Secondary CTE Civil Rights

Secondary Office of CTE Civil Rights

Enforces access and equity to CTE by conducting reviews of subrecipients (comprised of LEA and BOCES including administrators, teachers, counselors, and support staff) to determine compliance with federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, sex, and disability.

Laws and guidelines enforced

- Title VI of the Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
- Section 504 of the Rehabilitation Act of 1973
- Title II of the Americans with Disabilities Act

Today’s Presentation

Overview of Civil Rights guidelines, and regulations for common practices in CTE programs

Examples of what this may look like in practice

Resources and contact information for technical assistance

Guidelines for Recruitment

Subrecipients must ensure that promotional and recruitment efforts do not discriminate based on race, color, national origin, sex, or disability.

Subrecipients must conduct their recruitment activities so as not to exclude or limit opportunities on those bases.

Subrecipients may not undertake promotional efforts in a manner that creates or perpetuates stereotypes or limitations on those bases.

Guidelines §§ V.A, V.C, V.E

Guidelines for Admissions Criteria

A subrecipient may not develop, impose, maintain, approve, or implement criteria controlling eligibility for admissions to CTE programs that unlawfully discriminate on the basis of race, color, national origin, sex, or disability.

An introductory, preliminary, or exploratory course may not be a prerequisite for admission unless it is available without regard to race, color, national origin, sex, or disability.

Academic requirements will not be regarded as discriminatory if the subrecipient can demonstrate they are essential to a program of instruction or to any directly related licensing requirement.

Guidelines § IV. A and § IV. K, IV.F, IV. L, and IV.N
34 C.F.R. §§ 100.3(a) and (b)(1)(v), 104.4(a)-(b), 106.34 and 106.35; [28 C.F.R. § 35.130]

Guidelines for Disparities in Enrollment Data

Admissions criteria with the effect of disproportionately excluding persons of a particular race, color, national origin, sex, or disability may not be used unless:

They are validated as essential to participation in a particular program; and

Alternative equally valid criteria that do not have a disproportionate adverse effect are unavailable.

The fact that a course has disproportionate enrollment on the basis of race, color, national origin, sex, or disability, does not, in and of itself, constitute a civil rights violation.

Guidelines § IV. K

EXAMPLE Disparities in Enrollment Data

West Hills High School has a business management CTE program with an enrollment of 80% males and 20% females.

Does West Hills High School have disproportionate enrollment data? Yes

During a civil rights review this enrollment disparity is identified, but an administrator states that the program used to be 90% male two years ago, but the school created a plan and began actively working to try to attract female students to the program through specific targeted recruitment activities.

Is this a civil rights issue? No

EXAMPLE Admissions Applications

Mountain View High School CTE Application:

1. Name 2. Grade 3. Course/Program 4. Gender 5. Race 6. Ethnicity

7. Do you have a disability? 8. Are you a native English speaker?

9. Do you have a minimum math score of 75? 10. Do you have a minimum 9th grade reading level?

11. Can you lift 25 pounds? 12. Do you have reliable transportation? 13. Can you purchase the equipment, tools, and uniform for the course or program?

14. Attach the following documents: Health Records, Attendance Records, Disciplinary/Behavioral Records, Report Cards, Teacher/Counselor Recommendations

Are these questions allowable on a CTE application?

The questions 4 through 14 are allowable only if there is a substantial reason the information is collected. There must be a clear plan of how the data collected will be used. For example, the information collected will be used as part of an antidiscrimination plan to identify, address, and remedy disparities in enrollment data. There must also be a clear legitimate reason to have eligibility criteria for a course such as a minimum reading level, for example it is required for a license, certification, or assessment exam.

Guidelines for English Language Learners (ELL)

Subrecipients may not restrict admission to vocational education programs because the applicant, as a national origin minority person with limited English language skills, cannot participate and benefit to the same extent as a student whose primary language is English.

If a subrecipient's service area has a community of national origin minority persons with limited English language skills, promotional literature must be available to that community in their native language.

It is the responsibility of the subrecipient to identify applicants who are English Language Learners and assess their ability to participate in CTE programs.

Subrecipients must take steps to open all CTE programs to students who are English Language Learners.

Guidelines § IV. L, V. E

EXAMPLE ELL Admissions

Emeril Lagasse School District has more interest in its Culinary Arts program than the program can accommodate. To address this issue, the school district requires all students interested in the Culinary Arts Program to attend an informational meeting, offered only on Saturdays at 5pm, to discuss the program's expectations. The school district also requires students to obtain their state-issued food handler's license before enrolling. The state requires that all applicants for food handlers' licenses complete examinations and trainings which are only available in English.

Do these policies and practices exclude ELL?

Yes

What can be done to increase access and equity for ELL?

- Offer informational meetings at various times
- Provide translators
- Provide translated materials
- Offer state license exams in other languages
- Provide more culinary courses

EXAMPLE ELL Recruitment

What are some possible recruitment strategies for ELL?

- Review enrollment data and identify students from different national origins
- Identify whether there is local news, radio or television programming that is available and targeted at persons from specific national origins
- Identify whether there are community centers or other places where people of different national origins gather
- Provide translated CTE promotional and recruitment materials in native languages served by the school community
- Provide translators if and when necessary

Admissions Guidelines for Students with Disabilities

Subrecipients may not deny students with disabilities access to CTE programs or courses because of architectural or equipment barriers, or because of the need for related aids and services or auxiliary aids.

Academic requirements that the subrecipient can demonstrate are essential to a program of instruction or to any directly related licensing requirement will not be regarded as discriminatory but, where possible, a subrecipient must adjust those requirements to the needs of students with disabilities.

Access to CTE programs or courses may not be denied to students with disabilities on the grounds that employment opportunities in any occupation or profession may be more limited for individuals with disabilities than for individuals without disabilities.

A subrecipient may not separate students by sex or deny a student access to a class or program based on their sex unless expressly authorized by Title IX or its implementing regulations.

Guidelines Sections IV.N and VI.A; 34 C.F.R. §§ 104.4(a) and 104.33- 104.36; 28 C.F.R. § 35.130.

Admissions Tests Guidelines for Students with Disabilities

When admission tests are administered to applicants whose disability impairs sensory, manual, or speaking skills, the subrecipient must ensure that:

Test results accurately reflect the applicant's aptitude or achievement level, and not an applicant's impaired skills (except where those skills are the factors the test purports to measure), and

Admission tests designed for persons with impaired sensory, manual, or speaking skills are offered as often and in as timely a manner as other admissions tests.

34 C.F.R. § 104.42(b)(3)

Section 504 Regulations

Definition of a person with a disability is a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities; or
- Has a record of such impairment or
- Is regarded as having such an impairment

42 U.S.C. § 12131 et seq.; 28 C.F.R. Part 35, 34 C.F.R. § 104.3(j)

504 Plan EXAMPLE

A high school student with diabetes prefers to monitor his blood glucose privately and he has a 504 plan that states that he must be allowed to visit the restroom in order to do so, as often as is necessary. The instructor in the student's electricity construction course reminds the student of the school policy which states that students may visit the restroom during class time no more than one day per week. The student leaves the class to privately monitor his glucose in the restroom two or three times per week. After a couple of weeks, the teacher informs the student that points will be deducted from his class participation grade, in accordance with school policy, if he continues to leave the class multiple times each week.

Is this an example of noncompliance of services for students with disabilities? Yes

How can this be remedied?

Ensure that all the teachers of a SWDs are aware of their IEPs and 504 Plans, ensure that SWDs receive all their approved accommodations, hold informational meetings if necessary to explain or answer any questions, provide support in implementing the accommodations, support students in receiving their accommodations.

Recruitment & Counseling Example

How to appropriately document/advise prospective students as to what they can expect to experience in the CTE program in a manner that is not exclusionary:

Have students shadow/observe/spend a day in the program they are interested in to experience what the program would be like.

Have CTE program informational events, have tours of CTE locations, invite employers from WBL opportunities to present and talk to potential students.

Include in the course description eligibility criteria and prerequisites.

Have recent graduates or current students talk to potential applicants and students about the program.

Include a notice of nondiscrimination in recruitment materials.

Review counseling practices and materials for any discriminatory or stereotypical language or biases.

Counseling Guidelines

Subrecipients must ensure that their counseling materials and activities, including program selection and career/employment selection, do not discriminate on the basis of race, color, national origin, sex, or disability.

Subrecipients must not direct or urge any student to enroll, or measure or predict a student's prospects for success, in any particular program or career, based upon his or her race, color, national origin, sex, or disability.

Subrecipients must ensure that counselors can effectively communicate with national origin minority students who are English Language Learners and with students with hearing impairments.

If a CTE program disproportionately enrolls students of a particular sex, students of a particular race, or students with disabilities, recipients must take steps to ensure that the disproportion does not result from unlawful discrimination in counseling activities.

Guidelines § V. A, V. B, V. D

LGBTQI+ Regulations

The U.S. Department of Education's Office for Civil Rights issued a Notice of Interpretation explaining that it will enforce Title IX's prohibition on discrimination on the basis of sex to include:

(1) discrimination based on sexual orientation; and

(2) discrimination based on gender identity. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any education program or activity offered by a recipient of federal financial assistance.

Fact Sheet

LGBTQI+ Inclusion EXAMPLE

What are some strategies to improve inclusion of LGBTQI+ students?

Using welcoming and inclusive language in mission statements such as “a commitment to ensuring a safe and supportive campus that is free from discrimination and harassment for LGBTQI+ students”.

Ensuring that school policies clearly affirm students’ right to be free from discrimination based on sexual orientation or gender identity in all aspects of school, including the nondiscriminatory use of discipline and equal access to school programs and activities.

Adopting policies that respect all students’ gender identities—such as the use of the name a student goes by, which may be different from their legal name, and pronouns that reflect a student’s gender identity—and implementing policies to safeguard students’ privacy.

Adopting policies or model plans to guide school staff on how to support students and communicate with families, such as developmentally appropriate protocols to support students in a transition process. Some schools and districts develop gender support plans to ensure a supportive environment for students and create gender communication plans tailored to students’ needs.

EXAMPLES of Best Practices

Have a clear and legitimate reason for eligibility criteria such as licensure, certification, or assessment exams.

Use specific targeted recruitment efforts to address and remedy disparities in enrollment data.

Identify applicants who are English language learners and asses their ability to participate in CTE programs.

Include a notice of nondiscrimination on application materials and in recruitment materials.

Use a random lottery system for an equitable admission practice for courses with waitlists.

Consider the student's benefit from the program and why they are interested in enrolling in the course/program.

EXAMPLES of Best Practices

Review recruitment and counseling materials to identify any discriminatory practices image, or language annually.

Implement and enforce IEP and 504 plan accommodations.

Use an admission plan to collect data on applications to address and prevent discriminatory practices.

Link CTE course offerings with their description, eligibility criteria, and application process to the annual notice of nondiscrimination.

Review, identify, and address under and over representation in disparities in enrollment data annually.

Provide translated admissions, recruitment, and counseling materials, provide language, and sign language interpreters when necessary.

Resources

Office of Civil Rights https://www2.ed.gov/about/offices/list/ocr/index.html

Civil Rights Regulations https://www2.ed.gov/policy/rights/reg/ocr/index.html

LGBTQI+ Students https://www2.ed.gov/about/offices/list/ocr/lgbt.html.

Students with Disabilities https://www2.ed.gov/about/offices/list/ocr/504faq.html

American School Counselor Association https://www.schoolcounselor.org/

New York State School Counselor Association https://nyssca.org/

NYSED Website http://www.nysed.gov/career-technical-education/civil-rights

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