

## EL Case by Case

### Legal Cases Related to English Learners

#### **1964 Civil Rights Act, Title VI**

*"No person in the United States shall, on the ground 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." -42 U.S.C. § 2000d.*

- Title VI of the Civil Rights Act of 1964 protects people from discrimination based on race, color or national origin in programs or activities that receive Federal financial assistance. Public institutions (like schools) must provide equal quality of educational services to everyone, including those who are Limited English Proficient (LEP). Title VI covers all educational programs and activities that receive Federal financial assistance from the United States Department of Education (ED).

#### **May 25, 1970, Memorandum**

*"The purpose of this memorandum is to clarify policy on issues concerning the responsibility of LEAs to provide equal educational opportunity to national origin minority group children deficient in English language skills.*

- Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the education program offered by a LEA, the LEA must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students. School districts have the responsibility to notify national origin- minority group parents of school activities, which are called to the attention of other parents. Such notice in order to be adequate may have to be provided in a language other than English.

#### **Lau v. Nichols (US Supreme Court Decision 1974)**

*"The failure of school system to provide English language instruction to approximately national origin students who do not speak English, or to provide them with other adequate instructional procedures, denies them a meaningful opportunity to participate in the public educational program, and thus violates § 601 of the Civil Rights Act of 1964, which bans discrimination based "on the ground of race, color, or national origin," in "any program or activity receiving Federal financial assistance," and the implementing regulations of the Department of Health, Education, and Welfare. Pp. 414 U. S. 565-569."*

- The Supreme Court stated that these students should be treated with equality among the schools. Among other things, Lau reflects the now-widely accepted view that a person's language is so closely intertwined with their national origin (the country someone or their ancestors came from) that language-based discrimination is effectively a proxy for national origin discrimination.

#### **1974- Equal Education Opportunities Act**

*"The Equal Education Opportunities Act of 1974 states: "No state shall deny equal educational opportunity to an individual based on his or her race, color, sex, or national origin by the failure of an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs."*

- The EEOA prohibits discriminatory conduct against, including segregating students on the basis of race, color or national origin, and discrimination against faculty and staff serving these groups of individuals, as it interferes with their equal educational opportunities. Furthermore, the EEOA requires LEAs to take action to overcome students' language barriers that impede equal participation in educational programs.

### **Plyler v. Doe (U.S. Supreme Court Decision 1982)**

*"The illegal aliens who are plaintiffs in these cases challenging the statute may claim the benefit of the Equal Protection Clause, which provides that no State shall deny to any person within its jurisdiction the equal protection of the laws" . . . The undocumented status of these children does not establish a sufficient rational basis for denying them benefits that the State affords other residents . . . No national policy is perceived that might justify the State in denying these children an elementary education." -457 U.S. 202*

- The right to public education for immigrant students regardless of their legal status is guaranteed.
- Schools may not require proof of citizenship or legal residence to enroll or provide services to immigrant students.
- Schools may not ask about the student or a parent's immigration status.
- Parents are not required to give a Social Security number.
- Students are entitled to receive all school services, including the following: Free or reduced breakfast or lunch, – transportation, – educational services, and – NCLB, IDEA, etc.

### **Presidential Executive Order 13166 (Clinton; 2000)**

*"Entities receiving assistance from the federal government must take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access to the programs, services, and information those entities provide."*

- Recipients of federal assistance are required to help students overcome language barriers by implementing consistent standardized language assistance programs for LEP. In addition, persons with limited English proficiency cannot be required to pay for services to ensure their meaningful and equitable access to programs, services, and benefits.
- See The United States Department of Justice:  
[www.justice.gov/crt/about/cor/Pubs/lepqapr.php](http://www.justice.gov/crt/about/cor/Pubs/lepqapr.php)

### **Castañeda v. Pickard, [5th Cir., 1981] 648 F.2d 989 (US COURT OF APPEALS)**

*"In 1981, in the most significant decision regarding the education of language-minority students since Lau v. Nichols, the 5th Circuit Court established a three-pronged test for evaluating programs serving English language learners. According to the Castañeda standard, schools must base their program on educational theory recognized as sound or considered to be a legitimate experimental strategy, – implement the program with resources and personnel necessary to put the theory into practice, and – evaluate programs and make adjustments where necessary to ensure that adequate progress is being made. [648 F. 2d 989 (5th Circuit, 1981)]."*

This case established a three-part test to evaluate the adequacy of a district's program for the English language learner:

1. Is the program based on an educational theory recognized as sound by some experts in the field or is it considered by experts as a legitimate experimental strategy?
2. Are the programs and practices, including resources and personnel, reasonably calculated to implement this theory effectively?
3. Does the school district evaluate its programs and make adjustments where needed to ensure that language barriers are actually being overcome?

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