



Bureau of Labor and Industries Enforcement Guidance

Date: April 8, 2025

Subject: Race and National Origin Discrimination in Public Schools

Summary

Oregon's legal framework, independent of federal law, protects students from mistreatment based on their race, national origin, and immigration status. The Bureau of Labor and Industries ("BOLI") enforces Oregon's laws prohibiting discrimination by places of public accommodation, including public schools, that serve to protect students from unlawful actions based on their immigration status. BOLI will continue to enforce Oregon's public accommodations laws, including ORS 659A.403, which is discussed below, to protect students from discriminatory acts.

Discussion

An assortment of state and federal laws exists to guide the actions of public schools related to students' race, national origin, and immigration status. Federally, the Family Educational Rights and Privacy Act ("FERPA") protects personally identifiable information (such as place of birth) in students' education records from unauthorized disclosure. [20 U.S.C. § 1232g](#).

The US Supreme Court has found immigrant students are protected under the Equal Protection Clause of the US Constitution. Any restrictions on their access to educational programs based on their status may not be lawful. In Oregon, public bodies, including public schools, are forbidden from disclosing certain personal information about any person for the purpose of enforcing federal immigration laws, and generally must decline to disclose information concerning a person's citizenship or immigration status. [ORS 180.805\(2\), \(4\)](#). [ORS 181A.820](#), et seq., also bans public bodies from collecting information about an individual's immigration status or country of birth, denying services or benefits based on known or suspected immigration status and from using public resources to aid immigration enforcement, with very limited exceptions under these laws.

Within BOLI's specific purview, [ORS 659A.403](#) prohibits "place[s] of public accommodation" from discriminating against any person based on certain protected classes, including race and national origin. Additional protections are provided in ORS 659A.406 and ORS 659A.409. Public schools are "public bod[ies]" as defined in [ORS 174.109](#) and [ORS 174.117](#) and identified in [ORS 659A.400](#) as being places of public accommodation. Public schools are therefore subject to the requirements of ORS 659A.403, et seq. Under ORS 659A.403, public schools as places of public accommodation are forbidden from making any distinction, discrimination, or restriction that denies any person in the state the full and equal accommodations, advantages,

facilities, and privileges offered to the public because of their race and/or national origin. This means that public schools are required to provide the same services to all students and are not permitted to treat any student different based on their (perceived) race or national origin.

Immigration status is distinct from race and national origin as protected classes; however, the concepts are inherently entwined as one's immigration status, or the perception of such, is commonly associated with one's race or national origin and is often used as pretext for unlawful discrimination. Without specific knowledge of an individual's immigration status, any action taken on that basis is necessarily influenced by a perception of that individual's race or national origin because of characteristics that can be perceived by others, such as skin color, facial features, accent, primary language, family structures, etc. When these factors are used to determine whether a student will be treated differently from others because of their immigration status, that differential treatment is unlawful discrimination based on their race and/or national origin.

Conclusion

BOLI views any action a public school in Oregon takes or allows to be taken against a student purportedly based on their immigration status as potential unlawful discrimination that is within the agency's jurisdiction to investigate. Current federal protections related to race, national origin, and immigration status complement Oregon law, but Oregon's protections against discrimination in places of public accommodation, including ORS 659A.403, will continue to be enforced by BOLI, as necessary, to protect students from discriminatory acts.

Nothing in this guidance is intended as legal advice or to address the specific circumstances of any individual. Any person seeking legal advice should consult with their legal counsel. Information on attorneys can be accessed on BOLI's website at: <https://www.oregon.gov/boli/about/Pages/contact-us.aspx>. In addition, the Oregon State Bar's Lawyer Referral Service is available at: <https://www.osbar.org/public/>. Low-income Oregonians may be eligible for services provided by a legal services program in their area: Legal Aid Services of Oregon (<https://lasoregon.org>), Oregon Law Center (<https://oregonlawcenter.org>), or the Center for Nonprofit Legal Services (<https://cnpls.org>).