



## Laws and Court Cases Related to National Origin Equity and Desegregation

**National Origin Desegregation Assistance** - *National origin desegregation* means the assignment of students to public schools and within those schools without regard to their national origin, including providing students of limited English proficiency with a full opportunity for participation in all educational programs.

**U.S. Constitution Amendment 14 (1868)** - This amendment states, “No state shall... deny to any person within its jurisdiction the equal protection of the laws.” It does the following:

- Protects the privileges and immunities of all citizens.
- Provides equal protection under the law.
- Gives Congress power to enforce by legislation.

**Brown vs. Board of Education (1954)** - *Brown vs. Board of Education* established the first reference to education as a “right which must be made available to all on equal terms.” It did the following:

- Struck down the separate but equal doctrine.
- Declared separation of Black students and White students unconstitutional.
- Ordered desegregation of schools with “deliberate speed.”

For more on the promise of the *Brown* decision go to <http://www.idra.org/mendezbrown/index.html>

**Civil Rights Act (1964)** - This act did the following:

- Forbade discrimination on account of race, color, age, creed or national origin in any federally funded activity.
- Authorized the U.S. Department of Health, Education and Welfare to apply compliance procedures and reviews and to withhold funds.
- Authorized the Department of Justice to sue in federal court to secure the desegregation of public facilities.
- Authorized the U.S. Office of Education to provide financial assistance.

**Title VI of the Civil Rights Act** - provided that “no person shall be subjected to discrimination on the basis of race, color or national origin under any program or activity receiving federal financial assistance.”

### Elementary and Secondary Education Act (ESEA)

In 1965, Title I provided assistance for the education of children from low-income families.

In 1968, Title VII provided assistance for programs designed to meet the needs of limited-English-proficient students.

**U.S. Department of Health, Education and Welfare Memorandum of May 25, 1970**  
- This memo states: “Where inability to speak and understand the English language

excludes national origin minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.” It did the following:

- Affirmed the application of the *Civil Rights Act (1964)* to language-minority children.
- Identified three main areas of concern:
  - unequal access to participation in school programs because of language;
  - segregation by tracking, ability grouping and assignment to special education programs; and
  - exclusion of parents from school information.
- Instructed the Office for Civil Rights to implement, review and enforce compliance procedures.

**Lau vs. Nichols (1974)** - This court case ruling states, “Under these state-imposed standards there is no equality of treatment merely by providing the same facilities, textbooks, teachers and curriculum for students who do not understand English effectively.” It did the following:

- Found a denial of equal educational opportunity under the Civil Rights Act of 1964.
- Affirmed the authority of the U.S. Department of Health, Education and Welfare to enforce the *Civil Rights Act of 1964* (equal educational opportunity).
- Affirmed the validity of the May 25th Memorandum extending the *Civil Rights Act of 1964* to language-minority children.
- Affirmed the authority of the U.S. Department of Health, Education and Welfare “to require affirmative remedial efforts to give special attention to linguistically deprived children.”

In the decision, Justice Douglas stated: “Basic English skills are at the very core of what the public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program, he must already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experience totally incomprehensible and in no way meaningful.”

**Doe vs. Plyler (1982)** - The Supreme Court ruled that the 14th Amendment prohibits states from denying a free public education to undocumented immigrant children regardless of their immigrant status. The Supreme Court emphatically declared that school systems are not agents for enforcing immigration law and determined that the burden undocumented aliens may place on an educational system is not an accepted argument for excluding or denying educational service to any student.

Public schools are prohibited at any time from:

- denying undocumented students admission to school on the basis of their undocumented status;
- treating undocumented students disparately on the basis of their undocumented status to determine residency;

- requiring students or parents to disclose or document their immigration status;
- making inquiries of students or parents that may expose their undocumented status; and
- requiring social security numbers of all students, as it may expose the undocumented status of students or parents.

### **Other Federal Court Decisions Related to Education of Limited-English-Proficient Students**

These federal decisions apply to all school districts receiving federal funds. Districts that have few limited-English-proficient students are not exempted from providing appropriate services.

**Serna vs. Portales (1974)** - The 10th Circuit Court of Appeals found “undisputed evidence that Spanish surnamed students do not reach the achievement levels attained by their Anglo counterparts.” The court ordered Portales Municipal Schools to design an educational plan that addressed national origin minority students’ needs by implementing a bilingual and bicultural curriculum, reviewing testing procedures to assess achievement in that curriculum, and recruiting and hiring bilingual school personnel.

**Cintron vs. Brentwood (1978)** - The Federal District Court for the Eastern District of New York rejected the Brentwood School District’s plan to restructure its bilingual program, finding that the proposed plan “kept [Spanish-speaking students] in music and are in violation of the *Lau* Guidelines.” The program also failed to provide for existing students whose English language proficiency would enable them to understand regular English instruction.

**Rios vs. Reed (1978)** - The Federal District Court for the Eastern District of New York found Pastchogue-Medford School District’s transitional bilingual program inadequate, with regard to school professionals’ knowledge of bilingual teaching methods, language assessment and program placement procedures, native language curriculum materials and native language instruction. The court wrote: “while the district’s goal of teaching Hispanic children the English language is certainly proper, it cannot be allowed to compromise a student’s right to meaningful education before proficiency in English is obtained.”

**Castaneda vs. Pichard (1981)** - The Fifth Circuit Court of Appeals formulated a test to determine school district compliance with the *Equal Educational Opportunities Act* (1974). The three-part test includes the following criteria:

- *Theory*: The school must pursue a program based on an educational theory recognized as sound or at least, as a legitimate experimental strategy.
- *Practice*: The school must actually implement the program with instructional practices, resources and personnel necessary to transfer theory to reality.
- *Results*: The school must not persist in a program that fails to produce results.

The “Castaneda Test” has been applied by courts in *Keyes vs. School District #1* and *Gomez vs. Illinois*.

**Keyes vs. School District #1 (1983)** - A U.S. District Court found that a Denver public school district had failed to satisfy the second of the “Castaneda Test’s” three elements because it was not adequately implementing a plan for national origin minority students.

**Gomez vs. Illinois (1987)** - The Seventh Circuit Court of Appeals found that state education agencies as well as local education agencies are required, under the *Equal Educational Opportunities Act* (1974), to ensure that the needs of limited-English-proficient children are met.

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