

Federal Expectations for a Language Assistance Program

“Opt-Outs” – Duties & Obligations towards ELL Students who Decline ELL Services

What happens to ELL students who opt out of services?

Students retain their status as “ELL students” and District maintains its federal legal obligations to take “affirmative steps” (under Title VI) and “appropriate action” (under EEOA) to provide ELL students with access to educational programs.

Student is not enrolled in the language assistance program, but ...

- ➔ District should periodically monitor student progress – if opt-out students fail to demonstrate growth in English proficiency OR struggle in class, then District has affirmative obligation to contact the family, and offer again the ELL program or some combination of ELL services. *See US Dept. of Educ. OCR, US DOJ, “Dear Colleague Letter: English Learner Students & Limited English Proficient Parents” at 31.*
- ➔ District should consider providing professional development to opt-out students’ general education teachers on basic second-language acquisition and English language development.
- ➔ District **MUST** continue to annually assess the student’s English language proficiency, using ELDA. **There is no assessment exemption.** *20 U.S.C. § 7801(25).*
- ➔ Once student demonstrates English language proficiency, District **MUST** continue to monitor their progress for two years, like it does for any exited ELL student.

The District should be prepared to investigate if high numbers of parents are opting out of the language assistance program.

Best vs. Poor Practices around Opt-Out Students

It’s important to document that opt-outs are truly voluntary and truly the product of informed parental decision-making.

BEST PRACTICES	BAD PRACTICES
require a meeting to inform ELL students & families of student’s eligibility for ELL programming;	District staff steer families away from ELL programs
ensure qualified staff provide information about program;	District staff provide inadequate or incorrect information about the program, particularly around program services and the child’s ELL status.
include documentation of meeting, checklist of required discussion topics, and parent consent & acknowledgement form documenting they received the information.	Families are discouraged from enrolling due to size and staffing constraints in the program, or because the program focuses on lower proficiency levels.
Provide language access at this meeting!	Families withdrew from ELL programs after complaining about the quality of the program, and the district ignored their complaints.

See US Dept. of Educ. OCR, US DOJ, “Dear Colleague Letter: English Learner Students & Limited English Proficient Parents” at 32.

