

English Language Learners/ Limited English Proficiency Educational Rights

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Definition and Titles III and VI Protect LEP/ELL Students

- LEP and ELL refer to students whose native or home language is other than English and whose current English limitations in the ability to understand, speak, read or write in English inhibit their effective participation in a school's educational program. Referred to as 4 domains.
- Both Title III and Title VI protect the rights of ELL/LEP students to receive an appropriate education.

Legal Protections for LEP/ELL Students

- Title III Of No Child Left Behind Act, 20 U.S.C. §§ 6811 – 6871
- Title VI Of 1964 Civil Rights Act, 42 U.S.C. §§ 2000d – 2000d-7
- Part A of Title III is officially known as the English Language Acquisition, Language Enhancement, and Academic Achievement Act. Title III is a part of the federal No Child Left Behind Act of 2001. This part and title replaced the 1968 Bilingual Education Act.
- Title VI: No person in the United States shall, on the ground of race, color, or **national origin**, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Plyler

- Plyler v. Doe, 457 U.S. 202 (1982)
 - Non-citizen children living in U.S. entitled to free public education through high school no matter what their immigration status.

Title III and State Supplemental Funding for LEP

- Title III of the NCLB Act provides additional funding for LEP students, approximately \$138 per student this school year.

Requires school districts to:

- Identify students with limited English proficiency
- Determine the level of English language proficiency of those students
- Assess progress of those students in acquiring skills in the four domains: listening, speaking, reading, and writing.

Ohio Revised Code provides supplemental funding for LEP students

ORC 3317.016 (each district different from formula)

Minimum Threshold for Title III Funding

- Title III funding, however, only goes to local school districts that will receive an allocation based of \$10,000 or more. 20 § U.S.C. 6824.
- Where does funding go if less than \$10,000 would be allocation?
 - Two options
 - Consortia of school districts apply for their combined allocations of \$10,000 or more
 - Reallocated by state department of education to other Title III recipients

Identification and Progression Toward Fluency

- Students primarily identified by Home Language Survey at registration in school
- Once identified as ELL/LEP, English proficiency level should be determined in each domain
 - 5 Levels of English proficiency
 - Prefunctional (1)
 - Beginning (2)
 - Intermediate (3)
 - Advanced (4)
 - Proficient/Trial mainstream (5)

Title VI

- Even if no supplemental funding received under Title III, Title VI still applies if, and most certainly they are, receiving federal monies
- No private right of action under Title III, only the feds or state education agency can enforce
- Private right of action under Title VI, but must prove “intentional discrimination.”
- Feds can enforce Title VI under both intentional discrimination and disparate impact standards.

Ohio ELL/LEP Standards and Guidelines

- **Ohio English Language Proficiency Standards**
- <http://education.ohio.gov/getattachment/Topics/Other-Resources/Limited-English-Proficiency/ELL-Guidelines/Ohio-English-Language-Proficiency-ELP-Standards/ELP-Content-Standards-20150824.pdf.aspx>
- **Instructional Guidelines and Resources for English Language Learners Based on Ohio's New English Language Proficiency Standards (July 2015 Draft)**
- <http://education.ohio.gov/getattachment/Topics/Other-Resources/Limited-English-Proficiency/ELL-Guidelines/Ohio-English-Language-Proficiency-ELP-Standards/Instructional-Guide-and-Resources-for-English-Language-Learners-July-2015-draft-2.pdf.aspx>

Resources Online or on Jump Drive

- **U.S. Dept. of Education's Title VI complaint case processing procedures**
- <http://www2.ed.gov/about/offices/list/ocr/complaints-how.html>
- **Executive Order 13166 – Improving Access to Services for Persons With Limited English Proficiency** (Fed. Reg. August 16, 2000 pp 50121 – 50124)
- <http://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/eolep.pdf>
- **Links to Title VI statutory, regulatory, complaint forms, videos, and other materials**
- <http://www.justice.gov/crt/title-vi-civil-rights-act-1964-42-usc-2000d-et-seq>
- **U.S. Department of Education website for English Language Acquisition State Grants**
- <http://www2.ed.gov/programs/sfgp/index.html>
- **Ohio Title III Monitoring Letter and Report 2013**
- <http://www2.ed.gov/programs/sfgp/performance.html> (page down to Ohio Report)
- <http://www2.ed.gov/admins/lead/account/monitoring/reports13/ohltrt32013.html> (letter)
- **Ohio Department of Education LEP Student Making Progress (one level of advancement on OTELA/OELPA during a school year)** <http://education.ohio.gov/Topics/Testing/Ohio-English-Language-Proficiency-Assessment-OELPA>
- <http://education.ohio.gov/getattachment/Topics/Other-Resources/Limited-English-Proficiency/About-the-Lau-Resource-Center/2013-14-Data-for-Ohio-ELL-Students-Changing-Proficiency-Levels-on-the-OTELA-1.pdf.aspx>
- **Lau v. Nichols. 414 U.S. 563 (1974)**(Title VI provides protection to limited English proficient students)
- **Alexander v. Sandoval, 532 U.S. 275 (2001)**(no private right of action to enforce Title VI disparate impact regulations)