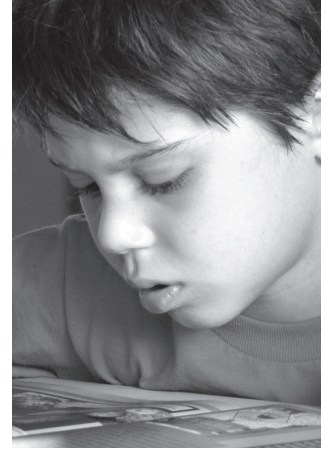


Rights of English Language Learners

Education is a basic right of all children in the United States. The federal *No Child Left Behind Act* of 2001 (NCLB) added important new educational rights for English language learners and their parents. Federal laws, such as *NCLB*, *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 language learners need extra support. They need help to learn English and, at the same time, to master academic standards. This issue of *Pointers* outlines some of these rights under state and federal laws.

State and federal laws use the terms “students with limited English proficiency” (or, LEP students), “English language learners” (or, ELLs), and “English learners” to describe the same group of students. Massachusetts PIRC prefers the term “English language learners” because it gives a positive focus on what these students are accomplishing—mastering a new language while learning all school subjects and becoming active members of their school communities.



Who is an English language learner?

English language learners (ELLs), also referred to as Limited English Proficient or LEP students, 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 language learner. Once a district identifies students as English language learners, 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 language 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 standards, as his or her peers. In Massachusetts, these educational standards are outlined in the state’s “Curriculum Frameworks.” 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 highly qualified 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.

- As an English language learner, your child will participate each year in the Massachusetts English Proficiency Assessment (MEPA) to assess his or her progress in learning English. You will be informed of the results.
- Your child will also participate in the annual statewide assessment for all students, the Massachusetts Comprehensive Assessment System (MCAS), which assesses your child’s progress in academic subjects. You will receive reports of your child’s test results in a language you understand.

To learn more about the MEPA and MCAS assessments, please contact Massachusetts PIRC for its publication “English Language 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)).
- If your child has been identified as "Limited English Proficient" or an English language learner, your child's school must tell you:
 1. The level of your child's English skills in listening, speaking, reading and writing as compared to other English language learners.
 2. The school's recommended program for your child. 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 long the program is expected to last.
- Parents must receive notice about their child's identification as an English language 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 language learners.

Parents' right to decline an English language learner program

- If you do not want your child to be in an English language 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 language learners.

Child's right to academic monitoring

- Once your child becomes proficient in English language (based on statewide assessments and other information) and leaves an English language 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 language 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 language 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.
- ELL 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.

What programs are available for English language learners?

Massachusetts law refers to the following programs:

Sheltered English Immersion (SEI): Massachusetts law requires that all students who are English language 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 ELL students develop speaking, listening, reading, and writing skills in English. The balance between ESL instruction and academic instruction in English changes as students 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 language 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: Parent who do not wish their child to be placed in a program for English learners may "opt out" and their child will be placed in general education classrooms taught in English. *Schools must monitor the progress of students who opt out, and must continue to provide academic assistance and assistance in learning English.* Such assistance could include classroom teachers who have been trained to help students learn a second language, and/or English language support to the student.

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 ELL students 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.

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; both the superintendent and the school principal must sign the document.



To learn more about how you can support your child's education, contact Massachusetts PIRC toll-free at 1-877-471-0980. Staff members offer telephone assistance in English, Spanish, and Portuguese.

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 language learners and minority students.

In addition to the rights listed in this *Pointers*, federal law provides other important options for *all* parents. For example, parents whose children are in underperforming schools **may have the right to choose another school or to receive free tutoring** for their children. Massachusetts PIRC can send free, easy-to-understand documents on these options in English, Spanish, and Portuguese.

RESOURCES ON RIGHTS OF ENGLISH LANGUAGE LEARNERS

Massachusetts PIRC Free Resources

Massachusetts PIRC provides parents, schools, and organizations with training, information, and technical assistance to support their efforts to help children succeed in school. Our goal is to help parents and families understand how to support their children's academic achievement and to help families and schools build strong partnerships aimed at improving education. The following publications supplement the information in this issue of *Pointers*.

Parents' PLACE Pointers

- English Language Learners and State Assessments
- Working with Your School
- School Report Cards
- Supplemental Educational Services Under NCLB

Parents' PLACE Bulletins

- MCAS Parent/Guardian Report: A Roadmap
- Free Tutoring Available under the No Child Left Behind Act

All publications are available in English, Spanish, and Portuguese. This *Pointers* and the *Pointers* on "English Language Learners and State Assessments" are also available in Albanian, Cape Verdean Creole, Chinese, Haitian Creole, Russian, Somali, and Vietnamese. All publications are online at www.masspirc.org. Print copies are also available upon request. To request print copies of these publications or for telephone assistance in English, Spanish, or Portuguese, please call Mass PIRC's toll-free help line at 1-877-471-0980.

Massachusetts Department of Elementary and Secondary Education (Mass. DESE) Resources

The Mass. DESE Website is www.doe.mass.edu. Web site documents are updated on occasion and exact locations and titles may change. Entering a title into a search engine may be the easiest way to access a document.

- **Coordinated Program Review Procedures: School District Information Package, English Learner Education in Public Schools, M.G.L. Chapter 71A.** This document lists the federal and state rules and regulations that schools must comply with in educating English language learners. Online at www.doe.mass.edu/pqa/review/cpr/instrument/chapter71A.doc.
- **English Language Proficiency Benchmarks and Outcomes for English Language Learners.** This document outlines the English language knowledge and skills that students are expected to gain in the four language areas of listening, speaking, reading, and writing. Online at <http://www.doe.mass.edu/mcas/mepa/benchmark.html>.
- **Massachusetts Curriculum Frameworks.** These frameworks (or "standards") describe what Massachusetts public school students should know and be able to do in eight core academic subjects at various grade spans. Online at www.doe.mass.edu/frameworks/current.html.
- **MEPA Parent/Guardian Guides and Reports.** This Guide, available in English and 10 other languages, is designed to assist parents in reviewing their children's MEPA results and in understanding how scores are reported. The Guide supplements the information provided in the MEPA Parent/Guardian Report. Online at <http://www.doe.mass.edu/mcas/mepa/pg/>

- **Questions and Answers Regarding Chapter 71A: English Language Education in Public Schools.** Online at http://www.doe.mass.edu/ell/chapter71A_faq.pdf.

- **Schedule for MCAS and MEPA Testing.** Updated annually and posted online at www.doe.mass.edu/mcas/cal.html.

Additional Phone Help

The Federation for Children with Special Needs, Parent Training and Information Center, provides free assistance in English, Spanish, and Portuguese to families of children with disabilities through workshops, written materials (online at www.fcsn.org/pti) and via telephone, toll free, at 800-331-0688.

For answers to MCAS and MEPA questions, call the Mass. DESE Parent Information Hotline at 781-338-6970 or, toll free, at 866-622-7220. Questions can be emailed to mcas@doe.mass.edu. Copies of written DESE materials may also be requested.

For MCAS and MEPA policy questions, contact Mass. DESE by phone at 781-338-3625, or email dwiener@doe.mass.edu.

For questions about the identification, evaluation, and placement of English language learners, contact Mass. DESE's Office of English Language Acquisition and Academic Achievement at 781-338-3518, or by email at ell@doe.mass.edu.



Pointers

Parents' PLACE Pointers was originally developed under Grant #U310A030443 awarded by the U.S. Department of Education, Office of Innovation and Improvement. The funds to update and disseminate this issue of *Pointers* were made available through Grant #U310A060075 from the U.S. Department of Education, Office of Innovation and Improvement, Parental Information and Resource Center program, Grant #84.310A. The views and opinions herein do not necessarily reflect those of the U.S. Department of Education.

We encourage copying of this newsletter to distribute to parents and families. Permission is granted to reprint this publication in whole or in part. Please credit *Parents' PLACE Pointers*, Massachusetts PIRC, Federation for Children with Special Needs, and contact us at masspirc@fcsn.org to indicate the number of copies disseminated.

© Federation for Children with Special Needs, 1110.

This issue of *Pointers* was written by Janet Vohs, Mass PIRC staff, with assistance from Debbie Zacarian, Ed.D., Director, Center for English Language Education (CELE), a program of the Hampshire Education Collaborative, Northampton, MA. Mass PIRC thanks the legal staff of the Massachusetts Department of Elementary and Secondary Education for their review and revisions.