

Federal and State Regulations

Overview of Title III: English as a Second Language

Tennessee Rules and Regulations require that students whose first language is other than English and who are limited in their English language proficiency be provided with a specially designed alternative language program. [Rule 0520-1-3-.056. a. 1 and 2 ii.] In Tennessee, this specially designed language program is English as a Second Language (ESL). ESL programs must be delivered by an endorsed ESL teacher using the ESL curriculum. The ESL curriculum is a general set of English language acquisition standards that should be used in conjunction with content standards. These standards address the language support necessary to enable the English Language Learner (ELL) to access the grade level content curriculum by providing a bridge to the academic content curriculum.

All students registering in the district must be given a Home Language Survey. Every student who has anything other than English notated on the survey must be assessed with the WIDA-ACCESS Placement Test (W-APT). Students who qualify for services are required to receive a minimum of 60 minutes of ESL services daily; students who score proficient, do not qualify for ESL services. In the spring, all English Language Learners (ELLs) take the Assessing Comprehension and Communication in English State-to-State for English Language Learners (ACCESS). These scores are used to determine student progress and account for two of the three AMAOs for ESL district-wide. Students who score a composite high enough to exit on the ACCESS are exited from services and begin transitioning out of the program. When this happens, an ESL teacher will monitor their progress for two years to confirm acquisition of the English language. Concerning TCAP: ELLs must take the math, language arts, social studies, and science TCAP annually. The only exception is for students who have been in US schools for less than 365 days, and even then *they are only exempt from the English Language Arts Achievement Test*.

Some important facts to remember:

- ELLs may never be retained or failed based on language ability.
- ELLs are entitled to a free, public education regardless of immigration status.
- ELLs must have full access to content curriculum through necessary accommodations.
- ELLs should be allowed to participate in all extra-curricular programs if they wish.
- Most ELLs are required to receive 60 minutes of ESL services daily.
- ESL teachers are not required to act as translators.

The Rights of ESL Students

Family Educational Rights and Privacy Act (FERPA): Schools must educate children without regard to immigration status; schools cannot fail or refuse entrance because of English ability; students must receive equal access to enrichment and special education services; students have

a right to an age/grade appropriate education; students must be screened for ESL services; students must be educated equitably as compared to other students; students must have full access to the entire curriculum.

1964 Civil Rights Act Title VI: “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

1974 Equal Educational Opportunities Act (EEOA): 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.

1974 Lau v. Nichols: A person's language is so closely intertwined with their national origin (the country someone or their ancestors came from) that language-based discrimination is effectively a proxy for national origin discrimination.

1981 Castañeda v. Pickard: The bilingual education program must be based on sound educational theory. The program must be implemented effectively with resources for personnel, instructional materials, and space. After a trial period, the program must be proven effective in overcoming language barriers/handicaps.

1982 Plyer v. Doe: The Fourteenth Amendment prohibits states from denying a free public education to undocumented immigrant children regardless of their immigrant status. The 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 services.