

CHAPTER 5



TOOLS AND RESOURCES FOR CREATING AN INCLUSIVE ENVIRONMENT FOR AND AVOIDING THE UNNECESSARY SEGREGATION OF ENGLISH LEARNERS

This is the fifth chapter of the *English Learner Tool Kit*, which is intended to help state and local education agencies (SEAs and LEAs) meet their obligations to English Learners (ELs). This tool kit should be read in conjunction with the U.S. Department of Education Office for Civil Rights' (OCR) and the U.S. Department of Justice's (DOJ) Dear Colleague Letter on "English Learner Students and Limited English Proficient Parents," published in January 2015, which outlines SEAs' and LEAs' legal obligations to ELs under civil rights laws and other federal requirements. The Dear Colleague Letter can be found at <http://www2.ed.gov/about/offices/list/ocr/ellresources.html>.

CREATING AN INCLUSIVE ENVIRONMENT FOR AND AVOIDING THE UNNECESSARY SEGREGATION OF ENGLISH LEARNERS

KEY POINTS

- LEAs must limit the segregation of ELs to the extent necessary to reach the stated goals of an educationally sound and effective program.
- LEAs should not keep ELs in segregated EL programs (or "EL-only" classes) for periods longer or shorter than required by each student's level of English proficiency, time and progress in the EL program, and the stated goals of the EL program.
- While ELs may receive intensive English language instruction or bilingual services in separate classes, it would rarely be justifiable to segregate ELs from their non-EL peers in subjects like physical education, art, music, or other activity periods outside of classroom instruction.



Preparing all students for college, careers, and civic life begins with creating an inclusive and welcoming school climate where effective teaching and learning occur.

Schools should take steps to create positive school climates that welcome diversity and that prevent and address inappropriate behaviors, such as bullying and harassment. Such positive steps include training staff, engaging families and community partners, and helping students develop social-emotional skills that include conflict resolution. For additional information on school climate from the U.S. Department of Education, see *Guiding Principles: A Resource Guide for Improving School Climate and Discipline* at <http://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf>. As part of an inclusive school climate, LEAs should implement

educationally sound and effective EL programs and limit the degree of segregation of ELs to what the program requires.

EL programs may not segregate students on the basis of national origin or EL status unless there is a program-related, educational justification for doing so. Programs that allow for continuous inclusion and interaction between ELs and non-ELs, such as two-way immersion programs, do not raise concerns about segregation.

In addition, LEAs should not keep EL students in EL programs for periods that are longer or shorter than necessary to achieve the program's educational goals. The degree of segregation should be necessary to achieve the stated goals of the program and required by each

You can access **Tools and Resources for Creating an Inclusive Environment for English Learners** at <http://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/index.html>.

student's level of English language proficiency (ELP) and his or her time and progress in the EL program. For example, as ELs in a Spanish-transitional bilingual education program acquire higher levels of ELP, they should be transitioned from EL-only classes in Spanish into integrated content classes in English. These should include continued supports, as needed, in the students' primary languages or other supports needed to access the content. Further, while ELs may receive intensive English language instruction or bilingual services in separate classes, it would rarely be justifiable to segregate them from their non-EL peers in subjects like physical education, art, music, or other activity periods (e.g., lunch, recess, assemblies, and extracurricular activities). Research shows that when placed at length in segregated settings, ELs may be at risk for school failure, delayed graduation, and negative academic self-concepts (Gandara & Orfield, 2010).

Therefore, before placing an EL in an EL program that contains a degree of segregation, an LEA should ensure that (1) the degree of segregation in the program is necessary to achieve the goals of an educationally sound and effective program; (2) the EL has comparable access to the standard curriculum within a reasonable period of time; and (3) the ELs in the EL program have the same range and level of extracurricular activities and additional services as non-EL students.

Some LEAs establish newcomer programs that are designed to help high school-age immigrant students develop linguistic, academic, and cultural skills. LEAs operating such programs should focus on increasing their inclusion by limiting the duration of self-contained newcomer programs (generally to one year) and regularly evaluating students' ELP to allow appropriate transitions out of newcomer programs throughout the academic year.

It is important to note that participation in a segregated EL program is voluntary. Further, the LEA should at least annually assess the ELP and appropriate level of language assistance for its ELs and determine their eligibility to exit.

See Chapter 2 for information on educationally sound and effective programs, Chapter 7 for information on parents' rights to opt their EL students out of EL programs or particular EL services, and Chapter 8 for information on monitoring and exiting ELs.

The following checklist is intended to assist SEAs and LEAs in determining whether their EL programs unnecessarily segregate ELs from non-ELs. The checklist provides suggested questions only. Schools and LEAs should check their SEAs' policies and federal guidance to ensure compliance.

- ★ What steps have been taken to develop positive and inclusive school climates for ELs?
- ★ What are the stated educational goals of the EL program? Is the degree of segregation necessary to achieve those goals?
- ★ Does the degree of segregation decrease commensurate with ELs' rising ELP levels as well as their time and progress in the EL program?
- ★ Do EL students participate with their non-EL peers during
 - grade-level curriculum?
 - extracurricular activities?
 - after-school activities?
 - other subjects (e.g., physical education, art, music)?
- ★ Is the EL program carried out in the least segregative manner, consistent with achieving the program's stated educational goals?
- ★ Have parents been informed of their right to opt their children out of the EL program or particular EL services?
- ★ Does the LEA at least annually assess the ELP of ELs and base program placement decisions on that data?
- ★ How is EL student progress monitored and assessed throughout the school year to inform instruction and placement?
- ★ For those EL students who are newcomers:
 - Does the LEA offer a segregated newcomer program? If so, is participation in it voluntary?
 - Is participation in a newcomer program based on ELs' academic and linguistic needs and not perceived behavior issues or other perceived needs?
 - Does the LEA offer opportunities for ELs in a newcomer program to take classes and participate in activities with non-ELs?
 - What support is provided to assist ELs to successfully transition out of newcomer programs?

CREATING AN INCLUSIVE ENVIRONMENT FOR AND AVOIDING THE UNNECESSARY SEGREGATION OF ENGLISH LEARNERS

TOOLS

The U.S. Department of Education does not mandate or prescribe particular curricula, lesson plans, assessments, or other instruments in this tool kit. This tool kit contains examples of, adaptations of, and links to resources created and maintained by other public and private organizations. This information is provided for the reader's convenience and is included here to offer examples of the many resources that educators, parents, advocates, administrators, and other interested parties may find helpful and use at their discretion. The U.S. Department of Education does not control or guarantee the accuracy, relevance, timeliness, or completeness of this outside information. Further, the inclusion of links to items does not reflect their importance, nor is it intended to endorse any views expressed, or materials provided. All links were verified on August 11, 2015.

The following set of tools is intended to help schools, LEAs, and SEAs to create welcoming and inclusive environments for and avoid the unnecessary segregation of ELs. The tools give tips on how to begin conversations about diversity and address bullying and harassment. They also provide a sample self-monitoring aid to avoid unnecessary segregation.

Tool #1, Diversity Self-Assessment, can help generate conversation among teachers and other education personnel on the topic of diversity.

Tool #2, Resources to Address Bullying and Harassment, provides resources to help address the bullying and harassment of ELs.

Tool #3, Sample Self-Monitoring Aid, can help schools, LEAs, and SEAs monitor the extent to which ELs are segregated in order to address any potential issues.



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TOOL #1

DIVERSITY SELF-ASSESSMENT

This Diversity Self-Assessment tool has been reprinted with permission from the Council for Exceptional Children. It can be used by individual teachers or during administrative team meetings, professional development sessions, or district planning meetings. Educators, administrators, and other stakeholders can answer the questions below to “examine their assumptions and biases in a thoughtful and potentially productive way.” This tool can be adapted from an individual to a team-building tool in order to engage in conversations on diversity.

DIVERSITY SELF-ASSESSMENT

1. What is my definition of diversity?
2. Do the children in my classroom and school come from diverse cultural backgrounds?
3. What are my perceptions of students from different racial or ethnic groups? With language or dialects different from mine? With special needs?
4. What are the sources of these perceptions (e.g., friends, relatives, television, movies)?
5. How do I respond to my students, based on these perceptions?
6. Have I experienced others' making assumptions about me based on my membership in a specific group?
How did I feel?
7. What steps do I need to take to learn about the students from diverse backgrounds in my school and classroom?
8. How often do social relationships develop among students from different racial or ethnic backgrounds in my classroom and in the school? What is the nature of these relationships?
9. In what ways do I make my instructional program responsive to the needs of the diverse groups in my classroom?
10. What kinds of information, skills, and resources do I need to acquire to effectively teach from a multicultural perspective?
11. In what ways do I collaborate with other educators, family members, and community groups to address the needs of all my students?

Source: Montgomery, W. (2001). Creating culturally responsive, inclusive classrooms. *Teaching Exceptional Children*, 33(4), 4-9. Retrieved from http://www.nclr.org/images/uploads/general/A1d_%20Creating%20CR%20Classrooms.pdf

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TOOL #2

RESOURCES TO ADDRESS BULLYING AND HARASSMENT

As part of the White House Initiative on Asian Americans and Pacific Islanders (AAPI), the U.S. Department of Education, the U.S. Department of Health and Human Services, and the U.S. Department of Justice collaborated to form an AAPI Bullying Prevention Task Force (AAPI Task Force). The AAPI Task Force recently launched a bullying prevention website, available at <http://www.ed.gov/edblogs/aapi/aapi-bullying/>. The website includes timely, relevant statistics about bullying, specifically bullying related to race, religion, or immigration status. It also provides links to useful resources from multiple federal agencies, many of which are available in multiple languages.



INFORMATION ON BULLYING AND HARASSMENT

- Some students, such as Micronesian students whose families have recently immigrated to the United States, face bullying and harassment based on their immigration status.
- Other students are bullied for the way they look or for their lack of English language skills. One [2014 study](#) found that 67 percent of turbaned Sikh youths in Fresno, California, have experienced bullying or harassment.
- A [2012 survey](#) found that half of the 163 Asian-American New York City public school student participants reported experiencing some kind of bias-based harassment, compared with only 27 percent in 2009.
- Another [2012 survey](#) found that 50 percent of Muslim youths surveyed experienced verbal or social bullying because of their religion.

SAMPLE RESOURCES AVAILABLE

Federal Partners in Bullying Prevention

<http://www.stopbullying.gov>

Video: [Overview of School Districts' Federal Obligation to Respond to Harassment](#)

U.S. Department of Justice

Harassment Fact Sheet – [English](#) | [Punjabi](#)

[Community Relations Service: Flyer on Student Problem Identification and Resolution of Issues Together – SPIRIT](#)
 “Federal Protections Against National Origin Discrimination” [Arabic](#), [Cambodian](#), [Chinese](#), [English](#), [Farsi](#), [French](#),
[Haitian Creole](#), [Hindi](#), [Hmong](#), [Korean](#), [Laotian](#), [Punjabi](#), [Russian](#), [Spanish](#), [Tagalog](#), [Urdu](#), [Vietnamese](#)

U.S. Department of Education, Office for Civil Rights

OCR Fact Sheet on Harassment and Bullying (October 2010): [English](#) | [Chinese](#) | [Korean](#) | [Punjabi](#) | [Tagalog](#) | [Vietnamese](#)

[OCR Fact Sheet on Bullying and Harassment of Students w/ Disabilities](#) (October 2014)

[“Dear Colleague” letter](#) (Oct. 26, 2010) clarifying the relationship between bullying and discriminatory harassment, providing examples of harassment and illustrating how a school should respond in each case

Source: White House Initiative on Asian Americans and Pacific Islanders. Bullying (Web page). Retrieved from <http://www.ed.gov/edblogs/aapi/aapi-bullying/>

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TOOL #3

SAMPLE SELF-MONITORING AID

The following tool is a self-monitoring aid that schools, LEAs, and SEAs can use to determine if ELs are unnecessarily segregated from their non-EL peers. The sample tool is based on current LEA and SEA tools. The form begins with key guidelines for creating an inclusive environment for ELs.

CREATING AN INCLUSIVE ENVIRONMENT FOR ELs: SELF-MONITORING FORM

KEY GUIDELINES

- While most EL programs require that EL students receive separate instruction for a limited period of time (e.g., a period of ESL), LEAs must implement each program in the least segregative manner, consistent with achieving the program's stated educational goals.
- LEAs must ensure that (1) parents are informed that they have the right to opt their children out of the EL program or particular EL services, and (2) EL students have their English proficiency assessed at least annually to ensure appropriate placement and levels of language assistance services.
- LEAs should not keep EL students in EL programs for periods longer or shorter than necessary to achieve the program's educational goals, and the degree of segregation should not exceed that required by each student's level of ELP and time and progress in the EL program.
- LEAs operating newcomer programs or schools should limit the duration of self-contained newcomer programs (to generally one year) and regularly evaluate students' ELP to allow appropriate transitions into more integrated EL programs throughout the academic year.

Elements to Support Inclusion	Rating 5 = All of the time 4 = Most of the time 3 = Some of the time 2 = Rarely 1 = Never	Evidence to Support Rating	Needed Action
1. Vision			
a. The LEA values and celebrates student diversity as reflected in its organizational vision or mission statement.			
b. Leadership is knowledgeable about civil rights laws as they pertain to English Learners.			
c. The LEA has a plan of action to facilitate an inclusive school culture and climate.			

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TOOL #3: SAMPLE SELF-MONITORING AID (CONTINUED)

Elements to Support Inclusion	Rating 5 = All of the time 4 = Most of the time 3 = Some of the time 2 = Rarely 1 = Never	Evidence to Support Rating	Needed Action
2. Program Placement			
a. The LEA's enrollment forms do not inquire about students' or their parents' immigration status.			
b. The LEA does not segregate EL students from their English-speaking peers, except where programmatically necessary, to implement an educationally sound and effective EL education program.			
c. If it is programmatically necessary to separate ELs from their English-speaking peers for part of the school day, the LEA (or SEA when prescribing the EL program) provides guidance on the amount of time that is instructionally appropriate for each program model and the ELs' ELP level and time and progress in the program.			
d. ELs participate fully with their non-EL peers in subjects like physical education, art, music, or other activity periods outside of classroom instruction (e.g., recess, lunch, and assemblies).			
e. The LEA ensures that participating in an EL program is voluntary by informing parents of their right to opt their children out of EL programs and services.			
f. Program facilities and resources are comparable to the facilities and resources of the non-EL student population.			

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TOOL #3: SAMPLE SELF-MONITORING AID (CONTINUED)

Elements to Support Inclusion	Rating 5 = All of the time 4 = Most of the time 3 = Some of the time 2 = Rarely 1 = Never	Evidence to Support Rating	Needed Action
3. Curriculum			
a. The LEA ensures that ELs have access to the same academic standards and rigorous curriculum as their non-EL peers.			
b. The LEA ensures that EL students have the opportunity to enter academically advanced classes, receive credit for work done, and have access to the full range of programs as non-EL students.			
4. Assessment and Monitoring			
a. ELs are included in SEA and LEA assessments.			
b. Classroom assessments are culturally and linguistically appropriate.			
c. The LEA regularly monitors EL placement patterns to ensure that placement decisions are based on each student's level of ELP and time and progress in the EL program.			
5. Access to Support Services and Activities			
a. The LEA provides access to the full range of academic instruction and supports including special education and/or related aids and services for eligible students with disabilities under the <i>Individuals With Disabilities Education Act</i> and <i>Section 504 of the Rehabilitation Act of 1973, Title I</i> services, career and technical education, magnet programs, and any other services and supports available to non-EL students.			
b. The LEA ensures that ELs have equal access to all co-curricular and extracurricular activities.			

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TOOL #3: SAMPLE SELF-MONITORING AID (CONTINUED)

Elements to Support Inclusion	Rating 5 = All of the time 4 = Most of the time 3 = Some of the time 2 = Rarely 1 = Never	Evidence to Support Rating	Needed Action
6. Staffing			
a. The EL program is staffed with teachers who are qualified to provide EL services, core-content teachers who are highly qualified in their field as well as trained to support EL students, and trained administrators who can evaluate these teachers.			
b. The LEA provides resources to support the professional learning of all staff in the requirements for EL inclusion and effective EL instructional practices.			
c. The LEA provides appropriate administrative support for implementing inclusive practices for ELs.			
7. Communication with Students and Families			
a. Limited English proficient (LEP) parents are provided information in a language they understand about any program, service, or activity that is called to the attention of non-LEP parents.			
b. Parents of ELs are involved as members of school and LEA committees and engaged in decision-making activities affecting their children's education.			
c. The LEA provides support to schools in their efforts to reach out to families and engage them as partners in their children's education.			
d. The LEA provides parents with information, training, and support that are respectful of cultural and linguistic diversity.			

Source: Belknap, B., & Zantal-Wiener, K. (2015). Creating an inclusive environment for ELs: Self-monitoring form. Silver Spring, MD: National Clearinghouse for English Language Acquisition (NCELA). Retrieved from <http://ncela.ed.gov/inclusive-environment-els-sample-monitoring-form>

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Language Lizard. (2011). Eight tips to protect ELLs from bullying in your classroom and school.

Retrieved from the Colorín Colorado website:
<http://www.colorincolorado.org/article/55612/>

This article explains how ELs are often bullied and mocked because of their accents and diverse cultural characteristics. Included are suggestions and resources for families and teachers to help ELs understand and cope with bullying.

Mendez v. Westminster School District of Orange County, 64 F. Supp. 544 (S.D. Cal. 1946), aff'd, 161 F.2d 774 (9th Cir. 1947) (en banc). Retrieved from http://www.esauboeck.com/index/Mendez_v_Westminster_64_FSupp_544

This federal court case, brought by the fathers of five Mexican and Mexican-American students, challenged racial segregation of Mexican and Mexican-American students in Orange County, California, schools. The United States Court of Appeals for the Ninth Circuit ultimately held that the segregation of these students into separate "Mexican schools" was unconstitutional. This case preceded *Brown v. Board of Education* and laid the foundation for ending school segregation.

Menken, K., Kleyn, T., & Chae, N. (2012). Spotlight on "long-term English language learners": Characteristics and prior schooling experiences of an invisible population. *International Multilingual Research Journal*, 6, 121-142. Retrieved from <https://katemenken.files.wordpress.com/2011/10/menken-kleyn-chaе-2012-spotlight-on-e2809clong-term-english-language-learnerse2809d-imrj1.pdf>

This article presents qualitative research findings about the characteristics and prior schooling experiences of "long-term English language learners (LTELs)," who have attended U.S. schools for seven years or more, and about whom there is little empirical research, despite their significant numbers. Findings indicate that these students are orally bilingual for social purposes yet have limited academic literacy skills in English or in their native languages as a result of prior schooling experiences. Two main groups of LTELs are identified: (1) students with inconsistent U.S. schooling, who have shifted between bilingual education, English as a Second Language (ESL), and mainstream classrooms with no language support programming, and (2) transnational students, who have moved back and forth between the United States and their families' countries of

origin. It argues that programming for LTELs in high school must be distinctive and offers policy and practice recommendations.

Montgomery, W. (2001). Creating culturally responsive, inclusive classrooms. *Teaching Exceptional Children*, 33(4), 4-9. Retrieved from http://www.nclr.org/images/uploads/general/A1d_%20Creating%20CR%20Classrooms.pdf

The author provides suggestions for creating culturally responsive classrooms to help culturally diverse students understand the meaning of what is being taught and the tasks they must perform. The author provides numerous suggestions for creating a culturally responsive classroom. A first step is to conduct a diversity self-assessment to understand assumptions and biases.

National Education Association. (2012, May). *Focus on Asian American and Pacific Islanders: API students at increased risk for bullying*. Washington, DC: Author. Retrieved from <http://www.nea.org/assets/docs/FocusOnAsianAmPacificIsl.pdf>

This article provides several reasons why Asian-American and Pacific-Islander students are bullied, such as "racial tensions, resentment of immigrants and language barriers . . . , the stereotype of API students as unassertive overachievers, and the spike in attacks against students perceived as Muslim." It includes strategies and resources that schools, teachers, and policy makers can use to "protect students and empower the school community" against bullying.

U.S. Department of Education, Office for Civil Rights. (2010, October). *Dear colleague letter: Harassment and bullying*. Retrieved from <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>

This Dear Colleague Letter outlines the obligations of schools to prevent bullying and harassment on the basis of race, color, national origin, sex, or disability. The guidance draws a distinction between bullying and discriminatory harassment and outlines the obligations of schools to address both forms of student misconduct appropriately. The guidance points to *Title VI of the Civil Rights Act of 1964*, which prohibits discrimination on the basis of race, color, or national origin; *Title IX of the Education Amendments of 1972*, which prohibits discrimination on the basis of

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sex; and *Section 504 of the Rehabilitation Act of 1973* and *Title II of the Americans with Disabilities Act*, which prohibit discrimination on the basis of disability. Schools have responsibilities under these statutes to prevent and address discrimination, sometimes beyond the requirements of their anti-bullying policies. The letter offers several concrete examples in which schools failed to respond to discriminatory student conduct appropriately and guidance on what should have been done differently.

U.S. Department of Education, Office for Civil Rights. (2014, October). *Dear colleague letter: Resource comparability*. (Guidance to ensure all students have equal access to educational resources.) Retrieved from <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-resourcecomp-201410.pdf>

This document provides detailed and concrete information to educators on the standards set in *Title VI of the Civil Rights Act of 1964*, including information on the requirements for educational resources; how OCR investigates resource disparities; and what SEAs, LEAs, and schools can do to meet their obligations to all students. Under *Title VI*, SEAs, LEAs, and schools must not intentionally treat students differently based on race, color, or national origin in providing educational resources. In addition, they must not implement policies or practices that disproportionately affect students of a particular race, color, or national origin, absent a substantial justification. The law does not require that all students receive the exact same resources to have an equal chance to learn and achieve. It does, however, require that all students have equal access to comparable resources in light of their educational needs.

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>

This document provides guidance to assist SEAs, LEAs, and all public schools in meeting their legal obligations to ensure that ELs can participate meaningfully and equally in educational programs and services. This guidance provides an outline of the legal obligations of SEAs and LEAs to ELs under the civil rights laws. Additionally, the guidance discusses compliance issues that frequently arise in OCR and DOJ investigations under *Title VI of the Civil Rights Act of 1964* and the *Equal Educational Opportunities Act* and offers approaches that SEAs and LEAs may use to meet their federal obligations to ELs. A discussion of how SEAs and LEAs can implement their *Title III* grants and subgrants in a manner consistent with these civil rights obligations is included. Finally, the guidance discusses the federal obligation to ensure that limited English proficient parents and guardians have meaningful access to SEA-, LEA-, and school-related information.

White House Initiative on Asian Americans and Pacific Islanders. (n.d.). Bullying. (Web page). Retrieved from <http://www.ed.gov/edblogs/aapi/aapi-bullying/>

The White House Initiative on Asian Americans and Pacific Islanders was created to “improve the quality of life for Asian Americans and Pacific Islanders,” and—through the efforts of its Asian American and Pacific Islander Bullying Prevention Task Force—has a bullying prevention website that includes timely, relevant statistics about bullying and specifically bullying related to race, religion, or immigration status.

To access these and other relevant resources, and for additional information about ELs, please visit <http://www.ncela.ed.gov/>.