



PROTECTING THE RIGHTS OF
ENGLISH LANGUAGE LEARNERS
IN OUR SCHOOLS

DEMOGRAPHICS

- There are over 5.1 million students identified as Limited English Proficient (LEP) or English language learner's or (ELL) in the U.S.
- LEP/ELL students are 10.5% of total public school enrollment. There has been a 56% increase in the enrollment of LEP/ELL students since 1994-95.
- Florida has the fourth largest number of LEP students in the U.S.
- Spanish speaking students represent approximately 73% of all LEP students.

FEDERAL PROTECTIONS

Lau v. Nichols, 414 U.S. 563 (1974):

“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...Basic English skills are at the very core of what these public schools teach. Imposition of a requirement that before a child can effectively participate in the educational program, he must already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful.” (*Id at 566*)

FEDERAL PROTECTIONS

- The Equal Educational Opportunities Act of 1974
20 U.S.C. §1703 (f):

“No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by [...]

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.”

FEDERAL PROTECTIONS

- Castañeda v. Pickard, 648 F.2d 989 (5th Cir. 1981).

“ A school district must provide programming through which LEP students can acquire the English language skills necessary to compete academically with their English speaking peers; and

“A school district must ensure that these same students do not suffer academic deficits because of their English language limitations (*Id at 1011*).

FEDERAL PROTECTIONS

The Castañeda Framework:

1. Is the school district “pursuing a program informed by an educational theory recognized as sound by some experts in the field, or at least, deemed a legitimate experimental strategy?” (*Id at 1009*)
2. Are the programs and practices actually used by a **school system** “**reasonably calculated to implement effectively the educational theory adopted by the school?**” (*Id at 1010*).
3. When based on a legitimate theory and properly implemented, is the program achieving its intended goal which should result in language barriers being overcome? (*Id at 1010*).

STATE LAW PROTECTIONS

Florida Constitution Art. IX §1 (2008)

“The education of children is a fundamental value of the people of the State of Florida. It is therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, secure, and high quality system of free public schools that allows students to obtain a high quality education...”

STATE LAW PROTECTIONS

LULAC et al. v. Florida Department of Education,
S.D. Fla. (1990). Consent Decree.

All LEP students are entitled to equal access to all programs that are appropriate for their academic needs. Including compensatory, exceptional, vocational, adult, or early childhood education as well as dropout prevention and other support services without regard of their level of English language proficiency.

STATE LAW PROTECTIONS

Authority to implement the consent decree:

- Florida Statutes §1003.56
- Florida Administrative Code Rules 6A-6.0900 to 6A-6.0909.

STATE LAW PROTECTIONS LULAC CONSENT DECREE

Section I: Identification and Assessment:

- All LEP students must be appropriately identified and assessed. The assessment must measure not only the student's level of English language proficiency but **also the student's level of proficiency in basic subject areas.**
- Classification and Reclassification: English proficiency shall be determined by reassessing the student utilizing the same or comparable assessment instruments, procedures and standards for initial assessment adjusted for grade and age.
- **Post Reclassification Monitoring: Former LEP students' performance** shall be reviewed at the first report card and semi-annually during first year after exiting and at end of second year after exiting.

STATE LAW PROTECTIONS LULAC CONSENT DECREE

Section II: Equal Access to Appropriate Programming:

Must include both access to intensive English language instruction & instruction in basic subject areas of math, social studies, computer literacy which is:

- 1) Understandable to the LEP student given his level of English language proficiency.
- 2) Equal and comparable in amount, scope, sequence and quality to that provided to English proficient students.

STATE LAW PROTECTIONS

LULAC CONSENT DECREE

Section II: Equal Access to Appropriate Programming:

- 1) Each District must submit a District LEP Plan to Fl. DOE describing its proposed procedures and methodologies for serving LEP students.
- 2) The District LEP Plan must include standards, for entry, exit, and post reclassification monitoring; instructional and categorical services; Evidence of consultation with the Parent Leadership Council or other advisory board representing LEP Parents.
- 3) District LEP Plans must be updated and reviewed by Fl. DOE every three years.

STATE LAW PROTECTIONS

LULAC CONSENT DECREE

- Basic ESOL programs shall include instruction to develop skills in speaking, listening, reading and writing English.
- LEP students must be classified according to their level English language proficiency, academic achievement, and special needs.
- LEP students must be provided Basic ESOL instruction for the minimum number of hours specified in their LEP Plan.
- **A student's ESOL teacher, parent or parent's designee, or other school personnel may request the convening of the LEP committee to identify any special problems which may be hindering a student's progress in ESOL. The LEP committee shall make appropriate recommendations to modify the student's LEP Plan.**

STATE LAW PROTECTIONS LULAC CONSENT DECREE

ESOL Instruction in Basic Subject Areas:

A district that provides understandable instruction through ESOL strategies shall assure and be able to document that:

- a) Each course has been structured in conformity with ESOL strategy for teaching LEP students basic subject matter.
- b) Each course is taught by qualified personnel and appropriate materials are available.
- c) Students are learning and progressing towards **completion of the district's pupil progression plan.**

STATE LAW PROTECTIONS LULAC CONSENT DECREE

LEP students in basic subject area classrooms shall have access to an individual proficient in their language in addition to a trained ESOL subject area teacher.

Schools with at least 15 students speaking in the same language shall provide at least one aide or teacher proficient in the same language trained to assist in ESOL basic instruction.

STATE LAW PROTECTIONS LULAC CONSENT DECREE

- Parental Involvement in LEP student programming and academic achievement shall be promoted by establishing a Parent Leadership Council at each school or at district level.
- Parents of LEP students shall be provided Leadership training and orientation. Parents of LEP students shall be informed of the opportunity to be represented on existing school and district advisory committees.

STATE LAW PROTECTIONS LULAC CONSENT DECREE

Home School Communications:

All communications (written and oral) between school district boards and personnel and parents of current or former LEP students must be undertaken **in the parents' primary language** or other mode of communication commonly used by the parents unless clearly not feasible.

STATE LAW PROTECTIONS

LULAC CONSENT DECREE

Personnel Training and Certification

- Teachers of basic ESOL, teachers of primary English, Language Arts, Reading or ESE need ESOL endorsement by 300 master plan points or 15 college semester hours through a series of approved Fla. DOE courses.
- Content Area Teachers teaching LEP students in areas of math, science, social studies, and computer literacy using home language strategies need 60 in-service points or 3 college semester hours.
- Content Area Teachers teaching LEP students in math, science, social studies, and computer literacy using ESOL strategies need 60 in service points or 3 college semester hours of an Fla. DOE approved course.
- Other subject areas (art, music, physical education etc) need 18 in-service points or 3 college semester hours.
- Guidance counselors must have 60 in-service points in ESOL strategies or 3 college semester hours.

STATE LAW PROTECTIONS LULAC CONSENT DECREE

2003 Modifications to Consent Decree:

- Certified teachers may obtain ESOL subject area coverage by passing a state approved ESOL certification exam. A teacher certified through this option must obtain 120 hours of in-service training or continuing education within 3 years.
- School Administrators and Guidance Counselors must obtain 60 hours of in service training or continuing education within 3 years.

STATE LAW PROTECTIONS LULAC CONSENT DECREE

Monitoring and Outcome Measures

- Fla. Department of Education is required to monitor districts for 1) Program compliance; 2) Equal access under the Florida Educational Equity Act; 3) Program Effectiveness.
- Any interested person may file a complaint with the Florida Dept. of Education alleging violations by a school district. DOE has 60 days to investigate and report findings. Any violations shall result in a corrective action plan.