

Louisiana Believes

Educating English Language Learners: Getting to Compliance AND BEYOND!

Fall 2016

Introduction

- Jennifer Coco – Southern Poverty Law Center
 - [SPLC](#) is a civil rights organization founded in 1971.
 - Relevant work - [Advancing the rights of all students in public education](#), including [immigrant students and English Language Learners](#)
 - Jennifer's legal practice is focused on education law; she has filed [two successful complaints](#) around violations of ELL student civil rights in school
- Beverly Diaz – Director of ELL & World Languages for LDOE
 - Providing technical support for developing ELL plans & implementation of strong ELL instructional programming.
- Melanie Mayeaux – Federal Programs/Title III consultant for LDOE
 - Resource for reporting & funding technical assistance

Agenda

Today, we'll discuss legal compliance & best practice around:

- Enrollment
- Language Assistance Programs
- Language Access services

Enrollment

Relevant Law & Standard

Public schools must enroll & register **every child** who resides in their geographic boundaries... **regardless of the child's or parents' citizenship.**

Says who?

Title VI of the Civil Rights Act of 1964

Plyler v. Doe (1982)

Enrollment: DO's and DON'Ts

Valid Requirement: Verify Student's Age

DO:

- Accept foreign birth certificates
- Provide 30 day grace period to families who need to track down a foreign birth certificates
- Be flexible about accepting other documents (passport)
- Enroll **ALL** students 19 or younger, or 20 if they have enough credits to graduate in the next year
- Enroll overage high school "Students with Interrupted Formal Education" (*SIFE*) into 9th grade minimum

DON'T:

- Require a U.S. birth certificate
- Require an *original* birth certificate
- Turn overage students away
- Turn *any* student away!

Enrollment: DO's and DON'Ts

Valid Requirement: Verify District Residency

DO:

- Enroll students now, despite residency concerns, while you sort it out; consider a 15-30 day grace period to bring in missing documents.
- Be flexible in helping families demonstrate where they live!
- Consult your *McKinney-Vento* coordinator to register families having trouble documenting where they live.

DON'T:

- Condition proof of residency on documents that *aren't available to undocumented adults!*
 - Ex: State driver's license; state ID; Medicaid card; Voter registration card.
- Refuse enrollment to students who don't have any documentation of where they live.
 - Ex: families sharing a residence with other families and no documents are in their name.

Enrollment: No Social Security Numbers!

Social security cards & numbers are not required to enroll.

**You don't need a social security number
for any legitimate reason anymore!**

Not for student ID; not for Free/Reduced Lunch paperwork

Do not ask about the student's social security number.

Do not ask about the parent's social security number.

Remember the new state privacy law: La. R.S. § 17:3914(C)

Schools are forbidden from requiring students to disclose social security numbers.

Enrollment Activity:

Let's Fix this Enrollment Criteria

○ Renting –

- Original, lease or rental agreement with the names of each person living at the residence listed on the agreement along with the landlord's name and phone number
- Original, current electric bill indicating the point of service
- 3 of the following 4 documents
 - Original, current water bill indicating the point of service
 - Parent(s)/Legal Guardian(s) Original, current Louisiana Driver's License
 - Original, current Medicaid/Medicare card and eligibility letter with address
 - Original, current gas bill indicating the point of service

○ Living with **someone who is renting** –

- The Renter's Original, lease or rental agreement with the names of each person living at the residence listed on the agreement along with the landlord's name and phone number
- The Renter's Original, current electric bill indicating the point of service
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 - Original, current Medicaid/Medicare card and eligibility letter with address
 - The Renter's Original, current gas bill indicating the point of service

In addition to the above required information, each new registrant must provide the following:

- Social Security card of student
- Social Security number of Parent(s)/Legal Guardian(s)
- A certified copy of the Child's Birth Certificate
- Custody Papers – Divorced parents, parents who separate or choose to reside at separate addresses or Legal Guardian(s) must provide the certified copy of Judicial Custody Judgment
- Immunization Records – A Physician's or Health Department's Verification

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Reference the “Clean It Up!” checklist for tips on bringing your district into full compliance.

During Enrollment: Home Language Survey

During enrollment, conduct a **Home Language Survey** to establish what language is spoken in the home.

When the HLS establishes that English is NOT spoken at home:



PARENTS: Make note of preferred language in your Student Information System. Plan for communicating with the family in their preferred language.

**Refer to Language Access section.*



STUDENTS: Immediately refer for English language proficiency assessment* to determine whether they are English Language Learners.

**LAS-LINKS; WAPT; IDEA Language Proficiency Test*

Post-Enrollment: Connecting Students to the ELL Program

Within 30 days of Enrollment:



- **Screen** students who do not speak English at home for English proficiency
- **Compile** list of students who are Limited English Proficient
- **Notice** all parents in writing that their child is eligible for ELL program; of their rights as ELL students; of the services & programming they can receive; and the *benefit* of the ELL program.
 - ... *this notice is translated!*
 - ... *Consider convening conferences to help parents learn about the program*
- Obtain **written parental consent** to enroll in ELL program, or **written parental refusal** of services.
- **Place** all students who accept services into your ELL program.
- **Log** in your Student Information System all students who are ELL but have “opted out” of ELL services. You’re still responsible for them!
(see handout, “Obligations for ELL Opt-Outs”)

Avoiding the Path to Non-Compliance: Connecting Students to the ELL Program

- Failing to have **an official process** to conduct Home Language Surveys and identifying the primary language of all enrolling students.
- Failing to **routinely refer** all students for an English language proficiency assessment when you determine English is not the home language.
- Failing to **properly assess** English proficiency in all four domains: writing, speaking, listening, reading.

Language Assistance Program

A program required by federal law that consists of “**appropriate action**” to help ELL students overcome language barriers that impede equal participation in the regular instructional program.

Says who?

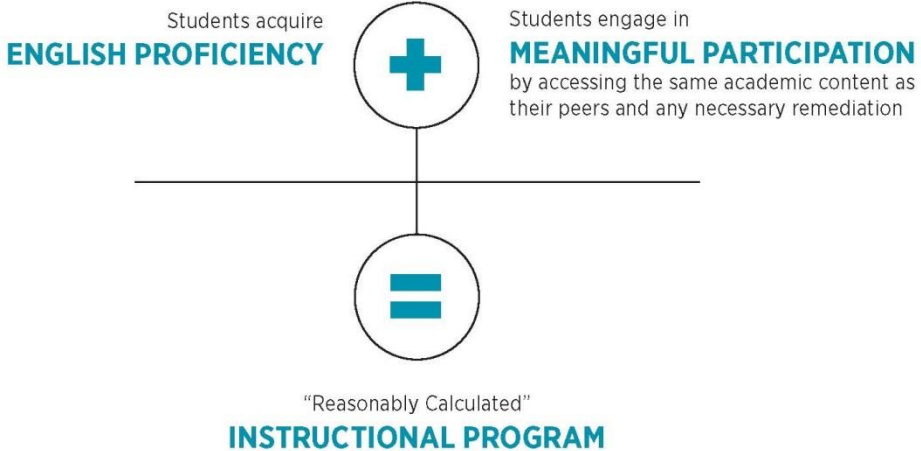
Title VI of the Civil Rights Act of 1964

Equal Educational Opportunity Act of 1974

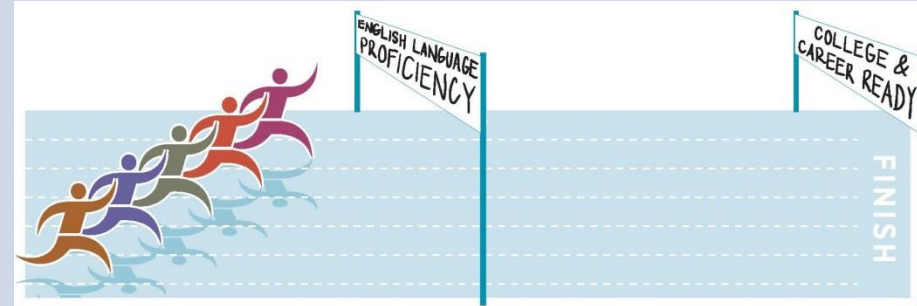
Castañeda v. Pickard (5th Cir. 1981)

Language Assistance Program

District's Dual Obligations



ELL Student's Dual Goals



Language Assistance Program: What's "Appropriate Action"?

- **First**, the District plans for a language program that is based on a *sound educational theory*.
- **Second**, the District's program is *reasonably calculated to effectively implement* the educational theory in the plan.
- **Third**, the District's program is successful at *actually overcoming language barriers* within a reasonable period of time.

Per federal law, "Appropriate Action" requires a district doing all three components.

Language Assistance Program:

Castañeda Step 1 – Sound Educational Theory

- All districts must have a plan in place, *regardless* of whether there are any ELL students enrolled – if one ELL student enrolls tomorrow, then the program plan is ready.
- Neither the federal government nor the judicial system endorses a specific theory. What matters is that academic experts have endorsed the underlying theory as “sound.”
- Whatever the underlying theory, it must be adaptable to varying levels of English proficiency – newcomer, intermediate, and advanced.

LDOE is currently working on maximizing supports for schools by thinking through best practices & programming, and evaluating where ESSA requires new action.



Language Assistance Programs:

Castañeda Step 2 – Program Implementation



Language Assistance Programs:

Castañeda Step 2 – Staffing

- The program's components and the size of ELL population drive District staffing
- Appropriate staff consists of effective teachers and trained administrators who can evaluate the program.
- *Paraprofessionals?* A great addition if properly trained; never a substitute for qualified teachers.

Avoiding the Path to Non-Compliance?

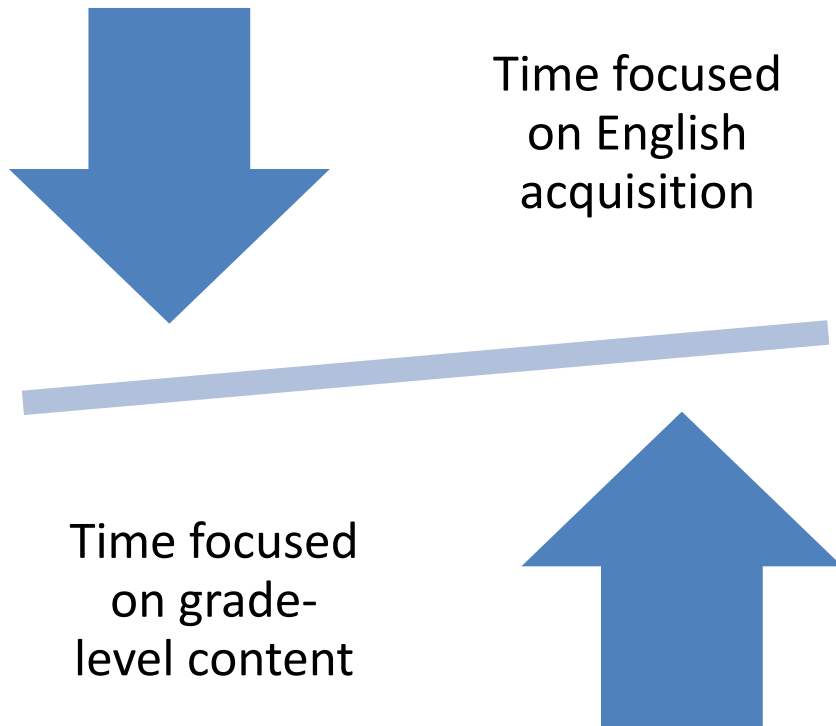
- Don't drive staffing decisions by the budget, and ignore chosen program and size of the ELL population.
- Don't rely on only general education teachers and bilingual paraprofessionals to provide ELL instruction without any ongoing supervision or coordination from a certified ELL teacher.
- Don't rely on general education teachers to deliver core content instruction to ELL students without adequate training for ELL differentiated instruction techniques.

Language Assistance Programs:

Castañeda Step 2 – Access to Programs

Remember Dual Obligations/Dual Goals:

Students **must** get ongoing access to both ELL instruction **and** grade-level curriculum.



Be mindful!

If more instructional time is devoted to English acquisition, then academic deficits & achievement gaps can blossom from loss of academic instructional time.

- *Counterbalance intensive ELL classes with intensive academic supports.*
- *Routinely & periodically measure ELL student performance to see how well you're striking the balance.*

Language Assistance Programs:

Castañeda Step 2 – Access to Programs

- **Ensure ELL students are screened for Gifted/Talented, AP, Honors, IB, and Magnet programs**
 - Screenings must be inclusive and provide language accommodations.
 - Conditioning eligibility on “English Proficiency” requires *substantial educational justification*, and evidence that there is *no comparably effective alternative*.
- **Do not unnecessarily segregate ELL students**
 - Ensure PE, electives, recess, assemblies, and extracurricular activities are integrated.
 - Do not keep Advanced ELL students in a more restrictive program to serve as tutors or mentors to lower-proficiency students, or because there are insufficient supports available in the general education classes.
- **Ensure ELL students are considered for eligibility in special education.**
 - Cannot delay a special education evaluation for a fixed period of time while student receives ELL instruction.
 - Ensure language access in the special education process for both student and parents.

Language Assistance Programs:

Castañeda Step 2 – Accountability

Districts are accountable for ELL students' academic performance.

ELL students count in District and school performance scores!

- ELL students are a specific subgroup for which federal accountability measures apply (both NCLB and ESSA).
- Districts are accountable for the ELL subgroup's academic performance on standardized assessments, which is reflected in SPS.
- Districts are accountable for the ELL subgroup's progress in attaining English proficiency (on both long term and interim benchmarks) *(new in ESSA!)*
- Substandard performance in the ELL student subgroup could trigger "Targeted Supports & Improvements" *(new in ESSA!)*

Language Assistance Programs:

Castañeda Step 3 – Monitor Results

Is the program succeeding and producing results that students' language barriers are actually being overcome, within a reasonable period of time?

- Monitor individual student performance for periodic progress; exit ELL students timely and appropriately from the program; continue monitoring former ELL students for two years.
- Monitor the program: is it achieving its dual obligations and are students reaching their dual goals?
- Consider school climate for ELL students as a reflection on the success of the program.

Language Assistance Programs:

Castañeda Step 3 – Monitor ELL Students

- At minimum, Districts must annually monitor ELL student progress towards proficiency.
- Best Practice: Establish a rigorous, ongoing monitoring system with periodic benchmarks of expected growth in language acquisition *and* academics. Routinely plan for necessary interventions as students miss benchmarks.

LDOE is currently working on maximizing supports for schools by thinking through best practices & programming, and evaluating where ESSA requires new action.



Language Assistance Programs:

Castañeda Step 3 – Exit ELL Students

ELL students should be exited from the program when they achieve full English proficiency, which must be demonstrated across *four domains*: reading, speaking, listening, and writing.

Avoiding the Path to Non-Compliance?

- Don't exit intermediate and advanced students based on lack of staffing to educate them.
- Don't prematurely exit ELL students based on their speaking proficiency alone.
- Alternatively, don't leave proficient students in ELL or leave them in beginner classes so that they can tutor or mentor less proficient students.
- Don't establish a rigid deadline for how long students can stay in the ELL program, and exit them based on time alone.

Language Assistance Programs:

Castañeda Step 3 – Monitor Exited Students

All exited ELL students must be monitored for TWO YEARS.

Districts should be checking for former ELL students exhibiting poor academic performance that could suggest:

- Premature exit from ELL program
- Unremediated academic deficits incurred while completing the ELL program
- Lack of “meaningful participation” in the regular program comparable to their never-ELL peers

If one of these issues is suspected, Districts must retest the student’s English language proficiency and determine whether they require placement back in the ELL program and/or other remediation.

Think about:

- Establishing a District-level committee or tasking school SBLC committees with adequate training to take responsibility for monitoring exited students.
- Sending home targeted progress monitoring reports to parents of exited ELL students, and maintaining evidence of monitoring in the cumulative file.

Language Assistance Programs:

Castañeda Step 3 – Monitor program

Districts are required to periodically evaluate and modify the program when it is not successful.

A major cue that the program is not successful is when ELL students routinely do not make expected progress towards English proficiency, do not exit by the expected time, and demonstrate increasing academic deficits.

Language Assistance Programs:

Castañeda Step 3 – Monitor program

**Monitor by comparing performance of current ELL students,
Exited ELL students, and never-ELL students on key metrics:**

	ELL Students (includes Opt-outs)	Exited ELL Students	Never-ELL Students
Core Content Performance			
Participation Rates in advanced courses			
Graduation Rates			
Dropout Rates			
Retention Rates			
Measure with Longitudinal Data			

“Comparable Performance” is ELL students meeting exit criteria within a reasonable period of time, and that exited ELL students participate meaningful in class and perform comparably to their never-ELL peers.

Reference the “Monitoring” handout for more information.

Language Assistance Programs:

Castañeda Step 3 – School climate?

Are ELL students experiencing bullying or harassment based on their language, national origin, or immigration status? (perceived or real)

- This creates a “hostile environment” when it is “sufficiently severe, pervasive, or persistent” that it disrupts a student’s ability to participate or benefit from school.
- Districts & schools are responsible for addressing it, and preventing it from happening again.

Be proactive and ensure ELL students aren’t experiencing this treatment from students or staff:

- Ensure ELL students know how to report it; consider hearing from them about a trusted adult they’ll talk to and have that person be proactive about monitoring climate.
- Consider administering student climate surveys to figure out what’s going on.
- If fights occur between racially identifiable student groups, be proactive in addressing potential cultural differences that are triggering conflict.

Regional resource: [South Central Collaborative for Equity/Intercultural Development Research Association](#) (the Equity Assistance Center for Region VI)

Language Access: Relevant Law & Standard

Districts must ensure that all staff communicate with LEP families in a language they can understand **and** notify LEP families of any program, service, or activity communicated to English-speaking families, *to the extent practicable*.

Says who?

Title VI of the Civil Rights Act of 1964

Language Access:

What gets Translated & Interpreted?

WRITTEN & TRANSLATED

- Handbooks/discipline policies
- Disciplinary notices
- Report cards/other academic performance notices
- Parent permission forms
- Grievance procedures
- Bullying notices
- Notices about school choice
- Non-Discrimination notices
- Testing accommodations
- Registration Documents/Home Language Survey

VERBAL & INTERPRETED

- Registration & Enrollment process
- Counseling on eligibility for ELL program
- Disciplinary hearings
- Orientation/Back to School events
- Parent-Teacher conferences
- Medical emergencies/Nurse calls
- School-wide announcements over intercom
- Special education meetings
- Helping parents report absences
- Testing accommodations

Err on the side of caution, and prepare to do it in every interaction.

Language Access: Who provides it?

APPROPRIATE:

- Staff who are fully proficient in the underlying language, who are certified, trained interpreters, and who are designated interpreters. *(Ex: Loyola University provides interpreter certification)*
- Contracting services from a professional interpretation company. *(Ex: 1-World Language)*
- Contracting services from a language line. *(Ex: Optimal Phone Interpreters)*

INAPPROPRIATE:

- Unofficial volunteers
- Uncertified Parent volunteers or bilingual parent liaisons
- Bilingual friends & family of the LEP student
- The student themselves
- Other students
- Free internet translation services
- Self-proclaimed bilingual staff and/or ELL teachers not certified in interpretation
- Speaking English but more slowly or loudly

Err on the side of every staff member being prepared, and knowing how to access appropriate language services to communicate with LEP families.

Language Access: Planning & Preparation

“to the extent practicable”

Home Language Survey: of the non-English languages, what is the size of your LEP populations and which languages are **Major** vs. **Lower Incidence**?

- **Major:** be prepared to provide the full array of language access
- **Lower Incidence:** It's permissible to focus on providing interpretation services with a language line and offer interpretation of documents (in lieu of translation).
- Distinguishing threshold hovers around 5% of the population

Reference the “Language Access Planning Tips” Handout for more information!

Questions or Comments?

Please contact Beverly & Melanie for further Technical Assistance on improving your language plans, and consider creating working groups to continue sharing resources & helpful practices moving forward!