

# **ENGLISH LEARNER STUDENTS: NEW FEDERAL GUIDANCE**

On January 7, 2015, the U.S. Department of Education's Office for Civil Rights (OCR) and the U.S. Department of Justice Civil Rights Division (DOJ) issued a joint Dear Colleague Letter regarding English Learner (EL) Students and Limited English Proficient (LEP) Parents to assist schools in meeting their legal obligation to ensure that these students can participate meaningfully and equally in educational programs and services. The Guidance discusses compliance issues that frequently arise in OCR and DOJ investigations and offers suggestions for schools to provide EL students and LEP parents equal access to information and curricular and extracurricular school programs.

The Guidance Package includes three resources:

- (1) A fact sheet in English and other languages about schools' obligations under federal law to ensure that EL students can participate meaningfully and equally in school;
- (2) A fact sheet in English and other languages about schools'

obligations under federal law to communicate information to LEP parents in a language they can understand; and

(3) A toolkit to help school districts identify EL students, prepared by the DOE's Office of English Language Acquisition.

The Guidance Package is available on the DOE's website at: [www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf)

**Summary of OCR/DOJ's January 7, 2015 *Dear Colleague Letter on English Learner Students and Limited English Proficient Parents***

The Guidance discusses the following school district obligations to EL students for which the OCR and DOJ frequently find noncompliance:

- identify EL students in a timely, valid and reliable manner;
- offer all EL students an educationally sound language assistance program;
- provide qualified staff and sufficient resources for

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- instructing EL students;
- ensure EL students have equitable access to curricular and extracurricular school programs and activities
- avoid unnecessary segregation of EL students from other students;
- monitor students' progress in learning English and doing grade-level classwork;
- evaluate students for special education and provide a free appropriate public education under IDEA and Section 504 to EL students with disabilities;
- remedy any academic deficits EL students incurred while in a language assistance program;
- move students out of language assistance programs when they are proficient in English and monitor those students to ensure they were not prematurely removed;
- evaluate the effectiveness of EL programs; and
- provide LEP parents with information about school programs, services, and activities in a language they understand.

For each of the obligations listed above, The *Dear Colleague Letter* provides various approaches that school districts may take to satisfy their civil rights obligations to

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EL students, gives examples, and explains factors the OCR and DOJ will consider when investigating complaints. The Guidance also discusses how schools can implement Title III grants and subgrants consistent with these obligations.

We recommend that school districts and special education joint agreements review the Guidance Package and consider whether a comprehensive review of English Learner policies and practices is necessary.

If you have questions about these new Department of Education publications or would like to discuss your school district or joint agreement policies and practices regarding EL students or LEP parents in light of the new Guidance Package, please contact one of our attorneys in Flossmoor (708-799-6766) or Oakbrook (630-928-1200).

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