



DEPARTMENT OF JUSTICE

DEPARTMENT OF EDUCATION

Clarification on Department of Justice and Department of Education Guidance Documents Regarding Federal Nondiscrimination Laws

AGENCY: Civil Rights Division, Department of Justice; Office for Civil Rights, Department of Education.

ACTION: Notice; clarification.

SUMMARY: The U.S. Department of Justice (DOJ) and U.S. Department of Education (ED) (the Departments) are issuing this document to clarify that seven guidance documents issued jointly by the Departments are not enforceable. In addition, the Departments plan to revisit these guidance documents in light of the Supreme Court’s decision in *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400 (2024), to assess whether they are consistent with the single best meaning of the relevant statutory text. The Departments will not rely upon these guidance documents in their enforcement of federal civil rights laws, including Titles IV and VI of the Civil Rights Act of 1964 (Title IV and Title VI), 42 U.S.C. §§ 2000c *et seq.* and 2000d *et seq.*, the Equal Educational Opportunities Act of 1974 (EEOA), 20 U.S.C. §§ 1701–1720, the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 *et seq.*, and Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794.

FOR FURTHER INFORMATION CONTACT: John Mertens, Acting Chief, Educational Opportunities Section, Civil Rights Division, 202-514-4092; Maria Litsakis, Acting Director, Program Legal Group, Office for Civil Rights, 800-421-3481.

SUPPLEMENTARY INFORMATION:

During the years 2015-2023, the Departments issued the following guidance documents regarding Title IV, Title VI, the EEOA, the ADA, and Section 504:

	Date Issued	Agencies	Guidance Title
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1	January 7, 2015	DOJ, ED	Dear Colleague Letter: English Learner Students and Limited Proficient Parents ¹
2	January 7, 2015	DOJ, ED	Fact Sheet: Ensuring English Learner Students Can Participate Meaningfully and Equally in Educational Programs ²
3	January 7, 2015	DOJ, ED	Information for Limited English Proficient (LEP) Parents and Guardians and for Schools and School Districts that Communicate with Them ³
4	May 10, 2021	DOJ, ED	Confronting COVID-19-Related Harassment in Schools ⁴
5	May 26, 2023	DOJ, ED	Resource on Confronting Racial Discrimination in Student Discipline ⁵
6	August 14, 2023	DOJ, ED	Dear Colleague Letter: Questions and Answers Regarding the Supreme Court’s Decision in Students for Fair Admissions, Inc. v. Harvard College and University of North Carolina ⁶
7	August 14, 2023	DOJ, ED	Questions and Answers Regarding the Supreme Court’s Decision in Students for Fair Admissions, Inc. v. Harvard College and University of North Carolina ⁷

Each of the guidance documents discusses legal standards under federal civil rights laws enforced by the Departments. Some of the guidance documents assert that they do not have the force and effect of law, have no binding effect, and do not impose new legal requirements. The Departments’ guidance documents, including these guidance documents, do not establish legally enforceable responsibilities beyond what is required by the terms of the applicable statutes, regulations, or binding judicial precedent.⁸ This is consistent with Supreme Court jurisprudence, which has held that guidance documents “do not have the force and effect of law.” *Perez v. Mortg. Bankers Ass’n*, 575 U.S. 92, 97 (2015) (quoting *Shalala v. Guernsey Mem’l Hosp.*, 514 U.S. 87, 99 (1995)). Regardless, the Departments are concerned about confusion over the non-

¹ <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/letters/colleague-el-201501.pdf>.

² <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/dcl-factsheet-el-students-201501.pdf>.

³ <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/dcl-factsheet-lep-parents-201501.pdf>.

⁴ <https://www.ed.gov/media/document/confronting-covid-19-related-harassment-schools-112258.pdf>.

⁵ <https://www.justice.gov/archives/opa/press-release/file/1585291/dl?inline>.

⁶ <https://www.ed.gov/media/document/dear-colleague-letter-questions-and-answers-regarding-students-fair-admissions-112306.pdf>.

⁷ <https://www.ed.gov/media/document/colleague-20230814pdf-35094..pdf>.

⁸ See U.S. Dep’t of Just., Just. Manual § 1-19.000 (last updated Apr. 2022), <https://perma.cc/E35H-F7FF>.

enforceable nature of the guidance documents and issue this clarification that the guidance documents are not enforceable.

Further, each of the guidance documents was issued prior to the Supreme Court's decision in *Loper Bright*, which held that agency interpretations must be consistent with the "single, best meaning" of the statute authorizing them. 603 U.S. at 400. For these reasons, the Departments plan to revisit the guidance documents listed in this notice in light of *Loper Bright* to determine whether they are consistent with the "single, best meaning" of the relevant federal civil rights laws enforced by the Departments. The Departments will not rely upon the guidance documents listed in this notice in their enforcement of Titles IV and Title VI, the EEOA, the ADA, and Section 504.

Dated: October 20, 2026.

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