

CLIENT NEWS BRIEF

Court Ruling Requires Greater Scrutiny of Language Census Reporting by Districts

A court recently held that a school district's report of its Language Census data is subject to greater scrutiny if the report shows that English Learners have not received appropriate instructional services.

In *D.J. et al. v. State of California, et al.* (Super. Ct. L.A. County, September 16, 2014, No. BS142775), the plaintiffs alleged that the State violated the California Constitution's Equal Protection clause and the federal Equal Educational Opportunities Act of 1974 by not taking any action upon receiving reports from school districts indicating that English Language Learners were not receiving instructional services. The U.S. Department of Justice filed a brief supporting plaintiffs' Equal Educational Opportunities Act argument. The Superior Court ordered the State to "take appropriate action in response to reports from Districts that (English Learners or "EL" students) have not received instructional services" and to "establish procedures that effectively ensure all (such students) received required English Language instruction."

In this case, three students in Compton Unified School District, their parents, and a retired school teacher sought a ruling from the trial court that the State "cease doing nothing" in response to these "no services" reports and "to establish policies to ensure English language instruction." The Language Census forms require school districts to specify the types of services English Learners receive, and provide the option of counting students "not receiving EL instructional services," which is considered a "no services" report. The State argued that school district reports that some English Learners had received no instructional services did not necessarily mean that students were not receiving the appropriate education. For example, a teacher may not have identified instruction as a service specifically for an English Learner because it was provided to all students in that classroom. The judge rejected the State's argument, determining that the State had "a duty to find out why" the reports were not always accurate.

The trial court judge found that "(c)redible evidence has been presented that districts are denying required instructional services," and the State has "a duty to take some action" under federal law and the California Constitution. The trial court pointed to the admission by the State that "a total of 20,318 English learners do not receive any instructional services." The statement relied on data from the Language Census and California Longitudinal Pupil Achievement Data System (CALPADS).

The court, however, allowed the State discretion in deciding how to meet its duty and provided options, including directing all districts reporting that English Learners are not receiving instruction "to provide such services immediately and submit evidence that this has been done."

In light of this ruling, school districts should anticipate more emphasis from the State on its reporting of English Learner data. Accordingly, school districts should ensure the data provided is accurate and be prepared to explain its reporting in more depth to ensure that English Learners are receiving

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Number 73

instructional services.

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