

Chapter 1

Understanding the Implications of the Florida Consent Decree

GLORIA M. ARTECONA-PELAEZ

September 2010

Dear Reader,

This chapter may be somewhat different in style from what you might generally be accustomed to reading in a textbook as it is a personal account of a project that changed the landscape of teacher education in Florida. It all started with an idea that became a dream and then a mission. This project was conceived from the point of view of a student who was in the process of attaining her doctoral degree. She was a former elementary ESOL teacher for many years and experienced firsthand the lack of alignment and articulation between classroom teachers and ESOL teachers and the impact this lack of alignment had on teacher effectiveness and the academic and social progress of ELLs. The most important element for the success of this project was that the faculty and administration in the College of Education at Florida Atlantic University (circa 1993 to 1998) embraced it and allowed this student to dream. Now, you will directly experience the reality of this dream. I am the visionary of Florida's first teacher education program with an ESOL Endorsement.

Sincerely,

GMP

This chapter explores the 1990 Florida Consent Decree, its impact on education, and state and federal laws that prescribe and protect the rights of all students, including ELLs. An explanation of the development and design of the ESOL Integration Curricular Model (EICM) provides every reader with an accurate understanding of pre-service programs across the State. That is, it explains how state approved colleges and universities integrated ESOL standards and competencies into their programs for elementary, English education, and special education. Other education majors, such as math, science, social studies, art, music, and physical education, enroll in one course, or 60 hours of ESOL training as mandated by law.

Faculty, students, and administrators in K–12 schools encounter ESOL-related issues almost daily; thus, teaching ELLs is part of the mainstream in the educational system across the U. S. When it comes to the preparation of teachers, Florida leads the way, as its teacher education programs provide ESOL-integrated course work and field experiences. In fact, in Florida principals, school counselors, and school psychologists must also engage in a minimum of 60 hours of ESOL training as part

The author writing this chapter has used excerpts from the chapter she wrote for *Perspectives on Teaching K-12 English Language Learners*, 2/e edited by Jane Govoni. Published by Pearson Learning Solutions, a Pearson Education Company and used with their permission.

of their required professional development plan. The Consent Decree addresses the civil rights of ELLs, foremost among those their right to equal access to all educational programs. In addressing these rights, it provides a structure that ensures the delivery of comprehensible instruction and the expectations for all teachers and personnel.

According to the Bureau of Student Achievement through Language Acquisition (SALA), the Consent Decree is Florida's framework for compliance with the following federal and state laws and jurisprudence regarding the education of ELLs:

- Title VI and VII Civil Rights Act of 1964

- Office of Civil Rights Memorandum (Standards for Title VI Compliance) of May 25, 1970
- Requirements based on the Supreme Court decision in *Lau v. Nichols*, 1974
- Equal Education Opportunities Act of 1974
- Requirements of the Vocational Education Guidelines, 1979
- Requirements based on the Fifth Circuit court decision in *Castañeda v. Pickard*, 1981
- Requirements based on the Supreme Court decision in *Plyler v. Doe*, 1982
- Americans with Disabilities Act (PL 94-142)
- Florida Education Equity Act, 1984
- Section 504 of the Rehabilitation Act of 1973

(Source: www.fldoe.org/aala)



PAUSE AND REFLECT

There are numerous laws at both state and federal levels that prescribe and protect the rights of ELLs. Several attempts have been made through litigation and legislation to find ways to meet the needs of the growing number of ELLs across the nation. Research the following court cases and write a few facts that are pertinent to each case.

1. Title VI and VII Civil Rights Act, 1964
2. *Lau v. Nichols*, 1974
3. *Castañeda v. Pickard*, 1981
4. *Plyler v. Doe*, 1982
5. American with Disabilities Act (ADA; PL 94-142), 1990

Share your findings with your classmates.

The LULAC et al. Consent Decree, also known as the *META Decree*, established specific requirements for services to be provided to ELLs, and training requirements for educators in Florida. According to the Florida DOE's Course Code Directory (1998),

... The ESOL Endorsement may be completed by either 300 master plan points (MPP) or 15 college semester hours in the following areas: Methods of Teaching ESOL, ESOL Curriculum and Material Development, Cross-Cultural Communication and Understanding, Applied Linguistics, and Testing and Evaluation in ESOL.

It is important to point out that the 1990 Consent Decree did not impose any direct requirements on institutions offering teacher education programs; however, students graduating from teacher education programs in Florida were suffering the consequences of the requirements imposed by the Consent Decree as they began to enter the teaching profession. In essence, commencing with the 1990–1991 academic year, undergraduate students in elementary education, special education, or secondary English education in the state of Florida were required to obtain the equivalent of fifteen credit hours or 300 hours of training in ESOL to meet the state mandate after graduation. Questions were raised such as

- Is the curriculum offered to students in teacher education programs sufficient?
- Are teacher education programs preparing future teachers to effectively deal with the needs of all students?
- Can teacher education programs meet the mandates of the Consent Decree? If so, how?

Unfortunately, teacher education programs were not producing teachers who met the needs of school districts in the area of linguistically diverse learners. Thus, a series of events occurred as follows:

- In 1992, two prominent figures of the Florida Department of Education, R.E. Le Mon and L. Clayton-Kandor, provided a challenge for teacher education programs

by stating, “There are no undergraduate degrees in Florida’s universities which produce graduates who are prepared to move directly into public school systems with a full endorsement in ESOL.”

- In 1993, Florida Atlantic University initiated a curricular project to develop an integrated program of studies to benefit pre-service teachers and school districts across the State. The ESOL Integration Curricular Model (EICM) was designed to provide an integrated curriculum infused with ESOL standards established by the Florida DOE. Upon completion of this program, pre-service teachers graduating with an elementary education degree were eligible for their certification in elementary education and an ESOL endorsement. (This project took six years to design, implement, and be approved.)
- On October 26, 1993, the State Board of Education rule was amended to include ESOL competencies and skills for certification (4th Edition).
- In 1995, the Florida State Board of Education considered adopting rules to require teacher education programs “to provide perspective teachers with the instruction necessary to enable them to teach students having limited proficiency in English.” This instruction became a requirement for teacher preparation programs by the Education Standards Commission in the 1997–1998 academic year.
- In 1997, the national TESOL organization released English as a Second Language (ESL) Standards for Pre-K through 12 to include best practices to meet the needs of English language learners (ELLs) for teacher preparation programs.
- In 1999, the Office of Multicultural Students Language Education (OMSLE), previously referred to as the Office of Academic Achievement through Language Acquisition (AALA), and now called the Bureau of Student Achievement through Language Acquisition (SALA) of the Florida DOE, published the Language Arts through ESOL Guide as a resource for school districts on theories and strategies for ELLs.

- In 2001, *Preparing Florida Teachers to Work with Limited English Proficient Students* became available as a guide for teacher education preparation programs to integrate ESOL into existing curriculum.
- In 2004, all students graduating from state approved elementary education, special education, or English teacher education programs in Florida had to meet complete ESOL training.
- In 2006, the State Board of Education rule revised the ESOL competencies and skills for certification (12th Edition). A crosswalk between ESOL standards and ESOL competencies was developed.
- In 2010, the Bureau of Student Achievement through Language Acquisition developed Teacher Standards for ESOL Endorsement. These serve as the basis for ESOL training in Florida.

TEACHER EDUCATION

The EICM, based on the 1990 requirements of the Florida DOE for pre-service teachers, has produced teachers for Florida's classrooms at Florida Atlantic University since 1996. The initial group of students were the risk-taking undergraduates who chose to take two additional courses without any guarantee, and the payoff was that they were the first students in Florida to graduate with an elementary education degree and an ESOL Endorsement. Other colleges and universities were right behind Florida Atlantic University in designing programs to meet the needs of their pre-service teachers. Today, all Florida graduates from state approved teacher preparation programs in elementary education, special education, and English education meet the requirements for their ESOL Endorsement. It is important to recognize that the EICM model was designed to prepare pre-service teachers for the classroom and not to serve as ESOL specialists.

Many were fearful that the proposed EICM training and curricular integration would have a negative impact on the ESOL field; however, there was a positive impact with the release of the 1997 ESL standards for pre-K through 12. The purpose of the EICM model was to design, develop, and implement an elementary education/ESOL Endorsement program that targeted

undergraduate students working toward a bachelor's degree and professional certification in the state of Florida. The goal was to obtain program approval from the Florida DOE for the new degree program first at Florida Atlantic University and then to reach out to other teacher education programs throughout the State. The EICM relies on the infusion of strategies and activities to foster meaningful communication. The use of ESOL integration through content instruction is important for a successful curricular integration. Teaching English to ELLs through content is an approach that integrates second language instruction with content area instruction. Lessons contain both content objectives and language objectives, and students learn through specific subject content areas rather than isolated activities.

One of the most obvious benefits in using ESOL and content is the inherent use of second language learners' knowledge base in their native language (Cummins, 2000; Krashen, 1992; Law & Eckes, 2000).

Language is the tool that gives shape to our understanding of the world, of concepts and emotions, of knowledge of science, mathematics, and language itself (Hall, 1974). Vygotsky stated that higher order thinking, prior to going underground as an idea or internal speech, develops through the mediation of language (1986). Language is then instrumental in all we do. This instrumentality of language either promotes or hinders the educational development of ELLs. Although emphasis on student-centered learning promotes understanding, it is hindered with a heavy reliance on textbooks and/or teacher-centered learning. Instructional benefits for ELLs are embedded in the EICM with the knowledge base necessary to make a positive impact on the education of students through English instruction and content instruction.

The educational reality in today's classroom is a body of students who represent a linguistic diversity of great proportions. Teacher education in ESOL is essential. A curriculum developed to educate is designed to foster an opportunity for the learner to create knowledge for his/her own self. Because knowledge is not in a void, learners are provided with opportunities to make connections with different types of information and to integrate what they learned. A number of theories, approaches, and strategies

were examined for use in the development of the EICM. The theoretical tenets of this model are an eclectic mix of *constructivism*, *anchored instruction*, *situated cognition*, and *cognitive flexibility*.

Constructivism emphasizes knowledge that is gained through use in problem-solving situations within a particular context rather than through exposure to isolated facts. These problem-solving situations, or *anchored instructions*, are very similar to what Krashen (1992) calls “enterprises” which are “problems that students genuinely want to solve, problems that naturally entail reading, writing, and discussion” in a second language. In other words, learning and teaching is designed around an “anchor” which is based on a contextualized case study or problem situation. *Situated cognition* is closely related in that it recognizes the importance of social factors in learning. It suggests that learning is “situated” or takes place in a specific context. It provides for meaningful learning and transfer of knowledge to real-life situations. *Cognitive flexibility* is the ability to respond to a situation by restructuring one’s knowledge. A classroom setting without a common language of instruction is highly demanding. Teachers need the cognitive flexibility not only to restructure their knowledge but also to restructure the delivery of instruction to reach ELLs and other diverse students. A central claim of the cognitive flexibility theory is that revisiting the same material, at various times, for different purposes, and from different points of view, is of great importance for knowledge acquisition to occur. Thus, the EICM presents ESOL-based concepts throughout a program at various times and for different purposes.

An in-depth analysis of the 1990 Consent Decree reaffirmed the need for the EICM to pave the way for an ESOL Endorsement program. The Consent Decree established specific requirements for the services provided to ELLs, as well as training requirements for instructional and administrative personnel. It was evident that institutions of higher education with teacher education programs would have to respond to the demands of the Consent Decree. Teachers in school districts across Florida were immediately in need of the prescribed ESOL courses. In addition, there was a need for graduates from Florida teacher preparation programs to face the realities of the diverse classroom setting and the

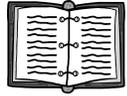
challenges in preparing to meet the instructional needs of all students.

School districts throughout Florida provided in-service training as a result of the Consent Decree beginning in 1991. Some universities in the state provided ESOL training; however, no university fully addressed the needs of pre-service teachers when this curricular integration project began. The College of Education at Florida Atlantic University submitted the first report for program approval for the elementary education degree with an ESOL Endorsement to Florida’s DOE in April 1995. So, even though the development of the EICM started in 1993, it took a period of approximately two years to prepare for submission to the Florida DOE.

Overall, universities were quite slow in addressing the needs of pre-teachers in ESOL. Yet, school districts were facing an enormous task in complying with the staff development mandates of the Consent Decree. Most districts did not have enough qualified personnel in the content area of ESOL. Many institutions of higher education turned to universities in south Florida to provide guidance in terms of ESOL. School district superintendents spoke of the cost imposed by the Consent Decree mandates, as well as the time and personnel necessary to comply with staff development issues. One of the main concerns was the continued burden these mandates imposed when hiring new teachers (Treasure Coast Education Meeting, 1993).

The Florida DOE granted full approval of the elementary education/ESOL Endorsement degree program on April 23, 1998 to Florida Atlantic University. The development, design, and implementation of the EICM had a great impact in the field of ESOL and teacher education at public and private institutions in Florida. As a direct result of this effort, many institutions of higher education initiated their own curricular integration efforts. In addition, changes to statutes and State Board of Education rules required pre-service teacher education programs in elementary education, special education, and English education to prepare their graduates to address the needs of ELLs in Florida’s K–12 public school classrooms.

Today, many states face challenges in terms of addressing the needs of learners from diverse linguistic backgrounds. The educational landscape is going through many changes to better serve all students, including ELLs.



TIMELINE ACTIVITY

1. Go back to the information in this chapter and design a timeline of the critical dates regarding legal issues in Florida.



2. Share timelines with classmates.

Tips for Use with ELLs: The purpose of the Timeline is to support students in chronologically organizing information. It is a visual aid for ELLs as it provides a format of the events in an organized and sequential manner.



Extended Thinking and Synthesis Questions



1. Go to the TAPESTRY website at <http://tapestry.usf.edu/Roos/outline.html>. Click on: Viewing Questions. Complete the Preview Question Form. Click on: Video Lecture. After watching the lecture series, complete the Post View Questions (under Viewing Questions). Share your responses.
2. Summarize the implications for K-12 educators and students as mandated in the Consent Decree. Be sure to include specific court cases to show how the Decree promotes a positive learning environment for students, teachers, administrators, parents, and the entire school community.
3. Explain how Title III of the reauthorization of the Elementary and Secondary Education Act (ESEA) of 1965/the No Child Left Behind Act (NCLB) of 2001 ties into instructional programs for ELLs.



Extended Thinking and Synthesis Questions (Continued)



4. Go to the Bureau of Student Achievement through Language Acquisition (SALA) on the Florida Department of Education website. Click on: Law/Rules and Legislation. Scroll down and click on: September 2003 Modification to the Consent Decree. Summarize the ESOL requirements for all educators.

5. Research the *Flores v. Arizona* case regarding funding for ELLs. Provide a brief synopsis. Does this case have any impact on your teaching? Why or why not?.

6. As a pre-service teacher, explain how your education program provides support for teaching linguistically diverse students.

7. Research current statistics on ELLs across the nation. Choose five states and fill in the chart below to show current K-12 student enrollment and ELL population.

State Required	PreK-12 Enrollment	ELL Population	ESOL Training (Yes/No)
1.			
2.			
3.			
4.			
5.			



Extended Thinking and Synthesis Questions (Continued)



8. Refer back to the national and state standards at the beginning of this section and explain how they correlate to what you have learned in this chapter and how they tie into your professional responsibilities as a teacher.

**KH
ALL RIGHTS
RESERVED**