

ESOL
in Higher Ed

Understanding the Implications of the Florida Consent Decree

Chapter 1

By: *G. Artecona-Pelaez*

Power Point Designed by: J. Govoni

Photos: Clip Art

Overview of the Florida Consent Decree

Source: <http://www.fldoe.org/aala/>

*League of United Latin American Citizens
(LULAC) et al. vs. State Board of Education
(August 1990)*



14th Amendment

*“No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any **person** of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”*

<http://www.law.cornell.edu/constitution/amendmentxiv>

The Consent Decree is...

Florida's framework for compliance with **federal** and **state** laws and jurisprudence regarding the education of English learners (ELs).

Source: <http://www.fldoe.org/aala/>

Framework for compliance with...

- Title VI and VII Civil Rights Act of 1964;
- Office of Civil Rights Memorandum (Standards for Title VI Compliance) of May 25, 1970;
- Section 504 of the Rehabilitation Act of 1973;
- requirements based on the Supreme Court decision in *Lau v. Nichols*, 1974;
- Equal Education Opportunities Act of 1974;
- requirements of the Vocational Education Guidelines, 1979;
- requirements based on the Fifth Circuit court decision in *Castañeda v. Pickard*, 1981;
- requirements based on the Supreme Court decision in *Plyler v. Doe*, 1982;
- Americans with Disabilities Act (PL 94-142);
- Florida Education Equity Act, 1984.

1868 United States Constitution – 14th Amendment:

No person shall be denied protection of the laws of the U.S.

1964 Civil Rights Act - Title VI:

No person shall, on the grounds of race, color or national origin, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

1974 Equal Educational Opportunities Act (EEOA):

Appropriate measures to overcome language barriers which may impede participation in school programs must be taken.

1974 Supreme Court Case - Lau v. Nichols:

Giving all students the same desks, books, teachers, and lessons does not mean that they have equal opportunity, especially if students do not speak English.

1981 Federal Court Case -- Castañeda v. Pickard:

5th Circuit Court established a three-part test to determine if school districts are in compliance with the EEOA of 1974.

1982 Supreme Court Case - Plyler v. Doe:

Schools cannot deny students access simply because they are undocumented (illegal).

1987 Federal Court Case - Gomez v. Illinois:

State Educational Agencies must comply with the three-point test established in *Castaneda v. Pickard*.

2002 No Child Left Behind Act (NCLB):

President George W. Bush signed into law this act in which states were required to test students in reading and math in grades 3–8 and once in high school. Federal funding for states was dependent on student progress.

2015 Every Student Succeeds Act (ESSA):

ESSA was signed into law by President Barack Obama on December 10, 2015. It replaces NCLB. The initial law was ESEA which sought for equal opportunities for all students. Criteria of ESSA include equity, accountability, and assessment. It can be found at:

<https://www.ed.gov/ESSA>.

The Consent Decree addresses...

- the **civil rights** of ELs, foremost among those their **right to equal access** to all education programs.
- In addressing these rights, the Consent Decree provides a structure that ensures the delivery of comprehensible instruction to which ELs are entitled.
- There are **six** parts to the **Florida Consent Decree**.

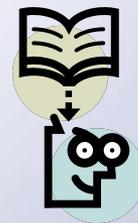
Part I: Identification & Assessment

- All students with limited English proficiency must be properly **identified** and **assessed** to ensure provision of appropriate services.
- The Consent Decree details the procedures for **placement of students** in the English for Speakers of Other Languages (ESOL) program, their exit from the program, and the monitoring of students who have been exited.

Every state collects data through a **Home Language Survey** completed for every student newly enrolled in public PreK-12 schools.

In this way, ELs are identified and assessed on their English language proficiency.

What are the **three** primary questions on the Florida Home Language Survey?



(Source: ClipArt)

Part I (continued-procedures)

- **Definition of an EL**
- **Committee members** (teachers, ESOL staff, parents, etc.)
- **Written LEP plan**

Survey Questionnaire:

- *Is a language other than English used in the home?*
- *Does the student have a 1st language other than English?*
- *Does the student most frequently speak a language other than English?*
- **Continuous Assessment (regardless of funding)**

Note: The term LEP is used in the Decree to refer to ELs (ELLs).

Part II: Equal Access to Appropriate Programming

All ELs (LEP students) enrolled in Florida public schools are entitled to programming which is **appropriate to their level of English proficiency, their level of academic achievement, and any special needs** they may have.

ELs (LEP students) shall have **equal access** to appropriate English language instruction, as well as instruction in basic subject areas, which is understandable to the students given their level of English proficiency, and equal and comparable in amount, scope, sequence and quality to that provided to English proficient (or non-LEP) students.

- Florida Public Schools
- Submit Plan every 3 years
- Credit in English for ESOL courses
- Credit in subject areas through ESOL
- 15 ELs = 1 trained teacher

Part III: Equal Access to Appropriate Categorical & Other Programs for ELs

- *ELs* are entitled to equal access to all programs appropriate to their academic needs, such as **compensatory, exceptional, adult, vocational or early childhood education**, as well as **dropout prevention** and other support services, **without regard to their level of English proficiency**.
- Florida DOE to retain ESOL data (passing FSA scores, school population of ELs, etc.)
- FSA Testing of ELs

Part IV: Personnel

- Teachers may obtain the necessary training through university course work or through district in-service training.
- The Consent Decree details specific requirements for [ESOL certification and in-service training](#) and sets standards for personnel delivering ESOL instruction.
- Training includes 300 hours in ESOL Methods, Curriculum, Testing, Linguistics, and Culture or university plan of infused ESOL course work.

Part V: Monitoring Issues

- The Florida DOE is charged with monitoring of local school districts to ensure compliance with the provisions of the Consent Decree pursuant to federal and state law and regulations including Section 229.565, Florida Statutes (Educational Evaluation Procedures) and Section 228.2001, Florida Statutes (Florida Educational Equity Act).
- This monitoring is carried out by the Bureau of Student Achievement through Language Acquisition (*SALA*) (formerly the Office of Academic Achievement through Language Acquisition (*AALA*), and Office of Multicultural Students Language Education (*OMSLE*).
- DOE monitors program compliance, equal access, and review of program effectiveness.
- Complaints are to be investigated within 60 days.

Part VI: Outcome Measures

The Florida DOE is required to develop an evaluation system to address equal access and program effectiveness.

This evaluation system collects and analyzes data regarding the progress of ELs and includes comparisons between ELs and the non-ELs regarding retention rates, graduation rates, dropout rates, grade point averages, and state assessment scores.

- Annual written summaries to DOE
- Program effectiveness
- Staff Training
- EL (LEP) parental involvement
- School practices, etc.

Source: <http://www.fldoe.org/aala/>

Review the Florida English language learners website at: www.fldoe.org/aala and review any of the links on the left column.

Suggest two ways to enhance learning academic language (e.g., the vocabulary of math, science, social studies).



Websites

Florida DOE:

<http://www.fldoe.org/>

Bureau of Student Achievement through Language Acquisition:

<http://www.fldoe.org/aala/>

Consent Decree:

<http://www.fldoe.org/academics/eng-language-learners/rules-legislation.stml>

Policy Linking Language Policy to Practice for ELs:

<http://www.alliance.brown.edu/tdl/policy>

Stipulation Modifying Consent Decree

(Sept 2003)

- ESOL Exam + 120 hours of ESOL training
- School Administrators, Psychologists, and Guidance Counselors must have 60 hours of ESOL training
(formally 18 hours required)
- <http://www.fldoe.org/core/fileparse.php/7582/urlt/0064484-stipulation.pdf>

Bureau of Student Achievement through Language Acquisition (SALA)

- Revised Timelines for Completion of the ESOL Training Requirements (2004):

<http://www.broward.k12.fl.us/esol/Eng/ESOL/PDF/Endorsement/ESOL%20Timeline%202-2012.pdf>

Refer back to **Chapter One**.

Working with a partner, compare the theoretical underpinnings of the EICM model with research and strategies associated with culturally responsive teaching.



Summarize the implications for all educators in Florida as mandated by the Consent Decree and the 2003 Stipulation to the Decree.



Is there adequate support?

How does your school community or district support and assess ELs in the classroom?



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