

English Learners with Disabilities: Legal Summary

Under Title VI of the Civil Rights Act of 1964 (Title VI) and the Equal Educational Opportunities Act of 1974 (EEOA), public schools must ensure that EL students can participate meaningfully and equally in educational programs. The U.S. Department of Education and U.S. Department of Justice remind state education agencies and public schools of their legal obligation to serve English learners (EL)¹:

- Identifying and assessing all potential EL students
- Providing language assistance to EL students
- Staffing and supporting an EL program
- Providing meaningful access to all curricular and extracurricular programs
- Avoiding unnecessary segregation of EL students
- Evaluating EL students for special education and providing dual services
- Meeting the needs of students who opt out of EL programs or particular services
- Monitoring and exiting EL students from EL programs and services
- Evaluating the effectiveness of a district's EL program
- Ensuring meaningful communication with limited English proficient parents

According to the U.S. Department of Justice², an example of a condition that may violate the EEOA includes when a school district or state education agency fails to provide language acquisition assistance to ELL students because they receive special education services, or fails to provide special education services to ELL students when they qualify for special education.

Meeting the Needs of English Learners with Disabilities

In the *Feature Issue on Education K 12 English Language Learners with Disabilities³*, published by University of Minnesota, school professionals need to:

- Provide ELL training for pre and in service teachers to facilitate language development and not misinterpret typical second language acquisition as a disability
- Plan effective instruction that considers what specific academic language students will need in order to understand the content AND address learning strengths and needs as specified in the students' IEPs
- Utilize bilingual evaluators and nondiscriminatory evaluation tools to ensure valid and reliable results; IDEA 2004 requires that evaluations be conducted in the language most likely to obtain accurate information
- Inform and engage parents regarding their children's disabilities, rights, and where to obtain resources

¹ <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-el-students-201501.pdf>

² <http://www.justice.gov/crt/about/edu/types.php>

³ <https://ici.umn.edu/products/impact/261/default.html>

Settlement Agreement Between The United States of America and The Crestwood School District (Dearborn, Michigan) August 2014

In September 2011, the Department of Justice received a complaint regarding the district's ELL program and possible violation of the EEOA. The DOJ found that the district did not provide language acquisition services, staff its EL program with a sufficient number of ESL teachers, have adequate materials, provide translation or monitor the program's effectiveness.

The settlement agreement resulted in 135 required actions. The required actions specifically related to special education services include:

- The District shall provide both SPED and ELL services to each ELL SWD in a manner appropriate to the student's individual needs, using classroom structures and strategies designed to provide the student a free and appropriate education in the least restrictive environment.
- The District shall conduct SPED assessments in the student's native language or other mode of communication and in the form most likely to yield accurate information
- Parents are aware that students are entitled to both English language development and special education services before any opt out decision is made
- The District shall ensure that every ELL SWD receives instruction from appropriately qualified personnel in a manner that addresses his/her identified needs
- All RTI teams include an ESL teacher when involving an English learner
- The EL teacher must be consulted during the evaluation or review for special education services
- The district shall not identify an English learner as a student with a disability based on language proficiency alone; the IEP must address the student's language needs and English language proficiency results.

ELL = English Language Learner

SWD = Student with Disability