



## **LEGISLATION**

### ***Philosophy***

Fairfax County Public Schools is committed to providing a free and appropriate public education for all students — including language minority students — with disabilities from age 2 through 21 and babies who are deaf or hard of hearing. This philosophy safeguards the rights of all students and supports the specific education needs of language minority students by promoting appropriate use of the home language and sensitivity to culture. In accordance with federal, state, and county regulations, FCPS has developed procedures for identifying, screening, and evaluating students; determining student eligibility; and providing special education services. This document is designed to clarify the guidelines for providing appropriate educational opportunities for culturally and linguistically diverse students who are experiencing academic difficulties.

### ***Federal Legislation***

#### **P.L. 105-17 The Individuals With Disabilities Education Act, (1997) (IDEA)**

This law was formerly known as Public Law 94-142. It guarantees a free and appropriate education to all students with disabilities. The primary mandates of the law that pertain to the language minority student include:

- Establishing nondiscriminatory evaluation procedures appropriate for use with culturally and linguistically diverse students.
- Testing in the native (dominant) language unless it is clearly not feasible to do so.
- Ensuring that the eligibility determination is not due to limited English proficiency.
- Developing an individualized education program (IEP) for each CLD student that reflects his or her needs.
- Providing oral and written information to parents in their native language to facilitate informed parental involvement in the special education identification, assessment, eligibility, and service delivery processes.

#### **P.L. 99-457 The Education of All Handicapped Children's Act Amendment of 1986**

This act amends the 1975 Education of All Handicapped Children Act. It extends mandatory programming for children with disabilities from the age of three and provides incentives for programming beginning at birth.

#### **The Rehabilitation Act of 1973 (Section 504)**

This legislation prohibits discrimination on the basis of disability in any program or activity operated by an organization or entity receiving federal funding.



## **P.L. 107-110 No Child Left Behind Act of 2001 (2001)**

### **Title I: Improving the Academic Achievement of the Disadvantaged**

This legislation authorizes eligible limited English proficient (LEP) students to fully participate in Title I programs for economically disadvantaged children. It calls for, “the inclusion of limited English proficient students, who shall be assessed in a valid and reliable manner and provided reasonable accommodations on assessments...including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency...” [Part A, Sec. III (b) (2)].

### **Title III: Language Instruction for Limited English Proficient and Immigrant Students**

The purpose of this legislation is to “help ensure that children who are limited English proficient, including immigrant children and youth, attain English proficiency, develop high levels of academic attainment in English, and meet the same challenging State academic content and student academic achievement standards as all children are expected to meet.” It provides grants to states and local education agencies to develop and enhance programs for limited English proficient students so that they can meet current state academic standards.

## **Lau vs. Nichols (1974)**

The premise for this case was that students were not being provided an equal education because they were unable to understand the language in which they were being taught. The Supreme Court stated, “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.” Therefore, schools are required to develop students’ proficiency in English so that they may meaningfully participate in the regular classroom.

## **The Equal Educational Opportunity Act (1974) (EEOA)**

This act requires a local school agency to take appropriate action to overcome language barriers that impede students’ equal participation in its instructional programs.

## **The Health, Education, and Welfare (HEW) Memorandum of May 25, 1970, Interpreting Title VI of the Civil Rights Act of 1964**

The HEW memorandum provides current federal guidelines for school districts regarding services for LEP students and states: “Where the inability to speak and understand the English language 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.”

## **The Civil Rights Act (1964), Title VI**

This law mandates that no student may be excluded from participation in or denied the benefits of any public school system on the grounds of his or her national origin.



### **Brown vs. Board of Education of Topeka (1954)**

This landmark case established desegregation of public schools. The United States Supreme Court ruled that separate but equal facilities are inherently unequal.

## ***State Regulations***

### **Constitution of Virginia, Article VIII, Section 1 (1991)**

This document gives further legal authority requirements to local school systems by stating that all regulations established by the Virginia Board of Education are applicable to students with disabilities except where noted.

### **Standards and Regulations for Public Schools in Virginia, Part IV. 4.1 (current)**

This regulation states, “Each school shall provide a program of instruction that promotes individual student achievement and is in keeping with the abilities, interests, and educational needs of each student. Instruction shall be designed to accommodate all students, including those with disabilities, those identified as gifted and talented, and/or those who have limited English proficiency.”

## ***Fairfax County Public Schools Regulations***

### **Fairfax County Public Schools Regulation 1454.2 (9/10/01)**

This regulation implements Section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination against students on the basis of disability in any program or activity offered by FCPS.

### **Fairfax County Public Schools Regulation 3401.4 (9/17/01)**

This regulation establishes procedures to be followed in the identification, evaluation, and placement of students with disabilities. The FCPS manual, *Evaluation, Eligibility, and Placement Procedures for Special Education Programs*, was developed to implement state and federal regulations.

### **Fairfax County Public Schools Regulation 2217.1 (10/16/00)**

This regulation supersedes Regulation 2217. It provides information about the intervention, assessment, and eligibility processes for culturally and linguistically diverse (CLD) students. It establishes that an ESOL teacher or other person with second language acquisition expertise be included in child study, local screening, and IEP committee decisions made on behalf of LEP students. It is strongly recommended that ESOL personnel also participate in eligibility meetings for these students.



## **Legislation Time Line**

1954	Brown vs. Board of Education of Topeka
1964	Civil Rights Act — Title VI
1968	Elementary and Secondary Education Act Bilingual Education Act — Title VII
1970	Health, Education, and Welfare (HEW) Memorandum
1973	Rehabilitation Act (Section 504)
1974	Lau vs. Nichols The Equal Educational Opportunity Act
1975	Public Law 94-142 — Education for All Handicapped Children's Act
1986	Public Law 99-457 — Education of All Handicapped Children's Act Amendment
1991	Constitution of Virginia, Article VIII, Section 1
1997	Public Law 105-17 — Individuals With Disabilities Education Act (IDEA)
2001	No Child Left Behind Act Fairfax County Public Schools Regulations 1454.1, 3401.3p, and 2217.1