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Navigating Policy Landscapes for Linguistic and Cultural Equity

by Morgan Craven, J.D., & Lizdelia Piñón, Ed.D.

There are more than 5 million emergent bilingual students (English learners) in U.S. public schools, constituting 10% of the student population (NCES, 2023). These students bring the invaluable assets of multilingualism and multiculturalism to their school communities. With the proper educational support, they can excel academically, contribute diverse perspectives, and live whole, joyful lives that enrich our communities and society.

Despite this large and expanding student population, policymakers at every level have struggled to (and, in some cases, been unwilling to) address the long-standing, systemic failures that have contributed to the gaps in educational achievement between emergent bilingual students and their peers.

To help address these deficiencies, IDRA develops and promotes research-based policies; supports authentic family leadership and student support programs; leads and serves in national, state and local policy coalitions; and continues its critical work in educator development with a specific focus on emergent bilingual students.

Below are some of the pressing issues that impact these students and strategies IDRA is working on to address them.

Certify Educators in Bilingual Special Education

Emergent bilingual students are overrepresented in some special education programs and underrepresented in others (Ortiz, et al., 2020; Artiles, et al., 2010). This is partly due to some educators’ lack of knowledge of second language acquisition (Klingner et al., 2006). Other factors include identification processes, educational policies and system inequities (Schonfeld, et al., 2015).

We must have well-trained educators and robust programming and services for emergent bilingual students with special educational needs. A recent study of national trends showed lower rates of general education inclusion and high school graduation for emergent bilingual students with disabilities relative to non-emergent bilingual students with disabilities (Cooc, 2023).

Educators must possess the necessary skills, knowledge and cultural sensitivity to support the intersection of students with disabilities who come from linguistically and culturally diverse backgrounds. Recognizing this need, there is a demand for more educators certified in bilingual special education.

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On April 4, 2024, LatinoJustice Puerto Rican Legal Defense and Education Fund (PRLDEF) and ASPIRA of New York hosted a convening in New York City. The event brought together civil rights organizations, scholars, educators, parents and policymakers to discuss the current state of emergent bilingual (English learner) education and how to use equity-focused policies and practices to address educational inequities for students.

Morgan Craven, J.D., IDRA national director of policy, advocacy, and community engagement, spoke on a panel entitled, “Using the Law and Government Funding to Improve Outcomes in Language Access,” with other panelists representing the National Newcomer Network, Illinois Latino Policy Forum; Civil Rights Division, U.S. Department of Justice; and the Mexican American Legal Defense and Educational Fund (MALDEF). Lizdelia Piñón, Ed.D., IDRA bilingual education lead, also joined the convening and shared her policy and practice work in support of emergent bilingual students.

(Navigating Policy Landscapes for Linguistic and Cultural Equity, continued from Page 1)

In 2021, the Texas Legislature passed House Bill 2256 to establish a new certification in bilingual special education, stemming from the year-long Texas Early Childhood English Learner Initiative (TECELL, 2021). As a steering committee member, IDRA helped develop the initiative's policy roadmap, including the bilingual special education certificate (Piñon, 2022).

Unfortunately, the certificate has been awaiting Texas State Board of Education (SBOE) approval for the past year. IDRA is currently organizing focus groups of educators and scholars to continue to give the SBOE feedback on the latest draft of the certificate and to urge its swift approval and implementation.

Support Emergent Bilingual Family Leadership in Schools and Policy Spaces

Robust systems of family leadership and engagement can transform schools and improve student outcomes. However, some families face their schools' language barriers in accessing information about their children's education and participating in their school communities.

Schools must operate programs and practices that foster authentic family engagement, with specialized support for the families of emergent bilingual students who may not speak English. This involves prioritizing meaningful communications with parents, ensuring school leaders maintain consistent contact with parents and caregivers and actively engaging parents in decision-making at school and district levels (Montemayor, 2022). For example, school boards can set policies that mandate translating all communications to students' families who speak languages other than English.

All stakeholders, including policymakers, school district leaders, administrators and educators, must engage in ongoing community needs assessments that are culturally and linguistically appropriate.

Supporting families entails amplifying their voices, establishing a network of family advocates, recognizing their strengths, and providing access to resources and information. Additionally, it is crucial to ensure that parents of emergent bilingual students know and understand their rights within the education system.

IDRA continues to center family and student engagement and leadership through programs, for example, in El Paso, Houston, San Antonio and South Texas with student advocates and family leadership programs like our Education CAFEs (Montemayor, 2023; IDRA, 2021).

Protect Student Rights to Educational Opportunities

This year, we commemorate the 50th anniversary of *Lau v. Nichols*, the unanimous U.S. Supreme Court decision that protected the rights of emergent bilingual students to equal access to a meaningful education (IDRA, 2024). IDRA founder Dr. José A. Cárdenas testified in the case and then assisted the Office for Civil Rights in developing the "Lau Remedies," the landmark guide for schools on serving emergent bilingual students (IDRA, 2024).

Lau, and subsequent federal and state guidance and protections, led to significant improvements, but emergent bilingual students and their families continue to face barriers to excellent and equitable educational programs, including sub-par and underfunded academic programs, ineffective assessment systems, and limited essential information about their stu-

dent's academic well-being delivered in families' home languages.

IDRA conducts research and develops resources to help families and other advocates identify and report violations of emergent bilingual students' rights to education. We are in state, regional and national coalitions that work directly with policymakers to recommend how federal guidance and technical support can help districts and states better serve emergent bilingual students and their families. We are also developing model policies and policy recommendations that address persistent barriers and ensure access to quality education for all.

In addition to addressing the issues described above, IDRA works to increase targeted federal and state funding to support research-based language programs that serve emergent bilingual students; encourage policymakers and schools to adopt meaningful, culturally relevant methods of assessing emergent bilingual academic development and achievement; and expanding access to translanguaging supports that enable emergent bilingual students to use their home languages to as they grow their skills in English (Piñon, 2022).

For more information on IDRA's work to ensure excellent educational opportunities for emergent bilingual students, see our policy resource webpage (<https://idra.news/ELeducation>) and our Serving Emergent Bilingual Students Equity Assistance – Online Toolkit (<https://idra.news/EmergentBilingualEdToolkit>).

Resources

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Publication offices:
5815 Callaghan Road, Suite 101
San Antonio, Texas 78228
210-444-1710; Fax 210-444-1714
www.idra.org | contact@idra.org

Celina Moreno, J.D.
IDRA President and CEO
Newsletter Executive Editor

Christie L. Goodman, APR, Fellow PRSA
IDRA Director of Communications
Newsletter Production Editor

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Language Rights are Civil Rights – 50th Anniversary of the *Lau v. Nichols* Ruling

by Paige Duggins-Clay, J.D.

At IDRA, we believe that students should not have to abandon their authentic selves – including their home language – in order to succeed in school.

This year marks the 50th anniversary of the U.S. Supreme Court's landmark decision in *Lau v. Nichols*, affirming the right of emergent bilingual students (English learners) to participate fully and meaningfully in the educational programs offered in public schools.

Rejecting false and harmful narratives that a student's ability to speak languages other than English somehow leads to academic underachievement, the ruling mandated that public schools take affirmative steps toward meeting the language needs of their students.

This article highlights key insights from the historic opinion and discusses the array of student rights and remedies established by the decision.

Lau v. Nichols Case Background

More than 1,800 emergent bilingual students of Chinese descent were at the center of the *Lau* decision. They were enrolled in the San Francisco Unified School District and were not receiving instruction in their home language or meaningful assistance to help them become multilingual. Instead, the school district required all instruction to be delivered in English, relying on the erroneous and discriminatory assumption that schools should not have to support and adapt to the unique needs of diverse students and communities.

The district's actions violated the directives of the U.S. Department of Health, Education and Welfare (HEW) (now the Department of Education) stated in a 1970 memorandum that failure to provide language access resources and English language instruction to emergent bilingual children constituted discrimination under Title VI of the *Civil Rights Act of 1964*

(Pottinger, 1970).

IDRA founder Dr. José A. Cárdenas, who provided expert testimony during the case, argued that when the characteristics of students are incompatible with the characteristics of the instructional program, it is incumbent upon the school to adapt to be compatible with the students – not for the students to change their characteristics. The Supreme Court ultimately agreed (Cárdenas, 1976).

Dr. Cárdenas and IDRA's Dr. Bambi Cárdenas also served as consultants to the Department of Justice's Civil Rights Division in preparing a brief presented to the Supreme Court by J. Stanley Pottinger, who argued on behalf of the plaintiffs alongside Mr. Steinman during oral argument.

In assessing the legality of the district's policy, Justice William O. Douglas (writing the majority opinion in *Lau*) built on the court's previous reasoning in *Brown v. Board of Education*, observing that merely providing emergent bilingual students the same materials in similar but separate learning environments violated the *Civil Rights Act of 1964*. He famously noted that depriving emergent bilingual students of a full opportunity to learn makes "a mockery of public education" (*Lau v. Nichols*, 1974).

In concluding the court's opinion finding that language access is critical to equal and nondiscriminatory educational opportunity, Justice Douglas quoted Senator Hubert Humphrey's powerful remarks during the debate on the *Civil Rights Act of 1964*: "Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial discrimination" (U.S. Library of Congress, 1964).

These words continue to ring true today.

(cont. on Page 4)

"There is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum, for students who do not understand English are effectively foreclosed from any meaningful education."

– Justice William O. Douglas,
Lau v. Nichols (1974)

"In the field of public education, the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

– Chief Justice Warren,
Brown v. Board of Education (1954)

(Language Rights are Civil Rights, continued from Page 3)

Lau Rights and Remedies

To punctuate the *Lau* decision seven months later, Congress passed the *Equal Educational Opportunities Act*. Section 1703(f) of the Act requires school districts to “take appropriate action to overcome language barriers that impede equal participation by [their] students in [their] instructional programs.”

Following the *Lau* decision, the Office for Civil Rights in 1975 established a *Lau* taskforce to develop guidelines for schools to follow in complying with the *Lau* ruling. Dr. José Cárdenas was appointed a member of this task force and helped develop guidelines commonly known as “*Lau* Remedies,” which were distributed by the department to state agencies and school districts across the country.

These remedies included:

- **Identification:** that schools systematically and validly ascertain which of their clients are linguistically different;
- **Assessment:** that schools systematically and validly ascertain the language characteristics of their clients;
- **Achievement:** that schools systematically ascertain the achievement characteristics of their clients; and
- **Support:** that schools match an instructional program to the characteristics as ascertained.

These remedies continue to serve as the foundation for emergent bilingual student rights in education today.

For the 40th anniversary of the *Lau* decision and the *Equal Educational Opportunities Act*, the U.S. Departments of Education and Justice issued comprehensive joint guidance building on the *Lau* remedies (published in January 2015). This guidance underscores schools’ responsibilities to:

- identify emergent bilingual students in a timely, valid and reliable manner;
- offer all emergent bilingual students an educationally sound language assistance program;
- provide qualified staff and sufficient resources for instructing emergent bilingual students;

2024 • U.S. Supreme Court Ruling
Lau v. Nichols • 50th Anniversary

“It is our core belief that students should not have to abandon their home language in order to succeed in school.”
Celina Moreno, J.D., IDRA President & CEO

In January, IDRA co-hosted a commemorative webinar via Claremont Graduate University School of Educational Studies featuring *Lau* plaintiff lawyer Edward Steinman, with IDRA’s Celina Moreno, J.D., school superintendents, policy experts and academics. They discussed the policy and practice implications of the ruling through to today.

Watch the video replay and learn more at <https://idra-resource.center/Lau50Event>

- ensure emergent bilingual students have equitable access to school programs and activities
- avoid unnecessary segregation of emergent bilingual students from other students;
- monitor students’ progress in learning English and doing grade-level classwork;
- remedy any academic deficits emergent bilingual students incurred while in a language assistance program;
- move students out of language assistance programs when they are proficient in English and monitor those students to ensure they were not prematurely removed;
- evaluate the effectiveness of emergent bilingual programs; and
- provide parents who speak languages other than English with information about school programs, services and activities in a language they understand.

Emergent bilingual students should have the same opportunities to succeed academically their English-speaking classmates. Fifty years after the Supreme Court affirmed this right in *Lau*, IDRA celebrates the brave students, fami-

lies and advocates who helped enshrine these rights and create these remedies in law.

Resources

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Paige Duggins-Clay, J.D., is IDRA’s chief legal analyst. Comments and questions may be directed to her via email at paige.duggins-clay@idra.org.

AI as a Tool for Inclusive Bilingual Education

by Lizdela Piñón, Ed.D.

Bilingual educators are often challenged by a lack of resources, outdated data and evolving demands of assessments, particularly in linguistically diverse schools. Artificial intelligence (AI) in language instruction offers bilingual educators access to powerful tools.

The 5 million emergent bilingual (English learner) students enrolled in public constitute 10% of the total student body (NCES, 2023). Among these students, Spanish is the predominant language spoken at home, accounting for over 75% of the linguistic background of emergent bilingual students in U.S. public schools. They are often taught by bilingual educators tasked to help them in the complex process of acquiring the English language as they maintain their native language.

AI can revolutionize how bilingual educators assess, educate, engage and support students. According to a recent study by Wei, AI-mediated language instruction significantly enhanced English learning achievement, L2 [second language] motivation, and self-regulated learning” among emergent bilingual students (2023).

This technology stands poised to impact emergent bilingual students significantly. By leveraging AI tools, bilingual educators can address several crucial challenges. These tools provide support for novice teachers and those lacking experience working with emerging bilingual students as well as offer personalized instructional strategies.

Linguistic Diversity with AI

One of the primary challenges bilingual educators face is the intricate task of accommodating the diverse linguistic and cultural backgrounds of emergent bilingual students while ensuring their ability to meet academic standards in English. Students enter schools with varying proficiency levels in their native language

and English, necessitating the teacher’s ability to assess and support their progress in both languages. Moreover, each student advances through their language acquisition journey at a unique pace.

By integrating AI technology, bilingual teachers can provide students with personalized learning experiences, enhanced practice opportunities, and immediate feedback, thereby accelerating their English language acquisition process.

Examples of how educators can address linguistic diversity with AI tools include the following.

Personalized Learning Pathways – AI tools can provide personalized learning pathways for emergent bilingual students based on their language proficiency levels, learning preferences and learning styles. This personalized approach also helps with effective grouping and eliminates reliance on outdated data points while providing essential native language support.

Language Assessment and Proficiency Tracking – AI technology tools can accurately assess the language proficiency of bilingual students in multiple languages. The tools can also provide information on students’ reading comprehension, oral proficiency, and content vocabulary knowledge and can be tailored to meet individual needs.

Language Translation and Transcription – AI-powered language translation and transcription tools can help bridge the communication gaps between district leaders, school staff, bilingual educators, teachers, families and students. These easy-to-use (and often free) tools can help translate content material, instructions, and assessments and provide feedback in students’ native language, making it more comprehensible and accessible.

(cont. on Page 6)

Artificial Intelligence For the Bilingual Educator

- Personalized Learning Pathways**
Provide personalized learning pathways for emerging bilingual students based on their language proficiency levels, learning preferences and learning styles.
- Language Proficiency Tracking**
Accurately assess the language proficiency of bilingual students in multiple languages.
- Translation and Transcription**
Translate content material, instructions, and assessments and provide feedback in students’ native language, making it more comprehensible and accessible.
- Content Creation**
Create multilingual materials.
- Virtual Tutoring**
Offer personalized support for each student.
- Language Practice**
Opportunities for conversation practice, interactive language lessons and feedback in multiple languages.
- Open Educational Resources (OER)**
Review and share open educational resources (OER) materials that align with their student curriculum and language proficiency levels.
- Data Analytics**
Analyze assessment data to identify areas of improvement needed by students’ language learning.
- Natural Language Processing (NLP)**
Analyze students’ spoken and written language samples by assessing their grammar, vocabulary use, writing fluency and language skills.
- Challenges and Limitations**
Be aware that AI tools may have language bias, lack cultural relevance, breach privacy and hinder data security.

See article by Lizdela Piñón, Ed.D.
<https://idra.news/nlApr24c>

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See Infographic
<https://idra.news/IgAIforBE>

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Resources with AI

Bilingual educators often face a lack of resources due to underfunding and limited access to content area material in diverse languages and levels. Below are key ways bilingual educators can address resource limitations by leveraging AI tools.

Content Creation and Customization – AI tools streamline the development of bilingual instructional materials, quizzes, presentations, rubrics and more. AI tools can automate processes, enabling educators to generate diverse learning materials tailored to students' language proficiency, individual needs and academic levels.

Virtual Tutoring by AI and Language Practice – Bilingual educators can set up AI tutoring platforms to offer personalized support for each student. Numerous free platforms provide opportunities for conversation practice, interactive language lessons and feedback in multiple languages that are accessible any time.

Open Educational Resources (OER) – Bilingual educators can review and share OER materials that align with their district's curriculum and the language proficiency levels of their students. This ensures that resources effectively meet specific educational needs.

Assessment with AI

Bilingual educators can address the lack of native language assessments with AI tools for the following purposes.

Adaptive Assessments – Bilingual educators can easily use AI tools to create academic assessment items that take into account emergent bilingual students' language proficiency level, interest, learning ability and even their language.

Speech Recognition and Pronunciation Assessment – AI technology can assess a student's pronunciation, fluency and intonation in multiple languages. While monitoring potential AI accent bias, bilingual educators can use this to help students practice their oral language development, which is often the most difficult to assess and develop.

Data Analytics – AI-powered data analytics can help bilingual educators analyze assessment data to identify areas of improvement

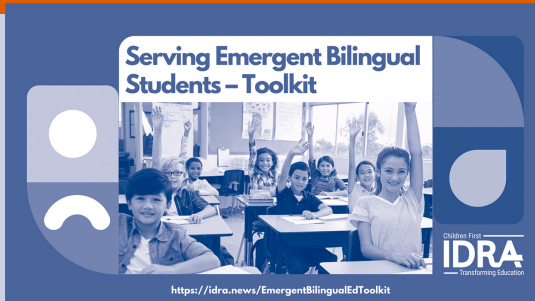
Free Online Toolkit

Emergent bilingual students should have the same opportunities to succeed academically as their English-speaking classmates. Bilingual education programs are designed to increase English proficiency in students while providing instruction in their native language recognizing that students'

academic skills and knowledge transfer between languages. **IDRA's Serving Emergent Bilingual Students – Online Technical Assistance Toolkit** guides educators with an introductory overview of emergent bilingual students and programs to serve them. The toolkit includes the following:

- Literature Review
- Video Chapter 1 – Serving Emergent Bilingual Students – Introduction
- Video Chapter 2 – Funding Bilingual Education and ESL Programs
- Video Chapter 3 – Types of Bilingual & ESL Programs
- Video Chapter 4 – Second Language Acquisition and Asset-Based Approaches
- Video Chapter 5 – Educators, Parents & Student on the Value of Bilingualism
- Webinar – Building Equitable Learning Environments for Emergent Bilinguals
- Webinars Six-Part Series – Translanguaging Workshops
- Featured Classnotes Podcast Episodes on Serving Emergent Bilingual Students

<https://idra.news/EmergentBilingualEdToolkit>



needed by students' language learning. It helps target the areas where the teacher can provide student support. This can also help educators make accurate, data-informed decisions, differentiate instruction, and allow for a student's personalized style of learning and interest.

Natural Language Processing (NLP) – NLP uses AI technology to analyze students' spoken and written language samples by assessing their grammar, vocabulary use, writing fluency and language skills. For example, Texas will use AI-powered technology similar to this next year to score standardized tests (Peters, 2024).

Challenges and Limitations

While AI technology offers much support for bilingual educators with their students, it also comes with limitations and challenges. Educators must be aware that AI tools may have language bias, lack cultural relevance, breach privacy and hinder data security. Addressing these, as well as other challenges and limitations, requires teamwork among administrators, bilingual educators, IT teams, and even policymakers to make sure that AI is being used ethically and responsibly.

At the same time, hesitancy risks excluding particular student groups, like emergent bilingual students, from using and benefiting from AI education (Bojorquez & Vega, 2023).

Amidst the challenges, bilingual educators should integrate AI technology into their teaching practices, as the benefits of enhancing language learning and supporting emergent bilingual students outweigh the obstacles. It can help foster fair and more inclusive lingual education experiences for emergent bilingual students.

IDRA provides practical workshops on using AI tools in the classroom. If you would like to know more or to schedule a session at your school, email lizdelia.pinson@idra.org.

Resources

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Transnational Students Deserve a High-Quality Education on Both Sides of the Border

by Rebekah Skelton

The United States and Mexico share about 9 million students from preschool through high school (Gándara & Jensen, 2021). These young people – often referred to as *transnational students* – are a part of families that have moved across borders for social, economic, familial or other reasons. Although these families might speak different languages or originate from and settle in different places, their children all deserve a high-quality education that prepares them for their future.

While the majority of the students we share – about four of five – currently live in the United States (Gándara & Jensen, 2021), many transnational families return to Mexico (or, in the children’s case, move for the first time) and enroll their children in Mexican schools (Ruiz Soto, et al., 2022; Gándara & Jensen, 2021; Sánchez García & Hamann, 2016).

Transnational students bring a wealth of assets to their school communities, including bilingualism, analytical and translation skills, interpersonal savvy, and digital and cultural literacies. But schools may not recognize these assets and may not provide the unique social and academic supports, such as newcomer programs and culturally relevant curricula and practices, that are necessary to help transnational students thrive in their new school.

For instance, in the United States, “The teachers of most Mexican American students are under-prepared to meet their linguistic and academic needs,” and students’ assets “tend to be under-appreciated and largely unincorporated in U.S. classrooms” (Gándara & Jensen, 2021). Additionally, Sánchez García & Hamann found, “Neither schools nor teacher preparation in Mexico are designed for nor expect transnational enrollments” (2016). They further note that many Mexican teachers do not even know when students with transnational backgrounds are in their classes.

For transnational students, this invisibility “can become a source of misunderstandings, subtle forms of rejection and feeling unwelcome” (Hamann & Zúñiga, 2011). It often means that their attributes are not recognized or nurtured in the classroom. When schools render some of their students invisible, they are not able to support their academic growth.

Transnational students deserve an equitable and fully inclusive education that highlights their diverse assets and unique perspectives. They also deserve well-trained teachers who are prepared to provide culturally sustaining curriculum, high-quality bilingual programs and antiracist classroom practices. While everyone plays a role in meeting these needs, it is especially incumbent upon policymakers to ensure that schools are prepared to support transnational students.

As proponents advocate for systemic policy changes, educators can work to shift toward inclusive classrooms for transnational communities now. In addition to practicing patience and empathy, teachers can create a welcoming and inclusive classroom environment daily.

One way teachers can do this is through a practice known as *translanguaging*, which “involves educators recognizing students’ dynamic bilingualism as an asset in the classroom rather [than] elevating English above all other languages” (Piñón, 2022).

Additionally, programs such as the Ventanilla de Orientación Educativa (VOE), IDRA’s partnership with the Consulate General of Mexico in San Antonio, can support transnational students to thrive in their educational journey. The VOE helps Mexican and Mexican American families navigate the U.S. education system and learn about educational opportunities in both countries (2023).

While much work remains to be done to solve the institutional challenges of both the U.S. and Mexican education systems, support programs and individual classroom practices will help transnational students and their families feel included in new and unfamiliar school environments and prepare students for their future on either side of the border.

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Translanguaging for Social Justice Workshop Series

Power! People! Plan!
Building Ecologies for Equitable Schooling - A Virtual Convening for Educators

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See IDRA’s Educator Webinars on Translanguaging

facilitated by Lizdela Piñón, Ed.D.
IDRA Education Associate

- **Translanguaging for Social Justice Overview and Action Planning**, featuring Kate Seltzer, Ph.D.
- **Leveling the Playing Field: A Strength-Based, Multilingual Approach to Formative Reading Assessment**, featuring Laura Ascenzi-Moreno, Ph.D.
- **Translanguaging in the ESL and ELA Classroom through Reader’s and Writer’s Workshop**, featuring Mandy Stewart, Ph.D.
- **Translanguaging Policies & Practices for Dual Language Programs**, featuring Alejandra Babino, Ph.D.
- **Translanguaging and Higher Education: What Do We Teach Future Teachers?**, featuring Susana Ibarra-Johnson, Ph.D.
- **Translanguaging for Social Justice: What Next? Where Do We Go from Here?**, featuring Mariana Castro, Ph.D., & Lizdela Piñón, Ph.D.

<https://idra.news/Translanguaging>

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Morgan Craven, J.D., is the IDRA national director of policy, advocacy and community engagement. Comments and questions may be directed to her via email at morgan.craven@idra.org. Lizdelia Piñón, Ed.D., is an IDRA education associate. Comments and questions may be directed to her via email at lizdelia.pinson@idra.org.

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- Rebekah Skelton is an IDRA intern. Comments and questions may be directed to her via email at rebekah.skelton@idra.org.*