

## Civil Rights Principles for Multilingual Learner Education

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The Civil Rights Principles for Multilingual Learner Education were developed collaboratively by members of The Leadership Conference on Civil and Human Rights and by The Leadership Conference Education Fund. The coalition sought to identify fundamental elements of multilingual learner education that protect civil rights and advance equity for children whose first language is a language other than English. We are all fortunate that there are so many children in the United States who are learning more than one language between their homes and their schools.<sup>1</sup> This powerful asset enriches their own lives and education, and it sets them up to be builders of our multiracial, multicultural, and multilingual democracy.<sup>2</sup> Unfortunately, the fact that a child's first language is a language other than English has too often been viewed as a hindrance, a fault, or a justifiable basis for their segregation from their peers and limits on their educational opportunity. This errant view has even contributed to policies and practices that sought to take home languages away from children through the use of punishment and coercion.<sup>3</sup>

In order to ensure that children who speak more than one language have access to and are included in comprehensive, diverse, and high-quality education settings, we seek policy that reflects the following principles. The civil rights community calls on decisionmakers at all levels to create and maintain an equitable education system for children by incorporating these principles into all relevant policies.<sup>4</sup>

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<sup>1</sup> As of 2020, there were approximately 5 million English learners enrolled in the United States' K-12 public schools, comprising 10 percent of the student population. The majority of multilingual learners are born in the United States. Among the 2.3 million children in 2013 who were themselves English learners, 23 percent were foreign born. The remaining 77 percent (1.8 million) were U.S. born. See: National Center for Education Statistics. (2023). English Learners in Public Schools. Condition of Education. U.S. Department of Education, Institute of Education Sciences. Retrieved September 21, 2023, from <https://nces.ed.gov/programs/coe/indicator/cgf>; Park, Maki, Zong, Jie, and Batalova, Jeanne. "Growing Superdiversity among Young U.S. Dual Language Learners and Its Implications." Washington, DC: Migration Policy Institute. February 2018. <https://www.migrationpolicy.org/research/growing-superdiversity-among-young-us-dual-language-learners-and-its-implications>; and Zong, Jie and Jeanne Batalova. "The Limited English Proficient Population in the United States in 2013". Migration Policy Institute. July 8, 2015. <https://www.migrationpolicy.org/article/limited-english-proficient-population-united-states-2013#Age.%20Race.%20and%20Ethnicity>.

<sup>2</sup> Kroll, Judith F, and Paola E Dussias. "The Benefits of Multilingualism to the Personal and Professional Development of Residents of The US." *Foreign language annals* vol. 50,2 (2017): 248-259. doi:10.1111/flan.12271 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5662126/> In addition to protecting civil rights and advancing equity for children whose first language is a language other than English, there is a need to expand opportunities for native English speakers to learn other languages to ensure they can thrive in our multiracial, multicultural, and multilingual country and achieve the many benefits of multilingualism.

<sup>3</sup> For explanations of the legal rights guaranteed to multilingual learner students see: U.S. Department of Justice, Civil Rights Division and U.S. Department of Education, Office for Civil Rights. Ensuring English Learner Students Can Participate Meaningfully and Equally in Educational Programs (2015): "Under Title VI of the Civil Rights Act of 1964 (Title VI) and the Equal Educational Opportunities Act of 1974 (EEOA), public schools must ensure that EL students can participate meaningfully and equally in educational programs. The U.S. Department of Education (ED) and the U.S. Department of Justice (DOJ) have issued joint guidance to remind state education agencies (SEAs), public school districts, and public schools of their legal obligation to ensure that EL students can participate meaningfully and equally in educational programs." <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-el-students-201501.pdf>

<sup>4</sup> Although this document is focused on students who are learning English in addition to a language spoken outside of the United States, there are also students who speak an Indigenous language at home, at school, or both that may be found only in the United States or on Tribal lands within the U.S. national borders. Although these principles do not speak to the issue, federal policies that protect, preserve, and promote Indigenous languages are incredibly important. This issue is raised here to recognize the many children who benefit from more than one language and the ways in which children's civil rights have been violated and their wellbeing has been harmed by denying them the benefits of languages spoken by their families and/or communities. For more information about the ways in which Native Americans, Alaska Natives, and Native Hawaiians have experienced discrimination and marginalization through the undermining of their multilingualism and the movement to protect language rights and revitalize Indigenous heritage languages, see, for example: ADD REFERENCE TO LANGUAGE RIGHTS AND REVITALIZATION

**PRINCIPLE #1: Fully include English learner students in all aspects of education and protect students and their families from discrimination.**

Children must have access to and be included in all educational opportunities without regard to their immigration status,<sup>5</sup> preferred language, or whether they are identified as English learners (ELs).<sup>6</sup>

Children whose native language is a language other than English must be given access to all of the same meaningful educational opportunities as their peers, including all curricular and extracurricular activities.<sup>7</sup>

Children's native language should not be suppressed or disregarded during instruction.<sup>8</sup> Children whose native language is not English have rights that protect them from discrimination in schools on the basis of national origin (including language status) under Title VI of the Civil Rights Act of 1964 and that provide them access to educational opportunities regardless of their first language under the Equal Educational Opportunities Act of 1974.<sup>9</sup> English learners with disabilities must receive services that also support their English language acquisition and home language retention. English learners with disabilities must also be identified and evaluated for special education and disability-related services in a timely manner.<sup>10</sup> And no child should be segregated on the basis of national origin or EL status and must receive meaningful instruction that focuses on language development and content area knowledge.

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FACT SHEET; Nagle, Rebecca. "The U.S. has spent more money erasing Native languages than saving them." *High Country News*. November 5, 2019. <https://www.hcn.org/issues/51.21-22/indigenous-affairs-the-u-s-has-spent-more-money-erasing-native-languages-than-saving-them> and Baldwin, Daryl Wade. "Analysis: How Indigenous languages can be preserved, and why those efforts help revitalize culture." PBS. October 10, 2022. <https://www.pbs.org/newshour/nation/analysis-how-indigenous-languages-can-be-preserved-and-why-those-efforts-help-revitalize-culture>.

<sup>5</sup> Under *Plyler v. Doe* every child is guaranteed access to a free public K-12 education regardless of their immigration status, *Plyler v. Doe* 457 U.S. 202 (1982).

<sup>6</sup> Note for the purposes of this document, the term English learner is used as defined by the Elementary and Secondary Education Act as amended by the Every Student Succeeds Act. Many communities refer to such students as "emergent bilingual" or "dual language learners" for an asset-based approach to recognize a student's native language proficiency. There is a need to have a definition of English learner to determine eligibility for supports, access to funding, and data disaggregation. In this document, we are highlighting children whose first language is a language other than English whether we use the term "English learner" or "multilingual learner." The term "Limited English Proficient" is also used given its reference in civil rights laws and regulations implementing those laws, although it is largely avoided in this document given its deficit connotations.

<sup>7</sup> When possible, students must be offered extracurricular activities in a child's home language so that English learners can meaningfully access these programs.

<sup>8</sup> Historically, many children have been punished for speaking their home language in school. See: Sánchez, Thayma. "Richmond Teacher Accused of Prohibiting Student From Speaking Spanish." NBC Washington. May 9, 2023. <https://www.nbcwashington.com/news/national-international/richmond-teacher-accused-of-prohibiting-a-student-from-speaking-spanish/3344766/#:~:text=A%20teacher%20at%20Thomas%20Boushall,speaking%20Spanish%20in%20her%20classroom;Reid,T.R.%20Spanish%20At%20School%20Translates%20to%20Suspension.> Washington Post. December 9, 2005. <https://www.washingtonpost.com/archive/politics/2005/12/09/spanish-at-school-translates-to-suspension/8df9e017-f704-4a2b-af67-485d10316794/>

<sup>9</sup> The U.S. Department of Education's Office for Civil Rights (OCR) has a unique responsibility to enforce core nondiscrimination statutes in schools. These statutes, including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the Age Discrimination Act of 1975, prohibit discrimination in schools on the bases of race, color, national origin (including language status), sex (including sexual orientation, gender identity, and pregnancy or parenting status), disability, and age.

<sup>10</sup> U.S. Department of Justice, Civil Rights Division and U.S. Department of Education, Office for Civil Rights. Ensuring English Learner Students Can Participate Meaningfully and Equally in Educational Programs (2015): <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-el-students-201501.pdf>. For information about students with disabilities who are English Learners, see: "OSEP Fast Facts: Students With Disabilities Who Are English Learners (ELs) Served Under IDEA Part B. U.S. Department of Education. April 8, 2022. <https://sites.ed.gov/idea/osep-fast-facts-students-with-disabilities-english-learners>.

**PRINCIPLE #2: Involve parents and respect their expertise.**

Parents and families (including chosen families) whose native language is not English must have access to accurate translation and interpretation services for school-based information.<sup>11</sup> The translation provided must be culturally responsive, meaningful, and purposeful to ensure parents and families understand the information. Parents and families must not be forced to rely on their children, other children, other family members, or untrained school staff to interpret or translate documents, meetings, and other communication for their school or school district. Parents and families, regardless of immigration status, must also have access to safe, affirming, and inclusive schools where they are not exposed to the stress of an anti-immigrant climate and the intimidation or threat of immigration enforcement, including by U.S. Immigration and Customs Enforcement.<sup>12</sup> Any engagement with law enforcement serves as a disincentive for parent and family involvement. Parents and families must also be informed and involved in decisionmaking about their own children and about opportunities for bilingual educational services. Schools must also provide information and support to families to help them understand language development, support their child's learning and language development, and support multilingual language learners at home.<sup>13</sup> Parents should be meaningfully included in partnership with teachers in the process for determining when to enter and exit a child into English learner services — including access to information (in the language with which they are most comfortable) such as assessment results and the implications of classification. Without robust consultation and involvement, children may be inappropriately placed in or denied access to English learner supports.

**PRINCIPLE #3: Provide culturally responsive and developmentally appropriate care and instruction to young children who are learning more than one language.**

Early care and education (ECE) settings must be culturally and linguistically responsive and developmentally appropriate for all children, including dual language learners. For children from families who speak languages other than English, programs must support the continued development of a child's home language(s) while the acquisition of English is facilitated. Children's home languages should be regarded as cultural resources and receive recognition and respect. ECE programs must support children's healthy growth and development (including social-emotional development) and school readiness (early literacy, early numeracy, cognitive skills). Parents and families (including chosen families) should be regarded as experts and partners in all aspects of service planning and implementation. States, districts, agencies, and programs must use system-wide, proactive, positive, and culturally and linguistically responsive approaches to children's development. Educators must receive free, ongoing, and frequent high-quality professional development and coaching in these approaches, available in multiple modes and

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<sup>11</sup> U.S. Department of Justice, Civil Rights Division and U.S. Department of Education, Office for Civil Rights. Information for Limited English Proficient (LEP) Parents and Guardians and for Schools and School Districts that Communicate with Them (2015): <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-lep-parents-201501.pdf>; U.S. Department of Education, Office for Civil Rights. Title VI: LEP Parental Communications: Cleveland Metropolitan School District (OH) OCR Complaint No. 15-08-1276 (2011): <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/15081276.html>; Therefore, parental notification of the rights of students with disabilities must be provided in a language the parents can understand along with the other IDEA requirements that apply to parents whose primary language is not English.

<sup>12</sup> UnidosUS, A Generation at Risk The Impact of Immigration Enforcement on UnidosUS-Affiliated Classrooms and Educators (2020): <https://unidosus.org/publications/2024-a-generation-at-risk-the-impact-of-immigration-enforcement-on-unidosus-affiliated-classrooms-and-educators/>; U.S. Department of Homeland Security, Guidelines for Enforcement In or Near Protected Areas (October 2021): <https://www.dhs.gov/guidelines-enforcement-actions-or-near-protected-areas#:~:text=The%20change%20in%20name%2C%20from.in%20need%20of%20special%20consideration>

<sup>13</sup> Parents and families must be provided with equitable opportunities to be involved in school and district decisionmaking so that the issues and concerns of their children and their families are considered.

languages. Educators should also receive ongoing resources to develop multilingual skills and expertise across subject and content areas and grade level. Early educators, including those who are proficient in the children's home language, must effectively incorporate culturally and linguistically responsive pedagogy that focuses on language development.

**PRINCIPLE #4: Provide teachers with high-quality preparation and support so that all teachers can meet the needs of English learners.**

All teachers must have access to professional development opportunities and preparation to support students' bilingual and biliterate development.<sup>14</sup> To address the teacher shortage for bilingual teachers, school districts and state agencies must offer proactive initiatives and programs to cultivate a strong pipeline of multilingual educators, such as grow-your-own programs and evidence-based retention programs. General education, special education, and dually certified teachers (general and special education) should receive instruction in meeting the needs of English learners in their pre-service training to facilitate the inclusion of English learners in the general education curriculum and instruction.

**PRINCIPLE #5: Provide schools with sufficient funding to effectively meet the educational needs of English learners.**

Funding and support for English learners, including Title III of the Every Student Succeeds Act (ESSA), must be significantly increased to ensure all eligible children have access to equal and equitable educational opportunities.<sup>15</sup> Title III must become a federal funding priority in order to ensure that millions of English learners are not denied a high-quality education. In states, funding formulas must include greater weights for English learners to ensure there are more targeted supports for this student population. Recruitment and hiring of mental health professionals who specialize in intersectionality and cultural and linguistic diversity should be prioritized. Given the overrepresentation of English learners in schools and districts with concentrations of students of color and low-income students, English learners are disproportionately harmed by funding inequities based on race and family income. Title III and other sources of dedicated funding are only meaningfully supplemental if the base of funding is equitable and adequate. Where additional funding is provided to districts, expenditures should be monitored to ensure the funds that districts receive for ELs are actually expended to meet their needs.

**PRINCIPLE #6: Support students' acquisition of English language proficiency.**

Schools and districts must ensure that English learners, including late entrant ELs, long-term ELs (LTELs), recently arrived English learners (RAELs), and students with limited or interrupted formal education (SIFE/SLIFE), are on a path toward comprehensive English language acquisition. This includes entrance and exiting requirements that appropriately identify eligible children and accountability to ensure students are provided sufficient support to acquire English proficiency. Children, regardless of grade level, must have access to meaningful instruction that focuses on language development that leads toward achieving English language proficiency. This includes evidence-based instructional models that provide students with sufficient language support and avoids segregation from native English speakers.

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<sup>14</sup> English learners should be on a path toward achieving English language proficiency and receiving meaningful instruction that focuses on language development in different content areas.

<sup>15</sup> For information about the ways in which Title III has failed to keep pace with the increased number of English learner students see, for example: Villegas, Leslie and Amaya Garcia. "A Federal Policy Agenda for English Learner Education." New America. March 24, 2021. <https://www.newamerica.org/education-policy/reports/a-federal-policy-agenda-for-english-learner-education/>

**PRINCIPLE #7: Collect and report disaggregated data to ensure accountability for equal opportunity.**

Schools and districts must collect and report comprehensive English learner data that is disaggregated, cross-tabulated, accurate, timely, and broadly and publicly available without personally identifiable information at every stage of the data collection process (collection, input, analysis, etc.). The universal collection of English learner data would allow for the disaggregation and crosstabulation of data by race, ethnicity, native language, socioeconomic status, EL status, disability status, disability type, sex, national origin, and pregnant or parental status. Students, parents, and community members deserve data transparency so they can evaluate and track the progress of English learners (both progress on English language and content area proficiency) within their districts. While the Civil Rights Data Collection and ESSA school report cards include important information about English learners, additional data are needed (including, for example, newcomer data, English learners with disabilities, former English learners, Ever Els,<sup>16</sup> LTELs, RAELs, and SIFE) and oversight is needed to ensure reported data are accurate. In order to understand whether our system is providing equal opportunity for English learners, families, educators, advocates, researchers, and policymakers need access to comprehensive, publicly reported, disaggregated data.

**PRINCIPLE #8: Support students' meaningful access to content area knowledge while they are acquiring English language proficiency, including by ensuring that enriched and advanced educational opportunities are equitably available to English learners.**

Schools and districts must ensure that English learners have equal and meaningful access to the core curriculum while they are learning English. Well-supported, sound educational programs must be provided that demonstrably ensure English learners are grasping the core academic content along with their English-only peers. Also, schools and districts must ensure that English learners have equal educational opportunities, such as advanced coursework; dual enrollment; Advanced Placement (AP)/International Baccalaureate (IB) courses; science, technology, engineering, and math (STEM) programs;<sup>17</sup> and grade-level, credit-bearing courses that count toward high school graduation. Schools and districts must avoid disproportionately enrolling English learners in remedial courses that delay and deny students the opportunity to graduate from high school.<sup>18</sup>

**PRINCIPLE #9: Reject English-only requirements, provide instructional opportunities in multiple languages, and avoid instructional approaches that do not support students' home languages and cultures as they work toward English proficiency.**

Schools and districts must take an asset-based approach to supporting English learners, including by ensuring students' home languages are developed as they also become proficient in English across academic subjects. English-only requirements are particularly pernicious because they undermine

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<sup>16</sup> Ever English Learners (Ever ELs) is a data category that includes both current and former ELs. Without a category such as Ever ELs, it is difficult or impossible to account for longer term outcomes such as high school graduation and college enrollment.

<sup>17</sup> For an example of discrimination against English learner students in the provision of curricular opportunities, see: U.S. Department of Education, Office for Civil Rights. Title VI (Access to STEM): Cleveland Metropolitan School District (15-11-5003) (2014): <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/15115003.html>

<sup>18</sup> Due to the learning loss of students caused by the global COVID-19 pandemic, children missed months and months of in-person instruction and some children did not have meaningful access to remote learning, including access to high-quality online instruction for ELs and digital curricula specifically designed for ELs. In order to repair the harms of the COVID-19 crisis and remedy long-standing inequities for English learners, schools and districts must ensure English learners have the resources they need and the protections to which they are entitled.

instructional practice and send a harmful and inaccurate message to children, families, and educators that languages other than English lack value. Language programs that remove students from access to the general curriculum are not based in research and are not consistent with best practices for supporting the holistic development and academic success of English learners. These models are often referred to as “subtractive” — rather than building bilingualism and biliteracy and using students’ cultural knowledge to support their academic success, they put students at risk of losing their home language skills.<sup>19</sup> Individual students and the entire school community benefit from additive language program models that provide the programmatic structures, teacher supports, and instructional materials to develop students’ bilingualism, biliteracy, and cross-cultural knowledge. Federal, state, school, district, and campus policies and practices should support these models, which have been shown to improve individual student outcomes and campus climates.

**PRINCIPLE #10: Ensure access to post-secondary pathways, including degree programs and workforce training, that do not create a two-tiered system for English learners.**

Schools and districts must ensure access to post-secondary pathways, such as degree programs, workforce training, and career and technical education, for English learners. All children, including English learners, must have access to meaningful educational opportunities that prepare them to succeed in postsecondary programs and meet the unique cultural, linguistic, and educational needs of students. This includes providing targeted support and resources for English learners to ensure that they have a successful transition into postsecondary education programs. Furthermore, schools and districts must not create a two-tiered system that segregates English learners from their peers and limits their educational opportunities.

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<sup>19</sup> Sugarman, Julie. “A Matter of Design: English Learner Program Models in K-12 Education.” Washington, DC: Migration Policy Institute. June 2018. <https://www.migrationpolicy.org/sites/default/files/publications/EL-Program-Models-Final.pdf>