

Related to English Language Learners

The Fourteenth Amendment to the United States' Constitution, 1868

The Fourteenth Amendment to the U. S. Constitution provides in pertinent part: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." This amendment established the constitutional basis for the educational rights of language minority students.

<http://caselaw.lp.findlaw.com/data/constitution/amendment14/>

Title VI, Section 601, Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 provides in relevant part: "No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." This legislation clarified protection of other civil rights under the 5th Amendment to the US Constitution. 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.

<http://www.ed.gov/about/offices/list/ocr/docs/nonpublic.html> and

<http://www.usdoj.gov/crt/coord/titlevistat.htm>

Bilingual Education Act (BEA): Title VII of the Elementary and Secondary Education Act of 1968

This legislation provided supplemental funding for schools districts interested in establishing programs to meet the "special educational needs" of large numbers of limited English speaking ability children in the United States. It also reaffirmed promises set forth in the Treaty of Guadalupe Hidalgo (the peace treaty, largely dictated by the United States to the interim government of a militarily occupied Mexico, that ended the Mexican-American War in 1848). This Act recognized the unique educational disadvantages faced by non-English speaking students. The Bilingual Education Act established a federal policy to assist educational agencies to serve students with limited-English-proficiency by authorizing funding to support those efforts. The Act provided funds to support services to limited-English-proficient students, as well as professional development and research activities.

May 25, 1970 Memorandum

To clarify school districts' responsibilities, the Department of Housing, Education and Welfare (HEW) issued an interpretation of the Title VII regulations that prohibit denial of access to educational programs because of a student's limited English proficiency: "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."

<http://www.ed.gov/about/offices/list/ocr/docs/lau1970.html>

Rehabilitation Act of 1973

This legislation reinforced equal protection to those with disabilities under the Fifth Amendment to the U.S. Constitution.

Federal & Illinois Legislation

Rules & Regulations

Related to English Language Learners

Illinois Public Law 78-727 (passed in 1973 and takes effect on July 1, 1976.)

Legislation requiring transitional bilingual education (TBE) is passed in 1973. That legislation becomes Article 14C of the School Code of Illinois. The Illinois General Assembly allowed a three year phase in period (rules and regulations scheduled to take effect on July 1, 1976) to promulgate the rules and regulations and to determine bilingual certification requirements.

Equal Educational Opportunity Act (EEOA) of 1974

This legislation (EEOA) provided definitions of what constituted denial of equal educational opportunity. Among them is "...failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by students in an instructional program." The Act requires schools to "take affirmative steps" to overcome limited English-speaking students' language barriers in order to allow them to participate equally in the educational program as stipulated in the *Lau v Nichols* (1974) opinion.

www.law.cornell.edu/topics/education.html

Article 14C of the School Code of Illinois (1976)

Article 14C stipulates that Transitional Bilingual Education (TBE) must be implemented in any building enrolling 20 or more limited English proficient (LEP) students of the same language background and as a part of a TBE program, bilingual personnel must be certified, ESL instruction must be provided, content instruction must be provided in the native language and in English, a minimum three year opportunity to achieve English proficiency must be provided, schools must provide instruction in the cultures and history of both the United States and the student's country of origin, and annual reporting of ELL enrollment is required via the public school bilingual census.

The Lau Remedies (1975)

The Department of Housing, Education and Welfare (HEW) gave guidelines to local education agencies (LEAs) which linked the inclusion of linguistically and culturally appropriate instruction to the delivery of "free and appropriate public education to all children." School districts were told they must take affirmative steps to overcome educational barriers faced by non-English speakers. The Lau Remedies were discontinued by the Regan Administration. The Office for Civil Rights, however, remains intact.

http://www.eric.ed.gov/ERICWebPortal/custom/portlets/recordDetails/detailmini.jsp?_nfpb=true&_ERICExtSearch_SearchType_0=no&accno=ED125148

Education for All Handicapped Children Act of 1975 (P.L. 94-142)

This legislation reaffirmed the equal protection clause with specific language to include the population with disabilities as entitled to a "free and appropriate public education for all handicapped children."

Title VII of the Elementary and Secondary Education Act (ESEA) Reauthorization of 1978

Amendments to Title VII emphasize the strictly transitional nature of native language instruction, expand eligibility to students who are limited English proficient, permit enrollment of English-speaking students in bilingual programs and eliminate the low income criteria of the BEA of 1968.

Federal & Illinois Legislation

Rules & Regulations

Related to English Language Learners

Title VII of the Elementary and Secondary Education Act (ESEA) Reauthorization of 1982

Amendments to Title VII allow for native language maintenance, provide program funding for limited English proficient students with special needs, support family English literacy programs and emphasize the importance of teacher training.

Section 14C-8 of the Illinois School Code is Amended (1984)

The amendment to the code allows for a one-time two year extension to the Transitional Bilingual Certificate.

December 3, 1985, guidance document, --The Office for Civil Rights—Title VI Language Minority Compliance Procedures. Reissued on April 6, 1990

This document reasserts the relevance and validity of the May 25, 1970 Memorandum and declares that the Office for Civil Rights (OCR) will not prescribe the type of program model and/or approach a district may choose to implement to ensure the effective participation of language minority students in the district's educational program, so long as that program/approach has proven to be effective or promises to be effective based on either past practice or judgments from experts in the field. OCR will utilize the three point test established in *Castañeda v. Pickard* (1981) to determine the adequacy of district services. OCR conducts investigations of the educational services provided for language minority students either as a result of a complaint allegation or through a compliance review. OCR will monitor the compliance of school districts on a case-by-case basis. OCR will not require the submission of a written compliance agreement/plan unless a violation of Title VI has been established.

http://www.ed.gov/about/offices/list/ocr/docs/lau1990_and_1985.html

Section 23 Part 1 of the Illinois School Code is Amended (1985)

The amendment established professional requirements for ESL teachers and established bilingual and ESL approvals.

Section 14C-3 of the Illinois School Code is Amended (1985)

This amendment required the establishment of Transitional Programs of Instruction in schools enrolling 1-19 limited English proficient (LEP) students of the same language classification.

Section 23 Part 228 of the Illinois School Code is Amended (1987)

This amendment reflects changes to the bilingual education rules and regulations, standardizing entry/exit criteria and procedures across the state of Illinois, as required by *Gomez v. Illinois* (1987).

Title VII of the Elementary and Secondary Education Act (ESEA) Reauthorization of 1988

Amendments to Title VII include increase funding to state education agencies (SEAs), expand funding for "special alternative" programs where only English is used, and allow for the creation of fellowship programs for professional training.

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September 1991 Memorandum, --The Office for Civil Rights --Policy Update on Schools Obligations towards National Origin Minority Students with Limited English Proficiency

The Office for Civil Rights (OCR) memo reiterated the validity and relevance of three-pronged test of the *Castañeda* approach to determine the adequacy of services provided to ELLs, requires 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. Detailed guidance in these areas, as well as the provision of special education services and/or gifted and talented education services to ELLs, is provided in the memo.

www.ed.gov/about/list/ocr/docs/lau1991.html and
<http://www.ed.gov/about/offices/list/ocr/docs/lau1991.html>

Amended Bilingual Education Rules and Regulations (1992)

Sections pertaining to student identification, assessment, placement, program options, parent and community participation and personnel are amended.

Title VII of the Elementary and Secondary Education Act (ESEA) Reauthorization / Improving America's Schools Act of (IASA)1994

Title VII was restructured to provide for an increased state role and give priority to applicants seeking to develop bilingual proficiency, reinforce professional development programs, increase attention to language maintenance and foreign language instruction, improve research at the state and local level, supply additional funds for immigrant education and allow participation of some private school students.. The IASA also modified eligibility requirements for services under Title I so that limited-English-proficient students are eligible for services under that program on the same basis as other students.

Section 14C-12 of the Illinois School Code is Amended (2000)

The date for filing final adjusted reimbursement claims was changed to July 20; a district forfeits funds if it fails to prepare and certify such a report within 10 days of receipt of delinquency notice from the Illinois State Board of Education (ISBE).

Executive Order #13166, Title VI and the Title VI Rules & Regulations – Improving Access to Services for Persons with Limited English Proficiency – Let Everyone Participate (August 2000)

This executive order requires all federal aid recipients (state and local education agencies, among others) to take reasonable steps to provide meaningful access to ELLs, the parents of ELLs and parents with limited English proficiency. A federal aid recipient's failure to assure that people who are not proficient in English can effectively participate in and benefit from programs and activities may constitute national origin discrimination prohibited by Title VI. The compliance standards for implementation of this order are reflected in three Office for Civil Rights policy documents: (1) the May 1970 Memorandum to school districts, --Identification of Discrimination and Denial of Services on the Basis of National Origin, -- (2) the December 3, 1985, guidance document, --The Office for Civil Rights—Title VI Language Minority Compliance Procedures, -- and (3) the September 1991 Memorandum, --The Office for Civil Rights - -Policy Update on Schools Obligations Towards National Origin Minority Students with Limited English Proficiency.

www.lep.gov
www.usdoj.gov/crt/cor/13166.htm

Related to English Language Learners

No Child Left Behind (NCLB) Act of 2001 or Public Law 107-110

Title III Part A or The English Language Acquisition, Language Enhancement and Academic Achievement Act (Section 3101) and Title III Part B or The Improving Language Instruction Educational Programs for Academic Achievement Act (Section 3201) and Title III Part C or The General Provisions Act (Section 3301)

This act is the federal reauthorization of the Elementary and Secondary Education Act (EESA). The Act establishes nine purposes for language assistance programs, all of which are supposed to ensure that children who are limited English proficient (LEP) attain English proficiency, develop high levels of academic attainment and meet the same challenging state academic standards as all children are expected to meet. Details grants for states and local education agencies (LEAs), accountability for achievement of LEP students and national activities, especially under Titles I and III of the Act.

Section 14C-4 of the Illinois School Code is Amended (2001)

This amendment reflects conformity at the state level to new TBE/TPI enrollment notification requirements under the No Child Left Behind Act of 2001.

Section 14C of the Illinois School Code is Amended (2003)

Section 14C of the Illinois School Code is Amended (2006)

Amendments related to definitions (ACCESS and W-APT are specified), identification of eligible students (a composite score of 4.0 on ACCESS for exit, districts may consider additional factors for exit, and ELLs must be annually assessed via ACCESS until they score "proficient"), establishment of programs (student-teacher ratios are explicit, significant changes to the educational requirements for new program administrators, required training for ACCESS and W-APT administration, and required training for PAC members) and students' participation and records (detailed requirements for data retention by school districts)

<http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=010500050HArt%2E+14C&ActID=1005&ChapAct=105%26nbsp%3BILCS%26nbsp%3B5%2F&ChapterID=17&ChapterName=SCHOOLS&SectionID=49138&SeqStart=109300000&SeqEnd=110800000&ActName=School+Code%2E>

Section 14C of the Illinois School Code is Amended (2009) – Results pending

Preliminary changes include definitions (ELL now includes preschool children, specification of the MODEL assessment instrument), identification of eligible students (changes to the entry/exit criteria), program options and placement (to include preschool ELLs), establishment of programs (required instruction in Spanish language arts as aligned to the state's Spanish Language Arts Standards) and personnel requirements (requirements for teachers of ELLs at the preschool level).