

TESOL Statement on the Rescission of Guidance on Serving Multilingual Learners of English in U.S. Public Schools

TESOL International Association opposes the U.S. federal government's decision, announced the week of 11 August 2025, to rescind the January [2015 Dear Colleague Letter](#) (DCL) issued by the U.S. Department of Justice's Civil Rights Division (CRT) and the U.S. Department of Education's Office for Civil Rights (OCR). Although the rescission does not alter U.S. law or change the responsibilities of state and local education agencies (SEAs and LEAs) to provide quality education for multilingual learners of English (MLEs) and ensure families have access to information and can make informed decisions, it raises questions about how states, school districts, educators, paraprofessionals, and administrators will continue to meet these obligations for a growing MLE population.

This guidance long provided clarity on how LEAs and SEAs, along with schools and educators, protect the civil rights of MLEs under Title VI of the Civil Rights Act and the Equal Educational Opportunities Act. Combined with other recent federal actions reducing [language access for public services](#), the withdrawal of this guidance threatens the schooling of more than 5 million MLEs nationwide, the [majority of whom are U.S. citizens](#), and undermines the ability of their families to participate fully in their children's education.

We encourage all educators, schools, and communities to be aware of and advocate for the right and access to education for all MLEs. TESOL will work with its colleague associations to address the U.S. Department of Education directly, advocating for the reinstatement of the DCL.

What has changed:

The rescission affects federal interpretative guidance that agencies have long used in the oversight and enforcement of educational rights and accountability, and it signals that the current U.S. administration will deprioritize enforcement of MLEs' civil rights.

However, the rescission does not repeal or alter U.S. laws or U.S. Supreme Court rulings.

What has not changed:

Although the guidance has been rescinded, the underlying law and judicial precedent remain and provide the framework for educational access and rights. The following laws affect educational delivery and responsibilities and remain fully enforceable:

1. **Title VI and regulations of the Civil Rights Act (34 C.F.R. §100.3)**: Recipients of federal funds may not discriminate on the basis of national origin, including through methods of administration that have the *effect* of discrimination. Agencies can require corrective action and can coordinate enforcement.
2. **The Equal Educational Opportunities Act (EEOA) (20 U.S.C. §1703(f))**: States and LEAs must take “appropriate action to overcome language barriers that impede equal participation by students.” This statute creates an independent, private right of action and remains fully enforceable.
3. **Castañeda v. Pickard (5th Circuit 1981)**: Courts use a three-part test under the EEOA to assess MLE programs: (1) based on sound educational theory; (2) implemented effectively with adequate staff, materials, and space; and (3) proven effective (and modified if not) within a reasonable time.
4. **Plyler v. Doe (Supreme Court 1982)**: States and districts cannot deny (or chill) elementary and secondary enrollment to any child based on immigration status, regardless of whether the child is an MLE. The majority of MLEs in the United States of America are in fact U.S. citizens.
5. **Lau v. Nichols (Supreme Court 1974)**: Title VI of the Civil Rights Act requires affirmative steps to address language barriers so that MLEs can meaningfully access instruction. Agencies continue to recognize the 1970 HEW Memorandum (Health, Education, and Welfare) (affirmed by *Lau*) as setting the Title VI standard for language-minority students.

While these laws govern learners’ and families’ civil rights, the Elementary and Secondary Education Act (ESEA) also contains provisions requiring equal access for MLEs to all programs and services offered to the general student population. Additionally, Title III of ESEA serves to “to improve the education of [MLE] students so that they can learn English and meet challenging state academic content and achievement standards¹.” The DCL makes very clear throughout that federal funds for Title III must be consistent with civil rights obligations; however, schools must use state and local funds to provide the

¹ Pages 2 and 3 of the DCL: <https://www.tesol.org/media/ajxdprc2/talking-points-on-english-learners.pdf>

activities and services that meet their civil rights obligations and use Title III to supplement and enhance those services.

What are the responsibilities of LEAs and SEAs:

Even without the 2015 DCL, LEAs and SEAs face liability under the Civil Rights Act and the EEOA. They still have a responsibility and legal obligation to MLEs and their families, ensuring meaningful and equal educational access and engagement. The following LEA and SEA responsibilities are required by law:

1. **Identify and serve MLEs** promptly and without discriminatory barriers; design a program grounded in sound theory (e.g., bilingual and dual-language education) and **resource the program adequately** with qualified staff, sound instructional materials, and adequate space. Monitor and improve the program if results do not show language barriers being overcome within a reasonable period. (EEOA §1703(f); *Castañeda v. Pickard*)
2. **Provide meaningful access to all programs**, including core academics, special education, advanced coursework, and extracurriculars. Use appropriate evaluation and placement and do not delay services. (Title VI; EEOA)
3. **Communicate with families in their language**: Schools must provide parents and guardians with essential information (e.g., enrollment, special education services, discipline, program eligibility) in a language they understand. This requirement remains enforceable even though the 2015 DCL elaborating on it has been rescinded. (Title VI; *Lau v. Nichols*)
4. **Ensure nondiscriminatory enrollment practices**: Schools must **not** request/require documents that would deter or deny enrollment based on immigration status. *Plyler v. Doe* protects access to preK–12 schooling for all children.
5. **Maintain compliant methods of administration**: Policies and practices may not have the *effect* of discrimination based on national origin.
6. **SEA oversight duties**: States must guide, monitor, and support districts to ensure MLE programs comply with civil-rights obligations. SEAs **cannot abdicate** by pointing to local control. This responsibility was summarized in the DCL but derives from Title VI/EEOA and associated regulations.

What can English language educators and advocates do to support MLEs and their families:

Advocacy is the core of every educator. While the law establishes clear obligations, ensuring equity for MLEs depends greatly on that daily advocacy, whether in the classroom, the school, or the community—or in local, state, and federal policy. Advocacy plays a vital role in addressing inequity and injustice.

Guided by [TESOL's 6 Principles](#) and as outlined in the [TESOL Zip Guide: Advocating for English Learners](#), educators and fellow advocates can affect change for MLEs and their families.

Educators and advocates can do the following:

1. **Understand the laws and precedents** that guide the educational access and rights of MLEs and their families.
2. **Understand their LEAs' programs, services, and practices** serving MLEs and their families, elevating exemplary practices and advocating for change and implementation where there are gaps.
3. **Build coalition** with fellow educators, administrators, and the larger community for positive advocacy action plans to effect change.
4. **Engage with their state affiliates** (find a [TESOL Affiliate](#) in your area).
5. **Engage with the [resources and advocacy requests of TESOL International Association](#).**

The U.S. federal government's actions **do not absolve states, districts, or schools of their legal or moral obligations**. TESOL International Association and its members are dedicated to ensuring that all MLEs receive a quality education and that their families can meaningfully participate in their children's schooling. We will continue to stand and advocate for equity, justice, and the protection guaranteed by law.