Educating English Language Learners

Getting to Compliance AND BEYOND

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ELL
English Language Learners

SPLC Southern Poverty Law Center

Agenda

Today, we'll discuss legal compliance & best practice around:

• Enrollment

• Language Assistance Programs

• Language Access Services

Enrollment

Public schools must enroll & register every child who resides in their geographic boundaries…**regardless of the child's or parents' citizenship.**

—Title VI of the Civil Rights Act of 1964
—*Plyler v. Doe* (1982)

Enrollment

DO:
- Accept foreign birth certificates

- Provide 30 day grace period to families who need to track down a foreign birth certificates

- Be flexible about accepting other documents (passport)

- Enroll overage high school "Students with Interrupted Formal Education" (SIFE) into 9th grade minimum

DON'T:
- Require a U.S. birth certificate

- Require an original birth certificate

- Turn overage students away

- Turn any student away

Enrollment

VALID REQUIREMENT: VERIFY DISTRICT RESIDENCY

DO:
- Enroll students now, despite residency concerns, while you sort it out; consider a 15-30 day grace period to bring in missing documents.

- Be flexible in helping families demonstrate where they live.

- Consult your *McKinney-Vento* coordinator to register families having trouble documenting where they live.

DON'T:
- Condition proof of residency on documents that *aren't available to undocumented adults.*
  (Ex: State driver's license; state ID; Medicaid card; Voter registration card.)

- Refuse enrollment to students who don't have any documentation of where they live.
  (Ex: families sharing a residence with other families and no documents are in their name.)

Enrollment

SOCIAL SECURITY CARDS & NUMBERS ARE NOT REQUIRED TO ENROLL

You do not need a social security number for any legitimate reason.

Not for student ID; not for Free/Reduced Lunch paperwork
Do not ask about the student's social security number.
Do not ask about the parent's social security number.

Enrollment Activity

LET'S FIX THIS ENROLLMENT CRITERIA

○ **Renting –**
  - Original, lease or rental agreement with the names of each person living at the residence listed on the agreement along with the landlord's name and phone number
  - Original, current electric bill indicating the point of service
  - 3 of the following 4 documents
    - Original, current water bill indicating the point of service
    - Parent(s)/Legal Guardian(s) Original, current Louisiana Driver's License
    - Original, current Medicaid/Medicare card and eligibility letter with address
    - Original, current gas bill indicating the point of service

○ **Living with someone who is renting –**
  - The Renter's Original, lease or rental agreement with the names of each person living at the residence listed on the agreement along with the landlord's name and phone number
  - The Renter's Original, current electric bill indicating the point of service
  - 3 of the following 4 documents
    - The Renter's Original, current water bill indicating the point of service
    - Parent(s)/Legal Guardian(s) Original, current Louisiana Driver's License
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    - The Renter's Original, current gas bill indicating the point of service

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In addition to the above required information, each new registrant must provide the following:

○ Social Security card of student
○ Social Security number of Parent(s)/Legal Guardian(s)
○ A certified copy of the Child's Birth Certificate
○ Custody Papers – Divorced parents, parents who separate or choose to reside at separate addresses or Legal Guardian(s) must provide the certified copy of Judicial Custody Judgment
○ Immunization Records – A Physician's or Health Department's Verification

Enrollment Activity

LET'S FIX THIS ENROLLMENT CRITERIA

Reference the "Clean It Up!" checklist for tips on bringing your district into full compliance.

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During Enrollment

HOME LANGUAGE SURVEY

During enrollment, conduct a **Home Language Survey** to establish what language is spoken in the home.

When the HLS establishes that English is NOT spoken at home:

PARENTS

Make note of preferred language in your Student Information System. Plan for communicating with the family in their preferred language.

Refer to Language Access section.

STUDENTS

Immediately refer for English language proficiency assessment* to determine whether they are English Language Learners.

LAS-LINKS; WAPT; IDEA Language Proficiency Test

Post-Enrollment

CONNECTING STUDENTS TO THE ELL PROGRAM

Within 30 days of Enrollment:

- **Screen** students who do not speak English at home for English proficiency

- **Compile** list of students who are Limited English Proficient
- **Notice** to all parents in writing that their child is eligible for ELL program; of their rights as ELL students; of the services & programming they can receive; and the benefit of the ELL program.

    … this notice is translated!

    … Consider convening conferences to help parents learn about the program

- **Obtain** written parental consent to enroll in ELL program, or written parental refusal of services.

- **Place** all students who accept services into your ELL program.
- **Log** in your Student Information System all students who are ELL but have "opted out" of ELL services. You're still responsible for them!

Avoiding the Path to Non-Compliance

CONNECTING STUDENTS TO THE ELL PROGRAM

- Failing to have **an official process** to conduct Home Language Surveys and identifying the primary language of all enrolling students.

- Failing to **routinely refer** all students for an English language proficiency assessment when you determine English is not the home language.

- Failing to **properly assess** English proficiency in all four domains: writing, speaking, listening, reading
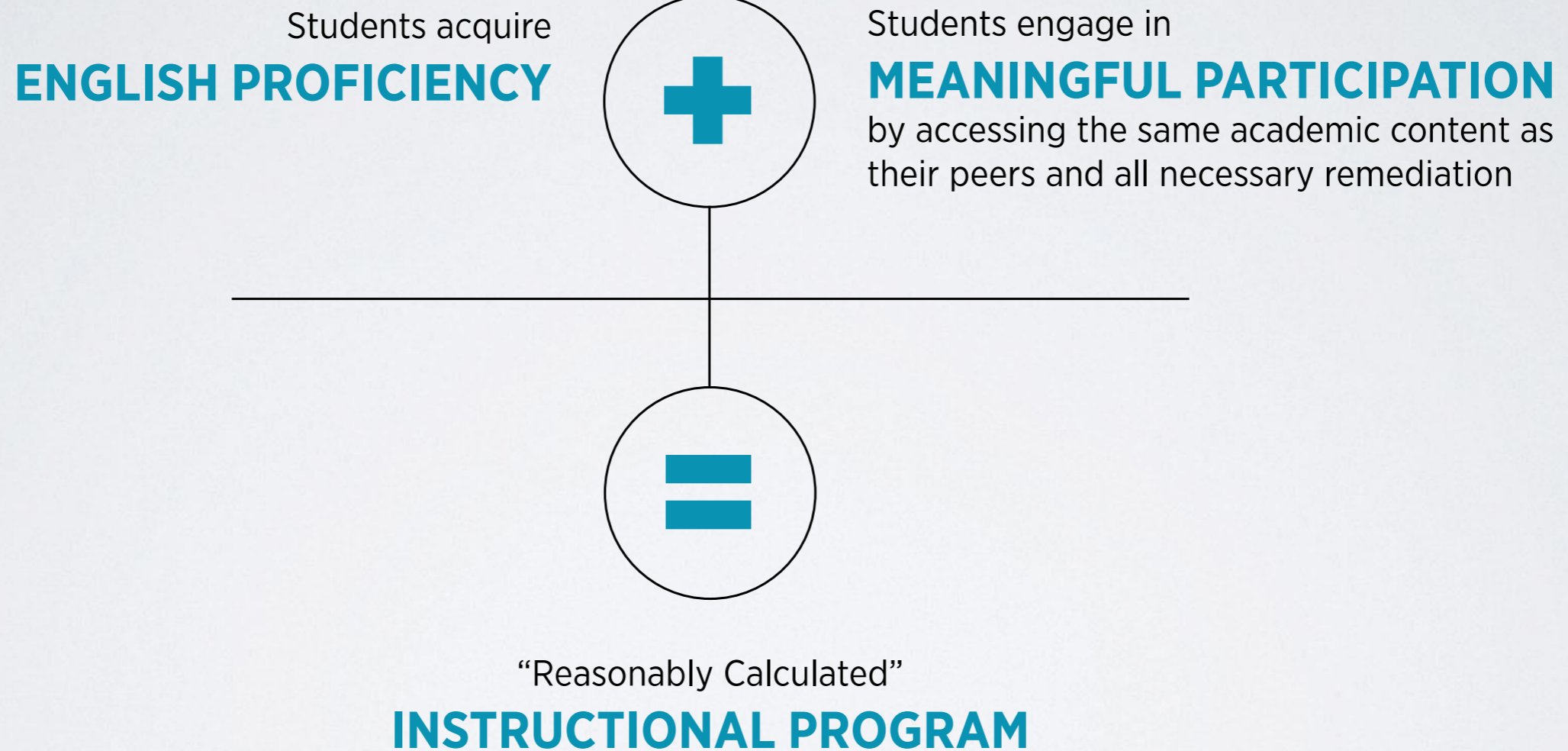
Language Assistance Program

A program required by federal law that consists of **"appropriate action"** to help ELL students overcome language barriers that impede equal participation in the regular instructional program.

—Title VI of the Civil Rights Act of 1964
—Equal Educational Opportunity Act of 1974
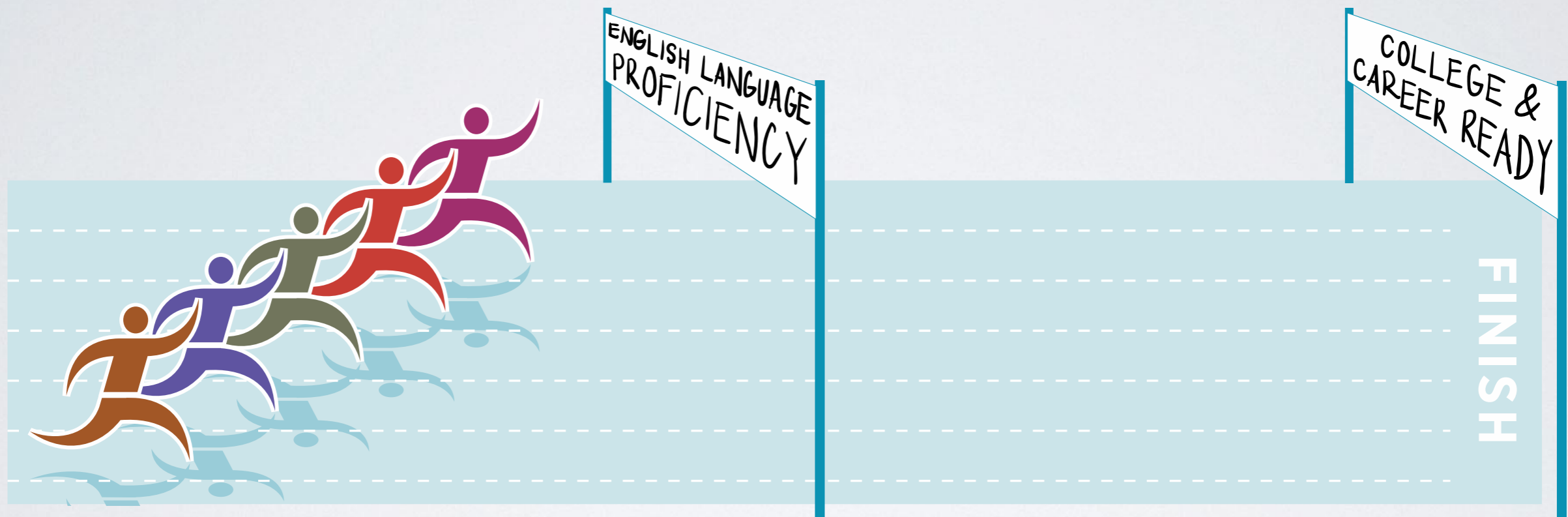—*Castañeda v. Pickard* (5th Cir. 1981)

Language Assistance Program

DISTRICT'S DUAL OBLIGATIONS

Students acquire
ENGLISH PROFICIENCY

Students engage in
MEANINGFUL PARTICIPATION
by accessing the same academic content as
their peers and all necessary remediation

"Reasonably Calculated"
INSTRUCTIONAL PROGRAM

Language Assistance Program

ELL STUDENT'S DUAL GOALS

Language Assistance Program

- **First,** the District plans for a language program that is based on a sound educational theory.

- **Second,** the District's program is reasonably calculated to effectively implement the educational theory in the plan.

- **Third,** the District's program is successful at actually overcoming language barriers within a reasonable period of time.

Per federal law, "Appropriate Action" requires a district doing all three components.
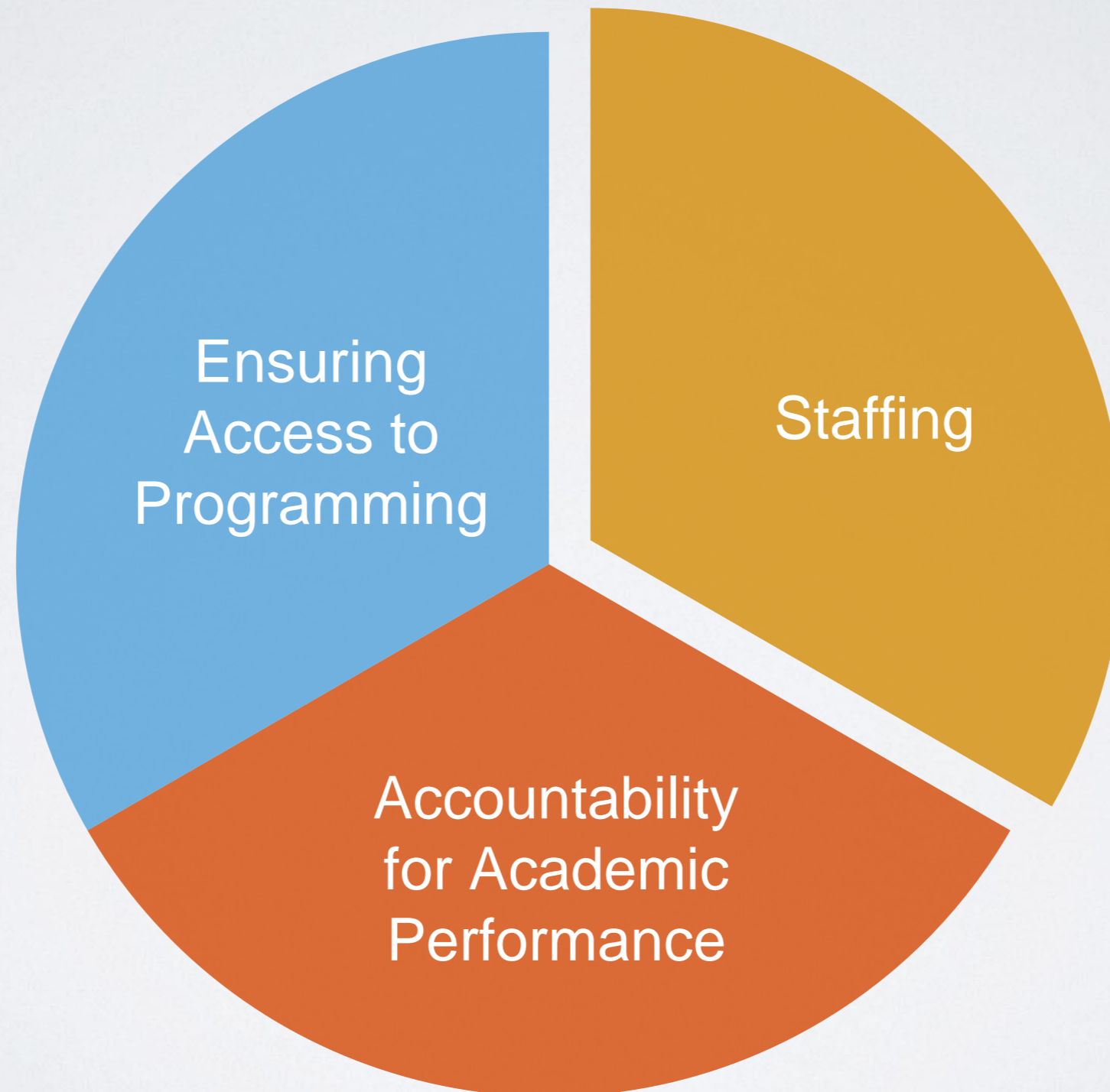
Language Assistance Program

- All districts must have a plan in place, *regardless* of whether there are any ELL students enrolled – if one ELL student enrolls tomorrow, then the program plan is ready.

- Neither the federal government nor the judicial system endorses a specific theory. What matters is that academic experts have endorsed the underlying theory as "sound."

- Whatever the underlying theory, it must be adaptable to varying levels of English proficiency – newcomer, intermediate, and advanced.

Language Assistance Program

Language Assistance Program

- The program's components and the size of ELL population drive District staffing
- Appropriate staff consists of effective teachers and trained administrators who can evaluate the program.
- *Paraprofessionals?* A great addition if properly trained; never a substitute for qualified teachers.

Avoiding the Path to Non-Compliance?
- Don't drive staffing decisions by the budget, and ignore chosen program and size of the ELL population.
- Don't rely on only general education teachers and bilingual paraprofessionals to provide ELL instruction without any ongoing supervision or coordination from a certified ELL teacher.
- Don't rely on general education teachers to deliver core content instruction to ELL students without adequate training for ELL differentiated instruction techniques.
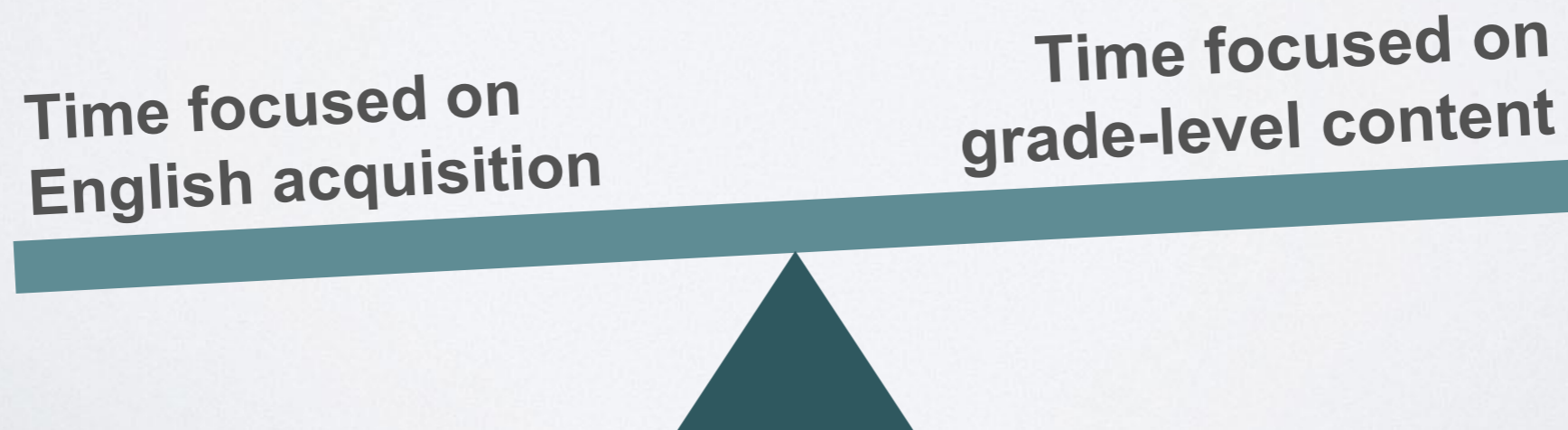
Language Assistance Program

Remember Dual Obligations/Dual Goals:
Students **must** get ongoing access to both ELL instruction **and** grade-level curriculum.

Be mindful!
If more instructional time is devoted to English acquisition, then academic deficits & achievement gaps can blossom from loss of academic instructional time.
• *Counterbalance intensive ELL classes with intensive academic supports.*
• *Routinely & periodically measure ELL student performance to see how well you're striking the balance.*

Time focused on grade-level content

Time focused on English acquisition

Language Assistance Program

Ensure ELL students are screened for Gifted/Talented, AP, Honors, IB, and Magnet programs
- Screenings must be inclusive and provide language accommodations.
- Conditioning eligibility on "English Proficiency" requires substantial educational justification, and evidence that there is no comparably effective alternative.

Do not unnecessarily segregate ELL students
- Ensure PE, electives, recess, assemblies, and extracurricular activities are integrated.
- Do not keep Advanced ELL students in a more restrictive program to serve as tutors or mentors to lower-proficiency students, or because there are insufficient supports available in the general education classes.

Ensure ELL students are considered for eligibility in special education.
- Cannot delay a special education evaluation for a fixed period of time while student receives ELL instruction.
- Ensure language access in the special education process for both student and parents.

Language Assistance Program

CASTAÑEDA STEP 2 – ACCOUNTABILITY

Districts are accountable for ELL students' academic performance.
ELL students count in District and school performance scores.

- ELL students are a specific subgroup for which federal accountability measures apply (ESSA).

- Districts are accountable for the ELL subgroup's academic performance on standardized assessments.

- Districts are accountable for the ELL subgroup's progress in attaining English proficiency (on both long term and interim benchmarks) *(new in ESSA)*

- Substandard performance in the ELL student subgroup could trigger "Targeted Supports & Improvements" *(new in ESSA)*

Language Assistance Program

Is the program succeeding and producing results that students' language barriers are actually being overcome, within a reasonable period of time?

• Monitor individual student performance for periodic progress; exit ELL students timely and appropriately from the program; continue monitoring former ELL students for two years.

• Monitor the program: is it achieving its dual obligations and are students reaching their dual goals?

• Consider school climate for ELL students as a reflection on the success of the program.

Language Assistance Program

- At minimum, Districts must annually monitor ELL student progress towards proficiency.

- Best Practice: Establish a rigorous, ongoing monitoring system with periodic benchmarks of expected growth in language acquisition and academics. Routinely plan for necessary interventions as students miss benchmarks.

Language Assistance Program

ELL students should be exited from the program when they achieve full English proficiency, which must be demonstrated across four domains: READING, SPEAKING, LISTENING, AND WRITING.

Avoiding the Path to Non-Compliance?
- Don't exit intermediate and advanced students based on lack of staffing to educate them.
- Don't prematurely exit ELL students based on their speaking proficiency alone.
- Alternatively, don't leave proficient students in ELL or leave them in beginner classes so that they can tutor or mentor less proficient students.
- Don't establish a rigid deadline for how long students can stay in the ELL program, and exit them based on time alone.

Language Assistance Program

All exited ELL students must be monitored for TWO YEARS.
Districts should be checking for former ELL students exhibiting poor academic performance that could suggest:
- Premature exit from ELL program
- Unremediated academic deficits incurred while completing the ELL program
- Lack of "meaningful participation" in the regular program comparable to their never-ELL peers

If one of these issues is suspected, Districts must retest the student's English language proficiency and determine whether they require placement back in the ELL program and/or other remediation.

Think about:
- Establishing a District-level committee or tasking school SBLC committees with adequate training to take responsibility for monitoring exited students.
- Sending home targeted progress monitoring reports to parents of exited ELL students, and maintaining evidence of monitoring in the cumulative file.

Language Assistance Program

CASTAÑEDA STEP 3 – MONITOR PROGRAM

Districts are required to periodically evaluate and modify the program when it is not successful.

A major cue that the program is not successful is when ELL students routinely do not make expected progress towards English proficiency, do not exit by the expected time, and demonstrate increasing academic deficits.

Language Assistance Program

CASTAÑEDA STEP 3 – MONITOR PROGRAM

Monitor by comparing performance of current ELL students, Exited ELL students, and never-ELL students on key metrics:

Reference the "Monitoring" handout for more information.

	ELL Students (includes Opt-outs)	Exited ELL Students	Never-ELL Students
Core Content Performance			
Participation Rates in advanced courses			
Graduation Rates			
Dropout Rates			
Retention Rates			
Measure with longitudinal data			

"Comparable Performance" is ELL students meeting exit criteria within a reasonable period of time, and that exited ELL students participate meaningful in class and perform comparably to their never-ELL peers.

Language Assistance Program

CASTAÑEDA STEP 3 – SCHOOL CLIMATE?

Are ELL students experiencing bullying or harassment based on their language, national origin, or immigration status? (perceived or real)
- This creates a "hostile environment" when it is "sufficiently severe, pervasive, or persistent" that it disrupts a student's ability to participate or benefit from school.
- Districts & schools are responsible for addressing it, and preventing it from happening again.

Be proactive and ensure ELL students aren't experiencing this treatment from students or staff:
- Ensure ELL students know how to report it; consider hearing from them about a trusted adult they'll talk to and have that person be proactive about monitoring climate.
- Consider administering student climate surveys to figure out what's going on.
- If fights occur between racially identifiable student groups, be proactive in addressing potential cultural differences that are triggering conflict.

Regional resource: South Central Collaborative for Equity/Intercultural Development Research Association (the Equity Assistance Center for Region VI)

Language Access

Districts must ensure that all staff communicate with LEP families in a language they can understand and notify LEP families of any program, service, or activity communicated to English-speaking families, **to the extent practicable.**

—Title VI of the Civil Rights Act of 1964

Language Access

WHAT GETS TRANSLATED AND INTERPRETED?

WRITTEN & TRANSLATED

- Handbooks/discipline policies
- Disciplinary notices
- Report cards/other academic performance notices
- Parent permission forms
- Grievance procedures
- Bullying notices
- Notices about school choice
- Non-Discrimination notices
- Testing accommodations
- Registration Documents/Home Language Survey

VERBAL & INTERPRETED

- Registration & Enrollment process
- Counseling on eligibility for ELL program
- Disciplinary hearings
- Orientation/Back to School events
- Parent-Teacher conferences
- Medical emergencies/Nurse calls
- School-wide announcements over intercom
- Special education meetings
- Helping parents report absences
- Testing accommodations

Language Access

WHO PROVIDES IT?

APPROPRIATE

- Staff who are fully proficient in the underlying language, who are certified, trained interpreters, and who are designated interpreters.

- Contracting services from a professional interpretation company.

- Contracting services from a language line.

Err on the side of every staff member being prepared, and knowing how to access appropriate language services to communicate with LEP families.

INAPPROPRIATE

- Unofficial volunteers

- Uncertified Parent volunteers or bilingual parent liaisons

- Bilingual friends & family of the LEP student

- The student themselves

- Other students

- Free internet translation services

- Self-proclaimed bilingual staff and/or ELL teachers not certified in interpretation

- Speaking English but more slowly or loudly

Language Access

PLANNING & PREPARATION

"to the extent practicable"

Home Language Survey: of the non-English languages, what is the size of your LEP populations and which languages are **Major** vs. **Lower Incidence?**

- **Major:** be prepared to provide the full array of language access

- **Lower Incidence:** It's permissible to focus on providing interpretation services with a language line and offer interpretation of documents (in lieu of translation).

- Distinguishing threshold hovers around 5% of the population

Questions or Comments?

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