



Four decades after *Castañeda*: a critical analysis of Bilingual/Dual Language Education in Colorado

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Abstract

The *Castañeda* Standard was handed down in 1981. We use this Standard along with Latino Critical Race Theory (Solorzano & Yosso, 2001) and Ruiz’s Language Orientations (1984) to conduct a historical analysis of bilingual education in Colorado from 1976 to 2019 to examine the availability of bilingual/dual language education for Latinx students over four decades. Our historical analysis resulted in dividing Colorado’s bilingual history into four time periods (1976–1981; 1981–2000, 2000–2018 and 2019-present). Findings indicated that other than a brief period (1976–1981) the history of bilingual education and all other program types in Colorado has been oriented toward language as a problem and toward systemic racism with regard to language policies and practices. However, the community also developed resistant capital to maintain bilingual education despite formidable odds. This is particularly true for Spanish speaking Mexican origin children and families. Moreover, we demonstrate that while *Castañeda* had some influence on bilingual education over the past 40 years, it could have had much more if the Standard had been updated over time especially regarding Prongs 1 and 3. We conclude that *Castañeda* needs to be updated and strengthened especially in states such as Colorado with weak oversight and monitoring of programs for EB students.

Keywords *Castañeda* Standards · History of Bilingual Education in Colorado · Systemic racism · Language as a Problem · Colorado ELD Programs

“Once human beings are defined as the problem in public consciousness, their elimination through deportation, incarceration, or even genocide becomes nearly inevitable... This reflects a belief that our nation’s problems could be solved if only people of color could somehow be gotten rid of, or at least better controlled.” (Alexander, 2020, pg. xxxiv).

Introduction

Castañeda v. Pickard is considered the second most important court decision (next to *Lau*) related to the education of emerging bilingual children¹ (also labeled English learners) in the U.S. (Lyons, 1990). In 1981, the *Castañeda* Standard created a three-pronged test determining if a school district's instructional program violates § 1703(f) of the Equal Education Opportunities Act (EEOC) thereby making it unlawful when an educational agency fails to take appropriate action to overcome language barriers that impede equal participation by its students in its schools. The *Castañeda* Standard established that programs for emerging bilingual students must be (1) based on a sound educational theory, (2) implemented effectively with sufficient resources and personnel, and (3) evaluated to determine whether they are effectively helping students overcome "language barriers". The program must reflect these practices and results, not only in language, but in content areas such as math, science, social studies and language arts (Del Valle, 2003).

Opinions about the influence of *Castañeda* on education policy and practice are mixed and varied. Proponents Lyons, 1990; Ovando & Collier, 1998; Ovando, 2003) have argued that the *Castañeda* put some much-needed teeth into the *Lau* decision and provided more specific guidelines for determining program quality. Critics, (Wright, 2010; Del Valle, 2003) have argued that the standard weakened bilingual education because it opened the door to multiple definitions of effective programs for EBs. Roos (2020), a lead attorney on multiple civil rights cases concerning EB students said *Castañeda* "limited his ability to argue for any preferred program since a school district could always find some "expert" to support its educational program." (p. 79).

Del Valle (2003) presents a case study of the Fairfax, Virginia County school district that used the Standard in 1980 to pressure the Office for Civil Rights (OCR) to approve an "English as a second language (ESL)" approach to the education of EBs. This district had resisted OCR insistence on a bilingual program. With emerging bilingual students representing more than 50 language groups, administrators argued that intensive ESL was the only practical approach. Office of Civil Rights relented and allowed an intensive ESL program to meet the standard, thereby popularizing ESL as a promising "alternative method" (Del Valle, 2003, p. 246).

This case study is particularly relevant to Colorado. OCR opened the door for multiple educational approaches to meet *Castañeda*, and allowed for local school districts to set their own standards. Over the last four decades, over 80% of the emerging bilingual population in Colorado and nationally consisted of Latinx students. During that period, school districts have almost uniformly used the existence of multiple languages in their schools as a rationale for ESL over bilingual programs.

¹ Acknowledging that there is no perfect label, we are using the term emerging bilingual (EB) when discussing the population of children who are protected by *Castañeda*. We argue it reduces the emphasis on English, while acknowledging that EB students have a bilingual advantage, and an on-going life-long fluidity in language acquisition. EBs are also labeled English learners.

Purpose

In this study, we examine the history and current state of the *Castañeda* Standard in Colorado. This study demonstrates that most Colorado school districts have minimally complied with the Standard and rarely have been held accountable for the quality of programs for EBs.

Castañeda has had some impact in assuring that EBs in Colorado have some minimal type of language program. However, OCR's liberal definition of Prong 1, as well as federal mandates such as No Child Left Behind (NCLB) and Every Student Succeeds (ESSA), coupled with political movements to limit bilingual education, and benign neglect and systemic racism on the part of the Colorado Department of Education have limited opportunities for emerging bilingual students to participate in bilingual education programs. Throughout this article, we support our assertions through an analysis of the history and current status of bilingual education in Colorado vis-à-vis the *Castañeda* Standard and our theoretical frameworks.

Theoretical Framework

Latino Critical Race (LatCrit) theory (Solorzano & Yosso, 2001, 2002; Yosso, 2005) and Ruiz's (1984) language orientation framework were used as theoretical frameworks for this article. LatCrit (Solorzano & Yosso, 2001) examines how educational theory and practice are used to subordinate certain racial, ethnic and linguistic groups. LatCrit recognizes the role that racism and other isms (sexism, linguisticism and classism) has played in the structuring of schools and schooling practices, but posits that Latinx communities are not victims, rather, they have cultural wealth that has been used across time to create Resistance Capital (Yosso, 2005) to challenge to dominant ideology. Solorzano & Yosso (2002) argue that Communities of Color have historically utilized an array of cultural knowledge, skills, abilities, and networks to navigate structures of racial discrimination in pursuit of educational equity. LatCrit theory argues that in order to challenge dominant ideology we must acknowledge the intersection of race and language and understand that across time, the intersection of language and race have combined to create negative, deficit, and hostile attitudes toward many non-English languages and in Colorado this is especially true for the Spanish language and people of Mexican descent. We argue that the *Castañeda* Standard, even if inadvertently, has supported the dominant ideology which has encouraged acquisition of English at the expense of opportunities for emerging bilingual students to become bilingual/biliterate, and has paid little or no attention to social justice or to teaching the histories of the cultures and languages represented in the state.

We also used Ruiz's language orientations to examine the *Castañeda* Standard in Colorado. In 1984, Richard Ruiz set forth three orientations to language planning: language as problem, language as right, and language as resource. Language as a problem is defined as when a dominant majority language (monolingualism) is valued over the usage of a non-dominant language, wherein the non-dominant language is viewed as a problem to be solved. In many circumstances the non-dominant language is viewed as a threat to a nation's unity. Language as a right acknowledges that language mediates access to society including, but not limited to, employment,

Table 1 40 Years of Castañeda in Colorado

Years	Event	Theme	Alignment to Theoretical Framework – Language Orientations	Alignment to Theoretical Framework – LatCrit Theory
1976–1981	Colorado Bilingual/Bicultural Education Act	Aspiration for Bilingualism/Biculturalism Challenge to state’s policy of local control by mandating bilingual/bicultural education Backlash from conservative administrators to bilingual education and imposition of a bicultural mandate regarding Mexican heritage	Language as a Right	Raced Opposition to Change – The Challenge to a Dominant Ideology – Chicanos take over the state legislature and create a new normal with more state involvement in school and the legislature challenges the moves in the name of local control while implementing other mandates usurping local control.
1981–2000	Colorado English Language Proficiency Act	Language as a Problem – not speaking English needs to be fixed by English-centric programs for identified “LEP” students State mandates English-centric policies Resistance capital – Use state’s mandate of local control to have local policies for bilingual education	Language as a problem	Systemic Racism: Anti-bilingual and Anti-immigrant movements - educational theory and practice are used to subordinate certain racial, ethnic and linguistic groups Resistance capital – local groups organized to maintain bilingual education and use federal courts to enact policy and over-ride the state.
2000–2018	NCLB English for the Children (UNZ) Elimination of Bilingual Education Act English Language Proficiency Act (ELPA)	Language as a Problem – English is the official language of school accountability (NCLB) UNZ English for the Children initiatives pass in Ca., AZ, and MA but NOT Colorado	Language as a problem	Systemic Racism educational theory and practice are used to subordinate certain racial, ethnic and linguistic groups – NCLB and short term bilingual and ESL programs. Resistance capital used to defeat Amendment 31 and force likely “yes” votes to take “no on 31 stances”
2019	ESSA Dual Language Education ELPA Act	Value of bilingualism/biliteracy for a society and nation, but not for all individuals	Un paso pa’adelante, dos pa’tas Language as a resource for monolingual English Language as a problem for all others Systemic Racism	2 districts using resistance capital to implement bilingual programs 2 districts with English medium programs no attention to native languages or cultures subordination theory

healthcare, jurisprudence, voting, education, and media. In the case of Spanish speaking EBs in the U.S., language rights consist of the right to learn English, but not necessarily the right to develop bilingualism and biliteracy. In marginalized communities, learners have marginal rights and marginal resources. Again, they are problems to be solved. Not knowing the dominant language leads to linguistic inequality that leads to social inequality. Conversely, language as a resource posits that multilingualism and cultural diversity are advantageous in a global society. In the language as a resource orientation, language rights are expanded to mean the right to develop bilingualism and biliteracy. “Language as a resource” programs are particularly important for marginalized language groups.

Language as a problem is and has been the prevailing paradigm in Colorado for EB students, and combined with systemic racism directed at students of Mexican descent has created language policies that have had elimination of the problem of non-English languages and their cultures as a goal in order to fix the problem through English acquisition and assimilation.

Research questions

This study addressed the following research questions:

- 1) Over these past 40 years, what types of policies and programs have been implemented to serve EBs in Colorado and how has *Castañeda* influenced program development, implementation and evaluation?
- 2) What does this history reveal about language orientations and systemic racism across time as well as the development of resistance capital?

Methods

The three authors have lived and worked in Colorado in the 40 years since *Castañeda*, often times together for teaching, research, and advocacy. We present here a collective analysis that is both oral and lived. which enhances the documentary and policy analysis also included. Methods to address the research questions included document analysis of the history of bilingual education from legal documents, school district reports, available research articles and the popular press in Colorado and nationally from 1976 to 2019. Due to the impacts of COVID-19 on data collection was halted in 2019. The time periods were divided into various historical timeframes for analysis of language policies, both state and federal, and how these policies and practices influenced language orientations, systemic racism and application and monitoring of *Castañeda*. Included in this analysis is a documentation of the Colorado context with regard to the numbers of EB students, the types of programs they participated in, how these programs met *Castañeda* and whether the state and/or local districts implemented all three prongs of *Castañeda*. Also included is an analysis of the socio-political climate of Colorado at the time. Table 1 (below) is used to organize our findings and relate them to our theoretical framework.

Findings

The population of EB students in Colorado has both changed and not changed over time, and, with the exception of one brief period of time, the orientation to language has been that of language as a problem particularly for people of Mexican descent. Emergent Bilingual students in Colorado schools have grown significantly from 10,000 in 1980 to over 120,000 in 2019. Currently over 280 different languages are spoken in the state, but the population of emerging bilingual students is and has historically been overwhelmingly Spanish speaking (81%) (Colorado Department of Education, English Language Development Guidebook, 2021). Despite the predominance of Spanish speaking students, the CDE has consistently used the ruse of too many languages and too much diversity as a rationale for not promoting policies, programs and assessment practices that encourage implementation of bilingual/bicultural programs. This ruse is supported and amplified by the policy of local control in school districts, the allowance of liberal definitions of Prong 1 of *Castañeda*, inadequate attention to issues of culture and systemic racism and no attention to monitoring program effectiveness.

Overtime, the majority of Colorado districts have chosen English only programs. Given that the overwhelming majority of speakers of languages other than English were and are Spanish speakers, policies and programs to support bilingual/bicultural education were feasible, and often supported by local communities. The fact that policies and programs have been developed with English only in mind point to a policy that deems it fair to ignore the bilingualism of all if you cannot attend to the

Table 2 Growth of Emerging Bilingual Learners in Colorado 1980–2019*

Year	# of Emerging Bilingual Learners	%Spanish speakers	Next Lang /%	%Students Bilingual Programs	% Student ESL Programs	# Districts Bilingual Programs	# Districts ESL/other Programs
1980–1981	10,000	-	-	24%	76%	42	134
1990–1991	20,460	-	-	-	-	-	-
2000–2001	64,090	-	-	-	-	-	-
2003–2004	71,471	-	-	42%	58%	-	-
2004–2005	91,308	-	-	35%	65%	-	-
2005–2006	89,946	-	-	8%	92%	-	-
2010–2011	117,369	81%					
2013–2014	120,393	83.77%	Vietnamese 1.78%	7.9%	92.1%	28	155
2014–2015	122,673	88%	Vietnamese 1.78%	8.1%	91.9%	28	155
2015–2016	124,259	83.4%	Vietnamese 1.78%	7.7%	92.3%	27	150
2018–2019	125,299	82.1%	Arabic 1.9%	-	-	19	150

*Note: We chose to include this table despite the many empty cells for which there are not data. We include the table to illustrate that the lax oversight of CDE in accounting for the programs or services that EBs received and the effectiveness of said programs

bilingualism of some especially when the goal of the program is acquisition of English. And the some in this case are Spanish speakers perceived as Mexican regardless of where their communities are from (Rosa, 2019).

The percentages of the Spanish-speaking students have remained relatively stable overtime, exceeding 80% for those years of available data. Conversely, the second most common language has changed overtime, yet has consistently remained below 2% of the total population. Evidence of an anti-bilingual bias, and anti-Spanish bias, can be discerned by comparing the percentage of Spanish speaking emerging bilingual students (over 80%) with the percentage of Spanish speaking students in bilingual programs (under 7%). In light of these numbers, the arguments against bilingual programs because there are too many language groups appear to be specious at best. Further, the latest version of the ELL Guidebook (2021) published by the Colorado Department of Education, states, “This increase in the number of EL students in our schools has profound implications for how schools structure and deliver educational services” (p.10). However, rather than advocate for additive bilingual programs for the majority of EB Spanish students in the state, the guidebook requires, “The effective acquisition of academic English to promote student achievement will be a priority regardless of the LIEP (Language Instruction Education Program) selected” (p. 8).

When *Castañeda* was first handed down, there was scant research related to program effectiveness for EBs. For this reason, the court’s decision simply called for a program based on a sound educational theory even if it was experimental (Prong 1). Many in the field knew that this allowance was problematic, but hoped that efforts to fully implement Prongs 2 and 3 would compensate for the weakness of Prong 1 (Roos, 2020). Across time research, especially with regard to Spanish speaking emerging bilinguals has grown and is now quite robust and undisputed in favor of bilingual approaches (August & Shanahan, 2006; Genesee, Lindholm-Leary, Saunders, & Christian, 2005; National Academy Press, 2017; Slavin & Cheung 2005; Umansky & Reardon, 2014; Valentino & Reardon, 2015). Judging by the language policies and programs in place, neither Colorado School Districts nor the Colorado Department of Education has kept up with the research, nor applied it. As race and language collide, the growth of the number of Spanish speaking EBs has seen an increase in hostility, xenophobia, and overt racism against Latinx communities in the state (See for example Donato 2007) for an historical analysis of the origins of racism against Mexicans in Colorado). Ironically, the more we have learned about the effectiveness of bilingual education, the fewer programs have been implemented. Emerging Bilingual learners have been and are primarily in short term English medium programs reflecting a language as a problem orientation, while little attention to developing bilingualism/biliteracy and with little attention to systemic racism.

From 2014 to 2019, the numbers of districts offering bilingual programs decreased by over 30%, from 28 to 19 districts. Kendi (2019) posits that, “For too long we have focused on changing people from racist to non-racist. To be antiracist we must focus on power instead of people, and on changing policies rather than people” (pg. 11). We concur and add that, it is both a racist policy and practice that the more we know about the effectiveness of dual language and bilingual education, the fewer EBs have access to those programs. In the sections that follow, we present a somewhat contradictory history in the state. One the one hand, we document how racism and

linguicism have played out over the course of the past 40 years in Colorado and have impeded the implementation of additive programs for emerging bilingual learners across the state and at the same time we demonstrate how Resistance Capital in the form of community advocacy (Yosso, 2005) has played a role in maintaining additive programs in some parts of the state.

1975-81: the Colorado Bilingual Bicultural Education Act: potential and lost opportunity

The 1975 Colorado Bilingual Bicultural Education Act (CBBEA) was passed and it was sociologically, educationally, and politically unique. Although 1975–1981, predates *Castañeda*, we include it, because the language policy orientation that created the CBBEA, was language-as-right and social justice oriented and demonstrated the Resistance Capital that was emerging in Colorado at the time. It was propelled by the activism of the community-led Chicano movement. The 1975 statewide elections created a majority of Democrats in the state's House of Representatives and added Democratic seats to the State Senate. The newly-elected majority named Rubén Valdez, a Chicano activist, as Speaker of the House. Valdez engaged in Chicano movement efforts to address and combat systemic racism at all levels of Colorado life making the CBBEA a priority for the 1975 legislative session. When passed, the CBBEA became “the legislative coup of the year,” creating kindergarten through third grade bilingual and bicultural education programs across the state where public school student populations of emerging bilingual students reached a threshold number (Earle, 1981). The policy of the state of Colorado became “to insure equal educational opportunity for every student and to recognize the educational needs of students with linguistically different skills.” (H.B. 1295, CRS 22-24-108). Described as the most comprehensive law of its type in the country, Barbosa (1982) attributes four factors to its passage; (1) it was established by a coalition that included, educators, community representatives, activists, and legislators; (2) the Colorado House of Representatives shifted from a Republican to a Democratic majority; (3) political alliances and power brokering; and (4) pressure from the public.

Despite its passage, the bill was bitterly contested and remained in a battle for political and economic survival for the next six years. The CBBEA's key components included the creation of a bilingual education steering committee at the state level, a bilingual education program unit at the state level to provide supervision, and monitor implementation. Requirements included that districts conduct an annual student census to establish funding levels, that they constitute parent advisory committees at the district level, and that they submit an annual comprehensive report including evaluative data (Barbosa, 1982). The CBBEA, supported by the Chicano Education Project, was unpopular among the white, English-speaking, primarily Republican, legislators and policy makers. The bill was attacked because its opponents thought it represented a legislative overreach and violated local control of educational school districts guaranteed by the Colorado constitution. Traditionally, the role of the Colorado legislature in education was to assure the provision of funding. The CBBEA however, not only encumbered state dollars, but required an explicit program and

established state supervision over district compliance previewing in some respects *Castañeda*.

During its short six-year life, the CBBEA succeeded in creating bilingual programs in 24% of Colorado school districts (42 out of 176) serving approximately 57% (5,709) of the state's emerging bilingual students (Smiley-Marquéz, 1985). Further, evaluations of bilingual programs found them to be successful. However, statewide, a political shift in power from a Democratic to Republican controlled House in 1980 signaled the end of the CBBEA, and new language policies reverted program development and implementation power back to school districts.

This pre-*Castañeda* period illustrates the impact of community-led efforts on official state policy and how the language-as-right, orientation was embraced by the state to effect *Castañeda*-type educational reforms. The CBBEA resulted from community efforts to battle racism. This act is important as its orientation was toward Ruiz's language-as-right, and the use of the term "linguistically diverse skills" incorporated as part of the legislature's intent, carried a positive connotation of Spanish speakers in Colorado. Further, related to LatCrit's tenets, the title of the act, "The Bilingual Bicultural Education Act" signaled a challenge to the dominant ideology of assimilation for Mexican-American and Chicano children and disrupted deficit notions that speaking Spanish and being brown were negative attributes. The brief period of time that Chicanos in Colorado had significant power in the state legislature also illustrated the potential power of building resistance capital to challenge the role of the state legislature in the creation of educational policy and signaled that the state had a responsibility to address social justice issues.

1981–2000: The English Language Proficiency Act (ELPA), Anti-Bilingual and Anti-Immigrant Movements

In 1981, the Colorado legislature repealed the state's CBBEA. Its replacement, the English Language Proficiency Act (ELPA), made Colorado the first state to rescind a mandate for bilingual bicultural education (Adcock, 1989). The term "students with linguistically diverse skills" was replaced with the deficit-oriented terminology of Non-English Proficient (NEP), Limited English Proficient (LEP), and Fully English Proficient (FEP) (terms the federal government created around the same time period) (Adcock, 1989). ELPA was the antithesis of the CBBEA and remains in effect today. While CBBEA required a program of bilingual bicultural education, ELPA did not require any programs at all. *Castañeda* did not impact the drafting of ELPA, and replaced a mandate with a voluntary statute. The statute negated language as a right and resource through policy that made English acquisition the exclusive focus in programs for EBs. Under this act, school districts could apply for 2-year funding to serve students labeled as EBs, choosing any type of instructional program to serve identified students. The only accountability requirement was that districts had to report that they had spent ELPA funds only on eligible students.

Programs under this act were narrow, language-oriented programs with a focus on pull-out options rather than integrated content area approaches (Adcock, 1989). The CBBEA included provisions that required bilingual programs to be approved, district

shad to hire qualified teachers, and bilingual directors; they had to get community and parent in-put and evaluate their programs for effectiveness. This was all eliminated by ELPA. The CBBEA could have met the *Castañeda* Standard, but ELPA could not.

Adcock's (1989) examination of ELPA found it replaced the CBBEA as a result of: (1) Xenophobia as evidenced by comments from key legislators and the general public; (2) A push for school district's local control; (3) Funding needs for all language groups not just Spanish; and (4) Non-bilingual teachers' fears of being pushed out of the profession if they weren't bilingual. The sole emphasis of ELPA was to eradicate the "language problem" of "LEP" students in two years thereby creating an educational policy and practice used to subordinate all language groups in Colorado and deny them of opportunities to become bilingual, biliterate and cross-culturally competent.

Despite *Castañeda*, and as a result of ELPA several questionable and ineffective programs and practices for emerging bilingual students were implemented, which sadly still dominate state programs for EBs today. These include: (1) The ubiquitous implementation of the ESL pull-out programs (now called ELD) requiring only 30–45 min of daily support for identified students; (2) The lack of staff development for teachers of EBs; (3) The failure to require districts to establish any types of goals for their programs and/or have programs approved in advance of receiving money; (4) The significant decrease in the role of the Colorado Department of Education in monitoring programs for EBs except for expenditure auditing; and (5) No criteria to measure the effectiveness of a district's program. There was little in the ELPA legislation fulfilling *Castañeda* with the possible exception of providing minimal funding. Particularly problematic was the elimination of any attention to multicultural education, inattention to content area teaching as a part of ESL instruction, and the lack of parent involvement. ELPA set into motion problematic practices and inattention to program quality and outcomes that endure in 2021.

To be fair, Adcock (1989) concludes that, because of local control, some school districts chose to keep their bilingual education programs. However, the total number of districts offering bilingual programs dropped from 42 to 1980 to 28 in 2013 and to 19 in 2019. Those continuing to implement bilingual students were located in areas with strong organized community support, as well as school board and administrative support which is evidence of the resistance capital accumulated by these communities over time. Colorado also had numerous federally funded Title VII bilingual programs, and Denver Public Schools (DPS) used a desegregation court order to achieve federally mandated bilingual education (*Keyes v. School District No. 1*, 1983).

The *Keyes* case is particularly important because Denver has always had the largest number of emerging bilingual learners in the state, over 75% being Spanish speakers. The Congress of Hispanic Educators (CHE), plaintiffs in the *Keyes* case in the area related to language, demonstrate the importance of community advocacy. In 1980, CHE filed a complaint against DPS claiming that the district did not have adequate programs for students labeled as "Limited English Proficient." The negotiated settlement in 1983 resulted in the following mandates: (1) A procedure for identifying and assessing students; (2) Standards for teachers and aides; and (3) Programmatic standards. Parents of identified "LEP" students could review the resolution and file

objections to its contents. Lawyers for CHE used *Castañeda* to argue for the plaintiffs (*Keyes v School District No. 1*, 576 F Supp. 1503D. Colo., 1983).

As CHE was using its resistance capital to mandate bilingual programs for children in Denver, Colorado voters mandated its xenophobia in 1988, when they approved a constitutional amendment to make English the official state language (Colorado Constitution, 1988). This occurred at a time when many states nationwide were also enacting official language initiatives.

In 1990, while the number of emerging bilingual students in Colorado grew to 20,460 (double the number from 1980), ELPA funding remained constant providing districts with less financial support per child. Frustrated with lack of Department of Education leadership, Colorado community organizations, including CHE, the Colorado Association for Bilingual Education (CO-CABE), and the Associated Directors of Bilingual Education (ADOBE), increased advocacy efforts, and in 1995, ADOBE filed a complaint with OCR against CDE alleging that the state had discriminated against children labeled as “limited English proficient” by failing to provide leadership for school districts in how to educate these children. The *Castañeda* Standard provided support for the complaint and its resolution.

In 1996, CDE and ADOBE entered into an agreement (Early Complaint Resolution, 1996) that required: 1) The creation of a manual of procedures for developing effective programs; 2), The identification of assessments in English and other languages to be used in determining language proficiency and academic achievement; 3) Resources for program design and evaluation to fulfill school district obligations under federal and state law; 4) Teacher training and credentials including professional development; 5) Communication with parents; and 6) Mandatory reporting requirements. The agreement called for CDE to provide technical assistance to all school districts in designing, implementing and evaluating programs for EBs and to create an annual summary of progress using district data to assess the quality of programs and outcomes for EBs in the state. Implementation of this agreement over the past 25 years has been sporadic at best. Nonetheless, it illustrates that professional community had developed resistance capital to challenge the state ELPA policies and advocate for policy that surpassed the status quo (Yosso, 2005).

During the 1990's, more immigrants arrived in the United States than during any other prior decade (most from Spanish speaking countries). As a result, the number of public-school students needing language support dramatically increased (Bureau of U.S. Citizenship and Immigration Services, 2001). Bilingual education became one of the most controversial education programs in Colorado and the US. Emerging research of this era supported the efficacy of bilingual education over English-only approaches (Ramírez et al., 1992; Thomas & Collier, 1997), however, there were also critics arguing that bilingual education was ineffective. Critics claimed that bilingual programs were not teaching English quickly enough, that there was too much emphasis on maintaining ethnic cultures, and that bilingual programs were a waste of money (Pedalino-Porter, 1998; Baker & Rosell 1996). Because the majority of EB students were Spanish-speaking Latinos, the words Latino and emerging bilingual became conflated in the popular press and even in the research literature (Rosa, 2019). This conflation continues today, contributing to false impressions that all emerging bilingual students are Latinx, and all Latinx students are emerging bilin-

goals, neither of which is accurate. The racism in the 90s, directed at Latinx people, in general, and Spanish speaking Latinx, in particular, made emerging bilingual students and their families scapegoats for everything from low test scores in schools to urban decay (McKanders, 2010). Ironically, CDE's statistics indicated that more than two thirds of Latinx students in Colorado schools identified English as their only language. There was a clear intersection in the policy and practice between language and ethnicity with the assumption that all issues related to schooling and Latinx students in Colorado could be solved if the schools only addressed the "language issue" especially the problem of speaking Spanish.

In Colorado in the 1990s, the debates about the efficacy of bilingual education were prevalent and hotly debated by policy makers, practitioners, and the popular press. The deficit orientations about language and culture reached a fevered pitch. An initiative to implement Standards Based Educational reform (Standards and Assessment in Schools, 1993) was passed. Standards based reforms were important for several reasons. First, they made a mockery of the state's previous local control policy in that it mandated standards-based reform for all districts and imposed the same assessment system (the Colorado Student Assessment Program (CSAP)) for all students in the state. There was no option for local control. Districts could not opt out. The first draft of the Colorado Student Assessment Program (CSAP) was all in English creating concern about the continuation of bilingual education. Because of the 1996 *ADOBE v. CDE* agreement and the continued implementation of bilingual education in the state, ADOBE and CO-CABE once again used their resistance capital and demanded that CSAP assessments be developed in Spanish. In a compromise with the community groups, CDE agreed to create Spanish assessments for third and fourth grade in reading and writing. This compromise enabled school districts to maintain their bilingual education programs. Opportunities for Spanish assessment facilitated research that would demonstrate that Spanish speaking emerging bilingual students in the state were frequently outperforming their English-speaking peers on high stakes states (Escamilla, Chávez, Mahon, & Riley-Bernal (2003); Escamilla et al., (2005) and therefore could not be the source of low achievement in schools.

When CSAP data were first reported to the public, CDE reported a large and persistent gap in achievement between Latinx students, Spanish speaking EBs and other Colorado students. Reports to the public by CDE officials attributed this perceived gap in achievement to "language handicaps" in general and to bilingual education in particular (Lenhart, 2003; Mitchell, 2002). Describing emerging bilingual students with "language handicaps" is perhaps the ultimate language as a problem label. Adding to this persistent orientation, Olvera (2003), a reporter for the Denver Post wrote an article titled, "Minority students improve, fewer taking test in Spanish," as evidence that the Standards Based Reform efforts of the late 1990's were beneficial for Colorado's emerging bilingual and Latinx students. The reporter insinuated that if fewer students took the Spanish test, it was evidence of improvement.

In the 1990's attempts were made to eliminate bilingual education in the Denver. In 1995, the school board made an unsuccessful appeal to be released from the 1984 court order and in 1999; the court approved an updated transitional bilingual program called the ELA (English Language Acquisition Program) that included a monitoring component (Consent Decree, *Congress for Hispanic Educators vs. School District*

I, 1999). The title of the new program (English Language Acquisition) had a language as a problem orientation, however, given that the school district had asked to eliminate bilingual education entirely, it is notable that the Congress of Hispanic Educators (CHE) and Padres Unidos² (another Denver local community group) demonstrated once again their resistance capital as they sought out the legal expertise, the research results, and the community involvement that worked to keep some form of bilingual education for the district. Notable in this effort was that attorneys for CHE invoked *Castañeda* to argue for the continuation of bilingual education.

In 1999, the ELA program set out two options: Transitional Native Language Instruction (TNLI) and English as a Second Language (ESL). Unlike many school districts with a large number of EBs who choose to offer only ESL, DPS, as mandated by the court, implemented a variety of programs to serve EB students of multiple language groups. Parents could choose which program they wanted for their children. A limited form of bilingual education was preserved, but as the name states, English was centered in the plan. Notably absent was any attention to culture and the criteria for program efficacy was defined to be the number and percent of students meeting redesignation criteria rather than any achievement on academic outcomes.

The 1990's also saw Latinx community groups unite to oppose the anti-Latino, anti-Spanish sentiments in the state. In Denver, this resistance to oppression was manifested in the development of The Alma Curriculum and Teacher Training Project, which produced a cultural curriculum called, "Alma de la Raza." This project was made possible with funding from a Goals 2000 Partnership for Educating Colorado Grant. Its goal was to have teachers in the district develop instructional units (PreK-12) on the history, contributions, and issues pertinent to Latinos and Hispanics in the southwestern United States. Each instructional unit was informed by the best scholarly information available, designed to provide a cultural infusion into the daily standards-based lessons. The collection of units aspired to broaden a teacher's ability to teach a more inclusive and accurate curriculum through a literacy-based approach. More importantly, it honored the cultural and historical contributions of various ethnicities represented in DPS (Denver Public Schools Alma de la Raza project, 1998). This curriculum illustrated a concerted effort of various community groups and teachers to create a culturally responsive curriculum, challenging a dominant ideology about the history of Latinx people in Colorado and to teach for social justice. Sadly, while the "Alma" curriculum is currently catalogued on the DPS materials website and is available to teachers, it has yet to be implemented in schools and classrooms.

During the 1980's and 90's the number of districts offering bilingual education programs in Colorado decreased from 42 to 28. Policies and practices continued to reflect the systemic racism in the state and the language as a problem orientation. The various advocacy groups mentioned above successfully mitigated initiatives and policies targeted at eliminating bilingual education, and challenged the anti-Latino xenophobic attacks and sentiments on the Latinx community. The *Castañeda* Stan-

² Like CHE, Padres Unidos is also a community and civic activist group, now called Padres y Jóvenes Unidos. It was organized in the early 90's to fight for social justice for the Latinx community and in the schools.

dard seems to have played a very significant role in Denver to maintain its bilingual programs, but played a small role in bilingual education in the rest of the state.

Perhaps it's the spirit of *Castañeda* that inspires community action to preserve bilingual education even if *Castañeda* per se is not invoked or cited. The hegemony of English which manifests policies supporting that any language other than English and especially Spanish are problems, requires propaganda to be upheld (Shannon, 1995). The rationale behind English only policies and implementation have become what Gramsci (1971) calls “common sense.” Without guidance from what research and scholarship tells us about bilingualism, society simply takes ideas for granted (“common sense”) along the lines of “we need a common language” or “one standard language unites us” or “you need Standard English/Spanish to succeed in the world.” Gramsci argues that a language policy (or any policy) should be about “good sense” or that is, policy and practice that are based on sound theory and research (Crehan, 2016; Ives, 2009). Then “good sense” ideas can flourish such as “knowing and regularly using more than one language has cognitive and social benefits” (Bialystok, 2001), or “when you learn an additional language it enhances what you know and can do in the first language and therefore should be maintained and not abandoned” (García, 2009), or “language and identity are intertwined as are languages and identities” (Anzaldúa, 1987).

2000–2019: English for the children, NCLB, and the elimination of the Bilingual Education Act

The end of the 20th century and the beginning of the 21st brought two converging forces to the debates on the education of EBs in the U.S. including Colorado. One was the No Child Left Behind (NCLB) authorization in 2001. The other was the English for the Children movement to abolish bilingual education through state ballot initiatives. Together they created an environment hostile to bilingual education in different but equally powerful ways.

NCLB eliminated the Bilingual Education Act (BEA) of 1968, eliminated any federal focus on bilingual education. For example, the Office of Bilingual Education and Minority Languages Affairs (OBEMLA) was renamed the Office of English Language Acquisition (OELA) and the National Clearing House for Bilingual Education became the National Clearinghouse for English Language Acquisition (NCELA). These “bilingual” sweeps at the federal level served to center “English.” However disconcerting the policy changes were, the real threat to educating EBs was the high stakes testing program offered almost exclusively in English.

NCLB³ was meant to hold schools accountable for student achievement as measured by standardized tests in English Language Arts and Math. The yearly assess-

³ NCLB was reauthorized in 2015 as the Every Student Succeeds Act (ESSA). Enacted to presumably address critiques of NCLB, ESSA ultimately released the federal oversight for the education of all students including emerging bilingual Latinx students and gave control and discretion over to the states. In his analysis of this move, Black (2017) argues that “the ESSA boldly presumes that states will voluntarily improve educational opportunities for low-income students despite their historical tendency to do the contrary” (p. 1309).

ments determined if schools met Annual Yearly Progress (AYP). Failure to make AYP resulted in punitive consequences to schools. Although NCLB was federally mandated, how it was interpreted and implemented varied from state to state (Davidson et al., 2015). In Colorado, EBs were held accountable for achievement in English, just like their monolingual English-speaking classmates. NCLB resulted in the elimination of additional bilingual education in some districts. In 2000, Shannon directed the Colorado Consortium of Dual Language Programs and one rural district had five schools in the Consortium all of which ceased to exist after NCLB.

National scholars noted that high-stakes English testing limited access to bilingual education programs for EBs as schools felt compelled to accelerate students to English proficiency at the expense of sustaining and developing their home languages (Menken, 2008; Menken & Solorza, 2014). Other scholars argued that NCLB's English testing policy amounted to raciolinguistic abuse (Alim et al., 2016; Flores & Rosa, 2015; Rosa, 2019; Poza & Shannon, 2020) further argued that

[T]he shift from bilingual education as a way to meet the needs of a special group of students to English-only, test-based approaches continues identifying the problem as residing in the students, then puts in place testing that has the effect of disciplining and punishing them, a Foucauldian twist of fate. (p. 57)

.Concomitantly during this period, the English for the Children movement began in California when a wealthy, aspiring politician, Ron Unz, campaigned on the premise that immigrant parents wanted English-only in the schools, not bilingual education, hence the title "English for the Children" – a seemingly proposition. California was the first state to pass an Unz initiative in 1998 amending California state's constitution and severely limiting school district's abilities to implement bilingual education. This law was repealed in 2016. A similar measure passed in Arizona in 2000 and Massachusetts in 2002. This movement, seeking to eliminate bilingual education and replace it with a one-year English immersion program was brought to Colorado. In Colorado, proponents of movement attempted to put an initiative on the Colorado ballot in 2000, but community-based activists appealed to the Colorado Supreme Court to keep the initiative off the ballot for false and misleading language and won that appeal illustrating yet another example of resistance capital.

A former Denver school board member then teamed up with Ron Unz to get an amendment on the ballot in 2002. The English for the Children initiative, known as Amendment 31 in Colorado, was voted on and defeated in the 2002 election. Colorado was the first and only state to defeat an Unz initiative.

The history of the defeat of Amendment 31 was chronicled by Escamilla et al., (2003) and while it is beyond the scope⁴ of this study to revisit the entire campaign,

⁴ Readers, particularly those outside of Colorado, might know about Amendment 31 and its defeat in Colorado from publications about the English for the Children movement that have appeared over the last two decades. We have come to realize that observations that Crawford (2004) made at the time of the defeat have developed into a meme and are repeated whenever the Colorado case is mentioned. He focused on one television ad that he interpreted as playing on racist fears of white voters. The ad, titled "Chaos in the Classroom," warned viewers that if Amendment 31 passed children who know little English

there are aspects of it that are germane to this study specifically the importance of broad-based coalition building. The No-on-31 campaign coalition included civic, political, educational experts, advocates and parents. Together these groups created a single unitary message that resonated with voters to defeat the amendment. These included English-speaking white parents working together with Spanish-speaking mostly Mexican parents from dual language schools.

No-on-31 motivated various communities to work toward defeat. As part of the campaign, a march took place at a Denver city park that included representatives from all the dual language programs in Colorado. The dual language proponents (parents, teachers, administrators, university faculty) put forth a united front. Collectively they wanted to preserve bilingual education.

To challenge assertions that immigrant parents did not want bilingual education, Shannon & Milian (2002) conducted a survey of parents in the dual language schools. With four school districts and ten schools participating, a total of 1043 surveys were completed and returned. Given the choice of which language they wanted to respond in, 54.7% chose Spanish and 45.3% chose English. Responses were strongly in favor of bilingual education. Parents responding in Spanish overwhelmingly cited the value of bilingualism as the reason for having their children in dual language programs. In Colorado, Unz's claims about what the immigrant parents wanted, were simply not true.

Defeat of Amendment 31 provided Colorado an opportunity to revisit Castañeda, to improve bilingual education where it already existed, and design promising new approaches. However, without the momentum and community that a political battle creates, and with the albatross of NCLB, it did not take long for English to shift back to center stage.

The influence of Castañeda: the Denver Public Schools

Ironically, with or without the Amendment 31, Denver Public Schools was under a federal court order to provide bilingual education and would have been mandated to continue to comply with the federal court order even if Amendment 31 had passed. The DPS mandate, based on *Castañeda*, has continued its bilingual programming through the 21st century. In 2012 DPS, together with Padres Unidos and CHE, developed an updated version of Bilingual Education for DPS (Consent Decree, 2012). While we consider this new agreement to fall in the language as a problem orientation, it did contain updated references to research and programmatic implementation including language that, "it takes five to seven years for [English language learners] to acquire academic English language proficiency," it supported a "late-exit

would be in regular classrooms. Crawford's original interpretation included "If you can't beat racism, then try to exploit it." Also, the ad was paid for by a \$3 million donation by a white mother of a daughter in a dual language program. Using this scant information, Crawford and those who refer to his indictment on Colorado, have painted a provocative and compelling etic depiction of the campaign that is inaccurate and wrong. We consider Crawford and those who refer to the meme, colleagues in the field of bilingual education. However, none were in Colorado at the time, nor involved with us in the campaign. For an emic picture, we invite you to read, "Breaking the Code" (Escamilla et al., 2003).

approach” in which core academic subjects are taught “through both Spanish and English for as many grades as the school district can support, ideally through the end of high school.”

In an interview with the Denver Post (Carroll, 2013), Superintendent Tom Boasberg said, “We think the research supports a gradual shift to English, not an abrupt zero Spanish approach.” He further said, “We welcome bilingual approaches.” “Being bilingual is an incredible asset.” The School Board was unanimously behind the update as was the Superintendent, CHE and Padres Unidos.

2021: four decades later: Un paso pa'lante, dos pa'tras

When reflecting on this history, we discovered one main through line that was unexpected. With or without *Castañeda*, the survival of bilingual education, even if it is not widely implemented in Colorado, has always depended on a small group of community advocates and leaders whose tenacity and perseverance over the years has enabled some form of bilingual bicultural education to be implemented despite enormous hurdles that especially speak to the ever present view of language-as-a-problem and the systemic racism that sees Latinx people in the community (including those who only speak English) as problems in need of assimilation. This community activism and advocacy is a result of resistance capital built over the past 40 years.

We owe a debt of gratitude to Rubén Valdez and Corky González in the 1970's for their work to pass Colorado's first bilingual bicultural act (CBBEA) and to the Crusade for Justice's fight against institutional racism in Denver. In the 1980s and 90's, when the CBBEA was repealed, we owe a debt of gratitude to the Colorado Association for Bilingual Education and the Congress for Hispanic Educators for standing up for the language rights of children in Denver and for ensuring that some form of bilingual education has been offered to Spanish speaking children in Denver since 1984. We owe a debt of gratitude to the BUENO Center for Multicultural Education⁵ and to local school districts in Colorado who continued to advocate for bilingual education and to seek out funding so that districts could continue bilingual education. We owe a debt to the Associated Directors of Bilingual Education for the work they did in the 1990's to force CDE to at least minimally attend to the academic and programmatic needs of EBs. The enormous debt owed to the leadership created to defeat Amendment 31, along with CO-CABE in 2002, cannot be overstated. This initiative not only prevented the elimination of bilingual education in Colorado, but since its defeat in Colorado, no similar initiatives have been proposed in other states. Moreover, CO-CABE helped to write and pass a Seal of Bilingual Bill that passed the state legislature in 2017 (Colorado SB17-123, Seal of Bilingual for High School Diplomas). Small but dedicated community groups have worked at times against

⁵ The BUENO Center for Multicultural Education at the University of Colorado, Boulder is a research and training center that is an arm of the School of Education at the University. Since 1976 the BUENO Center has provided Technical Assistance to local school districts in writing and obtaining grants to implement bilingual programs in the state. It has also served to prepare thousands of bilingual/ESL teachers in the state and has done evaluations on bilingual and other programs for emerging bilingual learners in the state, and has conducted research in the field.

overwhelming odds to ensure the continuity and opportunity for bilingual education in Colorado. Despite this effort, much remains to be done and there is ample evidence that many in our community continue to see language as a problem and perceive Spanish speakers as a threat to our state. There are still too many in our community who espouse accolades for bilingual biliterate skills, but think that the role of the school is to focus on teaching English to EBs and this attitude is supported by the continued focus in schools on high stakes tests. There are those who see the Seal of Bilinguality and similar academic achievements as favoring English speakers who have access to the full range of resources to achieve this Seal whereas Spanish speakers may not (Subtirelu et al., 2019).

We determined that *Castañeda* has largely not been used, or evoked in policy or practice debates, but we think it could be. For example, unlike 1981, the question about the effectiveness of bilingual education is no longer debatable. In 2021, it is settled science that bilingual education programs are the most effective programs for EBs. Moreover, we know that the use of a student's non-English language is beneficial in English medium programs also. Despite this evidence, in its 2021 guidebook, the Colorado Department of Education did not include any references to research effectiveness.

In 2021 Colorado reported a total of 125,477 EBs, of whom 100,758 are Spanish speakers. Over 280 languages are spoken somewhere in Colorado, however 81% speak Spanish. The next largest language group is Arabic with 2,270 students (1.8%) of the population (ELL Guidebook, pg. 2). Rather than invoke the first prong of *Castañeda* (sound theory and research) to promote the effectiveness of bilingual programs, the state retains its argument that the existence of many language groups is a deterrent to bilingual education. Research that did not exist 40 years ago now exists and we need to use *Castañeda* to advocate for programs based on sound theory and demand that the state update its guidance to districts. It is unacceptable, in 2021, to approve programs with disproven effectiveness, or to allow a lax interpretation for program effectiveness, especially English medium programs. Settled science along with community advocacy must be used to strengthen programs for EBs.

Many Colorado school districts state that they would implement bilingual programs if they could find qualified teachers. This speaks to prong 2. Writing about the shortage of bilingual teachers, Hakuta (2011) states,

Good bilingual education is difficult to mount because of the shortage of bilingual teachers. You cannot have bilingual programs staffed by teachers taking Spanish classes at night any more than you can have planes piloted by crews who are learning navigation during their off-duty hours. That is why *Castañeda* was so appealing to me, with its combination of a theoretical premise with implementation followed by evaluation. It encourages efforts to improve programs. (p. 166)

Adequacy of resources as outlined in Prong 2 speaks to the critical need for programs to have well prepared educators. The state of Colorado working with local school districts could set goals to produce more bilingual teachers so that more bilingual programs could be implemented.

Prong 3 of *Castañeda* needs to be an area of focus as it requires that programs for EBs be effective. This Prong has been widely ignored, by federal, state and local agencies. As a result of high-stakes testing students in our state (especially EBs) have taken more tests and assessments in the last 20 years than in any other time in the history of the state. Since 2010 school districts and schools have received letter grades rating them as high or low performing based on testing outcomes. Predictably, the state annually reports low achievement and wide gaps for Latinx children and particularly EBs. The stakes attached to school ratings could not be higher, as schools ranked in the lowest category for three years can be closed and/or taken over by the state. Emergent Bilinguals, poor children and children of color are frequently blamed for low outcomes, however not once has prong 3 of *Castañeda* been evoked to ask school districts to account for their instructional programs for EBs and whether low-quality programs may be the cause of the gap. The “gap” illustrates the 21st century version that language is a problem. Further, systemic racism lives on in current policy that attributes low achievement in schools to bilingual programs, yet but the ubiquitous implementation of ESL programs, with similar or worse outcomes is never challenged.

To conclude, we offer brief examples from four local school districts to illustrate that despite the two decades of state-mandated high-stakes testing that all districts must comply with and that indicate that the state’s schools are failing emerging bilingual students, the state continues to implement a policy that allows districts to choose any program for EBs they choose, paying little or no attention to the *Castañeda* with the exception of Denver. To illustrate the disparity in program implementation, and outcomes, we present brief profiles of four local school districts.

In Profile #1, 55% of the students are Latinx, and 90% of the EBs are Spanish speaking, yet the district claims that they can only do English language development (ELD) because there are 130 different language groups (a familiar refrain). Sadly, 77% of the EB students in middle school are labeled “long-term English language learners”⁶ and overall, the district is not a high performing school district.

In Profile #2, ESL was the chosen program from 2008 to 2014 in spite of evidence that this program would be ineffective with the students in the district and in spite of objections from the community (who wanted bilingual education). This district has the highest percentage of EBs (45%) in the state of which 90% are Spanish speaking. It has been rated among the lowest performing school districts in the state and is the only district to have been taken over by the state for low performance. Since 2008 the district has flip-flopped between all English (2008–2014), to bilingual programs (2015–2018), to a proposed return to bilingual and English-only programs (2018–2019). In addition to the inconsistency of program implementation, the district has been found by OCR to be guilty of creating a hostile environment for Latinx children

⁶ Long Term English Learners are defined as students, in US schools for more than six years, who have not reached sufficient English language proficiency to be reclassified as fully English proficient. (Olsen, 2010) They have distinct language issues, including: high functioning social language, very weak academic language, and significant deficits in reading and writing skills. The majority of Long Term English Learners are “stuck” at the Developing level of English proficiency or below, although others reach higher levels of English proficiency without attaining the academic language to be reclassified.

and their families and guilty of overt discrimination on two separate occasions (2014 and 2019). The state takeover of 2019 was due to low test scores.

Profile #3, a mountain school district with many Spanish-speaking EBs, has chosen to implement two-way dual language programs in seven of its ten elementary schools and to work toward a language-as-a-resource orientation. In this district, 32% of the students are EBs. The district's language policy promotes bilingualism as an asset and beneficial for all students. The strategic plan (2019) for the district includes multilingualism. The plan states that the district: "Encourage(s) multi-lingual opportunities across the district so that every graduating student can speak multiple languages." The district also espouses support for culturally relevant pedagogy and practices. While only recently becoming an official bilingual school district, this district embodies the potential of bilingual programs in Colorado.

Profile #4 is Denver where thanks to the tenacious efforts of the community, some type of bilingual education has been implemented over the last 40 years. Denver Public Schools is the state's largest school district and enrolls 90,000 students of whom 36% are EBs, and 81% are Spanish speakers. Because of its modified consent decree DPS has mandated teacher preparation for all bilingual and English language development teachers, and there is a court monitor to evaluate program implementation and compliance. It is one of the only districts in the state to utilize the option to test students bilingually in grades 3 and 4. The district has been cited by CDE for having one some of the highest student achievement for EBs of any district in the state.

A major finding in this paper is the lack of leadership at the state level for EB children and their families. Without community advocates and activists, it is unlikely that Colorado would have bilingual education at all. *Castañeda* has the potential to strengthen programs for EBs, but lacks enforcement and it needs to be updated.

CDE consistently says that all programs for EBs in the state are "legal," but we argue that it is not enough to be legal, the *Castañeda* Standard asks, "Is the program effective?" It is time to use *Castañeda* to its full effect in Colorado.

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