

# ARIZONA LEGISLATIVE COUNCIL

## MEMO

May 31, 2023

**TO:** Senator Sonny Borrelli  
**FROM:** Hannah Nies, General Counsel  
**RE:** Proposition 203; 50-50 dual language immersion model (R-56-36)

### QUESTION

Does the 50-50 dual language immersion model for structured English immersion adopted by the state board of education under Arizona Revised Statutes (A.R.S.) section 15-756.01 violate Proposition 203?

### ANSWER

If the 50-50 dual language immersion model allows students to be taught subject matter in a language other than English as part of structured English immersion, the model likely violates Proposition 203.

### DISCUSSION

In 2000, the Arizona voters approved Proposition 203, which provided as follows:

Subject to the exceptions provided in section 15-753, all children in Arizona public schools shall be taught English by being taught in English and all children shall be placed in English language classrooms.<sup>1</sup> Children who are English learners shall be educated through sheltered English immersion during a temporary transition period not normally intended to exceed one year.

A.R.S. section 15-752. The measure defined "sheltered English immersion" or "structured English immersion" as

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<sup>1</sup> A.R.S. section 15-751 defines "English language classroom" as "a classroom in which English is the language of instruction used by the teaching personnel, and in which such teaching personnel possess a good knowledge of the English language. English language classrooms encompass both English language mainstream classrooms and sheltered English immersion classrooms."

an English language acquisition process for young children in which *nearly all* classroom instruction is in English but with the curriculum and presentation designed for children who are learning the language. Books and instructional materials are in English and *all* reading, writing, and subject matter are taught in English. Although teachers may use a minimal amount of the child's native language when necessary, *no subject matter shall be taught in any language other than English*, and children in this program learn to read and write solely in English. This educational methodology represents the standard definition of "sheltered English" or "structured English" found in educational literature.

A.R.S. section 15-751, paragraph 5 (emphasis added).

In 2019, the Legislature required the state board of education to adopt and approve research-based models of structured English immersion for school districts and charter schools to use. Laws 2019, chapter 3, section 2. Each of these models is required to include a statutorily prescribed minimum amount of English language development. *Id.* Pursuant to this mandate, the state board of education adopted and approved four different structured English immersion models, one of which is the "50-50 dual language immersion model." *Structured English Immersion (SEI) Models*, Ariz. Dep't of Educ., <https://www.azed.gov/oelas/structured-english-immersion-models> (last visited May 22, 2023).

We were able to identify only one document that discusses the 50-50 dual language immersion model. *See 50-50 DLI Model*, Ariz. Dep't of Educ., <https://www.azed.gov/sites/default/files/2020/01/50-50%20Dual%20Language%20Immersion%20Model%2003.27.2020.pdf?id=5e348a0503e2b316d8ba1bb5> (last visited May 22, 2023). It is technical in nature, and we were unable to deduce from the document how exactly the model is to be implemented.<sup>2</sup> The document we identified, however, states that a school site implementing this model ensures

quality integrated instruction in disciplinary language and content by . . . [r]equiring that the DLI program include 50% of content (i.e., math, science and/or social studies) instruction in English. The distribution of this instruction relative to the partner language and across the school day, week, unit, or year may be determined by how the site allocates English and the partner language across units of instruction. . . .

*Id.*

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<sup>2</sup> The department of education's website indicates that there is an "SEI Program Model Implementation Guide" that is in the process of being updated, but it is not yet available. *See Structured English Immersion (SEI) Models*, Ariz. Dep't of Educ., <https://www.azed.gov/oelas/structured-english-immersion-models> (last visited May 22, 2023).

This seems to suggest that students participating in this model could receive up to 50% of content (i.e., math, science and/or social studies) instruction in a language other than English.

If this is indeed how the 50-50 dual language immersion model is implemented, it would likely not satisfy the definition of "structured English immersion" prescribed in A.R.S. section 15-751, thus violating Proposition 203. That definition prohibits any subject matter from being taught "in any language other than English," and the model clearly allows for some subject matter to be taught in a language other than English.

This argument assumes that students are taught subject matter in a language other than English as part of structured English immersion under this 50-50 dual language immersion model. One might argue that although statutes require these students to be educated through structured English immersion, they do not expressly require the students to be educated *only* through structured English immersion. Although a student placed in structured English immersion must be taught in English when that student is actively participating in structured English immersion, the statutes do not necessarily preclude a student who is learning English from being taught in a language other than English when the student is *not* in structured English immersion. However, from what we can deduce from the document referenced above, the 50-50 dual language immersion model seems to allow subject matter to be taught in a language other than English as part of structured English immersion, thus seemingly violating Proposition 203.

## **CONCLUSION**

If the 50-50 dual language immersion model allows students to be taught subject matter in a language other than English as part of structured English immersion, the model likely violates Proposition 203.

cc: Grant Hanna