

Policy Update

“GUIDANCE ON THE VOLUNTARY USE OF RACE TO ACHIEVE DIVERSITY AND AVOID RACIAL ISOLATION IN ELEMENTARY AND SECONDARY SCHOOLS”

On December 2, the Departments of Justice and Education released [new guidance](#) for school districts that provides a roadmap for K-12 schools to implement voluntary diversity and integration standards. This guidance, which is based on three previous Supreme Court decisions, clarifies and confirms that educators are allowed to consider the race of students in order to promote diversity and reduce racial isolation. It also recognizes the learning benefits to students when institutions include students of diverse backgrounds.

The new guidance grants administrators flexibility to encourage diversity and reduce racial isolation through carefully constructed, narrowly tailored plans; it includes examples of how schools may legally consider race when making decisions about school assignments, admissions and other programs. Furthermore, it identifies different educational contexts within which institutions may consider race to pursue their objectives, such as selecting school and program sites, drawing school attendance boundaries, realigning grades, and restructuring school feeder patterns.

Additionally, the new guidance establishes the process by which race may be considered. According to the new guidance, school districts should first use "race-neutral" approaches to make decisions about whether to admit individual students into competitive admissions schools or programs, as well as for drawing school boundary lines. Such approaches include using students' or neighborhood's socioeconomic status, parental education levels, and the composition of an area's housing.

If such race-neutral approaches fail to further diversity or reduce racial isolation as desired by a district, the guidance permits "generalized race-based approaches." These second tier options use limited racial criteria only if there is no decision-making based on any individual student's race (i.e., the new guidance states LEAs "should not evaluate student applicants in a way that makes a student's race his or her defining feature."). For instance, a permissible generalized approach would consider the overall racial compositions of neighborhoods when drawing attendance zones. Moreover, the guidance lays out the types of district-wide programs and scenarios in which it might be appropriate to consider race: locating schools, closing schools, opening up magnet programs, changing feeder patterns, redrawing attendance boundaries and admissions for competitive schools and programs.

This guidance impacts charter schools the same way it impacts traditional schools by providing instructions on how to design legally permissible enrollment policies that promote racial diversity.

For More Information

For questions or more information please contact Chad A. Miller (cmiller@publiccharters.org) or visit the [US Department of Education's Website](#).