



HANCOCK
ESTABROOK, LLP
COUNSELORS AT LAW

OCTOBER 2014

www.hancocklaw.com

EDUCATION LAW ALERT

OCR Issues Guidance on Equal Access to Educational Resources

On October 1, the [U.S. Department of Education](http://www.ed.gov) announced new guidance from its Office for Civil Rights. The latest [Dear Colleague Letter](#) provides the Department's analysis of the requirements of Title VI of the Civil Rights Act of 1964 (Title VI) with respect to equal access to education resources such as “academic and extracurricular programs, strong teaching, technology and instructional materials, and safe school facilities.” The Department's press release indicates that the guidance is part of the Administration's equity agenda, “including the recently announced Excellent Educators for All initiative, and takes into account the ongoing efforts of states, school districts and schools to improve equity.”

The apparent aim of OCR's guidance is to ensure that students have equal access to educational resources, certainly not an easy task for school districts. In the guidance, the Department cites to legal obligations under Title VI that it believes require state and local educational agencies to “address those disparities and comply with the legal obligation to provide students with equal access to these resources without regard race, color or national origin.”

Of particular concern and interest to school districts, OCR states that it will “investigate school districts that receive federal funds and analyze the evidence found under both theories of discrimination-intentional discrimination and disparate impact--to ensure that students are not subject to unlawful discrimination.” In essence, the guidance appears to provide a basis for OCR to find a district in violation of Title VI if it can determine that a *comparably effective strategy could have been implemented that would result in a less discriminatory impact*. The National School Boards Association has voiced a concern that the Department “appears to be taking a more expansive view of its authority to regulate the conduct of school districts.”

An accompanying [fact sheet](#) provides bulleted check lists of how OCR will investigate equity of educational resources and states several steps school districts and schools can take “to ensure compliance with the law”, by self-assessing policies and practices, identifying barriers preventing the equitable provision of educational resources and swiftly taking action to eliminate inequities and put remedies in place. At that present time, the best practice for districts is to familiarize themselves with both the guidance and the fact sheet to determine

what compliance measures may be proactively taken to mitigate liability under this encompassing guidance.

If you have any questions or would like more information on the issues discussed in this communication, please contact any of the following Hancock Estabrook attorneys:

Melinda Burdick Bowe	315.565.4507	mbowe@hancocklaw.com
John F. Corcoran	315.565.4515	jcorcoran@hancocklaw.com
James E. Hughes	315.565.4529	jhughes@hancocklaw.com
Robert J. Thorpe	315.565.4555	rthorpe@hancocklaw.com

You can also read this post and more on our Hancock Estabrook Education Law Blog:
<http://www.hancocklaw.com/education-law-blog/>

This communication is for informational purposes and is not intended as legal advice.