

# Your Right to be Free from Discrimination as an Immigrant or English Language Learner

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## Your Right To Attend School

- You have the legal right to a free public school education regardless of where you were born, your immigration or citizenship status, or your knowledge of English.
- A school may not ask about your immigration status or that of your family.<sup>1</sup>
- Like all students, you have the right to be enrolled and to attend school within 5 days of submitting four enrollment documents.<sup>2</sup>
- Like all students, you have the right to go to school until age 21 regardless of your proficiency in English or your ability to graduate.<sup>3</sup>
- A school may require you to complete a Home Language Survey when you enroll in school for the first time. This survey will identify your language needs so that the school can provide appropriate educational services.

## Your Right To Learn English

- You have the legal right to learn English.
- You must receive sufficient language instruction to help you overcome language barriers.
- You must be placed in an appropriate English as a Second Language (ESL) program with planned instruction provided by a qualified ESL/Bilingual teacher.
- You should receive sufficient hours of ESL instruction per day. State guidance recommends that students with “Entering Level”/No English = 2-3 hours per day; Beginner Level = 2 hours; Developing/Intermediate = 1-1.5 hours; Advanced = 1 hour.
- You must be evaluated each year to ensure you are making progress in learning English.
- You must receive “comprehensible instruction” in all content areas from all teachers.
- All classroom teachers should be trained to adapt their instruction to ensure that you are able to access the content of what they are teaching.
- You have the right to opt out of ESL classes at any time.

- You will be exited from ESL classes based on oral and academic proficiency.
- You cannot be retained in a grade based solely on lack of English language proficiency.

## Your Right To Equal Opportunities

- You must have access to the same educational opportunities offered to other students and cannot be discriminated against because you are an immigrant or ELL.<sup>4</sup>
- Schools must provide appropriate language supports where needed so students can access educational opportunities. This includes specialized programs, special admit schools, counseling, gifted education, and extracurricular activities.
- ELL students with special education needs must receive all legal protections and entitlements of the Individuals with Disabilities Education Act.<sup>5</sup> This includes:
  - The right to a “Free Appropriate Public Education” (FAPE);
  - The right to be evaluated for special education services in your native language;
  - The right to be educated in the least restrictive environment with non-disabled peers; and
  - The right to challenge a classroom placement or denial of services.<sup>6</sup>

## Your Right To Interpretation/Translation Services

- You and your family have the right to interpretation and translation services so that you can understand your rights and your opportunities in school.
- You and your parents or guardians who are limited English proficient have the right to receive vital documents in your “preferred language.”
- You and your parents or guardians who are limited English proficient have the right to interpretation services to support participation in parent-teacher conferences, IEP meetings and disciplinary hearings. Schools cannot require family members to provide their own interpreter or require their own child to serve in this role.

## Your Right to Be Free From Bullying & Harassment in School

- Your school cannot discriminate against you based on your race, color, national origin, or religion.<sup>7</sup>
- Schools must investigate and respond appropriately to allegations of bullying and harassment or they may be violating civil rights laws.<sup>8</sup>
- See our factsheet entitled Your Right to Be Safe in Schools.

### What is bullying or harassment?

Bullying and harassment can come in many forms and range from name-calling or making fun of you because of your religious beliefs to physical assault. The conduct can be verbal but may also come in the form of texts or messages sent through social media.

### What should a parent do first?

First, talk to your child. Then raise your concerns with a teacher or someone you trust in the school. If this doesn't address the problem, take further action.

## BULLYING CHECKLIST

### Keep Detailed Records

- Describe the bullying (who, what, where, and when).
- Write down how the bullying has impacted you.
- Write down the names of school employees that you or your child have talked to about the bullying. Don't forget to also write down the date and time you spoke to them!

### Ask the School to Take Action

- Get your school district's bullying and/or harassment policy.
- Write a letter to the school principal describing the bullying and how it is impacting you or your child. You can send it by email or deliver it in person.
- Call your school district's bullying hotline.
- Write a letter to your school board and/or speak at a board meeting.

## What Should You Do If Your Rights Are Violated

- Talk to your teacher, administrator or school principal about your concerns.
- If the issue concerns enrollment, contact:
  - Schools Services Unit, Pennsylvania Department of Education 333 Market Street, Harrisburg, PA 19126-0333 mwashington@pa.gov 717-783-6746
- If the issue concerns curriculum, insufficient ESOL services or lack of equal access to educational opportunities, contact your Intermediate Unit or
  - Pennsylvania Department of Education Bureau of Curriculum, Assessment and Instruction, Division of Instructional Quality 333 Market Street 3rd Floor, Harrisburg, PA 17126 (717)787-5482
  - You may also file a formal complaint/letter with the U.S. Department of Justice's Civil Rights Division explaining how you were discriminated against based on your status as an immigrant or ELL.
- If harassment persists, you can file a formal complaint with one of the following agencies
  - Pennsylvania Human Relations Commission (717-787-4410)
  - Philadelphia Human Relations Commission (215-686-4670)
  - Pittsburgh Commission on Human Relations (412-255-2600)
  - Pennsylvania Department of Education Office of Safe Schools
    - Bullying Prevention Consultation Line (1-866-716-0424)
  - U.S. Department of Education's Office for Civil Rights (215-656-8541)
  - U.S. Department of Justice's Civil Rights Division (1-877-292-3804)
- Contact the Education Law Center for more information (215-238-6970, 412 258-2120, [www.elc-pa.org](http://www.elc-pa.org))
- See ELC factsheets: Bullying and Harassment; Rights of ELLs and Limited English Proficiency; Education Rights of ELLs: What Families Should Know

*The information presented is not legal advice and should not be relied on as such. Every situation is different. To learn about how these laws may apply in your particular situation, please contact an attorney of your choice or contact the Education Law Center for a referral.*

## ENDNOTES

- 1 Plyler v. Doe, 457 U.S. 202 (1982)
- 2 The four documents are proof of age, residency, immunizations, and an Act 26 Affidavit See 22 Pa. Code § 11.11(b)-(c).
- 3 See 24 P.S. § 1301, 1302 and 22 Pa. Code § 11.11(a)(1).
- 4 Equal Education Opportunity Act 20 U.S.C. § 1703 et seq; Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.
- 5 42 U.S.C. § 2000d et seq.
- 6 See e.g., 20 U.S.C.A. § 1415(b)(4) .34 CFR § 300.322(e) and (f); 34 CFR§ 300.503(c)(1)(ii).
- 7 See Title IV and Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972.
- 8 Id.