



Illinois State Board of Education

Professional Development Modules: English Learner Tool Kit

Chapter Seven—ELs Who Opt Out of Programs

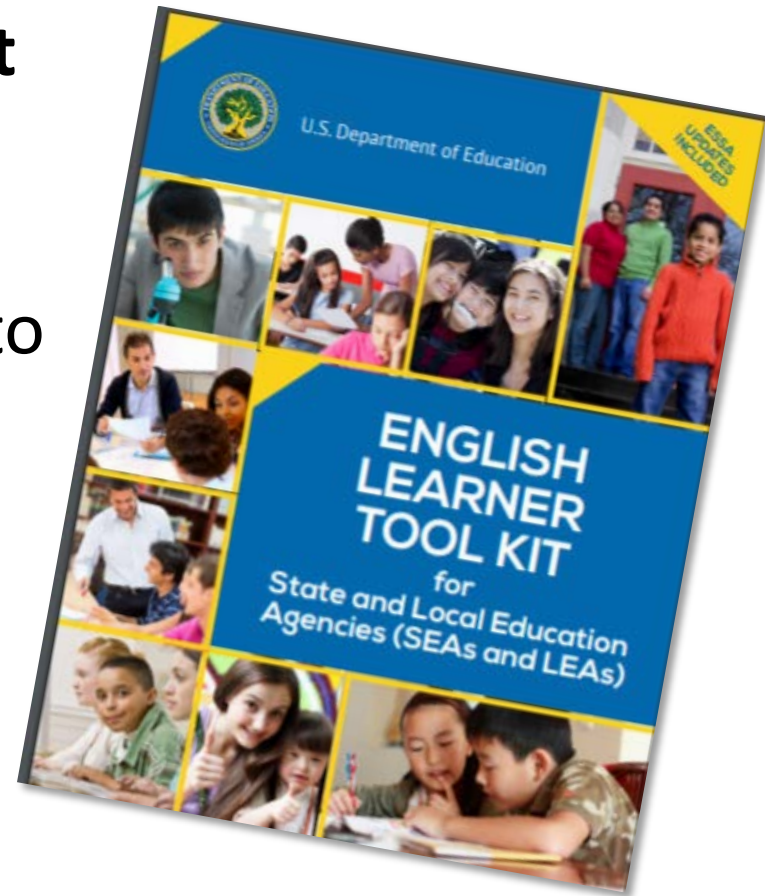
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Purpose

The **Professional Development Modules: English Learner Tool Kit** is a series of presentations intended to provide guidance to help local education leaders meet their legal obligations to English learners (ELs) and enhance existing EL practices to meet the needs of all EL students, parents, and families.





English Learner Tool Kit Topics

1. Identifying All ELs
2. Language Assistance Programs
3. Staffing and Supports
4. Meaningful Access
5. Inclusive Environment
6. ELs With Disabilities
7. **ELs Who Opt Out of Programs**
8. Monitoring and Exiting EL Programs
9. Evaluation of EL Programs
10. Ensuring Meaningful Communication With Limited-English-Proficient Parents



Significant Legal History

□ Title VI of the Civil Rights Act, 1964

- Prohibits discrimination on the grounds of race, color, or national origin by recipients of federal financial assistance.
- The Title VI regulatory requirements have been legally interpreted to prohibit **denial of equal access to education** because of a language minority student's limited proficiency in English.



Significant Legal History

□ *Lau v. Nichols* Court Case, 1974

- Case dealt with San Francisco school system's failure to provide English language instruction to 1,800 students of Chinese ancestry.
- U.S. Supreme Court unanimously ruled that a lack of supplemental instruction for ELs denies them a **meaningful** opportunity to participate in education programs, which violates the Civil Rights Act of 1964.



Significant Legal History

- Equal Educational Opportunities Act (EEOA), 1974
 - Prohibits states from denying equal educational opportunity to an individual on account of his or her race, color, sex, or national origin.
 - The statute specifically prohibits states from **denying equal educational** opportunity by the failure of an education agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

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

—*Justice William Douglas*





Legal Obligations

- The U.S. Department of Education's Office of Civil Rights (OCR) and the U.S. Department of Justice (DOJ) share enforcement authority.
- Issued joint guidance in 2015 to help states, districts, and schools meet legal obligations to ELs.
- Guidance identifies [10 common civil rights issues for ELs.](#)





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Serving English Learners Who Opt Out of EL Programs

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English Learner Tool Kit

Chapter 7: Tools and Resources for Serving English Learners Who Opt Out of EL Programs

KEY POINTS

- Parents have the right to opt their children out of EL programs or particular EL services. This decision must be voluntary and based on a full understanding of the EL child's rights, the range of services available to the child, and the benefits of such services to the child.
- If a parent decides to opt his or her child out of EL programs or particular EL services, that child still retains his or her status as an EL.
- Local education agencies (LEAs) must continue to monitor the English language proficiency (ELP) and academic progress of students who opt out of EL programs and services. If a student does not demonstrate appropriate growth in ELP or maintain appropriate academic levels, the LEA must inform the parents in a language they understand and offer EL services.





English Learner Tool Kit

Chapter 7: Tools and Resources for Serving English Learners Who Opt Out of EL Programs

KEY POINTS

- Parents have the **right to opt their children out** of EL programs or particular EL services. This decision must be voluntary and based on a full understanding of the EL child's rights, the range of services available, and the benefits of such services.
- If a parent decides to opt his or her child out of EL programs or services, that child still **retains his or her status as an EL.**



English Learner Tool Kit

Chapter 7: Tools and Resources for Serving English Learners Who Opt Out of EL Programs

KEY POINTS

- LEAs must continue to **monitor the English language proficiency** (ELP) and academic progress of students who opt out of EL services. If a student does not demonstrate appropriate academic or ELP growth, the LEA **must inform the parents** in a language they understand and **offer EL services**.



Pause and Reflect

- What is our mechanism for documenting which students opt out of services, including tracking communications with families in a language that they understand?
- What is our process to explore the cause of high opt-out rates for EL services (where applicable)?
- Are we making sure that ELs who have opted out are still assessed for ELP annually?





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Illinois Requirements

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Opting Out of EL Programs

NOTICE OF ENROLLMENT:

Parents need to be notified of their student's placement in EL services within 30 days, if enrollment happens at the beginning of the school year (14 days, if enrollment happens in the middle of the year).

After the notification, a parent may request that the student be removed from EL services.





English Language Proficiency Assessment Is Required for All ELs

Students who are not enrolled in an EL program, but who have been identified as ELs, are required to participate in the ELP assessment each year until they achieve proficiency.





Pause and Reflect

- How do we inform families about their children's status and the right to opt out?
- What procedures do we have in place to address families' concerns about services and program quality?
- What is our process for families to revisit their opt-out decision?





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Additional Resources to Consider From the EL Toolkit

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Tools for Supporting an English Learner Program

Tool #1

Statutorily Required Elements of Parent Notification Letter

Cites relevant Title I requirements for notifying parents of their children's EL status and their right to opt their children out of EL programs or particular EL services.



Tools for Supporting an English Learner Program

Tool #2

Sample English Learner Programs and Services Opt-Out Notification

Provides one example of a form that districts could use to provide documentation for legal compliance when a parent has expressed the desire to opt his or her child out of EL programs or particular EL services.



Tools for Supporting an English Learner Program

Tool #3

Sample Notification to Opt a Child Back Into English Learner Programs or Services

Provides one example of a form that school districts could use to provide documentation when a parent revisits his or her decision and decides to opt the child back into EL programs or particular EL services.



Resources

English Learner Tool Kit (see Chapter 7 on tracking progress of ELs):

<http://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/index.html>

Dear Colleague Letter: Guidance to ensure equal opportunities for English learners:

<https://www.justice.gov/crt/guidance-ensure-equal-opportunities-english-learner-students>

Illinois School Code 14C: Transitional Bilingual Programs:

<http://ilga.gov/legislation/ilcs/ilcs4.asp?DocName=010500050HArt%2E+14C&ActID=1005&ChapterID=17&SeqStart=119100000&SeqEnd=120600000>

Illinois Administrative Code 228: Transitional Bilingual Education:

<https://www.isbe.net/Documents/228ARK.pdf>

Illinois State Board of Education English Learners Parent Notification of Enrollment Requirements:

<https://www.isbe.net/Pages/Parent-Notification-of-Enrollment-Requirements.aspx>



Further Reading

- Bell, T., & Zantal-Wiener, K. (2015). *Sample notification to opt a child back into English learner programs or services*. Silver Spring, MD: National Clearinghouse for English Language Acquisition (NCELA). Retrieved from https://ncela.ed.gov/files/forms/sample_notification_to_opt_in.pdf
- U.S. Department of Education, Office for Civil Rights, and U.S. Department of Justice. (2015, January). *Dear colleague letter: English learner students and limited English proficient parents*. Retrieved from <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf>
- Zantal-Wiener, K., & Bell, T. (2015). *Sample English learner programs and services opt-out notification*. Silver Spring, MD: NCELA. Retrieved from http://ncela.ed.gov/files/forms/sample_notification_to_opt_out.pdf