



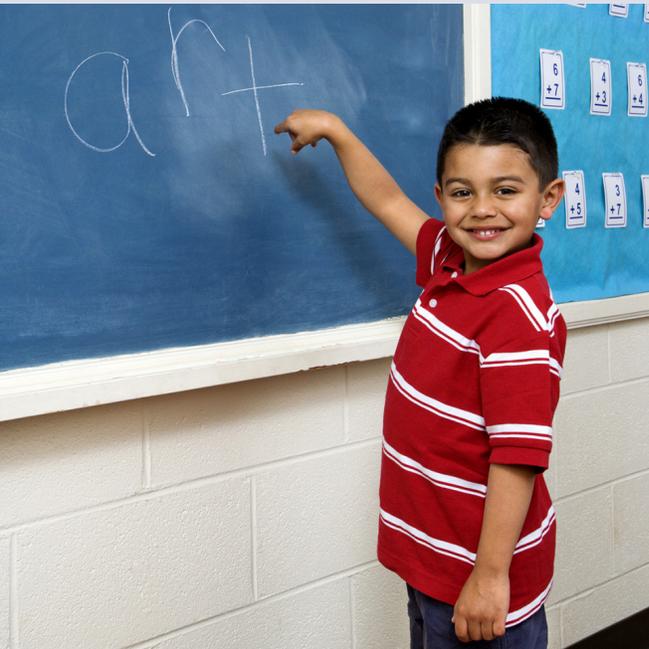
FEDERATION FOR CHILDREN
WITH SPECIAL NEEDS

Family **FACTS** on Education

A publication of the Massachusetts Center for Family and Community Engagement

Volume 8

Rights of English Learners



What are the educational rights for my child who is learning English?

Education is a basic right of all children in the United States. The federal Elementary and Secondary Education Act of 2001 (ESEA) added important new educational rights for English learners and their parents. Federal laws, such as ESEA, *Title VI of the Civil Rights Act of 1964* and the *Equal Educational Opportunities Act of 1974*, and Massachusetts state laws recognize that students who are new to the United States and who are English learners need extra support. They need help to learn English and, at the same time, to master academic standards. This issue of **Family FACTS** outlines some of these rights under state and federal laws.

The Massachusetts Department of Elementary and Secondary Education (ESE) uses English Learners (ELs), English learners” (ELLs), and “Limited English Proficient” (LEP) to describe students “...whose first language is a language other than English and who [are] unable to perform ordinary classroom work in English.” The term “English Learners” is used throughout this issue of Family FACTS because it gives a positive focus on what students are accomplishing — learning a new language and culture while learning all school subjects and becoming active members of their school communities.

Who is an English learner?

English learners (ELs) are students whose native language is not English and who are not yet able to do ordinary classroom work in English. Each school district must have a way to identify whether or not a student is an English learner. Once a district identifies students as English learn-

ers, it must arrange for them to receive instruction that is designed specifically for learning English and subject matter content in accordance with laws and regulations.

As the parent of an English learner, what rights do my child and I have?

Right to a quality education

- Your child has the right to receive the same high-quality education, based on learning standards, as their peers. In Massachusetts, these educational standards are outlined in the state’s “Common Core State Standards” in English language arts and mathematics and “Curriculum Frameworks” across other content areas. Your child will learn English and other subjects such as English language arts, mathematics, science, social studies and history at the same academic level expected of all other students.

- Your child has a right to be taught academic subjects by a teacher who is endorsed by ESE to teach the subject and who has been trained to teach students who are learning English.
- Your child has a right to receive English language instruction (also known as English as a Second Language, or ESL), by a licensed ESL instructor, to ensure that your child will learn to listen, speak, write and read in English.
- Your child has the right to participate in two state assessments
- MCAS (Massachusetts Comprehensive Assessment System) assesses students' academic performance) and your child's progress in academic subjects.

And

- WIDA ACCESS (Assessing Comprehension and Communication in English State-to-State for English learners) assesses your child's progress in learning English.
- You will receive reports of your child's test results from both of these statewide tests in a language you understand.
- To learn more about the MCAS and WIDA ACCESS assessments, please look for the Family FACTS called "English learners and State Assessments." The schedule for these assessments is available online at www.doe.mass.edu/mcas/cal/html and at your child's school.

Parents' right to information

- You should receive the information on your child's progress from the school in the same way and just as often as all other parents, in a language you understand, to "the maximum extent possible." This information includes student report cards, progress reports, and MCAS Parent/Guardian Reports (G.L. c. 71A Sec. 7; see also Title VI).
- *If you ask for them*, the school principal must make sure that you receive the school's handbook and the district's codes of conduct in your native language. (Massachusetts Access to Equal Educational Opportunity Regulations, 603 CMR 26.08(2)).
- Parents must receive notice about their child's identification as an English learner within 30 days of the beginning of the school year. For a child who enters school after the beginning of the school year, the school must inform parents within two weeks if the child is placed in a program for English learners.
- If your child has been identified as an English learner, your child's school must tell you:

1. *Your child's level of English language development.*
2. *The school's recommended program for your child and how this program will help your child to learn English and meet age appropriate learning standards. Most districts offer Sheltered English Immersion. (See explanation of Sheltered English Immersion below.) The school must explain how the program works, how it will help your child learn English, and how it will meet your child's educational needs.*
3. *How the methods used in the school's recommended program differ from what is used for English fluent children.*
4. *How your child will be finishthe program when he/she demonstrates fluency in English.*

Parents' right to decline an English learner program

- If you **do not** want your child to be in an English learner program, you have the right to decline enrollment in the program and the right to remove your child from the program at any time.
- If you **do** decide to place your child in a general education classroom, the school district **must provide** English language and academic support to ensure that your child is able to learn in English. The school must also provide a teacher who is qualified to teach English learners.

Child's right to academic monitoring

- Once your child becomes proficient in English language (based on statewide assessments, academic performance in school and other information) and leaves an English learner program, the district must monitor your child's academic progress for two years and provide additional English language education services if needed.

Rights of students with disabilities

- English learner programs for students with disabilities must meet the requirements of their Individualized Education Program (IEP). For students with an IEP or 504 Plan that states instruction should be in their native language, the district must comply with the IEP or 504 Plan. No waiver is required.
- School documents about children with disabilities who are English learners **must** be translated into their parents' native language. Interpreters fluent in the language of the parents **must** be provided at all educational planning meetings if necessary for the parent(s) to participate.

Child's right to special supports and other services

- Your child has the opportunity to receive academic support services, such as guidance and counseling, in his or her primary language.
- Your child should have equal access to the same non-academic programs and extracurricular activities available to all other students. Parents should be informed of these activities in a language they understand.
- EL students, if otherwise eligible, have a right to receive special education services, Title I services and vocational education, and to participate in advanced and gifted classes.

Parents' right to be involved

- As a parent of a student who is learning English, you should be given many opportunities by the school and the district to communicate with your child's teachers, and to be involved in other ways.

How do I request a waiver so my child can receive bilingual education?

Individual parents of English learners must request a "waiver" if they want their children to receive instruction in bilingual education classes (sometimes referred to as Transitional Bilingual Education, or TBE) or some other approved program.

Here is how the waiver process works:

- Each year, the parent or guardian must apply for the waiver by visiting the school and giving their written consent. At this visit, parents must receive a "full description in a language they can understand" of the variety of programs available to their child. The district makes the final decision on waiver requests.
- For students 10 and older, once parents request a waiver, the school principal and teachers need only state that it is their "informed belief" that a different program would better meet the student's needs.

What programs are available for English learners?

Massachusetts' law refers to the following programs:

Sheltered English Immersion (SEI): Massachusetts' law requires that all students who are English learners be educated in Sheltered English Immersion (SEI) programs. In SEI classrooms, nearly all the instructional materials and books are in English. SEI programs have two parts. One part, called "sheltered content instruction," uses specially adapted English to make academic instruction more understandable to students who are learning English. The other part, "language instruction (English as a Second Language, or ESL)," helps ELs develop speaking, listening, reading, and writing skills in English. The balance between ESL instruction and academic instruction in English changes as student gain English language skills. Students just beginning to learn English should receive much more ESL instruction per day than students who are nearing proficiency in English.

Two-Way Bilingual Education: Students who are learning English and students who are native English speakers learn together in both languages. Instruction and books are in the students' first and second languages. If a district offers a two-way bilingual program, a parent of an English learner may choose to have his or her child participate in such a program without applying for or receiving a waiver.

Transition Bilingual Education (TBE): Content instruction is given in the child's native language while he or she is learning English. In addition, instruction in English as a second language (ESL) is provided. As students' proficiency in English increases, they transition from receiving content instruction in their native language to receiving it in English. A waiver is required for this type of program. Waivers may also permit students to participate in "other generally-recognized educational methodologies permitted by law." Please see information on waivers, page 3.)

"Opt out" Provision: Parents who do not wish their child to be placed in a classroom tailored for English learners may "opt out" and their child will be placed in general education classrooms. *Schools must monitor the progress of students who opt out and provide assistance in learning English.*

A school where 20 or more students of the same language and grade receive a waiver is required to offer “classes teaching English and other subjects through bilingual education techniques or other generally recognized educational methodologies permitted by law.” (G.L. c. 71A. §5) Schools that have fewer than 20 students in a grade with waivers may offer such a class. If they do not offer such a class, they must permit students who have a waiver to transfer to a public school that does have a bilingual class.

- For students under age 10, it is more complicated. Districts may permit waivers under these conditions:

1. *The student has been in an English language classroom for at least 30 calendar days; and*
2. *School officials explain in writing that the student has special needs, besides not being able to speak and understand English, that make a different program necessary.*

The above written document must be included in the student’s record; and, both the superintendent and the school principal must sign the document.

Sources/Resources for Rights of English Learners:

Other Family FACTS on Education:

- Educational Rights All Families Need to Know
- English Learners and State Assessments

Massachusetts Department of Elementary and Secondary Education (ESE) on English learners <http://www.doe.mass.edu/ell/>

- Resources, including translated version of forms sent to parents www.doe.mass.edu/ell/resources.html
- Strategy for Improving English Language Learner Achievement www.doe.mass.edu/news/news.aspx?id=6889

Other internet resources for English Learners:

- Questions and Answers Regarding Chapter 71A: English Language Education in Public Schools www3.cpsd.us/media/network/10516/media/CPS%20Redesign/documents/Bilingual/Highlights/chapter71A_faq.pdf?rev=2

What can parents do?

Here are some things you as a parent or guardian can do to support your child’s success in school:

- Ask the school to send all reports in your native language if you so desire.
- Talk with other parents whose children have attended the same school or programs. Ask them about how the different programs work and how you can best be involved.
- Ask questions to find out what your child is learning and how your child is being taught English. Visit your children’s classrooms during the school day to see what they are learning.
- Ask if your child receives English language instruction, commonly known as ESL, and, if so, how often? Is the English language teacher appropriately licensed?
- Ask the school if your child’s teacher is highly qualified to teach English language arts and reading, mathematics, and science. Ask if the teacher is fluent in English and has been trained in the skills necessary to teach students who are learning English.
- Do not let an inability to speak English stop you. Your child’s education is too important. Let your child’s school know that you need a translator. You may wish to bring an advocate with you to school meetings
- Make plans to attend school activities and meetings with a translator. This person can be a friend.
- If your child is in high school, ask the school what the graduation rate is for students in the recommended program. Ask if your child is getting credits for all classes.
- If you think your child might not graduate, ask for extra academic support and/or a different program that will prepare your child to graduate.
- Federal law relies on parents to be strong advocates for their own children and to help schools improve. Ask the district or school for ways to join with other parents working for school improvement, such as on Parent Advisory Councils. Join forces with community-based organizations working for educational advancement of English learners and minority students.



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