

July 25, 2024

UPDATED LEGAL COMPLIANCE FROM THE OFFICE OF ENGLISH LANGUAGE ACQUISITION (OELA)

Supporting Utah State Law in [HB302](#)

Language Access Policy Implications: FUNDING AND PROGRAM EVALUATION

Title III's supplanting prohibition, in conjunction with the civil rights obligations, means that in many cases, Title III funds generally cannot be used for translation.

Title III has a supplement-not-supplant provision (ESEA section 3115(g)). This means that Title III funds cannot be used to provide services that an SEA or LEA is required to make available under other laws, such as civil rights laws.

For more information about Title III's supplanting prohibition, please REVIEW clarifications for both the SEA and LEA:

1. FAQs A-2 and A-3 in the [2016 Title III Non-Regulatory Guidance](#)

A-3. What are the legal obligations of States and LEAs to ELs under Title VI of the Civil Rights Act of 1964 and the EEOA?

Under Title VI of the Civil Rights Act of 1964 and the EEOA, all States and LEAs must ensure that ELs can participate meaningfully and equally in educational programs and services. To meet their obligations under Title VI and the EEOA, LEAs must, for example:

- Provide EL students with a language assistance program that is educationally sound and **proven successful**, consistent with [Castañeda v. Pickard](#) and the Supreme Court decision in *Lau v. Nichols* (see summary notes for three Supreme Court rulings);
- Provide sufficiently well prepared and trained staff and support the language assistance programs for EL students;
- Ensure that EL students have equal opportunities to meaningfully participate in all curricular and extracurricular activities;
- Avoid unnecessary segregation of EL students; 10 10 As further explained in Section I. E. of the 2015 EL DCL (pages 22-24), while EL programs may require that an EL student receive separate instruction for a limited period of time, EL programs may not unjustifiably segregate students on the basis of national origin or EL status—thus, LEAs must carry out their chosen EL program in the least segregative manner consistent with achieving the program's stated educational goals.

2. SEA and LEA's obligations under civil rights laws as explained the [2015 Dear Colleague Letter](#)

Mandated Program Evaluation for effective allocation of resources. Here is the requirement from the Dear Colleague letter of 2015:

Evaluate the effectiveness of a school district's language assistance program(s) to:

- * Ensure that EL students in each program acquire English proficiency.
- * And that each program was reasonably calculated to allow EL students to attain parity of participation in the standard instructional program within a reasonable period of time; and,
- * Ensure meaningful communication with LEP parents.

THREE IMPORTANT SUPREME COURT RULINGS

Castaneda v. Picard (1981)

In this case, which was filed against the Raymondville, Texas Independent School District (RISD), Mexican American children and their parents claimed that the district was discriminating against them, because of their ethnicity. They argued that classrooms **were segregated** using a grouping system based on racially and ethnically discriminatory criteria. School districts were required to establish bilingual education according to the Lau vs. Nichols ruling, yet there was no way to evaluate the adequacy of the school's approach. Consequently, sometimes it could result in inadequate separation.

In addition, the Castañeda vs. Pickard case established **three criteria for a program** that serves LEP students. These measures determine whether a school district is serving the LEP students and if the program addresses the needs of these students. The principles are as follows:

1. It must be based on "a sound educational theory."
2. It must be "implemented effectively," with adequate resources and personnel.
3. After a trial period, it must be evaluated as effective in overcoming language handicaps.

Lau v. Nichols, 414 U.S. 563 (1974) *The Justice Department's Civil Rights Division Continues to Enforce the Rights of English Learners in the Nation's Public Schools*

2024 marks the 50th anniversary of the Supreme Court's historic decision in *Lau v. Nichols*, affirming the right of English Learners to participate meaningfully in the educational programs offered in public schools. This decision helped usher in a mandate requiring public schools to take steps towards meeting the language needs of their students. The Educational Opportunities Section of the Civil Rights Division in the Justice Department has worked for decades to enforce this mandate and ensure that the rights of English Learners are fully protected, **national origin discrimination**. **Enforcement actions** are recent and numerous, including Utah. To address deficiencies in school programs for English Learners, numerous **resources** are available for students, their families and their schools to clarify the requirements of *Lau* and federal law.

Plyler v Doe (1972) - Public schools must be open to all students, but sometimes students face discrimination because of their national origin or immigration status. These forms of discrimination limit students' access to education and are against the law. All children in the United States have an equal right to enroll and participate in public elementary and secondary schools without regard to their or their parents' or guardians' immigration status.