

Education Rights of Immigrant Students & Families



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This toolkit was made possible by “A Voice for Immigrant Children,” a project of the New Jersey Immigration Policy Network funded by the Schumann Foundation.

Portions of this toolkit were adapted from the presentation “Ensuring Effective Services to Immigrant &/or LEP/ELL Children & Families: It’s Right, & It’s the Law!” © Statewide Parent Advocacy Network



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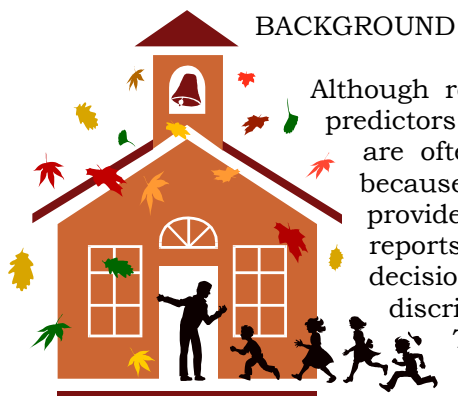
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The mission of the Statewide Parent Advocacy Network is to empower and support families and inform and involve professionals and others interested in the healthy development and education of children and youth.

I. Introduction



BACKGROUND

Although research shows that parent involvement is one of the key predictors of a child's success in school, immigrant parents in the U.S. are often barred from participating in their children's education because they are unable to understand the language used to provide important information such as report cards and progress reports, Individualized Education Programs (IEPs), class placement decisions, and other school notices. To combat this type of discrimination, several federal and state laws have been enacted. These laws, which are described in this booklet, require key materials to be translated into the family's home language and access to interpreters for events like meetings with teachers. However, a serious problem arises when districts are either unaware of these laws or elect not to comply with them—and parents don't know their rights.

WHAT IS THIS BOOKLET ABOUT?

The purpose of the booklet is to educate immigrant parents about state and federal laws guaranteeing them access to public school services and materials in their home languages. Excerpts from these laws are quoted in the first section along with helpful summaries of what this legal terminology means for parents. Some of the laws described are not directly related to language access but contain important information that immigrant parents need to know.

WHY IS THIS INFORMATION IMPORTANT FOR ME?

Children of immigrants face a unique set of challenges in the public school system, many of which stem from cultural and language differences. As they get older, some immigrant children carry a higher risk of dropping out of school, becoming involved in criminal activities and/or the criminal justice system, and facing unemployment. One of the best ways to break this cycle is for parents to *get involved*. Schools where parents are actively engaged in leadership and decision making result in happier, healthier, and more successful communities.

WHAT CAN I DO?

Read the following information about the laws and your rights. Talk to other parents—word-of-mouth is one of the best ways to start a grassroots movement. Share this information with your friends and neighbors, and tell them to spread the word, too. The last section of this booklet describes ways you can get involved, like organizing parent groups in your community, talking to your child's teacher, and filing complaints with the New Jersey Department of Education.



Becoming an advocate in the school system is the best decision you can make for your child, your family, and your community!

II. Immigrant Parents and Students: Laws and Rights

► 1964 Civil Rights Act, Title VI

What the law says:

"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."
-42 U.S.C. § 2000d.

What this means:

Public institutions (like schools) must provide equal services to everyone, including those who are Limited English Proficient (LEP).



► **Plyler v. Doe (U.S. Supreme Court Decision 1982)**

What the law says:

"The illegal aliens who are plaintiffs in these cases challenging the statute may claim the benefit of the Equal Protection Clause, which provides that no State shall 'deny to any person within its jurisdiction the equal protection of the laws' . . . The undocumented status of these children vel non does not establish a sufficient rational basis for denying them benefits that the State affords other residents. . . No national policy is perceived that might justify the State in denying these children an elementary education."
-457 U.S. 202

What this means:

- Guarantees the right to public education for immigrant students regardless of their legal status
- Schools may not require proof of citizenship or legal residence to enroll or provide services to immigrant students
- Schools may not ask about the student or parent's immigration status
- Parents are not required to give a social security number
- Students are entitled to receive all school services, including:
 - Free or reduced breakfast or lunch
 - Transportation
 - Educational services
 - NCLB, IDEA, etc

► Lau v. Nichols (US Supreme Court Decision 1974)

What the law says:

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

What this means:

“National origin discrimination” includes discrimination based on a person's inability to speak, read, write, or understand English.

► Presidential Executive Order 13166

What the law says:

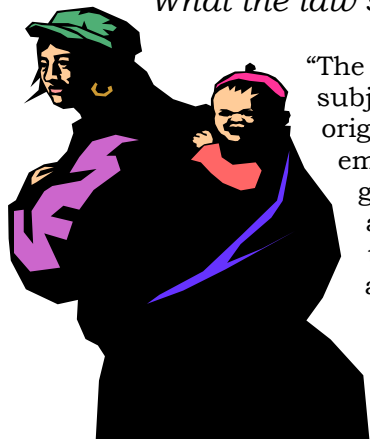
“Entities receiving assistance from the federal government must take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access to the programs, services, and information those entities provide.”

What this means:

Federal agencies and their recipients are required to break down language barriers by implementing consistent standards of language assistance across federal agencies and amongst all recipients of federal financial assistance. In addition, persons with limited English proficiency **cannot** be required to pay for services required to ensure their meaningful, equitable access to programs, services, and benefits

► New Jersey Law Against Discrimination

What the law says:



“The New Jersey Law Against Discrimination (LAD) makes it unlawful to subject people to differential treatment based on race, creed, color, national origin, nationality, [or] ancestry . . . LAD prohibits an owner, manager, or employee of any place that offers goods, services and facilities to the general public . . . from directly or indirectly denying or withholding any accommodation, service, benefit, or privilege to an individual because of that individual's race, creed, color, national origin, nationality, [or] ancestry . . .”

What this means:

Parents and students cannot be denied or withheld public services on the basis of language or background.

► New Jersey State Bilingual Education Code/NCLB (No Child Left Behind Act)

What the law says:

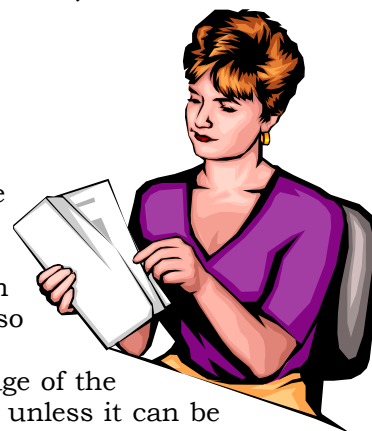
“6A:15-1.13 Notification

(a) Each district board of education shall notify by mail the parents of LEP students of the fact that their child has been identified as eligible for enrollment in a bilingual, ESL, or English language services education program . . . The notice shall be in writing and in the language of which the child of the parents so notified possesses a primary speaking ability.

(c) Progress reports shall be written . . . in the native language of the parent(s) of the students enrolled in the bilingual and ESL program unless it can be demonstrated and documented in the annual plan required in N.J.A.C. 6A:15-1.6(c) that this requirement would place an unreasonable burden on the district of the board of education.’

6A: 15-1.15 Parental Involvement

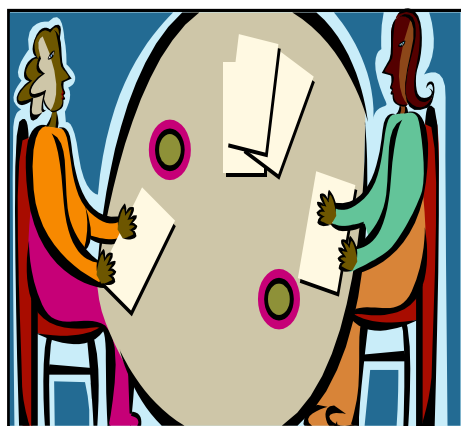
(b) Each district board of education implementing a bilingual education program shall establish a parent advisory committee on bilingual education on which the majority will be parent(s) of students of limited English proficiency.”



What this means:

- Parents must be informed in their native language when their child is identified to participate in a bilingual program or when their child is identified to leave a bilingual program for an English-only class
- Parents may decline bilingual services for their child
- Parents may remove students from a bilingual program at the end of the year
- Reasons for identifying child as LEP & placing in ELL program
- Child’s current level of English proficiency, including how assessed and status of child’s academic achievement

Parents must also be informed of:



- Method of instruction
- How program will meet child’s educational strengths & needs
- How program will help child learn English & achieve academic standards
- How program will meet IEP objectives for a child with a disability
- Program exit requirements

► **New Jersey Special Education Code/IDEA (Individuals with Disabilities Act)**

What the law says:

“Regulations: Part 300 / E / 300.503 / c / 2:

(2) If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure—

(i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

(ii) That the parent understands the content of the notice; and

(iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met.”

What this means:

- Evaluations may not discriminate against the child based on race, ethnicity, language. Children may not be found eligible for special education if the reason for academic difficulty is language.
- Evaluations should be conducted in the language most likely to yield needed, accurate information.
- Informed consent requires written information to be translated & oral information to be interpreted into the family’s language



III. Ways to Take Action

► **Questions for PARENTS**

- Do you know if your child is in an ESL, bilingual, Special Education, or regular class?
- Is he/she receiving appropriate services?
- Is he/she learning English as well as all other subjects?
- How is he/she progressing?
- Is there a Bilingual Parent Advisory Council in your district?
- How many bilingual parents are on it?
- How can you get on the advisory council?
- When and where are meetings held?
- What decisions does the council make?
- How often do you receive documents like report cards, progress reports, letters from the teacher/school, information about your child's placement/classes, etc. in your home language?
- Does the school offer you an interpreter when you visit?
- When someone from the school calls (for example, the nurse or receptionist) do they speak your home language?
- Are you worried you are missing information because of the language barrier?

► **What to do**

- Ask for information about the effectiveness of bilingual and ESL programs
- Ask about your child's class placement
- Ask about the existence of a Bilingual Parent Advisory Council in your district. If there isn't one but your district meets the requirements, work with your district to get the process started. If there is one, find out how you can become an active member.
- Request translated materials/access to interpreters from your child's teacher, the school office and the school district. *Do not take no for an answer.* Tell other parents to do the same.
- Work with your superintendent, Bilingual Parent Advisory Council, principal and teachers to improve bilingual and ESL services
- Demand the New Jersey Department of Education (NJDOE) & Board of Education enforce bilingual/ESL and parent involvement
- Organize other parents. Write letters, make phone calls to your school/district/state offices, request meetings as a group, and circulate petitions. People are always more effective in large numbers.
- Continue researching education laws and rights. Use your home computer or the facilities at your public library to look up information.

► **Contact Information**

Send letters of complaint to:

The New Jersey Bureau of Bilingual/ESL Education

- **James F. Curry**
Acting Director, Office of Specialized Populations
Bureau of Bilingual/ESL Education
New Jersey Department of Education
PO Box 500
Trenton, NJ 08625-0500

The New Jersey Department of Education

- **Chris Cerf**
Commissioner, New Jersey Department of Education
PO Box 500
Trenton, NJ 08652-0500

The New Jersey Department of Education, Office of Special Education Programs

- **Peggy McDonald**
Director, Office of Special Education Programs
New Jersey Department of Education
Trenton, NJ 08652-0500

The New Jersey Office of the Attorney General, Division on Civil Rights has five branches. Call, write, or schedule a meeting with the office closest to your child's school:

Newark Office

31 Clinton Street
3rd Floor
PO Box 46001
Newark, NJ 07102
Telephone: 973-648-2700
Fax: 973-648-4405
TTY: 973-648-4678

Patterson Office

100 Hamilton Plaza
8th Floor
Paterson, NJ 07505-2109
Telephone: 973-977-4500
Fax: 973-977-4511
TTY: 973-977-1955



Jersey City Neighborhood Office

3rd Floor of the Hudson County
Housing Resource Center
574 Newark Avenue
Jersey City, NJ 07306

Camden Office

1 Port Center, 4th Floor
2 Riverside Drive
Suite 402
Camden, NJ 08103
Telephone: 856-614-2550
Fax: 856-614-2568
TTY: 856-614-2574

Atlantic City Office

26 Pennsylvania Avenue
3rd Floor
Atlantic City, NJ 08401
Telephone: 609-441-3100
Fax: 609-441-3578
TTY: 609-441-7648

Remember, it's your school, too. Make your voice heard!

