4-21-98

THE WHITE HOUSE

WASHINGTON

April 13, 1998

Not against new
need to discuss
how to respond if
we don't pass
legislation - need
to discuss before we go
to California

MR. PRESIDENT:

The attached memo from Secretary Riley and Bruce Reed seeks a decision from you on the Administration's stance on the California bilingual education initiative on the June 2 ballot.

The memo, which I recommend you read, was written primarily by Mike Cohen and is the product of weeks of extensive discussions among your senior staff. Your advisors recommend that you oppose the initiative, but couple such opposition with a clear statement on strengthening and reforming bilingual education that would include a set of principles to guide local educators -- "reform not revoke" in a phrase coined by Rahm. In reaching this recommendation, your staff engaged in an extensive series of outreach meetings with the Hill, California officials and education activists.

All of your advisors, including the *Vice President, Secretary Riley, Bruce Reed, Rahm, Sylvia, Maria, Mickey Ibarra and Janet Murguia,* agree that this is the best strategy. If you approve, Secretary Riley would make the initial announcement in the next week or so. You would publicly express opposition during your trip to California in early May.

Secretary Riley has asked that you act upon this before you depart for Chile.

Phil Caplan Phil

Copied to
Sec. Riley
Reed
COS
Mike Cohen

THE WHITE HOUSE

WASHINGTON

4-21-98

April 8, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: SECRETARY RILEY
BRUCE REED

SUBJECT: California Proposition 227 (Unz Initiative) to End Bilingual Education

On June 2, California voters will consider Proposition 227, otherwise known as the Unz Initiative, which proposes to eliminate virtually all bilingual education. This is California's third potentially divisive race-related initiative in four years, following on the heels of Proposition 187, which barred public benefits for illegal immigrants, and Proposition 209, which ended affirmative action.

Polls show that the initiative is popular and is likely to pass, although a strong opposition campaign could make the election close. Many Latino voters currently favor the initiative, but the polls show that Latino support has declined considerably as voters become more familiar with the details of the proposal. Latino activists are strongly opposed to Unz, and are looking to the White House to support their efforts to defeat it.

Over the past several months DPC and Education Department staff worked with Maria Echaveste, Mickey Ibarra, Karen Skelton, and Janet Murguia to study the Unz Initiative, consulting widely with both opponents and supporters in California, in Congress, and in the advocacy community. Although concerned about the effectiveness of some bilingual education programs, your advisors strongly believe that the Unz initiative is bad education policy and will harm students who need help the most.

We therefore recommend a strategy that Rahm has termed "reform, not revoke." Under this strategy, you would oppose the Unz Initiative because it deprives local educators of the ability to make educationally sound choices about how to meet the needs of Limited English Proficient (LEP) children. At the same time, you would articulate the principles you support for reforming and strengthening programs to help LEP students become proficient in English.

I. The Unz Initiative and Bilingual Education in California

A. Overview of the Unz Initiative

This initiative, authored and backed by Silicon Valley millionaire Ron Unz, is designed to end all bilingual education programs in California. More specifically, it would:

- Require that all public school instruction be conducted in English.
- Permit this requirement to be waived only if parents or guardians can show that the child already knows English, has special needs, or would learn English faster through an alternative instructional technique.
- Provide initial placement for LEP students in "sheltered English immersion" programs for a period normally not to exceed one year. Instruction in these programs would be conducted in English, with some accommodations in the curriculum to take into account the limited English language skills of the students.
- Appropriate $50 million per year over 10 years to fund adult education programs designed to teach English to LEP adults who in turn pledge to provide English language tutoring to LEP students.
- Make teachers, administrators, and school board members subject to suits and personally liable for failure to implement the provisions of the initiative.

Unz and other backers of this initiative regard the existing system of bilingual education as a complete failure. They argue that because bilingual education relies so heavily on use of the students' native language and only slowly introduces English, the approach delays or prevents, rather than promotes, the acquisition of English. Further, they point out that although California's bilingual education law expired a decade ago, the legislature has been unable to enact legislation to reform a broken program. This initiative, they argue, will break the legislative impasse and dramatically improve educational opportunities for LEP students..

B. Bilingual Education in California

good argument for reading min English capacity

Demographics. There are approximately 1.3 million LEP students in California, approximately one quarter of California's K-12 students. This number has nearly doubled in less than a decade, and represents some 43% of the national total. Seventy nine percent of California's LEP students are native Spanish speakers. As you know, Hispanics have a 50% dropout rate, and by most indicators their academic performance lags behind most other population groups in the state.

Educational Services. LEP students receive a wide variety of services intended to help them learn English and academic subjects. In 1997, only about 30% received what is conventionally considered bilingual education -- programs that make significant use of the student's primary language to teach academics while phasing in ever greater amounts of English language instruction. More than half participate in specially designed instructional programs that

help students learn English, while teaching other subjects in a way designed to be accessible to LEP students. (The Unz Initiative would eliminate these programs as well as conventional bilingual programs.) Approximately 16% of all LEP students are not receiving any language instruction services at all.

California Legal Framework. The legal framework for providing services to LEP students in California is murky. California's Bilingual Education Act expired in 1987, but the State Board of Education regulations implementing the act have remained in effect. Under this framework, school districts are required to help students become fluent in English and competent in other academic subjects, and are given a significant amount of flexibility in determining how to achieve these goals. Neither bilingual education nor any other specific approach to teaching LEP students is required.

There have been a number of unsuccessful attempts in the past decade to enact new legislation, but bilingual education reformers and advocates have been unable to agree on an approach. A fresh attempt to craft legislation has arisen in the past month, partly to take the steam out of Unz and to give Unz opponents something to support. This effort, however, is likely to end in failure.

Early in March the State Board of Education decided to eliminate the state bilingual education regulations. This process should be completed shortly before the vote on Unz. The effect of this action will be to eliminate any state requirement for the provision of specific services to LEP students, and to give local school districts even greater flexibility.

II. Political Context

The Unz initiative is currently the most serious threat to bilingual education, but it is not likely to be the last. Earlier this year Speaker Gingrich proposed eliminating bilingual education, and some conservative education experts (e.g., Diane Ravitch) have also called for its end. Last week, Rep. DeLay introduced a bill that would eliminate the federal bilingual education program, and House Republicans have included a $75 million recision of FY98 funding for bilingual education in the emergency supplemental bill. Especially if Unz passes, we are likely to see energized opposition to the federal program, and increased opposition to bilingual education in other states and localities.

The Unz initiative presents a political dilemma in California. If we oppose it, we risk alienating a majority of California Anglo voters. If we fail to oppose it, we risk alienating a vocal and increasingly influential group of Latino leaders, and possibly Latino voters.

Current polls show that a large majority of California Anglo voters support Unz. For Anglos, bilingual education may become a hot button issue similar to immigrant services and affirmative action. In contrast, Latino voters are split on the issue. While many continue to support Unz largely out of frustration at the public schools' failure to help their children, polls

show that Latino support is eroding as voters become more aware of the particulars of the initiative. It is likely that current polls overestimate Latino support for Unz, just as polls overestimated Latino support for Propositions 187 and 209.

Latino activists and elected officials oppose Unz. To some of the Latino leaders, Unz is a litmus issue, like Propositions 187 and 209. Latino leaders are looking to the White House to become actively involved in the opposition to Unz, and are fearful that we will choose to sit on the sidelines.

More organizations and elected officials are taking positions on Unz. The California education community -- including the California Teachers Association and the California School Boards Association -- is strongly opposed to Unz. Key Democratic officeholders (including Sen. Boxer, Rep. Becerra and most Democrats in the California delegation, State Superintendent Delaine Eastin, and Speaker Villaraigosa) have also announced their opposition to the Unz initiative. All three Democratic gubernatorial candidates have come out against Unz. Sen. Feinstein has not taken a public stance yet, though she appears likely to support Unz. A list of organizations, elected officials, and other leaders that have taken positions on Unz is attached.

The Republican state party has supported Unz, though many Republican officials, including Gov. Wilson, have not yet taken a position. Dan Lungren has not taken a position yet, but has recently said that the recent action by the State Board of Education has eliminated the need for Unz. There is always a chance that White House opposition to Unz could polarize the situation and push Gov. Wilson and other Republicans to support Unz, but at least some Republican leaders are afraid to support another initiative viewed as anti-Hispanic.

The political dilemma can be resolved with a "Reform, not Revoke" response. We believe the best approach to this issue is to strike a middle ground by admitting that bilingual education needs reforming, but asserting that Unz is not the way to do it. More specifically, we can:

- Start by reiterating the overriding importance of helping every child become proficient in English;
- Oppose Unz on the merits because it is too extreme;
- Remind voters what we are for, including both our overall approach to strengthening public education and our Hispanic initiative;
- Articulate the fundamental principles that you believe should be used by local communities to reform and strengthen their efforts to educate LEP students. These principles include setting a goal for school districts to help LEP students learn English within three years, holding schools accountable for results, providing local flexibility, and emphasizing quality in any approach used.

III. Specific Recommendations

I. Oppose Unz Initiative on educational and legal grounds.

Educational. There is little doubt that current programs for LEP students leave much room for improvement. While some promising efforts have emerged, the services now provided are not effective on a large-scale basis. Even when programs themselves are good, shortages of qualified teachers and poor implementation often limit the ineffectiveness

We believe, however, that the Unz Initiative would only make matters worse. A one-size-fits-all State prescription for how to educate LEP children -- and a demand that all special services cease in one year will retard progress toward the goal of helping LEP students learn English, reach high standards, and participate effectively in classrooms. Experience and research indicate that no one approach is the answer for all limited English proficient children. By limiting the discretion of schools and teachers to determine what works best for their LEP students, the Unz Initiative prevents teachers and parents from exercising common sense and professional judgment regarding how to serve individual children.

And even assuming we should pick a single method of educating LEP students, there is little to recommend the Unz "sink or swim" model. While a structured English immersion approach may be effective for some limited English proficient children, it is likely to be ineffective for many others. One year of special instruction -- whether in Bilingual Education or an English immersion approach -- rarely is sufficient to enable a child who starts the program with almost no proficiency in English to become proficient enough to participate in regular English-language classes.

Legal. Based on the educational problems described above, the Unz Initiative will raise serious issues under federal civil rights laws. In the seminal 1974 case of Lau v. Nichols, the Supreme Court interpreted Title VI of the Civil Rights Act to require school districts to take steps to ensure that national origin minority students with limited English proficiency can effectively participate in the regular educational program. Similarly, the Equal Educational Opportunity Act, enacted in 1974, requires public educational agencies to take appropriate action to overcome language barriers that impede student participation in instructional programs. Neither Lau nor subsequent cases addressing Title VI or the Equal Educational Opportunity Act mandate a particular approach to meeting these needs, but they require that sound educational approaches be implemented and evaluated.

Assuming (as we probably should) that some educational experts will vouch for the soundness of the sheltered English immersion approach mandated by the Unz Initiative, Department of Education lawyers believe that a legal challenge asserting that the Unz Initiative on its face violates Title VI or the Equal Educational Opportunity Act probably would not succeed. But they believe that the Unz Initiative will cause widespread violations of Title VI and the Equal Educational Opportunity Act once it is applied to cut off services to students

who need them. The only way that such violations will be avoided is if the State or local educational agencies use loopholes in the Proposition to extend services to LEP students beyond the year specified in the initiative. The Unz Initiative thus will create legal confrontations between California agencies and the Departments of Education and Justice over violations of civil rights laws, and will divert resources and attention that should be focused on educating children to conducting investigations and litigation.

Recommendation: For these reasons, we recommend that the Administration publicly oppose the Unz Initiative. Taking a position soon will allow us to help frame the debate and set a constructive tone, rather than get drawn into an already inflammatory debate. A prompt announcement will also allay concerns in the advocacy community that we may sit this battle out until it is too late to have an impact on the outcome. We think that Secretary Riley should make the initial announcement of the Administration's position within the next week to ten days.

We also believe that you should express opposition to the Unz Initiative during your visit to California in early May. We will also work with the Vice President's office to create an appropriate opportunity for him to state his opposition to Unz.

✓ Agree _____ Disagree ✓ Discuss Further

2. Couple opposition to Unz with a clear statement of how local school districts can strengthen education for LEP students.

We believe that you should couple your opposition to Unz with a strong statement about the importance of helping LEP students learn English and the need for reforming and strengthening bilingual education. This statement would articulate principles to guide local educators in providing services to LEP students.

We seriously considered but rejected the idea of underscoring your commitment to improve bilingual education by also proposing statutory changes to the federal Bilingual Education Program. After consultation with members of the California Congressional delegation, the Hispanic Caucus and others, we concluded that this step would be premature since Congress is unlikely to pass or even consider your proposals until next year, when the bilingual education is scheduled for reauthorization. An Administration proposal now also would fuel other, potentially dangerous Congressional proposals to alter or eliminate bilingual education. Further, proposing changes to the federal program now would place members of the California Congressional delegation in a difficult position, because they would be forced to take a position on both the Unz Initiative and your legislative proposal.

We recommend a statement articulating the following principles:

Set a goal for school districts to help LEP students learn English within 3 years. All participants in this debate -- and especially parents of Hispanic and other LEP students -- want children to learn English as rapidly as possible. Bilingual education programs that prolong rather than speed the process of learning English, and are open-ended rather than transitional, do harm to students. But currently, few school districts establish clear time lines or goals for LEP students to learn English.

Challenging school districts to set and meet a clear goal of helping LEP students become proficient in English within 3 years will ensure that your opposition to Unz is not -- and is not taken as -- as an endorsement of the status quo. Setting a clear goal is the first step toward reducing the length of time it takes for students to master English. It will send a clear message to teachers and administrators to adopt educational strategies that will help students acquire English proficiency as rapidly as possible. In this context, you should also urge school districts to set the same academic standards and expectations for LEP students as for all others; notify parents of every LEP student of these goals when the student is first enrolled; assess student progress in English and other academic subjects annually and; identify early, and provide extra help, to students who are not making progress.

This proposal will be very unpopular with the Hispanic Caucus and the bilingual advocacy community. They will argue that there is no clear research base to establish a 3-year time frame, that individuals vary in how long they need to master English, and that pushing students to learn English early will slow down their ability to master other academic subjects. They will also argue that advocating a 3-year time frame -- or any other time limit -- plays into the hands of Unz and his supporters by weakening the ability of Unz opponents to make the case against the 1-year cut-off of services in his proposal. Further, they and many educators will argue that if it is necessary to set time lines for learning English, local educators and communities ought to take responsibility for determining the appropriate length of time.

We believe that you can mitigate these concerns by making clear that you are calling for a goal rather than a strict time limit, by emphasizing that accountability for meeting the goal rests primarily on local schools, and by not proposing to end language services to students who have not yet mastered English within 3 years. These responses may not fully satisfy the bilingual community, but the three-year goal is important enough, from both an educational and a political perspective, to take this risk of disagreement.

Local school districts must be accountable for performance and results. School districts must be held accountable for helping students become proficient in English as rapidly as possible. They should report publicly how well they are doing to meet the timelines they have established. They should test students periodically for English proficiency (as well as achievement in other subjects) to determine if they are making adequate progress, and they

should provide additional services or take other corrective actions as appropriate when students are not making adequate progress. School districts should evaluate their bilingual education programs regularly as well. If a program is not helping its students progress rapidly enough, the school district should strengthen it, or use another approach that research shows will work.

There must be local flexibility. As discussed above, no one-size-fits-all prescription for how to educate limited English proficient children will work. Local schools must have the flexibility to design programs that meet their particular needs, mix of students, and resources. So long as the goal is clear -- that students learn English as rapidly as possible -- and there is accountability for results, parents and educators should be free to work together to fashion programs that work for them.

The focus must be on strengthening quality, regardless of approach. The research on instruction for LEP students does not identify any particular approach (e.g. bilingual education, English immersion, English as a Second Language, or dual-language immersion) as more effective than others. Rather, it suggests that effective programs have well-prepared teachers who know how to teach reading and who are knowledgeable about second-language acquisition; provide students with a challenging curriculum and high academic standards; and regularly assess student progress and make adjustments in the instructional program accordingly. In short, if LEP students are to learn English and succeed in school, they must be in schools that work for all students--schools with high standards, good teachers, smaller classes, challenging curriculum and accountability for results. Because of this, any discussion of the steps required to strengthen local quality provides an opportunity to discuss your overall agenda for strengthening public schools

✓ _____Agree _____Disagree ✓ _____Discuss Further

Elected Officials, Associations, Activists are Taking positions on Unz:

Oppose Unz:

Senator Barbara Boxer
Lt. Gov. Grey Davis
Congressman Xavier Becerra
Congressman Cal Dooley
Congressman Bob Filner
Congressman Lucile Roybal-Allard
Congresswoman Zoe Lofgren
Congresswoman Ellen Tauscher
Congressman Vic Fazio
Congressman Marty Martinez
Delaine Eastin, Superintendent of Public Instruction
Assemblyman Cruz Bustamante (former Speaker)
Speaker Antonio Villaraigosa
Senator President John Burton
Supervisor Gloria Molina
CTA
MALDEF
Republican Assemblyman Bill Leonard
Republican Assemblyman Rod Pacheco (only R Latino Assemblyman)
CABE

Support Unz:

Ron Unz
Gloria Matta Tuchman
Jaime Escalante
Fernando Vega
Mayor Richard Riordan
Darrell Issa, Republican Senate Candidate opposing Barbara Boxer

THE WHITE HOUSE

WASHINGTON

April 8, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: SECRETARY RILEY
BRUCE REED

SUBJECT: California Proposition 227 (Unz Initiative) to End Bilingual Education

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_____Agree _____Disagree _____Discuss Further

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Set a goal for school districts to help LEP students learn English within 3 years. All participants in this debate -- and especially parents of Hispanic and other LEP students -- want children to learn English as rapidly as possible. Bilingual education programs that prolong rather than speed the process of learning English, and are open-ended rather than transitional, do harm to students. But currently, few school districts establish clear time lines or goals for LEP students to learn English.

Challenging school districts to set and meet a clear goal of helping LEP students become proficient in English within 3 years will ensure that your opposition to Unz is not -- and is not taken as -- as an endorsement of the status quo. Setting a clear goal is the first step toward reducing the length of time it takes for students to master English. It will send a clear message to teachers and administrators to adopt educational strategies that will help students acquire English proficiency as rapidly as possible. In this context, you should also urge school districts to set the same academic standards and expectations for LEP students as for all others; notify parents of every LEP student of these goals when the student is first enrolled; assess student progress in English and other academic subjects annually and; identify early, and provide extra help, to students who are not making progress.

This proposal will be very unpopular with the Hispanic Caucus and the bilingual advocacy community. They will argue that there is no clear research base to establish a 3-year time frame, that individuals vary in how long they need to master English, and that pushing students to learn English early will slow down their ability to master other academic subjects. They will also argue that advocating a 3-year time frame -- or any other time limit -- plays into the hands of Unz and his supporters by weakening the ability of Unz opponents to make the case against the 1-year cut-off of services in his proposal. Further, they and many educators will argue that if it is necessary to set time lines for learning English, local educators and communities ought to take responsibility for determining the appropriate length of time.

We believe that you can mitigate these concerns by making clear that you are calling for a goal rather than a strict time limit, by emphasizing that accountability for meeting the goal rests primarily on local schools, and by not proposing to end language services to students who have not yet mastered English within 3 years. These responses may not fully satisfy the bilingual community, but the three-year goal is important enough, from both an educational and a political perspective, to take this risk of disagreement.

Local school districts must be accountable for performance and results. School districts must be held accountable for helping students become proficient in English as rapidly as possible. They should report publicly how well they are doing to meet the timelines they have established. They should test students periodically for English proficiency (as well as achievement in other subjects) to determine if they are making adequate progress, and they

should provide additional services or take other corrective actions as appropriate when students are not making adequate progress. School districts should evaluate their bilingual education programs regularly as well. If a program is not helping its students progress rapidly enough, the school district should strengthen it, or use another approach that research shows will work.

There must be local flexibility. As discussed above, no one-size-fits-all prescription for how to educate limited English proficient children will work. Local schools must have the flexibility to design programs that meet their particular needs, mix of students, and resources. So long as the goal is clear -- that students learn English as rapidly as possible -- and there is accountability for results, parents and educators should be free to work together to fashion programs that work for them.

The focus must be on strengthening quality, regardless of approach. The research on instruction for LEP students does not identify any particular approach (e.g. bilingual education, English immersion, English as a Second Language, or dual-language immersion) as more effective than others. Rather, it suggests that effective programs have well-prepared teachers who know how to teach reading and who are knowledgeable about second-language acquisition; provide students with a challenging curriculum and high academic standards; and regularly assess student progress and make adjustments in the instructional program accordingly. In short, if LEP students are to learn English and succeed in school, they must be in schools that work for all students--schools with high standards, good teachers, smaller classes, challenging curriculum and accountability for results. Because of this, any discussion of the steps required to strengthen local quality provides an opportunity to discuss your overall agenda for strengthening public schools

_____Agree _____Disagree _____Discuss Further

Elected Officials, Associations, Activists are Taking positions on Unz:

Oppose Unz:

Senator Barbara Boxer
Lt. Gov. Grey Davis
Congressman Xavier Becerra
Congressman Cal Dooley
Congressman Bob Filner
Congressman Lucile Roybal-Allard
Congresswoman Zoe Lofgren
Congresswoman Ellen Tauscher
Congressman Vic Fazio
Congressman Marty Martinez
Delaine Eastin, Superintendent of Public Instruction
Assemblyman Cruz Bustamante (former Speaker)
Speaker Antonio Villaraigosa
Senator President John Burton
Supervisor Gloria Molina
CTA
MALDEF
Republican Assemblyman Bill Leonard
Republican Assemblyman Rod Pacheco (only R Latino Assemblyman)
CABE

Support Unz:

Ron Unz
Gloria Matta Tuchman
Jaime Escalante
Fernando Vega
Mayor Richard Riordan
Darrell Issa, Republican Senate Candidate opposing Barbara Boxer

March 18, 1998

BS: Seems like we are in the right place. GS cc: BR

MEMORANDUM FOR THE PRESIDENT

FROM: SECRETARY RILEY
BRUCE REED

SUBJECT: California Proposition 227 (Unz Initiative) to End Bilingual Education

On June 2, California voters will consider Proposition 227, otherwise known as the Unz Initiative, which proposes to eliminate all bilingual education. This is California's third potentially divisive race-related initiative in four years, following on the heels of Proposition 187, which barred public benefits for illegal immigrants, and Proposition 209, which ended affirmative action.

Polls consistently show that the initiative is popular and is likely to pass. Even Latino voters currently favor the initiative, although many expect Latino support to decline considerably as voters become more familiar with the details of the proposal. Latino activists are strongly opposed to Unz, and are looking to the White House to support their efforts to defeat Unz

Despite legitimate concerns over the effectiveness of some bilingual education programs, your advisors strongly believe that the Unz initiative is bad education policy and will harm students who need help the most. We also believe that you may be able to turn this issue to your political advantage if you combine opposition to Unz with proposals to reform bilingual education programs. Despite some tricky politics, we believe that it is both good policy and good politics to oppose Unz, coupled with proposals to "mend, not end" bilingual education. This memo lays out such a "mend, not end" approach.

I. The Unz Initiative and Bilingual Education in California

A. Overview of the Unz Initiative

This initiative, authored and backed by Silicon Valley millionaire Ron Unz, is designed to end all bilingual education programs in California. More specifically, it would:

- Require that all public school instruction be conducted in English.
- Permit this requirement to be waived only if parents or guardians can show that the child already knows English, has special needs, or would learn English faster through an alternative instructional technique.
- Provide initial placement for Limited English Proficient (LEP) students in "sheltered English immersion" programs for one year. Instruction in these programs would be

conducted in English, with some accommodations in the curriculum to take into account the limited English language skills of the students.

- Appropriate $50 million per year over 10 years to fund adult education programs designed to teach English to LEP adults who in turn pledge to provide English language tutoring to LEP students.
- Makes teachers, administrators and school board members subject to suita and personally liable for failure to implement the provisions of the initiative.

Unz and other backers of this initiative regard the existing system of bilingual education in the state as a complete failure. They argue that because bilingual education relies so heavily on use of the students' native language and only slowly introduces English, the approach delays or prevents, rather than promotes, the acquisition of English. Further, they point out that though California's bilingual education law expired a decade ago, the legislature has been unable to enact legislation to reform a broken program. This initiative, they argue, will break the legislative impasse and dramatically change bilingual education policy for the better.

Opponents criticize the Unz Initiative on a number of counts. Critics argue that the initiative is harmful to children, because it relies on a single, unproven approach that provides an unrealistic time period in which to learn English. They argue that this one-size-fits-all approach eliminates parents' right to chose the best approach for their child (given that the waiver provisions are very complicated and burdensone. They point out that the Unz initiative provides no accountability, because it lacks any requirements for assessing students' academic progress. They also charge that the Unz Initiative undermines local control and the ability of local school boards to determine important education policies, and wrongly subjects educators to lawsuits.

B. Bilingual Education in California

Demographics. There are approximately 1.3 million Limited English Proficient (LEP) students in California, approximately one quarter of California's K-12 students.. This number has nearly doubled in less than a decade, and represents some 43% of the national total. Seventy nine percent of California's LEP students are native Spanish speakers. Hispanics have a 50% dropout rate, and by most indicators their academic performance lags behind most other population groups in the state.

Educational Services. LEP students receive a wide variety of services intended to help them learn English and academic subjects. In 1997, only about 30% received what is conventionally considered bilingual education--programs which make significant use of the student's primary language to teach academics while phasing in greater amounts of English language instruction. More than half participate in specially designed instructional programs that help students learn English through a combination of approaches such as direct instruction in grammar, vocabulary and communications,while teaching other subjects in a way designed to be accessible to LEP students. The Unz Initiative would eliminate these programs as well as conventional bilingual programs. Approximately 16% are not receiving any language instruction

services at all.

Almost no one believes that the services now provided to LEP students are effective on a large scale basis. While program evaluations have identified some promising efforts, shortages of qualified teachers and poor implementation has limited the effectiveness of existing programs. In addition, most observers agree that the overall poor academic performance and high dropout rate of Hispanic students reflects serious weaknesses in schools that extend well beyond language services for LEP students.

The research on instruction for LEP students does not identify any approach (e.g. bilingual education, English immersion, English as a Second Language, or dual-language immersion) as particularly effective. Rather, it suggests that effective programs are those that fit the needs and resources of the local community; have well-prepared teachers who know how to teach reading and who are knowledgeable about second language acquisition; provide students with a challenging curriculum and high academic standards; and regularly assess student progress and make adjustments in the instructional program accordingly. Consequently, while much of the debate about educating LEP students centers on the relative merits of one program over another, research and experience suggest that attention to program quality regardless of program type is more important.

California Legal Framework. The legal framework for providing services to LEP students in California is particularly murky. California's Bilingual Education Act sunseted in 1987, but the State Board of Education regulations implementing the act have remained in effect. Under this framework, school districts are required to help students become fluent in English and competent in other academic subjects, and are given a significant amount of flexibility in determining how to achieve these goals. Neither bilingual education nor any other specific approach to teaching LEP students is required.

There have been a number of unsuccessful attempts in the past decade to enact new legislation, but bilingual education reformers and advocates have been unable to agree on an approach. There has been a fresh attempt over the past month to craft compromise legislation, partly to take the steam out of Unz and to give Unz opponents something to support. This effort, however, is likely to end in failure.

Last week the State Board of Education took the first step toward eliminating the state bilingual education regulations. This process should be completed shortly before the vote on Unz. The effect of this action will be to eliminate any state requirement for the provision of specific services to LEP students, and to give local school districts even greater flexibility in this area.

Federal Legal Framework. Federal requirements originate in the Due Process and Equal Protection Clauses of the Fourteenth Amendment, and provisions of the Equal Educational Opportunities Act which require educational agencies to take appropriate action to overcome

language barriers that impede equal participation by students in instructional programs.

As interpreted by the courts, these provisions do not require any specific form of services, such as Bilingual Education or English as a Second Language. They instead require the provision of supplemental language instruction that is based on sound educational theory, is adequately resourced and implemented, and is evaluated and modified as necessary.

If Unz is enacted, many expect that it will be challenged as a violation of federal law. Department of Education lawyers believe that the success of such suits will depend on whether the services mandated bu Unz are implemented effectively. Absent implementation problems, federal law appears to provide sufficient flexibility to allow California to approve this approach. However, if services mandated by Unz are not implemented effectively, there is likely to be a strong basis for a legal challenge.

The federal Bilingual Education program (Title VII of the Elementary and Secondary Education Act) similarly does not preclude the Unz approach. This competitive grant program also provides local school districts with considerable discretion in the kind of services provided to students.

II. Political Context

The Unz initiative is currently the clearly the most serious threat to bilingual education, but it is not likely to be the last. Earlier this year Speaker Gingrich proposed eliminating bilingual education, and some conservative education experts (e.g., Diane Ravitch) have also called its elimination. Especially if Unz passes, we are likely to see energized opposition to the federal program, and increased opposition in other states and localities.

The Unz initiative presents a political dilemma in California. If we oppose it, we risk alienating a majority of California Anglo voters. If we fail to oppose it, we risk alienating a vocal and increasingly influential group of Latino leaders, and possibly Latino voters.

Current polls show that a large majority of California Anglo voters support Unz. For Anglos, bilingual may become a hot button issue similar to immigrant services and affirmative action. In contrast, Latino voters are split on the issue of bilingual education. While many continue to support Unz largely out of frustration at the public schools' failure to help their childrent, that support is eroding as they become more aware of the particulars of the initiative.

Latino activists and electeds oppose Unz. To some of the Latino leaders, Unz is a litmus issue, like Propositions 187 and 209. Latino leaders are looking to the White House to become actively involved in the opposition to Unz, and are fearful that we will choose to sit on the sidelines.

More organizations and elected officials are taking positions on Unz. The California

education community -- including the California Teachers Association and the California School Boards Association -- is strongly opposed to Unz. Key Democratic officeholders (including Sen. Boxer, Rep. Becerra and most Democrats in the California delegation, State Superintendent Delaine Eastin, and Speaker Villagraigosa) have also announced their opposition to the Unz initiative. Sen. Feinstein has not taken a public stance yet, though she appears likely to support Unz. A list of organizations, elected officials and other leaders that have taken positions on Unz is attached.

The Republican state party has supported Unz, though many Republican officials, including Gov. Wilson, have not yet taken a position. There is a chance that White House opposition to Unz could polarize the situation, and push Gov. Wilson and other Republicans to support Unz.

[Note: We need to determine the positions of the Dem. Gubernatorial candidates, and Feinstein]

The political dilemma can be resolved with a "Mend it / Don't End it" response. We believe the best approach to this issue is to strike a middle ground by admitting that bilingual education needs mending, but asserting that Unz is not the way to do it. More specifically, we can:

- Start by reiterating the overriding importance of helping every child become proficient in English;
- Oppose Unz on the merits because it is too extreme;
- Remind voters what we are for, including both our overall approach to public education and our Hispanic initiative;
- Propose to "mend" the federal bilingual education program through steps that will create expectations for learning English within a fixed period of time; strengthen accountability for students and programs alike by testing for English proficiency; strengthen local control and flexibility; and promote our efforts to strengthen program quality by increased investments in teacher training.

III. Specific Recommendations

1. Announce opposition to Unz within next 4 weeks

We recommend that you or another senior Administration official (the Vice President or Secretary Riley) announce the Administration's opposition to the Unz initiative within the next 4 weeks. Taking a position in the next month will allow us to frame the debate and set a constructive tone, rather than get sucked into an already inflammatory debate. We could turn this initiative into an opportunity to fit bilingual education into our overall framework for ensuring effective education in the 21st century.

2. Specific recommendations for changing federal bilingual education program

In accord with our recommendation for a "mend, don't end" approach to bilingual education, we believe that opposition to Unz should be coupled with specific proposals to change the federal bilingual education program. This approach will lend credibility to our position, and give us a basis for framing the debate over bilingual education. Specifically, we recommend the following changes:

Strengthen local control by lifting the existing cap on English programs. The current federal bilingual program contains a ceiling that permits only 25% of all funds to be used to support English-only programs. Since most participating school districts use a variety of approaches, the cap has not limited local approaches--though it is perceived as having that effect. Lifting the cap would add credibility to our call for local control (rather than the Unz one-size-fits-all approach) in California, and would help address the concerns of conservative critics. This action, however, would be unpopular with the bilingual advocacy community.

Create expectations for students to learn English within 3 years. One of the most powerful criticisms of bilingual education programs is that they in fact prolong the time it takes for students to learn English. This criticism resonates with many opponents as well as supporters of Unz. We should propose amending the federal bilingual education program to require that students learn English within 3 years, with additional time and services provided to students facing unusual circumstances. Setting clear expectations for how quickly students will master English will appropriately focus the efforts of schools and students and help more students become proficient in English. This action would be unpopular with the bilingual advocacy community. Advocates and researchers will argue that there is no clear research base to establish a 3-year time frame--and, indeed that more time is necessry for students to master English and other subjects.

Strengthen testing and accountability for students and programs. Programs should be required to test students periodically for English proficiency (as well as achievement in other subjects) to determine if they are making adequate progress toward the 3-year deadline, and to provide additional services or take other corrective actions as appropriate when students not making adequate progress. There should also be additional accountability for school districts participating in the bilingual education program. Programs are already required to undergo evaluations; this requirement can be strengthened by establishing consequences, such as possible withholding of funds, from programs that fail to make adequate progress as measured by student achievement.

Underscore efforts to strengthen the quality of programs that provide services to LEP students. We should highlight your budget request to increase funding for teacher training within the bilingual education program. The Education Department should also undertake a vigorous effort, through technical assistance and effective dissemination approaches, to emphasize that any program for LEP students must be based on fundamental principles of quality: ensuring well-trained teachers, high standards and a quality curriculum, testing and accountablity measures.

Elected Officials, Assocications, Activists are Taking positions on Unz:

Oppose Unz:

Senator Barbara Boxer
Congressman Xavier Becerra
Congressman Cal Dooley
Congressman Bob Filner
Congressman Lucile Roybal-Allard
Congresswoman Zoe Lofgren
Congresswoman Ellen Tauscher
Congressman Vic Fazio
Congressman Marty Martinez
Delaine Eastin, Superintendent of Public Instruction
Former Speaker Cruz Bustamante
Speaker Antonio Villaraigosa
Senator President John Burton
Supervisor Gloria Molina
CTA
MALDEF
Republican Assemblyman Bill Leonard
Republican Assemblyman Rod Pacheco (only R Latino Assemblyman)
CABE

Support Unz:

Ron Unz
Gloria Matta Tuchman
Jaime Escalante
Fernando Vega
Mayor Richard Riordan
Darrell Issa, Republican Senate Candidate opposing Barbara Boxer

Educ - Bilingual Ed

Information about California Requirements for Limited English Proficient Students

Office of Bilingual Education and Minority Languages Affairs

California Law

- The California Bilingual-Bicultural Education Act of 1976 was sunsetted on June 30, 1987.

- The former State Bilingual Education Act established specific bilingual program requirements for identification, instruction, staffing assignments, classroom composition, reclassification and parent involvement.

- California currently has no existing requirements for bilingual education of its own. On July 14, 1995, the State Board of Education (SBE) adopted a policy statement on educational programs and services for Limited English Proficient (LEP) students. The policy is not binding on school districts.

- However, Section 62002 states that if the Legislature does not enact legislation to continue a program listed in The Bilingual-Bicultural Education Act of 1976, "the funding of that program shall continue for the general purposes as specified in the provisions relating to the establishment and operation of the program." The funds shall be used for the intended purposes of the program. There are eight intended purposes:

    - The primary goal of all (bilingual) programs is, as effectively and efficiently as possible, to develop in each child fluency in English.
    - The program must provide equal opportunity for academic achievement, including, when necessary, academic instruction through the primary language.
    - The program must provide "positive reinforcement of the self image of participating children".
    - The program must promote "cross-cultural understanding".
    - California school districts are required to offer "bilingual learning opportunities" to each pupil of limited English-proficiency enrolled in the public schools."
    - California school districts are required to "provide adequate supplemental financial support" in order to offer such bilingual learning opportunities.
    - Insofar as the individual pupil is concerned participation in bilingual programs is voluntary on the part of the parent or guardian."
    - School districts must "provide for in-service programs to qualify

existing and future personnel in the bilingual and cross-cultural skills necessary to serve the pupils of Limited English- Proficiency of this state."

- The Bilingual-Bicultural Education Act of 1976 provided for parent advisory committees and school site councils to continue subsequent to the termination of funding for the programs sunsetted and that provision continues.

Some California Facts:

- The number of Limited English Proficient students has nearly doubled in less than a decade.
- Nearly 80 percent of the California LEP population is Hispanic.
- The California State Department of Education estimates that there is a shortage of 21,000 qualified bilingual teachers in California.
- About 30 percent of all LEP students receive instruction in the academic subjects through the primary language.
- In California, Hispanics have a 50 percent dropout rate.
- An average annual rate for transfer out of a bilingual program is 5 percent.
- In 1997, the total LEP population in California was 1,381,393.
    - 29.70% received English Language Development (ELD) and Primary Language Instructional services
    - 21.61% received ELD, Specifically Designed Academic Instruction in English (SDAIE) and Primary Language support services
    - 19.91% receive ELD and SDAIE services
    - 16.00% receive **no** special services
    - 11.50% receive ELD services
    - 1.40% withdrawn from services

California Funding

- Distribution of Education Funds in California--about 60% of the money is for general purposes, and about 40% is earmarked for special purposes or categories of students. Each district has its own combination of federal, state and local sources. The amount depends on: 1) the average number of students (Average Daily Attendance or ADA), 2) the general purpose money the district is allowed to have for each student (its revenue limit) and 3) the special support for which it qualifies (categorical aid). (EDFACT Sheet, September 1996. EdSource).

- Schools fund bilingual programs through their General Fund. Each district receives a set amount of general purpose income ("revenue limit") from a combination of state

aid and local property taxes for each pupil (ADA). Revenue limit income is the largest portion of each district's budget. The school board decides how to spend this support (i.e. whether and how to fund bilingual education programs or LEP services). (EDFACT Sheet, October 1996. EdSource).

- Schools also fund bilingual programs through Economic Impact Aid (EIA) . This funding is based on the number of special category, including LEP and economically disadvantaged, students. EIA funds are used at the district's discretion. Each individual district decides what percent of EIA money will be allocated to LEP services and what percent will be allocated to other categories. (Leroy Hamm at the Bilingual Compliance Unit of Economic Impact Aid).