U.S. Department of Justice
Civil Rights Division

U.S. Department of Education
Office for Civil Rights

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Protecting Access to Education for Unaccompanied Children

A Resource for Families and Educators

Unaccompanied children are children who are under 18 years old, who do not have a parent or guardian in the United States available to provide care and physical custody, and who lack legal immigration status in the United States.[1] Unaccompanied children may live with family members or other adult sponsors in local communities. Under U.S. Supreme Court precedent, unaccompanied children, like all other students, have an equal right to access local public schools. But they may face barriers to educational opportunities due to discrimination because of their national origin or immigration status.

This fact sheet highlights specific access to education challenges faced by unaccompanied children, explains to individuals caring for unaccompanied children where to go for help, and aims to help public schools understand their responsibilities to serve unaccompanied children under Federal civil rights laws.[2]

Here's what you need to know:

1. K-12 public schools must be open to all students, including unaccompanied children, regardless of their immigration status or that of their parents, guardians, or sponsors.[3] Additionally, Title VI of the Civil Rights Act of 1964 prohibits public schools from discriminating based on race, color, or national origin.

2. Public schools must offer language assistance services to K-12 students who have limited English proficiency, including unaccompanied children. Schools must identify these students with limited English proficiency as English Learners so that these students can receive services to enable them to meaningfully participate in the school's educational programs.[4]

3. Public schools must make information about enrollment, classes, and other educational programs and activities accessible to parents, guardians, and sponsors who have limited English proficiency. Schools can accomplish this by providing accurate written translation or oral interpretation.

These are examples of obstacles that can prevent unaccompanied children from enrolling and obtaining the educational services they are entitled to receive.

Unaccompanied Children May Face Enrollment Barriers When:

- Schools ask new students to provide Social Security Numbers or U.S. birth certificates as a condition of enrolling, or schools reject valid documents, such as a Verification of Release Form or immunization records from the Office of Refugee Resettlement (ORR) at the U.S. Department of Health and Human Services.
- Students try to access special academic programs or offerings (*e.g.*, gifted and talented education) but are deterred or discouraged from applying to those, or other grade-appropriate programs, because they are English Learners, or because they have interrupted formal schooling or incomplete academic records.

Once Enrolled, Children May Still Face Barriers to Meaningful Participation When:

- Schools that routinely conduct English language proficiency assessments at the start of the school year fail to do so for unaccompanied children who arrive mid- or end-year.
- Parents, guardians, or sponsors who have limited English proficiency do not receive language assistance services necessary to participate in decisions about an unaccompanied child's education.
- Schools rely on multilingual students to interpret for English Learners in the classroom, rather than providing required instruction and language assistance from qualified staff.
- Unaccompanied children who are entitled to *both* language assistance services and special education services are denied the services or supports that they need or are told that they need to prioritize one set of instructional services over the other.

What if an Unaccompanied Child Experiences Discrimination Based on National Origin, Immigration Status, or English Learner Status in Public School Enrollment or Participation?

You may contact the U.S. Department of Justice's Civil Rights Division (CRT) and/or the U.S. Department of Education's Office for Civil Rights (OCR) if:

- You believe that a school district is preventing or trying to prevent an unaccompanied child from enrolling in school or accessing academic programs or services because of national origin or immigration status.
- You believe that a school district is not providing an unaccompanied child who is an English Learner with the language services they need to meaningfully participate in educational programs.

If you have contacted the school and it has not taken steps to address your concerns or you do not feel comfortable raising your concerns with the school, you can file a complaint (available in in multiple languages) with CRT at civilrights.justice.gov, or with OCR at ocrcas.ed.gov (for language assistance call 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-877-8339) or email Ed.Language.Assistance@ed.gov).

For additional information, please see these resources:

- Dear Colleague Letter: School Enrollment Procedures (May 2014)
- Fact Sheet: Information on the Rights of All Children to Enroll in School (May 2014)
- Dear Colleague Letter: English Learner Students and Limited English Proficient Parents (January 2015)
- Fact Sheet: Ensuring English Learners Can Participate Meaningfully and Equally in Educational Programs (January 2015)
- Fact Sheet: Confronting Discrimination Based on National Origin and Immigration Status (August 2021)
- Fact Sheet: Protecting Access to Education for Migratory Children (June 2023)

[1] See 6 U.S.C. § 279 (g)(2).
[2] For example, the U.S. Departments of Education and Justice enforce Title VI of the Civil Rights Act of 1964, which prohibits discrimination by recipients of Federal financial assistance on the basis of race, color, or national origin. 42 U.S.C. § 2000d. Under Title IV of the Civil Rights Act of 1964, the Department of Justice addresses equal protection violations based on race, color, religion, sex, or national origin in public elementary and secondary schools and institutions of higher education. 42 U.S.C. § 2000c-6. The Department of Justice also enforces the Equal Educational Opportunities Act of 1974, which requires state educational agencies and school districts to take appropriate action to overcome language barriers that impede English Learner students from participating equally in state and district educational programs. 20 U.S.C. §§ 1701-1758.
[3] *See Plyler v. Doe, 457 U.S. 202 (1982).*
[4] *See supra* note 2; *see also Lau v. Nichols*, 414 U.S. 563, 568 (1974).