all of those good taxes already going into their educational system. Texas is a little bit behind when it comes to taxation as it relates to excellence in education. I don't want to take from California when they are taxing so heavily for education or from Pennsylvania. I just want to make sure everybody's doing their share back home.

Mr. de la Garza: Such kindness overwhelms me, but this is not a Texas measure (*Hearing on Emergency Immigrant Education Act*, p. 16).

Although some locales did attempt to raise funds through bonds and taxation, such means were considered inadequate because of high unemployment and high poverty in those areas most impacted by high numbers of immigrants in the schools. Raising taxes locally would not only cause an extra layer of hardship on taxpayers but would also have little influence due to high unemployment and high poverty. People simply did not have enough wealth or income that could be taxed. Additionally, proponents of EIEA insisted that it is the federal government's responsibility to both set and enforce immigration policy; therefore, the federal government should also bear the cost.

Another alternative proposed the use of funds from Title VII of ESEA to help offset the costs of educating immigrant children. Because Title VII was concerned with bilingual education, some reasoned that most immigrant students would also fall into the category of those needing special bilingual services. However, although similar, the two groups are not identical, nor is one group a subset of the other. The potential of overlooking the needs of some students would remain. In addition, because EIEA initially provided impact aid, supporters of the bill sought relief from overcrowded classrooms and inadequate numbers of teachers and supplies, not expansion of programs—even programs that would benefit immigrant children.

The political stream. In the political stream, illegal immigration aside, the face of legal immigration was changing in the early 1980s. The Immigration and Nationality

Act of 1965 had changed the focus of immigration policy from national origins quotas to family reunification and certain occupational skills. “More than 70 percent of all immigration to the United States in the early 1980s [was] that of persons related to someone already admitted to this country” (Stewart, 1993, p. 7). Because of the emphasis on uniting families instead of seeking skilled labor, a large proportion of these immigrants had low levels of educational attainment. In addition, many of them were children, which placed an extra obligation on schools that would warrant federal immigrant education aid. During this time, immigration from Europe declined while immigration from Asia and Latin America soared, creating a much more diverse U.S. than ever before.

More recently, Congress had passed the Refugee Act of 1980, which broadened the immigrant education issue beyond what was occurring in Texas. The act provided systematic ways of admitting refugees to the United States as well as processes for aiding refugees in their adaptation to and integration into American society (Refugee Act of 1980, Title I, 1980). It allowed for those classified as refugees to be admitted over and above the limits placed on the numbers of admitted immigrants by other immigration laws (Stewart, 1993, p. 32). Stewart described three significant waves of refugee immigration to the United States in the late 1970s and early 1980s: the arrival of refugees from Vietnam, Laos, and Cambodia, beginning after the fall of Saigon in 1975; the wave of the Mariel refugees from Cuba in 1980; and the influx of refugees from Southeast Asia, which was prompted by the establishment of the Orderly Departure Program in 1982 (pp. 47-49). Thus, between the years 1975 and 1984, many more immigrant

children than before arrived in U.S. classrooms, often with little schooling, psychological trauma, and low English proficiency.

The influx of refugees and other legal immigrants is evidence that the immigrant education issue was much broader than the illegal immigrant issue in Texas. Although EIEA was put forward almost exclusively by representatives from Texas, EIEA could not make it to the agenda without the widening of the political stream to include immigrant students who were not part of the Texas problem.

Feeding the political stream was the infamous report, *A Nation at Risk*, released in 1983. The report characterized U.S. education as “being eroded by a rising tide of mediocrity that threatens our very future as a Nation and a people” and declared that “if an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war” (The National Commission on Excellence in Education, 1983). As a result, American public school education became a much larger issue in the minds of citizens who worried that their children’s schools were not doing enough to educate their children. Americans were now seeking more excellent as well as more equitable public education.

This change in public mood resulted in new attitudes about the role of the federal government in education. The American people rejected the idea of disestablishing federal involvement in education. A national effort to remedy the newly-perceived problem described by *A Nation at Risk* was expected.

Superintendent Besteiro presented the issue of illegal immigration as a quality issue. He represented the current educational situation as “watered down” and showed his concern by stating,

It is very hard for us to understand how people that are illegally in this country have rights and how they can be educated and how we can take away from the children whose parents are paying for their education and spread it out over everybody that is coming into our schools on a daily basis (*Hearing on Emergency Immigrant Education Act*, 1984, p. 26).

The state of the American economy also added to the political stream. The United States had entered a recession in 1981, characterized by the highest unemployment in 42 years and high interest rates (Weintraub, 1982, p. 30). According to an article published in Santa Fe, New Mexico's, *The New Mexican*, "The late-arriving, hard-hitting recession meant shortfalls in recurring revenues and forced the 1983 Legislature to execute an emergency bailout including an immediate 2 percent cut in department budgets. It also passed a \$97.5 million tax hike" (Moreno, 1984, p. B-6). By 1983, the economy was showing signs of improvement and was described in a Syracuse, New York, newspaper as having "rebounded from a long recession with more force than many experts had thought possible" (Currier, 1984, p. E-1). Although recovery was still ongoing, Americans could begin to think about something other than jobs.

Convergence of the Three Streams and Borrowing Strength

As the three streams finally converged, supporters of EIEA still needed to convince the Congress that this issue was not simply a local problem. They did so by reminding subcommittee members that illegal immigration was a national issue and not limited to South Texas. Representative Ortiz emphasized this national interest by declaring,

This is a national problem. We just happen to be living on a border. We are facing Mexico. A lot of people in other States who do not have this problem cannot understand because on a daily basis we go across and they come across and we do business with them and they do business with us and they are just our next door neighbors. But it is not fair for the school district to be paying this tremendous amount of money when this is a national problem" (*Hearing on Emergency Immigrant Education Act*, 1984, p. 22).

That is, even though residents of Texas and other border states interact daily with those who cross the border on a regular basis, the issue is a problem of national governance and national, not state, sovereignty at international borders.

Representative Ronald Coleman (D-TX) added that the bill, as written, would not only give aid to states with large influxes of undocumented immigrants but also those who with high numbers of legal immigrants (*Hearing on Emergency Immigrant Education Act*, 1984, p. 31). This rationale was vital to gaining the support of others in Congress who represented states that may not have been experiencing a problem with illegal immigration. Legal immigration was also on the rise, and Coleman's words would appeal to any state that was seeing an increase in the legal immigrant population, including those states highly affected by the Refugee Act of 1980. By emphasizing this point, Coleman portrayed Texas as just one member of a coalition of impacted states and not the sole supplicant in this matter.

By borrowing capacity from the federal government, Texas lawmakers were able to move their state concern onto the national agenda. The convergence of the problem, policy, and political streams was the opening that allowed EIEA not only to make it to the Congressional agenda but also to finally achieve passage.

Policy Instruments Used in EIEA of 1984

Once EIEA had moved onto the agenda, both intent and language choice of the policy became important. As Newton (2008) explained, "political elites rely on emotion in justifying policy choices; they employ stories that are instinctually appealing to their audiences, packing them with language and symbols that tap into widely understood notions of who and what comprises the American immigrant experience" (p. 3). Thus, in

order to fully understand the impact of EIEA, it is important to examine the rhetoric contained in the legislation itself.

At first, EIEA might appear to be what McDonnell and Elmore (1987) would label an inducement. That is, the policy provides funds to states that follow certain rules—counting their immigrant students and applying for monies. Further, EIEA was introduced to solve a present problem—that of the influx of undocumented immigrants into schools—and not a future one, which marks it as an inducement. However, the returns on EIEA are “uncertain, intangible, immeasurable,” (McDonnell & Elmore, 1987, p. 139), which marks it as capacity-building. The main distinction between capacity-building policies and mandates and inducements is that mandates and inducements produce tangible effects, while capacity-building does not. This difference is the basis for the conclusion that EIEA was originally focused on capacity-building. An examination of the language used in the legislation reinforces this evaluation.

EIEA was introduced to help states deal with the influx of undocumented immigrants into schools. Even the original title of the bill, “Special Impact Aid for Immigrant Children Education,” made it clear that the intent of the bill was to help states overcome what they considered the tremendous burden of educating “the added number of children” (*Hearing on Emergency Immigrant Education Act*, 1984, p. 16). As introduced, the bill was “to authorize payments to States for supplementary educational services for immigrant students” (*Hearing on Emergency Immigrant Education Act*, 1984, p. 2).

Underscoring the intent that EIEA be state impact aid, the bill allotted funds only to states containing districts that were highly affected by the numbers of immigrant

students. According to the bill introduced in 1983, only LEAs with at least 500 immigrant students or in which immigrant students comprised at least five percent of the total student population were considered eligible for EIEA monies. This percentage was lowered to three percent after the 1984 *Hearing on Emergency Immigrant Education Act*. This method of counting eligible LEAs emphasizes the idea that EIEA was to provide aid to states and LEAs impacted by immigrant students and was not concerned with the impact that LEAs had on immigrant students themselves.

Cultural and Political Values Revealed in the Rhetoric

To use the language of Wirt, Mitchell, and Marshall (1988), the initial introduction of EIEA in the early 1980s came at the end of a period marked by a more egalitarian culture in the Congress. Egalitarian culture is characterized by equity values “that seek to redress the maldistribution of schooling resources” (Wirt et al., 1988, p. 275). Because districts with large new immigrant or undocumented immigrant populations were under a particularly heavy financial burden to educate these students, they sought a policy that achieved equity.

This concept of equity began with fairness for states and state governments. At the *Hearing on Emergency Immigrant Education Act* (1984), witnesses and members of the subcommittee expressed the sentiment that, because of *Plyler v. Doe*, states were mandated to provide services that they could not pay for. Representative Augustus Hawkins (D-CA) described the issue as “a matter of simple justice” (p. 15), while Representative Steve Bartlett (R-TX) referred to it as “essentially a fairness issue” (p. 16).

Representatives Kika de la Garza (D-TX) and Solomon Ortiz (D-TX) both testified that the most poverty-stricken areas were along the U.S.-Mexico border and were areas with the highest concentration of undocumented immigrants. South Texas was experiencing high unemployment, a low tax base, and difficulty meeting the school districts' fiscal needs, resulting in underfunded and poor-performing schools. The lack of good schools was keeping people from wanting to move to the area, preventing the economic situation from improving. Representative de la Garza stated that the passage of EIEA could "break the cycle of poverty" (*Hearing on Emergency Immigrant Education Act*, 1984, p. 14). In other words, it could help right an economic inequity.

Supporters of EIEA did not only seek equity for states and districts. Witnesses at the 1984 hearing also appealed to those who wished to address inequities that affected students directly. Representative Ortiz appealed to the federal government's role in education as being "historically and primarily...on behalf of the disadvantaged of this Nation" and to recognize South Texas' "great [economic] need" (*Hearing on Emergency Immigrant Education Act*, 1984, p. 19). Majority Leader Wright emphasized the need for immigrant children to learn English in order for them to "act on equality with others in the society" (p. 28). By learning English, these students would be able to "take their rightful place in the other [non-bilingual or ESL] classrooms and [would be] able to cope and are able to hold their own heads high and to do well" (p. 29). Gail Imobersteg, Federal Liaison Office Director, California Department of Education, was the sole non-Texas witness at the 1984 *Hearing on Emergency Immigrant Education Act*. In a prepared statement, she wrote, "Our experience with these problems shows that there is a definite need, which is created as a result of federal immigration policies, for substantial

additional funds which are needed to provide the equitable, comprehensive services for immigrant students” (*Hearing on Emergency Immigrant Education Act*, 1984, pp. 49-50). These witnesses conveyed the message that EIEA was not just state impact aid; it would, in fact, be a societal benefit.

In this way, EIEA advocates drew on two scripts that are commonly used to refer to immigrants. According to Newton (2008), the word immigrant “serves as a condensation symbol for economic uncertainty, high fertility rates, criminality, welfare usage, as well as values such as hard work, social mobility, and a national experience” (pp. 34-35). Supporters of EIEA were able to use both of these scripts to paint immigrants as both a contributing factor to the economic woes of South Texas and a disadvantaged class that needed the help of the federal government. Thus, the framers of EIEA were able to advance a policy that “offer[ed] assurances that the right groups receive due rewards, while the socially unpopular are blamed for persistent problems” (Newton, 2008, p. 3).

Vital to understanding EIEA is how funds were to be spent. The three spending categories for EIEA funds were: (a) educational services relating to bilingual education; (b) additional services, including supplies, construction, and transportation; and (c) inservice training for teaching personnel (Emergency Immigrant Education Act of 1984, Title VI, Sec. 607, 1984). Although EIEA’s framers recognized that immigrant students required supplemental services, such services were primarily restricted to English language acquisition and capacity-building items. This shows how EIEA was not passed because the federal government was attempting to create behaviors that districts were unwilling to do on their own. Rather, it came out as a response to the districts’ needs for

more classrooms, personnel, and supplies to teach large numbers of immigrant students. In other words, there were fundamental capacity shortcomings to be rectified. This also underscores how EIEA was written more to affect LEAs and states than immigrant students themselves.

The bill authorized \$30 million to be appropriated for fiscal year 1985, with the amount raised to \$40 million for each of the next four years. However, the bill also stated that the allocation be \$500 per immigrant student. This disparity was not explained in the bill. When EIEA was finally enacted, the allocation came to approximately \$86 per student (United States General Accounting Office, 1991, p. 3).

The 1988 Reauthorization

With the 1988 reauthorization of EIEA, the 100th Congress chose to include the act in Title IV of ESEA, the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988. Title IV was concerned with “Special Programs,” which included programs for girls and the gifted and talented and for increasing uses of technology. The text of this version of EIEA was almost identical to the text of the 1984 legislation.

Other than technical changes to adjust for year and bill number, the 1988 reauthorization included only two changes from the original law. Most notably, the 1988 reauthorization included the requirement that each state submit biennial reports to both the Secretary of Education and Congress outlining EIEA expenditures and programs funded by EIEA monies (Emergency Immigrant Education Act of 1984, Title IV, Sec. 4410, 1988). The only instruction in the bill was that the report must contain information on expenditure of funds by LEAs.

Secondly, this version of EIEA authorized monies for the years 1985 through 1993 but did not authorize an exact amount to be appropriated for the years 1990 through 1993. Instead, it stated that for those years, “such sums as may be necessary for each of the fiscal years” be appropriated. Although the \$500 allocation per student was stated, this number was again not used in the actual appropriation.

The 1994 Reauthorization

The 1994 reauthorization of what became the Emergency Immigrant Education Program came after many hours of discussion and debate, studies on the effectiveness of the program, and more than one proposed alternative. A 1991 report to Congress on EIEA (United States General Accounting Office, 1991) evaluated the program based on case studies of five school districts across the country. The purpose of the study was to determine how LEAs used EIEA funds, how many EIEA-eligible students were not served by EIEA funds, and how many immigrant students were served by more than one federal program (such as Chapter 1, SLIAG, or the Transition Program for Refugee Children). The study found that districts tended to use the funds for academic programs, with a majority of the funds going toward salaries. It further found that about ten percent of EIEA-eligible LEAs did not apply for funding and that the number of immigrant students participating in more than one federal program varied greatly from program to program.

Based on the 1991 study, a 1993 report to Congress (Aleman, 1993) described several considerations for the 1994 reauthorization. The report presented the concern that EIEA funds were too widely disbursed to be effective. The report suggested that to combat this, legislators should reevaluate the method for determining eligible LEAs in

order to direct higher amounts to fewer schools. Another recommendation was to change the definition of an immigrant student to include only students who have been attending U.S. schools for fewer than two full years. The report also proposed a stipulation in EIEA that only programs that were not duplicated elsewhere—specifically bilingual education programs—could utilize EIEA funds. A final recommendation suggested the simplification of funding formulas, the strengthening of fiscal accountability, and the improvement of program administration (Aleman, 1993, p. 3).

A separate Department of Education report (Bateman, Hensley, Adduci, Sivilli, & Zantal-Wiener, 1993) was released in the same year and put forward four recommendations to consider. First, the agency should consider consolidating EIEA and the Transition Program for Refugee Children under Title VII, which was concerned with bilingual education. Second, instead of simply counting a maximum number of years in U.S. schools, the number of years that it takes an immigrant child to become language proficient and acculturated should be taken into consideration. Third, the Department of Education should continue to distribute funds on a formula basis instead of shifting to discretionary funding. Fourth, it should compel states and LEAs to be more accountable by requiring regular reports of student progress and achievement. By presenting these four alternatives, the Department of Education presented the argument for an immigrant education policy that was more of an inducement and emphasized student outcomes more than the original EIEA.

Political Disputes Leading to the 1994 Reauthorization

When Congress met to consider the reauthorization of ESEA, it was clear that these reports had been studied when crafting the section concerning immigrant education.

An early version of the Improving America's Schools Act was put forward by Representative Dale Kildee (D-MI) (H.R. 3130, 1993). The Emergency Immigrant Education Program was included in Title VII and called for the authorization of funds to do the following: develop new instructional programs for immigrant children and youth, enhance or expand existing instructional programs for immigrant children and youth, and meet the short-term needs of local educational agencies without instructional programs for immigrant children and youth (H.R. 3130, Title VII, Part D, Sec. 7402 (a), 1993). This is evidence of a significant move from state impact aid to instructional programs to benefit immigrant children.

The bill also called for LEAs to submit detailed applications that would include information regarding

(i) the need for the proposed program, including data on the number of immigrant children and youth in the local educational agency to be served and their characteristics, such as language spoken, dropout rates, proficiency in English and the native language, and academic standing in relation to their English proficient peers; and

(ii) the program to be implemented and how such program's design relates to the linguistic and academic needs of the immigrant children and youth to be served (H.R. 3130, Title VII, Part D, Sec. 7402 (c), 1993).

Again, this language underscores how supporters of this bill valued program quality and results. According to Wirt, Mitchell, and Marshall (1988), an emphasis on quality signifies a culture of merit. By proposing this bill, House Republicans were signaling a shift from an egalitarian culture to a meritocratic one.

At the same time, however, the bill raised the threshold of the number of immigrant students that would qualify an LEA for funds to a total of 1000 immigrant students or 10 percent of the total population for the last two school years. Possibly following Aleman's (1993) recommendation, this change would make it more difficult

for states and LEAs to receive EIEA funds and would concentrate the monies into fewer schools.

Another bill, put forth by Representative Harry Johnston (D-FL) and a coalition of Representatives from Florida and California, sought to revise EIEA more radically. The Emergency Immigrant Education Act of 1993 (H.R. 3228, 1993) stated that the purpose of the bill was “to provide services to immigrant children.” This change in purpose was a substantial move from the original purpose of EIEA. By not mentioning states’ needs at all and putting the emphasis on students, the bill’s authors made it obvious that they intended to improve immigrant student education. In other words, the purpose of this revised EIEA went beyond state impact aid.

The Emergency Immigrant Education Act of 1993 began with a lengthy “Policy Statement” that spelled out a recognition of the federal government’s responsibility for immigrant and refugee admissions; the special needs of immigrants and refugees in order to assimilate; federal mandates to provide educational and other services to all immigrants; the lack of adequate state resources to obey such mandates; and the federal government’s obligation to immigrant children and LEAs (H.R. 3228, Title IV, Part D, Sec. 4402, 1993). This preamble again spelled out the intent of the authors to help immigrant children, not only with their educational needs, but also with their assimilation process. This recognition was based on the finding in the 1993 Department of Education report that “refugee and immigrant students have strong linguistic needs and strong acculturation needs” (Bateman et al., 1993, p. 157). This section of the new EIEA also underscored the recurring theme that the federal government was responsible for helping

states and LEAs pay for the students who were in their schools due to federal immigration laws.

The Johnston bill further recognized the needs of new immigrant students by allowing for EIEA funds to be spent on collaboration with social and health services, counseling services, and preschool intervention programs (H.R. 3228, Title IV, Part D, Sec. 4412 (b), 1993).

The Johnston bill also raised the threshold defining an eligible LEA to 1000 immigrant students or immigrant students comprising 5 percent of the total population for the last school year. It also expanded on the application procedures proposed in the Kildee bill to an extensive 13-item application that included thorough accounting reporting. The Secretary was not required to approve every application but instead would approve applications based on the merits of the proposed programs. This would change EIEA from a formula grant to a discretionary one. An interesting aspect of this bill was the section entitled “Special Consideration.” This section called for “geographic diversity” in grant awards and also obliged the Secretary of Education to take the numbers of low-income students that would benefit from EIEA funds into account (H.R. 3228, Title IV, Part D, Sec. 4412 (e), 1993). Thus, while changing the focus of EIEA to immigrant students themselves, the bill also made it more difficult for these students’ schools to receive EIEA funds. This would result in eligible LEAs receiving greater sums, ostensibly creating the potential for improving programs in those LEAs.

When Congress reconvened for the Second Session of the 103rd Congress, illegal immigration had moved higher on the list of priorities in the minds of American citizens and those who represented them. In 1994, the governor of Florida filed a lawsuit against

the federal government, claiming that federal immigration legislation that costs the state money is akin to an unfunded mandate. The suit asked for \$1.5 billion in reimbursement for the education, health care, prison, and other costs that illegal immigrants were imposing on the state. (“Debate about immigration,” 1994). California, Arizona, Texas, and New Jersey soon followed with similar lawsuits (“California files \$2 billion suit for immigration funds,” 1994; Peirce, 1994). Illinois and New York chose not to file suit but instead stated that they were “willing to negotiate” with the federal government for reimbursement (Peirce, 1994, p. A-16). The suits and offers of negotiation were ultimately rejected, but they sent a message that states were unwilling to shoulder the burden of the costs of illegal immigration.

In a House session discussing the Improving America’s School’s Act, Representative Gene Green (D-TX) proposed that the current \$40 million appropriation be increased to \$100 million. Citing the fact that “the program has not kept pace with the steady increase in the number of immigrant children in our schools,” Representative Green reiterated the rhetoric from ten years earlier, that the increased number of immigrant students in the schools was the fault of the federal government and that the states should not be forced to deal with the added costs on their own (Cong. Rec. 140 (32), p. H1685, 1994). Representative Clay Shaw (R-FL) agreed by stating, “The social costs associated with immigration should be a matter of Federal policy and should be addressed by Federal solutions.” Congresswoman Karen Thurman (D-FL) concurred and added that she believed that the distribution formula needed to be revised. Their words, however, included a subtle difference in choice of language. Now many Representatives

spoke of the costs of educating “immigrants” and “newcomers” and not necessarily “illegal immigrants.”

This is possibly because the nature of immigration had changed significantly since 1984. In 1986, Congress had passed the Immigration Reform and Control Act (IRCA). The act specified that employers that knowingly hired illegal immigrants would face stiff federal penalties. At the same time, IRCA opened the door for undocumented immigrants already residing in the United States to regularize their status. It also provided funds for the education of previously illegal immigrants who had received amnesty under this provision (Newton, 2008; Stewart, 1993).

In 1990, immigration laws again underwent a substantial revision with the Immigration Act of 1990. The annual number of visas allowed was increased from 500,000 to 700,000, an increase of 40 percent. In addition, job and occupational skills were emphasized to a greater degree. Family unification continued to be important, however. “The new law...retained relatively large allocations of visas for the brothers and sisters of American citizens” (Stewart, 1993, pp. 9-10). It also highlighted diversity in the types of immigrants admitted. This diversity was augmented by a new wave of refugees that entered the U.S. between 1988 and 1990. These new refugees were Amerasian children of American servicemen and Vietnamese women, as well as their accompanying relatives. Amerasians were given immigrant—rather than refugee—status but were also given the benefits afforded to refugees (Stewart, 1993, pp. 49-50). As the 103rd Congress met to discuss the future of EIEP, they acknowledged that legal as well as illegal immigration was changing what classrooms looked like and what was needed in them.

As had occurred in 1984, supporters painted the Emergency Immigrant Education Program (EIEP) as a necessary means of furnishing all students with an education, employing the language of fairness and justice. Representative Green stated that raising the EIEP appropriation to \$100 million would “give our States the resources they need to provide education services to all children” (Cong. Rec. 140 (32), p. H1685, 1994).

Republican members of Congress did not support Representative Green’s amendment. Representative William Goodling (R-PA) suggested that the increase in appropriation be only to \$75 million instead of \$100 million. Although agreeing that states such as Florida needed federal intervention to help them pay for immigrant education, Representative Clay Shaw (R-FL) also introduced an unexpected consequence of increasing funding for immigrants. He posited that such an expansion would have a “magnet effect,” drawing even more immigrants to the U.S. because of the increased benefits. He warned of “an indefinite and unsustainable spiral” (Cong. Rec. 140 (32), p. H1685, 1994). This sentiment was echoed by Senator Edward Kennedy (D-MA) several months later on the Senate floor when he referred to the U.S. educational system as a magnet and a “compelling incentive to enter the United States” (Cong. Rec. 140 (103), p. S9933, 1994).

Policy alternatives not relating to the funding also were discussed. One early House draft of the Improving America’s Schools Act of 1994 (H.R. 6, 1994) contained a directive for the Secretary of Education to

prepare a report on the education of all students who reside near the United States border with Canada and Mexico or areas or communities which serve as a gateway for immigrants to the United States. Gateway communities shall include Hawaii, the Commonwealth of Puerto Rico, as well as the territories and freely associated nations. The report shall identify trends in student and out-of-school youth immigration trends, appropriate procedures for the international transfer of

records, the language proficiency of students living in border and gateway areas, and opportunities for teacher exchange (H.R. 6, Title VII, Part D, Sec. 7401 (d), 1994).

This instruction for Assessment of Gateway Education recognized that immigrant students may have unique needs that the report would be able to identify. This section of the bill, however, was ultimately rejected and did not appear in the passed legislation.

The House passed its version of EIEP as Part D of Title VII of H.R. 6, the Improving America's Schools Act of 1994. Representatives chose to retain the eligibility criteria of 500 immigrant students or immigrant students comprising at least three percent of the total number of students in an LEA. The passed version also included a stipulation that if appropriations exceeded \$40 million, states were allowed to reserve up to 20 percent of their state appropriation to be distributed in a competitive grant.

The Senate version of EIEP differed from the House proposals in noteworthy ways. First, it maintained the 500 immigrant student and three percent minima but also directed that if the appropriation exceeded \$50 million, then any amount above that \$50 million be allocated for LEAs with a minimum of 1000 immigrant students or ten percent of the total immigrant students. Although the bill called for a \$75 million appropriation, Senator Edward Kennedy urged his fellow senators to pledge, for the first time since EIEA's passage, the full \$500 per immigrant student. He explained that "a reimbursement of \$500 per eligible immigrant child is a modest level of assistance given the kind of services required to provide quality education to these new residents" (Cong. Rec. 140 (103), p. S10219, 1994).

Senators Bob Graham (D-FL) and Kay Bailey Hutchison (R-TX) offered an amendment asking that the Congress authorize \$150 million for the EIEA appropriation. Characterizing immigrant education as "yet another example of the failed Federal-State

partnership,” Senator Graham reminded his fellow Senators that “individual states have no capacity, either under law or in resources, to control access of illegal entrants to our Nation” (Cong. Rec. 140 (104), p. S10357, 1994). It is apparent that even ten years after the initial passage of EIEA, states still found it necessary to borrow strength from the federal government in order to sustain the program.

The Graham amendment notably included a mandate for the federal government to reimburse states for the cost of the education of undocumented immigrants. The amendment, entitled the Undocumented Student Federal Responsibility Act of 1994, was supported by many in both the Senate and the House, including Senator Kennedy and Representative Shaw. Despite the negotiations that had preceded the 1984 passage of EIEA, Senator Kennedy asserted that “current federal programs for immigrant and LEP populations were not intended to fund the education of illegal immigrants” (Cong. Rec. 140 (103), p. S10219, 1994). Thus, he concluded, until the immigration laws were sufficient to control illegal immigration, the federal government should be financially responsible for educating these undocumented children. The amendment prohibited schools and districts from administering its own counts of illegal immigrant students but instead would use estimates from the Naturalization and Immigration Service in conjunction with information from the Census Bureau and public school enrollment data. Therefore, the act would keep states and LEAs from having to violate the *Plyler* decision by asking students about their legal status. Senator Graham explained that because each state uses its own method for calculating the costs of educating undocumented immigrant children, agreeing upon an amount was impossible without a standardized formula; thus the bill did not offer any specific funding formula or allocation.

The Graham amendment, although strongly backed by a coalition of influential Senators, faced opposition by some. Senator Tom Harkin (D-IA) contested the \$150 million appropriation and advocated for a \$50 million appropriation instead. Arguing that the \$50 million was a 28 percent increase over the 1994 appropriation and that the program had received significant increases in the previous two years, Senator Harkin stated that 76 percent of EIEA monies went to only 5 states and further suggested that the number of immigrant students was, in fact, declining and that such an increase was unwarranted. This statement contradicted the finding in the 1993 Department of Education report that the number of immigrants was increasing (Bateman et al., 1993).

In addition, Senator Harkin argued, because LEAs used EIEA funds primarily for bilingual education, the monies were not necessarily being spent on immigrant students at all but were largely being used to educate non-immigrant bilingual citizens. In this case, the same Department of Education report upheld the Senator's assertion by stating, "LEAs do not operate distinct programs for only refugee or immigrant students; instead, these students are included in the districts' larger programs for LEP students" (Bateman et al., 1993, p. 156). The 1991 GAO report, which stated that 91 percent of schools used EIEA funds for bilingual education, also supported Harkin's argument. Senator Harkin also expressed that immigrant students were already being served by BEA and Chapter I and did not need such a large increase in yet another program.

Senator Graham countered Senator Harkin's argument by reminding his fellow Senators that the Emergency Immigrant Education Act is for just that—an emergency. Senator Graham explained that even though only five states were experiencing this emergency, it did not mean that the federal government should ignore its occurrence. He

reasoned that just as the federal government gives aid to Florida after a hurricane or to Iowa in the event of severe flooding, the federal government should also give aid in this emergency. Graham contended,

This Congress has not refused to recognize an emergency just because it was highly concentrated in its impact. I believe, Mr. President, that similarly we should answer the question: Should we abandon those communities of America which are heavily impacted by immigration? The answer is clearly no (Cong. Rec. 140 (110), p. S11069, 1994).

Senator Graham also represented the federal government as having committed an “egregious failure” and a “dereliction of duty” in its enforcement of immigration laws and therefore had “no basis upon which to refuse to provide assistance to those States which have been heavily impacted” (Cong. Rec. 140 (110), p. S11070, 1994).

Senator Arlen Specter (R-PA) explained that, as part of a larger appropriations bill, extra funding for EIEP would result in cuts elsewhere, including salaries and expenses of the Departments of Labor, Health and Human Services, and Education. The almost \$70 billion appropriations bill included many vast programs in all three of these agencies, and a change in funding in one program would mean reductions in others.

In the end, the Undocumented Student Federal Responsibility Act of 1994 was tabled by the Senate. However, some of the language in the proposed amendment was adapted for use in the reauthorized version of EIEP.

The main difference between the House and Senate versions of EIEP came down to the amount of funding and the eligibility criteria. In a statement before the Subcommittee on Education, Arts and the Humanities, Committee on Labor and Human Resources, Linda G. Morra, Director of the Education and Employment Issues, Health, Education, and Human Services Division, compared both bills by explaining,

Leaving the formula as it is now, as the recently passed House bill [H.R. 6] does, runs the risk of allowing per student funding to decline to the point that it could have little impact. But changing the formula to concentrate funds such as proposed in S. 1513, presents a difficult trade-off. It could focus assistance on those districts most heavily affected by immigrant students and increase the likelihood that funding would have an impact in those districts. However, it would also eliminate funding for many districts that find even small amounts of aid to be critical in educating immigrant students (Immigrant Education, 1994, p. 6).

In September of 1994, the House and Senate agreed on the reauthorization of ESEA, the Improving America's Schools Act of 1994. Title VII, Part D, contained the text of EIEP, which more closely resembled the House bill than the Senate bill, although the final legislation demonstrated definite compromises on both sides, most notably in the amount of the appropriation, the definition of recent immigrant, the funding formula, and the uses of funds.

Policy Instruments in the 1994 Reauthorization

In this reauthorization, EIEP changed significantly from the bill introduced ten years previously. As part of Title VII, EIEP became a part of the part of ESEA that concerned Bilingual Education, Language Enhancement, and Language Acquisition Programs. Thus, instead of emphasizing impact aid, educational programs became the focus. At the same time, this indicates that some members of Congress considered EIEP to be simply another English language acquisition program.

It should be noted, however, that impact aid was not completely abandoned. The 1994 version of the legislation included mandates that at least half of each state's funds be reserved for the LEAs with the highest numbers and percentages of immigrant students and that funds be made available to LEAs that experienced sudden influxes of immigrant students.

The 1994 reauthorization combined ideas set forth in the Policy Statement section of Representative Johnston’s Emergency Immigrant Education Act of 1993 and the preamble to the Undocumented Student Federal Responsibility Act of 1994. Although neither of these amendments had been passed by the Congress, some of the language from both amendments found its way to an entirely new section of EIEP entitled “Findings”. It stated:

The Congress finds that—

- (1) the education of our Nation's children and youth is one of the most sacred government responsibilities;
- (2) local educational agencies have struggled to fund adequately education services;
- (3) in the case of *Plyler v. Doe*, the Supreme Court held that States have a responsibility under the Equal Protection Clause of the Constitution to educate all children, regardless of immigration status; and
- (4) immigration policy is solely a responsibility of the Federal Government (Improving America’s Schools Act, Title VII, Part C, Sec. 7301 (a), 1994).

This new section outlined Congress’s belief in the value of children, the responsibility of the federal government in immigration policy, and the responsibility of states to educate all children under *Plyler v. Doe*.

From the first words of the legislation’s text, it is apparent that a shift from a capacity-building policy to an inducement had occurred. The findings section also signifies a change in what lawmakers now saw as important. Whereas previously the emphasis was on giving aid to the states for the high impact of immigrant children, the new section put the education of children and youth at the center of the policy. States’ needs are not even mentioned; instead, the new language of the legislation highlights the needs of LEAs, and, to some extent, those of the immigrant students themselves.

This reauthorization of EIEP also included a clearly stated “Purpose” section in the text of the legislation. Whereas the 1984 and 1988 versions of EIEA stated in the “Uses of Funds” section that the goal of the legislation was to “meet the costs of providing immigrant children supplementary educational services” (Emergency Immigrant Education Act of 1984, Title VI, Sec. 607, 1984), the 1994 reauthorization contained an expanded purpose that included providing “high-quality instruction to immigrant children and youth” and helping immigrant students “with their transition into American society” and to “meet...challenging State academic content” (Improving America’s Schools Act, Title VII, Part C, Sec. 7301 (b), 1994). Instead of merely providing the funds to meet costs, the federal government expected states and districts to provide a valuable education to students. That is, if schools accepted EIEP monies, they must also educate these students in some meaningful way and even address their needs. EIEP was not simply for building capacity; it was to induce states and LEAs to act.

The “Uses of Funds” section was also expanded in 1994. The legislation now listed more specific activities that could be funded by EIEP monies, including

- (1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;
- (2) salaries of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;
- (3) tutorials, mentoring, and academic or career counseling for immigrant children and youth;
- (4) identification and acquisition of curricular materials, educational software, and technologies to be used in the program;
- (5) basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

(6) such other activities, related to the purposes of this part, as the Secretary may authorize (Improving America's Schools Act, Title VII, Part C, Sec. 7307, 1994).

Much longer than the list of uses of funds in the 1984 and 1988 versions of EIEA, the 1994 reauthorization now emphasized “enhanced instructional opportunities” for immigrant children instead of simply “meeting the costs” of the added immigrant students in the schools (Emergency Immigrant Education Act of 1984, Title IV, Sec. 4407, 1988).

Of the provisions on this list, only provision (5) closely resembled the text of the 1984 bill. Item (4) was similar to the original text, although the 1994 version did not mention bilingual education. Similarly, specification (2) seemed to be derived from text in the 1984 legislation, but the new language allowed LEAs to use EIEP monies to pay for salaries and not only inservice training. Provisions (1) and (3) contained entirely new areas of need for immigrant students and signify recognition of new immigrant student needs. Although the final version of EIEP did not include the longer list of student needs that had appeared in the Johnston bill, the rhetoric of the legislation had changed dramatically to indicate that the bill authors had some sense that the scope of new immigrant needs went far beyond language acquisition. Even though EIEP was now included in the part of ESEA that was concerned with bilingual education, this section of Title VII did not directly mention English language acquisition.

Another indication of this recognition of immigrant student needs was a new provision in the 1994 reauthorization instructing SEAs to coordinate the use of EIEP funds with Title I activities. Although no explanation for this change is given, it may have been an indication that Congress acknowledged the fact that many immigrant families also live in poverty and that their needs go beyond the academic.

The policy also allowed for more inducement at the state level. The 1994 version of the legislation included the allowance for EIEP funds to be awarded to LEAs on a “competitive basis based on merit and need” (Improving America’s Schools Act, Title VII, Part C, Sec. 7303, 1994). This competitive grant system would push LEAs to have a defensible plan for what to do with the money once they received it, thus incentivizing more effective instruction and programs. Although this directive is somewhat vague and open to interpretation, it allows the states to hold funds to motivate LEAs to provide a better education for recent immigrants.

The financial wrangling that had occurred in the Congress resulted in a significant increase in EIEP funds. This version of EIEP authorized \$100,000,000 to be appropriated in the 1995 fiscal year but again only designated “such sums as may be necessary for each of the four succeeding fiscal years” (Improving America’s Schools Act, Title VII, Part C, Sec. 7309, 1994). The \$500 per immigrant student allotment no longer appeared in the text of the legislation. The eligibility criteria, both for minimum numbers of students and number of years used to define immigrant students, remained unchanged.

The 2002 Reauthorization

While the battle for the next reauthorization of EIEP was not as extensive as it was in 1994, its supporters still faced some challenges. A CRS report addressed three reauthorization issues for the Senate and House to consider (Osorio-O’Dea, 2001). First, the report discussed whether EIEA should be consolidated with BEA and warned that “eliminating the EIEP as a separate program could harm LEAs needing resources to respond to sudden influxes of immigrant children” (Osorio-O’Dea, 2001, p. 6). However, the report pointed out, most states already combined EIEP funds with BEA funds,

resulting in 79 percent of EIEP funds being used for English acquisition instruction. Second, the report asked whether the eligibility criteria should be modified in order to concentrate funds in LEAs that needed them the most. While acknowledging that this would increase the per-student allocation, the report also cautioned that smaller LEAs would be harmed by such a change. Third, the report described the lack of a system for evaluating EIEP's effectiveness and suggested that more accountability would be beneficial. At the same time, because EIEP monies were not used for immigrant-only programs, assessing the program's success would be difficult.

Political Disputes Leading to the 2002 Reauthorization

In 1998, Representative Frank Riggs (R-CA) proposed a bill called the English Language Fluency Act (H.R. 3680, 1998), which was to replace the existing Bilingual Education, Language Enhancement, and Language Acquisition Programs, Title VII of IASA. The bill stated that "English is the common language of the United States, and every citizen and other person residing in the United States should have a command of the English language in order to develop their full potential" (H.R. 3680, Title VII, Part A, Sec. 7210 (a), 1998). The bill repealed EIEP and instead proposed a combined program to serve "English language learners and immigrants." Although the purpose of the bill was to help ELLs to gain English proficiency, "the purpose of this legislation is also to assist eligible local agencies that experience unexpectedly large increases in their student population due to immigration to help immigrant children and youth transition into society, including mastery of the English language" (H. Rep. No. 105-587, 1998, p. 11). The bill provided funding through a formula grant for professional development, technical assistance, and research, all related to English language learning, but also

allowed states to make subgrants to LEAs for “assisting a local agency in providing enhanced instructional opportunities for immigrant children and youth” (H.R. 3680, Title VII, Part A, Sec. 7123 (a), 1998).

The bill was referred to the Committee on Education and the Workplace where it was amended. The committee believed that a block grant would give states more flexibility in disbursing funds and that, due to the fact that the majority of LEAs used EIEA monies for bilingual education, combining BEA and EIEA would be beneficial. The House report on the English Language Fluency Act stated that “the Committee continues to support programs to help meet the educational needs of immigrant children and youth and encourages States to continue providing special services to them” (H. Rep. No. 105-587, 1998, p. 15). The House eventually passed the bill and passed it to the Senate. There, it was sent to the Committee on Labor and Human Resources where its journey ended.

The 106th Congress saw more discussion on ESEA’s reauthorization. A bill introduced as the Dollars to the Classroom Act and later renamed the Student Results Act of 1999 (H.R. 2, 1999) was offered by Representative William Goodling (R-PA) to update ESEA. The Student Results Act eliminated EIEP and reorganized bilingual education programs into Title IX, under the English Language Proficiency and Academic Achievement Act. The act completely removed all language referring to immigrant students. Despite opposition by some, including Representatives Dale Kildee (D-MI), William Clay (D-MO), and Ruben Hinojosa (D-TX), the bill was passed in the House and referred to the Senate. There, it was sent to the Committee on Health, Education, Labor, and Pensions where it remained.

A bill entitled Educational Excellence for All Children Act of 1999 (H.R. 1960, 1999) was backed by an alliance of House Democrats. This extensive bill left EIEP completely intact from its 1994 version with two additions. First, a clause recognizing the rising number of immigrant students who had experienced interruptions in their education or who arrived at school with little to no previous schooling experience was added to the Findings section. Second, the bill allowed states that disbursed EIEA monies through competitive—rather than formula—grants to retain a greater percentage of the state allotment for administrative purposes. The bill passed the House and made its way to the Senate. There, it was referred to the Committee on Health, Education, Labor, and Pensions but did not make it out of committee. Another bill, the Access to Excellence in Education for the 21st Century Act (H.R. 2719, 1999) was introduced a few months later. Although it was a different bill from H.R. 1960, it retained the same changes to EIEP. This bill, H.R. 2719, was referred to the House Committee on Education and the Workforce where its journey ended.

In 2001, two versions of ESEA were making the Congressional rounds. One was the Public Education Reinvestment, Reinvention, and Responsibility Act, more commonly known as the Three R's Act (S. 303, 2001). This bill made almost no changes to EIEP other than technical changes to correct section numbers, punctuation, and cross references.

Another was the Better Education for Students and Teachers Act (H.R. 1, 2001; S. 1, 2001), which became the No Child Left Behind Act of 2001. The proposed act included a section which later became known as the Immigrants to New Americans Act, introduced in the Senate by Senator Max Cleland (D-GA). The Immigrants to New

Americans Act provisioned for LEAs to collaborate with community-based organizations to work with parents “by offering comprehensive community social services, such as English as a second language courses, health care, job training, child care, and transportation services” (S. 1, Title III, Part C, Sec. 3307 (a), 2001). In support of this addition to EIEP, Senator Cleland stated that such partnerships would give immigrants an “increased opportunity to become an integral part of their community and their children are better prepared to achieve success in school” (Cong. Rec. 147 (67), p. S4985, 2001). However, the proposal was eventually rejected and did not end up in the final version of the legislation.

The House bill included the provision that LEAs experiencing “substantial increases” in their immigrant population were eligible for grants. The bill further clarified “substantial increase” with a precise definition of

- (i) an increase of not less than 20 percent, or of not fewer than 50 individuals, in the number of such children and youth so enrolled, relative to the preceding year; or
- (ii) an increase of not less than 20 percent in such number, relative to the preceding year, in the case of a local educational agency that has limited or no experience in serving limited English proficient students (H.R. 1, Title III, Part D, Sec. 3324 (c), 2001).

Although the reauthorized EIEP did allow for states to reserve funds for LEAs that had experienced substantial increases, no definition of substantial increase appeared in the passed version of NCLB.

Those who opposed H.R. 1 because of the reformed Title III argued that consolidating BEA, EIEA, and the Foreign Language Assistance Program into one grant would be harmful. In the House, Representative Silvestre Reyes (D-TX) warned that by merging these programs, Congress was failing to recognize the distinct needs of the

students in each of these groups and would weaken all three programs. He asserted that the consolidation would “dilute federal resources to serve three distinct and separate student populations” (Cong. Rec. 147 (72), p. H2642, 2001). Representative Ed Pastor (D-AZ) characterized the consolidation as “counterproductive” and contended that it “does nothing to assist LEAs in providing adequate services for LEP and newly arrived immigrant students” (Cong. Rec. 147 (74), p. E992, 2001). In the Senate, however, Senator Joseph Lieberman (D-CT) disputed this by stating that because the appropriation for the united program would be \$750 million, no such dilution would occur.

A Congressional report (H. Rep. No. 107-63, part 1, 2001) repeated the findings from three years earlier, that combining EIEA and BEA would give states greater flexibility and would probably not do much to change how LEAs spent monies, since most LEAs spent their funds on English language acquisition.

Rhetoric in the 2002 Reauthorization

When ESEA was reauthorized as the No Child Left Behind Act of 2002, EIEP had avoided repeal. Nevertheless, compromises had been made. While most of the language of the 1994 reauthorization of EIEP had been retained, three noteworthy changes were made to the program. First, EIEP was consolidated with BEA, becoming a subgrant of the Language Acquisition State Formula Grant under Title III, the Improving Language Instruction Educational Programs for Academic Achievement Act. The grant allocates 80 percent of funding according to the LEP population and 20 percent according to the recent immigrant student population. In making this modification, Congress transformed EIEP from a separate piece of legislation into essentially a subset of

bilingual education. It is important to note that this was, in fact, one of the alternatives that had been rejected in 1984.

This demonstrates Kingdon's (2011) assertion that "proposals may not come back in the same form; rather, they are recast, combined with something else, or attached to a problem different from the one they started with" (pp. 141-142). These familiar proposals have a greater chance of being accepted once policymakers become accustomed to seeing them around. Thus, although the idea that "if the bilingual money comes in, it is used strictly to work with bilingual education" (*Hearing on Emergency Immigrant Education Act*, 1984, p. 45) was important to the original framers of EIEA, 18 years later, this distinction appeared to be inconsequential.

Second, the "Findings" section that had been added in 1994 was removed, although the "Purpose" section was retained. In this section, the words "performance standards" that were seen in the 1994 version were clarified as "academic content and student academic achievement" (Improving Language Instruction Educational Programs for Academic Achievement Act of 2002, Title III, Part B, Sec. 3241 (b), 2002). Also, placing EIEP and Title III in the greater context of the No Child Left Behind Act reminds us that recipients of Title III monies are held to strict accountability rules that can affect their funding. Title III itself contains several sections explaining the accountability rules that pertain to this title.

Third, the 2002 reauthorization set in motion a new method of counting immigrant students. Despite the concern in 1984 that using the U.S. Census to calculate the number of immigrant students in a district or state would result in a severe undercounting in the number of eligible students, the 107th Congress decided that states

should use the American Community Survey (ACS) estimates as their measuring device (Improving Language Instruction Educational Programs for Academic Achievement Act of 2002, Title III, Part B, Sec. 3241 (b), 2002). Although no Congressional documents from 2002 exist to explain this move, it may have been influenced by the 1994 discussions of using Census Bureau and Naturalization and Immigration Service estimates of immigrant student counts in order to exclude illegal immigrants from the counts without having to ask schools to violate *Plyler*.

This time, no dollar amount was appropriated. Instead, “such sums as may be necessary” were appropriated for fiscal years 2002 through 2008. The \$500 per student allocation had been removed completely. In addition, states were allowed to keep a greater percentage of EIEP funds for administration if they distributed the funds to LEAs on a competitive basis.

The Future of EIEP

More than ten years have passed since the passage of NCLB. The debates over the reauthorization of ESEA are currently taking place in the House and Senate. The future of EIEP depends on what value those in Congress place on immigrant education. More than one bill is still active in the current Congress that may determine the fate of EIEP.

The Setting Priorities in Spending Act of 2005 (H.R. 4018, 2005) was introduced in the House by Representative John Boehner (R-OH). The purpose of the bill was to repeal 14 education programs. Although EIEP was not on this list, the Foreign Language Assistance Act of 2001 was marked for repeal. The bill was referred to the Committee on Education and the Workforce and then to the Subcommittee on Education Reform where it stayed.

However, the bill found new life with the 111th Congress. Reintroduced by Representative Buck McKeon (R-CA) as the Priorities in Education Spending Act (H.R. 2274, 2009), the purpose of the bill was updated “to repeal ineffective or unnecessary education programs in order to restore the focus of Federal programs on quality preschool, elementary, secondary, and postsecondary education programs for disadvantaged students and students with disabilities” (H.R. 2274, 2009). The renovated bill contained a much longer list of programs to be repealed, 70 programs in all. This time, EIEP was on the list. The bill was referred to the House Committee on Education and Labor and then to the Subcommittee on Early Childhood, Elementary, and Secondary Education. Again, the bill did not make it out of committee.

The 112th Congress revived the bill, this time as the Setting New Priorities in Education Spending Act (H.R. 1891, 2011). Representative Duncan Hunter (R-CA), in his introduction of the bill, asserted strongly that “it is time to trim the fat” (Cong. Rec. 157 (66), p. H3284, 2011). The proposed act would “eliminate, not consolidate and not defund, but eliminate 43 wasteful K-12 education programs.” In 2011, several hearings were held to examine education programs and spending. Although none of these hearings specifically targeted immigrant education, the witnesses’ message was clear: Education spending is out of control, and there are too many duplicate programs.

This time Congress listened, and the bill was placed on the calendar. Significantly trimmed down from the 2009 bill, H.R. 1891 focused on only elementary and secondary education programs. Because of its appearance on the list of “ineffective or unnecessary” programs, EIEP faces repeal. House Report 112-106 on H.R. 1891 explained,

The Bilingual and Emergency Immigrant Education Program has not been funded since FY 2001 and is duplicative of the Title I Aid for the Disadvantaged and the

Title III English Language Acquisition programs. Furthermore, all states receiving Title I money are held accountable for the achievement of immigrant students and limited English proficient students (H. Rep. No. 112-106, 2011, p. 16).

This statement suggests that legislators have the belief that immigrant education and bilingual education are identical. Despite research that shows that recent immigrants have many needs that are not language related, supporters of this bill have chosen to ignore such findings.

The Spending Reduction Act of 2011 (H.R. 408, 2011) was introduced by Representative Jim Jordan (R-OH). This bill proposed cuts to programs in many departments, not only education. Part of this bill, the Priorities in Education Spending Act, is almost identical to the similarly-named act that was introduced in the 111th Congress. As such, H.R. 408 aims to reduce federal spending by \$2.5 trillion by the year 2021. The bill was still active in Congress at the time of this study.

The Student Success Act (H.R. 3989, 2012), introduced by Representative John Kline (R-MN), is a bill “to support State and local accountability for public education, inform parents of their schools’ performance, and for other purposes” (H.R. 3989, 2012). This collection of amendments to ESEA implements even more accountability measures than NCLB. In this bill, EIEP is absorbed completely into the section on Grants and Subgrants for English Language Acquisition and Language Enhancement. Under this bill, EIEP no longer exists as a separate program. One provision of this subtitle is that LEAs that experience substantial increases in their immigrant student population may use program funds for activities similar to those listed in the current version of EIEP. However, it does not allot any extra funds for these LEAs.

Overall, the Student Success Act encourages even more accountability and quality of programs than NCLB. By highlighting quality, policy makers placed EIEP in an insecure position because, according to Wirt, Mitchell, and Marshall (1988), those who seek quality will often sacrifice equity in order to achieve it. Although efficiency does strengthen the value of equity, it also strengthens quality. In addition, quality and efficiency are both attributes of a culture of merit. Because meritocratic culture is at odds with the egalitarian culture, without greater protection for the special needs of immigrant students, independent of their bilingual education needs, inequities may fail to be addressed. In other words, EIEP funds may never be directed toward the specific needs of new immigrants, especially if these students are not English language learners.

The existence of these three bills is evidence that the situation is even more critical, as EIEP faces repeal. Without intervention from an interested policy entrepreneur, pressure from an organized political force, or the manifestation of a new or pressing problem, the future of immigrant education is threatened by the very real possibility of vanishing completely.

Summary

EIEA was passed nearly 30 years ago as a response to the increasing costs of educating undocumented immigrant students. The state of Texas led the fight for federal financial support in dealing with what they considered a defect in federal immigration policy and border control, a burden that could no longer be avoided following the *Plyler v. Doe* decision that created a national mandate for free public education for all immigrant children. Throughout its legislative history, EIEA has seen little operative change, with its most significant alterations occurring with its 1994 reauthorization.

Specifically, the definition of an immigrant student has remained unchanged, the formula for calculating the state allocation has seen little alteration, and the per-student allocation has remained almost steady. However, some transformations have occurred. The law was originally capacity-building in function, but now EIEP seeks to induce attention to English language acquisition and meeting academic goals. In addition, the rhetoric of the legislation has shifted from emphasizing the value of equity to highlighting the value of quality.

As EIEP faces reauthorization and possible repeal, it is vital to understand the political and cultural values that shaped emergency immigrant education legislation throughout its history in order to make decisions about its future.

Chapter 5: Conclusions and Recommendations

In this chapter I apply the theoretical frameworks of Kingdon (2011), Manna (2006), McDonnell and Elmore (1987), and Wirt, Mitchell, and Marshall (1988) to the historical narrative presented in the previous chapter. In addition, I provide recommendations for future study of federal aid for immigrant education. I conclude by offering policy recommendations that can be implemented at the local, state, and federal levels.

Kingdon's Three Streams and Manna's Borrowing Strength

Paul Manna's (2006) extension of John Kingdon's (2011) agenda-setting model brings sense to the emergence of what became the Emergency Immigrant Education Act of 1984. Although some *policy entrepreneurs* promoted the *policy alternative* of raising local and state taxes in highly impacted areas, EIEA supporters were able to convince federal legislators that illegal immigration was a federal *problem* that required federal intervention. Thus, supporters in Texas were able to combine their local *license* with *capacity* borrowed from the federal government to argue that *Plyler v. Doe* created a new federal category of needed capacity generation.

Combined with the *politics* reflected in the existence of new policies on immigration and refugees, as well as changing public attitudes on education and the economy, the problem, political, and policy streams merged to create a *window* of opportunity for EIEA's backers to act. At this critical time, they were able to move quickly to push EIEA onto the *agenda* and gain its passage. But what explains passage does not necessarily define the character of the policy that becomes law.

Policy Instruments Used in EIEA and Its Reauthorizations

Lorraine McDonnell and Richard Elmore (1987) provided the framework used to classify the kind of instruments encoded into law. As a form of state impact aid, EIEA was a capacity-building policy, that is, “the transfer of money for the purpose of investment in material, intellectual, or human resources” (p. 134). What was important to EIEA’s original supporters was reimbursement for the additional costs of educating illegal immigrant students. Meeting these students’ academic and other needs was secondary, if considered at all.

Throughout EIEA’s subsequent reauthorizations, its capacity-building nature was maintained, even as the policy took on more characteristics of an inducement. While a capacity-building policy has an “element of investment in uncertain future benefits” (McDonnell & Elmore, 1987, p. 136), inducements come with an expectation of a product. This product may be the results of a program or something actually tangible, such as a road or a building. Although capacity-building may produce intermediate products or services, the main difference is that capacity-building has “distant and ambiguous effects” (p. 139).

With the 1994 reauthorization, the language of the legislation changed to emphasize programs and student needs. Although states’ needs were not completely ignored, the new Emergency Immigrant Education Program was expanded to represent more than state impact aid. The Congressional discussions surrounding EIEP’s reauthorization included consideration of not only immigrant students’ academic requirements but also their assimilation/acculturation, social, psychological, and health needs, as well as the influence of family and economic situations. The 103rd Congress

was more concerned with immediate tangible returns from subsidizing new immigrant education than simply providing reimbursement for additional costs. In addition, by adding the competitive dimension to EIEP, Congress incentivized the program. In other words, by 1994, EIEP had become an inducement.

This was even more apparent when, in 2002, EIEP was consolidated with the Bilingual Education Act to become a subgrant of the Language Acquisition State Formula Grant. Because “inducements are designed to elicit the production of value as an outcome” (McDonnell & Elmore, p. 139), Congress, by consolidating EIEP with BEA into Title III, showed that they expected outcomes. As a subgrant of Title III, EIEP’s success as a program was defined by Title III measures; that is, measures of English acquisition.

The new title means that EIEP was not simply impact aid anymore. Instead, by offering rewards for performance or fulfillment of certain outcomes, it took on the characteristics of an inducement. While still maintaining some of its capacity-building rhetoric, such as its instruction that half of the funds be set aside for LEAs with large influxes of immigrants, the current version of EIEP focuses more on immediate improvement than on creating future successes.

Political and Cultural Values Revealed in EIEA and Its Reauthorizations

An examination of the language used in EIEA and its reauthorizations reveals the political culture and values of the time. According to Newton (2008), “policy narratives comprise a strategic rhetorical tool. A strong, believable narrative affects understanding of a problem and promotes the suitability of a particular solution” (p. 39). Thus, it is valuable to note how EIEA’s rhetoric changed through the years. The values hierarchy

presented by Wirt, Mitchell, and Marshall (1988) is used to interpret the policy rhetoric analyzed here.

The original supporters of EIEA sought equity, first for states but also for students. Using language that portrayed the federal government's immigration laws as deficient and states as powerless to overcome these shortcomings, EIEA's advocates were able to "tap into preconceived ideas about who is to blame for the problems or who is deserving of resources or punishments from government action" (Newton, 2008, p. 39). They were also able to leverage these group images by characterizing immigrant students as the disadvantaged other while suggesting that the quality of "our" children's education was suffering due to the lack of resources caused by the presence of immigrants. This rhetoric shows how legislators sought to emphasize equity in their language while at the same time moving toward protecting quality.

This move toward quality was apparent throughout the history of EIEA/EIEP, as the language and provisions of EIEA/EIEP changed. With the 1994 reauthorization, monies would now help immigrant children and youth "meet the same challenging State performance standards expected of all children and youth" (Improving America's Schools Act, Title VII, Part C, Sec. 7301 (b), 1994). The 1994 rhetoric transforms the problem to one of achieving equality of outcomes, rather than simply redress of funding burdens and inequities, pushing quality of education toward the fore.

With the 2002 reauthorization, Congress changed the language of the legislation to stress "academic content and student academic achievement" (Improving Language Instruction Educational Programs for Academic Achievement Act of 2002, Title III, Part B, Sec. 3241 (b), 2002). This emphasis on student achievement underscores the

homogeneity that President Bush and the 107th Congress valued; that is, the value of quality rather than that of equity. According to Rosen (2009), “this manifests a renewed emphasis on ‘excellence’ that has shifted the language of educational achievement so that success and failure are framed once again in largely individualistic terms” (p. 278).

This shift in values is especially significant because, according to Wirt, Mitchell, and Marshall (1988), equity values and quality values are in opposition. Quality values seek uniformity for all students served, while equity values appeal for special or enhanced services for an underserved population.

The requirement of regular reports demonstrated a move toward an expectation of not only results but also accountability, which is a dimension of efficiency (Wirt et al., 1988). Efficiency “is the mandating of those means by which superiors in an authority system can oversee, and hence control, their subordinates’ exercise of power and responsibility” (Wirt et al., 1988, p. 273). The compulsory submitting of reports meant that Congress wanted not only to monitor the activities of those receiving EIEP moneys but also to control these activities. Congress went from appeasing state and local government demands for more equitable support under a federal policy regime to taking an administrative and potentially controlling interest in the program it was funding.

Along with accountability, another dimension of efficiency is the economic form, which is “the effort to minimize costs while maximizing gains in order to optimize program performance” (Wirt et al., 1988, p. 273). The decision to use American Community Survey estimates rather than state-submitted counts is an indication that the Congress was placing greater emphasis on efficiency. This emphasis does not mean that

equity was completely dismissed, however, although efficiency did gain greater importance.

Because efficiency reinforces quality, changes in EIEP that stress both the accountability and economic forms of efficiency also strengthen the value of quality. Quality in the political sense proposes that everyone receives and produces the same thing, while efficiency makes certain that resources are distributed uniformly and that their uses are accounted for. In the case of EIEP, such resources amount to less than \$100 per immigrant student, an amount so small that it is questionable whether EIEP funds are sufficient to make a difference in the education of immigrant students. By 2002, quality and efficiency values had become so important that the distribution and monitoring of EIEP was an act of meeting the requirements with little consideration for the value of equity.

Recommendations for Future Study

As federal aid for recent immigrant education approaches the end of its third decade, it is important to evaluate whether the current policy truly meets the needs of the immigrant student population. I present several areas for further study that may aid in such an assessment. First, it is important to decide whether federal funding for immigrant students is necessary and beneficial, or whether such students are better served by other funding streams. Second, the current practice of using the American Communities Survey estimates to determine state allotments should be examined. Third, policy entrepreneurs were not identified in my study. Personal interviews and investigation into personal documents may help future researchers to do so. Fourth, applying policy regime theory to

immigrant education may help systematize and consolidate the four theoretical frameworks used here.

The Necessity of Federal Aid for Immigrant Education

A fundamental area to explore is whether separate federal funding for immigrant students is even necessary. According to a Congressional report on the Setting New Priorities in Education Spending Act (H. Rep. No. 112-106, 2011), Title I and the parts of Title III that pertain to English language acquisition sufficiently cover new immigrant education, and thus EIEP is “duplicative” (p. 16). Given the large percentages of recent immigrants who live in poverty and who are classified ELL, this argument seems reasonable. However, it is important to note that not all new immigrants are disadvantaged; neither are all new immigrants LEP. Borjas (2011) found that just over 30 percent of foreign-born children live below the poverty line, while Morse (2005) stated that only 40 percent of all immigrant students are ELL. This leaves a substantial share of recent immigrant students who are ineligible for federal education assistance under Title I or Title III and for whom EIEP may not be “duplicative.”

The question of whether EIEP is even necessary can only be answered after another major study of immigrant students is conducted, one that takes into account the influence of NCLB and the events of September 11, 2001. Twenty years have passed since McDonnell and Hill (1993) presented the results of their wide-ranging study on immigrant education, and more than 10 years have gone by since that of Ruiz-de-Velasco and Fix (2000). While these studies are important, today’s immigrant students reside in a different world than did the students of 1984 when EIEA was first passed. As Fong (2004) cautioned,

We seem to continue to label them as strangers from distant shores while not knowing exactly how to receive or service them. Since September 11, 2001, it is even more questionable whether they are welcome in the United States, or for those who live here, it is questionable whether they want to continue to live in an environment of mistrust and possible harassment” (Fong, 2004, p. 39).

Without a comprehensive portrait of the demography, needs, values, and expectations of new immigrant students, their families, and their communities, no policy will be sure to meet the needs of these students.

Accurate Counts

Understanding the true needs of immigrant students also requires a clear definition of who immigrant students are and an accurate method of counting them. For example, much of the research on immigrant students includes children of immigrants as research subjects, even though EIEP only recognizes immigrant students as foreign-born.

The original reporting system required districts to submit counts to the SEAs, who, in turn, would submit them to the Department of Education. The 2002 reauthorization of EIEP required that federal funding be based on ACS estimates, placing the responsibility of counting at the federal level. No explanation for this change appears in the Congressional record in the discussions preceding the 2002 reauthorization. However, the first mention of changing counting methods seems to have been during the discussion preceding the 1994 reauthorization. The Undocumented Student Federal Responsibility Act of 1994, introduced by Senator Bob Graham (D-FL), called for the federal government to reimburse states for the costs of educating undocumented immigrant students. According to the bill, the counts would be based on federal government statistics, “such as those reported or estimated by the Bureau of the Census, the Immigration and Naturalization Service, and the National Center for Education Statistics” (Cong. Rec. 140 (104), p. S10357, 1994). This method of counting would keep

schools from violating the *Plyler* decision, because no direct questions about students' legal status would be asked at the local level. Although no mention of this line of reasoning can be found in the Congressional record in 2002, it is likely that the 1994 discussions influenced the subsequent change.

The question is whether the submitted state counts and the ACS estimates are comparable. The National Research Council (2011) compared state counts to ACS estimates between 2006 and 2009 and found in 34 states the state count was actually lower than the ACS estimate. They further found that the volatility of the counts was much higher in small states than large states. However, the difference between the population accounting methods meant that the resulting funding discrepancies affect large states (penalizes them) much more than it affects small states.

A separate study by the National Research Council (2012) was conducted to decide whether ACS estimates to determine percentages of students eligible for free and reduced-price meals were sufficiently accurate. The researchers found that the ACS estimates tended to undercount the percentages of eligible students. This suggests that immigrant students may also be incorrectly counted by ACS estimates, particularly because more immigrant students are impoverished than non-immigrant students. More research is needed to determine whether the ACS estimates best serve immigrant students and also to understand the reason behind the change.

In addition, research on the true costs of educating immigrant students is needed. Although some legislators have described what immigrant students have cost their states, these lawmakers have not included their methods for arriving at these amounts. Often, calculations are based simply on the number of immigrant students multiplied by the cost

of educating a student in the state. What is needed is a process of computing actual cost of providing for an immigrant student's unique needs above the standard cost of educating a non-immigrant student, similar to the analyses performed by Parrish (1994) in estimating the marginal added cost of educating bilingual students in California. Finding such a formula is difficult because EIEA/EIEP's flexibility has not required that the program's funds be used exclusively for immigrant students. One way to circumvent this obstacle may be to conduct more research on newcomer programs, including newcomer schools, which serve only new immigrants (see Friedlander, 1991; The Harvard Law Review Association, 2007; McDonnell & Hill, 1993).

Identification of Policy Entrepreneurs

Kingdon (2011) placed much emphasis on the policy entrepreneur. However, in the case of EIEA, it was very difficult to identify the policy entrepreneurs due to poor records, the length of time since the passage of the legislation, and the unwillingness of past and present officials to talk with me. Although I attempted to contact more than thirty past and present legislators and education department officials, only two responded to my requests to speak with them. Both of these individuals told me that they had no recollection of EIEA and the discussions surrounding it. More than one current Congressional Representative refused to speak with me about the discussions surrounding EIEP reauthorizations, citing the fact that I do not reside in their Congressional district. Input from those who were involved in the discussions could have added a layer of information that is unavailable to me and may have revealed something important.

Regime Theory

Regime theory is a relatively new way of looking at public policy. Because regime theory employs an eclectic approach similar to that used in this study, it may provide some insight into whether the eclectic approach is an appropriate lens through which to view federal funding for immigrant education. McGuinn (2006b) defines a policy regime as

the set of ideas, interests, and institutions that structures governmental activity in a particular issue area (such as health care, transportation, etc.) and that tends to be quite durable over time. A policy regime's framework draws on the insights of the stasis school to understand the factors that allow policies to withstand pressures for major change for many years, but it relies more heavily on the dynamic school to comprehend how inertial forces are eventually overcome and a new regime constructed (p. 206).

Wilson (2000) discussed five stages of regime change, although he noted that the stages do not always occur in the same order and can occur simultaneously. The stages are (a) stressors/enablers, (b) paradigm shifts, (c) power shifts, (d) legitimacy crisis, and (e) organizational and policy change (Wilson, 2000, p. 260). Four of these stages can be seen in the early 1980s in the area of immigrant education. External factors may either impede the progress of the current policy regime (stressors) or create opportunity for a change in regime to occur (enablers). According to Wilson, stressors can "provoke questions about the legitimacy of current arrangements" (p. 260) and may include demographic changes and catastrophic events. The stressors in the case of EIEA included changes in immigration policy that influenced public and political opinion about immigrants.

Paradigm shifts come about when events or situations conflict with the dominant policy paradigm. The shift occurs when the new policy paradigm becomes more

dominant than the current one. The *Plyler* decision created a paradigm shift because it required that states and local districts view immigrant students differently.

Stressors and paradigm shifts interact to bring about a legitimacy crisis. Legitimacy crises happen when “people lose confidence in the old regime” (Wilson, 2000, p. 264). In the case of EIEA, a legitimacy crisis occurred because of the confluence of the *Plyler* decision and the increasing immigration stresses. By asking for federal support for immigrant education, legislators in the state of Texas were stating that they no longer had confidence in the way they were expected to educate immigrant children.

Both organizational and policy changes occurred in the passage and implementation of EIEA. The policy change was the passage itself of the legislation in 1984. However, organizational changes occurred as well. These included the addition of administration of funds at both the state and federal levels.

The only stage that is not clear in the development of EIEA is that of power shifts. Power shifts occur when coalitions are formed and reformed as well as when changes in the roles of political officials and legislators change. Although the *Plyler* decision did bring about role changes, these changes occurred primarily at the local level. It is possible that such shifts could be determined with further study, especially with personal interviews.

Like the approach taken in this study, regime theory is based on other theoretical approaches to policy analysis. According to Wilson (2000), “A policy regime model synthesizes the literature and combines a perspective on exogenous factors with a focus on political processes.... It proposes to offer a clearer model of policy change” (Wilson, 2000, p. 255). Wilson compared regime theory to several approaches to policy analysis,

including policy-process and agenda-building, neo-Marxism, punctuated equilibrium, advocacy coalition framework, and state-centered approach.

In this study, I used a similar eclectic approach, which parallels many of the theories that Wilson (2000) examined. For example, policy-process and agenda-building are central to Kingdon's methodology. However, Wilson pointed out that regime theory places more emphasis on systemic stressors than do those of other agenda theorists (Wilson, 2000, p. 270).

Introduced by Baumgartner and Jones (1993), punctuated equilibrium is used to describe long periods of stability interrupted by sudden changes. According to Wilson (2000), these changes can be brought about by the influence of new participants and ideas, the media, policy entrepreneurs, and shifts in public attention (Wilson, 2000, p. 250). Such influences are seen in this study, both in 1984 and in 1994, as views of immigrants and their right to public education and cultural values changed over time. Such shifts are conceptualized in regime theory as policy paradigm shifts. While punctuated equilibrium places the emphasis on influences, regime theory also highlights the definition of the problem as well as the solutions offered. This view is similar to that of my research for which problem definition and solutions are important in determining both the causes of and the values reflected in policy changes related to immigrant education.

The advocacy coalition framework was used by Sabatier and Jenkins-Smith (1993), who suggested that studies of policy change should examine at least 10 years of the policy's history, "focus on policy subsystems, include an inter-governmental dimension, and conceptualize public policies in the same manner as belief systems"

(Wilson, 2000, p. 250). My examination of EIEA included these elements by covering a 30-year history, investigating the concept of borrowing strength, and using a framework that looked at cultural and political value systems. The advocacy coalition framework is also similar to regime theory, although it uses the term “external coalition perturbations” instead of policy stressors. Another difference is that the advocacy coalition framework calls attention to the value of policy learning, which regime theory attributes to paradigm shifts.

The state-centered approach focuses on the state at the center of policy changes. Such an approach supports Manna’s (2006) concept of borrowing strength, which is a central theoretical foundation of this study. In particular, Wilson (2000) specifically mentioned “the role of state resources and capacity in independently developing public policies” (p. 254) as vital to this approach. This approach does not complement the policy regime model because it does not address stressors, paradigm shifts, and power relations. However, the eclectic approach used in this study is able to reconcile central ideas from the state-centered approach while still attending to such factors.

Neo-Marxists and elite theorists focus on the dominant class, class conflict, economic issues, and social policy. Elite theory can describe policy development as gradual with abrupt changes, similarly to the punctuated equilibrium of Baumgartner and Jones (1993). However, elite theorists believe that such changes occur due to economic and corporate pressures, as well as social activism (Wilson, 2000, p. 252). Regime theory may consider such influences to be the stressors necessary for regime change, and the ideology of neo-Marxism is analogous to the policy paradigm of regime theory.

According to Wilson (2000), the eclecticism of regime theory is both a strength and a weakness. He stated,

The strength of the regime model is in its simplicity and its eclectic approach. Policy regime models suffer from the same weaknesses as international regime models. Their boundaries and definitions are fuzzy. It is not clear where state regimes, policy regimes, and sub-policy regimes begin or end. The picture of a policy regime is still murky. Despite our effort at developing a concise definition, there is little agreement in the literature on a definition (Wilson, 2000, p. 272).

The eclectic approach of this study of EIEA is also a strength. The strength is its intertwining of several ideas that, at first, appear to be unrelated but that are actually interconnected. In addition, regime theory shows how many of the prevalent approaches to policy analysis correspond to this study.

This consideration of regime theory also reveals that elite theory and neo-Marxism were not a part of this study. This study of EIEA examined influences that were external and public, such as elected officials and publicly available documentation. Elite theory requires an investigation of hidden, internal factors. Such an examination was beyond the scope of this study and would require more time as well as cooperation from people who are almost 30 years removed from the events.

Policy Recommendations

Although the future of EIEP is uncertain, advocates for immigrant education may be able to protect EIEP or encourage a new policy for the future. These actions can take place at the local, state, and federal levels.

Local action. Although school and district officials may believe that immigrant education is a federal or state issue, EIEP gives LEAs the ability to control how immigrant education is manifested within their local areas. Once Title III monies are distributed, schools and districts have the authority to decide how they want to use the

funds. In addition, the *Plyler* decision allows school officials to focus on education instead of having to enforce immigration law.

In order to support immigrant education, schools can allocate a certain percentage of Title III funds for immigrant education programs. LEAs have the advantage of knowing the local needs of immigrant students. For example, they can know the types of immigrant students that are in the school district, such as refugees, undocumented immigrants, or those not living in a long-established immigrant community. LEAs can then use this information to build on or join forces with local resources, such as social services, to assist immigrant students and their families in their transition (see Fong, 2004).

While legislators are attracted to the flexibility of the current EIEP, it is this flexibility that has allowed the program to become misunderstood as only an English language acquisition program. Stricter guidelines as to how LEAs can spend program monies would ensure that the funds are being used to meet multiple needs of immigrant children.

Also, a program for immigrant students should focus more on the second purpose of EIEP, “to help such children and youth with their transition into American society” (Improving Language Instruction Educational Programs for Academic Achievement Act of 2002, Title III, Part B, Subpart 4, Sec. 3241 (1), 2002). Newcomer schools and newcomer programs often fulfill this purpose, but such programs are rare and underfunded. Improved policy at the local level that attends to both purposes of EIEP may require not only an increase in federal monies but also a restructuring of how such funds are used at the local level.

Locally, children and their parents also have power. Schools and community organizations that educate immigrant families about their rights can encourage the recognition of the strengths of immigrant children, their families, and their communities. Instead of thinking of immigrants as deficient and in need of correction, schools leaders need to build on what students bring to their classrooms (see Freire, 2000; Ladson-Billings, 2005). Immigrant education policy can foster this recognition by funding programs that give families and communities the tools to help immigrant students successfully navigate their new educational and cultural environment.

State action. Because EIEP monies are distributed to SEAs, these agencies hold the responsibility for the shape of immigrant education policy in the state. First, SEAs disburse Title III funds to LEAs and thus set the allocation rules. In order for LEAs to plan for, establish, and support programs that consistently assist immigrant students, they need sufficient stability in the EIEP allocation, both in the amount allotted and in the time that the funds are disbursed.

However, states also need to take the responsibility for developing immigrant education policy that does more than administer federal funds by establishing guidelines or rules that govern how to best serve immigrant students. In addition, states can use their power to influence federal immigrant education policy. As Manna (2006) described, because states hold the license to act, the federal government must borrow strength from state governments.

Federal action. At the same time, the federal government is necessary in that it supplies the funds that support this action. No matter what shape immigrant education policy takes in the future, it cannot achieve a better education for immigrant youth

without the monetary capacity of the federal government. Additionally, immigration policy is a federal concern. Because immigration policy so closely affects immigrant education policy, those interested in education must also be interested in immigration policy.

As LEAs need stability in funding, so do SEAs. Although not all circumstances can be foreseen, SEAs will benefit from a multiyear plan for immigrant education rather than relying on the year-to-year allocation. This will allow states to create immigrant education policy that is lasting rather than temporary.

Immigrant education needs to be distinguished from English language acquisition education. EIEA began as a special program, became a part of bilingual education, and was eventually merged with BEA. While the original framers of EIEA intended the program to be capacity-building and completely separate from bilingual programs, EIEP monies are currently used primarily for English language acquisition education. This practice ignores the many other academic, social, psychological, and medical needs of immigrant students. By removing immigrant education from Title III and restructuring EIEP as a discrete program, policymakers can put immigrant students' needs foremost.

Finally, any new policy should highlight the emergency aspect of EIEP. While districts with steady influxes of new immigrant students are unquestionably in need of federal assistance, smaller LEAs and those in areas that have not been traditionally affected by immigrant students in their communities may require even more help. These LEAs need not only funding for programs but also extensive training and continuing support as they learn to work with these new populations. As all parts of the U.S. become

more diverse, a revised focus for immigrant education will help to provide for this changing demographic.

Conclusion

This historical document and content analysis has shown how multiple factors worked together to open the window that would place federal aid for immigrant education on the government agenda. Proposed as a way to reimburse states for the costs incurred from educating illegal immigrants, EIEA was bolstered by changes in immigration policy as well as shifts in the public mood concerning education, immigration, and the economy. The state of Texas was able to get EIEA onto the agenda by borrowing capacity from the federal government, which, state representatives claimed, must take the responsibility for illegal immigration because the federal government administered immigration policy.

What began as a policy that was exclusively impact aid, which makes it capacity-building, EIEA became more of an inducement as the rhetoric of the legislation focused less on state impact aid and more on programs and results for immigrant students. As the United States moved from valuing equality foremost to making merit the preeminent value, EIEA—and, later, EIEP—took on more characteristics emphasizing the values of quality and efficiency over the value of equity.

With the reauthorization of ESEA forthcoming, understanding the reasons behind the decisions concerning EIEA can help legislators and other interested parties craft a federal immigrant education policy that will meet the needs of today's new immigrant students. This obliges us to recognize recent immigrant children as individuals with unique strengths, histories, and needs. Only when we develop a clear awareness of the

distinctive qualities of these students, particularly within their family and community contexts, can we begin to create education policy that will benefit immigrant students.

This historical examination of federal funding for immigrant education in the United States reminds us that sustaining attention to continuing issues will require policy advocates to be vigilant about all aspects of what is important and to continue to work for what they are trying to achieve. Although shifts may happen in cultural values, public mood, and political leadership, good policy entrepreneurs are adaptive so that their interests are protected, no matter what the cultural or political emphasis.

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