



U.S. Department of Justice
Civil Rights Division

RESCINDED



U.S. Department of Education
Office for Civil Rights

December 2, 2011

Dear Colleague:

Today, the United States Department of Education (ED) and the United States Department of Justice (DOJ) are jointly issuing guidance that explains how educational institutions can lawfully pursue voluntary policies to achieve diversity or avoid racial isolation within the framework of Titles IV and VI of the Civil Rights Act of 1964, the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, and current case law. The guidance is presented in two documents, one for elementary and secondary schools and the other for postsecondary institutions. This guidance replaces August 2008 letters titled “The Use of Race in Assigning Students to Elementary and Secondary Schools” and “The Use of Race in Postsecondary Student Admissions” issued by ED’s Office for Civil Rights (OCR). Concurrent with the issuance of this guidance, the August 2008 letters are withdrawn.

The new guidance documents review three key Supreme Court rulings on the use of race by educational institutions, and provide examples of options that schools and postsecondary institutions may wish to consider in structuring programs that lawfully further diversity or reduce racial isolation. Both guidance documents provide examples of different educational contexts within which institutions may permissibly consider race to pursue their compelling objectives. For example, the elementary and secondary guidance discusses school districts’ options in areas such as student assignment, student transfers, school siting, feeder patterns, and school zoning. Similarly, the postsecondary guidance provides examples of how colleges and universities can further diversity in contexts including admissions, pipeline programs, recruitment and outreach, and mentoring, tutoring, retention, and support programs.

OCR and DOJ are available to provide technical assistance, and welcome questions about the application of this guidance to educational institutions. To submit questions or receive technical assistance, please contact the OCR regional office for your state or territory at <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>. To contact DOJ for assistance, please contact the Educational Opportunities Section at (202) 514-4092, (877) 292-3804, or education@usdoj.gov.

Sincerely,

/S/

Russlynn Ali
Assistant Secretary
Office for Civil Rights
U.S. Department of Education

/S/

Thomas E. Perez
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice

Attachments