

New

USOE Summary: August 2, 2011
(Revised April 2, 2011)

Dear Colleague

**OCR May 6, 2011 Dear Colleague Letter
SUMMARY POINTS
Prepared by the Utah State Office of Education (USOE)**

Recently, we have become aware of student enrollment practices that may ***chill or discourage the participation, or lead to the exclusion***, of students based on their or their parents' or guardians' ***actual or perceived citizenship or immigration status***.

We write to remind you of the Federal obligation to provide equal education opportunities to all children residing within your district and to offer our assistance in ensuring that you comply with the law.

To comply with these federal civil rights laws, as well as the mandates of the Supreme Court, you must ensure that:

- Student are not barred from enrolling in public schools, at the elementary and secondary level on the basis of their own citizenship for immigration status or that of their parents or guardians.
- Districts may not request information with the purpose or result of denying access to public schools on the basis of their race, color or national origin.

*To assist you in meeting these obligations, we provide below some examples of permissible and non-permissible enrollment practices. A district may require:

1. Students to their parents to provide proof of residency within the district.
2. Copies of phone and water bills or lease agreements
3. May restrict attendance to district residents
4. While a district may restrict attendance to district residents, inquiring into the students' citizenship or immigration status, or that of their parents or guardians would not be relevant to establishing residency within the district.
- * 5. A birth certificate to ensure that student falls with district-mandated minimum and maximum age requirements.
6. However, a district may not bar a student from enrolling in its schools based on a foreign birth certificate.
7. Districts have Federal and in some instances State obligations to report data such as the race and ethnicity of their student population. Districts cannot use the acquired data to discriminate against students, nor should a parent's or guardian's refusal to a request for this data lead to a denial of his or her child's enrollment.
8. A district may not deny enrollment to a student if he/she (or his/her parent or guardian) chooses not to provide a social security number. (See 5 U.S.C. §552a) [Utah uses State Student Identification Numbers S.S.I.D.]

*(Full text of Summary Points http://www.whitehouse.org/sites/default/files/fact_sheet_sexual_violence.pdf and Dear Colleague Letter <http://www.oeosh.ucsb.edu/Policies/2011.04.DearColleague.pdf>)

Title 6

Timeline for the Provision of an Equal Education Opportunity to Limited-English Proficient Students

OCR Title VI Policy on Language Minority Students:

During the late 1960's, OCR staff became aware that many school districts made little or no provision for students who were unable to understand English, even though there were substantial numbers of these students enrolled in their districts.

In an effort to resolve this problem, in 1970, OCR issued a memorandum to the school districts titled the *Identification of Discrimination and Denial of Services on the Basis of National Origin*. The purpose of the memorandum was to clarify Title VI requirements concerning school districts' responsibility to provide equal education opportunity to language-minority students.

In the 1974 *Lau v. Nicholas* case, the U.S. Supreme Court upheld the 1970 memorandum as a valid interpretation of the requirements of Title VI. The Supreme Court stated that, "[T]here is no equality of treatment merely by providing students with the same facilities, textbooks, teacher and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education." issued an update, "Policy Update on Schools' Obligations Toward National Origin Minority Students with Limited-English Proficiency (LEP students)."

The 1970 memorandum stated, in part:

Where the inability to speak and understand the English language excludes national origin minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.

In 1985, OCR issued "The Office for Civil Rights' Title VI Language Minority Compliance Procedures," which outlines OCR policy with regard to the education of language-minority students and Title VI compliance standards.

In 1991, OCR issued an update "Policy Update on Schools' Obligations Toward National Origin Minority Students with Limited-English Proficiency (LEP students)."

May 6, 2011 – U.S. Dept. of Justice/U.S. Dept. of Education – Office of Civil Rights issued a "***Dear Colleague***" [guidance] letter "OCR writes to remind local education agencies (hereinafter "districts") are required to provide *all children with equal access to public education at the elementary and secondary level...* and additionally that the United States Supreme Court held in the ***Plyer v. Doe, 457 U.S. 202 (182)***, that a state may not deny access to a basic public education to any child residing in the state, whether present in the United States legally or otherwise. **to that student's entitlement to an elementary and secondary public education.** (1st, 3rd paragraphs 5/6/11 Dear Colleague Letter, cover page)

The 1970 memorandum, and the 1985 and 1991 documents, explain the relevant legal standards for OCR policy concerning discrimination on the basis of national origin in the provision of education services to LEP students at the elementary and secondary level.

