

# Lau vs. nichols: english language learners essay sample

[Linguistics](#), [Language](#)



There are three federal court cases that provide the legal foundation for providing equal educational opportunity to students with limited English Proficiency, Lau vs. Nichols 1973, Castaneda vs. Pickard 1981 and Plyler vs. Doe 1982 (The English Language Learners Knowledge Base, 2004).

This research paper will focus on Lau vs. Nichols, a major ruling by the Supreme Court in reference to Title VI of the Civil rights act of 1964. In this research paper I will give the history, outcome and discuss the implications that have affected ELL classroom / learners of the future. This cases main point was that when children arrive in school with little or no English-speaking ability, “ sink or swim” instruction is a violation of their civil rights.

In 1974 The U. S. Supreme Court ruling in the Lau vs. Nichols case set major precedent regarding the educational rights of language minorities, although this fact is grounded in statute (Title VI of the Civil Rights Act of 1964), rather than in the U. S. Constitution. At issue was whether school administrators may meet their obligation to provide equal educational opportunities merely by treating all students the same, or whether they must offer special help for students unable to understand English. Lower federal courts had absolved the San Francisco school district of any responsibility for minority children’s “ language deficiency.” But a unanimous Supreme Court disagreed. Its ruling opened a new era in federal civil rights enforcement under the so-called “ Lau Remedies.” The decision was delivered by Justice William O. Douglas on January 21, 1974 (Find Law, 2006).

History

The following are inserts from the case. This class suit brought by non-English-speaking Chinese students against officials responsible for the operation of the San Francisco Unified School District sought relief against the unequal educational opportunities which were alleged to violate, inter alia, the Fourteenth Amendment. No specific remedy was urged upon us. Teaching English to the students of Chinese ancestry who do not speak the language is one choice. Giving instructions to this group in Chinese is another. There may be others. Petitioner asks only that the Board of Education be directed to apply its expertise to the problem and rectify the situation. ...

The Court of Appeals reasoned that “ every student brings to the starting line of his educational career different advantages and disadvantages caused in part by social, economic and cultural background, created and continued completely apart from any contribution by the school system”; 83 F. 2d 497. Yet in our view the case may not be so easily decided. This is a public school system of California and § 71 of the California Education Code states that “ English shall be the basic language of instruction in all schools.” That section permits a school district to determine “ when and under what circumstances instruction may be given bilingually.” That section also states as “ the policy of the state” to ensure “ the mastery of English by all pupils in the schools.” And bilingual instruction is authorized “ to the extent that it does not interfere with the systematic, sequential, and regular instruction of all pupils in the English language.”

Moreover, sect. 8573 of the Education Code provides that no pupil shall receive a diploma of graduation from grade 12 who has not met the standards of proficiency in “ English,” as well as other prescribed subjects. Moreover, by sect. 12101 of the Education Code (Supp. 1973) children between the ages of six and 16 years are (with exceptions not material here) “ subject to compulsory full-time education.”

Under these state-imposed standards there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education. Basic English skills are at the very core of what these public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program, he must already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful.

We do not reach the Equal Protection Clause argument which has been advanced but rely solely on sect. 601 of the Civil Rights Act of 1964 to reverse the Court of Appeals. That section bans discrimination based “ on the ground of race, color, or national origin,” in “ any program or activity receiving federal financial assistance.” The school district involved in this litigation receives large amounts of federal financial assistance. The Department of Health, Education, and Welfare (H. E. W.), which has authority to promulgate regulations prohibiting discrimination in federally assisted

school systems, in 1968 issued one guideline that “ school systems are responsible for assuring that students of a particular race, color, or national origin are not denied the opportunity to obtain the education generally obtained by other students in the system.” In 1970 H. E. W. made the guidelines more specific, requiring school districts that were federally funded “ to rectify the language deficiency in order to open” the instruction to students who had “ linguistic deficiencies.”

It seems obvious that the Chinese-speaking minority receive fewer benefits than the English-speaking majority from respondents’ school system, which denies them a meaningful opportunity to participate in the educational program – all earmarks of the discrimination banned by the Regulations. In 1970 H. E. W. issued clarifying guidelines which include the following:

#### Outcome

The outcome of the case was the ruling by the Court of Appeals was reversed. Included in the ruling was when there is an inability to speak and understand the English language which excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students (Find Law, 2006).

Any ability grouping or tracking system employed by the school system to deal with the special language skill needs of national origin-minority group children must be designed to meet such language skill needs as soon

as possible and must not operate as an educational deadend or permanent track. Respondent school district contractually agreed to comply with Title VI of the Civil Rights Act of 1964.

Senator Humphrey, during the floor debates on the Civil Rights Act of 1964, said

“ Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination” (The Law, 2006).

### Implications

This case set precedent for all future cases involving Civil Rights in relation to ELL. Justice Harry Blackmun foresaw this as an issue that would be significant as school districts would be confronted with increasingly diverse student populations in the future.

He stated “ I stress the fact that the children with whom we are concerned here number about 1, 800. This is a very substantial group that is being deprived of any meaningful schooling because the children cannot understand the language of the classroom. We may only guess as to why they have had no exposure to English in their preschool years. Earlier generations of American ethnic groups have overcome the language barrier by earnest parental endeavor or by the hard fact of being pushed out of the family or community nest and into the realities of broader experience. I merely wish to make plain that when, in another case, we are confronted

with a very few youngsters, or with just a single child who speaks only German or Polish or Spanish or any language other than English, I would not regard today's decision ... as conclusive upon the issue whether the statute and the guidelines require the funded school district to provide special instruction. For me, numbers are at the heart of this case and my concurrence is to be understood accordingly" (Find Law, 2006).

## Conclusion

While the original Lau vs. Nichols decision involved a suit brought by Chinese parents, the ruling today affects students from a wide variety of language and cultural backgrounds. In response to the 1974 Supreme Court "Lau remedies" which insisted transitional bilingual education (TBE) was the best-if not the only approach-to teaching limited-English-proficient students. In succeeding years, the selection of the TBE model and its effectiveness has become controversial. As researcher Sheldon Richman states in his review of TBE, "This approach was chosen without public discussion and without research to back it up.

In the years since the 1974 ruling, in spite of a lack of conclusive research supporting such actions, the federal government has consistently favored TBE programs by channeling funding in their direction" In 1988, a three-year limit was placed on student participation in TBE and alternative programs, except under special circumstances (Evergreen Freedom Foundation, 2001). I believe the ruling was significant for the future of ELL. Just as Brown vs. the Board of Education established that all students are entitled to a fair and

equal education, Lau vs. Nichols established that students who have language difficulties are entitled to a fair and equal education (The law, 2006).

References:

Evergreen Freedom Foundation, (2001) Bilingual education, removing the barriers,

School Director's Handbook, Retrieved January 25, 2006 from,

[http://www.effwa.org/pdfs/education\\_directors\\_handbook3.pdf#search='lau%20vs.nichols](http://www.effwa.org/pdfs/education_directors_handbook3.pdf#search='lau%20vs.nichols)

Find Law (2006) U. S. Supreme Court, LAU v. NICHOLS, 414 U. S. 563 (1974)

414 U. S. 563, Retrieved January 26, 2006 from,

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&navby=case&vol=414&invol=563>

The English Language Learners Knowledge Base (2004) Guiding Federal Court Cases

on Equal Educational Opportunity, Retrieved January 28, 2006 from,

[http://www.helpforschools.com/ELLKBase/legal/Court\\_Cases\\_Federal\\_Equa\\_Educ\\_Opp.shtml](http://www.helpforschools.com/ELLKBase/legal/Court_Cases_Federal_Equa_Educ_Opp.shtml)

The Law (2006) ELL/ELD Newcomers book, Retrieved January 28, 2006 from,

<https://assignbuster.com/lau-vs-nichols-english-language-learners-essay-sample/>



[http://www.cvsd.org/documents/ELL\\_Newcomers\\_guide.pdf#search='lau  
%20vs.nichols'](http://www.cvsd.org/documents/ELL_Newcomers_guide.pdf#search='lau%20vs.nichols')

Richman S. (1997) Bilingual Education: A Failed Experiment on the Children,  
Retrieved

January 28, 2006, from, <http://i2i.org/article.aspx?ID=613>