Recent OCR Guidance on Language Access

Sarah Albertson, J.D., Program Supervisor
OSPI Equity and Civil Rights Office
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Language Access and Civil Rights

To comply with legal obligations under Title VI of the Civil Rights Act of 1964, school districts must take **affirmative steps** to ensure that students with limited English proficiency can **meaningfully participate** in their educational programs and services.


Public schools and state educational agencies must act to **overcome language barriers** that impede **equal participation** by students in their instructional programs.

*Equal Educational Opportunities Act of 1974*
Dear Colleagues:

Twenty years ago, the Supreme Court of the United States interpreted the ensure the public schools or agencies with their local educational agency under Title VI of the Civil Rights Act of 1964 (Title VI) and, for the first time, made clear that these educational programs must be implemented to ensure a free and appropriate public education for English Learner students (ELL) and to ensure that such students receive a free and appropriate public education.

The Civil Rights Act of 1964 (Title VI) states that no person in the United States shall, on the basis of race, color, or national origin, be excluded from participation in any educational program or activity which receives federal financial assistance.

The U.S. Department of Education (Ed.) uses Title VI to ensure that all students, including ELL students, have equal access to a high-quality education and are supported in achieving their academic potential.

The Office for Civil Rights (OCR) at the U.S. Department of Education (Ed.) and the Civil Rights Division of the U.S. Department of Justice (DOJ) jointly administer Title VI to ensure that all students, including ELL students, have equal access to a high-quality education and are supported in achieving their academic potential.

Available at
http://www2.ed.gov/about/offices/list/ocr/ellresources.html
and http://www.k12.wa.us/MigrantBilingual/TBIP-Guidelines.aspx
What is in the letter?

• Legal obligations of school districts

• Civil rights compliance issues

• Title III grant implementation

• Language access for LEP Parents

Dear Colleague:

Fourty years ago, the Supreme Court of the United States determined that in order for schools to comply with their legal obligations under Title VI of the Civil Rights Act (Title VI), they must take affirmative steps to ensure that students with limited English proficiency (LEP) can meaningfully participate in their educational programs. That same year, Congress enacted the Equal Educational Opportunities Act (EEOA), which confirmed that public schools and State educational agencies (SEAs) must act to remove language barriers that impede equal participation by students in their instruction.

Ensuring that SEAs and school districts are equipped with the tools and resources to effectively educate and help LEP students, who are now more commonly referred to as English Language Learners (ELL) students or English Language Learner students, is an important today. LEP students are now enrolled in nearly three out of every four public schools. LEP students constitute nine percent of all public school students, and their numbers are growing at a rate four times that of the non-LEP student population. It is crucial to the future of our nation that these students, and all students, have opportunities to achieve their full academic potential, high-quality education and the opportunity to achieve their full academic potential. It is also crucial that these students have access to the programs and resources they need to succeed.

The Office for Civil Rights (OCR) at the U.S. Department of Education’s Civil Rights Division and the U.S. Department of Justice (DOJ) share authority within the education context. OCR is responsible for enforcing the EEOC guidance, Title VI and the EEOA. The EEOC will be referred to as “the civil rights administrator.” The English Language Acquisition, Language Enhancement, and Achievement Act, also referred to as Title III, Part A of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (Title III), and in turn, awarded Federal funds through subgrants to school districts in accordance with the EEOCA guidance.

Providing EL Students with a Language Assistance Program

The District's program must be:

• *Educationally sound* in theory and *effective* in practice.

• Designed and reasonably calculated to enable EL students to attain both *English proficiency* and *parity of participation* in the standard instructional program *within a reasonable length of time*. 
Providing EL Students with a Language Assistance Program

• Serve *all* EL students

• Continue providing services for EL students who reach higher levels of English proficiency but have not yet met exit criteria.

• Monitor student progress and evaluate the district’s EL services to ensure that the needs of the EL students who have not made expected progress are met.
Staffing an EL Program

Districts are obligated to provide the personnel and resources necessary to effectively implement their EL programs.
Staffing an EL Program

“Paraprofessionals, aides, or tutors may not take the place of qualified teachers and may be used only as an interim measure while the school district hires, trains, or otherwise secures enough qualified teachers to serve its EL students.”

“If a district uses paraprofessionals to provide language assistance services to EL Students that supplement those provided by qualified teachers, it may do so only if the paraprofessional is trained to provide services to EL students and instructs under the direct supervision of a qualified teacher.”

Dear Colleague Letter, page 16-17
Providing Meaningful Access to All Curricular and Extracurricular Programs

EL students are entitled to instruction in the school district’s core curriculum from enrollment to graduation.
“Provide full access to the grade-appropriate core curriculum from the start of the EL program while using appropriate language assistance strategies in the core instruction.”

Dear Colleague Letter, page 18
“School districts may use a curriculum that temporarily emphasizes English language acquisition over other subjects, provided that any interim academic deficits in other subjects are remedied within a reasonable length of time.”

Dear Colleague Letter, page 19
“School districts must use appropriate and reliable evaluation and testing methods that have been validated to measure EL students’ English language proficiency and knowledge of the core curriculum.”

Dear Colleague Letter, page 20
Avoiding Unnecessary Segregation

EL programs may not unjustifiably segregate students on the basis of national origin or EL status.
Providing Dual Services for EL Students with Disabilities

“School districts must provide EL students with disabilities with both the language assistance and disability-related services to which they are entitled under Federal law.”

Dear Colleague Letter, page 24
Providing Dual Services for EL Students with Disabilities

“*It is essential* that the IEP team include participants who have the requisite knowledge of the child’s language needs.”

*Dear Colleague Letter, page 27*
Opting Out of EL Services

“School districts may **not** recommend that parents decline some or all services within an EL program for any reason.”

Dear Colleague Letter, page 30
Opting Out of EL Services

- Periodically monitor the progress of the students who have opted out

- If monitoring shows a student is struggling, the district should take affirmative steps and appropriate action.

  E.g., train general education teachers on second-language acquisition and English language development.
Monitoring and Exiting Students

• Monitor the progress of all their EL students in achieving English language proficiency and acquiring content knowledge

• Monitor the academic progress of former EL students for at least two years
Evaluating Your EL Program

Are the goals of the district’s language assistance program being met without unnecessary segregation?

Goals:
1. English language proficiency
2. Meaningful participation in the educational program
Evaluating Your EL Program

- Compare EL students, former EL students, and never-EL students
- Monitor EL students’ progress from grade to grade
- Consider other indicators of success
Contact Us!

OSPI Equity and Civil Rights Office

Phone: (360) 725-6162
TTY: (360) 664-3631
E-mail: equity@k12.wa.us

www.k12.wa.us