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 Migratory Children

A Resource for Families and Educators

Many children in the United States are highly mobile or have parents or guardians who are highly mobile, including some children who are, or who are part of families with, migratory agricultural workers, migratory fishers, and workers in seasonal industries or positions.[1] These migratory children move regularly from one residence and school district to another, and their mobility often affects their access to education. Some migratory children who lack legal immigration status in the United States or are English Learners may face additional barriers to participation in school.

This fact sheet highlights specific access to education challenges faced by migratory children, explains to families where they can go for help, and aims to help public schools understand their responsibilities to serve these 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 migratory children, regardless of their or their parents' immigration status.[3] Additionally, Title VI of the Civil Rights Act of 1964 prohibits public schools from discriminating based on race, color, or national origin.[4]
2. Public schools must offer language assistance services to K-12 students who have limited English proficiency, including migratory children. Schools must identify these students as English Learners so that they can receive services to enable them to meaningfully participate in the school's educational programs.
3. Public schools must make information about enrollment, classes, and other educational programs and activities accessible to parents and guardians 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 migratory children from enrolling and obtaining the educational services they are entitled to receive.

Migratory Children May Face Enrollment Barriers When:

- Schools bar students, including migratory children who travel seasonally or move multiple times in the course of a year, from enrolling after the school year has begun.
- Schools ask new students to provide Social Security Numbers or U.S. birth certificates as a condition of enrolling.
- Children who reside in locations, such as temporary labor housing, that are within a school district's geographical boundaries, face school proof-of-residency policies that prevent their enrollment.
- 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 due to work-related mobility.

Once Enrolled, Migratory Children May Continue to 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 migratory 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 their children's education.
- Schools uniformly place migratory children who are entitled to language assistance services in remedial classes (*e.g.*, remedial math) without appropriate consideration of student records of past enrollment and course completions.
- School staff incorrectly assume that migratory families who speak Indigenous languages also speak Spanish because of their country of origin.
- Migratory 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 a Migratory 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) 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 a migratory 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 a migratory 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 Unaccompanied Children (June 2023)

[1] This fact sheet uses the term "migratory children" in its common usage, to include children who are highly mobile or have parents or guardians who are highly mobile. The term does not rely on the definition of "migratory children" found at 20 U.S.C. § 6399(3) (defining "migratory children" for the purposes of education programs administered by the U.S. Department of Education's Office of Migrant Education).
[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).