

March 9, 2017

Mr. Benjamin Vinson, Chair
Georgia Immigration Enforcement Review Board
270 Washington Street, SW, Suite 1-156
Atlanta, Georgia 30334

Re: Complaint against Marietta City Schools

Dear Mr. Vinson,

This firm represents the Marietta City Schools ("MCS") and on its behalf provides the following in response to the February 23, 2017 letter from the Director of Administration of the Georgia Department of Audits and Accounts, and the complaint dated January 30, 2017 attached thereto ("Complaint").

1. MCS's contractor was registered and participating in the federal work authorization program.

MCS complied with the requirement set forth in O.C.G.A. §13-10-91(b)(1) that "A public employer shall not enter into a contract for the physical performance of services unless the contractor registers and participates in the federal work authorization program." The Complaint alleges MCS contracted with LaAmistad, Inc. to provide services at a cost of \$10,000.00. MCS acknowledges that it had a \$10,000.00 contract with LaAmistad during the 2015-2016 school year. See exhibit 1, attached. (There is no such contract between MCS and LaAmistad for the current school year.) The contract was executed on behalf of MCS on or about March 7, 2016. As part of the contracting process, MCS required LaAmistad to provide written assurance that it complied with the Immigration Reform and Control Act of 1986 and the Georgia Security and Immigration Compliance Act, as amended by the Illegal Immigration Reform Act of 2011, O.C.G.A. §13-10-90, et seq. Indeed, LaAmistad met the requirement and warranted that it had registered with and participates in the federal authorization program. See exhibit 2, attached. Also as part of the contracting process, MCS required LaAmistad to submit a Contractor Affidavit and Agreement. See exhibit 3, attached.

Although the affidavit form itself appears to lack certain information required by O.C.G.A. §13-10-91, LaAmistad was in fact registered with and participating in the federal work authorization program. Upon information and belief, LaAmistad's E-Verify number (897699)

was issued by DHS on or before July 29, 2015. MCS was aware LaAmistad was registered and participating and subsequently included LaAmistad along with its E-Verify number in its annual report to the Georgia Department of Audits and Accounts on or before December 15, 2016 as required under O.C.G.A. §13-10-91(b)(7)(A). See exhibit 4, attached.

Finally, although the affidavit form used by MCS is not a copy of the model form used by the Georgia Department of Accounts and Audits, it is nevertheless compliant under the law. The Complaint alleges MCS used “an illegal affidavit, as the form they are using is not the official model.” However, the statute does not expressly require public employers to exclusively use the form promulgated by the Georgia Department of Accounts and Audits pursuant to O.C.G.A. §13-10-91(b)(6). The statute requires only that an affidavit be executed and that the affidavit include certain information. The affidavit form used by MCS with LaAmistad contained all the elements required under the statute. MCS has not been able to trace the history of the school district’s use of the form and why it did not initially implement use of the state’s form, and plans to do an update of its forms.

2. MCS does not provide an adult education program.

MCS believes it has not violated or failed to enforce the requirements of the Secure and Verifiable Identity Document Act (O.C.G.A. §50-36-1, et seq.) (“verification law”). MCS acknowledges that “adult education” is one of the public benefits specifically covered by the verification law. (MCS also notes that K-12 education is *not* included as one of its public benefits.) MCS does not offer an adult education program. However, it does provide other services such as parent and community engagement, in which adults participate. This is distinct from adult education because the parent and community engagement services are attached to and intended for the benefit of elementary and secondary school students, whereas the adult education services are attached to and intended for the benefit of post-secondary adults.

School districts that receive federal funds are required by federal law to dedicate resources to parent and community engagement to support students in better accessing their education. Some federal programs are specifically intended to benefit disadvantaged students (Title I) and students who are English learners (Title III). Significant federal funding flows to Georgia’s local school districts under these programs. These programs require local school districts to provide parent and community engagement in order to assist and support the students in better accessing their education. Moreover, public schools cannot deny students a free public education on the basis of their immigration status, a legal matter that was established in 1982 by the U.S. Supreme Court decision in Plyler v. Doe. The Plyler decision is expressly codified in at Georgia State Board of Education Rule 160-5-1-.28(2)(b)1(i)I(VII).

Reference is made to recent guidance from Cori Alston, Program Manager, ESOL & Title III Unit at the State Department of Education. See exhibit 5, attached. School districts are not permitted to inquire into the legal status of students or their parents. If there is an issue regarding the application of the verification law to parent and community engagement services that are mandated by state and federal rules, it would be appropriate to inquire with the state and/or federal departments of education.

If additional information is needed, please do not hesitate to let us know.

Sincerely,
Gregory, Doyle, Calhoun & Rogers, LLC



Michael James Walker
Clem Doyle

MJW/jc
Enc.

CC: Ms. Carol Schwinne, Director, Georgia Department of Audits and Accounts
Superintendent Grant Rivera, Marietta City Schools

IMMIGRATION ENFORCEMENT REVIEW BOARD

STATE OF GEORGIA

Marietta City Schools

Initial Response to IERB – March 9, 2017

Exhibit # 1



CONTRACTOR AGREEMENT

This agreement is made and entered into this 9th day of Nov in the year 2015 by and between Marietta City Schools of the State of Georgia and LaAmistad

Contractor: LaAmistad Service ESL Parent Program

Location Marietta Sixth Grade Academy Dates: 12/5, 12/19; Jan/9, 16, 23, 30; Feb/6, 13, 27; Mar/5, 12, 19, 26; Apr/2, 16, 23, 30; May/7, 14, 21
Marietta City Schools agrees to pay: 10,000.00

By my signature below, I confirm I have read and understand the following:

- I. I am not an employee of Marietta City Schools and my compensation for services will not be subject to payroll tax deductions nor will fringe benefits be provided. As such, an invoice may be required by the school district to ensure timely payment for services rendered.
- II. I must comply with O.C.G.A. § 13-10-91 and Georgia DOL Rule 300-10-1.02 which are conditions for contract award.
- III. I am not a vendor listed on the Excluded Parties List System (EPLS) and Marietta City Schools will terminate this contract if I am included on the EPLS. I understand I am required to disclose in writing to the Superintendent any debarments or suspensions that contractor has received from any entity within ten calendar days of the notification of the debarment or suspension, to produce immediately upon request written documentation of any debarment or suspension and to cooperate fully in any Marietta City Schools' investigation.
- IV. Marietta City Schools may terminate this agreement at any time for cause or without cause.
- V. I must submit invoice for payment, except if employed as athletic event worker.
- VI. If not previously submitted, I must complete in its entirety the Marietta City Schools' [REDACTED] with IRS form W-9, Request for Taxpayer Identification Number and Certification.
- VII. It is my duty and responsibility to include this compensation as income on my federal and state income tax returns. Marietta City Schools will comply with applicable federal and state laws concerning the reporting of this compensation to the Internal Revenue Service, including the issuance of IRS 1099M miscellaneous income form.

Any equipment, supplies, or materials used in the performance of this service, which are not provided by Marietta City Schools, shall be at the expense of the party providing such service.

This agreement will terminate upon payment in full by Marietta City Schools for the services stated herein.

Contractor Signature: Shelly Anne Contractor Phone Number: 404-842-5873

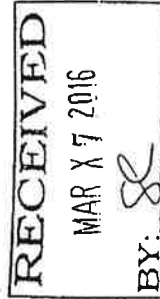
Mailing Address: 3434 Roswell Road NW Atlanta, GA 30305

MCS Asst. Supt./Principal/Director: Adria Date: 3/7/16

Director of Finance: _____ Date: _____

Account Number: Title III A UAY 460-6-2900-300.03-1830-01

Original Copy to Marietta City Schools, Finance Department, PO Box 1265, Marietta, GA 30061



E-Verify # 897699

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Exhibit # 2

TO ALL PROSPECTIVE CONTRACTORS/VENDORS:

Contractor's full compliance with all applicable federal and state security and immigration laws, including without limitation the Georgia Security and Immigration Compliance Act as amended, O.C.G.A. §13-10-90, O.C.G.A. §13-10-91, and Georgia Department of Labor Rule 300-10-1, et. seq. is a condition to the Contractor's bid/proposal/quote and contract.

In order to insure compliance with the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603 and the Georgia Security and Immigration Compliance Act, as amended by the Illegal Immigration Reform Act of 2011, OCGA 13-10-90 et. seq., (collectively the "Act") the Vendor ("Contractor") **MUST INITIAL** the statement applicable to Contractor below; and Contractor must immediately notify Marietta City Schools in writing if the affirmations below change:

- (a) MAC (Initial here): Contractor warrants that, Contractor has registered at <https://e-verify.uscis.gov/enroll/> to verify information of all new employees in order to comply with the Act; is authorized to use and uses the federal authorization program; will continue to use the authorization program throughout the contract period; Contractor further warrants and agrees Contractor shall execute and return any and all affidavits required by the Act and the rules and regulations issued by the Georgia Department of Labor as set forth at Rule 300-10-1-.01 et.seq.
- 3) ___ Contractor will not employ or contract with any subcontractor in connection with a covered contract with Marietta City Schools unless the subcontractor is registered, authorized to use, and uses the federal work authorization program; and provides Contractor with all affidavits required by the Act and the rules and regulations issued by the Georgia Department of Labor as set forth at Rule 300-10-1-.01 et.seq.
- 4) ___ Contractor agrees that, if Contractor employs or contracts with any sub-contractor in connection a covered contract with the Marietta City Schools under the Act and DOL Rule 300-10-1-.02, that Contractor will secure from each sub-contractor at the time of the contract the sub-contractor's name and address, the employee-number applicable to the sub-contractor, the date the authorization to use the federal work authorization program was granted to sub-contractor; the subcontractor's attestation of the subcontractor's compliance with the Act and Georgia Department of Labor Rule 300-10-1-.2.; and the subcontractor's agreement not to contract with sub-subcontractors unless the sub-subcontractor is registered, authorized to use, and uses the federal work authorization program; and provides subcontractor with all affidavits required by the Act and the rules and regulations issued by the Georgia Department of Labor as set forth at Rule 300-10-1-.01 et.seq.
- 5) ___ Contractor agrees to provide Marietta City Schools with all affidavits of compliance as required by O.C.G.A. § 13-10-90 *et seq.* and Georgia Department of Labor Rule 300-10-1-.02, 300-10-1-.03, 300-10-1-.07 and 300-10-1-.08 within five (5) business days of receipt.

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Exhibit # 3

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, and attests under oath that:

(1) the individual, firm, or corporation ("Contractor") which is contracting with the Marietta City Schools has registered with, is authorized to use, uses, and will continue throughout the contract term to use and participate in, a federal work authorization program [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91, as amended. As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U. S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

(2) Contractor's correct user identification number and date of authorization is set forth herein below.

(3) Contractor agrees that the Contractor will not employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the Marietta City Schools, unless at the time of the contract said subcontractor (a) is registered with and participates in the federal work authorization program; (b) provides Contractor with a duly executed, notarized affidavit with the same affirmations, agreements, and information as contained herein and in such form as required under applicable law; and (c) agrees to provide Contractor with notice of receipt and a copy of every sub-subcontractor Affidavit or other applicable verification procured by subcontractor at the time of contract with the sub-subcontractor(s) within five (5) business days after receiving the said Affidavit or verification. Contractor agrees to maintain records of such compliance and to provide notice of receipt and a copy of each such subcontractor Affidavit or other applicable verification to the Marietta City Schools at the time the subcontractor(s) is retained to perform such service or within five (5) days after receiving the said Affidavit or verification, whichever first occurs.

(4) Contractor further agrees to and shall provide Marietta City Schools with copies of all other affidavits or other applicable verification received by Contractor (ie: sub-subcontractor affidavits and all other lower tiered affidavits) within five (5) days of receipt.

EEV/Basic Pilot Program User Identification Number

Date of Authorization

If an applicable Federal work authorization program as described above is used, other than the EEV/Basic Pilot Program, please identify the program.

LaAmistad, Inc.

Company Name / Contractor Name

Shirley Ann Cruz
BY: Signature of Authorized Officer or Agent

03/03/2016
Date

Assistant Director
Title of Authorized Officer or Agent of Contractor

Shirley Ann Cruz
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

____ DAY OF _____, 20____

Notary Public

My Commission Expires: _____

*As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U. S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

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Exhibit # 4

Name	Address	City	ST	Zip	Verify #	E	Date	Contract #	Contract Amount
Cintas Corporation No. 2	3600 Kennesaw 75 Parkway	Kennesaw	GA	30144	529104	n	3/16/2016	167102	1000.00
Sterling Computers Corporation	600 Stevens Port Drive	Dakota Dunes	SD	57049	634907	n	3/14/2016	809411	1000.00
LaAmistad, Inc.	3434 Roswell Road	Atlanta	GA	30305	897699	n	3/7/2016	495501	10000.00
K & A Specialty Parts, Inc.	107 Ore Mine Road	Taylorville	GA	30178		y	2/25/2016	480994	2000.00
D & D Fire Protection	770 Kingsbridge Road	Carrollton	GA	30117	131611	n	2/11/2016	229605	1000.00
Expeditionary Learning Education	247 West 35th Street	New York	NY	10001	861087	n	1/25/2016	306897	36500.00
Ellen Katowitz	2570 Chimney Springs Drive	Marietta	GA	30062		y	1/19/2016	973262	3990.00
Allan Vigil Ford Lincoln, Inc	6790 Mt. Zion Blvd.	Morrow	GA	30260	94460	n	3/9/2016	019206	50000.00
Shriver Mechanical, Inc.	4880 Lake Acworth Drive	Acworth	GA	30101	401978	n	3/21/2016	763107	8500.00
GeoSurvey, Ltd.	1660 Barnes Mill Rd.	Marietta	GA	30062	62053	n	3/24/2016	1635	2750.00
Glassworks of Georgia	3140 Calumet Circle	Kennesaw	GA	30152		y	4/13/2016	372694	5000.00
Simply Zee Imagery	1256 Brownstone Dr.	Marietta	GA	30008		y	4/13/2016	767068	1500.00
Old Mountain Contracting Company	497 Kirk Rd.	Marietta	GA	30060	614101	n	4/13/2016	633285	5000.00
PlaySouth Playground Creators	108 Allenwood Rd.	Fayetteville	GA	30214	942178	n	4/25/2016	669921	20000.00
Dealers Supply	82 Kennedy Dr.	Forest Park	GA	30297		y	4/25/2016	247802	20000.00
Breaux & Associates	5955 Shiloh Rd. East Suite 200	Alpharetta	GA	30005	770296	n	4/26/2016	112982	100000.00
Superior Hardware Products	716 Industry Road Suite A	Longwood	FL	32750		y	4/28/2016	818346	2000.00
Blilson & Associates	P O Box 3442	Marietta	GA	30061		y	4/29/2016	976702	3000.00
ServiceWear Apparel, Inc.	7135 Charlotte Pike Suite 100	Nashville	TN	37209		y	5/2/2016	757301	3000.00
Draisen Edwards Music	2902 North Main St.	Anderson	SC	29621	343799	n	5/2/2016	269862	5000.00
F L Graphix	310 West Ave.	Dallas	GA	30157		y	5/5/2016	319875	1500.00
Irrigation Management Services, LLC	348 Josephin St. NE	Atlanta	GA	30307		y	5/6/2016	462854	3000.00
J & M Contractors Inc	4022 Rainbow Dr.	Decatur	GA	30034	PGAR5960	n	6/14/2016	463551	5000.00
White Hawk Inc.	1475 Canton Rd. Suite 100	Marietta	GA	30066	273694	n	7/12/2016	890102	10000.00
Gas South	3625 Cumberland Blvd. Suite 1500	Atlanta	GA	30339		y	7/18/2016	339330	500000.00
Turfwell Athletic Fields	P O Box 814	Acworth	GA	30101	161592	n	7/19/2016	851602	66000.00
Glisson Camp & Retreat Center	690 Camp Glisson Road	Dahlonega	GA	30533		n	7/20/2016	373226	10000.00
SSS Plumbing Service	P. O. Box 1909	Dallas	GA	30132	470378	n	7/25/2016	804847	5000.00
Southeast Building Maintenance Tech.	P.O. Box 1687	Loganville	GA	30052	327830	n	8/3/2016	784475	10000.00
Rosetta Stone Ltd.	135 West Market St.	Harrisonburg	VA	22801	19959	n	8/3/2016		5000.00
Classroom Unsquared, LLC	3449 Whirlaway Court	Marietta	GA	30062	959417	n	8/8/2016		5000.00
Jaxx Pest Control	P.O. Box 440186	Kennesaw	GA	30160	165176	n	8/16/2016	482168	50000.00
Naviance Inc	3033 Wilson Blvd. Suite 500	Arlington	VA	22201		y	8/16/2016	618597	50000.00
Swift Straw	2255 Cumberland Pkwy. Bldg. 1700	Atlanta	GA	30339		y	8/17/2016	819387	50000.00
Synovia Solutions, LLC	9330 Priority Way West Dr.	Indianapolis	IN	46240		y	8/23/2016	819752	10000.00
Hall Rigdon & Associates	231 Washington Ave.	Marietta	GA	30060		y	8/23/2016	396991	20000.00
OSSI, Inc.	1100 Williams Dr. Suite 300	Marietta	GA	30056	289871	n	8/23/2016	633175	5000.00
Sure Supply Inc	P.O. Box 2471	Urburn	GA	30048		y	8/30/2016	819165	1000.00
Georgia Fire Protection Company	P. O. Box 456	Mt. Zion	GA	30150		y	9/27/2016	356369	5000.00
Playworx Playsets LLC	2550 Sandy Plains Rd. Suite 225 #348	Marietta	GA	30066		y	9/29/2016	669976	10000.00
K Mike Whittle Designs	156 Church St.	Marietta	GA	30060		y	10/12/2016	1497	5000.00
R.K. Redding Construction	412 Sangamore Rd	Bremen	GA	30110	23043	n	10/12/2016	1477	1200000.00
Georgia Turf Irrigation, Inc.	5445 Priest Rd.	Acworth	GA	30102		y	10/31/2016	1607	5000.00
Mingledorff's, Inc.	6675 Jones Mill Court	Norcross	GA	30548		y	11/3/2016	1615	25000.00
Complete Painting Contractors	17888 Soutny Road 87	Woodland	AL	36280	429747	n	11/8/2016	1640	5000.00
All Star Field Restoration and Construction	4130 Haralson Mill Rd.	Conyers	GA	30012	825493	n	11/8/2016	1654	5500.00

IMMIGRATION ENFORCEMENT REVIEW BOARD

STATE OF GEORGIA

Marietta City Schools

Initial Response to IERB – March 9, 2017

Exhibit # 5

From: Cori Alston <CAston@doe.k12.ga.us>

Date: March 3, 2017 at 7:41:28 AM EST

To: Tammie Smith <tsmith@doe.k12.ga.us>, Dely Roberts <d Roberts@doe.k12.ga.us>, Margaret Baker <mbaker@doe.k12.ga.us>, "Jacqueline Ellis" <jellis@doe.k12.ga.us>

Cc: Cori Alston <CAston@doe.k12.ga.us>

Subject: EL parent/family support services, legal considerations

Dear Colleagues:

It has recently come to my attention that a number of districts have been receiving inquiries regarding the language and literacy support services that they may be offering to their students' non-English speaking parents.

I would like to take this opportunity to remind you of your district's obligation to adhere to federal statutes, in particular Titles IV and VI of the Civil Rights Act of 1964, that prohibit practices deemed discriminatory to persons based on their race, color or national origin. To provide further detail on these requirements, I will attach the 2011 Dear Colleague letter co-written by the U.S. Department of Justice and U.S. Department of Education.

In addition, under ESEA Title III, Sec. 3115 "SUBGRANTS TO ELIGIBLE ENTITIES," subsection (d)(6) specifically indicates that LEA recipients of Title III funds may provide "community participation programs, family literacy services and parent and family outreach and training activities to English learners and their families...".

Responses to public inquiries regarding these family support services or the federal and state laws that govern their provision should be directed to your local school district attorney.

With kind regards,

Cori

Cori Alston
Program Manager, ESOL & Title III Unit
Georgia Department of Education
1854 Twin Towers East
205 Jesse Hill Jr. Drive
Atlanta, GA 30533
(404) 656-2067

"Educating Georgia's Future"



U.S. Department of Justice

Civil Rights Division



U.S. Department of Education

*Office for Civil Rights
Office of the General Counsel*

May 6, 2011

Dear Colleague:

Under Federal law, State and local educational agencies (hereinafter “districts”) are required to provide all children with equal access to public education at the elementary and secondary level. Recently, we have become aware of student enrollment practices that may chill or discourage the participation, or lead to the exclusion, of students based on their or their parents’ or guardians’ actual or perceived citizenship or immigration status. These practices contravene Federal law. Both the United States Department of Justice and the United States Department of Education (Departments) write to remind you of the Federal obligation to provide equal educational opportunities to all children residing within your district and to offer our assistance in ensuring that you comply with the law.

The Departments enforce numerous statutes that prohibit discrimination, including Titles IV and VI of the Civil Rights Act of 1964. Title IV prohibits discrimination on the basis of race, color, or national origin, among other factors, by public elementary and secondary schools. 42 U.S.C. § 2000c-6. Title VI prohibits discrimination by recipients of Federal financial assistance on the basis of race, color, or national origin. 42 U.S.C. § 2000d. Title VI regulations, moreover, prohibit districts from unjustifiably utilizing criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of a program for individuals of a particular race, color, or national origin. *See* 28 C.F.R. § 42.104(b)(2) and 34 C.F.R. § 100.3(b)(2).

Additionally, the United States Supreme Court held in the case of *Plyler v. Doe*, 457 U.S. 202 (1982), that a State may not deny access to a basic public education to any child residing in the State, whether present in the United States legally or otherwise. Denying “innocent children” access to a public education, the Court explained, “imposes a lifetime hardship on a discrete class of children not accountable for their disabling status. . . . By denying these children a basic education, we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation.” *Plyler*, 457 U.S. at 223. As *Plyler* makes clear, the undocumented or non-citizen status of a student (or his or her parent or guardian) is irrelevant to that student’s entitlement to an elementary and secondary public education.

To comply with these Federal civil rights laws, as well as the mandates of the Supreme Court, you must ensure that you do not discriminate on the basis of race, color, or national origin, and that students are not barred from enrolling in public schools at the elementary and secondary level on the basis of their own citizenship or immigration status or that of their parents

or guardians. Moreover, districts may not request information with the purpose or result of denying access to public schools on the basis of race, color, or national origin. To assist you in meeting these obligations, we provide below some examples of permissible enrollment practices, as well as examples of the types of information that may not be used as a basis for denying a student entrance to school.

In order to ensure that its educational services are enjoyed only by residents of the district, a district may require students or their parents to provide proof of residency within the district. *See, e.g., Martinez v. Bynum*, 461 U.S. 321, 328 (1983).¹ For example, a district may require copies of phone and water bills or lease agreements to establish residency. While a district may restrict attendance to district residents, inquiring into students' citizenship or immigration status, or that of their parents or guardians would not be relevant to establishing residency within the district.

A school district may require a birth certificate to ensure that a student falls within district-mandated minimum and maximum age requirements; however, a district may not bar a student from enrolling in its schools based on a foreign birth certificate. Moreover, we recognize that districts have Federal obligations, and in some instances State obligations, to report certain data such as the race and ethnicity of their student population. While the Department of Education requires districts to collect and report such information, districts cannot use the acquired data to discriminate against students; nor should a parent's or guardian's refusal to respond to a request for this data lead to a denial of his or her child's enrollment.

Similarly, we are aware that many districts request a student's social security number at enrollment for use as a student identification number. A district may not deny enrollment to a student if he or she (or his or her parent or guardian) chooses not to provide a social security number. *See* 5 U.S.C. §552a (note).² If a district chooses to request a social security number, it shall inform the individual that the disclosure is voluntary, provide the statutory or other basis upon which it is seeking the number, and explain what uses will be made of it. *Id.* In all instances of information collection and review, it is essential that any request be uniformly applied to all students and not applied in a selective manner to specific groups of students.

As the Supreme Court noted in the landmark case of *Brown v. Board of Education*, 347 U.S. 483 (1954), "it is doubtful that any child may reasonably be expected to succeed in life if he [or she] is denied the opportunity of an education." *Id.* at 493. Both Departments are committed to vigorously enforcing the Federal civil rights laws outlined above and to providing any technical assistance that may be helpful to you so that all students are afforded equal educational opportunities. As immediate steps, you first may wish to review the documents your district requires for school enrollment to ensure that the requested documents do not have a chilling effect on a student's enrollment in school. Second, in the process of assessing your compliance with the law, you might review State and district level enrollment data. Precipitous drops in the

¹ Homeless children and youth often do not have the documents ordinarily required for school enrollment such as proof of residency or birth certificates. A school selected for a homeless child must immediately enroll the homeless child, even if the child or the child's parent or guardian is unable to produce the records normally required for enrollment. *See* 42 U.S.C. § 11432(g)(3)(C)(i).

² Federal law provides for certain limited exceptions to this requirement. *See* Pub. L. 93-579 § 7(a)(2)(B).

enrollment of any group of students in a district or school may signal that there are barriers to their attendance that you should further investigate.

Please contact us if you have any questions or if we can provide you with assistance in ensuring that your programs comply with Federal law. You may contact the Department of Justice, Civil Rights Division, Educational Opportunities Section, at (877) 292-3804 or education@usdoj.gov, or the Department of Education Office for Civil Rights (OCR) at (800) 421-3481 or ocr@ed.gov. You may also visit <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm> for the OCR enforcement office that serves your area. For general information about equal access to public education, please visit our websites at <http://www.justice.gov/crt/edo> and <http://www2.ed.gov/about/offices/list/ocr/index.html>.

We look forward to working with you. Thank you for your attention to this matter and for taking the necessary steps to ensure that no child is denied a public education.

Sincerely,

/s/

Russlynn Ali
Assistant Secretary
Office for Civil Rights
U.S. Department of Education

/s/

Charles P. Rose
General Counsel
U.S. Department of Education

/s/

Thomas E. Perez
Assistant Attorney General
Civil Rights Division
U. S. Department of Justice