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U.S. Department of Education Releases Guidance on Civil Rights of Students with Disabilities

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The U.S. Department of Education released three new sets of guidance today to assist the public in understanding how the Department interprets and enforces federal civil rights laws protecting the rights of students with disabilities. These guidance documents clarify the rights of students with disabilities and the responsibilities of educational institutions in ensuring that all students have the opportunity to learn.

The guidance released today includes a [parent and educator resource guide](#); a [Dear Colleague letter](#) (DCL) and question and answer [document](#) on the use of restraint and seclusion in public schools; and a [DCL](#) and question and answer documents on the rights of students with disabilities in public charter schools.

“These guidance documents share information with our full school communities – educators, parents, and students – about important educational rights, including school obligations to identify, evaluate, and serve students with disabilities,” said Catherine E. Lhamon, the Department’s assistant secretary for civil rights. “Vigilant attention to the rights of students with disabilities will help ensure fair treatment for every student and that every student has equal access to educational programs and has an opportunity to experience success.”

The [Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools](#), issued by the Department’s Office for Civil Rights (OCR), provides a broad overview of Section 504 of the Rehabilitation Act of 1973 (Section 504). The guidance describes school districts’ nondiscrimination responsibilities, including obligations to provide educational services to students with disabilities, and outlines the steps parents can take to ensure that their children secure all of the services they are entitled to receive.

Among other things, the Section 504 Parent and Educator Resource Guide:

- Defines and provides examples to illustrate the meaning of key terms used in Section 504.
- Highlights requirements of Section 504 in the area of public elementary and secondary education, including provisions related to the identification, evaluation, and placement of students with disabilities, and procedures for handling disputes and disagreements between parents and school districts.

The second guidance package released by OCR addresses the circumstances under which use of restraint or seclusion can result in discrimination against students with disabilities, in violation of Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act (ADA). The Department’s May 15, 2012, [Restraint and Seclusion: Resource Document](#) suggested best practices to prevent the use of restraint or seclusion, recommending that school districts never use physical restraint or seclusion for disciplinary purposes and never use mechanical restraint, and that trained school officials use physical restraint or seclusion only if a child’s behavior poses imminent danger of serious physical harm to self or others. The [DCL](#) and [question and answer document](#) released today offer additional information about the legal limitations on use of restraint or seclusion to assist school districts in meeting their obligations to students with disabilities.

The third guidance package released today was developed by OCR and the Office of Special Education and Rehabilitative Services (OSERS). The [jointly-issued Dear Colleague Letter](#) and question and answer documents

will help update educators, parents, students, and other stakeholders to better understand the rights of students with disabilities in public charter schools under Section 504 and IDEA. These documents provide information about how to provide equal opportunity in compliance with Section 504 in key areas such as charter school recruitment, application, admission, enrollment and disenrollment, accessibility of facilities and programs, and nonacademic and extracurricular activities. The documents are responsive to the U.S. Government Accountability Office's 2012 report, [Charter Schools: Additional Federal Attention Needed to Help Protect Access for Students with Disabilities](#), which included the recommendation that the Department issue updated guidance on the obligations of charter schools.

"It is critical to ensure that children with disabilities have access to a free appropriate public education in charter schools," said Sue Swenson, delegated the authority to perform the functions and duties of the Department's assistant secretary for special education and rehabilitative services. "These guidance documents are designed to support states, local education agencies, and charter school personnel to understand their responsibilities under IDEA and Section 504."

The [Section 504 Charter guidance](#):

- Explains that charter school students with disabilities (and those seeking to attend) have the same rights under Section 504 and Title II of the ADA as other public school students with disabilities.
- Details the Section 504 right to nondiscrimination in recruitment, application, and admission to charter schools.
- Clarifies that during the admission process a charter school generally may not ask a prospective student if he or she has a disability.
- Reminds charter schools, other entities, and parents that charter school students with disabilities have the right to a free appropriate public education (FAPE) under Section 504.

The [IDEA Charter guidance](#):

- Emphasizes that children with disabilities who attend charter schools and their parents retain all rights and protections under Part B of IDEA (such as FAPE) just as they would at other public schools.
- Provides that under IDEA a charter school may not unilaterally limit the services that must be provided a particular student with a disability.
- Reminds schools that the least restrictive environment provisions require that, to the maximum extent appropriate, students with disabilities attending public schools, including public charter schools, be educated with students who are nondisabled.
- Clarifies that students with disabilities attending charter schools retain all IDEA rights and protections included in the IDEA discipline procedures.

In addition to these documents, the Department also released a [Know Your Rights document](#) designed for parents to provide a brief overview of the rights of public charter school students with disabilities and the legal obligations of charter schools under Section 504 and the IDEA.

The mission of OCR is to ensure equal access to education and to promote educational excellence throughout the nation through the vigorous enforcement of civil rights. Among the federal civil rights laws OCR is responsible for enforcing are Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; and Title II of the ADA. The mission of OSERS is to improve early childhood, educational, and employment outcomes and raise expectations for all people with disabilities, their families, their communities, and the nation. OSERS is responsible for administering the Individuals with Disabilities Education Act of 2004 (IDEA).

For more information about OCR and the anti-discrimination laws that it enforces, please visit [its website](#) and follow OCR on twitter @EDcivilrights. For more information about OSERS and IDEA, please visit [its website](#) and follow OSERS on twitter @ed_sped_rehab.

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