



**U.S. Department of Justice**  
Civil Rights Division

**U.S. Department of Education**  
Office for Civil Rights



December 8, 2014

Dear Colleague,

Although the overall number of youth involved in the juvenile justice system has been decreasing, there are still more than 60,000 young people in juvenile justice residential facilities in the United States on any given day.<sup>1</sup> With the support of grants administered by the U.S. Department of Education (ED) and the U.S. Department of Justice (DOJ), juvenile justice residential facilities provide educational services to hundreds of thousands of students over the course of each year.<sup>2</sup>

The Departments are committed to working with juvenile justice residential facilities to ensure that all students have equal educational opportunities, while supporting these facilities in preparing these students for successful reentry into their communities, so that they are ready to return to their local schools and graduate, to continue or begin a postsecondary program, or enter employment. As part of these efforts, we write to remind you that the Federal civil rights laws, regulations, and guidance that prohibit race, color, national origin, sex, religion, and disability discrimination against students in traditional public schools also apply to educational services and supports offered or provided to youth in juvenile justice residential facilities.

ED's Office for Civil Rights (OCR) and DOJ's Civil Rights Division and Office of Justice Programs enforce a number of Federal civil rights laws that apply to juvenile justice residential facilities receiving Federal funds from the respective Departments, including:

- Title VI of the Civil Rights Act of 1964 (Title VI) (prohibiting discrimination based on race, color, or national origin by recipients of Federal financial assistance);<sup>3</sup>
- Title IX of the Education Amendments of 1972 (Title IX) (prohibiting discrimination based on sex by recipients of Federal financial assistance);<sup>4</sup>
- Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II) (both prohibiting discrimination based on

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<sup>1</sup> U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, *Juveniles in Residential Placement, 2011*, 3 (National Report Series Bulletin, Aug. 2014), [www.ojjdp.gov/pubs/246826.pdf](http://www.ojjdp.gov/pubs/246826.pdf).

<sup>2</sup> National Evaluation and Technical Assistance Center for the Education of Children and Youth Who Are Neglected, Delinquent, or At-Risk (NDTAC), *Summary of the Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk*, 2 (updated Sept. 2014) (noting that of the 401,919 students served by ED's Title I, Part D funds in the 2012-13 school year, 73 percent—approximately 293,400—were in juvenile justice residential programs), <http://www.neglected-delinquent.org/sites/default/files/docs/TIPDProgramProfile.pdf>.

<sup>3</sup> 42 U.S.C. §§ 2000d–2000d-7.

<sup>4</sup> 20 U.S.C. §§ 1681 – 1688.

disability, the former by recipients of Federal financial assistance, the latter by public entities, regardless of whether they receive Federal funds).<sup>5</sup>

DOJ also has enforcement authority under:

- Title IV of the Civil Rights Act of 1964 (Title IV) (prohibiting discrimination on the basis of race, color, national origin, sex, or religion in elementary and secondary institutions, institutions of higher education, and technical and vocational schools above the secondary school level that are operated by a State or local agency or operated wholly or predominantly from or through the use of governmental funds or property);<sup>6</sup>
- Equal Educational Opportunities Act of 1974 (EEOA) (prohibiting discrimination on the basis of race, color, national origin, or sex by State and local educational agencies and requiring them to take appropriate action to overcome language barriers that impede equal participation by students in their instructional programs).<sup>7</sup>

Juvenile justice residential facilities and any other entities that receive Federal funds from the Departments—either directly or indirectly through another State or local agency—and that provide educational services in such facilities are subject to these Federal civil rights laws and the specific legal obligations discussed in this letter. This includes, but is not limited to, educational services supported by Title I, Part D of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, which requires, among other things, that State agencies and school districts that serve youth in juvenile justice residential facilities provide services designed to meet the educational needs of such youth.<sup>8</sup>

Youth in confinement, many of whom are students with disabilities and English learner students, are often the students in the greatest need of academic, emotional, and behavioral supports.<sup>9</sup>

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<sup>5</sup> 29 U.S.C. § 794; 42 U.S.C. §§ 12131–12134. Pursuant to a delegation by the Attorney General of the United States, OCR shares in the enforcement of Title II for public entities that exercise responsibilities, regulate, or administer programs, services, or activities relating to the operation of elementary and secondary educational programs and institutions of vocational education. 28 C.F.R. § 35.190(b)(2). Title II cannot be construed to establish any lesser standard than the standards established under Section 504 and its implementing regulations. 42 U.S.C. § 12201(a); 28 C.F.R. § 35.103(a).

<sup>6</sup> 42 U.S.C. §§ 2000c–2000c-9.

<sup>7</sup> 20 U.S.C. § 1703.

<sup>8</sup> 20 U.S.C. §§ 6434(a)(1)(A), 6435(c)(4), 6435(a)(2)(B), 6453(3), 6455(6). ED’s Office of Elementary and Secondary Education (OESE) administers Title I, Part D grants and monitors grantees for compliance with programmatic requirements. In addition, State educational agencies (SEAs) receiving Title I, Part D grants must monitor subgrantees to assure compliance with applicable Federal requirements and that performance goals are being achieved. 34 C.F.R. § 80.40(a). For purposes of this letter, the term “juvenile justice residential facilities” includes, but is not limited to, an institution for “delinquent children and youth” as that term is defined in Title I, Part D—“a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.” 20 U.S.C. § 6472(4)(B).

<sup>9</sup> NDTAC, *Meeting the Literacy Needs of Students in Juvenile Justice Facilities*, at 1 n.5 (Aug. 2010) (noting that a disproportionate number of the youth in juvenile justice residential facilities are English learners), [www.neglected-delinquent.org/sites/default/files/docs/adolescent\\_literacy\\_guide\\_201008.pdf](http://www.neglected-delinquent.org/sites/default/files/docs/adolescent_literacy_guide_201008.pdf); NDTAC, *Title I, Part D, Subparts 1 and 2: Annual Performance Overview* (forthcoming 2014) (citing results of national survey of Title I, Part D recipients and finding that a disproportionate number of students served are students with disabilities).

Facilities must ensure the allocation and delivery of these services and supports in a nondiscriminatory manner. For this reason, it is essential that juvenile justice residential facility officials and staff be knowledgeable about their obligations under Federal civil rights laws enforced by the Departments.

This letter does not attempt to summarize the entire body of Federal civil rights laws or to detail all of the responsibilities of juvenile justice residential facilities, or other agencies that receive Federal financial assistance and provide services to youth in those facilities, to comply with those provisions. Instead, it briefly addresses a few of the subjects that have arisen in the juvenile justice context:

- Providing equal access to academic coursework and career and technical education, including equal opportunities for male and female students in single-sex settings;
- Meeting the needs of English learner students so they can participate meaningfully in educational programs;
- Providing a free appropriate public education (FAPE) to all students with disabilities;
- Avoiding discriminatory discipline on the basis of race, color, national origin, sex, or disability;
- Responding promptly and effectively to violence and harassment based on race, color, national origin, sex, or disability;
- Providing auxiliary aids and services to ensure effective communication for students with hearing, vision, or speech disabilities; and
- Ensuring effective communication with parents, family members, and other visitors with hearing, vision, or speech disabilities, or limited-English proficiency.

The obligations discussed below of juvenile justice residential facilities under the Federal civil rights laws are independent of obligations under the Individuals with Disabilities Education Act (IDEA).<sup>10</sup> ED's Office of Special Education and Rehabilitative Services (OSERS), which is responsible for administering the IDEA, is concurrently issuing guidance on the rights of students with disabilities in juvenile justice correctional facilities. In addition, in the context of educational issues and more broadly, DOJ investigates and seeks remedies for conduct that violates the Federal constitutional rights and statutory rights of youth in juvenile justice residential facilities through the Civil Rights of Institutionalized Persons Act (CRIPA) and Section 14141 of the Violent Crime Control and Law Enforcement Act of 1994.<sup>11</sup>

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<sup>10</sup> 20 U.S.C. §§ 1401, 1411–1419; 34 C.F.R. pt. 300. For a discussion on the relationship between the IDEA and Section 504, see *infra* note 20.

<sup>11</sup> 42 U.S.C. §§ 1997–1997j; 42 U.S.C. § 14141. For more information about DOJ's work in juvenile justice residential facilities, see [www.justice.gov/crt/about/spl/findsettle.php#juv](http://www.justice.gov/crt/about/spl/findsettle.php#juv).

**Equal Opportunities to Access Academic Coursework and Career and Technical Education**

Facilities that administer programs using Title I, Part D funds must ensure that, to the extent feasible, youth in juvenile justice residential facilities have the same opportunities to meet the State's challenging academic content standards and student academic achievement standards as they would have if they were enrolled in the public schools of the State.<sup>12</sup> They also must provide services that facilitate the transition of youth from institutionalization to further education or employment, including implementing strategies designed to expose students to, and prepare students for, postsecondary education or career and technical training programs.<sup>13</sup> To help achieve these objectives, facilities should work with the school the student previously attended, or will attend after release, to facilitate the timely transfer of the student's accurate and complete education records.<sup>14</sup>

Federal civil rights laws prohibit discrimination in the allocation and provision of educational resources based on race, color, national origin, sex, or disability. The scope of a recipient's obligation in this regard is as broad as the scope of the recipient's jurisdiction; thus, a facility is responsible for ensuring the nondiscriminatory allocation and provision of educational resources within all its programs and activities, while a government agency operating or funding multiple facilities must also ensure that any differences in the educational resources in each facility do not result in unwarranted disparities based on race, color, national origin, sex, or disability of the students served.<sup>15</sup>

With specific regard to sex discrimination under Title IX, juvenile justice residential facilities must afford students equal educational opportunities without regard to sex. While the correctional context may necessitate the separation of male and female students, recipients must still ensure that the males and females they serve—either directly or through contractual or other arrangements—have equal access to comparable academic and career and technical courses even

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<sup>12</sup> 20 U.S.C. §§ 6434(a)(2)(B), 6435(a)(2)(B), 6436(3), 6453(3), 6455(6).

<sup>13</sup> *Id.* § 6438(a); *see also id.* §§ 6434(c)(16), 6434(c)(18), 6435(a)(1)(B), 6454(4). Such strategies could include preplacement programs that allow committed youth to audit or attend courses on college, university, or community college campuses, or through programs provided in institutional settings; worksite schools, in which institutions of higher education and employers partner to create programs to help students make a successful transition to postsecondary education and employment; and the provision of essential support services (such as personal, vocational and technical, and academic counseling; postsecondary education placement services; and information concerning, and assistance in obtaining, available student financial aid). *Id.* § 6438(a)(2)(A)-(C).

<sup>14</sup> *Cf.* 20 U.S.C. §§ 6434(c)(9) & (15), 6453(12), 6455(2) (describing responsibilities of State agencies, school districts, and correctional facilities under Title I, Part D, Subparts 1 and 2 to share student assessments and academic records and notify one another if a youth is identified as in need of special education services). The Family Educational Rights and Privacy Act (FERPA) permits schools to non-consensually disclose personally identifiable information from a student's education records to officials of other schools or school systems where a student seeks or intends to enroll, including where a student is being placed, or where the student is already enrolled, as long as the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements in 34 C.F.R. sections 99.31(a)(2) and 99.34. For more information on student records, see Federal Interagency Reentry Council, *Reentry Mythbuster on Student Records* (2013), [csgjusticecenter.org/wp-content/uploads/2013/06/Student-Records.pdf](http://csgjusticecenter.org/wp-content/uploads/2013/06/Student-Records.pdf).

<sup>15</sup> OCR, *Dear Colleague Letter on Resource Comparability* (2014), [www.ed.gov/ocr/letters/colleague-resourcecomp-201410.pdf](http://www.ed.gov/ocr/letters/colleague-resourcecomp-201410.pdf).

if provided in single-sex settings.<sup>16</sup> Facilities must not rely on gender stereotypes in counseling students or determining the academic or career and technical education opportunities made available to students.<sup>17</sup> For example, a facility should not make available automotive repair programs only to boys and cosmetology programs only to girls. Facilities can help ensure that boys and girls have equitable access to academic and career and technical education opportunities by regularly assessing students' interests, abilities, and needs.<sup>18</sup>

### **Affirmative Steps for English Learner Students**

Under Title VI and the EEOA, juvenile justice residential facilities that provide educational services, like all public schools, must take “affirmative steps” to address, and take “appropriate action” to overcome, the language barriers of English learner (EL) students so that they can participate meaningfully in their schools' educational programs. Facilities must provide these students with an educationally sound and effective language instruction educational program and afford meaningful access to all of the school's educational programs. The program must have the qualified staff and resources necessary to effectively implement the chosen programs. These laws do not, however, require a facility to adopt or implement any particular educational model or program of instruction for EL students; facilities have substantial flexibility to determine how they will satisfy their legal obligations to meet these students' needs.<sup>19</sup>

### **Free Appropriate Public Education for Students with Disabilities Under Section 504**

Under Section 504, every juvenile justice residential facility or other agency that receives Federal funds from ED—either directly or indirectly through another State or local agency—and that provides youth in such a facility elementary or secondary education, must provide each student with a disability a free appropriate public education (FAPE)—that is, regular or special education and related aids and services that are designed to meet his or her individual

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<sup>16</sup> 34 C.F.R. part 106, subpart D; *Jeldness v. Pearce*, 30 F.3d 1220, 1229 (9th Cir. 1994) (“[T]here must be reasonable opportunities for similar studies at the women’s prison and women must have an equal opportunity to participate in educational programs. . . . [F]acilities such as labs, classrooms, and workshops must be comparable to each other . . . In order to give women ‘equal opportunity,’ there may need to be a higher number of courses offered so that women have comparable variety in course selection.”); *Lothes v. Butler County Juvenile Rehab. Ctr.*, 243 Fed. Appx. 950, 954-55 (6th Cir. 2007) (applying *Jeldness* to program offerings in juvenile correctional facilities).

<sup>17</sup> 34 C.F.R. § 106.36; *see, e.g., Pederson v. La. State Univ.*, 213 F.3d 858, 880 (5th Cir. 2000) (“If an institution makes a decision not to provide equal . . . opportunities for its female students because of paternalism and stereotypical assumptions about their interests and abilities, that institution intended to treat women differently because of their sex” in violation of Title IX).

<sup>18</sup> *Jeldness*, 30 F.3d at 1229 (“[T]he apprenticeship programs offered to men and women could perhaps differ depending on interest and need. . . It may not be necessary to offer as many classes in a small women’s prison as in the larger men’s prisons. But the number of classes offered should at least be proportionate, not just to the total number of inmates, but to the number of inmates desiring to take educational programs. And the inmates must be made aware of the opportunity for participation in various programs before their interests can be assessed.”); *cf.* 20 U.S.C. §§ 6434(c)(1), 6436(1) (State agencies receiving grants under Title I, Part D, Subpart 1 are required to assess the educational needs of the youth to be served.).

<sup>19</sup> *Lau v. Nichols*, 414 U.S. 563, 566 (1974); 20 U.S.C. § 1703(f). OCR’s Title VI guidance in this area is available at [www.ed.gov/ocr/ellresources.html](http://www.ed.gov/ocr/ellresources.html). A local educational agency that receives funds under Title III, Part A of the ESEA may use those funds to provide supplemental services to EL students in juvenile justice residential facilities. 20 U.S.C. §§ 6801 - 6871.



educational needs as adequately as the needs of students without disabilities are met. Section 504 requires an evaluation if a student needs, or is believed to need, special education or related services due to a disability. Decisions about special education and related services for a student with a disability must be made by a group of persons knowledgeable about the student, the meaning of the evaluation data, and the educational placement options.<sup>20</sup>

A student with a disability has the right to be educated with persons without disabilities to the maximum extent appropriate to the needs of the student with a disability, and must be placed in a regular educational environment unless the recipient demonstrates that, even with the use of supplementary aids and services, the student cannot be educated satisfactorily in the regular educational setting. In addition, if it is determined that a student must be educated in a setting other than the regular educational environment, the student must still be allowed to participate with students without disabilities for nonacademic and extracurricular services and activities (for example, meals, recreation activities, counseling, athletics) to the maximum extent appropriate to the student's needs.<sup>21</sup>

### **Administration of Discipline**

All public schools, including schools serving students in juvenile justice residential facilities, are obligated to avoid and redress discrimination in the administration of school discipline on the basis of race, color, national origin, disability, or sex. This obligation applies over the entire course of the disciplinary process, from behavior management in the classroom, to referral to an authority outside the classroom because of misconduct, to resolution of the discipline incident.<sup>22</sup>

When addressing discipline for students with disabilities, it is important that public schools in juvenile justice residential facilities comply with applicable legal requirements governing the discipline of a child for misconduct caused by, or related to, the child's disability, including requirements under Section 504 governing the right to FAPE.<sup>23</sup> In addition, under Title II, State and local juvenile justice residential facilities must implement reasonable modifications to their policies, practices, or procedures to ensure that youth with disabilities are not placed in solitary confinement or other restrictive security programs because of their disability-related behaviors

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<sup>20</sup> 34 C.F.R. §§ 104.33 (defining FAPE for purposes of Section 504), 104.34 (educational setting), 104.35 (evaluation and placement), and 104.36 (procedural safeguards). The IDEA has its own specific definition of the term free appropriate public education, *see* 20 U.S.C. § 1401(9); 34 C.F.R. § 300.17, which this letter does not address. Note, however, that implementation of an individualized education program developed in accordance with Part B of the IDEA is one means of meeting the requirements for an appropriate education under Section 504. 34 C.F.R. § 104.33(b)(2).

<sup>21</sup> 34 C.F.R. § 104.34(a), (b).

<sup>22</sup> OCR and DOJ, *Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline*, at 3–4 (2014), [www.ed.gov/ocr/letters/colleague-201401-title-vi.pdf](http://www.ed.gov/ocr/letters/colleague-201401-title-vi.pdf). The Department of Education guidance package includes a Guiding Principles of Reform non-regulatory guidance document, a Directory of Federal Resources, and a Compendium of School Discipline Laws and Regulations, [www2.ed.gov/policy/gen/guid/school-discipline/index.html](http://www2.ed.gov/policy/gen/guid/school-discipline/index.html).

<sup>23</sup> 34 C.F.R. §§ 104.33 and 104.35; *see also id.* § 104.4; 28 C.F.R. § 35.130(a), (b)(1).

unless they can demonstrate that making such modifications would result in a fundamental alteration in the nature of a service, program, or activity.<sup>24</sup>

**Harassment and Violence based on Race, Color, National Origin, Sex, or Disability**

Harassment and violence perpetrated against students on the basis of race, color, national origin, sex, or disability can interfere with a student's right to receive an education in an environment free from discrimination and may constitute discrimination under the Federal civil rights laws. When a responsible employee of a recipient knows or reasonably should know of possible harassment on the basis of race, color, national origin, sex, or disability, the recipient must take immediate and appropriate steps to investigate or otherwise determine what occurred. And if a responsible employee of a recipient knows or reasonably should know about discriminatory harassment that creates a hostile environment, *i.e.*, the harassment was sufficiently serious to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered, the recipient is obligated under the Federal civil rights laws to take prompt and effective steps reasonably calculated to end the harassment, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects. Harassment and violence can be carried out by employees, other students, or other individuals within the purview of the facility. Because students often experience the continuing effects of violence or harassment in an educational program even if they experienced the violence or harassment outside the classroom, recipients must consider the effects of this misconduct when evaluating whether there is a hostile environment in the educational program. Recipients must also protect and ensure the safety of individuals who file a complaint alleging harassment with OCR, another Federal agency, or the facility, or who provide information as witnesses.<sup>25</sup>

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<sup>24</sup> 28 C.F.R. § 35.130(b)(7); DOJ, *Investigation of the Pennsylvania Department of Corrections' Use of Solitary Confinement on Prisoners with Serious Mental Illness and/or Intellectual Disabilities*, at 19 (Feb. 24, 2014), [www.justice.gov/crt/about/spl/documents/pdoc\\_finding\\_2-24-14.pdf](http://www.justice.gov/crt/about/spl/documents/pdoc_finding_2-24-14.pdf); *see id.* § 35.190(b)(6) (assigning DOJ responsibility for enforcing Title II administratively for components of State and local government that, among other things, administer services, programs, or activities relating to "law enforcement, public safety, and the administration of justice, including courts and correctional institutions"); *see also* Statement of Interest for the United States, *G.F. v. Contra Costa County*, No. 3:13-cv-03667-MEJ (N.D. Cal.), at 12-13 (filed Feb. 13, 2014), [www.justice.gov/crt/about/spl/documents/contracosta\\_soi\\_2-13-14.pdf](http://www.justice.gov/crt/about/spl/documents/contracosta_soi_2-13-14.pdf) (in filing by attorneys from DOJ and ED on behalf of the United States, arguing that plaintiffs stated a claim under Title II when they alleged that a juvenile justice residential facility failed to implement reasonable modifications that would prevent qualified youth with disabilities from being placed in restrictive security programs because of their disability-related behaviors and as a result they were denied meaningful access to special education and related services). Even if a youth with a disability is permissibly placed in solitary confinement or another restrictive security program, he or she must continue to receive educational services consistent with his or her right to FAPE under the IDEA. *See id.* at 12; OSERS, *Dear Colleague Letter on the Individuals with Disabilities Education Act for Students with Disabilities in Correctional Facilities* (2014), [www2.ed.gov/policy/gen/guid/correctional-education/idea-letter.pdf](http://www2.ed.gov/policy/gen/guid/correctional-education/idea-letter.pdf).

<sup>25</sup> OCR, *Questions and Answers on Title IX and Sexual Violence*, at 1–2 (A-1, A-2, A-4), 29–30 (F-4), 42–43 (K-1) (2014), [www.ed.gov/ocr/docs/qa-201404-title-ix.pdf](http://www.ed.gov/ocr/docs/qa-201404-title-ix.pdf); OCR, *Dear Colleague Letter on Harassment and Bullying*, at 2–3 (2010), [www.ed.gov/ocr/letters/colleague-201010.pdf](http://www.ed.gov/ocr/letters/colleague-201010.pdf). In addition, for students with disabilities, Section 504 requires recipients to remedy harassment when it results in a denial of FAPE regardless of whether the violence or harassment was based on disability. OCR, *Dear Colleague Letter on Responding to Bullying of Students with Disabilities*, at 5–7 (2014), [www.ed.gov/ocr/letters/colleague-bullying-201410.pdf](http://www.ed.gov/ocr/letters/colleague-bullying-201410.pdf).

Sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion, is a form of harassment prohibited by Title IX. Title IX also applies to same-sex sexual violence and extends to all students regardless of their sex, sexual orientation, gender identity, or conformity with sex stereotypes. A recipient must investigate and resolve allegations of sexual harassment involving parties of the same sex using the same procedures and standards that it uses in all complaints involving sexual harassment.<sup>26</sup>

### **Effective Communication for Students with Hearing, Vision, or Speech Disabilities**

Title II requires State and local juvenile justice residential facilities to ensure that students with hearing, vision, or speech disabilities receive communication that is as effective as communication with others through the provision of appropriate auxiliary aids and services (such as screen readers and other assistive technology, Braille materials, or a sign language interpreter). Title II further requires these facilities to give “primary consideration” to the auxiliary aid or service requested by the student with the disability when determining what is effective for that student. If a facility can prove that an alternative auxiliary aid or service is as effective or that providing a particular auxiliary aid or service would cause a fundamental alteration in the nature of a service, program, or activity, or would create undue financial and administrative burdens, it does not need to provide the auxiliary aid or service but still has an obligation to provide, to the maximum extent possible, an effective auxiliary aid or service.<sup>27</sup>

### **Communication with Other Persons with Disabilities or who are Limited-English Proficient**

Family and community engagement is a key component in the rehabilitation process for committed students and helps facilitate the transition back to their homes and schools after release.<sup>28</sup> Facilities must ensure that communications with persons with hearing, vision, or speech disabilities, such as family members and members of the public seeking information from, or access to, the services, programs, and activities of the facility are as effective as communications with other persons. Similarly, facilities that provide educational services have an obligation to ensure meaningful communication with parents who have limited-English proficiency (LEP) and others in a language they can understand, and to adequately notify LEP

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<sup>26</sup> OCR, *Questions and Answers on Title IX and Sexual Violence*, at 5 (B-2). Other Federal laws may also apply to incidents of sexual violence in juvenile justice residential facilities, including the Prison Rape Elimination Act (PREA), 42 U.S.C. §§ 15601–15607 and 28 C.F.R. §§ 115.311-393.

<sup>27</sup> 28 C.F.R. §§ 35.160, 35.164; OCR, OSERS and DOJ, *Dear Colleague Letter on Effective Communication* (2014), [www.ed.gov/ocr/letters/colleague-effective-communication-201411.pdf](http://www.ed.gov/ocr/letters/colleague-effective-communication-201411.pdf).

<sup>28</sup> See 20 U.S.C. §§ 6434(c)(14) (State agencies receiving grants under Title I, Part D, Subpart 1 must assure that they “will work with parents to secure parents’ assistance in improving the educational achievement of their children and youth, and preventing their children’s and youth’s further involvement in delinquent activities”), 6453(8) (school districts receiving grants under Title I, Part D, Subpart 2 must, as appropriate, “involve parents in efforts to improve the educational achievement of their children . . . and prevent the involvement of their children in delinquent activities”), 6455(8) (same for correctional facilities working with school districts).



parents of information about a facility's educational programs, services, and activities that is called to the attention of non-LEP parents (such as through interpreters or translations).<sup>29</sup>

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This letter by no means provides an exhaustive list of the legal requirements that apply to facilities under these Federal civil rights laws. A full list of OCR's guidance publications is available at [www.ed.gov/ocr/publications.html](http://www.ed.gov/ocr/publications.html). For information about the laws enforced by DOJ, please see [www.justice.gov/crt/about/edu](http://www.justice.gov/crt/about/edu), [www.justice.gov/crt/about/spl](http://www.justice.gov/crt/about/spl), and [www.ada.gov](http://www.ada.gov).

OCR and DOJ can provide technical assistance to help SEAs, school districts, juvenile justice agencies, and facility administrators, teachers, and staff understand and comply with these civil rights laws. OCR and DOJ are also available to provide technical assistance to students, parents/guardians, community-based organizations, and other stakeholders who are interested in learning more about the Federal civil rights of students and parents and the responsibilities of facilities.

The Federal civil rights laws prohibit retaliation against and intimidation of those who contact OCR or DOJ to gather information about their rights or who file a complaint or otherwise participate in a complaint investigation. It is also unlawful for a facility to retaliate against an individual for bringing concerns about possible civil rights problems to its attention.<sup>30</sup>

SEAs and school districts have an important role in assisting juvenile justice residential facilities with civil rights compliance. Every SEA or school district that receives Federal funds has, as a matter of Federal law, an obligation to ensure that any facility to which it provides money or other significant assistance, is not discriminating.<sup>31</sup> In addition to SEAs and school districts, States can designate other agencies (for example, the State's attorney general's office or human rights commission) to take, investigate, and resolve complaints of discrimination by juvenile justice residential facilities. Together with OCR and DOJ, these entities can all provide technical assistance and support for facilities, parents, and students.

If you have any questions or would like technical assistance on these issues, we encourage you to contact the OCR office in your region or the relevant component of DOJ. We particularly urge

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<sup>29</sup> See authorities cited *supra* in notes 19 and 27.

<sup>30</sup> 34 C.F.R. §§ 100.7(e) (ED Title VI), 106.71 (ED Title IX) (incorporating section 100.7(e) by reference), 104.61 (ED Section 504) (incorporating section 100.7(e) by reference); 28 C.F.R. §§ 42.107(e) (DOJ Title VI), 54.605 (DOJ Title IX) (incorporating section 42.107(e) by reference), 42.503(b)(1)(vii) (DOJ Section 504), 35.134 (Title II); see also OCR, *Dear Colleague Letter on Retaliation* (2013), [www.ed.gov/ocr/letters/colleague-201304.html](http://www.ed.gov/ocr/letters/colleague-201304.html).

<sup>31</sup> See, e.g., 34 C.F.R. §§ 100.3(b)(1), (2), 100.4(b) (ED Title VI), 104.4(b)(1)(v) (ED Section 504), 106.31(b)(6) (ED Title IX); 28 C.F.R. § 42.104(b)(1)-(2), 42.105(d) (DOJ Title VI), 55.400(b)(6) (DOJ Title IX), 42.503(b)(1), (3) (DOJ Section 504).

individuals designated to coordinate a recipient's compliance with the civil rights laws to seek OCR and DOJ's assistance whenever needed.<sup>32</sup>

The list of OCR offices is available at <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>. You may also contact OCR's Customer Service Team at (800) 421-3481 (TDD: 800-877-8339) or [ocr@ed.gov](mailto:ocr@ed.gov). You may contact DOJ's Educational Opportunities Section at [education@usdoj.gov](mailto:education@usdoj.gov) or DOJ's Special Litigation Section at [special.litigation@usdoj.gov](mailto:special.litigation@usdoj.gov).

Thank you for your commitment to improving public education and providing high-quality educational opportunities to our nation's students.

Sincerely,

/s/

Catherine E. Lhamon  
Assistant Secretary for Civil Rights  
U.S. Department of Education

/s/

Vanita Gupta  
Acting Assistant Attorney General for Civil Rights  
U.S. Department of Justice

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<sup>32</sup> Recipients must designate at least one employee to coordinate compliance with Title IX, Section 504, and Title II. 34 C.F.R. §§ 106.8(a) (ED Title IX), 104.7(a) (ED Section 504); 28 C.F.R. §§ 54.135(a) (DOJ Title IX), 42.505(d) (DOJ Section 504), 35.107(a) (Title II).