



The Rights of Students Who are English Learners: FAQ for Educators

Overview

In August 2025, the U.S. Department of Education quietly rescinded [guidance](#) to school communities about how to meet their legal obligations towards students who are English learners (“EL”) and guardians who have limited English proficiency (“LEP”). This, along with other actions cutting meaningful access to government services by LEP individuals, such as issuing an [executive order](#) designating English as the official language, as well as withdrawing other Presidential actions in place for 25 years to help LEP individuals, and suspending LEP.gov, makes it understandable that there may be confusion and uncertainty about what state education agencies, school districts, and teachers (collectively “Educators”) are required to do under federal civil rights law.

For more than 50 years, courts and the federal government have consistently and clearly said that federal law protects the rights of EL students and LEP guardians.^[i] And while the Department of Education's guidance for ELs was an important tool for Educators, the legal obligations that have existed for over 50 years cannot be rolled back simply by rescinding this guidance. **Put simply, rescinding guidance does not alter the law.**

Please review the following Frequently Asked Questions (FAQ) for information Educators should know about federal laws that protect EL students and LEP guardians.



FAQ

1 What is the History of Federal Protections for EL Students and LEP Guardians?

In 1970, the precursor agency to the U.S. Department of Education issued a memo to school districts explaining that Title VI of the Civil Rights Act of 1964 (Title VI) requires schools to provide an equal educational opportunity to students who are ELs, and to provide LEP guardians adequate notification of school activities.^[iii]

In 1974, in *Lau v. Nichols*, the U.S. Supreme Court confirmed this understanding of Title VI. In support of its decision, the Supreme Court cited a quote from Senator Hubert Humphrey during the floor debate of the Civil Rights Act of 1964: "Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination."^[iii]

In *Lau*, the Supreme Court explained "**there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education.**"^[iv] That same year, following the ruling in *Lau*, the Equal Educational Opportunities Act of 1974 (EEOA) was signed into law. Among other things, the EEOA specifically requires state and local education agencies to "take appropriate action to overcome language barriers that impede equal participation by students in a school's instructional programs."^[v]

Since 1970, the Department of Education and Department of Justice have issued numerous guidance documents reaffirming the 1970 memo and the holding in *Lau*. These guidance documents provided clarity for school communities in understanding the protections Title VI and the EEOA afford EL students and LEP guardians.^[v] For more than 50 years, the federal government has enforced Title VI and the EEOA to protect the rights of students who are ELs and guardians with LEP, entering into numerous resolution agreements and court-approved consent decrees.^[viii]

2 What Must Educators Provide EL Students and LEP Guardians Under Federal Law?

Title VI and the EEOA both require that schools ensure EL students can access their education and that LEP guardians receive effective communication.

Title VI

Title VI prohibits discrimination based on race, color, and national origin in programs or activities that receive federal financial assistance, including states and school districts.^[viii] In *Lau v. Nichols*, the U.S. Supreme Court determined that in order for public elementary and secondary schools to comply with their legal obligations under Title VI, they must take affirmative steps to ensure that EL students can meaningfully participate in their educational programs and services.

Schools must provide language assistance services to EL students that enable them to:

1. Overcome language barriers;
2. Work towards proficiency in English; and
3. **Participate equally, fully, and meaningfully** in standard instructional programming within a reasonable period.

And schools must ensure **meaningful communication** with LEP guardians in a language they can understand. Specifically, schools must take steps to provide effective language assistance to parents and guardians who have LEP, which may be accomplished by providing accurate written translation or oral interpretation.

EEOA

The EEOA requires school districts to **take appropriate action to overcome language barriers that impede equal participation by students in their instructional programs** by, among other actions, providing an effective EL program to help EL students learn English and participate fully in school.^[ix] Specifically, a school's EL program must: be based upon sound educational theory or principles; be reasonably calculated to effectively implement educational theory; and result in EL students overcoming language barriers within a reasonable period of time so they attain parity of participation with their non-EL peers in the standard instructional program.^[x]

Under the EEOA, schools must also **take appropriate action to overcome the language barriers of LEP guardians when communicating about EL programs and the procedures** for accessing those programs so that the children of LEP guardians are not denied an equal opportunity to participate.^[xi] Ensuring equal educational opportunities for EL students requires adequately notifying their parents of district and school activities, as well as effectively communicating in district and school meetings through interpreters and translated documents. Under the EEOA, an individual (for example, a parent or guardian) can file a civil action in an appropriate federal court when their child is denied an equal educational opportunity.^[xii]

3 Have Federal Laws Protecting EL Students and LEP Guardians Changed?

No. There have been no changes in statute or case law, and the law does not change simply on account of federal agencies issuing memos or rescinding guidance documents.

Though the federal government has decreed a change with respect to how it will enforce Title VI and the EEOA, there are no changes to these laws. **States and schools remain obligated to ensure the rights of EL students and LEP guardians.** Educators should remember that there is a separate private right of action available under the EEOA that permits individuals to hold states and schools accountable for ensuring the rights of EL students and LEP guardians.^[xiii]

Although federal agencies can draft memos and other guidance documents to interpret laws, and use these legal interpretations to guide enforcement actions, they cannot create or change federal statutes. Courts, not agencies, ultimately interpret federal statutes. Agency interpretations — especially new or changed ones — cannot take the place of, or contradict, judicial interpretations.^[xiv] **In short, federal law regarding the rights of EL students and LEP guardians, as well as the obligations of the school districts that serve them remain unchanged.**

4 Who Is Affected by School EL Programs?

More than 20% of all people in the U.S. over the age of five speak a language other than English at home,^[xv] and 11% of students enrolled in public PK-12 schools nationally are ELs.^[xvi] These numbers are much higher in some states and localities. EL Students are a diverse population with respect to race, national origin, and languages spoken.^[xvii] Nearly 75% of all EL students were born in the U.S. and are U.S. citizens.^[xviii] In total, more than 500 individual languages and language groups are spoken across the United States.^[xix] If these communities, including the 5 million EL students currently enrolled in public schools, do not receive the English language services they need, they will be unable to participate equally in their schools' educational programs and will suffer academically. The lack of needed language services contributes to social isolation and missed opportunities for the kind of cultural and linguistic exchange that equips EL students and their English proficient peers to live and work in a global economy.

5 What Are the Benefits of School EL Programs?

The benefits of ensuring that all students and families can participate in our educational system are well documented. They include the following:

- **Academic Success:** When EL students receive the help they need to become fluent in English, they tend to perform better academically, often outpacing English-proficient peers.^[xx]
- **Economic Impact:** When EL students become fluent in English, they are more likely to graduate, go on to college, and access good-paying jobs that allow them to contribute to our workforce and economy.^[xxi]
- **Dual Language Proficiency for All Students:** High-quality dual language programs, often used to help meet the needs of EL students, benefit English-proficient students as well. In fact, research shows that students enrolled in high-quality dual language programs score higher on English Language Arts and Reading assessments.^[xxii]

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- ⁱⁱⁱ See e.g., U.S. Dept of Educ., [Identification of Discrimination and Denial of Services on the Basis of National Origin](#) (May 1970); U.S. Dept of Educ., [Language Minority Compliance Procedures](#) (September 1984); U.S. Dept of Educ., Off. for Civ. Rts. & U.S. Dept of Just., Civ. Rts. Div., [Dear Colleague Letter: English Learner Students and Limited English Proficient Parents](#) (January 2015); U.S. Dept of Educ., Off. for Civ. Rts., [Fact Sheet: Equal Access to Elementary and Secondary Education for Students Who Are English Learners with Disabilities](#) (November 2024); see also *Lau v. Nichols*, 414 U.S. 563 (1974); *Castañeda v. Pickard*, 648 F.2d 989 (5th Cir. 1981); *Rios v. Read*, 480 F. Supp. 14, 23-24 (E.D.N.Y. 1978); *Cintron v. Brentwood Union Free Sch. Dist.*, 455 F. Supp. 57, 64 (E.D.N.Y. 1978).
- ⁱⁱⁱⁱ U.S. Dept of Educ., [Identification of Discrimination and Denial of Services on the Basis of National Origin](#) (May 1970).
- ⁱⁱⁱⁱⁱ *Lau v. Nichols*, 414 U.S. 563 (1974); 10 Cong.Rec. 6543 (Sen. Humphrey, quoting from President Kennedy's message to Congress, June 19, 1963).
- ^{iv} *Lau* 414 U.S. at 566.
- ^{lv} 20 U.S. Code § 1703(f).
- ^{lvii} E.g., U.S. Dept of Educ., Off. for Civ. Rts., [Fact Sheet: Equal Access to Elementary and Secondary Education for Students Who Are English Learners with Disabilities](#) (November 2024); U.S. Dept of Educ., Off. for Civ. Rts., [Avoiding the Discriminatory Use of Artificial Intelligence](#) (November 2024); U.S. Dept of Educ., Off. for Civ. Rts., [Fact Sheet: Ensuring Educational Opportunities for All Students on Equal Terms 70 Years After Brown v. Board of Education](#) (May 2024); U.S. Dept of Educ., [Secretary's Letter on English Learner Resources](#) (November 2023); U.S. Dept of Educ., Off. for Civ. Rts. & U.S. Dept of Just., Civ. Rts. Div., [Protecting Access to Education for Migratory Children](#) (June 2023); U.S. Dept of Educ., Off. for Civ. Rts. & U.S. Dept of Just., Civ. Rts. Div., [Protecting Access to Education for Unaccompanied Children](#) (June 2023); U.S. Dept of Educ., Off. for Civ. Rts., [Ensuring Meaningful Participation in Advanced Coursework and Specialized Programs for Students Who Are English Learners](#) (June 2023); U.S. Dept of Educ., Off. for Civ. Rts. & U.S. Dept of Just., Civ. Rts. Div., [Confronting Discrimination Based on National Origin and Immigration Status](#) (August 2021); U.S. Dept of Educ., Off. for Civ. Rts. & U.S. Dept of Just., Civ. Rts. Div., [Information for Limited English Proficient \(LEP\) Parents and Guardians and for Schools and School Districts that Communicate with Them](#) (January 2015); U.S. Dept of Educ., Off. for Civ. Rts. & U.S. Dept of Just., Civ. Rts. Div., [Ensuring English Learner Students Can Participate Meaningfully and Equally in Educational Programs](#) (January 2015); U.S. Dept of Educ., Off. for Civ. Rts. & U.S. Dept of Just., Civ. Rts. Div., [Dear Colleague Letter: English Learner Students and Limited English Proficient Parents](#) (January 2015); U.S. Dept of Educ., [Policy Update on Schools' Obligations Toward National Origin Minority Students With Limited-English Proficiency](#) (September 1991); U.S. Dept of Educ., [Language Minority Compliance Procedures](#) (September 1984); U.S. Dept of Educ., [Identification of Discrimination and Denial of Services on the Basis of National Origin](#) (May 1970).
- ^{lviii} See e.g., [OCR Resolution with Legacy Traditional Schools](#); [OCR Resolution with Rochester School District](#); [OCR Resolution with Livermore Valley Joint Unified School District](#); [OCR Resolution with Pecatonica Area School District](#); [OCR Resolution with Portland Public Schools](#); [OCR Resolution with Hazleton Area School District](#); [OCR Resolution with Orleans Parish School Board](#); [OCR Resolution with Tigard-Tualatin School District 23](#); [DOJ Letter to Clay County School District](#); [DOJ Letter to Clay County School District](#); [DOJ Settlement Agreement with Rowan-Salisbury Board of Education](#); [DOJ Settlement Agreement with Newark Board of Education](#); [DOJ Settlement Agreement with New Bedford Public Schools](#); and [DOJ Letter to Newark Public Schools](#).
- ^{lviii} 42 U.S.C. § 2000d to d-7 (prohibiting race, color, or national origin discrimination in any program or activity receiving Federal financial assistance); 34 C.F.R. § 100.3(b) (describing discrimination prohibited under Title VI and identifying specific prohibited actions).
- ^{lix} 20 U.S.C. § 1703(f); *Castañeda*, 624 F.2d at 1009-10.
- ^{lx} *Castañeda*, 624 F.2d at 1009-10.
- ^{lxii} See e.g., [DOJ Letter to Clay County School District](#); [DOJ Letter to Clay County School District](#); [DOJ Settlement Agreement with Rowan-Salisbury Board of Education](#); [DOJ Settlement Agreement with Newark Board of Education](#); [DOJ Settlement Agreement with New Bedford Public Schools](#); and [DOJ Letter to Newark Public Schools](#).
- ^{lxiii} 20 U.S. Code § 1706.
- ^{lxiii} *Id.*
- ^{lxvi} *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).
- ^{lxv} U.S. Census Bureau, [Detailed Languages Spoken at Home and Ability to Speak English for the Population 5 Years and Over: 2017-2021](#); U.S. Census Bureau, [New Data on Detailed Languages Spoken at Home and the Ability to Speak English](#) (June 2025).
- ^{lxvii} U.S. Dept of Educ., [2021-22 Civil Rights Data Collection A First Look: Students' Access to Educational Opportunities in U.S. Public Schools](#) (January 2025); U.S. Dept of Educ., [Data Snapshot: Profile of English Learner Students in U.S. Public Schools During the 2020-21 School Year](#) (March 2025); U.S. Dept of Educ. Nat'l Ctr. for Educ. Stat., [English Learners in Public Schools](#) (May 2024).
- ^{lxviii} U.S. Dept of Educ. Nat'l Ctr. for Educ. Stat., [English Learners in Public Schools](#) (May 2024) (indicating for example, that 10.3 % of students who are ELs identify as Asian or Pacific Islander); U.S. Dept of Educ., Off. of English Language Acquisition, [English Learners Who Are Black](#) (April 2021) (indicating that in some states such as South Dakota and Maine, more than 25% of all Black students are English Learners.)
- ^{lxviii} U.S. Gov't Accountability Off., [K-12 Education: Student, Teacher, and School Characteristics Associated with English Learners' Academic Performance](#) (August 2024); Pew Research Center, [6 facts about English language learners in U.S. public schools](#) (October 2018).
- ^{lxix} U.S. Census Bureau, [New Data on Detailed Languages Spoken at Home and the Ability to Speak English](#) (June 2025).
- ^{lxx} New America, [Former English Learners Outperform English-only Peers On Texas' State Assessments](#) (August 2022).
- ^{lxxi} New America, [Three Studies Shine a Light on Positive English Learner Outcomes](#) (January 2025).
- ^{lxxii} The Century Foundation, [Why We Need to Cultivate America's Multilingual, Multicultural Assets](#) (June 2023); Learning Policy, [Funding Student Needs A Review of State Funding Policies for English Learners and Students From Low-Income Backgrounds](#) (January 2025).