

What Are the Core Legal Rights of ELLs and Their Parents?

- Children of undocumented aliens have a Constitutional right to a free public education. *Plyler v. Doe*, Supreme Ct. (1982), “It is difficult to understand precisely what the State hopes to achieve by promoting the creation and perpetuation of a subclass of illiterates within our boundaries.”
- In the foundational case, *Lau v. Nichols*, the Supreme Court made clear that language minority children who lack proficiency in English are entitled to some sort of language intervention or program that will enable them to benefit from the educational program of their schools. 1414 U.S. 563, 94 S. Ct. 786 (1974)
- § 601 of the Civil Rights Act of 1964, 42 U.S.C.A. § 2000d bans discrimination based on “the grounds of race, color, or national origin,” in “any program or activity receiving Federal financial assistance.”
- Equal Educational Opportunities Act, “No state shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.
- *Castaneda v. Pickard*, the *Castaneda* test may be stated as a series of three questions used to determine whether “appropriate action” is being pursued to overcome language barriers:
 - 1. Is the school system pursuing a program based on an educational theory recognized as sound or at least as a legitimate experimental strategy by some of the experts in the field?
 - 2. Is the program, as implemented by the school or district, reasonably calculated to implement that theory?
 - 3. After being used for enough time to be a legitimate trial, has the program produced satisfactory results? (citing *Castaneda v. Pickard*, 648 F.2d 989, 1009 (5th Cir.1981)).



BRIEF

- The OCR has proscribed that Title VI of the Civil Rights Act is violated if:
 - national-origin minority students are misassigned to classes for the mentally retarded because of their lack of English skills,
 - parents whose English is limited do not receive school notices and other information in a language they can understand. Parents thus have the right to notices and meetings as required in their native language or through a translator.

