



January 16, 2025

Oklahoma State Board of Education
2500 N. Lincoln Blvd.
Oklahoma City, OK 73105

Dear Board of Education,

The ACLU of Oklahoma submits these comments on the pending Rulemaking proposed by the Oklahoma State Department of Education designated 210:10-1-5, notice given on December 23, 2024. As explained below, the proposed rulemaking should be rescinded or amended.

The American Civil Liberties Union of Oklahoma is a nonprofit, non-partisan, privately funded organization devoted exclusively to the defense and promotion of the individual rights secured by the U.S. and Oklahoma constitutions. The ACLU of Oklahoma has a proud history of advocating in Oklahoma for the rights of people of color, including those who have immigrated to the United States or who are undocumented under federal immigration law.

The rule proposed by the Superintendent requiring students to provide proof of U.S. citizenship upon enrollment represents an astonishing step backward for Oklahoma. The rule would discourage undocumented students or students with undocumented family members from enrolling in public schools. As currently drafted, it could outright prevent students unable to provide proof of U.S. citizenship from enrolling. This rule is an attempt to exclude immigrant students from public education in Oklahoma, and we therefore strongly oppose it.

Immigrant communities, and in particular immigrant students, have played a vital role in the development of Oklahoma culture and society. They have made irreplaceable contributions to the unique heritage of this state. They have broadened our horizons, generated economic opportunity, and placed Oklahoma on the global map. According to the American Immigration Council, 18% of all farmers, fishers, and foresters and 16% of construction workers in Oklahoma are immigrants.¹ For the valuable role immigrants play in our state, Oklahoma has traditionally welcomed people, and in particular unaccompanied minors, from across the world fleeing distress and seeking a new life in this nation.

Public education plays an important role in ensuring that students including immigrant students have equal opportunities to succeed. It provides immigrant students with access to English language education, sets them up for success on the same terms as other students, and gives them the tools to contribute to Oklahoma as respected leaders in their communities. The undeniable importance of education is why, almost 80 years ago, Ada Louis Sipuel Fisher sued to be admitted to the University of Oklahoma College of Law. It is why two years later, George McLaurin sued to obtain a Doctorate in Education from the University of Oklahoma. And it is why, four years after that, the U.S. Supreme Court held that “it is doubtful that any child may

¹ https://www.americanimmigrationcouncil.org/sites/default/files/research/immigrants_in_oklahoma.pdf.



reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.”²

The Oklahoma Constitution itself provides that this right to education must be provided to all children in the state, without distinction as to race, national origin, or immigration status. Similarly, the Civil Rights Act of 1964 prohibits schools from discriminating—either intentionally or effectively—on the basis of race, national origin, or immigration status. And the Supreme Court has held that the Equal Protection Clause to the U.S. Constitution does not permit states “to deny a discrete group of innocent children the free public education that it offers to other children residing within its borders” solely because they are undocumented.³ For decades, our state and this Department have made every effort to comply with its constitutional responsibility to ensure equal access to education.

Adoption of the proposed rule, however, would jeopardize and reverse those efforts. The text of the proposed rule would prevent undocumented students from enrolling because they cannot provide proof of citizenship or lawful immigration status. Children fleeing the regime in Venezuela or the war in Ukraine, for example, who are beneficiaries of Temporary Protected Status could not enroll in public schools. But even if the rule was amended to ensure that schools could not deny enrollment for failure to provide the required proof, still it would impose a burden on undocumented students that no other student has to bear based solely on their immigration status. That burden is intolerable under the laws and Constitution of the United States and Oklahoma. And it would have a disproportionate impact on the Hispanic-American community in Oklahoma.

The ACLU of Oklahoma is prepared to support students and families from any unconstitutional acts of this entity. To protect Oklahoma students from segregated schools, to defend against anti-immigrant policies, and to discharge your oaths to protect and defend the laws and Constitution of the United States, the Department should reject the proposed rule.

Sincerely,

Tamya Cox-Toure,
Executive Director

² *Brown v. Board of Education*, 347 U.S. 483, 493 (1954).

³ *Plyler v. Doe*, 457 U.S. 202, 230 (1982).