

STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CASE NO. 90-1913

LEAGUE OF UNITED LATIN AMERICAN
CITIZENS (LULAC); ASPIRA OF FLORIDA;
THE FARMWORKERS' ASSOCIATION OF CENTRAL
FLORIDA; FLORIDA STATE CONFERENCE OF
NAACP BRANCHES; HAITIAN REFUGEE CENTER;
SPANISH AMERICAN LEAGUE AGAINST
DISCRIMINATION (SALAD); AMERICAN HISPANIC
EDUCATOR'S ASSOCIATION OF DADE (AHEAD);
and HAITIAN EDUCATORS' ASSOCIATION;
CAROLINA M.; CLAUDIA M.; DELIA M.;
LYDIE L.; SAMMY L.; SETH L.; and
JUAN CARLOS G.

Plaintiffs,

-vs-

FLORIDA BOARD OF EDUCATION AND FLORIDA
DEPARTMENT OF EDUCATION; HONORABLE
BOB MARTINEZ, GOVERNOR, CHAIRMAN OF
THE STATE BOARD OF EDUCATION; JIM SMITH,
SECRETARY OF STATE; BOB BUTTERWORTH,
ATTORNEY GENERAL; TOM GALLAGHER, TREASURER
& INSURANCE COMMISSIONER; GERALD A. LEWIS,
CONTROLLER; DOYLE E. CONNER, COMMISSIONER
OF AGRICULTURE; AND BETTY CASTOR,
COMMISSIONER OF EDUCATION, EXECUTIVE
OFFICER AND SECRETARY OF THE STATE BOARD
OF EDUCATION,

Defendants.

ORDER

WHEREAS, the parties of the above-entitled action have agreed upon a SETTLEMENT AGREEMENT embodying actions and policies to be undertaken regarding Plaintiff childrens' rights to equal education opportunities; and

WHEREAS, in view of the shared understanding of principles the parties and the court have concluded that there is no further need to litigate the issue of liability and the parties

have mutually agreed to the entry of the attached Settlement Agreement as a Consent Order in this case; and

WHEREAS, neither party waives their claims nor defenses by entering this agreement as a settlement order, and Defendants' assent is not an admission that they have committed any violations of law,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, and parties do hereby consent as follows:

1. That the attached SETTLEMENT AGREEMENT be entered as a Consent Order in this case binding upon the organizational entities on both sides of this matter, their successors in office, agents, employees, and all persons in active consent or participation with them.
2. That the Court will retain jurisdiction for purpose of overseeing implementation of the Agreement.

(Signed) JAMES LAWRENCE KING
Honorable
Judge
United States District Court
August 14, 1990

SETTLEMENT AGREEMENT
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

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Plaintiffs,

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FLORIDA BOARD OF EDUCATION AND FLORIDA DEPARTMENT OF EDUCATION; HONORABLE BOB MARTINEZ, GOVERNOR, CHAIRMAN OF THE STATE BOARD OF EDUCATION; JIM SMITH, SECRETARY OF STATE; BOB BUTTERWORTH, ATTORNEY GENERAL; TOM GALLAGHER, TREASURER & INSURANCE COMMISSIONER; GERALD A. LEWIS, CONTROLLER; DOYLE E. CONNER, COMMISSIONER OF AGRICULTURE; AND BETTY CASTOR, COMMISSIONER OF EDUCATION, EXECUTIVE OFFICER AND SECRETARY OF THE STATE BOARD OF EDUCATION,

Defendants.

SETTLEMENT AGREEMENT

Introduction

The Parties to this Settlement Agreement are the above-described Plaintiffs and Defendants in this action - specifically LULAC et al. on the one hand, and the Florida State Board of Education, the Florida Department of Education and the Commissioner of Education on the other hand.

Terms of the Agreement

1. This Settlement Agreement is adopted by the parties to resolve a dispute as to the issue of compliance by the defendants with their legal obligations under federal and state law and regulations including the federal Equal Educational Opportunity Act [20 U.S.C. 170 3(f)], Title VI of the federal Civil Rights Act of 1964, the Florida Educational Equity Act, and related federal and state provisions regarding compensatory, migrant, and special education. All parties are satisfied that the best interests of the plaintiffs are properly and adequately addressed by this agreement.
2. This Settlement Agreement applies to plaintiffs and defendants, as well as to their agents, employees, successors, and assigns.
3. It is agreed that the state acting through the defendants have the obligation to set standards for school districts and to enforce such standards. The defendants have issued emergency regulations and will issue final regulations on or before November 14, 1990 to meet the terms of this Agreement and satisfy the state's obligation to set standards for school districts. All regulations including any future regulatory changes shall be compatible with the terms of this Agreement.

4. The defendants shall, for a period of five years, subject to extension on motion of the parties, annually submit to counsel for the plaintiffs a status report on the implementation of each section of this Agreement. Such report will be submitted on or about July 1 of each year unless the parties agree on a difference date. In addition, the plaintiffs on notice and subject to reasonable restraints of time and place, and, subject to any confidentiality limitations of state or federal law, may examine all documents which this Agreement requires to be issued, maintained or retained.

5. The defendants agree that the plaintiffs are entitled to attorney fees and costs. The parties agree to bargain in good faith concerning the amount of fees and costs. Should the parties be unable to reach agreement within ninety (90) days of the Court's approval of this Agreement, the plaintiffs may move the court for an award of fees and costs.

6. Enforcement remedies for violations of all provisions shall be in the manner set forth in the following paragraph:

a. The attorneys for the plaintiffs shall first provide written notice and demand to cure the specific alleged breaches to the defendants and said officials shall attempt to cure said violation within twenty-one (21) days of receipt of notice.

b. Thereafter, in the event the Plaintiffs or their attorneys do not believe these violations are cured, then the Plaintiffs or their counsel shall provide written notice to Defendants' counsel of these violations who shall attempt to cure said violations within twenty-one (21) days of receipt of notice. During this twenty-one (21) day period, either Defendants' attorneys or Plaintiffs' attorneys shall have the right to require the other by written request to meet personally or mediate in good faith to resolve the dispute.

c. In the event the dispute is not resolved at the end of the period described in paragraph (b) above, counsel for the Plaintiffs may apply to the Court and seek all remedies permitted by law.

d. However, defendants shall have the right to assert as a defense that they have substantially complied with the term or terms of the Settlement Agreement and the Consent Order which Plaintiffs allege have been breached, or raise any defense available to the defendants by the Settlement Agreement or permitted by law.

e. In the event enforcement proceedings are initiated, the Plaintiffs shall only recover reasonable attorneys' fees and costs in the event that they prevail.

Conclusion

In *U.S. v. Armour* 402 U.S. 673, 29 L.Ed.2 263 (1971) the court observed,

"Consent decrees are entered into by the parties to a case after careful negotiation produced agreement on their precise terms. The parties waive the right to litigate the issue involved in the case and thus save themselves the time, expense and inevitable risk of litigation." 402 U.S. at 681

The decree presented to the Court, like the decree referred to in Armour, is one that is the product of "careful negotiation" on each and every term. While the defendants do not concede liability and the plaintiffs contend that they might have achieved more after a lengthy litigation process, all agree that the document represents a thoughtful, measured approach to a difficult issue which will serve the children of Florida well. We ask the Court to order it into being.

Respectfully submitted,

(Signed) Peter Roos
STEFAN ROSENZWEIG
CAMILO PEREZ- BUTILLO
PETER D. ROOS
for Plaintiffs

August 14, 1990

Date

(Signed) Sydney H. McKenzie III
SYDNEY H. MCKENZIE III
for Defendants

AGREEMENT
ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL)

I.

IDENTIFICATION AND ASSESSMENT

A. Definition.

1. All students with limited English proficiency (L.E.P.) must be appropriately identified in order to ensure the provision of appropriate services. The terms limited English proficiency and limited English proficient, when used with reference to individual, mean:

a. individuals who were not born in the United States and whose native language is a language other than English; or

b. individuals who come from home environments where a language other than English is spoken in the home; or

c. individuals who are American Indian or Alaskan natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency; and

d. individuals who, by reason thereof, have sufficient difficulty speaking, reading, writing, or listening to the English language to deny such individuals the opportunity to learn successfully in classrooms where the language of instruction is English.

2. The terms home or native language, when used with reference to an individual of limited English proficiency, mean the language normally used by such individuals, or in the case of a student, the language normally used by the parents of the student.

3. The term LEP committee means a committee composed of ESOL teacher(s) and home language teacher (if any) and administrator or designee plus guidance counselors, social worker, school psychologist or other educators as appropriate for the situation. The parent(s) would also be invited to attend any committee meetings.

4. LEP student plan means a written document(s) which identifies student name, instruction by program, including programs other than ESOL provided, amount of instructional time or schedule, date of LEP identification, and assessment data used to classify or reclassify as LEP, date of exit and assessment data used to exit student as English proficient. The plan may be included in or attached to an existing student's plan, IEP, etc. or may be a separate document for a given student or students, provided, however if "students", each student will have an individual copy of the plan maintained in the student's file.

5. Basic subject areas means instruction in computer literacy, mathematics, science and social studies.

6. Basic ESOL means instruction in English.

7. Other subject areas means any instruction other than Basic ESOL or Basic subject areas.

B. Initial Identification

1. Beginning in 1990-91 each student, upon initial enrollment in a school district, shall be surveyed at the time of enrollment by being asked the questions identified in I.B.2. Students whose initial enrollment in the district was prior to the 1990-91 school year shall also be surveyed unless they have been previously classified as LEP or unless they have been surveyed with the survey questions provided in I.B.2. The survey questions may be included on a registration form or on a separate survey. In either event, the survey shall be maintained in accordance with Rule 6A-1.0955, FAC.

2. The following questions shall appear on the survey:

- a. Is a language other than English used in the home?
- b. Did the student have a first language other than English?
- c. Does the student most frequently speak a language other than English?

3. The home language and the national origin of each student shall also be collected and retained in the district's data system.

4. The data collected in accordance with the above described home language and national origin inquiries shall be reported (on at least an annual basis) and maintained in accordance with the Florida Department of Education's data collection procedures.

C. Assessment to Determine Eligibility for Appropriate Services and Funding

1. Each student for whom there is a "yes" response to questions (a), (b) or (c) posed in the survey shall be assessed to determine if he or she is limited in his or her English proficiency (LEP).

2. Any student identified in C.1. who also meets any one of the following standards shall be determined to be LEP and shall receive appropriate instruction and funding as specified herein.

a. English language speaking and listening comprehension skills shall be determined by the use of a state approved appropriate English language aural/oral proficiency test. Each test shall be administered in accordance with its publisher's instructions, and any student who scores within the LEP range determined by the publisher's standards shall be determined to be LEP.

b. For any student in grade 4 or above, English language reading and writing proficiency shall be determined by the following criterion:

(1). Any student who scores at or below the 32nd percentile on the reading and writing sub-parts of a norm-referenced test shall be determined to be LEP and shall be provided appropriate services.

c. Upon request of a parent or teacher, a student not determined to be LEP or a student determined to be LEP based solely on standard C. 2. b. may be referred to a LEP committee. The parent(s) preference will be considered in the final decision. The LEP committee may determine a student to be LEP or not to be LEP according to consideration of at least two of the following criteria in addition to the test results from a. or b.;

(1). Extent and nature of prior educational and social experiences; and student interview;

(2). written recommendation and observation by current and previous instructional and supportive services staff;

(3). level of mastery of basic competencies or skills in English and/or home language according to appropriate local, state and national criterion-referenced standards;

(4). grades from the current or previous years.

(5). test results other than those from C. 2.a or C. 2.b

d. Any determinations by the LEP committee shall be contained in a written evaluation which shall be placed in the LEP student's plan. Such evaluation shall further set forth a plan, which will be implemented, to address the student's language needs.

e. In lieu of standards C.2.a and C.2.b a school district may use a district-developed or adapted test procedure to assess a student's limited English proficiency. The procedure must be approved by the Florida Department of Education prior to implementation. The Florida Department of Education must determine affirmatively that the instruments and standards utilized are valid and reliable measures of whether or not a student is limited English proficient before the test can be implemented. A test substituted for C.2.a. must measure speaking and listening and a test substituted for C.2.b. must measure reading and writing.

3. Assessment of each student's aural/oral proficiency pursuant to C.2.a and C.2.d should be completed as soon as possible after the student's initial enrollment and shall be completed within four (4) weeks unless the following is documented:

a. For each child so delayed, the reason for the delay, evidence that the child is accorded the programming required for LEP's pending the delay, and a specific timetable for completing the assessment. This documentation shall be mailed to the parents in their primary language no later than eight weeks after initial enrollment. A copy shall be retained in the child's files for a minimum of one year.

4. Assessment of each student's reading and writing proficiency pursuant to C.2.b or C.2.d shall be completed within one year after the date of enrollment for those students who are not identified as aural/oral deficient C.2.a, c, or d. as LEP. For students transferring into the school district, assessments completed one year prior to the student's transfer may be used.

5. Assessment of a student's English proficiency shall be completed as rapidly as possible. In the interim, from enrollment to eight weeks, the student shall be eligible for ESOL funding based on a school district interim assessment procedure which shall be described in a district plan approved by the Florida Department of Education. However, the student shall receive services until initial assessment is completed.

6. A LEP committee, with notification of and the opportunity to participate by the student's parents, shall conduct those assessments referred to in C.2.c and D.3. and shall recommend an LEP student plan for such student, within the terms of this agreement.

7. An eligible students may be reported for funding in the ESOL program for a base period of 3 years. However, a student whose English competency does not meet the criteria for proficiency after 3 years in the ESOL program may be reported for a fourth, fifth, and sixth year of funding, provided his limited English proficiency is assessed and properly documented prior to his enrollment in each additional year beyond the 3 year base period.

D. Programmatic Assessment

1. Each student determined to be LEP shall be further assessed in basic subject areas so as to aid the student's teacher in developing an appropriate instructional program.

2. Each district shall seek to (1) document the prior schooling experiences of new students by means of school records, transcripts and other evidence of educational experiences, and (2) take such experiences into account in planning and providing appropriate instruction to such students. The Florida Department of Education shall generally assist in such efforts with the collaboration of appropriate technical resources, where feasible.

3. Any LEP student's teacher, administrator, parent or parent's designee may request the convening of a LEP committee, to review the student's progress in attaining necessary subject area competencies or persistent deficiencies in overall student performance. Such a committee may be reconvened at any time after a student has been served for a semester. The committee shall make recommendations for appropriate modifications in the student's programming to address problems identified, and shall document such modifications in the student's file.

E. Classification and Reclassification

1.(a). Every student identified as LEP shall continue to receive appropriate instruction and funding as specified herein until such time as the student is reclassified as English proficient. English proficiency shall be determined by reassessing the student utilizing the same or comparable assessment instruments, procedures and standards required for initial assessment as adjusted for age and grade.

(b). Provided, however, a student who does not meet the standards required for initial assessment as identified in C.2.a, b, c, or d and has been classified as LEP and enrolled in an ESOL program may be assessed utilizing additional information upon the request of a ESOL teacher, counselor, administrator or parent. The LEP committee may use other assessment information to determine that the student should be exited from the ESOL program if the committee determines that another instructional program or combination of instructional programs better meets the needs of the student. The documentation of the assessment used and the justification for such action shall be retained in the student's records. The procedure for follow-up on performance as specified in F.1. shall be followed.

(c). An LEP student shall be enrolled in one or more of the categorical programs listed in section III based on eligibility and need. The amount of time the student is assigned to such a program(s) shall be comparable to that assigned non LEP students under similar conditions. Provided, however, if full time, the student shall be provided English and basic subject area instruction identified in section II for LEP students as soon as possible.

(d). A student may only be reclassified if he or she is determined not to be LEP utilizing the procedures in (a) and (b) and standards.

2. Student needs shall be determined by applying the multiple criteria for entry set forth in C.2 a, b, or c and the same LEP committee procedure set forth in C.2.c. This extension of instruction shall be provided to (a) all students not satisfying the above described standards for reclassification, and (b) all others on an individualized basis whose aural/oral proficiency testing and achievement results in English are not consistent. LEP committee considering the extension of programming for such students shall refer the student as necessary for appropriate compensatory, special and supportive services evaluations and programs.

3. LEP students provided ESOL or home language instruction may be reported for funding in the FEFP for a base period of three years, provided, however, the initial three years of funding may be extended annually for three years, based on an annual evaluation of the student's status compared to the assigned criteria. (Also see C. 7. and F. 4.)

F. Post Reclassification Monitoring

1. The performance of former LEP students shall be reviewed periodically to ensure parity of participation once they have been reclassified. These reviews shall take place automatically at the student's first report card and semi-annually during the first year after exiting, and at the end of the second year after exiting. Any consistent pattern of continuing under-performance on appropriate tests and/or grades shall result in the convening of a LEP committee with parental participation to assess the student's need for additional appropriate programming as ESOL or other needed programs. Special weight shall be given to any decline in grades and/or test performance after reclassification, and to parent preference.

2. Such LEP committees shall recommend an appropriate LEP student plan for such students. The basis and nature of such recommendations shall be in writing and maintained in the student's file. Any such plan shall be reevaluated for continued appropriateness after one year, and each year thereafter as necessary.

3. Any student who is determined to be LEP pursuant to this section based on F.1 or with recommendation based on F.2 shall be provided appropriate instruction on the basis of an annual extension pursuant to a documented determination of the student's needs.

4. If a student exits the program and is later reclassified as limited English proficient, the student may be reported in the ESOL program for funding for an additional year, or

extend annually for a period not to exceed a total of 6 years pursuant to C. 7., based on an annual evaluation of the student's status.

5. Lack of ESOL funding eligibility does not relieve districts of any obligation they may have under state or federal law to continue to provide appropriate services to LEP children beyond the six years of state ESOL program funding.

AGREEMENT
ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL)

II.

EQUAL ACCESS TO APPROPRIATE PROGRAMMING

A. Principle

Each limited English proficient (LEP) child enrolled in any program offered by the Florida Public Schools is entitled to equal access to programming which is appropriate to his or her level of English proficiency, academic achievement and special needs.

The primary goal of all such programming is, to develop as effectively and efficiently as possible, each child's English language proficiency and academic potential. Such programs should also provide positive reinforcement of the self-image and esteem of participating pupils, promote cross-cultural understanding, and provide equal educational opportunities.

1. Equal access to appropriate programming shall include both access to intensive English language instruction and instruction in basic subject matter areas of math, science, social studies, computer literacy which is (1) understandable to the LEP student given his or her level of English language proficiency, and (2) equal and comparable in amount, scope, sequence and quality to that provided to English proficient students. Recommendations for such programming shall be documented in the form of a LEP student plan, which shall be in conformity with this agreement.

2. Limited English proficient students with special needs (such as for compensatory, remedial, or exceptional education) and who are at greater risk for under-achievement and/or dropping out, and in need of additional services, shall be provided equal and comparable services to those provided to English proficient students. LEP students shall receive needed services on a timely basis, and the services provided shall be appropriate for their level of English proficiency as set forth in A above.

B. State Approval of Appropriate District Instructional Programming for LEP Students

1. Each district shall submit a district LEP plan for the usage of state funds describing its proposed procedures and methodologies for serving LEP students, subject to Florida Department of Education approval prior to program implementation in 1990-91 school year, pursuant to the following criteria:

a. A district's LEP plans shall be submitted to the Florida Department of Education for review. A district's LEP plan will be reviewed and approved, disapproved or returned for clarification or further elaboration within 60 days of their submission. All such plans shall be reviewed by the Florida Department of Education for compliance with this agreement and with federal and state law and regulations. The Department must determine that each aspect of the plan satisfies these authorities and shall require appropriate changes prior to approval when this is not so.

b. A district's LEP plans shall be updated and resubmitted every three years. Interim changes in the plans shall be submitted as amendments to the Florida Department of Education, and must be approved prior to their implementation.

c. A district's LEP plans shall set forth in writing the district and school-level procedures and methodologies intended to provide equal educational opportunities to LEP students including (1) standards for entry, exit and post-reclassification monitoring; (2) instructional, categorical and student services (e.g., counseling); and (3) provisions for and plans to employ qualified staff; pursuant to all relevant provisions of this agreement; (4) evidence of consultation with the district's Parent (of LEP students) Leadership Council or other parent advisory body representative of parents of LEP students; and, (5) interim measures as outlined in G. The Florida Department of Education shall consider the councils' objections to plan approval in its review.

d. A district's LEP plan shall rely upon and incorporate home language instruction in basic subject areas (such as transitional or developmental bilingual education) and/or ESOL instruction in basic subject areas (such as "structured" or "sheltered " instructional strategies) in addition to basic ESOL instruction. All such programming shall provide each LEP student with the opportunity to learn the academic English subject matter vocabulary necessary for academic success.

e. Students shall be given credit toward fulfilling graduation requirements in English for each Basic ESOL course completed satisfactorily. Credit shall be given toward fulfilling graduation requirements for each basic subject area course completed satisfactorily through ESOL or home language.

C. Basic ESOL Instruction

1. Basic ESOL programs shall include instruction to develop skills in speaking, listening, reading and writing of English sufficient to enable the student to be English proficient.

2. LEP students shall be classified according to their levels of English language proficiency, academic achievement, and special needs and placed in programming appropriate for these levels. Basic ESOL instruction may be provided in heterogeneous classroom settings (e.g., with multiple language groups).

3. A LEP student shall be provided Basic ESOL programming for the minimum number of hours specified in the individual LEP student plan per day/week of Basic ESOL. Such plans shall specify that each student receive at minimum the amount of Basic ESOL instruction which may include special or alternative language arts necessary to attain parity of participation with non LEP students in language arts and in no event less than the amount of instruction received by a non LEP student at the same grade level.

4. Basic ESOL services shall seek to prepare students for reclassification as soon as the student has attained a sufficient level of English language proficiency and academic achievement according to the entry/exit standards set forth in Section I.

5. A student's ESOL teacher, parent or parent's designee, or other school personnel may request the convening of a LEP committee to identify any special problems which may be hindering a student's progress in ESOL at any time after the end of the student's first semester in the program. A LEP committee shall make appropriate recommendations as necessary for the modification of the LEP student plan. The nature and basis of such modification, if any, shall be documented in each student's LEP student Plan.

6. The Florida Department of Education shall develop or identify standards and criteria for evaluating the appropriateness of Basic ESOL instruction in each district. These standards shall be consistent with state-required curriculum frameworks and student performance standards.

7. Basic ESOL instruction shall be provided by appropriately qualified personnel, as set forth in Section IV of this agreement regarding personnel issues.

D. ESOL Instruction and Home Language Instructional Strategies in Basic Subject Areas

1. Districts shall provide appropriate home language instruction or ESOL content instruction or a combination of the two in basic subject areas in addition to basic ESOL instruction. Examples of appropriate ESOL instruction in basic subject areas include "ESOL content," "sheltered", "structured" and similar ESOL strategies.

2. Grouping, clustering, and/or transporting of students where practical and feasible within and between districts to achieve compliance with these standards shall be encouraged.

E. ESOL Instruction in Basic Subject Areas (as required in D)

1. A district that provides understandable instruction in whole or in part through ESOL strategies shall assure and be able to document that:

a. each such course has been structured in conformity with ESOL strategy for teaching limited English proficient students basic subject matter;

b. each course is taught by qualified personnel and appropriate materials are available to such personnel;

c. students are learning and progressing towards completion of the district's pupil progression plan.

2. The focus of instruction shall be substantive subject matter knowledge, parallel and comparable to that provided to non LEP students in basic subject areas, consistent with state-required curriculum frameworks and student performance standards.

3. LEP students in ESOL basic subject area classrooms shall have access to an individual proficient in their languages in addition to a trained ESOL subject area teacher pursuant to Section IV of this agreement. Schools with at least 15 students speaking the same native language shall provide at least one aide or teacher proficient in the same language and trained to assist in ESOL basic subject area instruction. The district in its district LEP plan shall specify how the district will meet the needs of students in their native language by the use of teachers, aides, parents, volunteers, and students proficient in the language.

4. The Florida Department of Education shall develop or identify standards and criteria for evaluating the appropriateness of the ESOL instruction in basic subject areas.

F. Home Language Instruction in Basic Subject Areas (as required in D)

1. A district that provides understandable instruction in whole or in part through home language instruction shall assure and be able to document that:

a. each such course has been structured in conformity with bilingual strategy for teaching limited English proficient students basic subject matter; b. each course is taught by qualified personnel and appropriate materials are available to such personnel; c. Students are learning and progressing towards competence of the district's pupil progression plan.

2. The focus of instruction shall be substantive subject matter knowledge, parallel and comparable to that provided to non LEP students in basic subjects, consistent with state-required curriculum frameworks and student performance standards. Such instruction shall incorporate appropriate, comparable home language texts when available and instructional materials.

3. The Florida Department of Education shall develop or identify standards and criteria for evaluating the appropriateness of the home language instruction in basic subject areas.

G. Interim Measures

1. All LEP students shall receive an instructional program which includes the components set forth herein - Basic ESOL instruction and understandable instruction in basic subject areas.

2. In recognition that appropriately trained personnel might not be available to each child to provide each component, a plan shall be developed at each school and for each district setting forth the following:

- a. the number of students by language group who are denied any of the programming required by this agreement;
- b. documentation of its efforts and lack of success in recruiting, hiring, and/or training appropriately qualified staff for such programs;
- c. specific tasks and timelines for recruiting, hiring and training needed staff;
- d. a plan for interim measures which must include inservice training programs, utilization of native speaking aides, native language materials and other elements designed to assure that each student's English language barrier is addressed in an instructionally sound manner.

H. Parental Involvement

1. Parental involvement and participation in LEP students' educational programming and academic achievement shall be promoted, among other ways by establishing Parent Leadership Councils at each school or at the district level composed in the majority of parents of LEP students. Parents of LEP students shall be provided leadership training and orientation to the district's LEP program monitoring procedures and involvement procedures available to parents of LEP students. Parents of LEP students shall be informed of the opportunity to be represented on existing school and district advisory committees.

2. Councils representing parents of LEP students shall be consulted prior to submission of LEP district plans to the state.

AGREEMENT ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL)

III.

EQUAL ACCESS TO APPROPRIATE CATEGORICAL AND OTHER PROGRAMS FOR LEP STUDENTS

A. Limited English proficient students are entitled to equal access to other appropriate programs such as compensatory, exceptional, early childhood, vocational, and adult education as well as to drop-out prevention and other supportive services, whether provided or funded under federal or state law or through local initiatives.

1. LEP students should not be restricted in such access by the imposition of any criteria or methods of program administration (such as pre-set time limits regarding program

eligibility for reasons related to limited English proficiency, or minimum prerequisite levels of English proficiency prior to being served) which inappropriately delay or deny their being served.

2. Programs described in this section shall be provided to LEP students in a manner appropriate to their level of English language proficiency and must provide them equal access to the program's subject matter content and benefits including understandable instruction and service in a manner consistent with sections I and II of this agreement.

3. Extended day - (before school and after school) programs, whether funded through categorical or general programs shall provide equal access to eligible LEP students.

B. Compensatory Education

1. No district federal Chapter 1 basic and/or migrant education plan or state compensatory education plan shall be approved by the Florida Department of Education unless it shows evidence of providing equal access for eligible LEP students and incorporates programming and services for eligible students which is appropriate given their level of English language proficiency.

2. The Florida Department of Education shall monitor districts for compliance in accordance with the provision of their approved federal Chapter 1 and state compensatory education plans, and applicable federal and state requirements.

3. Each district shall report annually to the Florida Department of Education the number of students served by federal Chapter 1 and state compensatory programming and services by race, national origin, and limited English proficiency.

4. Federally funded compensatory services shall be provided to eligible LEP students on the basis of overall uniform written criteria and standards identifying special needs resulting from educational deprivation without specific regard to needs arising solely from limited English proficiency. These standards or criteria shall be met by the use of standardized test score data, as well as by additional information from informal assessments, observation by school staff, records of academic performance, and other relevant individualized indicators of educational deprivation. If language dominance tests are used, they must be combined with other measures or other indicators such as composite score, or a weighted score to select children on a basis other than English language proficiency.

5. Federal Chapter 1 funds shall be used as appropriate to provide supplementary educational services in specific subject matter components to remediate educational deficiencies once districts have allocated resources from local and state funds to provide legally required services to LEP students. Services provided under Chapter 1 shall be carefully coordinated with other categorical programs serving LEP students and with home language and/or ESOL services for such students as part of a student's LEP student plan. Unnecessary duplication or inconsistency of services shall be avoided. Examples of such cooperative services include:

- a. employment and training of home language or ESOL instructional and supportive services Chapter 1 staff in addition to those provided with state and local funds;
- b. development and/or purchase of instructional materials especially designed for LEP students in the home language and/or English which supplement materials purchased with state or local funds;
- c. expenditures for the use of appropriate instructional facilities and/or equipment for the benefit of LEP student compensatory programming needs;
- d. funding of parent involvement activities including training, development of materials to be used for training parents of LEP students in need of compensatory education services.

6. Federally funded services may be provided as necessary beginning during the pre-school through the secondary level, and may be implemented on a schoolwide basis where there are high concentrations of eligible children. Such services may be year-round, include intensive summer school programs, extend the school day, and serve to reduce class size. The Florida Department of Education shall monitor regularly the implementation of such services and may join with the local district and parents to develop a joint plan for program improvement where inadequate progress is being obtained until improved performance is sustained over more than a one-year period.

7. The Florida Department of Education shall, in addition to the overall Chapter I program monitoring tasks described herein, specifically monitor local districts on a regular basis to assure equal access and appropriate programming and services to limited English proficient students eligible under the federal Chapter I - migrant education program.

Such monitoring shall include:

- a. use of statewide and localized Migrant Student Record Transfer System (MSRTS) specifically addresses the need for an appropriate use of data as to limited English proficient migrant students,
- b. utilization of bilingual personnel who can communicate with the students and identify LEP students eligible for Chapter I - migrant programs and services.

8. LEP students shall be provided access to appropriate compensatory programs intended to prepare them for passing the state's competency testing requirements for graduation. This shall include access to courses, programs and services intended to remediate students failing to attain minimum required levels for passing such tests.

- a. The Florida Department of Education shall retain the following data on LEP students by school district: (1) the number taking, passing and not passing the state's competency

testing instrument, and (2) the number of students enrolled in funded compensatory programs.

9. Students in grades 3, 5, and 8 who have been in a membership in an ESOL program for LEP student for two or fewer years may be exempted from participation in the SSAT-I examination program or alternative program. Each school district will offer alternatives for the use of the SSAT-I for the measurement of the minimum standards for grades 3, 5, and 8. These alternatives shall measure the same standards as those measured by the SSAT-I through methods appropriate for the LEP student. The Florida Department of Education shall assist school districts in identifying or developing these alternative methods. Remedial programming that is responsive to the unique linguistic and cultural needs of the LEP students shall be provided to those students who do not meet the performance standards as measured by the SSAT-I or the alternative methods described herein.

10. LEP students who by the end of grade 12 fail to meet the 10th grade standards as measured by the SSAT-I and II, the student shall be provided compensatory education for the "thirteenth year" as provided in s. 232.246(10), F.S. If after the thirteenth year the student is still unsuccessful in meeting the 10th grade standards as measured by the SSAT-I and II, the student may be eligible to be reported for FTE funding in the appropriate courses in the Adult Education Program of the FEFP. In the case of the SSAT-I, alternative methods of measuring compliance with the standards shall be used where feasible, for LEP students if the students are unable to demonstrate achievement of the standards through the use of the SSAT-I due to deficiencies in language proficiency.

C. Exceptional Student Education

1. This section applies to handicapped and gifted students.

2. The Florida Department of Education shall monitor districts to ensure equal access for LEP students who are also exceptional students and to ensure appropriate exceptional student programming and services pursuant to federal and state law and regulations for these students.

a. Each school district's procedures for identification, assessment and evaluation shall provide for the use of valid tests and evaluation materials, administered and interpreted by trained personnel, in conformance with instructions provided by the producer of the tests or evaluation materials. For children and students not proficient in the English language, the district's evaluation procedures shall provide for the use of the language or other mode of communication commonly used by the child or student.

b. Data, including but not limited to diagnostic, evaluation, educational, or social data, shall be reviewed when recommending student eligibility for a special exceptional student program.

c. For new exceptional students assigned to a special program, an individual educational plan (IEP) must be developed prior to assignment to special education programs and

within 30 calendar days following determination of eligibility. IEPs must be reviewed at least annually and the parent must be notified of the meeting.

d. Communication with parents who are not proficient in the English language shall be in the language or other mode of communication commonly used by the parent unless such communication is clearly not feasible.

e. Individual educational plans for eligible LEP students must incorporate specific modifications to accommodate their levels of English proficiency consistent with sections I and II of this agreement.

3. A district's exceptional program plan shall not be approved where a district is failing to provide eligible LEP exceptional students and/or parents appropriate procedures, programming and/or services pursuant to the above described standards.

4. Each district shall report annually to the Florida Department of Education the number of exceptional students served by race, national origin, limited English proficiency and type of exceptional program.

5. Provision of exceptional student education programming and services shall be coordinated with the provision of other instruction, ESOL and/or home language programming as part of an student's LEP student plan.

D. Dropout Prevention

1. The Florida Department of Education shall monitor to ensure that LEP, racial and national origin minority students are provided equal access to state funded drop-out prevention programming and services, which shall be adapted as necessary to appropriately address LEP student needs, in a manner consistent with Section II of this agreement. The Florida Department of Education shall develop standards for district compliance in the provision of such services.

a. Each district shall report annually to the Florida Department of Education the number of students served by dropout prevention programs by race, national origin, limited English proficiency, and type of service;

b. Advisory councils representing parents of LEP students shall participate appropriately in the development of a comprehensive program plan for dropout prevention.

2. A district's dropout prevention plan shall not be approved which fails to appropriately address LEP students' needs in a manner consistent with the standards in D.1. above.

E. Student Services

1. The Florida Department of Education shall monitor regularly and set standards to ensure that LEP students are provided equal access to student services (e.g., counseling) provided pursuant to F.S. Section 230.2313.

F. Equal Access of LEP Children to Pre-Kindergarten Programs

1. The Florida Department of Education shall monitor regularly local school district implementation of federally and state funded pre-kindergarten programs (such as Head Start, Migrant Pre-Kindergarten, Pre-Kindergarten Early Intervention, and related programs) to ensure equal access and appropriate services for eligible LEP, racial and national origin minority children who are eligible for such programs, in conformity with Section II of the Agreement.

2. Each district shall report annually to the Florida Department of Education the number of LEP, racial and national origin minority children eligible for and served by pre-kindergarten programs, indicating which programs they are served by.

3. A district's Pre-Kindergarten plan shall not be approved unless it fully complies with the standards set forth in F.1 and the data-gathering responsibilities in F.2.

G. Equal Access for Immigrant Students

1. The Florida Department of Education shall issue and monitor guidelines and standards to ensure that refugee and other immigrant LEP, racial and national origin minority students are provided free, equal and unhindered access to appropriate schooling throughout the state of Florida in compliance with the U.S. Supreme Court's mandate in Plyler vs. Doe, the federal Emergency Immigrant Education Act, Transition Program for Refugee Children, Family Educational Rights and Privacy Act (FERPA) and other applicable federal and state law. The standards shall provide that:

- a. no district shall classify undocumented or other immigrant students on the basis of their federal immigration status as non-residents under state school attendance law;
- b. no district shall inquire into an individual student's or his or parents' immigration status as such, for any educational purpose, except in the following circumstances:

1.) inquiry into whether or not a student satisfies the eligibility requirements of the federal Emergency Immigration Act (e.g., whether a student if foreign born, arrives in the U.S. within the last three years, and is in his or her first district of U.S. school attendance); or Transition Program for Refugee Children (e.g., whether a student has status as a refugee under federal immigration law);

2. No district shall in any case elicit, compile, nor maintain lists of students with alien registration numbers and those without.

3. No personally identifiable data of any kind shall be elicited, compiled or maintained as to any individual student's immigration status except as described above.

4. No prospective students nor student shall be referred or reported to the U.S. Immigration and Naturalization Services (INS) for any reason prior or subsequent to admission. A parent or guardian of a child on an I-20 visa or applying for such a visa may sign a release of data authorizing such referral on reporting.

5. No student shall be required to have or obtain a federal social security number as a precondition or condition subsequent to admission, or as a prerequisite for service under

any federally funded program unless that program's statute and regulations specifically require such an exclusion.

6. No student shall be denied any federally funded educational services unless that program's statutes and regulations specifically require such exclusion. No eligible student shall be denied services under any state or locally funded program.

H. Chapter 2

1. No district Chapter 2 application shall be approved by the Florida Department of Education unless it assures equal access to limited English proficient students who are within the targeted program, school, and/or area where funds are expended.

2. The Florida Department of Education shall monitor districts for compliance in accordance with provisions of their approved Chapter 2 plan and applicable federal and state requirements.

3. Each district shall report annually to the Florida Department of Education the number of students served by federal Chapter 2 programs and services by race, national origin, and limited English proficient as provided for in the state student data base plan.

I. Pre-First Grade Classes

1. The Florida Department of Education shall monitor to ensure that district procedures for the enrollment of children in pre-first grade classes comply with the applicable requirements of federal and state law, including:

- a. individualized assessment and appropriate provision for specific educational needs in the least restrictive environment
- b. the use of multiple valid and reliable criteria
- c. appropriate parental participation and informed notice in the parent's primary language.

J. Home-School Communication

1. The Florida Department of Education shall monitor regularly to ensure that all communications (written and oral) between school district boards and personnel and parents of current or former limited English proficient students are undertaken in the parents' primary language or other mode of communication commonly used by the parents unless clearly not feasible.

K. Discipline

1. The Florida Department of Education shall issue and monitor standards to assure that no national origin minority or limited English proficient student is subjected to any disciplinary action because of their use of a language other than English.

AGREEMENT
ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL)

IV.

PERSONNEL

A. Certification and Inservice.

1. The following certificate coverage shall apply to instruction for limited English proficient students and shall be issued by the Florida Department of Education:

a. Basic ESOL endorsement as currently provided in rule 6A-4.0244
6A-4.0244 Specialization Requirements for the Endorsement in English to Speakers of Other Language - Academic Class

- (1) A bachelor's or higher degree with certification in another subject, and
- (2) A minimum score of two hundred twenty (220) on the Test of Spoken English (TSE), and
- (3) Fifteen (15) semester hours in English to speakers of other languages (ESOL) to include credit in each of the areas specified below:

- (a) Methods of teaching English to speakers of other languages (ESOL),
- (b) ESOL curriculum and materials development,
- (c) Cross-cultural communication and understanding,
- (d) Applied linguistics, and
- (e) Testing and evaluation of ESOL

b. Basic ESOL coverage will be developed and adopted as a rule based on appropriate degree from appropriately accredited institution. Such coverage will enable a person who has a degree in ESL or ESOL from such an accredited institution, whether in-state or out-of-state, to receive that coverage needed to be qualified as set forth in this Agreement.

c. Each district shall submit in its district's LEP plan, the procedures they will use to monitor the oral language proficiency of teachers of LEP students in math, science, social studies or computer literacy courses in the LEP student's home language using the following criteria:

- (1). Has a passing grade on a language examination designed to determine whether a person has a language proficiency necessary to teach elementary or secondary students in that language. The Florida Department of Education shall by October 1, 1990 develop a list of approved tests. A district which wishes to use an alternative examination shall submit it to the Florida Department of Education for approval prior to its utilization, or

(2). Holds a Florida foreign language certification coverage in the language which the teacher will utilize to instruct LEP pupils.

d. A teacher who has appropriate certification as specified in the 1989-90 Course Code Directory and has completed, prior to July 1, 1990, at least two years of successful teaching of Basic ESOL to LEP students, as verified in writing by the Superintendent, may be issued the appropriate Basic ESOL endorsement. Such teachers shall complete 3 semester hours or 60 inservice points from A.1.a.(3)(a)(b)(c) or (e). The three hours of college credit or 60 inservice points shall be completed for the first certificate renewal after July 1, 1990 and may be used toward meeting the 6 semester hour renewal requirements for that validity period. The school district shall maintain records on how teachers were evaluated as being successful. The experience in a Basic ESOL class acceptable as provided herein shall have been taught using ESOL strategies.

2. Qualified personnel shall be defined as provided in Rule 6A-1-0503.

6A-1.0503 Definition of Qualified Instructional Personnel

A qualified instructional staff member who meets one (1) of the following conditions:

(1) Holds a valid Florida teacher's certificate with appropriate coverage as provided for in the Course Code Directory.

(2) Is a selected noncertificated person employed under the provisions of Rule 6A-1.0502, FAC, or

(3) Holds a valid Florida teacher's certificate with coverage other than that deemed appropriate by subsection (1), has met all occupational experience requirements prescribed as a prerequisite to appropriate certification, and has been approved by the school board to teach out-of-field, after determination that a teacher with appropriate certification coverage is not available. All evidence of such qualifications and approval must be reflected in the individual's official personnel record; provided, however, that such approval may be granted by the school board only under one (1) of the following conditions:

(a) The individual is in the first year of employment in the specific area and has not been granted, during any preceding year in the district, approval by either the school board or the Department to be employed out-of-field in an area for which specific certification is otherwise required, or

(b) The individual has earned, during a period of twelve (12) months immediately preceding September 1 of the school year, at least six (6) semester hours of credit or equivalent toward the appropriate certification required by subsection (1), or in lieu thereof has provided a doctor's statement certifying to medical inability to earn such credit during the prescribed time.

3. Inservice standards for teachers of basic subject areas through ESOL or home language instructional strategies.

a. Any teacher of basic subject areas, through ESOL strategies (math, science, social studies, computer literacy), assigned to instruct LEP students on September 15, 1990 or for the first time in of any given school year thereafter shall complete at least 60 points of inservice training or equivalent college credit in subjects specified in A1.a.(3)(a), (b), (c), and (e) by September 15 of the following year.

b. Any teacher of basic subject areas, through home language strategies (math, science, social studies and computer literacy), assigned to instruct LEP students on September 15, 1990 or for the first time in of any given school year thereafter shall complete at least 60 points of inservice training or equivalent college credit in a) methods of teaching home language, b) home language curriculum and materials development and c) testing and evaluation in the home language by September 15 of the following year.

c. A teacher who has appropriate certification as specified in the 1989-90 Course Code Directory for the subject(s) and grades taught and has completed prior to 1990-91 at least two years of successful teaching of basic subject areas using ESOL strategies (math, science, social studies or computer literacy), to LEP students as verified in writing by the superintendent may be exempt from the requirements of A. 3. a. Such teacher shall complete 3 semester hours or 60 inservice points from A. 1. a. (3)(a), (b), (c), or (e). The three semester hours of college credit or 60 inservice points shall be completed for the first certificate renewal after July 1, 1990, and may be used toward meeting the 6 semester hour renewal requirements for that validity period. The school district shall maintain records on how the teacher was evaluated as successful. The experience in a basic subject area ESOL class acceptable as provided herein shall have been taught using ESOL strategies.

d. A teacher who has appropriate certification as specified in the 1989-90- Course Code Directory for the subject and grades taught and has completed prior to 1990-91 at least two years of successful teaching of basic subject matter through the home language strategies as verified in writing by the superintendent may be exempt from the requirements of A. 3. a. Such teacher shall submit 3 semester hours or 60 inservice points from A. 1. a(3)(a), (b), (c), or (e) of the 6 semester hours required for the first certificate renewal after July 1, 1990. The school district shall maintain records on how the teacher was evaluated as being successful. The experience in a basic subject area class acceptable as provided herein shall have been taught using home language strategies.

4. Inservice standards for teachers of LEP students in subjects other than basic ESOL and Basic Subject areas.

a. Any teacher assigned to instruct LEP students in other subject areas on September 15, 1990 for the first time in any given school year thereafter shall complete inservice training in subjects specified in A.1.a. (3), (a), (b), (c), and (e) for three full planning days

or by other means approved in the district's LEP plan (equivalent of 18 inservice points or 3 semester hours) by September 15 of the following year.

b. A teacher who has appropriate certification as specified in the 1989-90 Course Code Directory for the subject(s) and grades taught and has completed prior to 1990-91 at least one year of successful teaching of other subject areas, to LEP students as verified in writing by the superintendent may be exempt from the requirements of A. 4. a. Such teacher shall complete 3 semester hours or 60 inservice points from A. 1. a. (3)(a), (b), (c), or (e). The three semester hours of college credit or 60 inservice points shall be completed for the first certificate renewal after July 1, 1990 and may be used toward meeting the 6 semester hours renewal requirement for that validity period. The school district shall maintain records on how the teacher was evaluated as being successful.

5. Inservice training programs - standards: Programs set forth herein which enable teachers to meet requirements through inservice points shall meet the following standards:

a. The time frames shall be divided between the contact time and supervised practicum.

b. The inservice training time allotted to the instructional components set forth in 3. a., b. and 4. a. above shall be appropriately divided.

c. A set of performance competencies with post-tests shall be developed by each district in their Master Inservice Plan for each of the components in 3. a., b. and 4. a. above and shall be utilized in the inservice training.

d. Trainers of home language teachers shall, where possible be persons who speak the targeted home language.

e. Each inservice program developed to meet these requirements shall be pre-approved by the Florida Department of Education and shall be monitored at least once every three (3) years to assure that the standards set forth herein are met.

f. Up to 60 inservice points or 3 semester hours earned in meeting the requirements of 3. a may be used by a teacher for certificate renewal.

g. Each district shall retain records for each teacher and aide that successfully completed the requirements.

6. Each school district shall develop and implement an inservice program for teacher aides who work with LEP students.

7. Each school district shall develop and implement the inservice requirements contained in 3. a., b. and 4. a. in the district's Master Inservice Plan.

8. Each district shall develop and implement training components, in addition to the requirements in 3. a., and b., and 4. a. needed to increase the effectiveness and efficiency of the program(s) provided limited English proficient students.

9 The Department shall provide technical assistance, including technological assistance where feasible, to school districts in implementation of the inservice training.

B. Certification Required As Appropriate Coverage

1. The Florida Course Code Directory by 1991-92 shall reflect the following certification requirements as appropriate coverage for instruction provided limited English proficient students.

- a. Basic ESOL instruction shall require basic ESOL endorsement plus appropriate coverage or endorsement to teach English at the appropriate grade level, or
- b. Basic ESOL instruction shall require basic ESOL coverage.

2. The Florida Course Code Directory by 1991-92 shall reflect that those courses taught using ESOL or home language to convey basic subject matter shall be taught by personnel:

- a. meeting the terms of the Agreement and
- b. who have the appropriate coverage or endorsement to teach the basic subject area courses at the appropriate grade level as accepted for instruction of non LEP students.

3. Upon verification by a superintendent that the district has been unsuccessful in recruiting ESOL basic, ESOL subject matter, or home language instructors, and that certain positions at given schools cannot be filled during any school year with a person who meets the requirements of this agreement, a teacher without the requirements may be assigned to such a classroom on condition that he or she meets the terms of IV.A. 2.

C. Exemptions

1. Basic ESOL: If the number of LEP students in a district is fewer than ten (10) within a radius of 20 miles of a given school or within the school attendance zone, whichever is larger, a district may apply to the Florida Department of Education for an exemption from the delivery of basic ESOL through an ESOL teacher for the respective group of students. Exemptions shall only be granted on a one year basis, are renewable, and may only be granted if the district documents specific efforts to address the English language needs of its students.

D. Supply of Personnel

1. The Florida Department of Education shall review annually the personnel utilized in teaching LEP students by program for the purpose of identifying the areas of need as "critical teacher shortages" areas. The State Board of Education shall take all necessary steps to assure that the benefits (set forth in 240.4062 and 240.4064, F.S.) shall be made available to teachers in critical teacher shortage areas.

E. Inservice Evaluation

During 1992-93, the Department of Education shall conduct an evaluation of this system of inservice in A. 3. and 4., and shall make recommendations for revising the system based on analysis of student outcome measures.

F. Implementation Schedule For Section IV

1. Principles of Implementation

- a. Except as set forth below, any teacher required to have an endorsement or training pursuant to this Agreement shall complete such training within one year of his or her initial assignment.
- b. Exceptions to F. 1. a.:

- (1). A beginning teacher shall complete the inservice requirements within two (2) years of initial assignment.
- (2). A teacher required to have an ESOL endorsement on a certificate pursuant to this Agreement shall complete course work required for such endorsement within three (3) calendar years of his or her initial assignment

2. Interim measures - In recognition that this Agreement will require large numbers of teachers to be trained for the first time and that this poses a burden for school districts, the following interim measures will be in effect until 1993-94 except as specified herein:

- a. During the 1990-91 school year, the following steps shall be taken to provide a phase in of the requirements of Section IV:
 - (1). Each school district shall conduct a survey of its LEP students and shall determine based thereon the number of teachers by school who need to be trained under this Agreement. Such survey will be completed by February, 1991.
 - (2). Each school district shall establish a program to assure that all ESOL Basic teachers needing training shall initiate training by the beginning of the 1991-92 school year and shall complete such training by the beginning of the 1994-95 school year.
 - (3). Each school district shall project the number of ESOL subject matter teachers and home language Basic subject matter teachers needed by the district and shall initiate a program which will assure that the grouping of teachers with the largest number shall begin training by the beginning of the 1991-92 school year and complete such training by the beginning of the 1993-94 school year and that the grouping of teachers with the lesser number shall begin training by the beginning of the 1991-92 school year and complete same by the beginning of the of the 1994-95 school year.
 - (4). Each school district shall also develop and implement a training and informational program for administrators, including principals, concerning this Agreement and the educational needs of LEP students.

b. Beginning in the 1991-92 school year those teachers requiring inservice training pursuant to IV. A. 4. shall complete such training within a school year. Each year thereafter those teachers who have not already completed the training shall complete the requisite training.

c. Those teachers who must complete specified credit or inservice points for certificate renewal pursuant to IV. A. 1. (d), 3. (c), or 4. (b) shall complete such training by the following time periods: Those whose validity period ends prior to July 1, 1993 shall complete requirements by June 1992; those whose validity period ends July 1, 1994 shall complete requirements by June 1993; those whose validity period ends July 1, 1995 shall complete requirements by June 1994.

AGREEMENT
ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL)

V.

MONITORING ISSUES

A. The Florida Department of Education shall regularly monitor local school districts to ensure compliance with the provisions of this agreement pursuant to federal and state law and regulations including Section 229.565, Florida Statutes (Educational Evaluation Procedures) and Section 228.2001, Florida Statutes (Florida Educational Equity Act).

B. For purposes of such monitoring, limited English proficient students are to be defined as those eligible in accordance with identification and assessment as specified in this agreement.

C. Monitoring shall include periodic review of (1) program compliance, (2) equal access under the Florida Educational Equity Act, and (3) review of program effectiveness.

D. Sufficient specific staff of the Florida Department of Education shall be assigned responsibility for monitoring in accordance with this agreement. The Department may also arrange for persons who are not regular employees of the Department to assist in monitoring activities.

E. All state documents making findings with respect to compliance with the requirements of this section shall be retained in Tallahassee and the applicable school district in accordance with state law.

F. Program Compliance Monitoring

The Florida Department of Education shall specifically incorporate monitoring school districts for compliance with the programmatic requirements for LEP students as set forth in this agreement. Such monitoring shall be in conjunction with the comprehensive monitoring system of the Division of Public Schools.

1. This monitoring shall specifically determine compliance with the following issues:

a. identification and assessment as specified in this document, including:

- (1) conduct of home language survey,
- (2) national origin self identification,
- (3) assessment of aural/oral language proficiency;
- (4) assessment of English language reading and writing proficiency,
- (5) use of approved district developed or adapted test procedures,
- (6) functioning of LEP committees
- (7) application of reclassification procedures, and
- (8) post-reclassification monitoring procedures;

b. provision of basic ESOL instruction, ESOL and home language instructional strategies in basic subject areas, ESOL instruction in basic subject areas, and home language instruction in basic subject areas, and implementation in accordance with the approved plan for services to LEP students;

c. employment of qualified personnel as designated in Section IV; and

d. establishment and functioning of Parent of LEP students involvement as designated in this agreement.

2. Periodic compliance monitoring shall be on the same time schedule as that for the comprehensive monitoring system of the Division of Public Schools.

3. Each district shall retain on file documentation to verify compliance with items in this agreement.

4. The report of each program compliance monitoring shall include recommendations and corrective actions in accordance with the findings and shall be delivered to school districts in a timely manner and filed as a public record.

5. The Florida Department of Education shall issue an annual report summarizing the results of these compliance reviews, identifying patterns of noncompliance, and recommending remedial actions as appropriate. District failure to undertake necessary compliance action in a timely manner shall invoke the procedures and sanctions set forth in section 229. 565(4), Florida Statutes.

6. Monitoring of applicable criteria shall be planned and undertaken with appropriate consultation and participation of councils representing parents of LEP students. The district shall be responsible for making a copy of the monitoring report available to the respective council(s) representing parents of LEP students.

G. Equal Access

1. Periodic review of local district compliance with Florida Educational Equity Act shall incorporate a review of district compliance with this agreement in regard to equal access to categorical programming for eligible national origin minority students and LEP students.

2. Such reviews shall be conducted in accordance with Rule 6A-19.010, FAC, and shall ascertain and document compliance, or shall require corrective actions.

3. In addition to the requirements of Rule 6A-19.010, FAC, the Florida Department of Education shall conduct a data review of all school districts within a three year period in order to ascertain any major deviance from expected data patterns. Where deviations are noted, the district shall be informed and shall be required to address the issue and report action taken.

H. Complaints

Any interested person or organization may file a complaint with the Florida Department of Education alleging violations by a school district of the terms of this agreement. The written complaint shall be specific as to the alleged violation. The Florida Department of Education shall have 60 days after the receipt of the complaint in which to investigate the allegations and report findings to the district and complainant. Any violations shall have corrective action specified. This complaint process is independent of the individual's rights under state and federal law.

AGREEMENT
ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL)

VI.

OUTCOME MEASURES

A. The Florida Department of Education will strive in the future to develop an evaluation system containing outcome measures for assessing the fulfillment of Federal and State law in regard to limited English proficient students. The goal is to not only more effectively and efficiently measure compliance but to substitute outcome measures for, where appropriate, the minimum input measures as contained in this agreement that have or may be becoming maximum standards shortly after implementation of this agreement.

B. The Florida Department of Education shall design an evaluation system containing output measures by October 1, 1991. The state data system shall be amended to include needed data items between October 1, 1991 and June 30, 1992. The evaluation shall be implemented in the 1992-93 school year.

C. The evaluation system shall address equal access and program effectiveness.

D. Equal Access

The Florida Department of Education shall conduct a data review of all school districts within a three year period in order to ascertain any major deviance from expected data patterns. Where deviations are noted, the school district shall be informed and shall be required to address the issue and report action taken. The district profiles include a comparison of (1) national origin minority students, (2) students who are not national origin minorities and (3) LEP students on the following indicators such as:

1. participation in categorical programs, participation in special programs in the Florida Education Finance Program, and participation in targeted academic courses

E. Program Effectiveness

1. The Florida Department of Education shall establish a system for minimum review of program effectiveness which shall include review data such as:

- a. students are acquiring English language skills sufficient for parity of participation with non LEP students within a reasonable period of time

- b. students are learning and progressing toward completion of requirements specified in district's pupil progression plan as evidence by a comparison of LEP and non LEP students.

- c. A comparison of LEP and non LEP students (by race/ethnic, national origin and district) on:

1. retention rates

2. graduation rates

3. dropout rates

4. grade point average

5. state assessment test scores

Districts shall annually collect these types of data.

- d. Comparison of student identification and student exit data from ESOL programs by home language by district and state.

2. The Florida Department of Education shall designate employees to provide technical assistance to those school districts whose data suggest that inadequate or inappropriate services are being provided to LEP students. Such technical assistance shall include:

- a. joint determination of practices to be investigated by the local school district,

- b. involvement of the LEP parent group and school district personnel in determining actions to improve the situation, and

- c. a summary report to the Division of Public Schools.

3. The data for school districts receiving technical assistance as described above shall be reviewed the following year to identify the impact of any changes made.
4. The Florida Department of Education shall annually summarize in a written report the results of the program effectiveness monitoring.