



Fact Sheet: Preventing Racial Discrimination in Special Education

What Is the Dear Colleague Letter on Preventing Racial Discrimination in Special Education?

The Office for Civil Rights (OCR) at the U.S. Department of Education issued the [Dear Colleague Letter on Preventing Racial Discrimination in Special Education](#) on December 12, 2016, to help ensure that all students, regardless of race, color, or national origin, have equitable access to high-quality general and special education instruction.

The letter provides a brief legal summary of Title VI of the Civil Rights Act of 1964 (Title VI), the Individuals with Disabilities Education Act (IDEA), and Section 504 of the Rehabilitation Act of 1973 (Section 504), and explains, 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 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.

How Can a School District Prevent Racial Discrimination in Special Education?

- **Referral** – Districts and schools must not discriminate on the basis of race, color, or national origin in referring students for evaluation. Racial discrimination in referrals can result in under-identification for special education of students who need services and over-identification for special education of students who do not actually need services.
 - One common method that is used in an effort to improve student achievement and school climate and/or reduce inappropriate special education referrals is the implementation of *evidence-based intervention strategies* to provide help and support, within the general education setting, to students who need such support.
 - An intervention framework must not, however, serve as a substitute, or a precondition, for an evaluation for students believed to need such an evaluation.
 - If a district has reason to believe a student has a disability and needs special education or related services because of that disability, Section 504 requires the district to timely evaluate the student, regardless of whether the student has received any general education intervention services.

[OCR-00099]



How Can a School District Prevent Racial Discrimination in Special Education? (continued)

- **Evaluation** – Whether pursuant to Section 504 or the IDEA, districts must ensure that they comply with the nondiscrimination requirements of Title VI. For example, districts must not treat similarly situated students of different races differently in the type of evaluation procedures used by the district, unless the district has a legitimate, nondiscriminatory reason for the difference in treatment. Districts also must avoid treating similarly situated students of different races or national origins differently in the amount and type of documentation supporting educational placement decisions. A district must not use an evaluation or testing procedure that has a disproportionate adverse impact on a racial or ethnic group if there is a comparably effective evaluation or testing procedure that accomplishes the district's important educational goal with less adverse impact (e.g., less over-identification or under-identification).
- **Special education services** – Districts must not discriminate against students based on race, color, or national origin in the provision of special education or related aids and services under Section 504 or in the implementation of an individualized education program under the IDEA. Districts must give students equitable access, without regard to race, color, or national origin to the most integrated setting appropriate for the student.

How Can I Get Help From OCR?

- **Requesting More Information.** With questions or for more information, including technical assistance on civil rights compliance, please contact the U.S. Department of Education's Office for Civil Rights (OCR) customer service team at 1-800-421-3481 (TDD 1-800-877-8339) or ocr@ed.gov or visit OCR's website at www.ed.gov/ocr.
- **Filing a Complaint.** Anyone who believes that a school that receives Federal financial assistance has discriminated against someone based on race, color, national origin, sex, disability, or age, can file a complaint of discrimination with OCR within 180 days of the alleged discrimination. For more details, please visit www.ed.gov/ocr/complaintintro.html or contact OCR's customer service team at 1-800-421-3481 (TDD 1-800-877-8339).