



Bridging Refugee Youth & Children's Services

# Refugee Children in U.S. Schools: *A Toolkit for Teachers and School Personnel*



## Tool 5: Federal Requirements to Provide Interpretation/ Translation in the Schools

To access the entire Toolkit, visit: <http://www.brycs.org/publications/schools-toolkit.cfm>

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## Federal Requirements to Provide Interpretation/Translation in the Schools



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*A refugee child from Burma was struggling in school. Her teacher looked forward to parent-teacher conferences because she wished to speak with the child's parents. Invitations and reminders were sent out to all the parents, but only in English. The parents did not understand the letters and therefore missed the meeting. The teacher managed to arrange another meeting with them, but when they showed up, there was no interpreter and no way for them to communicate with her. They fumbled through the meeting the best they could with gestures and simple English, but the parents left frustrated and having understood very little of what was said to them.*

### ***Interpretation/Translation***

Interpretation refers to the process of orally rendering communication from one language into another, while translation refers to the same process in written language. Therefore, in the example above, a translator was needed to translate the parent-teacher conference invitation, but an interpreter was needed for the actual conference. Challenging interpretation/translation situations like the one described above happen throughout the U.S. every single day; however, these may be violations of federal law. The following pages describe federal requirements related to interpretation/translation in the school setting.

### ***National Origin Discrimination***

Before specifically discussing interpretation and translation, it is important to have a basic understanding of federal laws and regulations related to national origin discrimination such as:

- [Title VI of the Civil Rights Act of 1964](#): This prohibits discrimination on the basis of race, color, or national origin in programs and activities that receive federal financial assistance.
- [Executive Order 13166, Improving Access for Persons with Limited English Proficiency \(2000\)](#): This order does not create new obligations, but rather clarifies existing Title VI responsibilities. It discusses what constitutes "reasonable steps" to ensure that clients in federally funded programs have meaningful access to the information and services provided and looks at four factors:
  1. The number or proportion of LEP persons to be served
  2. The frequency with which LEP individuals come in contact with the program
  3. The nature and importance of the program, activity, or service to people's lives
  4. The resources available to the grantee/recipient and costs
- More information about these can be found on the Federal Interagency Working Group on Limited English Proficiency's [Web site](#).

## ***Non-Discriminatory and Comparable Access to Education***

The following policy memos and case law have to do with national origin discrimination in the school context. They provide national origin- and language-minority students with **non-discriminatory** and **comparable access** to education:

- [1970 Memorandum](#): This federal memorandum on “Identification of Discrimination and Denial of Services on the Basis of National Origin” clarified the Title VI requirements of school districts to provide equal educational opportunities to all children, regardless of national origin and language.
- [Lau v. Nichols \(1974\)](#): The U.S. Supreme Court upheld the requirements articulated in the 1970 Memorandum as a valid interpretation of the requirements of Title VI.
- Two additional policy memos related to discrimination on the basis of national origin in an educational setting were issued in [1985](#) and [1991](#). These provided more clarity on school districts’ requirements in servicing ELL students and providing language assistance.

## ***Specific References to Interpretation/Translation***

It is important to note that the school-related federal laws and regulations mentioned above do *not* explicitly use the words “interpretation” and “translation” but rather indirectly address these topics within the context of providing students with non-discriminatory and comparable access to education. The [1970 Memorandum](#) provides the most specific guidance on interpretation, but still does not specifically use that word. It states:

*“School districts have the responsibility to adequately notify national origin-minority group parents of school activities which are called to the attention of other parents. Such notice in order to be adequate may have to be provided in a language other than English.”*

This is reiterated in [The Provision of an Equal Education Opportunity to Limited-English Proficient Students](#), under the Department of Education Office for Civil Rights’ (DOE/OCR) list of “Title VI Compliance Issues.” DOE/OCR addresses complaints related to the issue of meaningful communication with LEP parents in a manner consistent with [Executive Order 13166, Improving Access for Persons with Limited English Proficiency \(2000\)](#).<sup>1</sup>

The [Elementary and Secondary Education Act](#) (i.e. “No Child Left Behind”)<sup>2</sup> also does not specifically use the words “interpretation” and “translation,” but rather outlines the following information that must be provided **“to the extent practicable, in a language parents can understand”**:

- Title I: Improving the Academic Achievement of the Disadvantaged<sup>3</sup>
  - Information regarding achievement on academic assessments.
  - Annual state and local educational agency report cards.
  - Parents’ Right-to-Know (professional qualifications of their child’s teachers, notice that the child has been taught by a teacher who is not “highly qualified,” etc.).<sup>4</sup>
  - Information in the school’s Title I plan.<sup>5</sup>
  - If the child’s school is identified for “school improvement,”<sup>6</sup> information on what this means, the reasons for the identification, what the school district and state are doing to address the problems identified, how parents can become involved to help, and an explanation of the parents’ right to transfer their child to another school.<sup>7</sup>
  - Information on the availability of supplemental educational services, identified approved providers, and a brief description of the services. For students receiving supplemental educational services, information on their progress.<sup>8</sup>
  - Information related to school and parent programs, meetings, and other activities and notification of the district’s parental involvement policy.

- Meaningful consultation with parents of Title I participating children on the planning and implementation of parental involvement programs, activities, and procedures.<sup>9</sup>
- Title III: Language Instruction for Limited English Proficient (LEP) and Immigrant Students
  - The reasons the child has been identified as LEP and is in need of a language instruction educational program, the child's level of English proficiency and academic achievement, information about the various program options (methods of instruction used, how the programs differ, how the programs will help their child learn English, etc.), and information about a parent's right to decline to enroll their child in such a program.<sup>10</sup>

The [Individuals with Disabilities Education Act \(IDEA\)](#) contains a number of references to interpretation and translation. IDEA makes it clear that communicating with non-English speaking parents about special education demands the highest standards in regards to interpretation and translation. IDEA states:

- Assessments and other evaluation materials used to assess a child must be provided and administered in the child's **native language**, unless it is clearly not feasible to do so.<sup>11</sup>
- All parents of a child with a disability are to be provided with written notice before the school proposes to initiate or change the identification, evaluation, or educational placement of the child. This written notice must be provided in the **native language** of the parent, unless it is clearly not feasible to do so. If the native language is not a written language, the school must ensure that the notice is translated orally.<sup>12</sup>
- In general, parents are strongly encouraged to attend Individualized Education Program (IEP) team meetings. The school must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including **arranging for an interpreter** if needed.<sup>13</sup>
- When consent is sought (for accepting special education services, etc.), the parent must be fully informed of all information relevant to the activity for which consent is sought, in his or her **native language**, or other mode of communication.<sup>14</sup>
- The State Educational Agency must inform parents about their right to confidentiality of personally identifiable information. This notice must be given in the **native languages** of the various population groups in the State.<sup>15</sup>

### ***What to Do If Federal Requirements Are Not Met***

If you have a concern regarding interpretation/translation or are aware that national origin- or language-minority students are not being provided with non-discriminatory and comparable access to education, consider taking the following steps:

- Request a meeting with **school administrators** and/or your local **school board**. Refugee resettlement and/or community based organization staff might consider offering the school district assistance in locating interpreters, but be clear on roles and responsibilities. It is the school district's ultimate responsibility to provide and pay for interpreters as needed, in order to provide non-discriminatory and comparable access to education.
- Bring the issue to the attention of your **State Department of Education**, along with your [State Refugee Coordinator](#). Many State Refugee Coordinators are in contact with someone at their state Department of Education and can share this contact information. Bridging Refugee Youth & Children's Services (BRYCS) can also help facilitate such connections.
- **File a complaint** with the Department of Education's Office for Civil Rights or the Department of Justice's Civil Rights Division. (These offices work independently of each other.)
  - The federal Department of Education's [Office for Civil Rights \(OCR\)](#) has 12 regional offices, which respond to complaints. DOE/OCR's role is to be a neutral fact-finder and to promptly

resolve complaints. The complaint can be filed by anyone who believes that an education institution that receives Federal financial assistance has discriminated against someone; however, complaints may be stronger if they come directly from the parent(s) involved. It is important to note that retribution is illegal. OCR's Web site includes examples of recent resolutions, including the Boston Public Schools.

- The Department of Justice's [Civil Rights Division](#) enforces civil rights laws in a wide variety of contexts, including education. Their Web site includes information on how to file a complaint and examples of cases and settlement agreements. The School District of Philadelphia recently settled with the Department of Justice on a well publicized case of harassment and violence towards Asian students.<sup>16</sup> One section of the settlement covers interpretation and requires the school district to provide interpreters to English language learners who complain of harassment and to their parents when they meet with school staff.
- School districts may also consider requesting **technical assistance** for help with issues related to national origin discrimination, such as interpretation and translation. Schools may request technical assistance from the [Office for Civil Rights](#) or from one of the nation's [Equity Assistance Centers](#), which is a network of agencies that provide assistance in the areas of race, gender, and national origin equity to public schools to promote equal educational opportunities.

### ***Promising Practices and Additional Resources***

School districts looking for examples of how to provide interpretation and translation services to national origin- and language-minority students may want to read about the [St. Paul Public Schools](#) in Minnesota and the [Rochester City School District](#) in New York. The St. Paul Public Schools have a centralized department that handles interpretation and translation requests and the Rochester City School District contracts with a local refugee resettlement agency to provide these services.

BRYCS has developed a number of resources in the area of interpretation/translation. Check out [Suggestions for Interviewing Refugee and Immigrant Children and Families](#), the related [webinar](#), and the list of highlighted resources on [Interpretation: Serving Refugee and Immigrant Children](#). For school-related resources in addition to this tool, see the list of highlighted resources on [Interpretation/Translation in the Schools](#).



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<sup>1</sup>Presentation on "Ensuring Equal Educational Opportunities for English Language Learners" by U.S. Department of Education, Office for Civil Rights. Chicago, IL. October 7, 2010.

<sup>2</sup> The most recent version of the Elementary and Secondary Education Act (ESEA) was the No Child Left Behind Act of 2001. In March 2010, the Obama Administration published its blueprint for revising ESEA, but it is unknown when Congress will take up reauthorization. <http://www2.ed.gov/policy/elsec/leg/blueprint/index.html>

<sup>3</sup> This is a program to help meet the educational needs of children in our Nation's highest-poverty schools. Many refugee students attend Title I-funded schools in low-income neighborhoods. If you are not sure if a particular school is designated as Title I, ask the school's principal.

<sup>4</sup> The first three items in this list are required by ESEA, Title I, Part A, Section 1111.

<sup>5</sup> ESEA, Title I, Section 1114. Any school that desired Title I funding must develop a comprehensive plan for reforming the instructional program in the school.

<sup>6</sup> After a school fails to make adequate yearly progress (AYP) for two years, they are identified for "school improvement" and students have the option of transferring to another public school. Such schools must develop a "school plan" for how they will improve.

<sup>7</sup> ESEA, Title I, Section 1116.

<sup>8</sup> ESEA, Title I, Section 1116. Supplemental educational services must be made available for students in schools identified for "school improvement."

<sup>9</sup> The last two bullets of the Title I section are from ESEA, Title I, Section 1118.

<sup>10</sup> ESEA, Title III, Part C, Section 3302. (This information is also required by ESEA, Title I, Part A, Section 1112.)

<sup>11</sup> IDEA. 34 C.F.R. § 300.304(c)(1)(ii).

<sup>12</sup> IDEA. 34 C.F.R. § 300.503(c).

<sup>13</sup> IDEA. 34 C.F.R. § 300.322(e). IEP team meetings are held to discuss the child's disability, educational placement, and goals for the year.

<sup>14</sup> IDEA. 34 C.F.R. § 300.9.

<sup>15</sup> IDEA. 34 C.F.R. § 300.612.

<sup>16</sup> Asian Students Praised for Role in 2 Philly School Settlements. *The Philadelphia Inquirer*. December 21, 2010. [http://articles.philly.com/2010-12-21/news/25292596\\_1\\_asian-students-settlements-anti-asian](http://articles.philly.com/2010-12-21/news/25292596_1_asian-students-settlements-anti-asian)