

K-12 Policy Context For English Learners

Policies matter: They set assumptions and expectations for what and how English Learners (ELs)¹ should learn in schools. Over the past 50 years, federal policies have progressively sought to support EL academic learning outcomes by addressing the reality that students with limited English proficiency face a significant barrier to mastery of subject matter content in schools where English is the primary language of instruction and assessment.

Policies affecting K-12 English language learners and dual language learners are among the subjects explored in *Promoting the Educational Success of Children and Youth Learning English: Promising Futures* (2017), a report from the National Academies of Sciences, Engineering, and Medicine. This brief summarizes the report’s examination of these policies.

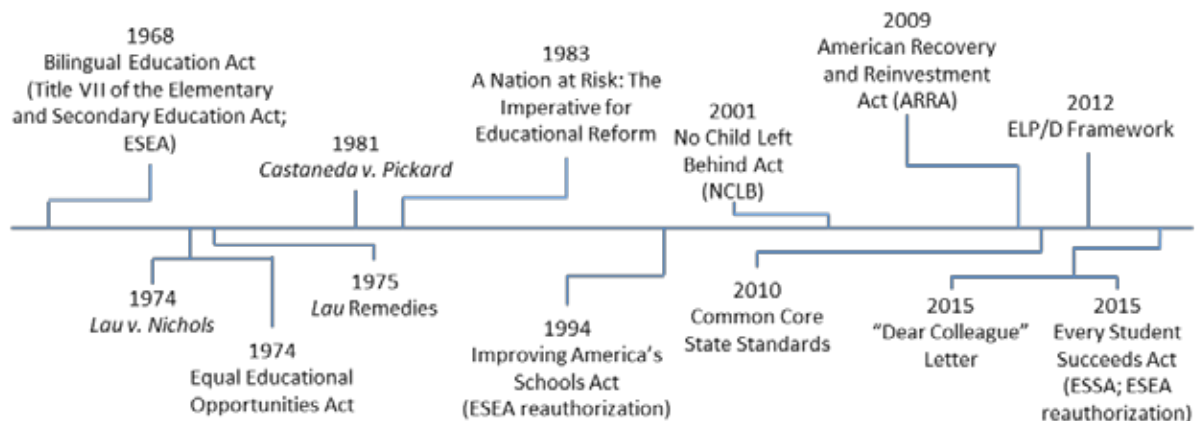


Fig. 1. Timeline of major EL education policies

The 1968 Bilingual Education Act was the first federal action that specifically addressed the educational needs of ELs by authorizing grants for the implementation of local bilingual education programs. The 1974 *Lau v. Nichols* Supreme Court ruling that “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” was incorporated into the Equal Educational Opportunities Act of 1974 which stated that no state could deny students the right to equal education as a result of “failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.” The “Castaneda Standards”, which emerged from the 1981 ruling

¹ When referring to children aged birth to 5 in their homes, communities, or early care and education programs, the term “dual language learners” or “DLLs” is used. When referring to children aged 5 or older in the pre-K-12 education system, the term “English learners” or “ELs” is used. When referring to the broader group of children and adolescents aged birth to 21, the term “DLLs/ELs” is used.



of *Castaneda v. Pickard* and to this day remain the foundation for Title VI enforcement activities, stated that to take “appropriate action”, a program must be: based on sound educational theory, implemented adequately, and evaluated for its effectiveness.

The 1983 release of *A Nation at Risk: The Imperative for Educational Reform* catalyzed a standards-based reform movement that shifted the focus from accountability for spending of federal funds to accountability for demonstrated results. In 2001, The No Child Left Behind Act (NCLB), made schools, local districts, and states accountable for the performance of ELs by requiring states to adopt English language proficiency standards and annual assessments, with corrective actions for systems failing to meet requirements. The 2012 ELP/D Framework report built an explicit bridge between academic content and students’ use of language by outlining the English language proficiency required for students to engage in learning the grade-level course content specified by the Common Core State Standards and Next Generation Science Standards that emerged from the 2009 American Recovery and Reinvestment Act. The Every Student Succeeds Act, the 2015 reauthorization of ESEA that replaced NCLB, is the newest legislation to address the educational needs of ELs.

Although early proficiency in both the home language and English at kindergarten entry is critical to becoming academically proficient in a second language, research shows that English Learner (EL) students may require help with English through the upper elementary and middle school grades to be able to fully participate in a school’s curriculum without further linguistic support. Given evidence that ELs currently lag behind their English-monolingual peers in educational achievement and attainment, federal and state K-12 education policies play an important role in shaping the long-term educational outcomes of school-aged ELs.



Federal Policies

The Every Student Succeeds Act (ESSA) of 2015 has broad implications for ELs through several notable changes related to their inclusion in state plans, school accountability, and entry/exit procedures for status as an EL. Notable changes are:

- ▶ The law replaces the term “limited English proficient” with “English learner.”
- ▶ States are directed to develop policies designed to forge closer connections between early learning programs and K-12 education, specifically K-3.
- ▶ ESSA shifts the locus of decision-making authority for accountability to states and localities and limits federal authority in allowing exceptions.



- ▶ States are expected to administer and report academic assessments that are intended to identify schools (not districts) that are in need of comprehensive or targeted assistance.
- ▶ States are encouraged to be more innovative in their assessment and accountability systems, including being allowed to use a variety of readiness and engagement indicators.
- ▶ Schools rather than districts are now accountable for ELs' progress toward English language proficiency.
- ▶ States must describe their rules for how student progress toward English proficiency is to be accomplished.
- ▶ States are required to develop standardized entry and exit procedures for determining whether a student is an EL that are consistent across districts within the state.
- ▶ Districts are expected to provide supports to schools in need of assistance and are the policy unit in which much of the improvement work will be carried out.
- ▶ States may include students formerly classified as ELs in the EL subgroup for academic assessment purposes for a period of up to 4 years.
- ▶ ESSA includes requirements for family engagement under Titles I, III, and IV.



State Policies

To a large extent, state policy related to K-12 education revolves around financing, identification, reclassification, performance monitoring, standards setting, parent and family involvement, and educator quality. States also support ELs by:

- ▶ monitoring local education agencies' compliance with state statutes related to ELs
- ▶ specifying teacher certification and licensing requirements for teachers who serve ELs
- ▶ establishing language proficiency standards aligned with the state's academic content standards
- ▶ annually assessing the English language proficiency and content area knowledge of all ELs
- ▶ providing additional funds to districts beyond the average per-student dollar amounts
- ▶ setting policies related to use of the home language for instructional purposes



States play an important role in implementing federal assistance to support ELs in grades K-12 and in ensuring that districts are in compliance with these policies². A 2015 U.S. Department of Justice and the Office of Civil Rights “Dear Colleague” letter outlines that even if state education agencies do not provide educational services directly to ELs, they have a responsibility under civil rights laws to “provide appropriate guidance, monitoring and oversight to school districts to ensure EL students receive appropriate services.” Areas of frequent noncompliance by school districts include:

- ▶ identification and assessment of ELs in a timely, valid, and reliable manner
- ▶ provision of educationally sound language assistance programs
- ▶ sufficient staffing and support for language assistance programs
- ▶ equal opportunities for ELs to participate in all curricular and extracurricular activities
- ▶ avoidance of unnecessary segregation
- ▶ timely and appropriate evaluation of ELs for special education and disability-related services, with language needs considered in evaluations for these services
- ▶ meeting the needs of ELs who opt out of language assistance programs; monitoring and evaluation of ELs’ progress in language assistance programs
- ▶ evaluation of the effectiveness of the district’s language assistance programs to ensure that such programs enable ELs to achieve parity of participation in standard instructional programs in a reasonable amount of time
- ▶ and meaningful communication with parents

2 Title I, Parts A and B (Migrant Education); Title III English Acquisition state grants, Native American and Alaska Native Children in School (NAM) discretionary grants, and National Professional Development Project grants; and Title VII Indian, Part A Native Hawaiian, and Alaska Native Education grants.



Conclusions

ESSA provides increased decision-making authority to states regarding the inclusion of ELs in state accountability plans, in how ELs' academic achievement and progress toward English language proficiency are assessed, and in how districts respond to schools identified for state assistance. States now play a more critical role in providing guidance to and monitoring districts and schools to ensure that ELs are not denied services under the law or discriminated against because of their race, ethnicity, or national origin. The Dear Colleague Letter provides an important framework for states in ensuring that ELs are receiving the services to which they are entitled. The adequacy and appropriateness of district- and school-wide practices for ELs should be thoughtfully examined according to ESSA and by conducting self-studies through the analysis of assessment data, studying curriculum and instructional materials, observing classrooms, examining pedagogical approaches, interviewing students and parents, and working to build a culture in which learning and development are possible. Implementation of local changes will likely entail professional development for all personnel involved.

This brief is based on the report *Promoting the Educational Success of Children and Youth Learning English: Promising Futures*, a PDF of which can be downloaded free of charge at <https://www.nap.edu/catalog/24677>.