



Rights of English Language Learners

Education is a basic right of all children in the United States. The federal *No Child Left Behind Act of 2001 (NCLB)* added important new educational rights for English language learners and their parents. NCLB, other federal laws, and Massachusetts

state laws recognize that students who are new to the United States and who are English language learners need extra support. They need help to learn English and, at the same time, to master academic standards.

This issue of *Pointers* outlines some of these rights under state and federal laws.

State and federal laws use the terms “students with limited English profi-

ciency”¹ (or, LEP students), “English language learners” (or, ELLs), and “English learners” to describe the same group of students. Since parents are likely to hear and see these terms often, we use them interchangeably in this issue of *Pointers*. Parents’ PLACE prefers the term “English language learners” because it gives a positive focus on what these students are accomplishing—mastering a new language.

Who is an English language learner?

English language learners (ELLs) are students whose native language is not English, and who are not yet able to do ordinary classroom work in English. Each school district must have a way to identify whether or not a student is a limited English proficient (LEP) student. Once a district identifies students as LEP, it must follow laws and procedures regarding their education.

As the parent of an English language learner (ELL), what are my rights?

As a parent of an English language learner, federal and state laws require that:

- Your child will receive a quality education and be taught by a highly qualified teacher who has been trained to teach students who are learning English.

- Your child will learn English and other subjects such as reading, language arts, mathematics, and science at the same academic level expected of all other students.
- Your child will receive English language instruction, also known as ESL, to ensure your child can read, write, speak, and understand English.
- Your child’s level of English proficiency will be tested. You will be told of the results.
- Your child’s school must tell you within 30 days of the beginning of the school year the following information:²
 - The programs that are available to your child.
- The school will tell you what program they think would be best for your child. However, most districts now only offer sheltered English instruction. The school must explain how the program works, and how it will help your child learn English, *and* how it will meet your child’s educational needs.
- If you think your child should not be in an English learner program at all, you have the right to refuse to enroll your child in the program

¹ “Proficiency” here relates to the ability to speak, write, read, and understand English. Proficiency ranges from little or no ability in English to being able to fully participate, without language support, in general education classrooms and social settings.

² For a child who enters school after the beginning of the school year, the school must inform parents within two weeks if the child is placed in a program for English language learners.



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and to remove your child immediately from the program.

- Even if you decide to place your child in a regular classroom, the school district must still provide language and academic support when your child needs it in order to ensure that your child is able to learn.
- English learners have the right to receive the same high-quality education, based on standards, as their peers. In Massachusetts, these educational standards are called “Curriculum Frameworks.”
- ELL programs for students with disabilities should also meet the requirements of their individualized education plans (IEPs). For students with an IEP or 504 Plan that states that instruction should be in their native language, the district must comply with the IEP or 504 plan. No waiver is required.
- You should receive the same information from the school in the same way and just as often as all other parents, to “the maximum extent possible” in a language you understand. This includes student report cards and progress reports.⁴
- School documents about children with disabilities who are English learners must be translated into their native language. Interpreters must be provided at all educational planning meetings.
- *If you ask for them*, the school principal must make sure that you receive the school handbooks and district codes of conduct in your primary language.⁵
- Your child will be tested each year to assess his or her progress in learning English. (To learn more about these assessments, please contact Parents’ PLACE.)
- In grades 3–8, your child will be tested each year, and at least once in high school, in math, English-language arts, and science.⁶ You will receive a report of your child’s academic progress. This report must be in a language you understand.
- The school should tell you how long the English learner program is expected to last and the requirements for leaving the program. There is no limit to the amount of time in which an English learner may participate in a sheltered English immersion program. English learners may receive language support services until they know enough English to participate meaningfully in the regular school programs.
- Your child should have the opportunity to receive academic support services, such as guidance and counseling, in his or her primary language.
- Your child should have equal access to the same nonacademic programs and extracurricular activities available to all other students.
- ELL students are entitled to special education services, Title I services, vocational education, and advanced and gifted classes.
- Once your child leaves an English learner education program, the district must still monitor your child’s progress and continue to provide language support, if needed, for two years.
- As a parent of an LEP student, the school and district should give you many opportunities to communicate with our child’s teachers, and to be involved in other ways.

Massachusetts law allows these programs for English language learners:

- 1. Sheltered English Instruction (SEI):** There are two components to SEI. (1) Students are taught English as a second language (ESL) to develop their English ability. (2) Academic instruction is given in English that is specially designed for children who are learning English. The balance between ESL instruction and academic instruction in English changes as students gain English language skills. Students just beginning to learn English should receive as much ESL instruction as possible.³
- 2. Two-Way Bilingual Education:** Students who are learning English and students who are native English speakers learn together in both languages. Instruction and books are in the students’ first and second languages.
- 3. Kindergarten Students** may be placed in a) sheltered English immersion classrooms, b) English language mainstream classrooms with assistance in learning English, or, c) two-way bilingual classrooms.
- 4. Transitional Bilingual Education (TBE):** Much of the instruction is given in your child’s native language while he or she is learning English. *(A waiver is required for these programs. See information on waivers, page 3).*

³ Specific guidelines for SEI are online at www.doe.mass.edu/ell/MEPA_guidelines.pdf.

⁴ G.L.c. 71A, Sec. 7; Title VI of the Federal Civil Rights Act.

⁵ Massachusetts Access to Equal Educational Opportunity Regulations, 603 CMR 26.08(2).

⁶ These tests are part of the Massachusetts Comprehensive Assessment System (MCAS) and are given to all students. To learn more, contact Parents’ PLACE for a *Pointers* on MCAS.

What is the “Waiver” to continue bilingual education?

In December 2002, a new law governing the education of ELL students took effect in Massachusetts. This new law replaced the law that always allowed LEP students to be educated in bilingual classes. In bilingual classes, students are taught mostly in their native language.

The law now requires that individual parents of LEP students must request a “waiver” if they want their children to receive instruction in bilingual education classes. (Also known as Transitional Bilingual Education).

Here is how the waiver process works:

- Each year, the parent or guardian must apply for the waiver by visiting the school and giving their written consent. At this visit, parents must receive a “*full description in a language they can understand*”⁷ of the educational materials to be used in the different educational program choices, and all the educational opportunities available to their child.

The final decision on waiver requests is the district’s.

- *For students 10 and older*, once parents request a waiver, the school principal and teachers need only state that it is their “informed belief” that a different program would better meet the student’s needs.

A school where 20 or more students of the same language in a grade receive a waiver is required to offer “classes teaching English and other subjects through bilingual education techniques or other generally recognized educational methodologies permitted by law.”⁸ Schools that

continued on next page

⁷ G.L. c. 71A Sec. 5.

⁸ Massachusetts statute, known as Question 2, G.L. c. 71A.

What Can Parents Do?

Here are some things you as a parent or guardian can do to support your child’s success in school:



- ❑ Ask the school to send all reports in your native language.
- ❑ Talk with other parents whose children have been through the same school or programs. Ask them about how the different programs work and how you can best be involved.
- ❑ Ask questions to find out what your child is learning and how your child is being taught English. Visit your children’s classrooms during the school day to see what they are learning.
- ❑ Ask the school if your child’s teacher is highly qualified to teach English language arts and reading, mathematics, and science. Ask if the teacher is fluent in English and has been trained in the skills necessary to teach ELLs.
- ❑ Ask if your child receives English language instruction, commonly known as ESL, and, if so, how often? Is the English language teacher appropriately licensed?
- ❑ Don’t let an inability to speak English stop you. Your child’s education is too important. If you need a translator, ask for someone on the school staff to translate or bring a friend.
- ❑ If your child is in high school, ask the school what the graduation rate is for students in the program they are recommending. Ask if your child is getting credits for all classes.
- ❑ If you think your child might not graduate, ask for support or a different program that will prepare your child to graduate.
- ❑ NCLB relies on parents to be strong advocates for their own children and to help schools improve. Ask the district or school for ways to join with other parents working for school improvement, such as on a parent advisory council for English language education or on a school-site council. Join forces with community-based organizations working for educational advancement of English language learners and minority students.

In addition to the rights listed in this *Pointers*, NCLB provides other important options for *all* parents. For example, parents whose children are in underperforming schools *may have the right to choose another school or to receive free tutoring* for their children. Parents’ PLACE can send free, easy-to-understand documents on these options in English, Spanish, and Portuguese.

To learn more about how you can support your child’s education, contact Parents’ PLACE toll-free at 1-877-471-0980. Staff members offer telephone assistance in English, Spanish, and Portuguese.

have fewer than 20 students in a grade with a waiver may offer such a class. If they do not offer such a class, they must permit students who have a waiver to transfer to a public school that does have a bilingual class.

- For students under age 10, it is more complicated. Districts may

permit waivers under these conditions:

- The student has been in an English language classroom for at least 30 calendar days;
- School officials write that the student has special needs, besides not being able to speak and understand English, that make a different program necessary;

- The above written document is included in the student's record;
- Both the superintendent and the school principal sign the document.
- Students under age 10 who know English, even if it is a second language, do not need a waiver to attend general education classes.

SOURCES & RESOURCES:

“Coordinated Program Review Procedures: School District Information Package, English Learner Education in Public Schools, M.G.L. Chapter 71A.” (School Year 2005-2006). Massachusetts Department of Education. Online at www.doe.mass.edu/pqa/review/cpr/instrument/chapter71A.doc.

“Declaration of Rights of English Language Learners.” (2004). U.S. Department of Education, Office of English Language Acquisition. Lists rights of ELL students and parents under NCLB. Online at www.ed.gov/rights.

“English Language Proficiency Benchmarks and Outcomes for English Language Learners.” (June 2003). Massachusetts Department of Education. The English language knowledge and skills that students are expected to gain in the four language areas of lis-

tening, speaking, reading and writing. Online at www.doe.mass.edu/ell/benchmark.pdf.

“Massachusetts Curriculum Frameworks” describe what students should know and be able to do in core academic subjects at each grade. Online at www.doe.mass.edu/frameworks/current.html.

“Non-Regulatory Guidance: Standards and Assessments.” (March 10, 2003). U.S. Department of Education. Online at www.ed.gov/policy/elsec/guid/saaguidance03.doc

“Part I: Non-Regulatory Guidance on Implementation of Title III State Formula Grant Program.” (Last Modified 12-17-2004). U.S. Department of Education, Office of English Language Acquisition. Online at

www.ed.gov/programs/sfgp/nrgcomp.html.


“Questions and Answers Regarding Chapter 71A: English Language Education in Public Schools.” (2003). Massachusetts Department of Education. Online at www.doe.mass.edu/ell/news03/FAQ_drft.pdf.

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