



Montana
Office of Public Instruction
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Important Landmark Cases
May, 2022

District:

School:

Segregation: Plessy v. Ferguson (1896) and Brown v. Board of Education (1954)

"In 1896 the U.S. Supreme Court issued its now infamous decision in *Plessy v. Ferguson* that "separate but equal" public facilities, including school systems, are constitutional. Although the decision was related to the segregation of African American students, in many parts of the country Native American, Asian, and Hispanic students were also routinely segregated.

The Supreme Court unanimously reversed *Plessy v. Ferguson* 58 years later in 1954 in *Brown v. Board of Education*."

Like *Plessy*, *Brown v. Board of Education* focused on the segregation of African American students. But by ruling that states are responsible for providing "equal educational opportunities" for all students, **Brown made bilingual education for ELs more feasible.**

Equal Educational Opportunities for ELs: Lau v. Nichols (1974)

"The 1974 Supreme Court case *Lau v. Nichols* resulted in perhaps the most important court decision regarding the education of language-minority students. This case was brought forward by Chinese American students in the San Francisco Unified School District who were placed in mainstream classrooms despite their lack of proficiency in English, and left to "sink or swim." The district had argued that it had done nothing wrong, and that the Chinese American students received treatment equal to that of other students. Justice William Douglas, in writing the court's opinion, strongly disagreed, arguing:

Under these state-imposed standards 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.... We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful.

The influence of *Lau* on federal policy was substantial. After the court's decision, the U.S. Department of Education's Office of Civil Rights created the **Lau Remedies**. Whereas Title VII Bilingual Education Act regulations applied only to funded programs, the Lau Remedies applied to all school districts and functioned as de facto compliance standards."

nce of *Lau* was codified into federal law through the **Equal Educational Opportunities Act of 1974 (EEOA)**, soon after the case was decided. Section 1703(f) of this act declares: "No state shall deny educational opportunities to an individual on account of his or her race, color, sex, or national origin by ... (f) the failure of an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs."

Equal Educational Opportunities for ELs: *Castañeda v. Pickard* (1981)

“This case is reputed to be the most significant court decision affecting language minority students after Lau. In responding to the plaintiffs' claim that Raymondville, Texas Independent School District's language remediation programs violated the Equal Educational Opportunities Act (EEOA) of 1974, the Fifth Circuit Court of Appeals formulated a set of basic standards to determine school district compliance with EEOA.

The "Castañeda test" includes the following criteria: (1) Theory: The school must pursue a program based on an educational theory recognized as sound or, at least, as a legitimate experimental strategy; (2) Practice: The school must actually implement the program with instructional practices, resources, and personnel necessary to transfer theory to reality; (3) Results: The school must not persist in a program that fails to produce results.”

Welcoming and Safe Environment: *Plyler v. Doe* (1982)

All students, regardless of their immigration status, have the right to free public education in U.S. K-12 schools. This right was recognized by the Supreme Court in 1982 in the *Plyler v. Doe* ruling, which held that two school districts in Texas could not impose fees on unauthorized immigrant families, as this violated the equal protection clause of the 14th Amendment.

The guidance also states that districts may not ***“maintain policies that have the effect of prohibiting or discouraging... children from enrolling in schools”*** due to immigration status.

Examples of these policies include: Asking about citizenship status or requiring state-issued identification to establish residency in the school district, requiring parents to provide a social security number for themselves or their children, or denying enrollment to a child for whom a birth certificate cannot be provided or who only has a birth certificate from a foreign country.

Schools should be careful of unintentional attempts to document students' legal status which can lead to the potential of "chilling" of their Plyler rights.

1. Colorin Colorado: Important Court Decisions and Legislation- <https://www.colorincolorado.org/article/landmark-court-rulings-regarding-english-language-learners>
2. NCELA: Court rulings- <https://www.ksde.org/Portals/0/Title/ESOL/NCELAFAQcourtrulings.pdf>
3. U.S. Department of Justice and U.S. Department of Education, “Information on the Right of All Children to Enroll in School” (fact sheet, U.S. Department of Justice and U.S. Department of Education, Washington, DC, 2014)
4. "Immigrant Students: Their Legal Right of Access to Public Schools. A Guide for Advocates and Educators" by John Willshire Carrera, Esq. National Coalition of Advocates for Students. Boston, MA.