

KEY POINTS: ENGLISH LEARNERS IN SPECIAL EDUCATION

2019

Brandon K. Wright

English Learners in Special Education

2018

- ❖ Introduction to EL Issues
- ❖ Non-Special Ed Considerations
- ❖ Evaluation and Eligibility
- ❖ FAPE Issues
- ❖ Procedural Matters

English Learners in Special Education

2018

ESSA replaced “limited English proficiency” (LEP) with “English learner” (EL).

English Learners in Special Education

2018

Recent Litigation

H.P. v. Board of Education of the City of Chicago, ISBE, 2018 cv 0621
(filed 1/29/2018):

The Complaint seeks a finding that CPS and ISBE are in violation of the IDEA, Title VI of the Civil Rights Act of 1964, the Equal Education Opportunities Act, and Section 504; and an order requiring that parents with limited English proficiency be provided with special education documents in their native language, and language interpretation by competent interpreters at key special education meetings.

English Learners in Special Education

2018

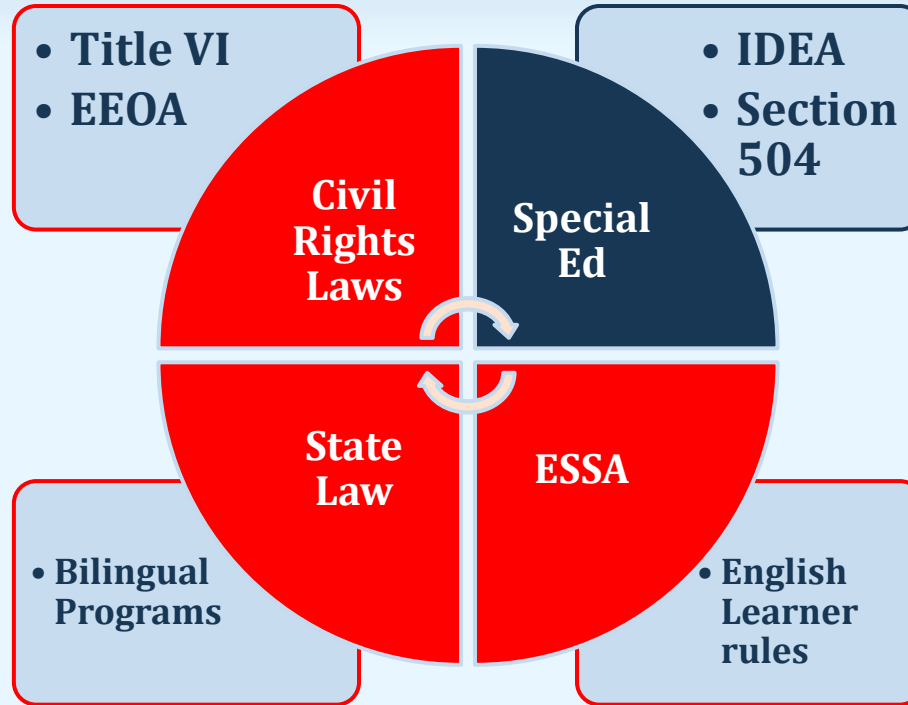
Recent Litigation

H.P. v. Board of Education of the City of Chicago, ISBE, 2018 cv 0621
(filed 1/29/2018):

- IDEA
- Title VI of the Civil Rights Act of 1964
- Equal Educational Opportunities Act (“EEOA”), and
- Section 504 of the Rehabilitation Act

English Learners in Special Education

2018



Equal Educational Opportunities Act

2018

The Act states that no U.S. state can deny equal educational opportunity to any person on the basis of gender, race, color, or nationality through intentional segregation by an educational institution; neglecting to resolve intentional segregation; by forced assignment of a student to a school, other than the one closest to his or her place of residence, that promotes further segregation; by discrimination in determining faculty and staff; by purposely transferring a student to another school to increase segregation; or **by failing to remove language barriers preventing students from being able to equally participate in English classes.**

Equal Educational Opportunities Act

2018

Lau v. Nichols (1974)

The Supreme Court ruled that a San Francisco-area school district had violated the Civil Rights Act of 1964 by denying students of Chinese descent opportunities to participate in classes. The court held that merely providing the students with the same textbooks, desks, and teachers was not sufficient, and measures, such as instruction in both Chinese and English, needed to be taken to make sure that English was taught to non-English speaking students.

Equal Educational Opportunities Act

2018

Castañeda v. Pickard (1981)

In 1981 the U.S Fifth Circuit of Appeals created a three-prong test to be used to determine whether or not school officials denied students not proficient in English the right to enjoy equal educational opportunities. Under this test, an acceptable program for English-language learners is as follows:

- A curriculum is recognized by experts in the field;
- The programs or methods used are effective in carrying out the curriculum;
- The program proves successful in helping to overcome language barriers.

The court ruled that students learning English as their second language should be able to receive the rest of the school's educational opportunities regardless of any language barriers.

Equal Educational Opportunities Act

2018

Keyes v. School District 1 (1983)

The three-part test created in the *Castañeda v. Pickard* was used to decide that a school district in Denver, Colorado had participated in intentionally separating white students from Mexican-American students. The 10th Circuit issued a desegregation order after 15 years of litigation that included a decision by the Supreme Court in 1973.

Title VI of the Civil Right Act

2018

Title VI and its implementing regulations at 34 C.F.R. 100 prohibit discrimination on the basis of race, color, or national origin in programs or services by districts or other agencies receiving federal financial assistance. 34 C.F.R. 100.3.

OCR has advised school districts that, under Title VI, they must take affirmative steps to rectify the language deficiency in order to open their instructional programs to students whose limited English proficiency relates to their national origin. *See Northshore (WA) Sch. Dist. No. 417*, 55 IDELR 23 (OCR 2009).

Title VI of the Civil Right Act

2018

In *Hazelton (PA) Area School District*, 114 LRP 17013 (OCR 04/10/14), OCR explained that if a district has a process for identifying gifted and talented non-EL students, it must also identify gifted and talented EL students and provide equal opportunity for EL students to participate in gifted and talented programs, as well as in nonacademic and extracurricular activities. Unless the particular gifted and talented program or program component requires proficiency in English language skills for meaningful participation, the recipient must ensure that evaluation and testing procedures do not screen out EL students because of their LEP. To the extent feasible, placement tests should not be of a type that the student's LEP prevents the student from qualifying for a program for which the student would be otherwise qualified. EL students cannot be categorically excluded from gifted and talented or other specialized programs, such as advanced placement courses.

Article 14C of the Illinois School Code

2018

Sec. 14C-1. The General Assembly finds that there are large numbers of children in this State who come from environments where the primary language is other than English. Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. The General Assembly believes that a program of transitional bilingual education can meet the needs of these children and facilitate their integration into the regular public school curriculum. Therefore, pursuant to the policy of this **State to ensure equal educational opportunity to every child**, and in recognition of the educational needs of English learners, it is the purpose of this Act to provide for the establishment of transitional bilingual education programs in the public schools...

Every Student Succeeds Act (ESSA)

2018

ESSA charges LEAs with implementing an effective means of outreach to parents of ELs to inform them about how they can be involved in the education of their children and be active participants in assisting their children to attain English proficiency, achieve at high levels within a well-rounded education, and meet the challenging state academic standards expected of all students. 20 USC 6312(3)(C)(i). Implementing an effective means of outreach to parents of ELs should include holding and sending notice of opportunities for regular meetings with the purpose of formulating and responding to recommendations from parents. 20 USC Sec, 6312(e)(3)(C)(ii).

Every Student Succeeds Act (ESSA)

2018

Under ESSA, each state plan must demonstrate that LEAs in the state will annually assess the English language proficiency of all ELs in the schools served by the SEA. 20 USC 6311b)(2)(G)(i). In developing and administering computer adaptive assessments for that purpose, states must ensure that such assessments assess the student's language proficiency, which may include growth toward such proficiency, in order to measure the student's acquisition of English. 20 USC 6311(b)(2)(J)(ii)(II)(bb).

Every Student Succeeds Act (ESSA)

2018

ESSA also requires that states provide ELs with appropriate accommodations on assessments including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency. 20 USC 6311 (b)(2)(B)(vii)(III).

Every Student Succeeds Act (ESSA)

2018

LEAs using ED funds to provide language instruction for ELs and immigrant students under Title III of ESSA must, not later than 30 days after the beginning of the year, inform parents of an EL identified for participation or participating in such a program of:

- The reasons for the identification of their child as an EL and in need of placement in a language instruction educational program;
- The child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;

Every Student Succeeds Act (ESSA)

2018

LEAs using ED funds to provide language instruction for ELs and immigrant students under Title III of ESSA must, not later than 30 days after the beginning of the year, inform parents of an EL identified for participation or participating in such a program of:

- The methods of instruction used in the program in which their child is, or will be, participating and the methods of instruction used in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction;

Every Student Succeeds Act (ESSA)

2018

LEAs using ED funds to provide language instruction for ELs and immigrant students under Title III of ESSA must, not later than 30 days after the beginning of the year, inform parents of an EL identified for participation or participating in such a program of:

- How the program in which their child is, or will be, participating will meet the educational strengths and needs of their child;
- How such program will specifically help their child learn English and meet age-appropriate academic achievement standards for grade promotion and graduation;

Every Student Succeeds Act (ESSA)

2018

LEAs using ED funds to provide language instruction for ELs and immigrant students under Title III of ESSA must, not later than 30 days after the beginning of the year, inform parents of an EL identified for participation or participating in such a program of:

- The specific exit requirements for the program; and
- In the case of a child with a disability, how such program meets the objectives of the child's IEP.

Every Student Succeeds Act (ESSA)

2018

LEAs using ED funds to provide language instruction for ELs and immigrant students under Title III of ESSA must, not later than 30 days after the beginning of the year, inform parents of an EL identified for participation or participating in such a program of:

- The specific exit requirements for the program; and
- **In the case of a child with a disability, how such program meets the objectives of the child's IEP.**

Who is an EL Student?

2018

Under ESSA, the term "English learner," when used with respect to an individual, means an individual: (A) who is ages 3 through 21; (B) who is enrolled or preparing to enroll in an elementary school or secondary school;

(C) --

(i) who was not born in the United States or whose native language is a language other than English;

(ii) I. who is a Native American or Alaska Native, or a native resident of the outlying areas; and II. who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

Who is an EL Student?

2018

Under ESSA, the term "English learner," when used with respect to an individual, means an individual:

(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual:

- (i) the ability to meet the state's proficient level of achievement on state assessments described in section 6111(b)(3);
- (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or
- (iii) the opportunity to participate fully in society.

20 USC 7801(20)

Who is an EL Student? (ISBE)

2018

School districts must annually assess the English language proficiency, including aural comprehension (listening), speaking, reading, and writing skills, of **ALL children of limited English-speaking ability in kindergarten and any of grades 1 through 12** (Section 14C-3 of the School Code) using the English language proficiency assessment prescribed by the State Superintendent of Education.

What proficiency level score does a student have to obtain to be considered English language proficient? As of January 1, 2014, students who obtain an overall composite proficiency level of 5.0 **as well as a reading proficiency level of 4.2 and a writing proficiency level of 4.2** on the annually administered state approved English language proficiency test, **ACCESS for ELLs**, are to be considered English language proficient.

Who is an EL Student? (ISBE)

2018

June 23, 2017 Letter from ISBE:

“ACCESS 2.0 was recently changed to align with college-and-career readiness standards and the scores more accurately show your child’s level of English proficiency. After reviewing extensive information on achievement performance and in consultation with education experts including teachers, principals and superintendents, we determined that a composite score of 4.8 on the ACCESS 2.0 is needed to exit EL classification. This score is retroactive to the 2016-17 school year.”

English Learners in Special Education

2018

- ❖ Introduction to EL Issues
- ❖ Non-Special Ed Considerations
- ❖ **Evaluation and Eligibility**
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English Learners in Special Education

2018

Evaluations

(1) Assessments and other evaluation materials used to assess a child under this part --

(i) Are selected and administered so as **not to be discriminatory** on a racial or cultural basis;

(ii) Are provided and administered in the child's **native language or other mode of communication** and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer.

English Learners in Special Education

2018

Pursuant to 34 CFR 300.173, each state "must have in effect, consistent with the purposes of this part and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate **over-identification** or **disproportionate representation by race and ethnicity** of children as children with disabilities, including children with disabilities with a particular impairment described in 34 CFR 300.8.

In **2016**, ED amended the IDEA Part B regulations to establish a standard methodology that states must use for identifying significant disproportionality. 34 CFR 300.646 through 34 CFR 300.647.

English Learners in Special Education

2018

The 2016 IDEA regulations at 34 CFR 300.646(a) provide that each state receiving Part B funds must collect and examine data to determine if significant disproportionality based on race and ethnicity is occurring in the state and the LEAs of the state with respect to:

- The identification of children as children with disabilities
- The placement in particular educational settings of these children; and
- The incidence, duration, and type of disciplinary removals from placement, including suspensions and expulsions.

English Learners in Special Education

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In implementing CEIS under the 2016 IDEA Part B regulations, an LEA must **identify and address the factors** contributing to the significant disproportionality, which may include, among other identified factors, a lack of access to scientifically based instruction; economic, cultural, or **linguistic barriers** to appropriate identification or placement in particular educational settings; the inappropriate use of disciplinary removals; a lack of access to appropriate diagnostic screenings; differences in academic achievement levels; and policies, practices, or procedures that contribute to the significant disproportionality. 34 CFR 300.646d)(1)(ii).

English Learners in Special Education

2018

In *Salt Lake City (UT) School District*, 69 IDELR 82 (OCR 2016), OCR concluded that a Utah district would need to overhaul its evaluation policies after discovering that the district may have overidentified ELs as students with disabilities under the IDEA and Section 504. Noting that the district failed to administer special education evaluations in the students' native language, OCR determined that the district could remedy the Section 504 and Title II compliance concerns by reevaluating all EL students currently receiving services under an IEP or 504 plan.

English Learners in Special Education

2018

Evaluations

(1) Assessments and other evaluation materials used to assess a child under this part –

(ii) Are provided and administered in the child's **native language or other mode of communication** and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer.

English Learners in Special Education

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Native language, when used with respect to an individual who is an EL, means the following:

(1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in 34 CFR 300.29 (a)(2).

(2) In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment. 34 CFR 300.29 (a).

English Learners in Special Education

2018

In re Houston Independent School District, 30 IDELR 564 (TEA 1999):

The hearing officer upheld the district's decision to conduct evaluation of native Spanish-speaking student in English where the results of the language dominance testing indicated that the student demonstrated higher levels of receptive and expressive proficiency in English than in Spanish, and “usually” spoke English at home.

English Learners in Special Education

2018

In re Student with a Disability, 111 LRP 39017 (New Mex SEA 2011):

The student was adopted from a foreign country at the age of 16, and was not proficient in English. At the parents' urging, the district evaluated the student for mental retardation by use of a translator. A subsequent IEE conducted 19 months later revealed that the student's cognitive and language-based skills in his native language had decreased to the point that an evaluation performed only in his native language would have yielded invalid results. The parents filed for due process alleging, among other things, that the district failed to identify and make a determination of eligibility that the student's limited English proficiency was the primary factor affecting his performance.

English Learners in Special Education

2018

In re Student with a Disability, 111 LRP 39017 (New Mex SEA 2011):

The IHO determined that the evaluator's interchangeable use of English and the student's native language maximized the chances of obtaining the most accurate evaluation results. The IHO also took into account the evaluator's native fluency in the student's native language, specialization in international adoptions, and extensive experience in evaluating students from countries including the student's native country. While the IHO found the method of evaluation in the IEE to be acceptable under the IDEA, the district violated the IDEA by failing to obtain information regarding the student from a variety of sources, failing to properly document data that was obtained in the student's initial evaluation with the translator, and failing to provide written notice to the parents before refusing to initiate or change the identification, evaluation and educational placement of the student.

English Learners in Special Education

2018

District decisions to conduct an evaluation in two languages have been found to be consistent with the IDEA, particularly where neither of the two languages in question are dominant. *See Bridgeport Bd. of Educ., 28 IDELR 1043*(SEA CT 1998); *Board of Educ. of the City Sch. Dist. of the City of New York, 26 IDELR 215* (SEA NY 1997); *New York City Dep't of Educ., 106 LRP 63717* (SEA NY 10/16/06).

The key: What is most likely to yield accurate information on what the child knows and can do?

English Learners in Special Education

2018

B.G. v. Board of Education of the City of Chicago, 72 IDELR 231 (7th Cir. 2018).

Even if an Illinois district made a few errors when evaluating a 14-year-old boy with a specific learning disability and an emotional disturbance, those mistakes did not make the assessments inappropriate. For example, although the parent argued that the school psychologist should have administered assessments in Spanish, the panel pointed out that the student was proficient in English and preferred it to Spanish.

English Learners in Special Education

2018

In *District of Columbia Public Schools, 113 LRP 3032* (SEA DC 07/20/12), *aff'd*, 64 IDELR 103 (D.D.C. 2014), the district assessed the student and concluded he was an EL student operating at the lower rung of English language proficiency. The student's parents provided the district with independent evaluations that confirmed the student had speech-language deficits. One of the evaluations also indicated the student had LDs. The district did not consider the evaluation valid because it was not performed by a bilingual evaluator as is required under its standards. There was no evidence, however, that the district asked to conduct its own bilingual evaluation. The IHO concluded that the district must conduct **bilingual**, comprehensive psychological and speech language evaluations.

English Learners in Special Education

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Evaluations

- Ask questions at the domain meeting to gain a better picture of the child's language profile:
- How long has the student been exposed to English?
- What language does the student use most often with friends and parents?
- In what language does the student prefer to watch TV, listen to music, and read?
- What language does the student use with friends and adults outside the home?

English Learners in Special Education

2018

Evaluations

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(ii) Are provided and administered in the child's **native language or other mode of communication** and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, **unless it is clearly not feasible to so provide or administer.**

English Learners in Special Education

2018

In re Besalem Township School District 114 LRP 24883 (SEA Pa. 2014):

A district's evaluation conducted largely in English was not culturally discriminatory to an English-language learner, an IHO determined. The parents of a teenager recently adopted from Eastern Europe disagreed with the district's evaluation techniques and its conclusion that their child had no need of special education services. The parents requested an IEE, and the district filed for due process. According to the IDEA, evaluations of children who are not fluent in English should be administered in the child's native language "unless it is clearly not feasible to so provide or administer." 34 CFR 300.304(c)(1)(ii). The IHO found that the evaluation was appropriate despite being conducted in English.

English Learners in Special Education

2018

In re Besalem Township School District 114 LRP 24883 (SEA Pa. 2014):

The IHO emphasized an explanation by the psychologist that most of the assessments could not properly be administered in a foreign language because they were standardized solely on an English-speaking population. In addition, the IHO pointed out that the school psychologist utilized an interpreter for the interview and spoken portions of the evaluation and to explain test administration to the student. The psychologist testified that, because the test instructions permitted it, she used the interpreter for one of the assessments, and she employed a culture-language matrix to ensure the validity of the assessments. The IHO opined that this evidence was sufficient to show that the psychologist's methods were sound and that the student's academic weaknesses were related to limited English proficiency rather than a disability.

English Learners in Special Education

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English Learners in Special Education

2018

In re Besalem Township School District 114 LRP 24883 (SEA Pa. 2014):

“It must be noted that ESL is not special education. Additionally, the record as a whole established Student's very early English language proficiency as a significant factor in Student's academic weaknesses, despite ESL instruction and support, leading to the determination that Student was not eligible for special education under the IDEA. As noted above, the gap between a student's academic ability and expected performance compared to same-aged peers does not necessarily mean that a student is eligible for special education. **It may well be that Student needs more intensive, regular education services, but those can be provided with or without eligibility for special education.**”

English Learners in Special Education

2018

Eligibility Decisions

A child must not be determined to be a child with a disability:

- (1) If the determinant factor for that determination is:
 - (i) Lack of appropriate instruction in reading, ...;
 - (ii) Lack of appropriate instruction in math; or
 - (iii) ***Limited English proficiency***; and
- (2) If the child does not otherwise meet the eligibility criteria under 34 CFR 300.8(a).

34 CFR 300.306(b).

English Learners in Special Education

2018

To rule out LEP as a determinant factor for an individual student, it is important that the IEP team has evidence that the core curriculum is effective for most of the subgroup of students identified as LEP.

English Learners in Special Education

2018

ELLs' progress rates in acquiring English proficiency vary depending on several factors, including how much education they received prior to immigration to the U.S., how proficient they are in their home language, and how much first language support is/has been provided by the school and available in the home and community.

English Learners in Special Education

2018

ELLs who grow up in the U.S. are often considered simultaneous bilinguals whose full language skills would be a composite of both the first and second language. Examining concept knowledge and vocabulary in only one language does not accurately reflect their full language proficiencies.

English Learners in Special Education

2018

Mixed proficiency in the native language and in English is not an indicator of language impairment. A student may demonstrate strengths and weaknesses in either or both languages depending on instruction and usage of first language and second language at home and school.

English Learners in Special Education

2018

When an underlying difficulty is due to a disability, it will manifest itself across languages and contexts. For example, if the child is having difficulty following directions, then the team should see if the same difficulty occurs in social as well as academic settings and occurs in the home language as well as in English. It would not be appropriate to find an ELL to have a disability in one language and not the other.

English Learners in Special Education

2018

ISBE FAQ: Special Education Eligibility Within an RTI Framework:

14. What are some additional considerations that may be unique to ELLs in terms of their “opportunity to learn”? For ELLs, opportunity to learn includes instruction provided by personnel well versed in the implementation of proven strategies and approaches appropriate for ELLs and designed to foster their linguistic and academic growth in culturally responsive and relevant ways. Thus, those providing instruction should be bilingual teachers with their bilingual approval or endorsement or, in the instance of low incidence languages within Transitional Programs of Instruction (TPI), highly qualified teachers holding English as a Second Language (ESL) approval or endorsement. In the instance of there being very few such students, or where parents have refused language instruction support services, it is important for districts to provide the necessary support for classroom teachers to acquire the relevant knowledge and skills specific to teaching ELLs and essential to providing effective instruction and support to these students.

English Learners in Special Education

2018

ISBE FAQ: Special Education Eligibility Within an RTI Framework:

15. In the context of implementation integrity of the curriculum, what does the phrase “limited access to ELL services” mean? Limited access to ELL services could include, but is not limited to, situations such as the following: a) when parents have refused language assistance instructional program services for their children or withdrawn their children from such services before the students have attained a score of English proficient in their annual language proficiency assessments; b) when ELLs who, through a decision by the school’s or district’s administration, were not provided either a Transitional Bilingual Education (TBE) program or TPI, as defined in 23 IAC 228; c) when the instructional program design for serving ELLs has changed numerous times over the course of an ELL’s educational career; d) when an ELL experiences the cumulative effects of being taught by personnel without appropriate bilingual/ESL credentials; e) when an ELL’s early childhood program did not assess for English proficiency to identify language support needs; or f) when an ELL began in an English-only Head Start or prekindergarten program before entering a bilingual kindergarten.

English Learners in Special Education

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If a student is not succeeding due *primarily* to any one of the reasons listed above (lack of appropriate instruction in reading or math or LEP), he or she is not eligible for special education and related services.

English Learners in Special Education

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English Learners in Special Education

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Adequacy of Services

Districts must ensure that students with limited English proficiency have equal access to all educational programs to avoid discrimination claims.

- ❖ Avoid different treatment.
- ❖ Avoid disparate impact.

English Learners in Special Education

2018

Adequacy of Services

In the case of a child with limited English proficiency, the IEP team must consider the language needs of the child as those needs relate to the child's IEP. 34 C.F.R. Sec. 300.324(a)(2)(ii).

English Learners in Special Education

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Present Levels

How does the disability impact academic achievement in both English and the child's native language?

How does the disability impact functional performance?

English Learners in Special Education

2018

Present Levels

How does the disability impact academic achievement in both English and the child's native language?

ACCESS scores? RTI?

Both English and native language?

English Learners in Special Education

2018

Present Levels

How does the disability impact functional performance?

Social skills (culture/language impact)?

Behaviors? Cultural impact on behavior?

Parents ability to assist with EL instruction?

English Learners in Special Education

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Endrew F. v. Douglas County School District RE-1, 69 IDELR 174 (U.S. March 22, 2017). The U.S. Supreme Court ruled (in a unanimous decision) that an IEP must be **reasonably calculated to enable a child to make progress that is appropriate in light of his circumstances.**

“Appropriately Ambitious”: Developing IEP Goals

“But his educational program must be appropriately ambitious in light of his circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom. The goals may differ, but every child should have the chance to meet challenging objectives.” – *Endrew F.* at 1000.

English Learners in Special Education

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Don't try to have the team recreate this entire curriculum on the IEP, but instead focus on priorities and access to the broader curriculum.

How does this work for EL students?

English Learners in Special Education

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Don't try to have the team recreate this entire curriculum on the IEP, but instead focus on priorities and access to the broader curriculum.

How does this work for EL students?

In the case of a child with limited English proficiency, the IEP team must consider the language needs of the child as those needs relate to the child's IEP. 34 C.F.R. Sec. 300.324(a)(2)(ii).

English Learners in Special Education

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How does this work for EL students?

In the case of a child with limited English proficiency, the IEP team must consider the language needs of the child as those needs relate to the child's IEP. 34 C.F.R. Sec. 300.324(a)(2)(ii).

Must there be an IEP goal for language?

English Learners in Special Education

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In the case of a child with limited English proficiency, the IEP team must consider the language needs of the child as those needs relate to the child's IEP. 34 C.F.R. Sec. 300.324(a)(2)(ii).

Must there be an IEP goal for language?

Should that goal be implemented/measured in English or the native language?

English Learners in Special Education

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Should that goal be implemented/measured in English or the native language?

Remember: also have a civil rights duty:

Under Title VI and the EEOA, EL students should be able to receive the rest of the school's educational opportunities regardless of any language barriers, including access to the general curriculum AND special education.

English Learners in Special Education

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Under Title VI and the EEOA, EL students should be able to receive the rest of the school's educational opportunities regardless of any language barriers, including access to the general curriculum AND special education.

How does that relate to the need to provide accommodations and/or modification pursuant to an IEP?

English Learners in Special Education

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How does that relate to the need to provide accommodations and/or modification pursuant to an IEP?

It may include providing supports in the student's native language, or providing access to content through native language support.

English Learners in Special Education

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How does that relate to the need to provide accommodations and/or modification pursuant to an IEP?

Assistive tech?

Supports for school personnel?

Assessment accommodations?

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Other FAPE Factors:

- ❖ Placement issues
 - ❖ Behaviors: FBAs and BIPs
 - ❖ Transition planning
 - ❖ Extended School Year

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IEP Meeting Participants

The Illinois Administrative Code requires (226.210(e):

The IEP Team shall include a qualified bilingual specialist or bilingual teacher, if the presence of such a person is needed to assist the other participants in understanding the child's language or cultural factors as they relate to the child's instructional needs. If documented efforts to locate and secure the services of a qualified bilingual specialist are unsuccessful, the district shall instead meet the requirements set forth in Section 226.150(b) of

this Part.

English Learners in Special Education

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Meaningful Parental Participation

Districts must have procedures in place that allow parents with limited English proficiency to participate in IEP and Section 504 meetings. In addition to providing qualified interpreters, a district must be prepared to translate IEP and Section 504 documents into the parents' primary language.

English Learners in Special Education

2018

Hawaii (HI) State Dep't of Educ., 53 IDELR 101 (OCR 2009). Allegations that a high school was failing to effectively communicate with LEP parents raised concerns of both disability and national-origin discrimination against the Hawaii ED. The state ED addressed the alleged Title VI violations by agreeing to review and, if necessary, revise the school's procedures for communicating with LEP parents to ensure that the school provides them with information regarding special education matters as effectively as it does to parents whose primary language is English.

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Dear Colleague Letter, 63 IDELR 138 (OCR 2014). Under several federal civil rights laws, including Title VI, parents who are not proficient in English must receive meaningful access to the same admissions information and other school-related information provided to English-proficient parents in a manner and form they can understand.

Medway (MA) Pub. Schs., (OCR 10/14/14). A district resolved Title VI discrimination complaint by agreeing to translate two students' IEPs into Farsi.

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Prior Written Notice

PWN must be provided in a language that is understandable to the general public and also in the native language of the parent unless it is clearly not feasible to do so.

Providing parents with verbal notice as a substitute for written notice does not fulfill the prior written notice requirements of the IDEA, regardless of whether the verbal notice is substantively proper.

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In re Adams County School District, 55 IDELR 210 (SEA Colo. 2010).

By failing to provide a parent who spoke Spanish with adequate prior written notice of changes in her child's IEP, a Colorado district violated the IDEA's procedural requirements. The parent alleged that the district failed to provide her with prior written notice in her native language, preventing her from participating in the decision-making process. According to the district, it supplied the parent with a copy of the student's IEP, which fulfilled the IDEA's prior written notice requirement. An IEP may provide sufficient information to supply a parent with prior written notice, the Colorado ED agreed. However, if the IEP is intended to serve as prior written notice, the district must provide it to the parent in a timely manner and in the parent's native language.

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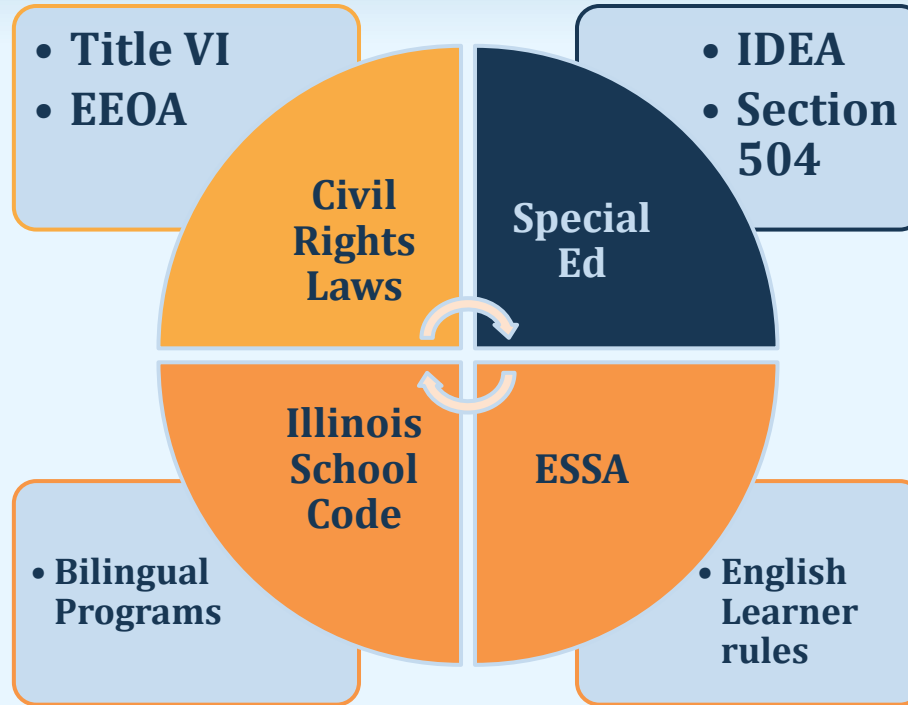
2018

In re Adams County School District, 55 IDELR 210 (SEA Colo. 2010).

The district failed to supply the parent with a copy of the IEP in Spanish until after she filed a complaint -- some five months later. Therefore, the IEP did not satisfy the district's obligation to provide the parent with prior written notice. The district's failure to supply the parent with an IEP or a prior written notice in her native language contributed to her confusion and misunderstanding concerning the services the district offered the student, the ED remarked. Reasoning that the parent was denied a meaningful opportunity to participate in decisions regarding her child's IEP, the ED concluded that the district's procedural violations of the IDEA amounted to a denial of FAPE.

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Thank you!



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