

Educating Students with Limited English Proficiency: The Law



English Language Learner (ELL):

A child whose native language is not English, from an environment where a language other than English is dominant.

Federal Law

- **OCR Title VI Civil Rights Act (1964):** “No person shall, on the grounds of race, color or national origin, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial assistance.”
- **Equal Educational Opportunities Act (1974):** This act states that schools need to take appropriate measures to overcome language barriers that impede students’ participation in programs.
- **No Child Left Behind Act (2001):** This act makes federal funding for states dependent on student progress. According to the act: “States that do not meet their performance objectives for LEP students could lose up to ten percent of the administrative portion of their funding for all ESEA state administered formula grant programs.”

State Code

- **22 Pa. Code §4.26, BEC (2001):** Every school district shall provide a program for each student whose dominant language is not English for the purpose of facilitating the student’s achievement of English proficiency and the academic standards under § 4.12 (relating to academic standards). Programs under this section shall include appropriate bilingual-bicultural or English as a second language (ESL) instruction.

It requires that the school district or charter school provide a program for every student who is limited English proficient or an English language learner. Such a program MUST include:

- Standards-based English as a second language instruction at the appropriate proficiency level,
- Content area instruction aligned with the corresponding standards and adapted to meet the needs of the students, and
- Assessment processes that reflect the academic standards and instruction.



Case Law

Lau vs. Nichols (1974): The court ruled that giving all students the same desks, books, teachers, and lessons does not mean that they have equal opportunity, especially if there are students who do not speak English.

Castañeda v. Pickard (1981): The Fifth Circuit Court established a three-part test to determine if school districts are complying with the *Equal Educational Opportunities Act of 1974*. The requirements include:

1. **Theory** - The school must implement a program based on sound educational theory or, at a minimum, a legitimate experimental program design.
2. **Practice** - The school district must put into practice the educational program they have designed. They must allocate the necessary personnel and practices to transfer theory to practice.
3. **Results** - The school must stop programs that fail to produce results.

Plyler v. Doe (1982): The court ruled that schools cannot deny students access simply because they are undocumented (illegal) aliens. In other words, the schools are not agencies or agents for enforcing immigration law.



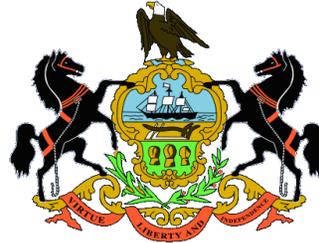
Resources

Pennsylvania Department of Education

- General Information: (717) 783-6788
- Bureau of Teaching & Learning Support: (717) 787-8913

Web Sites

- **Pennsylvania Department of Education:**
Main site: www.pde.state.pa.us
ESL site: www.pde.state.pa.us/esl
- **Office of English Language Acquisition – U.S. Dept. of Education:** www.ed.gov/oela
- **Title VI – 1964 Civil Rights Act:**
www.usdoj.gov/crt/cor/coord/titlevistat.htm
- **Equal Education Opportunity Act of 1974:**
www.usdoj.gov/crt/cor/byagency/ed1703.htm
- **No Child Left Behind - Title III:**
www.ed.gov/policy/elsec/leg/esea02/pg39.html
- **Pennsylvania Intermediate Units:**
www.paiu.org
- **Pennsylvania ESL Portal:**
www.eslportalpa.info



If you have any questions about this publication, or for additional copies, contact:

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Information for Parents

