

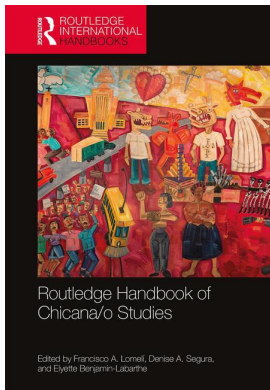
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On: 30 Sep 2023

Access details: *subscription number*

Publisher: *Routledge*

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Routledge Handbook of Chicana/o Studies

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Bilingual education

Publication details

<https://test.routledgehandbooks.com/doi/10.4324/9781315726366-8>

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Published online on: 03 Aug 2018

How to cite :- Grace P. McField. 03 Aug 2018, *Bilingual education from:* Routledge Handbook of Chicana/o Studies Routledge

Accessed on: 30 Sep 2023

<https://test.routledgehandbooks.com/doi/10.4324/9781315726366-8>

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Bilingual education

History, policy, and insights from critical race theory

Grace P. McField

Part I: What is bilingual education?

Bilingual education refers to the use of two languages to teach academic subjects. It differs from world language education (formerly or elsewhere known as foreign language education), which generally focuses on teaching the target language rather than academic subjects *per se*. Bilingual education has traditionally referred to programs for linguistic minority students (often identified as limited English proficient or LEP; or English Language Learners (ELLs) in more recent decades), with goals of developing proficiency in English while using the home languages. The two main types of bilingual education programs are transitional bilingual education (TBE) programs that typically use the primary language as a transition or bridge to learning English, whereas maintenance bilingual education (MBE) programs strive to more fully develop bilitracy (McField, 2014; NCES 2015; U.S. General Accounting Office 1987a). The overwhelming majority of bilingual education programs implemented in the United States have been transitional or TBE.

In contrast to transitional bilingual education, two-way immersion or dual language programs are bilingual program where the target language and subject matter are simultaneously taught to two groups of students with different dominant languages (e.g., to native English speakers and non-native English speakers). In recent years, many people have begun using the term dual language education and multilingual education to refer to these diverse forms of bilingual education. This chapter primarily discusses bilingual education with regard to the ELL population with attention to Mexican American students in both traditional bilingual education as well as two-way immersion/dual language contexts.

Current status of official English states and bilingual education

In considering the status and availability of bilingual education in schools, it is helpful to understand the larger societal context and regard towards languages other than English in the United States. Presently, 31 out of the 50 states have an official English policy, while 19 do not. Among the states with an official language policy on English, three have also passed English-only instruction policies for public schools: California, Arizona, and Massachusetts.

In 2011–2012, the last year national data were available through the U.S. Department of Education Office of Civil Rights (2015) on English Language Learners in programs for English-language development, whether English-only, bilingual, or dual immersion, 4.3 million English Language Learners were reported to be receiving at least one of these services. Unfortunately, neither the Office of Civil Rights website nor the National Center for English Language Acquisition provided a breakdown of what percentage of ELLs were enrolled in English-only or bilingual programs. California is the state in the country with the largest ELL enrollment, with over 1.44 million ELLs in 2010–2011. Only 5% of ELLs were in bilingual settings that year (California Department of Education 2012), down from 29% enrolled in bilingual education programs in 1997–1998 (McField 2014), one consequence of the passage of *Proposition 227* in 1998, the English-only voter initiative that restricted bilingual education to transition ELL students into English-only programs and required a difficult-to-access parent waiver process to receive bilingual educational assistance after one year. California's Proposition 227 was repealed in 2016.

Despite the antagonism of many U.S. citizens to bilingual education, the last decade has seen a proliferation of two-way immersion programs; at least 38 states in the country (Gil 2014) and 359 schools in California offer these dual language programs (California Association for Bilingual Education 2015). In addition, California in 2011 became the first to issue a state-level Seal of Biliteracy, which is an award school districts give to recognize students who have studied and attained biliteracy skills. As of July 2014, 25,000 students in 165 school districts across the state have been awarded the Seal; 23 states also issue a Seal of Biliteracy, and 12 are considering it or are in the early stages of using the program (Californians Together & Velázquez Press 2016).

Hispanic and bilingual students in the United States

Currently the Hispanic or Latina/o¹ population comprises 17% or 55 million of the 308.7 million U.S. population. The four largest Hispanic groups are Mexican American (63%), Puerto Rican American (9.2%), Cuban American (3.5%), and Dominican American (2.8%) (U.S. Census 2011). Nationwide, Spanish was the home language of nearly 3.8 million ELL students in 2013–2014, representing 76.5% of all ELL students and 7.7% of 50 million total public K–12 students (National Center for Education Statistics 2016a).

As of 2013–2014, nationally, ELLs of all different language backgrounds number over 4.9 million and comprise 9.3% of total K–12 student enrollment in U.S. schools, with greater concentrations in primary and elementary schools in urban areas in the Southwest compared to suburbs, towns, or rural areas. Today, most Latina/o students are U.S.-born, but many have at least one parent who is foreign-born. Approximately half of all Latina/o students speak mostly Spanish upon school entry (U.S. Census Bureau 2015a). The five states with the highest percentages of ELLs in their respective states are California (23% or 1.4 million students), Texas (15% or 766,000), Florida (9% or 250,000), New York (8% or 185,000), and Illinois (8% or 191,000) (National Center for Education Statistics 2016b).

How are Hispanic students doing overall educationally? If we consider outcomes of high school completion, as of 2013–2014, the adjusted cohort graduation rate (ACGR) for overall Hispanic students (76%) was 11% lower than that of non-Hispanic whites (87%) in 2013–2014 (National Center for Education Statistics 2016b). The ACGRs for white students were higher than for Hispanic students in every state except West Virginia, where the ACGR for Hispanic students (89%) was 4% higher than for white students (85%). Meanwhile, the lowest ACGR for Hispanic students was 63% in Minnesota and the highest was 89% in West Virginia, and higher than the national average (82%) in eight states: Alabama, Arkansas, Delaware, Indiana, Kentucky, Nebraska,

Texas, and West Virginia. With the national ACGR for white students at 87%, the largest differences between white and Hispanic student ACGRs were in New York, Minnesota, and Massachusetts, with each reporting gaps greater than 20%.

Immigration and the push for official English and English-only in schools

The rich plurality of languages corresponded to *de facto* community-based bilingual education in the early days of this country which narrowed for political and educational purposes beginning in the mid-1800s, reflecting ideological as well as practical aspects of governance. Historically, there has been a correlation between high immigration periods and negative public opinions and attitudes regarding bilingual education. In general, language policies and by extension bilingual education programs have been more restrictive regarding non-English languages during periods following the arrival of increasing proportions of new residents in the country through immigration, war, treaties, or acquired territories. For instance, California's Bureau of Instruction required all instruction to be conducted in English in 1855, the same year Spanish publication of state laws were stopped in the state, reflecting efforts to assert English influence on the territories acquired in the Mexican-American War in 1848. Similarly, following Texas' annexation to the United States in 1846, and the establishment of public schools in 1854, instruction of English as a subject was mandated two years later, followed by a mandate to teach all subjects only in English in 1870 (Spring 2016, p. 95).

By the turn of the century, however, the continued increase in immigration coupled with key events in international relations resulted in pressure on schools to use English exclusively to teach all students across the country. Between 1880 and 1910, the U.S. population increased by 83%, growing from 50.2 million to 92 million people, with 16% of this growth attributed to new immigrants. In fact, in 1910, 14.7% of the country's population were foreign-born. During World War I, the push towards English monolingualism intensified and, by 1923, 34 states required English-only instruction in all public and private schools. However, *Meyer v. Nebraska* (1923) led to the permission of non-English-language instruction in private schools.

The impact of restrictive immigration laws passed early in the 1900s led to a very different ethnic and linguistic landscape in the second half of the century. By 1950, only 6.9% of the total population was foreign-born and this dropped even further to 4.7% in the 1970 census. The emergence of the civil right movement, in particular the Chicano movement, doubtlessly contributed to the development of progressive civil rights policies and federal bilingual education policies emerged during this relatively low immigration period, followed by retraction of these same policies when immigration again increased over the next few decades. In 1980, nationally 6.2% were foreign-born; 1990, 7.9%; 2000, 11.1%; and 2010, 12.9%. For example, in California, the first state to pass an English-only education initiative, the foreign-born population was 8.8% in 1970 and increased to 27.2% in 2010. In Arizona, the second state to pass such a measure, *Proposition 203* (2000), the foreign-born population was 4.3% in 1970 but increased to 13.4% in 2010. In Massachusetts, the third state to pass an English-only instruction initiative, Question 2 (2002), the state population included 8.7% foreign-born in 1970 which increased to 13.6% in 2010.

The push for English as the official language at the societal level also has its roots in the era that saw a renewed increase in immigration following the passage of immigration reform acts in the mid-20th century. California Senator S. I. Hayakawa first proposed a constitutional amendment to make English the official language of the United States (S.J. Res. 72 1981–82) in 1981. In Texas, the League of United Latin American Citizens (LULAC) in 1986 lobbied the Texas Senate subcommittee, holding hearings on Official English and successfully stopped such a resolution

from being considered by that state. The state still is not an official English state (LULAC 2016). Since then, U.S. Congressional committees have considered making English the nation's official language more than 50 times, though to date without success (U.S. English 2016).

Mexican Americans' struggle for improved educational opportunities

In the United States, access to public education has been largely influenced by official racial designations of individuals and how the courts defined whiteness, which influenced who could attend schools with white students. The social construction of race varied by region and was instrumental in determining school segregation as well as how non-English languages have been regarded and used in teaching and learning. While a close examination of lawsuits involving Mexican Americans' struggle to fight segregation is beyond the scope of this chapter, the interested reader is directed to case laws such as *Terrell Wells Swimming Pool v. Rodriguez* (1944); *Independent School District v. Salvatierra, Alvarez* (1930), the first class action lawsuit that challenged "Mexican Schools" in Texas; and *Méndez, et al v. Westminster School District of Orange County, et al* (1947), which legally prohibited segregation in California's public schools.

The premise of these cases was that Mexican Americans should not be segregated because they were racially white. This argument was motivated in part by the fact that many of those who avoided deportation from the United States during the massive "repatriation" of Mexican Americans in the 1930s were often perceived by immigration agents as "white" and tended to be more economically and sociopolitically privileged than those who left (Haney López 2013). The self-perception of Mexican Americans, especially Mexicans who identified as white or Hispanos, was that having Spanish blood made one white, although Anglos' perception at the time was that mixed-heritage Spanish, Mexican, and Native (Indian) Americans were not white (Spring 2016 p. 35). For instance, in *Hernández v. Texas* (1954), the court recognized that only two races – Black and white – had the full guarantee of the 14th Amendment; since Mexicans were considered white, the lack of Mexican Americans in the jury pool was found to not be discriminatory or violate the equal protection clause which Mr. Hernández had claimed. The case was appealed and affirmed by the appellate court, but overturned by the U.S. Supreme Court, which recognized that in parts of the country where they are subject to discrimination, Mexicans constituted a distinct group, for whom equal protection must be granted.

Whether Mexican Americans were considered white varied by geographic region. For example, Article VII, Section 7 of the Texas Constitution of 1876 provided for separate schools for white and Black students. In 1897, Texas courts ruled that Mexican Americans were not "white"; therefore Mexican American children were often assigned to segregated, inferior schools, or were discouraged from attending school. English-only instruction was utilized in schools, with students' report cards including a mark for adhering to using only English in school. In the state, through the 1900s and well into the 1960s, students were punished for speaking Spanish in class and on the playground, and were subject to "Spanish detention" or detention after school for speaking Spanish. The U.S. Commission on Civil Rights reported in the early 1970s that Mexican American students had to pay fines (a penny for every Spanish word), and were made to stand on a "black square" for speaking Spanish at school (Rodríguez 2016).

In California, Mexican Americans were classified as "Caucasian" (or white) until 1930 when they were deemed to be "Indians," based on California Attorney General Webb's assertion that Indians comprise the bulk of Mexico (Spring 2016, p. 92). At the time, local school boards had the

power to establish separate schools for Indians. Still, where possible, Mexican leaders operated bilingual public schools in the state in places such as Santa Barbara. New Mexico was very different from California and Texas. There, in the 1870s, the legislature conducted business mostly in Spanish, and only two out of its 14 counties held jury trials in English. Only 5% of the state's schools used English for teaching purposes; 69% of the schools used Spanish and 26% used bilingual education. Mexican Americans were a majority of the state's population until the early 20th century. Although in 1912 New Mexico's first constitution declared the new state's official language was to be English, it was ratified by means of bilingual ballots (PBS 2015), and it protected against language discrimination and provided for Spanish-language teacher training (Crawford 1989).

Federal agencies also played a key role in defining whiteness through the U.S. census. Between 1790 and 1950, census takers designated the race of individuals surveyed until 1960 when respondents could self-select racial categories. The only exception to the race categorization utilized by the Census occurred in 1930, when the category *Mexican* was listed as a race. After LULAC pressured the U.S. Census Bureau to reclassify persons of Mexican heritage from *Mexican* to *White* (www.lulac.org) in 1936, the 1940 census dropped Mexican as a racial category. The most recent 2010 census asked about Mexican identity in a question on national origin, but in the question about race provides as options *White*, *Black*, *American Indian*, a host of various *Asian American* and *Pacific Islander* nationalities, and *Other*. Mexican Americans most often utilized the option of writing in *Mexican*, *Hispanic*, or *Latino* under the *Other* category (Pew Research Center 2015b).

Insights from critical race theory

Critical race theory (CRT) (Haney, 2013; Yosso, Villalpando, Delgado Bernal & Solórzano 2000) offers a distinctive framework from which to analyze educational access for Chicanas/os in the United States and how their educational experiences have been largely defined by race. CRT's premise that whiteness is property leads to an analysis of how assertions of power by whites are privileged legally, culturally, and in social interactions (Harris 1995). As a case in point, many white educators and community members sought to circumvent both *Méndez, et al v. Westminster School District of Orange County, et al* (1947) in California and *Delgado v. Bastrop Independent School District* (1948) in Texas, by assigning Mexican American students to racially segregated and/or inferior schools to maintain privileged access to a higher quality education by white children (Gándara & Contreras 2009). Also following *Brown v. Board of Education* (1954), many "white-only" schools were shut down for a year, which was an act of impunity against a historic federal mandate for whites to integrate. Black schools were also shut down, resulting in a loss of jobs for Black teachers and dealing a heavy financial blow that hurt the Black community (Taylor, Gilborn & Ladson-Billings 2009, p. 6). These acts further underscore the vehement efforts by whites to protect their interests, in the face of desegregation orders, which were seen as a threat to whites' exclusive privileges by historically disenfranchised people and cultures.

To provide historical context, the Mexican American community remained connected to Mexico in the decades following the Mexican-American War (1848). However, due to the expulsion and emigration of the nearly half a million Mexican Americans from the United States to Mexico around the time of the Depression, the more established or middle class residents who remained were separated from those who had less access to economic, political, and social capital leverage (Haney López 2013). Resistance to discriminatory treatment led to the establishment of such prominent activist organizations as LULAC (League of United Latin American Citizens) in 1929 and the G.I. Forum in 1948. LULAC required U.S. citizenship for membership and the G.I. Forum was founded by World War II veterans.

One key marker that whites did not regard Mexican Americans as a co-white group is the 1930 U.S. census's use of the term "Mexican" for the first time, under the rubric of "other races" along with Indians, Blacks, and Asians. A corresponding fact is that, during this time, Mexican Americans were subject to exclusion from public facilities and neighborhoods, racial slurs and harassment, segregation and other educational inequities, and job and wage discrimination (see *Terrell Wells Swimming Pool v. Rodríguez*, (1944). The degree of intolerance and harassment was such that, in the 1940s, the Mexican Ministry of Labor announced that Mexican citizens could not go to Texas due to strong anti-Mexican sentiments and discrimination there.

To further illustrate the salience and pervasiveness of white privilege, examination of the public schools reveals that the highest status and privilege, as well as resources and programmatic priorities, are enjoyed by white learners of Spanish – despite the fact that they are non-native speakers of the language. For example, middle or junior high schools and high schools prioritize world language education for native English speakers in order to advance academic learning and college preparation, while ELLs in elementary schools are denied opportunities to develop the same set of bilingual skills and full biliteracy. In short, school structures and programs are developed around the white monolingual native English speaker as the unquestioned normative standard and Spanish-speaking Latinas/os are viewed as deficient or a deviation from this norm.

Despite the historical and often discriminatory advantages associated with whiteness (Lipsitz, 2006), Haney López (2013) critiques the push for Mexican Americans to be classified as white, since it serves to reinforce the racial hierarchy that perpetuates inequities. He urges us to disrupt the further fossilization of racial markers and boundaries that keeps disenfranchised Chicanas/os in the sidelines of society. Yet even as the notion of whiteness of property was expanded to selectively include Mexican American only when it served white interests, Chicanas/os challenged the notion of whiteness as had been narrowly defined and parsed out by the courts and federal agencies to primarily suit the interests of whites. Leading into the civil rights era and beyond, the Chicano movement rejected citizenship as a dividing line among Mexican Americans, and emphasized and embraced instead a Chicano identity based on blood or race, culture, and group history to define itself.

Part II: Dismantling segregation and challenging inequities in educational access (1930–1974)

The 20th century witnessed continued challenges to civil and social harassment and discrimination, as well as educational inequities for Mexican Americans (Berumen 2015). Consider the sharp increase in Mexican immigration from 23,991 arrivals between 1900 and 1909 to 173,663 between 1910 and 1919, and 487,775 between 1920 and 1929. The total U.S. Mexican population at this time was 1,225,207 (Loya 1990). The response by U.S. policymakers was a massive repatriation or forced removal and deportation of Mexican Americans in the 1930s. Different sources report between 400,000 and 500,000 Mexican Americans were expelled to Mexico, including many U.S. citizens from the Southwest whose parents had settled in the United States following the Mexican Revolution (1910–1920) (Spring 2016, p. 92).

In California, a 1935 state law permitted the segregation of Chinese, Japanese, "Mongolians," and Indians. Mexican "Indians" were thus allowed to be segregated but not Mexican "whites" (Wollenberg 1976, p. 118). Where the local school was not segregated, school boards implemented Americanization programs designed to deculturize Mexican children from their native language, values, and customs. Local school officials in the Southwest cited language differences to justify the segregation of Mexican students in separate schools or classrooms. In addition to

race-based and language-based segregation, other inequities in educational opportunities for Mexican American children were widespread. Most prevalent was the nonenforcement of compulsory school attendance laws for Mexican American students, many of whom were children of immigrants. Encouraged to work by U.S. farmers, it was not uncommon for migrant worker students to have a shortened school day in order to work the fields the rest of the day, with no intervention by local or state educational entities.

Under these hostile conditions, Mexican American communities took educational matters for their children into their own hands.² In the 1920s, they established *escuelitas* which offered home-based reading and writing instruction in Spanish for preschoolers. These barrio “schools” operated as late as 1965. In the late 1920s LULAC established the *First 100 (English) Words* program for Spanish-speaking preschoolers. In 1958, LULAC, in cooperation with the G.I. Forum, organized the community-based *Little School of the 400*. These schools taught basic English vocabulary considered essential for success in the formal school setting.

The push for educational equity

In 1950, the U.S. census showed that the median educational attainment for persons over 25 was 3.5 years for those with Spanish surnames and, by comparison, 10.3 years for other white Americans. Meanwhile, about 27% of persons over 25 with Spanish surnames had received no schooling at all. Different Spanish-speaking communities have had distinct experiences with schooling in the United States (Trujillo 1998). In Mexican American communities, by the late 1960s, about one out of four Chicana/o students graduated from high school (Hayes Bautista et al. 1988, p. 80). Often they were categorically tracked and placed in vocational courses (San Miguel, Jr. 2013). In Texas, Sévero Gómez, a Texas Education Agency official, reported at a 1967 conference on the dire consequences of subpar education: about 89% of the children with Spanish surnames, and those with Spanish as their primary language, dropped out of school. A legacy of segregation and second-class treatment, low expectations for attendance and achievement, as well as inferior services and instruction, including English-only instruction for predominantly Spanish speakers, led to high dropout rates for Mexican American students. The meager educational attainment and high dropout rates would strongly foreshadow the fight and demand for improved education to come.

It was in the 1960s that the civil rights issue for Chicanas/os developed from one of racial or ethnic segregation or school inequality to one of language. Ostensibly, the Chicana/o and African American communities had similar issues to tackle on the educational front, each having prevailed through *Méndez* (1947) and *Brown* (1954) in the struggle to dismantle race-based segregation. However, given that Mexican Americans had argued for equity on grounds that they were white and therefore not subject to segregation, the African American leadership in the civil rights efforts did not necessarily see Chicana/o educational issues to be directly in alliance. Also, language differences were seen as a more salient educational issue for Chicanas/os, whereas for African Americans, it was still years before African American Vernacular English was acknowledged as a distinct linguistic system (Rickford 1999) and addressed in schools, as evidenced by the Ebonics debate in Oakland Unified School District in the 1990s.

A key turning point in the trajectory of Mexican American advocacy efforts for improved access to education can be traced to the Chicano movement with the assertion of a new racial identity distinct from the earlier “other white” arguments. The East LA Thirteen case (1969) and the Biltmore Six case (1969) bolstered this pivotal moment with their verdicts. When the court pronounced that the absence of Mexican jurors was *not* discriminatory and therefore not a violation of the equal protection clause, since Mexicans were deemed white in earlier court

cases (see *Hernández v. Texas* 1954), Mexican Americans won twisted acknowledgement of white status in name only. For all their perseverance and struggle over decades, they had earned none of the privileges of white racial designation, only the liabilities.

In reality, Mexican Americans and other Latinas/os who worked to end segregation in the Southwest – much as Blacks had done in the South – continued to battle Jim Crow. They saw little in the way of impactful change in the education of their children. At the same time, the Nixon administration (1968–1972) was faced with white protests and backlash against court-ordered busing and affirmative action. The administration may have found addressing educational needs through language programs as a strategic, less inflammatory tool for advancing desegregation. In the words of CRT scholars Zamudio et al., addressing education for disadvantaged children and funding bilingual education efforts may well have been seen as a means to “quell the more radical segments of the [civil rights policy] movements, and to secure the dominance of those in power” (Zamudio et al. 2011, p. 13).

Some civil rights advocates pointed out that focusing on bilingual education could divert attention away from some structural, systemic, and civil rights needs apart from language of instruction needs, noting that for African Americans and American Indians, among others, speaking English had still left underachievement and inadequate preparation for graduation, college, and employment largely unaddressed. Yet language must be placed at the center of any discussion of educational needs, since it is the medium through which all instruction and learning take place. One might reflect, how comprehensible and meaningful can all English instruction be, no matter how rigorous the latest new standards and assessments may be? Even today, educators who are keen on keeping standards and expectations high for ELLs must reflect on the fact that, nationally, high school graduation rates for English Language Learners average 59%. Bilingual education can be an opportunity for all students to learn to full potential, to not settle for a mediocre education that ignores the rich linguistic and cultural resources that surround us in this country, arguably the most diverse democracy in the world.

The re-emergence of bilingual education

Bilingual education saw a rebirth with the arrival of Cubans in Florida following the revolution in Cuba in 1959. The federal 1961 Cuban Refugee Program provided financial assistance and those who had previously worked as educators in the home country were able to become recertified here in the United States. Dade County Public Schools offered ESL (English as a Second Language) classes and, in 1961, Spanish for Spanish-speakers classes. Equipped with relatively privileged and educated backgrounds, members of this group helped instigate, with the school board approval, the first bilingual two-way immersion programs that taught Spanish and English to both native Spanish-speaking and native English-speaking children in 1963.

A key demand civil rights activists made, given that the federal government continued to fund public schools and other public service offices that continued discriminatory practices, was for Congress to restrict *Elementary and Secondary Education Act (ESEA)* funds to be used for programs that met federal goals of 1) advancing equity for disadvantaged students and 2) fighting racial discrimination. Bilingual education programs would meet both goals and help remedy the status quo discrimination that replicated educational disadvantage over generations. For the first time, the use of the home language was affirmed and funded by the federal government when, in 1965, Head Start was established and provided a rubric of programs to address social and economic disparities for preschool children from disadvantaged backgrounds.

Over the decades, the Mexican American community worked to develop a variety of approaches to advance literacy opportunities and education rights for their children. In 1966,

Chicano leaders walked out of an Equal Employment Opportunity Conference in New Mexico calling for change. President Lyndon B. Johnson responded by establishing the Inter-Agency Committee on Opportunities for the Spanish-Speaking. Chicanas/os then established educational scholarships through foundations. But with dire outcomes in educational attainment and high school dropout rates not changing for several decades, it was time for Chicanas/os to reject the substandard education that had been parsed out to them and demand change.

In March 1968, Chicana/o students organized a series of walkouts (also referred to as “Blowouts”) to protest the subpar level of education offered by the public schools. The walkouts involved about 4,000 students in 16 high schools in the Southwest including the Los Angeles Unified School District high schools and schools in Denver, Colorado, Chicago, Illinois, and Texas. More than 39 walkouts took place in the state between 1968 and 1972 (San Miguel, Jr. 2013, p. 25). Students demanded better quality education, access to higher education, and the right to use Spanish for personal purposes and for bilingual educational programs in schools. In East Los Angeles, the key leaders of the Blowouts were indicted on conspiracy charges by the FBI, and high school history teacher Sal Castro, who supported the cause, was dismissed from his position by the Los Angeles Unified School District Board (García & Castro 2011). Parents negotiated long and hard for Mr. Castro to be reinstated to his position.

Strikes continued to resonate across the state, including on college campuses in San Jose, San Francisco, and Berkeley. The founding of several Chicano organizations, including the Crusade for Justice in Denver, Colorado at the March 1969 National Chicano Youth Liberation Conference, La Raza Unida party in Crystal City, Texas in 1970, and El Movimiento Estudiantil Chicano de Aztlán (The Chicano Student Movement of Aztlán or MEChA) at the University of California at Santa Barbara, all led to a focus on key community issues such as migrant farmworkers’ needs, need for political voice, and equal opportunity in education (Loya 1990).

Federal policies and bilingual education

Bilingual education efforts in the United States were advanced by three different federal policies that have continued to work together. The first was the *Civil Rights Act of 1964*, particularly enforcement of *Title VI* of the act, which specifically prohibits federal funding to programs that discriminate on the basis of race, color, or national origin. In 1968, the final year of the Johnson administration, the U.S. Department of Health, Education, and Welfare (USDHEW) issued guidelines for school accountability regarding *Title VI*.

The second federal-level policy to advance bilingual education in the United States was the *Bilingual Education Act (BEA) of 1968*, which extended the *Elementary and Secondary Education Act* and comprised *Title VII of ESEA*. The *BEA* provided federal financial funds and programmatic aid to state and local educational entities, providing for ELLs of low-income backgrounds (Rosenzweig 2008).

The third federal-level policy to advance bilingual education was the *Equal Educational Opportunity Act (EEOA) of 1974*, which was born out of the *Lau v. Nichols* (1974) decision. A civil rights case involving parents of Chinese students in San Francisco who filed suit calling out the lack of special support services for English development for their children, the landmark *Lau* ruling supported equal educational opportunity for language minority students. Following the criteria established by the U.S. Court of Appeals for the Fifth Circuit, the *Castañeda v. Pickard* (1981) ruling applies to various programs for English Language Learners including bilingual education programs. The program must be based on sound educational principle or theory, be implemented sufficiently and reasonably faithfully, and show the positive intended effects after a reasonable period. In practice, this ruling has meant that the harmful effects of any program

for ELLs must be shown before the program can be replaced, serving effectively as a barrier to overturning the restrictive English-only policies in California, Arizona, and Massachusetts.

Insights from critical race theory's interest convergence principle

In California, Governor Ronald Reagan signed legislation authorizing bilingual education in the state in 1967, ending a 95-year-old state law that “all schools shall be taught in the English language.” California’s legislature passed bilingual education law during the civil rights era, based on evidence that English-only schooling had harmed Hispanic, Asian, and Native American students: the 1960 census reported that 50% of California’s Mexican Americans aged 18–24 had dropped out of school before finishing the 8th grade. Therefore, change in bilingual education policy was already taking place in the country at the state level before federal policy intervention. Bilingual education was being used in places such as Texas and California to address the persistent educational crisis for language minority students since something had to be done; to paraphrase a common saying, doing the same thing (using English-only instruction) and expecting different results (ELL student success) is not exactly productive.

At the federal level, bilingual education had its many challenges but gained some footing from a watershed ruling:

In recognition of the special educational needs of the large numbers of children of limited English-speaking ability in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out new and imaginative elementary and secondary school programs designed to meet these special educational needs.

(Bilingual Educational Act of 1968)

In essence, a very modest voluntary grant-in-aid program for bilingual education research and experimentation was approved, informed by the Senate report that no particular bilingual education program could be required in the absence of substantive research supporting them.

Thus the *BEA* was largely symbolic and did not specify any special program requirements for NEP/LEP (Non-English Proficient and Limited English Proficient) students, although the U.S. Department of Health, Education, and Welfare instructions for *Title VII* grant applications noted, “It must be remembered that the ultimate goal of bilingual education is a student who functions well in two languages on any occasion.” In fact, in 1968, the first year of the *Bilingual Education Act*, \$0 out of the authorized \$15 million was appropriated, and between 1969 and 1973, although up to \$135 million was authorized, no more than \$35 million or about 25% of that allocated was ever appropriated in a given year, reflecting conservative budget and appropriations committees to keep funding levels low.

Hispanics (and therein Chicanas/os) now ostensibly had a policy in place to protect and advance bilingual education. In reality, a scant percentage of language minority students were served. By 1972, 112,000 of 5 million children or 2.2% of language minority students (not all students) were in bilingual education programs (Crawford 1989). Nevertheless, perhaps the policy was an improvement from the years of segregation and exclusion and lack of attendance enforcement Chicana/o students had faced in previous generations. The period was the beginning of a national focus on education, seen as a pathway to preparing more competitive students during the enduring cold war and emerging space race, and language minority students were seen as needing some assistance to help the nation. The actual significant policy change with commensurate funding at the federal level to impact all schools and students in the country

would only be legislatively authorized and passed in 2001 with the reauthorization of *ESEA* or *No Child Left Behind (NCLB)*. Signed into law in 2002, *NCLB* would impose a primarily English program with a high-stakes testing regimen and boast one of the highest levels of educational funding in U.S. history. What a contrast to *BEA* funding!

Using the lens of critical race theory's interest convergence principle brings insight to the negotiations and wrestling among the main stakeholder groups that resulted in the *BEA*. Moran (1988) describes the four main stakeholder groups as language minority parents and community leaders, educational experts, federal officials, and Official English advocates, and demonstrates how each had a vested interest in bilingual education policy but operated under varying frameworks, each with unique degrees of discretion and influence. Language minority parents and community leaders were primarily interested in rectifying the discrimination founded on states' and local educational agencies' failure to properly educate students, as detailed earlier in the chapter. Educational experts had an interest in increasing student competence both operationally and instructionally, and supported an increased role by the federal government to the degree doing so yielded greater access to resources and information. Official English reformers were interested in prioritizing English and saw it as the main and true American way of life.

A closer look at the *Bilingual Education Act* (1968) reveals that the Chicana/o community viewed the *BEA* as a way to open up access to an equal opportunity to learn by employing bilingual education and students' background languages. For white educators and policymakers, it was a way to address the demands made by Chicana/o and Native American activists. *BEA* dovetailed the previously addressed issues of racial inequality and segregation. Fighting the pervasive byproducts of childhood poverty through equitable schooling would remedy alarmingly high dropout rates and other "deficiencies" that had been neglected for too long. On this point, the National Education Association's 1965–1966 Tucson survey report, *The Invisible Minority*, played a key role during the hearings of the bilingual education bill.

Bilingual education goes to court

In the early 1970s, several case rulings followed that required bilingual education as a remedy. In *Aspira v. Board of Education of the City of New York* (1974), New York City schools were required to provide bilingual education for all students who needed it. In *Keyes v. School District No. 1, Denver* (1973) the district accepted a plan by the Congress of Hispanic Educators for bilingual and bicultural education. Citing the Equal Protection clause of the Constitution, the 10th Circuit Court of Appeals in *Serna v. Portales Municipal Schools* (1974) ordered the implementation of bilingual and bicultural instruction, assessment, and the recruitment and hiring of bilingual teachers and staff (Halcón 2008).

Part III: An elusive promise: bilingual education (1974–2015)

In 1974, President Ford signed the reauthorization of the *Bilingual Education Act*. The budget was increased to \$50 million, and the federal government provided state and local educational agencies (LEAs) a financial incentive for utilizing bilingual education. Senators Edward Kennedy and Walter Mondale moved to expand funding, and the poverty requirement of earning less than \$3,000 per year was dropped.

The 1978 reauthorization under President Carter followed a period of backlash against federal expenditures to promote cultural pride and linguistic preservation. This was reflected in the exclusion of maintenance bilingual education (MBE) programs that more fully develop biliteracy (as opposed to transitional bilingual education or TBE programs that use the primary

language primarily as a transition or bridge to learning English) from *Title VII* funding in the reauthorization. We have followed two reauthorizations of the federal *BEA* thus far. Before reviewing the next three reauthorizations, it would be instructive to take a close look at how a state-level bilingual education policy unfolded in and impacted California.

Bilingual education in California: a case study (1976–1987)

The negotiation of the different federal roles in bilingual education is reflected in the example of California, a national leader in ELL programs and services as well as teacher education. In 1976, Assemblyman Peter Chacón and Senator George Moscone introduced the *Chacón-Moscone Bilingual Bicultural Education Act (Assembly Bill 1329)*. The bill passed and provided flexibility for school districts to use programs such as TBE, a program with reading instruction in the home language with the primary goal being English proficiency; MBE, a program with reading and other subject matter instruction in the home language with the goal of biliteracy; and English-only education with the goal of English-language assimilation. Experimental programs, state certification of bilingual teachers, and improved education for non-bilingual teachers in the cultures and languages of English Language Learners were also included in this comprehensive bill. But critics faulted the bill, citing difficulty in hiring bilingual teachers and staff.

In 1987, Governor George Deukmejian, a noted bilingual education opponent, did not sign the renewal legislation for bilingual education. This year is often referred to as the sunset of bilingual education in California. At this time, U.S. English, English-only instruction efforts, and anti-immigrant measures were surfacing all across the country. By 1998, despite ample research evidence supporting bilingual education over English-only programs, an English-only voter initiative authored by Ron Unz, a Silicon Valley businessman who had failed in his bid for governor, and Gloria Mata Tuchman, an elementary school teacher, won 61% of voter support. The initiative followed the passage of other initiatives in the state that limited immigrants' civil rights, *Proposition 187* (1994), and *Proposition 209* (1996).

Precursors and passage of the 1984 reauthorization

By the early 1980s, 30 states had passed bilingual education laws, with nine requiring native language instruction in specific circumstances, and 21 providing funding for bilingual programs. Some states continued to forbid instruction in languages other than English, though enforcement of this was not strict. Under the Reagan administration (January 1981–January 1989), there were two reauthorizations of *BEA*: in 1984 (deferred from the original reauthorization date of 1983) and 1988. On the whole, *BEA* under his presidency reflected his new federalism promises of reducing the role of the federal government, including that in education. What this amounted to is that the increased federal initiative and support for ELLs in the preceding 10 to 15 years slowly declined and deferred to the states' role of choosing which types of programs, English or bilingual, would be used in the schools.

Further illustrating the language ideology climate of the time, California Senator S.I. Hayakawa introduced the first “English Language Amendment” (ELA) in 1981 to declare English the official language of the United States. The proposed amendment died without a hearing in the 97th Congress. However, the issue spread to the states and currently 31 states have now declared English their only official language.

Secretary of Education William Bennett (1985–1988) also saw the goal of *BEA* as English fluency, as opposed to biliteracy or bicultural education. He erroneously connected high Hispanic dropout rates to the efficacy of bilingual education programs, failing to note the small

percentage of the total ELL population served through the *BEA* (see U.S. General Accounting Office 1987b) or other key background factors such as poverty or parental education levels (Krashen 1999). In issuing new grant guidelines, preference was given to programs that used less native-language instruction and rapidly mainstreamed ELLs to non-bilingual classes.

The 1988 reauthorization was emotional and politically charged. Findings from two 1987 U.S. General Accounting Office reports showing positive outcomes for bilingual education and, supported by educational researchers, were met with charges that the report's claims were driven by motivations to embarrass the Reagan administration's opposition to bilingual education (U.S. General Accounting Office 1987a and 1987b).

The 1994 reauthorization under the Clinton administration was the only pluralistic policy version among all four reauthorizations of *BEA*. First, reflecting the climate during the 1992 election year, Republican candidate George Bush appealed to Latina/o voters and supported bilingual education, noting the findings of a USDOE study showing favorable outcomes for bilingual education. One concern during this relatively supportive period for bilingual education was the shortage of bilingual teachers. Funding preference was given to bilingual programs and the target population included ELLs as well as Indigenous language speakers. Historian Guadalupe San Miguel, Jr. (2004) notes how, in the second half of the 1990s, existing opponents to bilingual education such as conservative special interest groups, Anglo parent groups, administrators, assimilationists, and U.S. English supporters were now joined by educational traditionalists, political opportunists, and *los ignorantes* (the ignorant ones) who could not or would not accept that the main goal of bilingual education was to facilitate rapid learning of English (2004). As a case in point, in 1998, California voters passed *Proposition 227*, a statewide English-only instructional policy with a one-year time limit, followed by Arizona doing the same with *Proposition 203* in 2000. These were the first retractions of state-level bilingual education policies enacted in the previous two decades.

In September 1998, the House approved the *English Language Fluency Act (HR 3892)*, which proposed to convert bilingual education funding to a block grant, which would have diverted funds from focused programs to support English Language Learners. The bill also capped bilingual education at three years, and canceled all bilingual education compliance agreements between state and local educational agencies and the USDOE. In May 1999, Secretary of Education Richard Riley and President Clinton introduced the *Educational Excellence for All Children Act*, which would reauthorize the *BEA* as part of the reauthorization of the *ESEA* set to expire on 30 September 1999, without success. By 2001 to 2002, with President George W. Bush in office, the pendulum had fully swung in the other direction. Anti-bilingual or English-only measures appeared in Colorado, Massachusetts, New York, Oklahoma, Oregon, and Iowa, with approval only by Massachusetts voters in 2002, making it the third state to pass a restrictive English-only instruction policy.

The demise of federal *BEA*: *No Child Left Behind* (2002)

No Child Left Behind (NCLB), the reauthorization of the *ESEA* under President George Bush, was approved in the House by a margin of 381–41. It authorized \$26.5 billion for all federal education spending, a more than \$7 billion increase from 2001. *Title VII* was moved to *Title III, Language Instruction for Limited English Proficient and Immigrant Children*. It specified language maintenance for Indigenous language speakers, whereas for ELLs English proficiency and academic achievement in English were emphasized. Transition to all-English mainstream instructional settings was emphasized; the federal educational office of the National Center for Bilingual Education was renamed the National Center for English Language Acquisition to underscore this shift. Critics lamented that this bill could be called *No Child Left Bilingual*.

Thus, the new millennium began with the most centralized federal education mandate in the history of this country, which would last for nearly 15 years. Was the dramatic expansion of the federal role in education justified by claims that the United States needed to remain competitive in the global arena? Then or now, there is little in the way of research showing that heavy emphasis on testing has led to improved student outcomes. Ironically, *NCLB*'s goals may have been better advanced by employing integrated ELL and native-language standards, testing, and bilingual education, on average 44% better (McField & McField 2014).

From the critical race theory perspective, what is striking is that, despite the opposition of *NCLB* by bilingual education advocacy groups such as NABE, LULAC, and the National Council de La Raza, no liberal Democrat including Edward Kennedy or any member of the Congressional Hispanic Caucus voted against it or introduced an amendment to the legislation during the bill's passage to approval (Crawford 2002). Upon its passage, historian San Miguel observed that the National Council of La Raza "praise[d] the bipartisan approach to the enactment of this bill and [did] not critique the bill but caution[ed] that the changes need to be more effectively monitored by the federal government" (2004, p. 161).

No Child Left Behind became due for reauthorization in 2007. However, Congress repeatedly failed to act and, in 2011, President Obama (January 2009–January 2017) announced the Education Flexibility Waivers, which would loosen the constraints of *NCLB* requirements on states and LEAs and provide for innovation and reform appropriate for unique state and local contexts (U.S. Department of Education 2015).

Current status of ESEA federal policy for English learners: *Every Student Succeeds Act (ESSA, 2015)*

The most recent reauthorization of the *ESEA*, *Every Student Succeeds Act (ESSA)*, signed by President Obama on 10 December 2015, ushered in a new era for EL education. It gives more discretion to states, a notable shift from the heavily federalist *NCLB* legislation that curtailed bilingual education for 15 years. Now all states are required to implement English-language proficiency (ELP) standards aligned with academic subject area standards, indicating that ELLs' needs are to be integrated into regular instruction and that it is critical for schools to provide equal opportunities to learn.

Insights from critical race theory

Beginning in the 1960s, the three federal policies of the *Civil Rights Act Title VI*, *Bilingual Education Act of 1968 (Title VII of ESEA)*, and *Lau v. Nichols* (1974) codified as *EEOA* (1974) worked together to shape equal opportunity in education for language minority children, including Chicana/o students. Between the enactment of the *Bilingual Education Act of 1968 (Title VII of ESEA)* and the passage of *No Child Left Behind* (2002), federal bilingual education policy in the United States spanned 33 years. During this period, the bilingual and pluralistic goals of federal-level bilingual education policy were slowly undermined by federal agencies such as the USDOE, presidential/executive influence, nativist English efforts, as well as continued propagation of inaccuracies and misperceptions about the consistent research supporting bilingual education by each of these foregoing entities (McField & McField 2014). Dog whistles in the political arena on immigration and anti-bilingual education further accelerated and fanned the demise of federal policies that set in during the 1980s. The sunset of bilingual education in California in 1987 signaled the onset of anti-bilingual English-only policies in the late 1990s and in the new millennium.

Over the years, the only *BEA* reauthorization that was pluralistic and supported bilingual education was under President Clinton. Why did all the other reauthorizations essentially slowly chip away at the original *BEA* and then shift to *NCLB*, the massive federal testing mandate? Critical race theory's principles of whiteness of property provides some answers, as does the principle of interest convergence and its white self-interest corollary. Federal bilingual education policy was attractive for whites when its focus was addressing disadvantaged children through educational reform whose agents were mostly white educators and administrators. However, when bilingual education was seen as threatening the status of English in its unique role of defining Americanness in the face of increased immigration, support for *BEA* quickly dissipated.

The whiteness of property principle dictates that, as long as Chicanas/os and other culturally and linguistically diverse groups are viewed as nonwhite and "other," they do not and will not have the rights and privileges of the white population. Under this paradigm, language minorities must abandon their home language and blend in and adopt English. In the process, if it is difficult for non-English proficient children to learn from all-English instruction, more intense instruction in English and increased pressure through high-stakes testing to ostensibly keep our standing in the world are deemed the right remedy.

Conclusion: a call to action

The world has changed rapidly in the 15 years since the "No Child Left Behind" legislation (2002) launched a national fervor and focus on standardized testing requirements that have brought education to the latest innovation, the new Common Core State Standards and accompanying new tests. Some have even noted that, today, whites' exclusive reliance on English monolingualism could put them "at risk" in this global economy era, and many whites have come to embrace the values of bilingualism or multilingualism.

Now, we may be at a new crest in the struggle for bilingual education. On 8 November 2016, California voters overwhelmingly passed *Proposition 58* (*Senate Bill 1174*, 2014) with a strong support base of 72%. *Proposition 58* amends *Proposition 227* and reduces barriers parents and local educational agencies face in being able to implement quality, research-based bilingual education programs. Instead of being limited to an English-only program with little to no research support, California is now positioned to more fully demonstrate the tremendous benefits of bilingual education already shown to produce an average of 44% higher academic achievement over English-only instruction (McField 2002; Krashen & McField 2005; McField & McField 2014). The move could thereby influence other states or federal-level education decision-makers.

At the same time, the educational needs in the Chicana/o community remain urgent. We need to radically disrupt the current status quo: 50 years after *Brown* (1954), the country is just as segregated (The Civil Rights Project at Harvard 2002). Just a decade ago, Latinas/os were found to be more segregated than African Americans, with three-fourths enrolled in schools with over 50% Latinas/os (San Miguel Jr. 2013, p. 17). Nevertheless, high school graduation rates have steadily increased for Latina/o students from 56% in 1972 to 57% in 1980, 59% in 1990, 64% in 2000, and 71% in 2010 (Stetser & Stillwell 2014), suggesting that the Chicana/o community's efforts before and after *ESEA* (1965) and *Lau v. Nichols* (1974) have helped effect some positive educational change.

The Chicana/o community is necessarily at the nexus of education in the 21st century. The U.S. Census Bureau (2015b) projects that 25% of the students in the United States will be Latina/o by 2025. In society at large, by 2050, whites (including both non-Hispanic and Hispanic whites) are expected to decrease from 77.5% to 68.5% of the American population, while Hispanics are expected to increase from 17.4% to 28.6%. This will partially be driven by

the fact that, currently, the median age for Latinas/os is 8 years old, whereas that of whites is 55 years old (Pew Research Center 2015a). Thus Latinas/os and Chicanas/os are well-poised to be native-speaking biliterates who will teach the next generation of children. We need to collectively make the case for drawing from our existing bilingual population to receive support to complete bilingual teaching authorizations. Fortunately, today, more and more whites are on the cusp of seeing the value of bilingualism. It is hoped that the foregoing lessons on bilingual education policy from the critical race theory perspective will embolden the reader in the pursuit of educational equity and change.

Notes

- 1 This chapter uses the terms “Hispanic” and “Latina/o” interchangeably as referring to individuals who trace their heritage to Spain and the Latin American hemisphere. I use “Hispanic” when referring to data compiled by the U.S. Census Bureau or other U.S. governmental agencies consistent with their usage of this term. “Latina/o” is used when it is used by other authors and organizations. “Chicana/o” is both a political identity and an ethnic label used by a number of people of Mexican descent, particularly in political spaces and in the academy.
- 2 In response to this harsh state of affairs, in 1929, representatives of several different Mexican American organizations met in Corpus Christi, Texas and formed the League of United Latin American Citizens (LULAC). Members were middle-class Mexican Americans with U.S. citizenship, a requirement for membership. The LULAC code represented a multicultural and multilingual vision and mission: “respect your citizenship . . . honor your country, maintain its traditions . . . incorporate yourself in the culture and civilization” and “love the men of your race, take pride in your origins and keep it immaculate; respect your glorious past and help to vindicate your people” (Spring 2016, p. 99).

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Part II

Borderlands

Contested (im)migrations, culture, and citizenship

Introduction

One of the most innovative and influential theoretical formulations within Chicana/o Studies is borderlands theory. Notions of borderlands are complex and have been used by writers and theorists in widely disparate ways. One of the most influential thinkers about borderlands, Chicana feminist lesbian poet and theorist Gloria Anzaldúa, in her canonical work *Borderlands/La Frontera: The New Mestiza* (1987), argues that borderlands have multiple meanings. Literally, the borderlands include the geopolitical space around the U.S.-Mexico border characterized by the ongoing movement of people, products, and ideas. Anzaldúa's theoretical formulation of "borderlands," however, postulates the existence of spaces that transcend the geopolitical border area where women, men, and children adapt, resist, and innovate to cope with social inequalities based on racial, gender, class, and/or sexual differences. These expressions of agency incorporate spiritual transformations and psychic processes of exclusion and identification – of feeling "in between" cultures, languages, or places. Within these spaces, marginalized "others" voice their identities and resistance. All of these social, political, spiritual, and emotional transitions transcend geopolitical space.

Before Anzaldúa's theoretical insights on the broad significance of borderlands, Chicana/o Studies and other fields concerned with the experiences and expressions of immigrants and subsequent generations addressed the presence and paradoxes of borders and how these separated Mexican and Chicana/o communities since 1848 within a mirror relationship. The two-pronged approach prevalent before the 1980s emphasized binaries, but Anzaldúa challenged scholars and activists to consider the material and discursive spaces that transcend geopolitical border areas. Borderlands theoretical applications now go beyond what Américo Paredes called Greater Mexico or a dual cultural conceptualization of both sides of the border. Borderlands is both a site and a metaphor where people live and where their history developed through time, but which includes multiple generations: Indigenous peoples, straight and queer, Anglo and Mexican, the past and the present.

There are four key dimensions within Chicana/o Studies borderlands scholarship: structural, discursive, interactional, and agentic. Structural borderlands research critiques the effects of globalizing economies, neoliberal state practices, and growing regional interdependence and

(im)migration. Discursive elements of borderlands projects examine ideologies and practices as subjects to reconstruct “home” in environments where they are often strangers. Interactional borderlands inquiry analyzes how boundaries are actively produced, based on race, class, gender, and sexualities. Agentic borderlands research focuses on the ways that Chicanas/os negotiate agency within geopolitical and psychic borderlands.

In this section, the authors interrogate the multiple meanings of borderlands, boundaries and borders within the field of Chicana/o Studies. Borderlands is a space of new and old cultural expressions, that is, as a place where a home is sought. Borderlands also indicts contradictory conditions where violence takes root in many forms: conflict, legal status, media distortions, and representation of (im)migrants, femicide (female genocide), drug wars, sexualities, and political wranglings. Within spatial, spiritual, and material borderlands, adaption, resistance, and the development of new strategies to negotiate, resist, and overcome social inequalities are ever-changing and challenging.