

Title I Office Hours

English Language Proficiency Program: Legal Requirements

November 15, 2012

Federal Law

- **Title VI of the Civil Rights Act of 1964**
- **Office of Civil Rights May 25, 1970 Memo**
- **Lau v. Nichols – 414 U.S 563 (1974)**
- **Equal Educational Opportunities Act of 1974**
- **The Lau Remedies (1975)**
- **Castañeda v. Pickard (1981)**

Title VI of the Civil Rights Act of 1964

- **Prohibits discrimination based on race, color or national origin**
- **May not be excluded in any program or activity receiving Federal Financial assistance: English language development and academic content services must be concurrent**

Office of Civil Right's May 25, 1970 Memorandum

- **Requires School Districts to take affirmative steps to rectify language deficiencies**
- **Prohibits assignment to Special Education classes based on English Language skills**
- **Requires parent notification of school activities**
- **Forbids specialized programs for LEP students to operate as an educational dead-end or permanent track**

Title I Considerations

Title VI

- **Is Title I Program/intervention “dead –end program”?**
 - Are ELLs always considered “at-risk” because of English language proficiency level?
 - Are they being served because of ELP level or because of content proficiency?
- **Are ELLs not included in Title I programs because the ELP program is serving them?**
 - If ELLs need both set of services, are they getting both?

Lau v. Nichols – 414 U.S. 563 (1974)

- “.....there is no equality of treatment merely by providing ELL students with the same facilities, textbooks, teachers, and curriculum: for students who do not understand English are effectively forced from any meaningful education.”

The Lau Remedies (1975)

Specifies approved approaches, methods, and procedures for:

- “Identifying and evaluating national origin minority students’ English language skills;
- Determining appropriate instructional treatments;
 - Deciding when LEP children were ready for mainstream classrooms;
 - Determining the professional standards to be met by teachers of language minority children.”

Title I considerations

Lau v Nichols

- **How does this affect Title I programs?**
- **Is the instructional program (“treatment”) in Title I the same for ELLs as non-ELLs?**

OCR Policy

Selected Highlights as they relate to ELLs

Two areas examined in determining Title VI compliance

- 1. Is there a need for a district to provide an alternative program to meet the educational needs of all language minority students?**
- 2. Is the district's program likely to be effective in meeting the educational needs of its language minority students?**

OCR Policy

Need for Alternative/ELP Program

- District should have procedures in place for identifying and assessing language-minority students who are in need of alternative language services to participate meaningfully in recipient's educational programs.

OCR Policy

Need for Alternative/ELP Program

To assess whether there is meaningful participation, OCR considers whether ELL students are:

- **Performing as well as their non-ELL peers**
- **Successfully participating in essentially all aspects of the school's curriculum without the use of simplified English materials**
- **Dropping out or being retained in grade at rates comparable to those of their non-ELL peers**

OCR Policy

Adequacy of Program

To determine the adequacy of the ELP program, OCR adopted the three prongs of Castañeda v. Pickard.

Castañeda v. Pickard (1981)

Formulated three-prong test to measure compliance

- 1. *Theory* – Sound Educational Theory (Research-Based)**
- 2. *Practice* – Effective Implementation(Transforming theory into practice with Fidelity)**
- 3. *Results* – Program Evaluation and Modification**

Title I Considerations

Castañeda v. Pickard (1981)

- Are Title I programs based on research for population served?
- Are ELLs included in the evaluation of disaggregated groups?
- Is research for ELLs implemented and evaluated?
- Are you getting results with ELLs in both language and content? If not, has there been modification to program?

Equal Educational Opportunities *Act of 1974*

- **Denial of equal educational opportunity prohibited**
- **It prohibits discrimination against faculty, staff and students, including racial segregation of students, and requires school districts to take action to overcome barriers to students' equal participation**

Title I Considerations EEOO, 1974

- **Are ELLs not included in Title I programs because the ELP program is serving them?**
 - If ELLs need both set of services, are they getting both?

**Why is this so
important???**

Supplement, not Supplant

- **Regardless of federal funds, including Title I, II, and III, a District must provide**
 - ELP services
 - Access to grade level academic content
- **ESEA funds can only be used to supplement the ELP program**

Supplement, not Supplant cont.

19

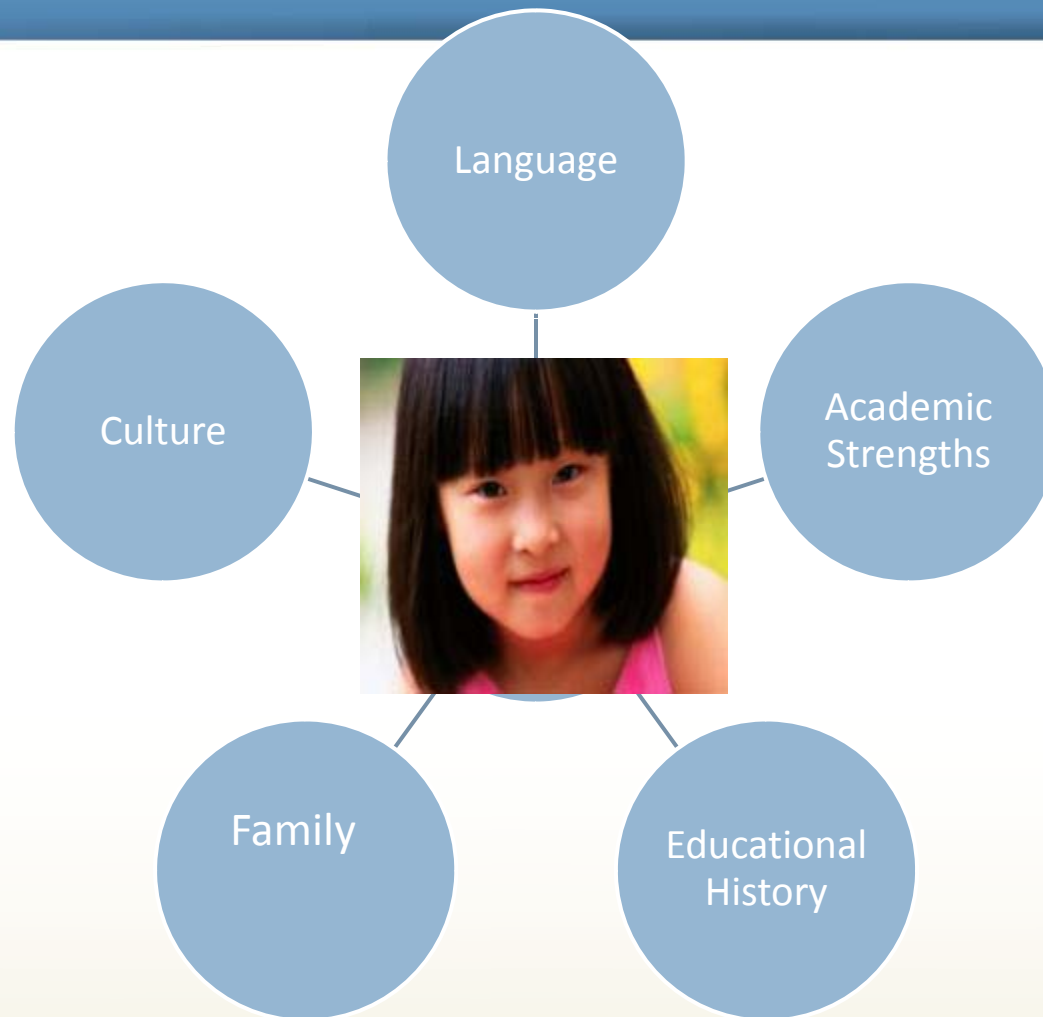
■ **Additional questions to consider**

- How are language instruction education program services provided/funded for all ELL students?
- What services/programs does the District offer to meet Lau v. Nichols (US Supreme Court Case, 1974) requirements?
- Is the LEA required to provide the service/activity based on Federal (OCR), State, or local law aside from Title III?

2012 - 2013

	NEP/LEP (Non-English Proficient/Limited English Proficient)	FEP M1 (Fluent English Proficient Monitor Year 1)	FEP M2 (Fluent English Proficient Monitor Year 2)	Total ELL
2006-2007	86,899	7,439	5,701	100,039
2007-2008	82,347	9,168	6,929	98,444
2008-2009	86,539	10,129	6,707	101,379
2009-2010	94,758	6,781	8,961	110,500
2010-2011	94,836	8,659	5,839	109,334
2011-2012	98,727	9,538	7,654	115,739

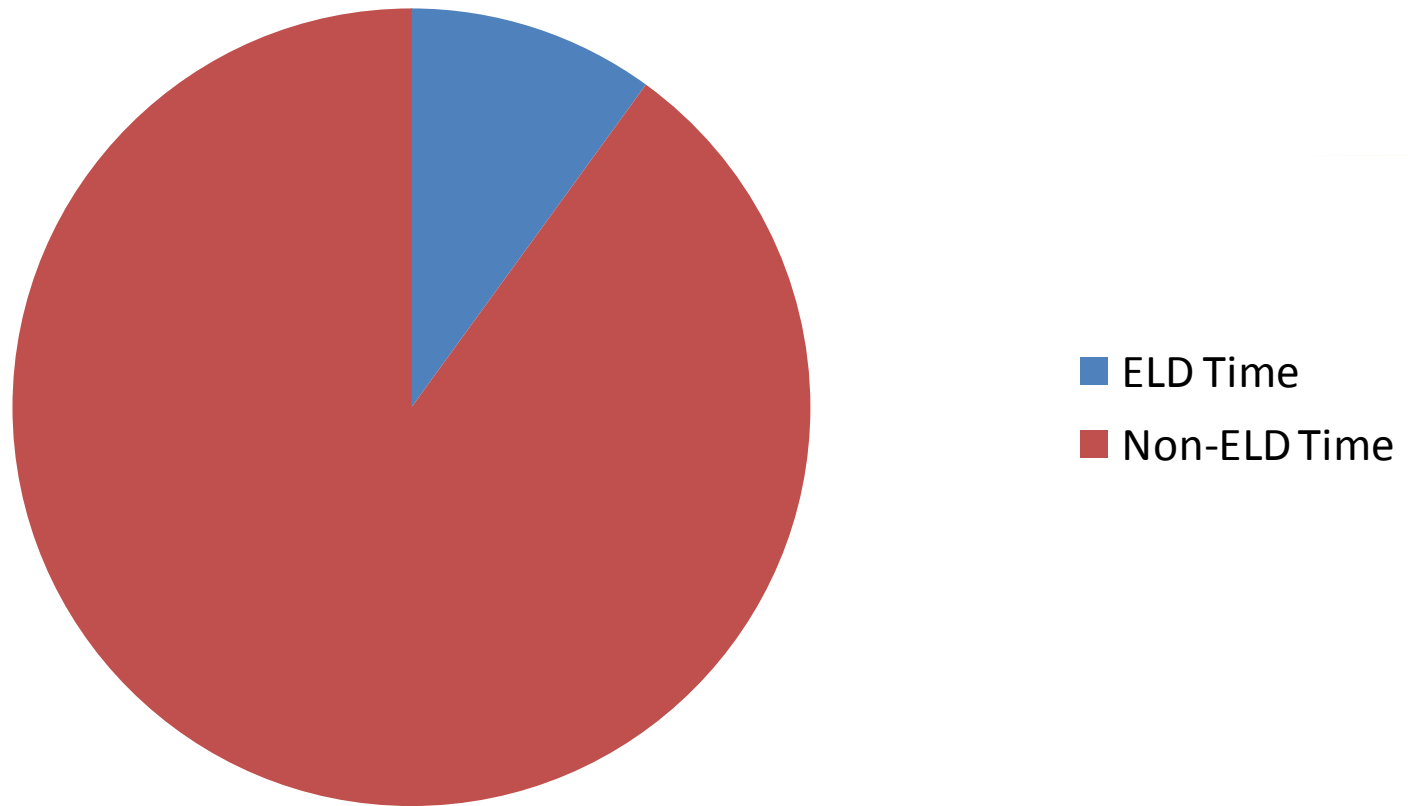
Student Profile



Adapted from WIDA Consortium

School Day in the Life of an ELL

School Day



Title I Focus Schools

- Of the 66, all “does not meet” for students with disabilities
- Of the 66, all but 7 have “does not meet for ELL students

Question: Can and should Title I be used to help close these gaps??