

Title III of the *Elementary and Secondary Education Act of 1965*:

Language Instruction for Limited English Proficient and Immigrant Students

Legal Provisions for Educating English Language Learners



"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."

Lau v. Nichols, 1974

As recipients of federal funds, U.S. public school divisions must uphold civil rights for English language learners (ELLs) to include providing full and equal access to the same curriculum and educational opportunities as all students.



Many civil rights requirements relating to the education of ELLs stem from various court rulings and federal policy decisions over the years including:

- *Bilingual Education Act* (1968)
- May Memorandum (1970)
- *Lau v Nichols* Supreme Court Decision (1974)
- *Equal Education Opportunities Act* (1974)
- *Castañeda v Pickard* Supreme Court Decision (1981)
- *Plyler v Doe* Supreme Court Decision (1982)
- U.S. Department of Education Office for Civil Rights (OCR) Policy Decisions

Many other civil rights requirements are contained in Title VI of the *Civil Rights Act of 1964*.





What are these Civil Rights Requirements?



School Divisions are Obligated to:

- Have a process in place to identify, screen, and place ELLs in instructional programs and services
- Provide the same academic and student support programs and services to ELLs that are provided to all students
- Provide services to help ELLs attain English proficiency and support them so they can meet the same challenging academic standards as all students are expected to meet

School Divisions are Obligated to:

- Have a process in place to exit ELLs from English language instructional services once they are determined to be proficient in English
- Monitor exited ELLs (formerly LEP) for two years to ensure that they are academically successful
- Provide the same information and services to the parents of ELLs that are provided to all parents

Requirements under the
Lau v Nichols
Supreme Court Decision of 1974

School Divisions are Obligated to:

- Implement effective, scientifically-based core language instruction programs and services for ELLs
- Engage qualified personnel to provide core language instruction programs to ELLs
- Provide school, division, state, or federal level information to the parents of ELLs, to the extent practicable, in a language they can understand

The Lau Plan

The Lau Plan

Local Lau Plans:

- A “Lau Plan” outlines how a school division meets the requirements under the *Lau v Nichols* 1974 Supreme Court decision.
- The U.S. Department of Education provides guidance for developing a “Lau Plan” at:
<http://www2.ed.gov/about/offices/list/ocr/ell/lau.html>

Requirements under Title I of the ESEA

School Divisions are Obligated to:

- Annually assess the English language proficiency (ELP) of ELLs using a statewide ELP assessment
- Assess ELLs with the same state content assessments as all other students
- Provide accommodations to ELLs on state content assessments

Requirements under Title III of the ESEA

School Divisions are Obligated to:

- Help ensure that ELLs and immigrant and youth (IY) students attain English proficiency
- Help ELLs and IY students meet the same challenging academic standards as all students are expected to meet
- Provide high-quality professional development to educators of ELLs and IY students
- Provide information to the parents of ELLs and IY students, to the extent practicable in a language they understand, about the placement of their children in language instruction programs

School Division Obligations (cont)

- Provide information to the parents of ELLs students, to the extent practicable in a language they understand, if the school division failed to meet any of the Title III Annual Measurable Achievement Objectives (AMAOs)
- Implement an effective means of outreach to the parents of ELLs and IY students to help them become involved in their children's education

**May Memorandum
1970 (OCR)**

School Divisions are Obligated to:

Provide the same information and services to the parents of ELLs, to the extent practicable in a language they understand, that are provided to other parents.

Ensuring Compliance

Civil Rights Investigations

In the past few years, the USED Office of Civil Rights (OCR) has collaborated with the Department of Justice (DOJ) Office for Civil Rights to investigate complaints of discriminatory practices against ELLs in over seventy-five school divisions across the nation.

Several state educational agencies have been investigated including Massachusetts, New Mexico, and Arizona.

Three Virginia school divisions have been the subject of such investigations.

Steps for Developing a Compliant ESL Program

1. Identify, screen, and place ELLs in programs designed to help them attain English proficiency and meet the same academic standards that all students are expected to meet;
2. Develop a program which, in the view of experts in the field, has a reasonable chance for success;
3. Ensure that necessary staff, curricular materials, and facilities are in place and used appropriately to ensure program success;
4. Develop appropriate evaluation standards to measure the progress of students and exit students from the program; and
5. Periodically assess the success of the program and modify it as needed.

USED Office of Civil Rights (OCR) Document

The Provision of an Equal Education Opportunity to Limited English Proficient Students

<http://www.ed.gov/about/offices/list/ocr/eeolep/index.html>

Virginia Department of Education

Title III Contacts

Veronica Tate

Director

Program Administration and Accountability

Veronica.Tate@doe.virginia.gov

(804) 225-2870

**Judy Radford,
ESL Coordinator**

Judy.Radford@doe.virginia.gov

(804) 786-1692

**Stacy Freeman,
Title III Specialist**

Stacy.Freeman@doe.virginia.gov

(804) 371-0778

**Kristi Bond
Title I/Title III Specialist**

Kristi.Bond@doe.virginia.gov

(804) 371-2682

**Christopher Kelly
Education Specialist**

Christopher.Kelly@doe.virginia.gov

(804) 225-2122