

Minnesota (not so) Nice? The Politics of Language Education Policy Development and Implementation

By Kendall A. King & Martha Bigelow

In this article, King and Bigelow describe the development and implementation of innovative state legislation called the Learning English for Academic Proficiency and Success (LEAPS) Act. They highlight LEAPS' potential to support language minority students in Minnesota's public schools as well as how values of 'Minnesota nice' potentially impact its implementation.

Minnesota has a decades-long history of welcoming and resettling refugees, and the state has long supported multilingualism through numerous immersion schools and K-12 world language programs for mainly English speakers. Concomitantly, there exists a longstanding gap in programming for minority language students, including inequitable statewide access to strong content-based English as a second language programs, an absence of policies and systematic instruction to develop and build upon students' native languages. These contextual facts have contributed to a significant academic achievement (or opportunity) gap between English learners, most of whom are students of color, and English-proficient students.

To try to address these educational inequities, the 2014 Learning English for Academic Proficiency and Success (LEAPS) Act was written and passed in the Minnesota state legislature. This bold state law revises many statutes to draw greater attention to English learner education, including explicit recommendations for increased support for native languages. While this legislation was progressive and research-based, the sociopolitical, demographic and cultural context of the state has presented challenges to implementation. Drawing on interviews with key policy officials, examination of the text of law, and our long-standing professional involvement as consultants on (and advocates for) multilingualism, we consider the development and implementation of the law. We suggest that local culture, in particular what has been termed 'Minnesota Nice,' has shaped the law's development and implementation path.¹

"Minnesota Nice" and Local Policy Context

'Minnesota Nice' is a term widely used in the region to refer to the stereotyped behavior of Minnesotans. To be 'Minnesota Nice' is to be polite, reserved, and well mannered, but also to

¹ A fuller version of this argument and analysis can be found in King, K.A. & Bigelow, M. (in press). The politics of language education policy implementation: Minnesota (not so) nice? In T. Ricento (Ed.) *Language and Politics in the U.S. and Canada*. Cambridge: Cambridge University Press.

prefer indirect communication, to minimize confrontation, to show emotional restraint, and to avoid calling attention to oneself (Veldof & Bonnema, 2014). Some have suggested that ‘Minnesota Nice’ can be traced back to the state’s historically significant Scandinavian population and attendant social and communicative norms, and further, that this so-called niceness is rooted in the values of upholding the social order, keeping people in their place, and maintaining appearances (Jones, 2009). The currency of “Minnesota nice” is strong in our state discourse (see Collins, 2017) and a frequent meme in local popular culture. Nevertheless, while the demography and norms of the state have shifted in recent decades, here we suggest that this long-standing component of Minnesota culture is useful in our examination of the development and implementation of the most recent state education policy: the 2014 LEAPS Act.

The 2014 Learning English for Academic Proficiency and Success Act was written and passed by the state legislature (LEAPS hereafter). This far-reaching education law revises many state statutes to focus on English learners, including recommendations for greater support for students’ native languages. For instance, the legislation suggested new procedures for assessing English Learners (ELs) and teacher re-licensure requirements that focus on teaching ELs; it also specified features of programming and recommended teaching strategies that use community and cultural assets as a starting point. The law suggests that districts support literacy development in students’ native languages and develop assessments to that end. Furthermore, in light of the state’s significant refugee student population, the statute defined a specific EL student sub-category: Students with Limited or Interrupted Formal Education (SLIFE).

Three years after its passage, LEAPS implementation work continues at the state and, more variably, at district levels. However, authorities and education officials across the state have simultaneously needed to meet deadlines to establish state policies and procedures as mandated by the reauthorized Elementary and Secondary Education Act (ESEA), called the Every Student Succeeds Act (ESSA). Besides competing pressures, additional challenges to implementation are found in the current unstable political climate wherein discourses of xenophobia and national isolationism are commonplace (e.g., Prather, 2015). Here we suggest that local culture, that is ‘Minnesota Nice,’ has shaped both the law’s development and implementation path. Data for this project come from interviews with key policy officials, including a state representative and Minnesota Department of Education (MDE) officials; close analysis of the text of law; and our long-standing professional involvement as advisors on multilingualism.

LEAPS and State Policy Context

At both the federal and state level, policy-makers increasingly have focused their attention on services and policies for K-12 ELs. Unfortunately, in Minnesota, this attention reflects the fact that the public K-12 education system is no longer recognized so much for its overall strengths,

but for the marked disparities in educational achievement outcomes that it produces (Magan, 2015). In Minnesota, an important driver of this so-called ‘achievement gap’ is language – in particular the language opportunity gap, defined here as uneven access to multilingual educational programming and the benefits it provides (García & Otheguy, 2016).

This ‘gap’ is most evident in comparing the additive vs. subtractive programming options for language minority and majority students in the state. Minnesota is a leader nation-wide in immersion programming in foreign languages serving monolingual English-speaking students (MAIN, 2017). While there are some two-way immersion programs that have large numbers of language minority learners, options for the state’s significant immigrant and refugee populations are largely limited to English-only services, the great majority of which provide no native language support. In this sense, the state’s ESL programs are largely linguistically subtractive as they are designed to promote cultural and linguistic shift to English with no opportunities to maintain the native language(s).

Minnesota’s EL practices and policies for many years have not aligned with the wide and deep body of research indicating that students’ native languages can promote English language learning, the development of content knowledge and skills, and literacy acquisition as well as having social, emotional, and cognitive benefits in their own right (Baker & Wright, 2017). For instance, large-scale studies indicate that students who have the opportunity to develop and maintain their native languages outperform their peers in monolingual programs on measures of both English language literacy and content knowledge (e.g., Thomas & Collier, 2002). Among key legislators, growing awareness of the long-standing academic achievement gaps in the state and the lack of alignment with current research were important in the drafting and passage of the most recent state education policy.

In 2014, the Minnesota legislature passed the Learning English for Academic Proficiency and Success Act (H.F. 2397), aka LEAPS. This law frames multilingualism as an asset for all Minnesota students and sets a high bar for native language support for ELs (Williams & Gross Ebinger, 2014). The legislation explicitly draws from a ‘language-as-a-resource’ perspective, which can be traced back to Richard Ruiz’s (1984) early discussion of language orientations. In his original formulation, in any given context, language might be viewed and treated by society as a problem to be solved, as a right to be respected, or as a resource to be positively valued and managed. In his early writings, Ruiz framed language as a potential economic, cultural, emotional, and social resource. However, in Minnesota (and elsewhere), this approach to language has been translated into policy (and popular discourse) rather narrowly as an economic resource only. Indeed, the language-as-an-economic-resource argument was a talking point frequently repeated by one of the bill’s authors, and also picked up in the media (Hawkins, 2014). This narrow, economic resource perspective has been critiqued in recent years as scholars

have asked ‘whose resource’ and ‘for the benefit of whom?’ (e.g., Valdez, Delavan, & Freire, 2014).

Findings: LEAPS development and implementation

Here we consider three dimensions of LEAPS: its broad aims and how student native languages are framed; the high bars set by the legislation; and the opt outs provided. We draw from our analysis of interview and public discourse of one of the bill’s authors, State Representative Carlos Mariani; text of the law; and interview and public discourse of state officials tasked with implementation. Through close analysis of these texts, we demonstrate how local culture, in particular ‘Minnesota Niceness’ shaped the law’s development and implementation path.

Students’ Native Languages: Right, Resource or Problem?

LEAPS was described in the local press as “a revolutionary piece of legislation,” representing a “sea change in thinking about language skills and teaching” (Hawkins, 2014). Both government and press reports highlighted the ‘language as a resource’ orientation, for instance, noting that “right now, many perceive the fact that a student is acquiring English as a deficit that needs fixing. ELL advocates, by contrast, insist that Minnesota’s prosperity rests on seeing multilingualism as a tremendous asset” (Hawkins, 2014).

One of the law’s two authors, Representative Carlos Mariani, commented that the legislation “sets the expectation in state law that ELL services be delivered in a way that looks like the home language of the learner.” This, according to the same press report, means that the law mandates that districts must “ensure students are literate in at least their home language by third grade” (Hawkins, 2014).

This assets-based, resource orientation was foundational in the conceptualization and writing of the law (Williams & Ebinger, 2014). As Representative Mariani noted at the outset of our interview with him (April 2017), the legislation had two broad objectives: to address the achievement gap in the state; and to lift up, support, and reframe multilingualism as a goal for all. In his words:

...and so the legislation was an effort to focus our school, our education delivery system on these students and to do so with some clear expectations of quality outcomes. The other-the other-quite frankly, the other purpose was to lift up and advance who these students are and part of who they are are people who speak languages other than English. And there we were consistently informed by studies that show that if you do that, then you also get at the first issue, you know. So affirming, you know, a Hmong speaking student. We place value on that period,

but that's also – and a way to get at the first of lifting up the academic outcomes against our overall state standards. So it is really those kind of, I would argue - those are the two big things. And Carlos' thing in particular <laugh> I'm not sure if that was true for everyone, but maybe is that that pointed to not too far down in the future, a whole new macro expectation of our educational system around multilingual, you know, capacity. (interview: April, 2017)

It is not unusual for more than one 'resource' or ideology to surround a particular language policy. Indeed, in the text to the right, we see that Representative Mariani takes up multiple orientations. First he suggests that affirming students' first language and identity is both an individual right and a means to address a problem (that is, EL students' overall academic performance). Although with some ('Minnesota Nice') mitigation (e.g., noting with a laugh that this might be his particular 'thing' and not true for everyone), he argues that multilingualism is an asset that should be supported and valued for all across the school system. The description of the law authored by its co-authors strongly takes up a similar 'language as a resource' framing; this overview document describing the legislation states, "we must act now" because "English language learners are an untapped economic asset. In our increasingly global economy, Minnesota stands to benefit from growing our pool of multilingual workers" (Mariani & Torres Ray, 2014).

Despite this overt 'language as a resource' orientation, the legislation contains multiple points of ambiguity in how students' native languages are framed. For instance, the title of the law highlights learning English and academic success, rather than, say, multilingualism for all. And in text of the law, there is no clear direction on whether native language development is a goal or a means to an end (English). Both positions are evident throughout. As an example, in the section on staff development (Sec. 6, Subd 44), the law states that licensed teachers must be able to serve "the oral language and linguistic needs of students who are English learners by maximizing strengths in their native languages in order to cultivate students' English language development." The law suggests that teachers, and teacher preparation programs are required to use the native language only to the extent that it supports EL development.

In contrast, the commissioner is required to report on the progress of eligible districts, specifically on "native language academic literacy," (Sec. 120B.36, subd 1) suggesting that this is a goal in and of itself for all students. At the same time, early childhood family education programs ("are encouraged to provide parents of English learners with translated oral and written information to monitor the program's impact on their children's English language development, to know whether their children are progressing in developing their English and native language proficiency, and to actively engage with and support their children in developing their English and native language proficiency" Sec 124D.13, subd 2). Here, early childhood

family education programs are tasked with promoting English and native language proficiency as distinct and independent goals.

This ambiguity presents challenges to those tasked with implementation, most notably to policy officials at the Minnesota Department of Education (MDE) who must interpret the legislation, prioritize goals and objectives, and provide technical support to those ends. Many meetings and considerable effort has been put into unpacking what the legislation means. As a state key official noted to us in an interview (May, 2017), this is multi-layered work as there are multiple points of disconnection across: what the text of the law mandates; what was reportedly intended by the law; and what is widely believed and claimed to be in the law. As detailed below, these processes are further complicated by the high bars set by the legislation and by the local, Minnesota-Nice culture.

LEAPS Objectives and Unrealistically High Bars?

Among those who are familiar with the law, there is agreement on one point: LEAPS sets a high bar across multiple areas of practice given the linguistic diversity of the state, the broad geographic dispersal of the state's EL population, the lack of training of educators in ways to use languages other than English for instruction, and the challenge of assessing native language academic literacy (Williams, 2014). For instance, LEAPS encourages school districts to survey parents' in their native languages about their school satisfaction. Another example: early childhood family education programs are to provide parents with oral and written information about student progress in their developing skills in both English and native language(s). Developing these assessments, administering these tests, and communicating these results in multiple languages is a significant challenge for many districts.

About 8.3% of Minnesota's public school students were identified as ELs during the 2015-2016 academic year (Johnson, 2017). While enrollment has typically been greater in urban Twin Cities (Minneapolis-St. Paul) districts, EL enrollment has increased in recent years across state, with significant numbers of students now in many rural and suburban districts. The state is also defined by large numbers of typologically distinct languages, with significant numbers of student speakers of Spanish, Somali, Hmong, Vietnamese, Karen, Arabic, Chinese, Russian, Oromo, Lao, Amharic and Khmer (the top 12 non-English languages spoken by MN students). More than 100 languages are spoken in homes and communities around the state (Hirsi, 2015). Depending on how one interprets the law, to fully enact LEAPS, Minnesota would need valid and reliable assessments in all of the native languages (and dialects) spoken by students.

LEAPS sets high targets not just across a wide range of institutional contexts (e.g., from early childhood programs to teacher training institutes) but for different types of students, that is both

ELs and native English speakers. For instance, under LEAPS, any student who can demonstrate proficiency in a non-English language is eligible for one of three types of seals of bilingual or multilingual proficiency from the state (and if requested, college credit). While MDE has provided technical, testing and administrative support in Seals implementation, the awarding of, and support for seals varies widely by district and by language.

Of course, the text of the law addresses not just the multilingual seal, but a vast range of areas, including requirements for educators, including teacher and administrative licensure candidates; rules for districts concerning staff development plans to better support ELs; guidelines for early childhood education programs, for instance, to use culturally responsive pedagogy; and mandates that Adult Basic Education (ABE) programs offer English language instruction. Other sections of the law establish mandates for colleges and teacher training institutes, and for statewide systems of education in terms of both accountability and reporting as well as technical assistance.

Given the extensive number of areas that LEAPS addresses, and the high bars set throughout the legislation, state officials needed to engage in extensive work to interpret the law and develop an implementation plan. MDE staff conceptualized their tasks with respect to LEAPS in terms of three ‘buckets’ of work. In our meetings with them (April 2017), these informally were conceptualized as: (1) supporting multilingualism as asset, (2) establishing appropriate programs and develop for staff, and (3) developing cultural competence among teachers.

These areas of work were viewed by staff as three ‘levers’ that drive implementation, and to some extent, are compatible with on-going work in the MDE and in other parts of the state. MDE leaders are limited in terms of two factors: fiscal support for this work and an expressed (Minnesota Nice) preference to avoid mandating down to districts and to avoid confrontation. Perhaps in part as a result of these two factors, an early project in implementation work around cultural competence was to begin with a self-study of MDE administrative and technical support staff. And furthermore, as discussed below, staff tended to interpret the legislation rather closely to the text (rather than the possible intent of text) and to prioritize and emphasize those aspects with the clearest mandates.

“Where Practicable” Opt-Outs

While high bars are set by the law, numerous opt-outs are built into the legislation. For instance, “districts *are encouraged* to use strategies that teach reading and writing in the students' native language and English at the same time” (122A.06, subdivision 4, italics added). Another example: teacher “preparation programs must include instruction on meeting the varied needs of English learners, from young children to adults, in English and, *where practicable*, in students'

native language” (122A.14, subdivision 2, italics added). In both cases use of students’ native language is not binding but rather “encouraged” through the phrase “where practicable”.

As Representative Mariani suggested to us, the opt-outs were the result of consensus seeking and conflict avoidance. For educational leaders in the state, these opt-outs end up being critical in making implementation decisions; the particular choice of modals in the law plays an important role in setting priorities. As one state official told us, “We focus on the *musts*, *wills*, and *shalls* in the law.” For instance, the law mandates that “eligible Head Start organizations *must* submit a plan to the department for approval on a form and in the manner prescribed by the commissioner” (119A.535) (emphasis added). This requires state staff to work with all Head Start organizations on a revised application process. Similarly, the legislation “establishes” voluntary state bilingual and multilingual seals and mandates that the state “*must* develop a Web page for the electronic delivery of these seals.” (120B.022) (emphasis added). Lastly, a definition for students with limited or interrupted formal education (SLIFE) was provided (Sec. 37.124D.59), and regional Centers of Excellence “*must* work with school site leadership teams” to better support these students. (120B.115) (emphasis added). Use of the modal *must* and the absence of opt-outs here has meant that each of these topics have received significant and early attention from MDE staff (e.g., 10/6/14).

While there are abundant opt-outs throughout the legislation, there are other areas with clearer mandates and less flexibility. For instance, the law states that all “teacher candidates *must* be instructed in using students’ native languages as a resource,” a mandate that places instructional innovation on the shoulders of institutes of higher education and on the most novice educators in the state (122A.18, subd 2a) (emphasis added). Furthermore, LEAPS states that “a school readiness program provider *must* assess each child’s cognitive and language skills with a comprehensive child assessment instrument when the child enters and again before the child leaves the program (124D.15, subd 3) (emphasis added). Items such as these seem to have received less attention from policies makers; for instance, they were not mentioned in our interviews with staff and do not seem to be getting immediate attention from MDE.

In turn, one area that has received significant attention from state education officials is the development of cultural competence. This is defined in the state law as “the ability and will to interact effectively with people of different cultures, native languages, and socioeconomic backgrounds” (120B.30, subd 1). This broad definition leaves much in the hands of state officials. An open meeting of ELSIG (MDE’s English Learner Stakeholder Input Group) (3/7/16) established this as a challenge and priority, noting that, “MDE needs to provide and connect teachers and principals with resources that will help develop cultural competence. We need your ideas for resources that will help teachers, principals, and schools do this.” This led the group of educational leaders in the room to the ‘essential question of the day’: “What

resources can MDE provide to help your stakeholders develop cultural competence and support all English learners?”

In sum, state officials have prioritized what they are required to do by law. Their priorities are to a large extent determined by where ‘opt-outs’ are provided (lower priority) and where mandates are clearly stated (higher priority). Furthermore, as evident with the cultural competence example above, state officials position themselves as reluctant to prescribe activities or policies to local districts, and willing to seek direction from local districts and stakeholders rather than leading with their interpretation. This is politically astute, but also fits with local preferences for indirectness, minimization of conflict, and maintenance of social order.

Discussion: ESSA and local action to come?

LEAPS legislation is broad, asset-based, and informed by current research in applied linguistics. It is also, in some respects, best understood as an aspirational text. To some, the law is already succeeding and has fulfilled part of its intention by drawing attention to the needs of ELs. As Rep. Mariani noted in his interview with us, “There’s an energy there, and an excitement there....It’s created kind of a newness that allows them to talk about what they’ve always been doing, those who are really effective” (April 2017).

Yet the path forward towards full implementation is unclear for several reasons. First, the authors who championed the bill are largely uninvolved with implementation. As Rep. Mariani noted, “Honestly, you know, once a bill goes through, you know, it’s like, it’s out of my hands, you know.” Furthermore, since the 2016 elections, both Rep. Mariani and Sen. Torres Ray are now in the minority in the House and Senate, respectively. Among other challenges, this means the continuing appropriations to support LEAPS are not guaranteed.

The second complication is that it is not clear what full implementation entails. On the one hand, many of the practices described in the law were already underway or in practice. For instance, many districts already employed family communication specialists and translators. On the other hand, much of the work that is directly related to LEAPS may not be viewed as implementation. For example, as noted above, state officials engaged in a self study of cultural competencies across their agency. Furthermore, as noted above, there are many aspects of the law that are subject to interpretation. For example, it is possible to interpret the requirements around native language literacy assessments to be applicable only to the small number of students enrolled in bilingual programs, not to all English learners.

Lastly, how LEAPS will intersect with the new ESSA requirement remains to be seen. Passed in December of 2015, ESSA eliminates ‘adequate yearly progress’ mandates and NCLB’s 100

percent proficiency goals, but requires statewide, standards-based goals and measures for students, and continues to require disaggregation of groups for reporting. ESSA requires states to devise an accountability plan, and in Minnesota this has been an 18-month-long process involving significant stakeholder engagement and new policy creation. ESSA is potentially a two-edge sword. On one side, state ESSA work has overshadowed and taken staff time away from LEAPS implementation. On the other, EL students' academic performance will be more salient under ESSA than NCLB. Under ESSA, EL's English proficiency is a criteria that must be used by states to identify schools in need of improvement. Some state officials believe that this intensified spotlight on EL performance will mean local administrators and school principals increasingly will be need to seek state-level support for meeting the needs of ELs. However, with both houses under the control of Republicans (who are historically less likely to support multilingual policies), this work will need to take place at the ground level through innovation and initiative taken by individual districts.

Furthermore, ESSA requires states to recognize native languages. For example, native language assessments must be made available for all languages present "to a significant extent" in a state, and the regulations require that states define what it means for a language to be present "to a significant extent," including that the most common language (besides English) be included in that definition (Section 1111(b)(2)(B)(vii)(III)). Overlaps between LEAPS and ESSA are fortuitous and suggest one path to maintain and further LEAPS implementation.

Conclusion

By looking closely at the text of the law, through interviews with key state officials, and ongoing consultation work with key stateholders, this article has analyzed how one recent state-wide piece of legislation, LEAPS, was developed and is currently being implemented. Our analysis revealed some of the negotiations that shaped the text of the law, for instance, highlighting how political expediency and conflict avoidance resulted in many opt outs. These, in turn, rendered the legislation less explicit, more open to interpretation, and less prescriptive.

Second, this analysis suggests how language policy development and implementation are deeply intertwined with local culture, in this case, local norms of Minnesota Nice. These norms of indirectness, conflict-avoidance, and politeness shape how the law was negotiated and implemented. This is evident both in the features of the text of the law, but also in how its development was narrated.

Third and finally, this chapter points to the ways that mid-level policy makers, in this case, state education officials, are central, but often overlooked in policy implementation and prioritization (Johnson, 2010). In his research in Philadelphia, Johnson (2010) found that at the mid and local

level, policy interpretation and construction ‘pried open’ ideological spaces, which in turn allowed bilingual teachers to adopt language policy in ways that benefited bilingual learners. Our analysis, in turn, suggests that our state has narrowly interpreted the law in ways that emphasize technical compliance, partly in keeping with local cultural norms. We hope that through ongoing collaboration and synergistic alignment with efforts such as ESSA, LEAPS implementation will reach more students, in more districts, and prioritize students’ native language development and multilingualism.

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