

LESSONS LEARNED FROM LITIGATION OF DISCRIMINATION CLAIMS BROUGHT BY NEW IMMIGRANT STUDENTS

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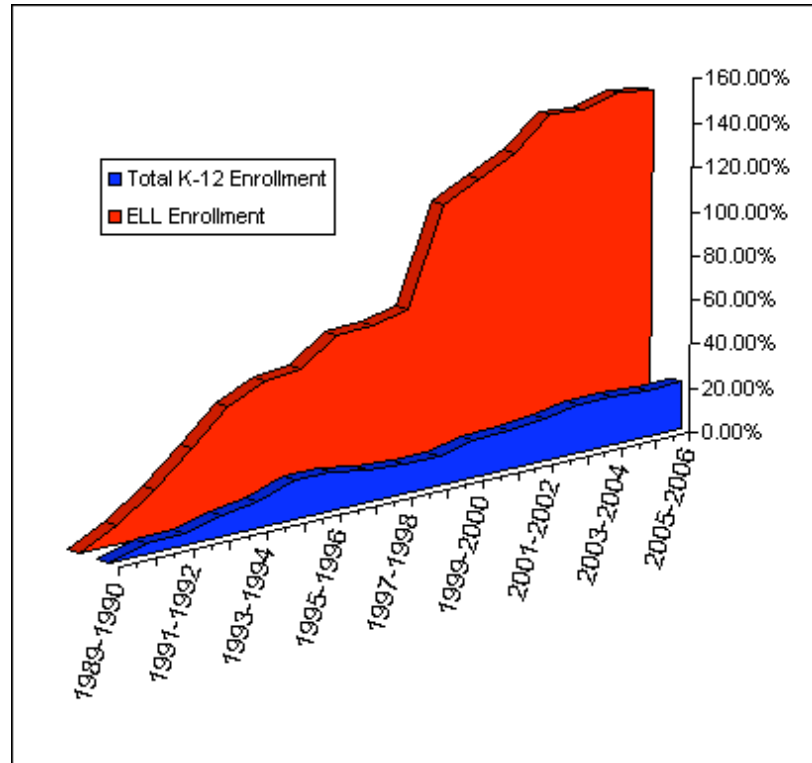


- Demographic changes make the education of ELL students one of the most important challenges facing public education in America.



- Between 1989-1990 and 2005-2006 ELL enrollment has more than doubled.

Relative Growth in ELL and Total Enrollment in U.S. Schools, 1989-1990 to 2005-2006



SOURCE: U.S. Department of Education's survey of the states' limited English proficient students and available educational programs and services, 1991-92 through 2001-2002 summary reports. Supplemented by state publications (1998-99 data), enrollment totals from the National Center for Education Statistics (NCES), 2004-2006 Consolidated State Performance Reports, and data reported by states.



Factors Affecting Academic Success

- Prior schooling
- Literacy
- Age
- Health, diet, trauma
- Motivation
- Parental support
- Socio-economic level

Unrealistic Expectations





Discrimination Claims:

- Equal Protection Clause
- Minnesota Human Rights Act / Title VI
- Equal Educational Opportunities Act



EEOA requires districts to take **“appropriate action”** to overcome language barriers that impede equal participation by its students in its instruction programs.



What is “appropriate action”?

Castaneda v. Pickard:

- Program based on sound educational theory
- Program effectively implements educational theory
- Program produces results that language barriers are overcome



Methods of Enforcement at the Federal Level

- Litigation
- Agency Reviews
- NCLB Sanctions




Office of Civil Rights (OCR)

1991 OCR Policy Update on Schools'
Obligations Toward National Origin
Minority Students with Limited English
Proficiency



OCR Examples of Sound Educational Theories

- Transitional Bilingual
- Bilingual/Bicultural
- Structured Immersion
- Developmental Bilingual
- English as a Second Language



A program that effectively
implements educational theory
should have...

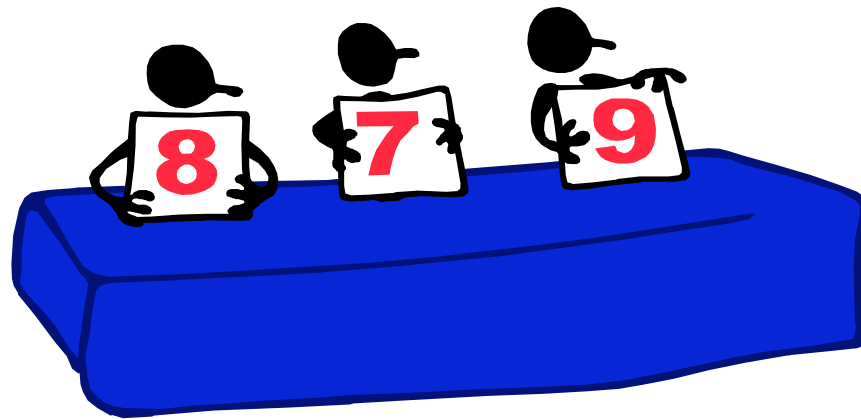


Qualified Staff



- Teachers licensed or with an exemption
- Bilingual teacher proficient in English and language of instruction AND subject matter
- Paraprofessionals in Districts receiving Title III funds proficient in English and language of instruction AND working with teacher

Evaluation of ELL Teachers



- Evaluated by individual familiar with educational theory
- Use of “validated evaluative instruments”

ELL Teacher Training



- Coordinated with school district's professional development
- On-going and related to needs of students
- MDE can provide technical assistance



Placement of ELL Students

- Developmentally appropriate assessment
- Parental notification of placement and right to withdraw
- Continued evaluation of progress of students



Evaluating ELL Students for Special Education Services

- Over-identifying students based upon language needs vs. under-identifying students



Limited Segregation of ELL Students

- To the extent possible avoid isolating ELL students for substantial part of the day
- ELL students shall participate in art, music, physical education
- ELL have access to gifted, honors and extracurricular activities



Graduation Requirements



- Communicate number of credits and testing requirements
- Two years before anticipated date of graduation develop a plan of remediation

ELL Program Has Exit Criteria



- Based on objective standards
- Students will be able to participate meaningfully in a regular classroom
- Provide additional assistance to remedy any academic deficits



QUESTIONS

