



**STATE OF SOUTH CAROLINA**  
**DEPARTMENT OF EDUCATION**

**MOLLY M. SPEARMAN**  
*STATE SUPERINTENDENT OF EDUCATION*

**MEMORANDUM**

**TO:** District Superintendents  
ESEA Title III EL Coordinators  
Adult Education Directors  
Principals

**FROM:** Cathy Hazelwood  
Deputy Superintendent, Division for Legal Affairs

**DATE:** March 2, 2021

**RE:** Multilingual Learner Enrollment

Title VI of the Civil Rights Act of 1964 requires local educational agencies (LEAs) to ensure that enrollment procedures and policies do not negatively impact students based on their immigrant status or English language proficiency. To help ensure appropriate services and enrollment policies for multilingual learners (MLs), please review the below information.

Pursuant to S.C. Code of Law Ann. § 59-63-20 (Supp. 2020), students aged 3-21 enrolling in South Carolina public schools **must** be allowed to do so at all grade levels. Additionally, the United States Supreme Court held in the case of *Plyler v. Doe*, 457 U.S. 202 (1982), that a State may not deny access to a basic public education to any child residing in the State, whether present in the United States legally or otherwise.

While Adult Education is a viable option for some students age 17 and over in South Carolina, **students must fully understand that they have the right to enroll in public high school if they choose to do so.** LEAs **must not discourage** MLs from enrolling in a South Carolina public high school, based on age, previous school, academic history, and/or English language proficiency. In addition, LEAs must communicate all enrollment options to MLs and their families in a language they understand.

Initial grade placement must be with same-age classmates, and MLs must be provided the opportunity to advance with age-level peers. At the high school level, a student must be placed

with age-level peers and decisions for coursework should be based on the student's transcript if available. Classroom teachers must accommodate instruction and assignments to meet the academic and language needs of MLs. Assignment and assessment grades must be reflective of appropriate accommodations based on English proficiency levels and student needs.

Additionally, the Equal Educational Opportunities Act of 1974 and *Lau v. Nichols*, 414 U.S. 563, mandate that MLs are entitled to an equal opportunity to participate in all programs (i.e., Advanced Placement (AP), honors, International Baccalaureate (IB), gifted and talented programs, co-curricular, and extracurricular programs and activities).

Failure to reasonably, and in good faith, follow the above policies may result in an investigation of unprofessional conduct by the South Carolina Department of Education, Office of General Counsel. This includes intentionally ignoring directives or unjustly applying directives to circumvent eligibility requirements.

For additional information or questions, you may reach me at 803-734-8218 or [chazelwood@ed.sc.gov](mailto:chazelwood@ed.sc.gov).