

Overview of Legal Protections for English Learners and Immigrant Students: What State and Local Educational Agencies Must Do

To comply with federal civil rights law and related case law, state and local educational agencies (SEAs and LEAs) must take action to overcome language barriers and ensure that English learners (ELs) can participate meaningfully in K-12 public education (Equal Educational Opportunities Act, 1974; Lau v. Nichols, 1974; Title VI of the Civil Rights Act, 1964). While SEAs must establish guidelines for EL programs and ensure their implementation, LEAs must ensure that ELs have access to a school's core curriculum. The specific legal obligations that SEAs and LEAs must uphold for ELs and immigrant students are outlined below.

Who are English learners?

English learners are elementary or secondary students who were not born in the United States or whose primary language is a language other than English, and whose level of English language proficiency may hinder their ability to achieve in classrooms where the language of instruction is English. ELs are a highly diverse group whose presence is increasing in districts and schools across the country. Although some ELs are new immigrants, the vast majority are born in the United States.

What are state and local educational agencies' legal obligations to English learners?

Obligation	Legal Basis
Use a valid and reliable approach to identify and assess ELs that is applied consistently across all districts in a state.	Every Student Succeeds Act, 2015
Provide ELs with a language instruction educational program (LIEP) that supports their English language development while also providing meaningful opportunities to engage in rigorous, grade-appropriate academic content instruction.	Equal Educational Opportunities Act, 1974; Every Student Succeeds Act, 2015; Lau v. Nichols, 1974
Ensure each LIEP has sufficient staff who are well-qualified to teach ELs and adequate resources for implementation.	Castañeda v. Pickard, 1981; Equal Educational Opportunities Act, 1974
Avoid the unnecessary segregation of ELs.	Title VI of the Civil Rights Act of 1964; Equal Educational Opportunities Act, 1974
Monitor ELs' progress in developing English language proficiency and meeting academic standards.	Castañeda v. Pickard, 1981; Every Student Succeeds Act, 2015
Evaluate LIEP effectiveness to ensure that ELs acquire English proficiency and perform on par with their non-EL peers on academic assessments.	Castañeda v. Pickard, 1981; Lau v. Nichols, 1974

Notify caregivers of their child's placement in an LIEP.	Every Student Succeeds Act, 2015; Title VI of the Civil Rights Act of 1964; Equal Educational Opportunities Act, 1974
Communicate with caregivers in a language they can understand.	Every Student Succeeds Act, 2015; Title VI of the Civil Rights Act of 1964; Equal Educational Opportunities Act, 1974

What are state and local educational agencies' legal obligations to immigrant students?

Obligation	Legal Basis
Provide all children with a free, public education regardless of immigration status. School enrollment forms cannot ask about a family's immigration status or require a caregiver's Social Security card or state driver's license, or a child's birth certificate. Other documents can be used in place of these items, for example, a utility bill.	Family Educational Rights and Privacy Act (FERPA)
Although some states collect data on place of birth and report it in the aggregate for Title III funding purposes, information about immigrant students and families cannot be shared with any person or agency without their permission.	Plyler v. Doe, 1982

Moving Beyond Compliance:

While adherence to these legal obligations is crucial, they are only a starting point. It is essential to create welcoming environments that respect and value the many assets that English learners and immigrant students bring to our schools and classrooms. Designing safe and inviting schools and classrooms that honor students' and families' languages, cultures, and backgrounds can foster ELs' engagement and support their language development and academic achievement.



PARTNERING FOR EQUITY
IN EDUCATION POLICY

For more information, contact us at:

edpolicypartners@gmail.com