U.S. Department of Justice Civil Rights Division

U.S. Department of Education
Office for Civil Rights
Office of the General Counsel

USOE Summary: August 2, 2011 (Revised April 2, 2012)

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 students are not barred from enrolling in public schools, at the elementary and secondary level on the basis of their own citizenship or 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:

- Students or their parents to provide proof of residency within the district.
- Copies of phone and water bills or lease agreements.
- May restrict attendance to district residents.
- 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.
- A birth certificate to ensure that student falls with district-mandated minimum and maximum age requirements.
- However, a district may not bar a student from enrolling in its schools based on a foreign birth certificate.
- 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.
- 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. 5552a) [Utah uses State Student Identification Number S.S.ID.]

\*(Full text of Summary Points <a href="http://www.whitehouse.org/sites/default/files/fact\_sheet\_sexual\_violence.pdf">http://www.whitehouse.org/sites/default/files/fact\_sheet\_sexual\_violence.pdf</a> and Dear Colleague Letter <a href="http://www.oeosh.ucsb.edu/Policies/2011.04.DearColleague.pdf">http://www.oeosh.ucsb.edu/Policies/2011.04.DearColleague.pdf</a>) \

<sup>\*\*</sup> The rights and protections for homeless and refugee students are addressed in the McKinney-Vento Education for Homeless Children and Youths Program requirements. <a href="http://www2.ed.gov/legislation/FedRegister/other/2002-1/030802a.html">http://www2.ed.gov/legislation/FedRegister/other/2002-1/030802a.html</a>