

Legal Landmarks in the Education of Language-Minority Students

All children in the United States, regardless of their immigration status, have the right to a free, appropriate public education. Under the law, school districts are required to develop a special program for children who need English-language support. At a minimum, that program must provide special help through a trained teacher to ensure that an English language learner is provided with special assistance to learn English and learn what other children are learning, even if he or she does not speak sufficient English. This help must continue until the child no longer has a barrier to learning due to his or her English-language skills.

Title VI of the Civil Rights Act of 1964

- ▶ Title VI of the Civil Rights Act of 1964 states:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

- ▶ The “May 25 Memorandum of 1970,” issued by the Office for Civil Rights, interprets Title VI of the Civil Rights Act as follows:

“Where the inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational programs offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional programs to these students.”

The Equal Educational Opportunities Act (EEOA) of 1974

- ▶ The Equal Educational Opportunities Act states:

“No state shall deny equal educational opportunity to an individual on account of his or her race, color, sex or national origin by ... failure of an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.”

Presidential Executive Order 13166 (2000)

- ▶ Presidential Executive Order 13166 states:

“Each agency providing Federal financial assistance shall draft title VI guidance specifically tailored to its recipients...[that] shall detail how the general standards established in the [limited-English-proficient] LEP Guidance will be applied to the agency's recipients. The agency-specific guidance shall take into account the types of services provided by the recipients, the individuals served by the recipients, and other factors set out in the LEP Guidance.”

Supreme Court Rulings and Their Impact on Bilingual Education

- ▶ *Lau v. Nichols* (1974)

In this case, the Supreme Court ruled that identical education does not constitute equal education under Title VI of the Civil Rights Act of 1964. The case was filed by Chinese parents in San Francisco who claimed their children were denied an education because they could not speak English. The court found that the lack of adequate instructional procedures for these students denied them a significant opportunity to

participate in the educational system, and limited their ability to receive benefits from it. *The Lau v. Nichols* interpretation of the EEOC requires individual school districts to:

- Provide education programs through which limited-English-proficient students can acquire the English-language skills necessary to compete academically with their English-speaking peers
- Ensure that students not fluent in English do not suffer educational or academic deficits because of their English-language limitations by implementing the program in a manner "reasonably calculated to implement effectively the educational theory adopted by the school"
- Ensure that the program – based on legitimate theory and properly implemented – results in students overcoming language barriers.

▶ *Plyler v. Doe* (1982)

This Supreme Court decision determined, under the Fourteenth Amendment of the United States Constitution, that all children, regardless of their immigrant status, have the right to a free public school education in the district in which they live.

Other Key Court Decisions

▶ *Roberto Alvarez v. the Board of Trustees of the Lemon Grove School District* (1931) and *Mendez v. Westminster* (1946)

In both cases, Mexican American parents successfully sued school districts in California which attempted to segregate Spanish-speaking Mexican American students in inferior "Americanization" schools.

▶ *Serna v. Portales* (1974)

The Tenth Circuit Court of Appeals found that Spanish surnamed students' achievement levels were below those of their Anglo counterparts. Portales Municipal Schools were therefore ordered to implement a bilingual/bicultural curriculum, revise methods to assess achievement, and hire bilingual school personnel.

▶ *Ríos v. Reed* (1978)

This New York Federal District Court case concluded that the Pastchogue-Medford School District's transitional bilingual program was basically a course in English, and that the students were denied equal educational opportunity by not receiving instruction in Spanish.

▶ *Castañeda v. Pickard* (1981)

As a result of this federal case, in which the plaintiff claimed that the Raymondville, Texas Independent School District's language remediation programs violated EEOA, the court developed a set of standards by which to determine a school district's compliance with EEOA. Called the "Castañeda" test, it judges educational services on three criteria: whether the program is based on sound educational theory, whether it is implemented effectively with the appropriate resources, and whether the results can be determined as fulfilling the goal of overcoming the student's language barrier.

▶ *United States v. State of Texas* (1982)

The case required State Educational Agencies to set guidelines regarding services provided to limited-English-proficient students and ensure that those guidelines are monitored and enforced.

▶ *Gómez v. Illinois* (1987)

The Seventh Circuit Court of Appeals ruled that state education agencies are also required under EEOA to ensure that language-minority students' educational needs are met.

Adapted from: *Turning the Tides of Exclusion: A Guide for Educators and Advocates for Immigrant Students*, Oakland, CA: California Tomorrow, 1999; The National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs; and, the Mexican American Legal Defense and Educational Fund.