



**EDUCATION
LAW CENTER**

Meeting the Needs of All English Learners in the School District of Philadelphia
*Comments to the Student Achievement & Support Committee of the Board of Education
of the School District of Philadelphia*
January 10, 2019

My name is Maura McInerney, and I am the Legal Director at the [Education Law Center-PA](#) (“ELC”), a nonprofit legal advocacy organization dedicated to ensuring that all Pennsylvania’s children have access to quality public education. We advocate on behalf of educationally at-risk students including children of color, children living in poverty, children with disabilities, LGBTQ students, as well those in foster care, the juvenile justice system, and children experiencing homelessness. ELC has a long history of advocacy on behalf of English Learners and our attorneys are recognized across the state and nationally as experts in education law, the rights of immigrant students, and the rights of English learners under civil rights and disability laws. *See e.g.*, Equal Education Opportunity Act 20 U.S.C. § 1703. *et seq* (“EEOA”); Title IV and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d . *et seq.*; *Y.S. et al., v. The School District of Philadelphia*, Civil Action No. 85-6924 (E.D. Pa. 1985).

We appreciate this opportunity to raise issues and concerns relating to policies, practices, and programming relating to English Learners across the District. In addition to highlighting these specific concerns, ***we respectfully urge the Committee to convene a separate meeting devoted solely to how the District can more effectively meet the educational needs of vulnerable EL students.***

There are over 15,000 English Learners who speak more than 100 home languages in the District. All EL students are entitled to a robust and effective language instruction bilingual-bicultural or English as a second language (ESL) instruction program supported by trained ESL instructors and subject matter teachers who are equipped to meet the diverse language and learning needs of these students. Through an evidence-based program, the requisite level of language instruction services and modifications to instruction, an EL student is able to overcome language barriers and access the curriculum as required under federal and state law. *See* EEOA and 22 Pa Code § 4.26 (“Every school district shall provide a program for each student whose dominant language is not English for the purpose of facilitating the student’s achievement of English proficiency and the academic standards under § 4.12 (relating to academic standards).”)

As [state guidance](#) issued by the Pennsylvania Department of Education makes clear, English Language Development (ELD) is a required component of all language instruction programs and takes place every day throughout the day delivered by both ESL teachers and non-ESL teachers. The District’s culturally rich EL population also requires consistent and effective interpretation and translation services for limited English proficient students and parents, and efforts to ensure access to the full range of educational services and opportunities provided to non-EL students, including special education services and access to special admission schools across the District.

Increasingly, however, ELC has handled cases and responded to calls from parents, students, community members, and advocates who have raised significant concerns regarding **reductions in ESL instruction and support, barriers to special education evaluations and services, the failure to provide interpretation and translation services, and lack of access to special admission schools and post-secondary college and career readiness support.**

We consistently hear that the level, duration, and intensity of ESL instruction is insufficient to meet the needs of students in many schools. In particular, this year we are hearing about reductions in ESL support at schools with high EL populations and the absence of *daily* ESL instruction for beginner level students at many schools. Providing adequate ESL instruction is essential to ensure that ELs obtain equitable access to academic content and are not left behind. The language model used and the number of hours of language instruction provided must be driven by the student's level of proficiency and delivered in accordance with [WIDA English Language Development Standards](#). **ESL instruction must be based on the student's level of need, not which particular school a child attends.** However, there is currently great inconsistency across the District. **Appropriate data must be collected and analyzed to assess this issue.** Schools need greater support from the Office of Multilingual Programs and subject matter teachers need sufficient training on how to modify instruction for EL students and how to coordinate the provision of language instruction services to support access to content.

Another common call that ELC receives concerns ELs who are struggling in school and for whom parents seek special education evaluations. Under state and federal law, children with disabilities are entitled to specially designed instruction and support services to enable them to make meaningful progress. School districts have a "child find" obligation to identify all students, including ELs, who may have a disability and to provide a timely evaluation to assess that child's needs and provide necessary services. Yet, **parents continue to report that they are told their child cannot be evaluated to determine eligibility for services due to the lack of English proficiency,** a mythical waiting period of two years for all EL students, or parents report that their requests are ignored. Families who obtain evaluations report that they are often on "**waiting lists**" for **bilingual evaluations** – particularly for students who speak the common languages of Spanish or Mandarin.

In addition, we continue to receive complaints regarding **the need for consistent translation and interpretation services for limited English proficient families.** The lack of these vital services denies parents of students with disabilities their right to meaningful parent participation in the special education process, denies a student due process rights in the context of school discipline proceedings, and contributes to delays in enrollment and the placement of EL students in inappropriate classroom settings.

Finally, as ELC has highlighted in prior testimony to the Board, **the District must continue its work to actualize the *LeGare Consent Decree's (E.D. Pa. 1994)* promise of equal access to selective high schools for all EL students.** The District has made significant recent progress with a more expansive information campaign and a new appeals process for students that are rejected from all schools. Unfortunately, many immigrant and LEP families are still not aware of their rights, so **we urge the District to further increase community outreach and include all ESL instructors in their *LeGare* trainings** because they have regular contact and strong relationships with students. With respect to data, we urge the Board to request that the District provide a presentation of data on the specific language level of the EL students (and disability type for students with disabilities) that are admitted to selective

high schools to help identify patterns and solutions to ensure all students have meaningful access and to increase the District's education to selective schools about their equity obligations and how EL students can be supported to succeed in their schools.

Thank you for your help to ensure all our English Learner and immigrant students have the support they need to meet their greatest potential.

cc: Lynn Rauch, General Counsel