



Written by [Warren Mass](#) on March 31, 2015

## Feds Say Boston Failed to Educate English-language Learner Students

A recent review of the city of Boston's education programs by the U.S. Departments of Education and Justice accused the city of failing to provide sufficient specialized education for children whose first language is not English. In current educational jargon, these students are referred to as "English-language learners" (ELL).

The report, obtained by the *Boston Globe*, which released the story, asserted that 49 percent of English-language learners in the middle grades and the high schools in Boston were receiving either insufficient levels of specialized instruction or none at all. Twenty-four percent of Boston's elementary school ELLs were identified in the report as being similarly undereducated.

The *Globe* reported that about 30 percent of the school system's 57,000 students are classified as "English-language learners."

The *Globe* quoted a comment from Roger Rice of Multicultural Education, Training & Advocacy Inc. (META) in Somerville, who said: "It's mind-boggling. We are talking about thousands of kids. I don't get the sense that people running Boston schools don't care about these kids.... But being of a good heart doesn't necessarily bring about the required changes."

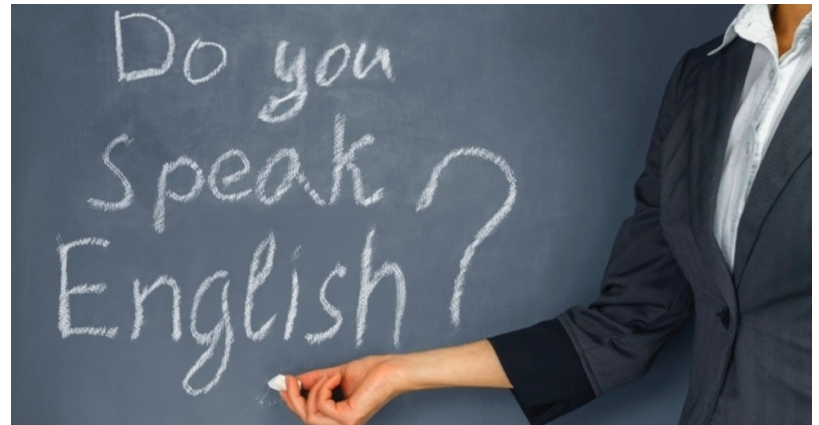
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San Francisco-based META describes itself as "a national organization specializing in the educational rights of Hispanics and other linguistic minorities and migrant youth."

This latest overreach by the federal government into what should be an entirely local matter is the ongoing fallout from a settlement agreement entered into by the Boston School Committee and several federal agencies (specifically, the assistant U.S. attorney general, the U.S. Department of Justice, Civil Rights Division and the U.S. Department of Education, Office for Civil Rights) in 2010. At the beginning of the fall 2010 school term, the federal government charged that the Boston school system was denying the civil rights of thousands of ELLs by failing to place them in what it considered to be the proper programs. To avoid charges, the school system entered into a settlement agreement with the federal agencies.

The agreement states, in part:

In consideration for the commitments made herein by the District, the United States agrees not to initiate judicial proceedings to enforce those requirements of the EEOA [The Equal Educational





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Opportunities Act of 1974] and Title VI [of the Civil Rights Act of 1964] that are addressed by this Agreement. This commitment does not relieve the District from fulfilling its other obligations under the EEOA and Title VI, which will be the subject of the United States' forthcoming comprehensive review of the District's ELL programs, nor of its other obligations to comply with any existing court order pertaining to the rights of ELLs.

The federal agencies therefore reserved their right to sue the Boston school district if it does not toe the line and abide by the various federal regulations.

The Boston School Committee (as the local board of education is called in Massachusetts) was quick to make changes geared to mollify the feds. The *Globe* reported that March 23 it replaced the assistant superintendent overseeing the English-language programs with an in-house attorney who specializes in compliance. Two nights later, the School Committee went into a private session to discuss the federal review, citing "litigation strategy" as the reason for the closed meeting.

Chairman Michael O'Neill issued a statement that "having this discussion in public could have a detrimental effect on the School Committee's position." O'Neill, responding to questions only by text messages, would not say on March 27 whether the federal government had threatened to sue.

The school committee's ELL Task Force held a meeting on March 27 to discuss the status of the Department of Justice Settlement agreement with the Boston Public Schools as well as "priority items" for the new superintendent to address regarding ELL students.

The reference in the agreement between Boston and the federal government provides clues as to the reasons why this city (and all other cities) are having such trouble with overly intrusive federal bureaucrats. One is the Equal Educational Opportunities Act (EEOA) of 1974, whose original title was "An act to establish a comprehensive prohibition of discrimination on the basis of race, color, gender, or national origin." Though the main focus of the act was to prohibit the states from providing equal educational opportunity on the basis of gender, race, color, or nationality, it also penalizes state and local school districts for failing to remove language barriers preventing students from being able to participate equally in English language classes.

Much of the language inspiring the EEOA had its precedent in the Civil Rights Act of 1964. In the 1974 case *Lau v. Nichols*, the Supreme Court ruled that a school district in San Francisco had violated the Civil Rights Act of 1964 by denying students of Chinese descent opportunities to participate in classes. The court ruled that merely providing students with the same textbooks, desks, and teachers was not sufficient and that additional measures, such as instruction in both Chinese and English, needed to be taken to make sure that English was taught to non-English speaking students.

From cases such as this, and the federal government's latest actions in Boston, it is easy to see what a legal Pandora's box was created once the federal government was given the power to address what it perceived as "discrimination" in local school districts.

The agreement also cites Title VI of the Civil Rights Act of 1964 as providing "obligations" that the federal government is entitled to enforce against Boston, stating:

This interim Settlement Agreement shall become effective on the date of its execution by both parties and shall remain in effect until such time as the United States determines the District has complied with its obligations under the EEOA and Title VI....

An overview of the Civil Rights Act of 1964 posted on the Justice Department's website notes:



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Title VI, 42 U.S.C. § 2000d et seq., was enacted as part of the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.

Addressing what actions the federal agencies might take to punish violators, the DOJ article states:

If a recipient of federal assistance is found to have discriminated and voluntary compliance cannot be achieved, the federal agency providing the assistance should either initiate fund termination proceedings or refer the matter to the Department of Justice for appropriate legal action.

From this language, it might reasonably be presumed that if a school district (either directly, or through the state) refuses federal “assistance,” then it is not bound by the Title VI requirements. Parents and educators concerned about federal control of local education programs have yet another reason for opposing any federal involvement in local education, but such control cannot be refused if federal funds are not also refused.

Despite the federal government’s close scrutiny of the Boston schools, the city has a long history of welcoming immigrants and there is little reason to believe that the city’s educational policies are deliberately discriminatory. A more likely factor in any inability of the district to accommodate non-English-speaking students is the very large number of illegal immigrants’ children who have flooded the Boston area, as well as the rest of the country.

*The New American* reported last February that the rising costs of educating both Unaccompanied Alien Children (UAC) and those accompanied by parents who are also in the country illegally are being felt nationwide. Fox News reported last summer that the burden in Lynn, Massachusetts — about 10 miles north of Boston — had become so great that the city’s mayor, Judith Flanagan Kennedy, traveled to Washington to seek a solution from federal officials.

“I love the fact that Lynn is a diverse community,” Kennedy said. “By speaking out about this, I have been called a racist; I have been called a hater. That is not the case. I’m simply looking at this from the point of view of the economic impact it has had on my city.”

Kennedy spoke about her city’s immigration-related challenges in an interview with Fox News. When the program’s host, Stuart Varney, asked her to comment on the relocation of 248 children from Guatemala into Lynn’s school system on very short notice, Kennedy replied: “Yes, that’s the number that we have received between the ages of 14 and 17 in the last two school years.”

When Varney asked, “Who’s paying for them?” Kennedy answered: “We are.”

Varney then asked, “Now, can you cope? I’m talking financially. Can you cope financially?” Kennedy answered: “This year, I have had to increase my school department budget 9.3 percent, and have had to cut all of my other city budgets between 2 percent and 5 percent to make up for the influx of the unaccompanied children and the surge.”

The solution to our cities’ higher education costs is not to ask Washington for more aid, since this only gives the feds an excuse to meddle in local affairs — as is now happening in Boston.

The solution is local control and funding of education, which makes our schools answerable only to the local community, as they were for decades.

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