

Ensuring Effective Services  
to Immigrant &/or LEP/ELL  
Children & Families:  
It's Right, & It's the Law!



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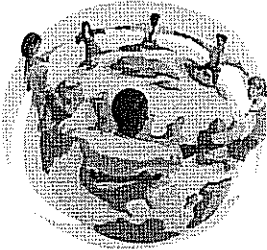
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Education Rights of Immigrant  
Students & Families



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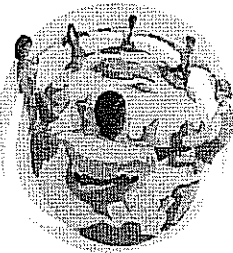
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Immigrant Students



- US Supreme Court decision in Plyler v. Doe guarantees the right to public education for immigrant students regardless of their legal status

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## Immigrant Students

- Schools may not require proof of citizenship or legal residence to enroll or provide services to immigrant students



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## Immigrant Students

- Schools may not ask about the student or parent's immigration status
- Parents are not required to give a social security number



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## Immigrant Students

- Students are entitled to receive all school services, including:
  - Free or reduced breakfast or lunch
  - Transportation
  - Educational services
  - NCLB, IDEA, etc.



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## Immigrant Students

- Complaints of discrimination based on immigrant status may be filed with:

- US DOE Office for Civil Rights
- NJ Law Against Discrimination



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## Language Access Rights for Parents & Students with Limited English Proficiency



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## Legal Obligation to Provide Access



Entities receiving assistance from the federal government must take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have *meaningful access* to the programs, services, and information those entities provide

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## Language Assistance Services

- Written & oral language services
  - Bilingual staff
  - Community volunteers
  - Telephone interpreter lines
  - Translation of written materials



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## Payment for Services



- Persons with limited English proficiency cannot be required to pay for services required to ensure their meaningful, equitable access to programs, services, and benefits

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## Right to Bilingual Education



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## What does the law say?

- The United States Supreme Court decision in Lau v. Nichols supports the use of bilingual education.



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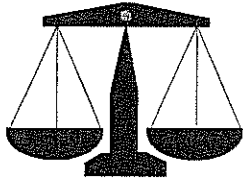
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## Lau v. Nichols

- "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." Justice William O. Douglas, U.S. Supreme Court, 1970



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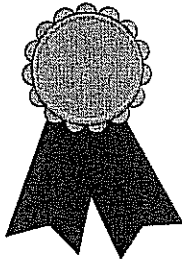
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## Characteristics of quality bilingual programs

- Students are taught by well-trained teachers
- Students have access to a quality curriculum linked to state standards
- Student language and learning is assessed periodically, and results are used to improve instruction
- The program is evaluated on an ongoing basis to ensure effectiveness



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### No Child Left Behind, New Jersey Education Code, & BL/ELL Students

- Districts must identify all eligible students by using an approved language proficiency test
- Districts must report the number of limited English proficient students to the state annually
- Districts must provide appropriate bilingual or English as a second language services to all eligible students



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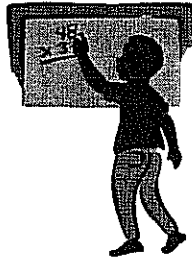
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### Rights of BL/ELL Students

- Students learn *all* the Core Curriculum Content Standards
- Students meet same academic & achievement standards
- District plans must be approved by the state every 3 years, with annual updates on enrollments and student performance



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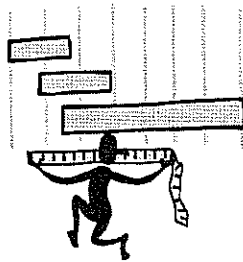
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### NCLB & NJ Code

- Schools must administer reading assessments using tests written in English to any student who has attended US schools for 3 or more consecutive years unless district determines on a case by case basis that native-language tests will yield more accurate results



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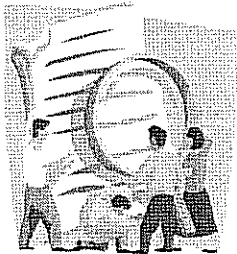
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## NCLB & NJ Code

- At least 95% of ELL must be tested in reading/language arts, math, & science
- Assessment must provide information on English proficiency
- Assess in language & format most likely to obtain needed information & that will allow state & district to make testing accommodations
- Report test scores of ELL students as a disaggregated subgroup



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## NCLB & NJ Code

Districts must:

- Report district's ELL student results from ELL English proficiency assessment
- Report how many ELL students are attaining proficiency, making progress, &/or transitioning out of BL/ESL programs by end of year



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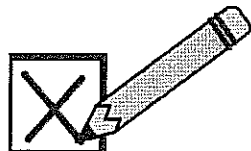
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## NCLB & NJ Code

Districts must:

- Include ELL students in state assessments required of all students immediately when the student enrolls in school
- For first 3 years, ELL students may take assessment in native language



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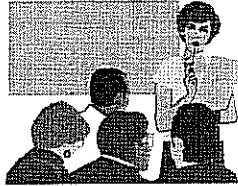
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## Rights of BL/ELL Students

- Districts must provide support services to LEP students, such as counseling
- Districts must provide in-service programs for bilingual and ESL teachers in the standards and in instructional strategies



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## NJ Education Code

- Districts must send progress reports to parents of students receiving bilingual or ESL services
- Progress reports must be in English and the language of the family
- Districts must notify the family when students "test out" of bilingual or ESL services



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## NJ Education Code

- Districts must involve families in the development and review of bilingual program objectives
- Districts must involve families in dissemination of information to and from local school communities served by the bilingual and ESL program
- Districts must establish a parent advisory committee on bilingual education with a majority of parents of LEP children, that meets at least 4 times per school year



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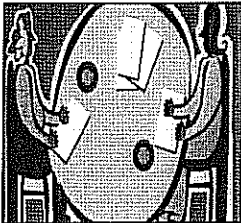
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## Parent Rights



- Parents must be informed in their native language when their child is identified to participate in a bilingual program or when their child is identified to leave a bilingual program for an English-only class
- Parents may decline bilingual services for their child
- Parents may remove students from a bilingual program at the end of the year

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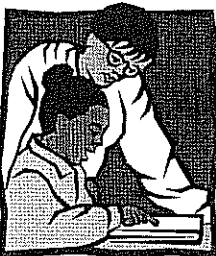
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## Parents must be informed of:



- Reasons for identifying child as LEP & placing in ELL program
- Child's current level of English proficiency, including how assessed and status of child's academic achievement
- Method of instruction
- How program will meet child's educational strengths & needs
- How program will help child learn English & achieve academic standards
- How program will meet IEP objectives for a child with a disability
- Program exit requirements

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## Parents must be informed of:



- Any failure of the ELL program to help the child make progress on annual measurable achievement objectives
- Notice must be provided no later than 30 days after failure occurs & must be in understandable, uniform format in a language the parent can understand to the extent practicable

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## NCLB/NJ Education Code



- Students in bilingual or ESL classes must be assessed every year to see if they are ready for an English-only class
- If the student starts to fail in the new class, the student should be returned to the bilingual or ESL class, after retesting or with the approval of the county superintendent

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## Language rights under IDEA: Special Education

- Informed consent requires written information to be translated & oral information to be interpreted into the family's language



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## Language rights under IDEA



- Evaluations may not discriminate against the child based on race, ethnicity, language. Children may not be found eligible for special education if the reason for academic difficulty is language.
- Evaluations should be conducted in the language most likely to yield needed, accurate information.

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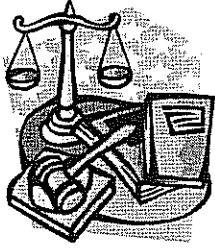
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## Right to Notice & Response

- The right to notice of parental rights in their language.
- The district must provide written responses to written parental requests in their language.
- The parent has the right to notice of any proposed actions, and to a detailed, written explanation of why the district or school is planning on taking an action or refusing the parent's request, in their language.



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## Right to Notice & Response



- The parent has the right to advance written notice of any proposed meeting in their language.
- Meetings must be conducted in their language.
- Parents have the right to access the information they need to be an equal participant in the meeting prior to the meeting and to have assistance in understanding the information.

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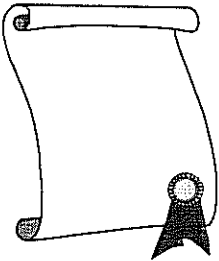
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## NJ Graduation requirements



- Students must pass the High School Proficiency Test unless:
  - They entered NJ schools in grades nine or later; then they may demonstrate proficiency through taking the Special Review Assessment in their own language and pass the Maculaitis Assessment Program with a score of 133 raw points

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### Where do we go from here?

- Are there children who need bilingual/ESL services?
- Are they receiving appropriate services?
- Are they learning English as well as all other subjects?
- How are they progressing?



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### Where do we go from here?

- Is there a Bilingual Parent Advisory Council in your district?
- How many bilingual parents are on it?
- How can you get on the advisory council?
- When and where are meetings held?
- What decisions does the council make?



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### Where do we go from here?

- Ask for information about the effectiveness of bilingual and ESL programs
- Work with your superintendent, Bilingual Parent Advisory Council, principal and teachers to improve bilingual and ESL services
- Demand NJ DOE & Board of Education enforce bilingual/ESL and parent involvement



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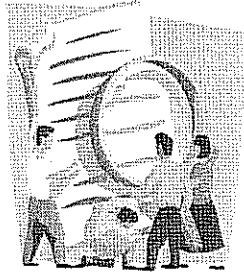
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### Public Policy Advocacy Opportunities

- Reauthorization of No Child Left Behind
  - Remove prejudice against bilingual education
  - Strengthen requirements for parent involvement
  - Give parents the right to take action if their child is not being served or learning
  - Increase funding for Bilingual education



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### Public Policy Advocacy Opportunities

- NJ State Education Code
  - Require monitoring of enforcement of student right to be assessed in native language
  - NJ DOE provide greater flexibility for accommodations for students taking tests but maintain students in accountability systems
  - Strengthen enforcement of provisions requiring bilingual parent advisory council
  - Maintain requirement to establish *BL* programs if have certain # of LEP students



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