



## **Legal Provisions for the Education of English Learners**

1. To ensure English Learners are properly and adequately served, the following court cases have formed the regulations and guidelines that direct and impact ESL instruction:

### **Title VI of the Civil Rights Act of 1964**

Title VI prohibits discrimination on the grounds of race, color, or national origin by recipients of federal financial assistance. The Title VI regulatory requirements have been interpreted to prohibit denial of equal access to education because of a language minority student's limited proficiency in English.

<https://www.ed.gov/essa?src=rn>

### **Title VII of the Elementary and Secondary Education Act of 1968**

*The Bilingual Education Act recognizes the unique educational disadvantages faced by non-English speaking students. It establishes a Federal policy to assist educational agencies to serve students with limited English proficiency by authorizing funding to support those efforts. It also supports professional development and research activities. Reauthorized in 1994 as part of the Improving America's Schools Act, Title VII was restructured to provide for an increased state role and give priority to applicants seeking to develop bilingual proficiency. The Improving America's Schools Act modified eligibility requirements for services under Title I so ELLs are eligible for services under that program on the same basis as other students.*

Title VII was replaced in the most recent reauthorization of the ESEA, the *No Child Left Behind Act of 2001*, and is now Title III "Language Instruction for Limited English Proficient and Immigrant Students."

### **U.S. Department of Health, Education, and Welfare - May 25 Memorandum (1970)**

The Memorandum clarified a school district's responsibilities with respect to national-origin-minority children, stating, in part, that "where inability to speak and understand the English language excludes national origin minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open the instructional program to the students."

### **Supreme Court - Lau v. Nichols (1974)**

The Supreme Court ruled that equality of educational opportunity is not achieved by merely providing all students with the same facilities, textbooks, teachers, and curriculum (because) students who do not understand English are effectively foreclosed from any meaningful education. The court ordered that districts must take affirmative steps to overcome educational barriers faced by non-English speaking students.

<http://www.pbs.org/beyondbrown/brownpdfs/launichols.pdf> (summary)

### **Equal Education Opportunities Act of 1974**

This civil rights statute prohibits states from denying equal educational opportunity to an individual on account of his or her race, color, sex or national origin. The statute specifically prohibits states from denying equal educational opportunity by the failure of an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

<http://www.maec.org/laws/eeo.html> (full text)

### **Fifth Circuit Court - Castañeda v. Pickard (1981)**

The court established a three-part test to evaluate the adequacy of a district's program for ELLs: 1) is the program based on an educational theory recognized as sound by some experts in the field or is considered by experts as a legitimate experimental strategy, 2) are the programs and practices, including resources and personnel, reasonably calculated to implement this theory effectively, and 3) does the school district evaluate its programs and make adjustments where needed to ensure language barriers are actually being overcome?

[http://scholar.google.com/scholar\\_case?case=16848723757397550913&hl=en&as\\_sdt=2&as\\_vis=1&oi=scholar](http://scholar.google.com/scholar_case?case=16848723757397550913&hl=en&as_sdt=2&as_vis=1&oi=scholar) (full text)

### **Supreme Court - Plyler v. Doe (1981)**

The Supreme Court ruled that the Fourteenth Amendment prohibits states from denying a free public education to undocumented immigrant children regardless of their immigrant status, that all students in public schools must be appropriately served, including any students who may not be documented as legal immigrants. The court emphatically declared that school systems are not agents for enforcing immigration law, and determined that the burden undocumented aliens may place on an educational system is not an accepted argument for excluding or denying educational services to any student.

[http://www.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0457\\_0202\\_ZS.html](http://www.law.cornell.edu/supct/html/historics/USSC_CR_0457_0202_ZS.html) (text)

### **Congress - Civil Rights Restoration (1988)**

This law clarified previous laws to ensure that discrimination is prohibited throughout an entire institution or agency, if any part receives federal assistance. If any state and local agencies, school systems, and corporations were found to be in violation of civil rights laws and refused to comply with the law, all of the federal funding for that institution would be in jeopardy of being withdrawn.

### **Office for Civil Rights - Enforcement Policy of 1991**

This addressed components within the compliance points: 1) ESL teachers must have been adequately trained and be evaluated by someone familiar with methods being used, 2) exit criteria should be based on objective standards, 3) schools cannot have policies of "no double services" refusing alternative language service and special education to children needing them and, 4) cannot be categorically excluded from gifted/talented or other special programs.

**Office for Civil Rights Policy Update on Schools' Obligations Toward National Origin Minority Students With Limited English Proficiency (1991)** adopted the three prongs of *Castañeda v. Pickard* (1981), above, required that all language minority students be assessed for fluency, that parents be provided school information in a language they understand, and that schools assure that instruction to limited English proficient students is carried out by qualified staff.

<https://www.ed.gov/essa?src=rn>

English Learners: ESSA Updates

[https://www.tn.gov/content/dam/tn/education/documents/ESSA\\_english\\_learners\\_fact\\_sheet.pdf](https://www.tn.gov/content/dam/tn/education/documents/ESSA_english_learners_fact_sheet.pdf)

Every Student Succeeds Act (ESSA) 2016: Title III

The purposes of this part are —

(1) to help ensure that children who are limited English proficient, including immigrant children and youth, attain English proficiency, develop high levels of academic attainment in English, and meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;

(2) to assist all limited English proficient children, including immigrant children and youth, to achieve at high levels in the core academic subjects so that those children can meet the same challenging State academic content and student academic achievement standards as all children are expected to meet, consistent with section 1111(b)(1);

(3) to develop high-quality language instruction educational programs designed to assist State educational agencies, local educational agencies, and schools in teaching limited English proficient children and serving immigrant children and youth; (Full Document at: <https://www.ed.gov/essa?src=rn>)