



UNITED STATES DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS

Ensuring Educational Opportunities for All Students on Equal Terms 70 Years After *Brown v. Board of Education*

On May 17, 1954, the U.S. Supreme Court reached a unanimous decision in *Brown v. Board of Education*, holding that legally mandated racial segregation of children in public schools is unconstitutional.¹ The Court explained that “education is perhaps the most important function of state and local governments,” and “where the state has undertaken to provide it, is a right which must be made available to all on equal terms.”²

Seventy years later, student access to education is still not available on equal terms for millions of students. Notwithstanding gains over time toward fulfilling *Brown*’s promise, including the eradication of legally mandated school segregation, the enforcement experience of the U.S. Department of Education’s (Department) Office for Civil Rights (OCR), as well as the data we collect as part of our Civil Rights Data Collection (CRDC), reflect that education opportunities, including access to high rigor courses and programs;³ teachers and other school staff;⁴ as well as to equipped and functional facilities,⁵ differ by race, color, and national origin in schools across the United States.

The federal civil rights laws that OCR enforces, including Title VI of the Civil Rights Act of 1964 (Title VI), prohibit discrimination based on race, color, or national origin, among other bases, in programs or activities that receive federal financial assistance from the Department. This fact sheet summarizes applicable policy resources describing federal legal obligations to ensure that all students have equal access to education regardless of race, color, or national origin.

Ensuring Equal Access to Educational Resources and Programs

OCR’s [Dear Colleague Letter on Resource Comparability](#) (2014) and accompanying [Fact Sheet](#) explain that Title VI prohibits discrimination on the basis of race, color, or national origin in the allocation of school resources such as courses, academic programs, extracurricular activities, teachers, leadership, student support, school facilities, instructional materials, and access to technology and digital opportunities.

¹ *Brown v. Bd. of Ed.*, 347 U.S. 483, 493 (1954), supplemented, 349 U.S. 294 (1955).

² *Id.*

³ See Office for Civil Rights, Civil Rights Data Collection, [Student Access to and Enrollment in Mathematics, Science, and Computer Science Courses and Academic Programs in U.S. Public Schools](#) (2024); Office for Civil Rights, Civil Rights Data Collection, [A First Look: Students’ Access to Educational Opportunities Report](#) (2023).

⁴ See *id.*; Office for Civil Rights, [Dear Colleague Letter on Resource Comparability](#) at 12-16 (Oct. 1, 2014).

⁵ *Id.* at 17-18

Addressing Harassment on the Basis of Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics

OCR has released several policy resources explaining schools' obligation to provide all students a school environment free from discrimination based on race, color, or national origin, including shared ancestry or ethnic characteristics. These resources include: [Dear Colleague Letter: Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, including Shared Ancestry or Ethnic Characteristics](#) (May 2024); [Dear Colleague Letter: Addressing Discrimination Against Muslim, Arab, Sikh, South Asian, Hindu, and Palestinian Students](#) (Mar. 2024); [Dear Colleague Letter: Discrimination, including Harassment, Based on Shared Ancestry or Ethnic Characteristics](#) (Nov. 2023); [Dear Colleague Letter: Addressing Discrimination Against Jewish Students](#) (May 2023); and [Fact Sheet: Protecting Students from Discrimination Based on Shared Ancestry or Ethnic Characteristics](#) (Jan. 2023).

Addressing Racial and Disability Discrimination in Student Discipline

To support schools' efforts to confront the issue of race discrimination in student discipline effectively, OCR and the U.S. Department of Justice's Civil Rights Division (DOJ) jointly released a [Resource on Confronting Racial Discrimination in Student Discipline](#) in May 2023. This resource explains the Title VI prohibition on discrimination based on race, color, or national origin and describes how the Departments applied the law consistently across three Presidential administrations to resolve investigations nationwide involving concerns about discrimination in schools' use of out-of-school suspensions, expulsions, school-based arrests, referrals to law enforcement, involuntary discipline transfers, informal removals, and other disciplinary actions against Black, Latino, and Native American students. The Departments designed this resource as a practical tool for school communities to use to assess discipline practices to ensure they do not violate Title VI.

OCR's enforcement experience also reflects that many students with disabilities, including students of color with disabilities, face discipline because they are not receiving the support, services, interventions, strategies, and modifications to school or district policies that they need to manage their disability-based behavior. In response, in July 2022, OCR released guidance on [Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973](#) and an accompanying [Fact Sheet](#), explaining that Section 504's protection against disability discrimination applies to student discipline policies and practices.

Preventing Race, Color, or National Origin Discrimination in Special Education

OCR issued a [Dear Colleague Letter](#) and [Fact Sheet](#) in December 2016 that explain, through analysis and illustrative examples, the Title VI requirement that students of all races, colors, and national origins have: equitable access to general education interventions and to a timely referral for an evaluation for disability and special education and/or related aids and services under the Individuals with Disabilities Education Act (IDEA) or Section 504 and equitable treatment in the evaluation process, in the quality of special education services and supports they receive, and in the degree of restrictiveness of their educational environment. In particular, these resources explain the ways discrimination can manifest in under-identification, over-identification, and mis-identification of

students of color with disabilities, the harm that follows from these forms of discrimination, and legal obligations for school communities to avoid such discrimination.

Ensuring Equal Educational Opportunities for Students Who Are English Learners (ELs)

Title VI protections extend to students who are ELs.⁶ In January 2015, OCR and DOJ jointly issued a [Dear Colleague Letter](#) and an accompanying [Fact Sheet](#) that remind schools of their ongoing legal obligations to identify and assess all potential ELs; provide students who are ELs with a language assistance program; adequately staff and support language assistance programs; provide meaningful access for students who are ELs to all curricular and extracurricular programs; and avoid the unnecessary segregation of students who are ELs, among other obligations.

In June 2023, OCR and DOJ jointly released two fact sheets that address access to public education for [migratory](#) and [unaccompanied](#) children. The fact sheets highlight specific challenges migratory and unaccompanied children may face when they access public educational opportunities and remind public schools of their responsibilities to migratory and unaccompanied children under federal civil rights laws.

Additionally, in June 2023, OCR issued a [fact sheet](#) that explains the legal requirements that schools must follow to ensure meaningful access to specialized and advanced educational programs for students who are ELs. It explains that students who are ELs remain entitled to appropriate language assistance services while participating in advanced or special programs and identifies types of practices that could, depending on facts and circumstances, violate Title VI.

For more information about schools' legal obligations to students who are ELs and parents and guardians who have limited English proficiency, please visit OCR's [Equal Educational Opportunities for English Learners webpage](#), which includes resources in multiple languages.

Fostering Racially Inclusive Education Environments

In August 2023, OCR and DOJ jointly released two resources to help colleges and universities understand the U.S. Supreme Court's decision in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College* and *Students for Fair Admissions, Inc. v. University of North Carolina et al.*⁷ The Court held that the consideration of race in the admissions practices of the University of North Carolina and Harvard College violated the Equal Protection Clause of the Fourteenth Amendment and Title VI. The resources, a [Dear Colleague Letter](#) and a [Questions and Answers resource](#), help colleges and universities understand the Court's decision as they continue to pursue campuses that are racially diverse and that include students with a range of viewpoints, talents, backgrounds, and experiences.

OCR also released a [Dear Colleague Letter on Race and School Programming](#) in August 2023 to clarify the circumstances under which schools, including institutions of higher education, can – consistent with Title VI and its implementing regulations – develop curricula and programs or engage

⁶ *Lau v. Nichols*, 414 U.S. 563 (1974).

⁷ See *Students for Fair Admissions Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023) and *Students for Fair Admissions, Inc. v. University of North Carolina*, 600 U.S. 181 (2023).

in activities that promote racially inclusive school and campus communities. For example, Title VI generally does not restrict schools from holding assemblies, meetings, focus groups, or listening sessions to hear about students' experiences with race in the school or surrounding community or to hear students' ideas about creating an inclusive school community with attention to race or other aspects of identity that affect students' experiences at the school or in the world. Additionally, school-sponsored or recognized groups or programs with a special emphasis on race, such as a student club or mentorship opportunity, that are open to all students, do not violate Title VI simply because of a race-related theme. On the other hand, schools may violate Title VI when they separate students or treat individual students or groups of students differently based on race, color, or national origin. Schools also may be in violation of Title VI when they create, encourage, accept, tolerate, or fail to correct a hostile educational environment based on race, color, or national origin.

In January 2023, OCR issued a fact sheet, [Diversity & Inclusion Activities Under Title VI](#), to assist school communities in understanding that diversity, equity, and inclusion training and similar activities in most circumstances are consistent with Title VI. Title VI does not, for example, categorically prohibit activities such as: diversity, equity, and inclusion training; instruction in or training on the impact of racial discrimination; cultural competency training; or other nondiscrimination trainings. Nor do these activities categorically create a hostile environment on the basis of race.

Additional Resources

More information is available on OCR's website at www.ed.gov/ocr. If you have any questions or would like technical assistance, please contact the OCR regional office serving the State or territory where the alleged discriminatory conduct occurred by visiting <https://ocrcas.ed.gov/contact-ocr>. You may also contact us at (800) 421-3481 or at ocr@ed.gov.

For free language access services or resources, which may include oral technical assistance or written translation of a publicly available OCR document, contact us at 1-800-421-3481 (TDD: 1-800-877-8339), or email us at ocr@ed.gov. For more information about the Department's interpretation or translation services, please call 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-437-0833) or email Ed.Language.Assistance@ed.gov. To request documents in alternate formats such as Braille or large print, please contact the Department at 202-260-0852 or om_eeos@ed.gov.