



U.S. Department of Education
Office for Civil Rights

Safeguarding Students' Civil Rights, Promoting Educational Excellence

Report to
THE PRESIDENT
and
SECRETARY OF
EDUCATION

Under Section 203(b)(1)
of the Department of Education Organization Act



U.S. Department of Education Office for Civil Rights

Catherine E. Lhamon, Assistant Secretary for Civil Rights

July 2022

This report is submitted under Section 203(b)(1) of the Department of Education Organization Act of 1979, Pub. L. No. 96-88, which provides: “The Assistant Secretary for Civil Rights shall make an annual report to the Secretary, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.” 20 U.S.C. §3413(b)(1).

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This report is also available on the Office for Civil Rights website at <http://www.ed.gov/ocr>.

Any updates to this report will be available at this website.

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Message from the ASSISTANT SECRETARY for CIVIL RIGHTS



On his first full day in office, President Biden reaffirmed a commitment that distills all our work at the Office for Civil Rights (OCR): “Every student in America deserves a high-quality education in a safe environment.”¹ This commitment is not a new one. It echoes promises Congress made with the passage of civil rights laws meant to remove barriers to students’ full participation in all of the educational opportunities this nation has to offer. Yet the commitment holds additional meaning now, given the unprecedented COVID-19 pandemic and its impacts on education for the nation’s students and schools. Notwithstanding the pandemic’s many challenges, students across the country have found ways to continue learning and educators, along with students’ families and communities, have supported students at all educational levels.

During fiscal year (FY) 2021, OCR actively pursued our job to ensure equal access to education and to promote educational excellence through the vigorous enforcement of civil rights. This report describes OCR’s efforts to meet the pandemic moment for school communities, safeguarding the civil rights in schools that Congress has long charged OCR to protect.

As this report details, OCR received nearly 9,000 complaints during FY 2021, and resolved more than 8,000 complaints. We also opened 17 proactive investigations, including 11 related to the COVID-19 pandemic. The sampling of cases described in this report provide a window into individual student experiences. The injustices detailed in each case, though difficult to read, speak to the critical importance of our work, as do the resolutions that resulted in tangible changes for students.

In addition, OCR released policy guidance and informational resources to help students, parents, and educators better understand the protections afforded students under the Federal civil rights laws OCR enforces. These resources covered a wide range of topics, including how to address school-based COVID-19 related harassment directed at Asian American and Pacific Islander people; Title IX’s application to discrimination based on sexual orientation and gender identity; and the protections afforded students experiencing the long-term symptoms of COVID-19.

“ Every student in America deserves a high-quality education in a safe environment.

President BIDEN

Finally, OCR announced that for the first time ever OCR would conduct a nationwide Civil Rights Data Collection (CRDC) of every covered school in two consecutive school years: 2020-21 and 2021-22. Gathering data in this way will enable us to better understand the impacts of the COVID-19 pandemic on student access and experiences of harassment and other discrimination during this time and provide a clearer picture of the disparities students experience.

OCR accomplished all of this during a transition from one Presidential Administration to another and in the face of the ongoing global pandemic. That the essential work of this office continued unabated despite these challenges is a testament to OCR staff without whose skill and passion none of this work would be possible.

As much today as ever, it is crucial that students have equal access to a safe, healthy, and welcoming school environment. At OCR, we are privileged to continue to support that goal through affirmatively informing school districts, postsecondary institutions, and other federally funded education programs and activities, along with educators, students and parents, of students' rights that Federal civil rights laws protect and enforcing those laws as needed to fulfill Congress' civil rights guarantees to students.

Sincerely,

Catherine E. Lhamon

Assistant Secretary for Civil Rights

EXECUTIVE SUMMARY *and* REPORT HIGHLIGHTS

OCR's core activities include responding to civil rights complaints that members of the public file and conducting proactive investigations to enforce Federal civil rights laws; monitoring institutions' adherence to resolution agreements reached with OCR; issuing policy guidance to increase recipients' understanding of their civil rights obligations and awareness of students and family members of students' civil rights; responding to requests for information from and providing technical assistance to school communities and the general public; and administering and disseminating the Civil Rights Data Collection. This report details notable accomplishments in these activities during FY 2021.

The pace of OCR's enforcement work also remained high, even as the COVID-19 pandemic continued to impact educational environments, the American workforce, and the nation as a whole. OCR received 8,934 complaints; initiated 17 proactive investigations, including 11 related to the COVID-19 pandemic; and resolved 8,238 cases.

OCR developed and released a variety of policy guidance and informational resources to assist school communities with civil rights compliance, covering the rights of students and the obligations of schools under the Federal civil rights laws OCR enforces. Topics included, for example:

- Clarifying the application of Federal civil rights laws to both remote and in-person learning during the COVID-19 pandemic;

- Addressing the obligations of schools, public agencies, and postsecondary institutions to students and children with long COVID; and
- Clarifying OCR's interpretation of schools' existing obligations under the 2020 amendments to the Department's Title IX regulations, including the areas in which schools have discretion in their procedures for responding to reports of sexual harassment.

In addition to policy guidance, OCR expanded the reach of public information about the civil rights of students and others in educational environments, including through the generation of two new virtual binders that collect OCR resources for easy access by schools and the public: [Back to School: Supporting Educational Environments Free from Discrimination: A Resource Collection for Elementary and Secondary Schools](#) and [Back to School: Supporting Educational Environments Free from Discrimination: A Resource Collection for Postsecondary Schools](#). Additional outreach and collaborative efforts included a virtual convening organized with the Department of Justice on *Brown 67 Years Later: Examining Disparities in School Discipline and the Pursuit of Safe and Inclusive Schools*, where students, educators, school administrators, civil rights lawyers, and researchers considered the impact of exclusionary school discipline policies and practices on our nation's students, particularly students of color, students with disabilities, and LGBTQI+ students, and a [Back-to-School Video Message for Transgender Students](#), produced together with the Departments of Justice and Health and Human Services.

OCR also released the data file for the Civil Rights Data Collection (CRDC) for the 2017-18 school year and announced our plan to administer a 2021-22 CRDC, marking the first time OCR has conducted the CRDC in all covered schools two years in a row. These data will help to illuminate the effects of the COVID-19 pandemic on education equity.

OFFICE FOR CIVIL RIGHTS: OVERVIEW *and* TRENDS

MISSION AND SCOPE

OCR’s mission is to ensure equal access to education and to promote education excellence across the nation through the vigorous enforcement of civil rights laws. OCR’s work to eliminate discriminatory barriers to education directly supports the Department’s mission to promote student achievement and preparation for global competitiveness by fostering education excellence and ensuring equal access. OCR safeguards the rights of students through the investigation of possible violations of civil rights laws, including Title VI of the Civil Rights Act of 1964 (Title VI), Title IX of the Education Amendments of 1972 (Title IX), Section 504 of the Rehabilitation Act of 1973 (Section 504), and Title II of the Americans with Disabilities Act of 1990 (ADA). In addition, OCR safeguards students’ rights through the development of policy guidance to assist schools and other educational institutions receiving Federal financial assistance

in understanding how OCR interprets and enforces Federal civil rights laws; the dissemination of information and technical assistance about students’ rights and schools’ responsibilities; and the collection and reporting of data on key education and civil rights issues in our nation’s public schools.

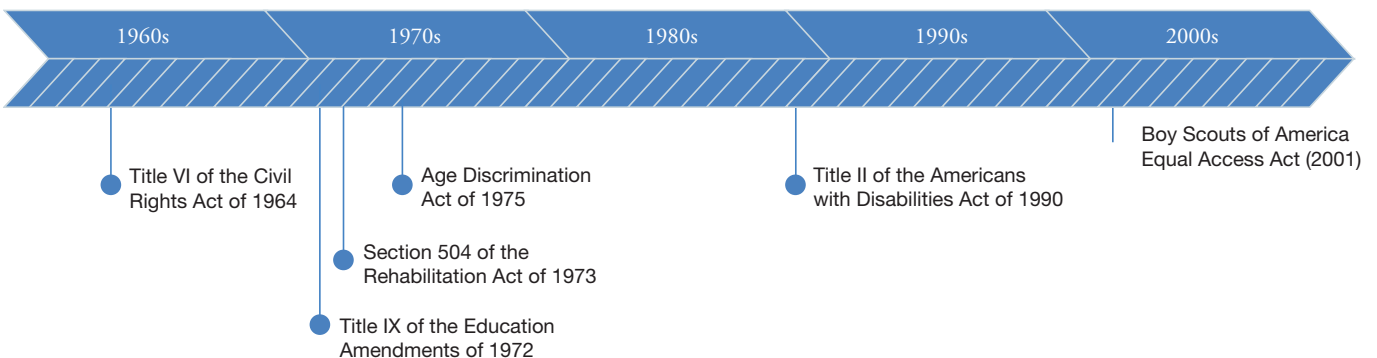
OCR’s mandate to eliminate discriminatory barriers in education reaches more than 79 million individuals at institutions that receive Federal funds, including all state educational agencies; approximately 18,100 local educational agencies; approximately 6,000 postsecondary institutions, including proprietary schools and community colleges; 78 state vocational rehabilitation agencies and their sub-recipients; and other institutions that receive U.S. Department of Education financial assistance, such as libraries, museums, and correctional institutions.

JURISDICTION

OCR ensures equal access to education for our nation’s students by enforcing the following Federal civil rights laws and their implementing regulations that prohibit discrimination on the basis of race, color, national origin, sex, disability, and age in all education programs and activities that receive financial assistance from the Department (*see Figure 1*):

- Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination);

Figure 1: OCR Enforcement Jurisdiction Timeline



- Title IX of the Education Amendments of 1972 (prohibiting sex discrimination);
- Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination);
- Age Discrimination Act of 1975 (prohibiting age discrimination);
- Title II of the Americans with Disabilities Act of 1990 (prohibiting disability discrimination in State and local government services – whether or not programs receive Federal financial assistance); and
- Boy Scouts of America Equal Access Act of 2001 (prohibiting public elementary and secondary schools, local educational agencies, and state educational agencies from denying equal access or a fair opportunity to meet, or discriminating

against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed as a patriotic society in Title 36 of the United States Code).

STRUCTURE AND FUNCTIONS

OCR is headed by an Assistant Secretary, appointed by the President of the United States with the advice and consent of the U.S. Senate. From January 20, 2021, until the end of the fiscal year, the Office of the Assistant Secretary for Civil Rights included a Deputy Assistant Secretary for Enforcement, a Deputy Assistant Secretary for Policy, a Deputy Assistant Secretary for Strategic Operations and Outreach, a Deputy Assistant Secretary for Management and Operations, a Chief of Staff, two Senior Counsels, and a Confidential Assistant.

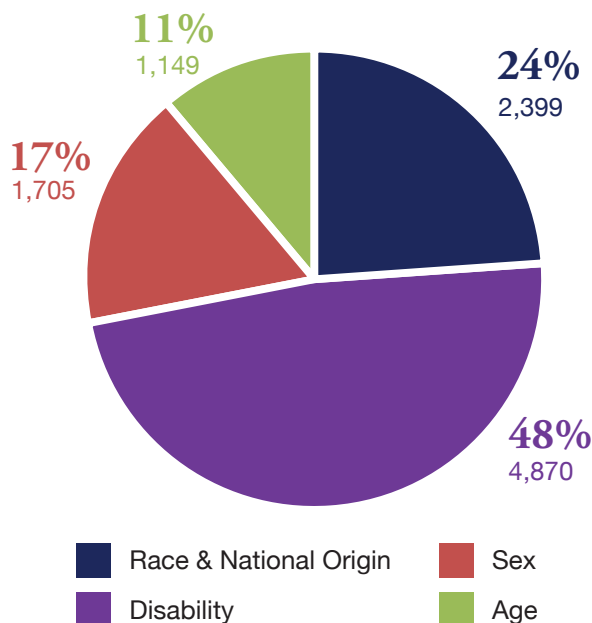
OCR is comprised of a headquarters office and 12 regional offices located across the country. Our headquarters and the DC Metro regional office are located in Washington, D.C. The remaining 11 regional offices are in Atlanta, Boston, Chicago, Cleveland, Dallas, Denver, Kansas City, New York, Philadelphia, San Francisco, and Seattle (*see Figure 2*).

ENFORCEMENT AND STAFFING TRENDS

As the COVID-19 pandemic continued to affect the operation of schools throughout the country, OCR received 8,934 complaints and resolved 8,238 complaints in FY 2021.

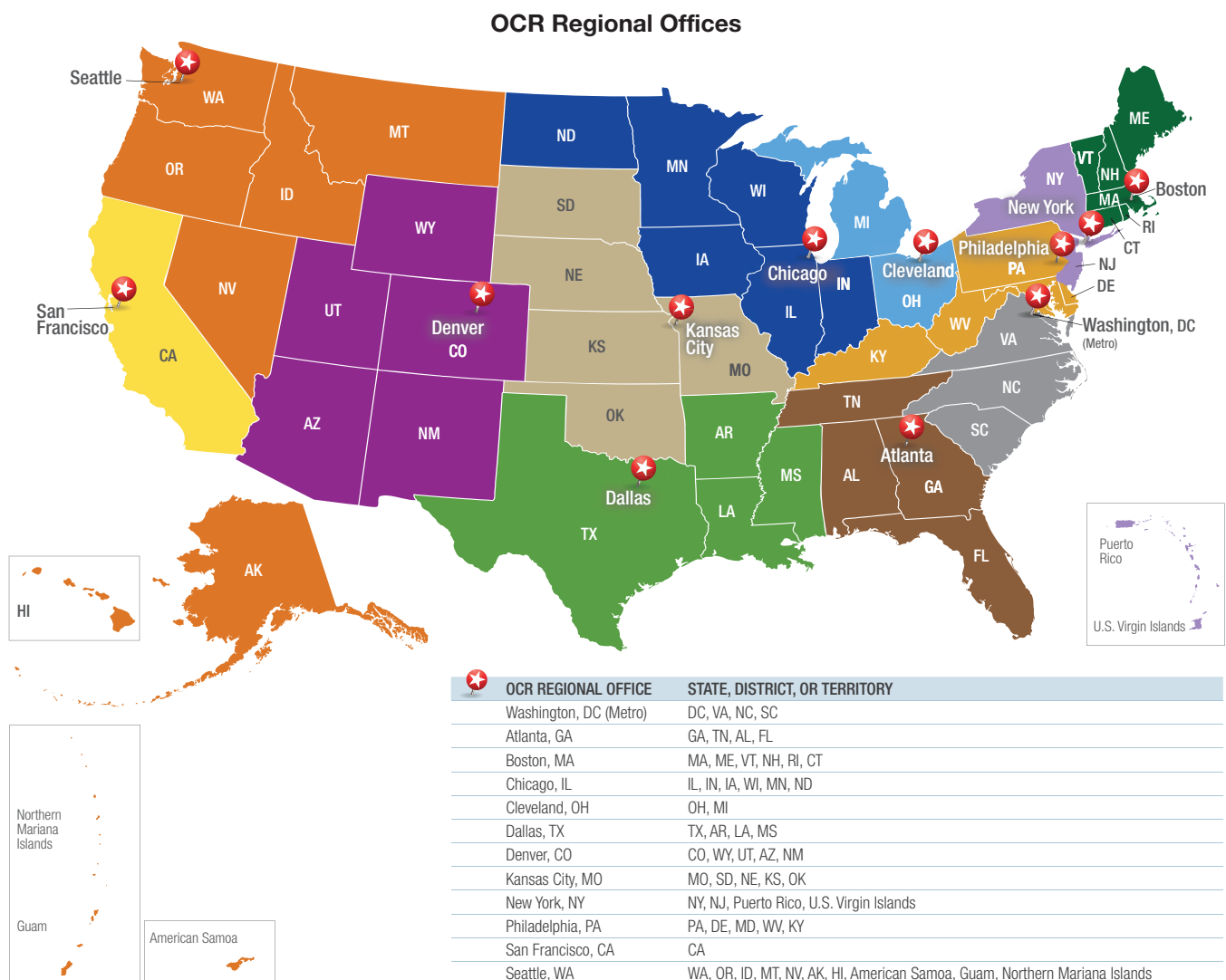
Complaints of race or national origin discrimination comprised 24% (2,399) of all complaints received in the year, up from 19% in FY 2020. Complaints involving discrimination based on disability comprised 48 percent (4,870) of all complaints this year, up from 45 percent in FY 2020; sex discrimination complaints comprised 17 percent (1,705) down from 23 percent in FY 2020; and age discrimination complaints comprised 11 percent (1,149), the majority of which were filed by a single complainant, up from 3 percent in FY 2020. (*see Figure 3*).

Figure 3: Percentage of Complaints Received by Type of Alleged Discrimination* (FY 2020)



* The numbers above do not reflect the total number of complaints received in FY 2021 because some complaints cover more than one statute and because a small percentage of complaints received in FY 2021 have not yet been categorized by statute.

Figure 2: Map of OCR Regional Offices*



OCR’s overall staffing level has declined significantly over the life of the agency, falling from nearly 1,100 Full Time Equivalent (FTE) usage in fiscal year 1981 to an estimated 562 FTE usage in fiscal year 2022. This reduction comes even as the volume of complaints received has grown exponentially, increasing from under 3,000 in fiscal year 1981 to a projection of over 28,000² in fiscal year 2022.

INCREASED OUTREACH AND PUBLIC EDUCATION

During FY 2021, OCR strengthened outreach to schools, families, and the general public to increase awareness of and information about the civil rights laws OCR enforces. This work took the form of fact sheets, letters to educators, question-and-answer resources, reports and more, many of which are discussed throughout this Annual Report.

In addition, OCR communicated with the public through our blog and on social media, sharing the resources just described and commemorating important civil rights events, including the anniversaries of [Title VI](#), the [Americans with Disabilities Act](#), and [LGBTQI+ Pride](#). OCR also issued a blog post in [English](#) and [Spanish](#) on July 19, 2021, that affirmed the [right of all students to access public education, regardless of their immigration status or the immigration status of their parents](#) and highlighted resources to support students, families, and schools in fulfilling Title VI's protection against discrimination based on national origin.

OCR responded to 315 incoming correspondence inquiries and, through OCR's [Reading Room](#), provided access to information to educational institutions, state and local educational agencies, parents, students, and members of the general public about complaints filed, resolution agreements, correspondence, guidance, and more.

FULFILLING FREEDOM OF INFORMATION ACT REQUESTS

OCR also processed 690 Freedom of Information Act (FOIA) requests in a timely manner. In FY 2021, OCR processed requests, on average, within 87 days, a 10% decrease in processing time as compared to FY 2020.

Collaborative Efforts on LGBTQI+ Students and Title IX



On August 17, 2021, OCR joined with the Departments of Justice and Health and Human Services to release a [Back-to-School Video Message for Transgender Students](#), reinforcing for transgender students, their families, and educators that the Departments are here to provide support and, if needed, protection against discrimination. Earlier in the year, on June 23, 2021, OCR and

the Department of Justice's Civil Rights Division issued a fact sheet on [Confronting Anti-LGBTQI+ Harassment in Schools: A Resource for Students and Families](#), highlighting examples of the types of incidents OCR and DOJ can investigate and actions students and families can take if a student has experienced discrimination at school. That same day, OCR issued a [Dear Educator Letter on the 49th Anniversary of Title IX](#) to highlight OCR's Notice of Interpretation on Title IX's application to discrimination based on sexual orientation and gender identity, the fact sheet, and an updated OCR webpage featuring [resources for LGBTQI+ students](#), as well as other resources to assist schools in meeting their Title IX obligations.

OCR's public education and outreach efforts, along with ongoing enforcement of Title IX, seek to ensure that all schools are free from harassment and other discrimination, which is essential to creating an environment in which every student can thrive.

PROTECTING CIVIL RIGHTS DURING THE COVID-19 PANDEMIC

As the pandemic continued into its second year, OCR maintained a strong focus on ensuring civil rights fulfillment, including during remote schooling. In addition to investigating possible civil rights violations, OCR released responses to common questions about the application of civil rights laws in the COVID-19 environment and issued a report on the pandemic's disparate impacts on students in elementary and secondary schools and postsecondary institutions.

Questions and Answers on Civil Rights and School Reopening in the COVID-19 Environment

On May 13, 2021, OCR released a new resource for students, parents, and educators preparing to return to the classroom: [Questions and Answers on Civil Rights and School Reopening in the COVID-19 Environment](#). The resource responded to many questions OCR received from students, families, schools and the public about schools' responsibilities under Federal civil rights laws during the pandemic.

The Q&A covers many important topics, including the rights of students with disabilities to a free appropriate public education during remote learning and school reopening; the rights of students with disabilities related to mask exemptions and waivers, physical distancing, and accessibility and placement issues; and the responsibilities of all schools, including higher education institutions,

to their students with disabilities. It also discusses protections for students against discrimination based on race, color, and national origin, including information about harassment, discipline disparities, and resource equity; the rights of students who are undocumented; the rights of students with unstable housing and students who are experiencing homelessness; and the rights of English learners. In addition, the Q&A covers protections for students against sex discrimination, including sexual and gender-based harassment, which includes sexual violence, and addresses schools' responsibilities to respond to complaints during remote, hybrid and in-person learning.



Education in a Pandemic: The Disparate Impacts of COVID-19 on America's Students

On June 9, 2021, OCR released [Education in a Pandemic: COVID-19's Disparate Impacts on America's Students](#), a report responding to President Biden's Executive Order 14000 on Supporting the Reopening and Continuing Operation of Schools and Early Childhood Education Providers. The report highlights how COVID-19 threatens to deepen divides in educational opportunity across our nation's classrooms and campuses if the pandemic's disparate impacts are not adequately addressed.

In particular, the report explores how the impacts of the pandemic are falling disproportionately on students who went into the pandemic with the fewest educational opportunities, many of whom are from marginalized and underserved communities. It offers numerous observations about impacts of the pandemic on both K-12 and postsecondary education students, including how COVID-19 has deepened pre-pandemic disparities in access and opportunities facing students of color, multilingual learners, students with disabilities, and LGBTQI+ students, with significant impacts on their learning. The report also highlights students' extensive loss

of access to mental health services during the pandemic, with early research showing disparities in negative mental health impacts based on students' race, ethnicity, LGBTQI+ identity, and other factors. In addition, the report includes data showing heightened risk of harassment, discrimination, and other harms for Asian American and Pacific Islander students and recognizes that the pandemic may have put students at increased risk of sexual harassment, abuse, and violence—particularly girls, women, and students who are transgender, non-binary, or gender non-conforming.



TITLE IX COMPREHENSIVE REVIEW

In FY 2021, OCR began the comprehensive review of our policies and actions under Title IX that President Biden directed in Executive Order 14021 on Guaranteeing an Educational Environment Free From Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity. President Biden ordered that OCR ensure that our policies and actions are consistent with policy that “all students should be guaranteed an educational environment free from discrimination on the basis of sex, including discrimination in the form of sexual harassment, which encompasses sexual violence, and including discrimination on the basis of sexual orientation or gender identity.”

As part of our comprehensive Title IX review, [OCR announced](#) that we anticipated issuing new proposed regulations for public comment through a Notice of Proposed Rulemaking. The proposed regulations will build on the extensive information received from the public during the national public hearing and in stakeholder meetings.

A NATIONAL PUBLIC HEARING ON TITLE IX

OCR convened a five-day, first-ever virtual national public hearing focused on strengthening the Department’s enforcement of Title IX, with an open invitation to the public to provide comments to inform OCR’s Title IX review process. The hearing brought together a range of voices and views from across the United States and Puerto Rico, with over 280 live comments and over 30,000 written submissions, and provided the Department the opportunity to hear experiences, concerns, and suggestions from a wide variety of students,

educators, advocates, and many others. The [transcript is available](#) on OCR’s website.

NOTICE OF INTERPRETATION CONFIRMING THAT TITLE IX PROHIBITS DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY

On June 16, 2021, OCR published a [Notice of Interpretation](#) explaining that OCR interprets Title IX’s prohibition on sex discrimination to include discrimination based on sexual orientation and gender identity, consistent with the Supreme Court’s reasoning in *Bostock v. Clayton County*. The *Bostock* case, decided by the Court in 2020, recognized that Title VII’s very similar protection against sex discrimination covered discrimination based on sexual orientation and gender identity.



In *Bostock*, the Supreme Court recognized that “it is impossible to discriminate against a person” because of their sexual orientation or gender identity “without discriminating against that individual based on sex.” As OCR’s notice explained, that reasoning applies regardless of whether the individual experiencing discrimination is an adult in a workplace or a student in school. OCR also explained that while this interpretation will guide the Department in processing complaints and conducting investigations, it does not determine the outcome in any particular case or set of facts.

NOTABLE OUTREACH, COLLABORATIVE ACTIVITIES, *and* TECHNICAL ASSISTANCE

OCR engaged throughout the year in outreach to the public and in collaborative efforts across government. Here are some highlights, and additional outreach and collaborative activities can be found throughout this Annual Report.

COMBATING DISCRIMINATION AGAINST JEWISH STUDENTS

On January 19, 2021, OCR issued a fact sheet on [Combating Discrimination Against Jewish Students](#). The fact sheet explains that Title VI protects all students, including Jewish students, from discrimination based on race, color, and national origin (including language and actual or perceived shared ancestry or ethnic characteristics) and provides examples of harassment and other discrimination against Jewish students that schools may be obligated to address. It also includes information about how to file a complaint with OCR for anyone with information about discrimination occurring in schools.

Joint Convening on School Discipline and Climate with Department of Justice's Civil Rights Division

On May 11, 2021, OCR and the U.S. Department of Justice's Civil Rights Division hosted a virtual convening, [Brown 67 Years Later: Examining Disparities in School Discipline and the Pursuit of Safe and Inclusive Schools](#), where students, educators, school administrators, civil rights lawyers, and researchers considered the impact of exclusionary school discipline policies and practices on our nation's students, particularly students of color, students with disabilities, and LGBTQI+ students. Panelists shared diverse strategies for addressing discriminatory student discipline practices and creating positive and inclusive school climates. More than 1,500 people registered for the event.

Following the convening, on June 8, 2021, OCR published a [Request for Information](#), seeking public comments on what guidance schools and school districts need to ensure all students attend welcoming, supportive, and safe schools. OCR received over 3,600 comments, which OCR uses to inform the development and issuance of policy guidance, technical assistance, or other resources to assist preschools and elementary and secondary schools with identifying, avoiding, and remedying the discriminatory use of student discipline and improving school climate and safety.

CONFRONTING HARASSMENT AGAINST ASIAN AMERICAN AND PACIFIC ISLANDER STUDENTS

On May 10, 2021, OCR and the U.S. Department of Justice's Civil Rights Division jointly issued a fact sheet on [Confronting COVID-19-Related Harassment in Schools](#) in response to an increase in discrimination, including harassment and violence, directed at Asian American and Pacific Islander (AAPI) people. The fact sheet provides examples of the kinds of incidents OCR and the Department of Justice can investigate and highlights specific actions that students and their families can take if schools fail to respond to reports of harassment based on race or national origin. Later that same month, OCR issued a [letter to educators](#) to draw attention to the issue of COVID-19-related harassment targeted at AAPI students and to schools' responsibilities to address all forms of harassment based on race, color, national origin, sex, and disability. The letter highlighted resources for schools, including OCR's earlier guidance on [Racial Incidents and Harassment Against Students at Educational Institutions](#).

SUPPORTING STUDENTS WITH LONG COVID

On the 31st Anniversary of the Americans with Disabilities Act on July 26, 2021, OCR joined with the White House, the Department of Health and Human Services, the Department of Labor, and the Department of Justice to release a package of guidance and resources [supporting individuals experiencing the long-term symptoms of COVID-19](#), known as "long COVID." OCR's guidance, issued together with the Department's Office of Special Education and Rehabilitative Services, provides information about schools' and public agencies' responsibilities for the provision of services and reasonable modifications to children and students for whom long COVID is a disability.



CONFRONTING DISCRIMINATION BASED ON NATIONAL ORIGIN AND IMMIGRATION STATUS

On August 19, 2021, OCR and the Department of Justice's Civil Rights Division jointly issued the fact sheet [Confronting Discrimination Based on National Origin and Immigration Status](#). As families have immigrated or have been displaced as a result of hardships associated with the pandemic and other challenges, this fact sheet provided a reminder to public elementary and secondary schools of their obligations to enroll all children, regardless of national origin or immigration status, and to provide language assistance services to English learners.

This fact sheet, originally produced in English and Spanish, has since been translated into eight additional languages:

[Chinese \(Simplified\)](#), [Chinese \(Traditional\)](#), [Arabic](#), [Vietnamese](#), [Somali](#), and [Haitian Creole](#), as well as [Dari](#) and [Pashto](#), the two languages spoken most widely in Afghanistan and among Afghans who arrived in the United States during the late summer and fall.

SUPPORTING LGBTQI+ STUDENTS

As described above, OCR and DOJ's Civil Rights Division also reached out to students, families, and schools to support the rights of LGBTQI+ students with a fact sheet on June 23, 2021, on [Confronting Anti-LGBTQI+ Harassment in Schools: A Resource for Students and Families](#). OCR's additional outreach included a [Dear Educator Letter on the 49th Anniversary of Title IX](#) to highlight the fact sheet, our earlier Notice of Interpretation on Title IX's application to discrimination based on sexual orientation and gender identity, and an updated OCR webpage featuring [resources for LGBTQI+ students](#) and schools. On August 17, 2021, OCR joined with the Departments of Justice and Health and Human Services to release a [Back-to-School Video Message for Transgender Students](#), reinforcing the Departments' shared support for transgender students and all students.

INTERAGENCY POLICY COMMITTEES AND WORKING GROUPS

OCR played, and continues to play, an active role in the White House Gender Policy Council and with interagency and Department-based working groups to implement President Biden's policy goals. OCR participated actively with the Gender Policy Council in the development of the National Strategy on Gender Equity and Equality (released in October 2021). During FY 2021, OCR was also an active participant in these interagency policy committees and working groups:

- Interagency Policy Committee on Gender Markers
- Interagency Policy Council on Online Harassment and Abuse
- Interagency Working Group on Disability
- Interagency Working Group on Safety, Economic Opportunity, and Inclusion for Transgender and Gender Diverse Individuals

TECHNICAL ASSISTANCE

Every year, OCR provides technical assistance to schools and communities around the country on both longstanding and emerging civil rights issues. Although the pandemic reduced opportunities to provide technical assistance through in-person workshops and convenings, OCR's regional offices provided 164 technical assistance sessions to schools, communities, and organizations on various aspects of the civil rights laws enforced by OCR.



The CIVIL RIGHTS DATA COLLECTION

Congress first charged OCR's predecessor to administer the Civil Rights Data Collection (CRDC), formerly the Elementary and Secondary School Survey, in 1968 and ever since that time, the CRDC has been an important aspect of OCR's (and OCR's predecessor's) overall strategy for enforcing the Federal civil rights laws. The CRDC is a mandatory survey of the nation's public schools that gathers and publishes information about student enrollment, access to rigorous courses, educational programs, teachers and other school staff and school climate factors, such as student discipline and harassment and bullying, from public schools (early childhood through 12th grade) in all 50 states, D.C., and Puerto Rico. Much of the data collected is disaggregated by race/ethnicity, sex, English learners, and disability, which enables OCR to identify potential educational inequities and to address them through technical assistance to schools or school districts or enforcement activities, such as the investigation of discrimination complaints. The CRDC is a valuable resource for other Department of Education offices and Federal agencies, policymakers and researchers, educators and school officials, parents and students, and the public who seek data on student opportunity and equity. For more information, please go to the OCR's [CRDC website](#).

TECHNICAL ASSISTANCE THROUGH THE CRDC PARTNER SUPPORT CENTER

OCR provides technical assistance for CRDC submitters through our Partner Support Center (PSC). The PSC hosts a CRDC resource website that offers local educational agencies (LEAs) and State educational agencies (SEAs) resources for the CRDC, such as data submission planning and preparation

2020-21 Collection and Proposed 2021-22 Collection

In August 2021, OCR announced our plan to administer a 2021–22 CRDC, marking the first time that OCR will conduct a universal CRDC two years in a row, for both the 2020–21 and 2021–22 school years. These collections will enable OCR to collect and analyze data related to the effects of the pandemic on educational equity and identify areas of continuing need for students. The plan to administer the CRDC in this way followed OCR's earlier decision to postpone the 2019–20 CRDC in response to the COVID-19 pandemic. For more information about the proposed 2021–22 CRDC, please see OCR's 2021–22 CRDC Information Collection Request, available on the Federal Register [website](#).

guides to assist in collecting and submitting data, data tips, and CRDC data submission tool training documents.

For the 2020–21 CRDC, OCR created short technical assistance videos to assist LEAs with submitting data, understanding definitions, and reporting requirements, navigating the CRDC data submission system, and checking data quality prior to data submission. The videos supplemented OCR's written CRDC technical assistance documents. Since fall 2020, the technical assistance videos have been viewed almost 9,000 times.

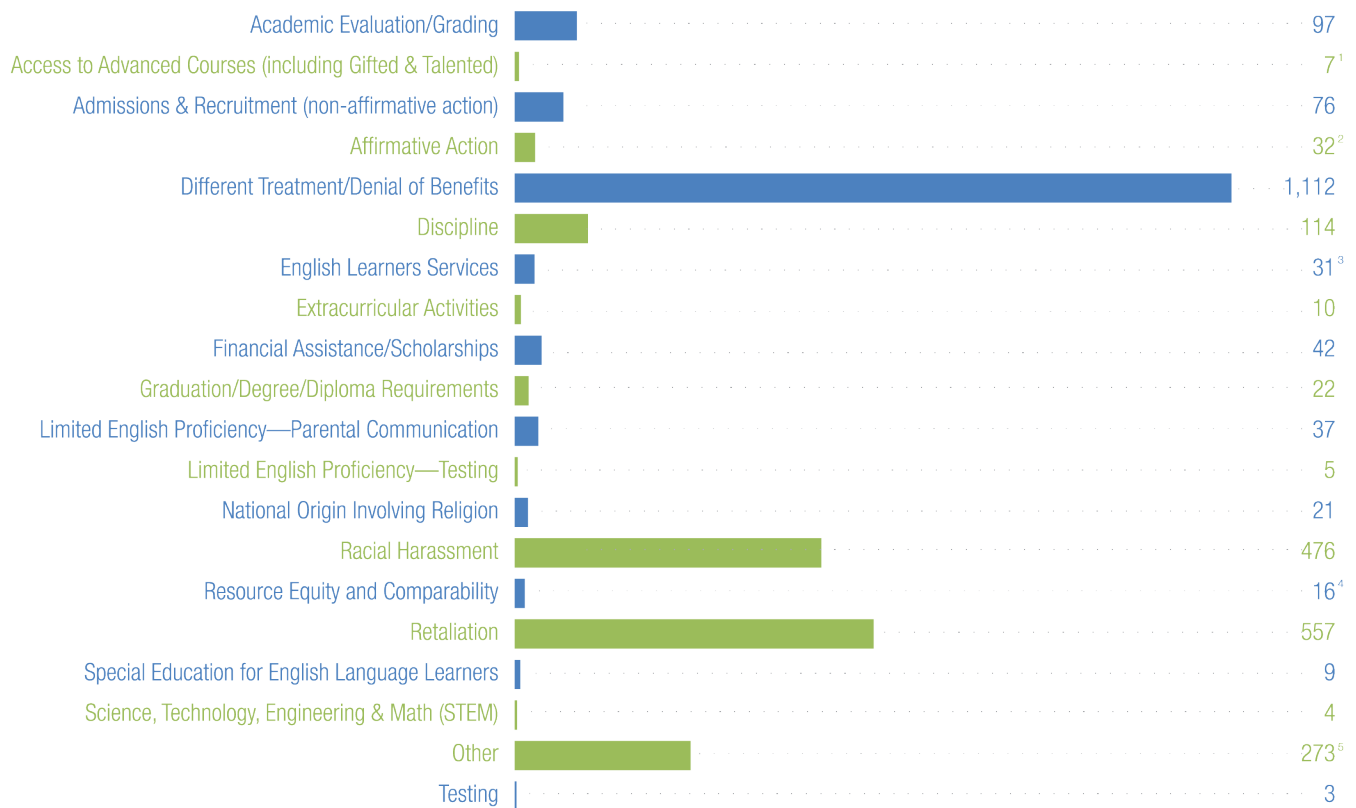
During FY 2021, the PSC hosted monthly SEA engagement calls during which it provided trainings on specific topics, including how to accurately report data, data quality issues, and the collection process. OCR also encouraged SEAs to assist LEAs with submitting data to the CRDC. For the 2020–21 CRDC, OCR expects 16 SEAs to submit some or all data on behalf of their LEAs and six will actively provide LEA support.

TITLE VI: *Discrimination Based on Race, Color, or National Origin*

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities operated by recipients of Federal funds. It states: “No person in the United States shall, on the ground

of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Title VI’s protections apply to all public elementary and secondary schools and to all colleges and universities—public or private—that receive Federal financial assistance. Its protections extend to all aspects of these institutions’ programs and activities. When enforcing Title VI, OCR works to ensure equal access to education services and benefits and to prevent acts of retaliation against those who report Title VI violations.

Figure 4: Title VI Complaint Allegations Received in FY 2021*



Total Number of Complaints Raising Title VI Issues, FY 2021 = 2,944

Note: * Multiple issues/allegations are frequently raised in a single complaint. Consequently, the total number of issues raised exceeds the CMS number of complaints received.

- 1. Includes all complaints with issues under §§ 100.3-13 (GATE) or 100.3-23 (AP-type courses)
- 2. Includes all complaints with issues under § 100.3-18, e.g., admissions, employment and scholarships.

- 3. Includes only 100.3-3, e.g., no special ed or LEP issues.
- 4. Includes all complaints with issues under §§ 100.3-16, e.g., facilities and teachers.
- 5. Includes 170 “Employment (not affirmative action)” issues, 59 issues coded “100.999 Service Issue Not Related to Education” and other issues such as “Assignment of Students” and MinSped that were raised infrequently.

POLICY GUIDANCE AND RESOURCES

During FY 2021, OCR issued the following policy guidance and other informational materials to support full implementation of Title VI:

- [Confronting Discrimination Against Jewish Students](#), providing examples of discrimination based on national origin, which may include discrimination based on language and actual or perceived shared ancestry or ethnic characteristics (January 19, 2021).
- [Confronting COVID-19-Related Harassment in Schools](#), including harassment targeting Asian American and Pacific Islander (AAPI) individuals, issued jointly with the Department of Justice's Civil Rights Division (May 10, 2021).

In addition, as discussed above, OCR issued a fact sheet on [Confronting Discrimination Based on National Origin and Immigration Status](#), together with the Department of Justice's Civil Rights Division, and a Request for Information Regarding the Nondiscriminatory Administration of School Discipline, which included background information about disparities in school discipline (June 4, 2021). OCR received over 3,600 comments from members of the public via [regulations.gov](#) and by mail in response to that request.

ENFORCEMENT

In FY 2021, OCR received 2,399 Title VI-related complaints and launched four proactive investigations that, collectively, address a broad range of Title VI-related issues in institutions across the nation (*see Figure 4*). These issues range from allegations of discriminatory harassment to allegations of discrimination against English Learner students and their families. Over the course of the fiscal year, OCR resolved 2,181 Title VI-related complaints. The following cases illustrate OCR's investigative work over the fiscal year to enforce

Title VI. These cases represent a small portion of OCR's total number of resolutions in FY 2021.

Combating Harassment Based on Race, Color, or National Origin, including Shared Ancestry

John Doe School District³: In a March 2021 resolution of a racial harassment investigation, OCR found that the school district failed to take reasonable, timely, and effective action to address racial harassment and retaliation. OCR's investigation reflected that a Black student alerted school staff about verbal and physical harassment based on race by another student, including calling him racially derogatory names. The school did not investigate these incidents, and the student posted a video on social media about the harassment. This video was widely viewed among the school community, and the other student then retaliated by physically attacking the Black student at school. The principal responded to the attack by requiring both students to complete an assignment in lieu of a suspension – but the principal took no further action, including when the students did not complete the assignment. The resolution agreement committed the district to pay for counseling or educational tutoring services for the affected student; issue a written anti-harassment statement to all district staff, students, and parents; develop written guidance and provide training on discriminatory harassment for district employees; conduct a school climate assessment focused on race-based harassment and develop an action plan based on the findings; and provide OCR with copies of any complaints of discrimination based on race, color, or national origin and the district's responses to those complaints for the remainder of the 2020-2021 school year as well as the 2021-2022 school year.

Prospect Heights School District (IL): In November 2020, OCR resolved an allegation that district students and staff subjected a Black student to racial harassment and that the district was aware of

grievance procedures; (3) provide training about racial harassment to students at two schools; and (4) provide specific remedies to the student to address the effects of the racial harassment.



the harassment but failed to respond in a prompt and equitable manner. Evidence indicated that an extended day program staff member was dismissive of the student's report that he was called a racial slur and did not refer that report for investigation. OCR also had concerns that the district did not respond appropriately to reports that older students applied makeup to the student's face without his permission, that they called him racially derogatory names, and that the district did not take action reasonably designed to prevent further harassment and remedy the effects of the prior harassment on the student. The resolution agreement committed the district to: (1) issue a statement that it does not tolerate racial or other harassment and encouraging individuals who believe that they have been subjected to harassment to report the harassment to the district; (2) provide training to all appropriate district and school staff on how to recognize and report racial harassment, and on the district's

Nauset Public Schools (MA): In March 2021, OCR resolved a complaint alleging anti-Semitic harassment of a student by classmates and a teacher. The investigation uncovered evidence of significant harassing conduct targeting the student based on shared ancestry, including derogatory terms and commentary related to being Jewish as well as Holocaust-related images and symbols placed in the student's personal items. During OCR's investigation, the district produced no contemporaneous reports of its response to the incidents, including no reports that it notified the student or the student's parents, even though the district's protocol stated that it would keep a record of investigations and provide written notice when investigations are completed. In addition, while the district did conduct classroom conversations regarding inclusion, none of them specifically addressed anti-Semitism. In the resolution agreement, the district committed to issue and disseminate an anti-harassment statement, revise its harassment policy and procedure, ensure that it creates and maintains contemporaneous records, train its staff on discrimination and harassment based on actual or perceived shared ancestry or ethnic characteristics, assess the need for additional measures to eliminate or prevent a hostile environment in the district's programs and activities, and invite the student's parents to meet with the superintendent to discuss concerns about the incidents of anti-Semitism that have occurred and ways the district could support the student.

Also...

See **Adrian College (MI)**, p. 37 (addressing race discrimination and retaliation allegations brought by a Black student who was removed from an intercollegiate athletics team with a resolution that included staff training on Title VI protections against discrimination based on race, color, and national origin).

are qualified to implement the plan, and provide necessary compensatory services.

Pickerington Local School District (OH): A July 2021 resolution addressed concern that since 2015 the district had not evaluated any EL students under Section 504 at the school regarding district provision to LEP parents of adequate notice of and meaningful access to information about school district programs, services, and activities; that the district lacked a centralized source to provide district staff with information regarding LEP parents' language assistance needs at the building- and district-level; and that the district did not have a process to identify what documents need to be professionally translated.

guardians and to ensure LEP parents and guardians have meaningful access to the district's programs and activities; (3) adopt and implement the approved language assistance plan; (4) develop a written plan for the annual evaluation of the effectiveness of its new language assistance plan; and (5) adopt and implement the approved plan.



The district agreed to: (1) provide training to relevant staff on the district's obligations to students with disabilities under Section 504 and Title II, including Section 504's requirements for timely identification, evaluation, and placement of students suspected of having a disability, and the district's responsibility to provide procedural safeguards; (2) develop and submit to OCR for review and approval a written plan to provide language assistance to LEP parents/

TITLE IX: Discrimination Based on Sex

Title IX of the Education Amendments of 1972 (Title IX) states: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Title IX applies to recipients of Federal financial assistance,

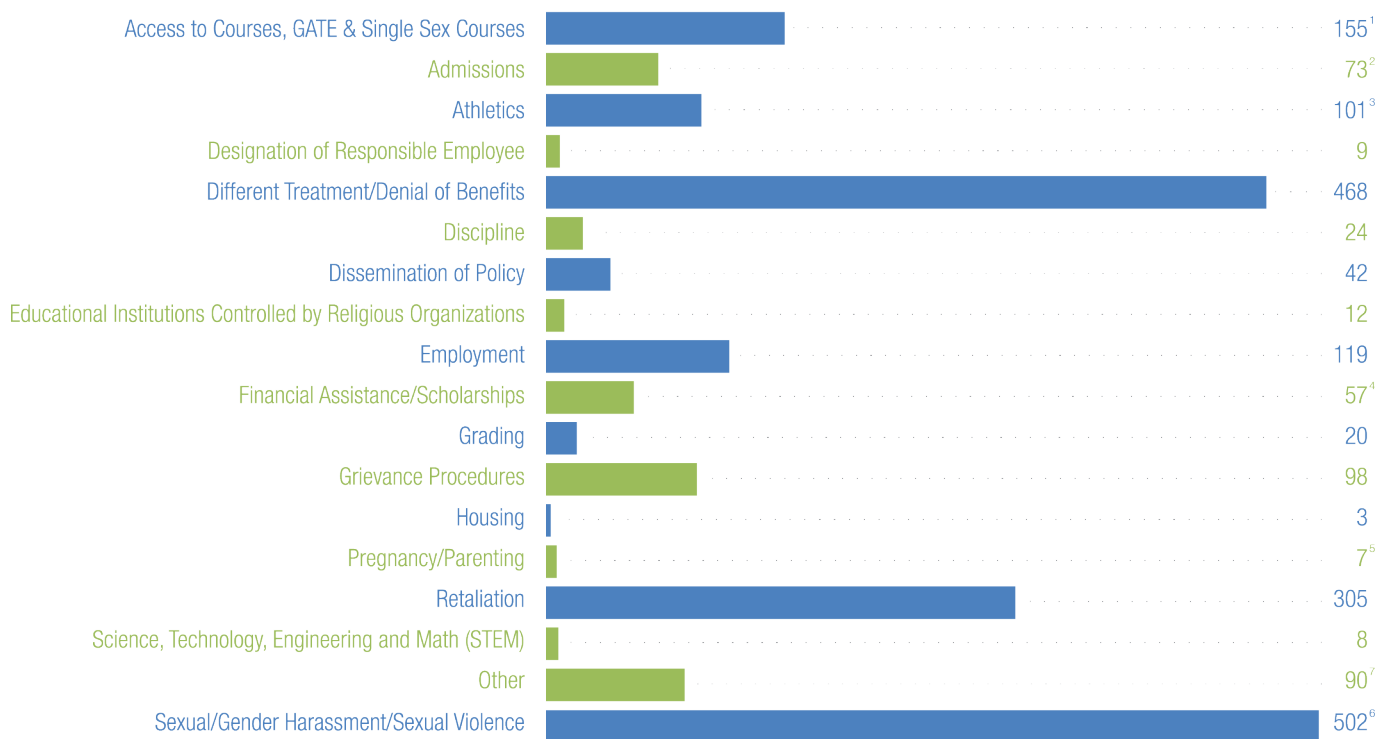
including colleges, universities, and public-school districts. OCR enforces Title IX to ensure equal access to educational opportunities.

POLICY GUIDANCE AND RESOURCES

During FY 2021, OCR issued policy guidance, letters, and other materials to support full implementation of Title IX, including:

- [Questions and Answers on the Title IX Regulations on Sexual Harassment, with a related appendix](#),⁴ explaining how OCR interprets schools’ obligations under the 2020 amendments to the Title IX regulation. The 2020 amendments remain in

Figure 5: Title IX Complaint Allegations Received by OCR in FY 2021*



Total Number of Complaints Raising Title IX Issues, FY 2021 = 2,093

Note: * Multiple issues/allegations are frequently raised in a single complaint. Consequently, the total number of issues raised exceeds the CMS number of complaints received.

1. Includes all complaints with issues under §§ 106.31-2 (GATE) and 106.34 (access to courses/programs).
2. Includes all issues under § 106.21 (admissions), e.g., marital/parental status and pregnancy.
3. Includes all issues under § 106.41 (athletics), e.g., interests and abilities, coaching, and housing and dining, but not athletic financial assistance (§ 106.37 (c)).
4. Includes all issues under § 106.37 (financial assistance) and 106.37-1 (single sex scholarships)
5. Includes all issues under §§ 106.40(b) (general), but not § 106.21(c) (admissions), the latter of which is included in the “Admissions” issue category.
6. Includes all issues under § 106.31-4 (sexual harassment) and 106.31-5 (gender harassment).
7. Includes 33 issues coded “106.999 Service Issue Not Related to Education” and other issues such as “Recruitment” and “Counseling and Tutoring” which appear to be of little public interest and are raised infrequently.

effect during OCR's comprehensive review of Title IX, and the Q&A aims to assist schools, students, and others to understand how to comply with them, including by highlighting areas in which schools may have discretion in their procedures for responding to reports of sexual harassment. The Q&A also includes an appendix that responds to schools' requests for examples of Title IX procedures that may be adaptable to their own circumstances and helpful in implementing the 2020 amendments (July 20, 2021).

- [A Letter to Students, Educators, and Other Stakeholders explaining the impact of a court decision vacating part of the current Title IX regulations](#) in 34 C.F.R. § 106.45(b)(6)(i) that prohibits decision-makers in Title IX proceedings at postsecondary institutions from considering any statement from a person who did not submit to cross-examination at a live hearing (August 24, 2021).
- [Notice of Interpretation](#) confirming that Title IX Prohibits Discrimination Based on Sexual Orientation and Gender Identity (June 16, 2021).

For more OCR resources and action on Title IX during FY 2021, see the Feature on Title IX above.

ENFORCEMENT

In FY 2021, OCR received 1,705 Title IX complaints that, collectively, address a broad range of Title IX issues across the nation, including sexual violence at the elementary, secondary, and postsecondary levels; equal access to athletic opportunities; and harassment (*see Figure 5*). Over the course of FY 2021, OCR resolved 1,458 Title IX complaints. The following cases represent a small portion of OCR's total number of resolutions in FY 2021.

Eradicating Sexual Harassment and Sexual Violence

John Doe School District⁵: In September 2021, OCR determined that the Corporation failed to comply with Title IX in its responses to sexual harassment complaints. In particular, the Corporation did not, when it became aware of possible sexual harassment (including sexual conduct between an adult employee and a minor student), promptly investigate to determine what occurred between a female high school student and a male coach and then take appropriate steps to resolve the situation, leaving the coach to continue to sexually harass the student. OCR determined the Corporation also failed to take steps to prevent further harassment in other cases as well. In addition, OCR had concerns that the Corporation did not have a system that adequately and accurately preserves records required by Title IX.

In a resolution agreement, the Corporation committed to develop and implement a record-keeping system and procedures to respond to reports of possible sexual harassment including by providing notice of outcome and supportive services to the parties. The Corporation also committed to notify parents of current and former students who previously reported to Corporation personnel that they were subjected to sexual harassment about the steps the Corporation will take to remedy its Title IX violations, invite them to share their concerns about the Corporation's response to alleged harassment, and invite parents of certain current students to indicate whether they believe the students need any remedial services to restore their access to the Corporation's education programs or activities. The agreement also requires training for students, school employees, administrators, and the Board and requires an assessment of the effectiveness of that training.

Lancaster County School District (SC): In October 2020, OCR identified concerns that the district did not consider the impact of sexual harassment on a student and may not have adequately assessed the student's need for – and did not offer – interim or supportive services such as counseling. OCR was also concerned about whether the district provided the complainant with adequate notice of the outcome of the investigation.



To resolve the investigation, the district agreed to make several changes, including to (1) consult with the student and the student's parent to consider whether the student required any supportive measures such as counseling or academic support; (2) provide the parent with proper notice of the outcome of its investigation; (3) prepare and disseminate a memorandum to all school administrators regarding the district's and school's obligations to provide a prompt and equitable resolution of complaints of student sexual harassment, including the duty to consider whether supportive measures are required for the students involved and to provide written notice of the outcome of the investigation to the parties involved.

Fairfax County Public Schools (VA): In December 2020, OCR identified concerns that a school did not properly respond to an initial complaint of sexual harassment and that the district likewise did not promptly and equitably respond to two follow-up complaints because it took about three and seven months, respectively, for the district to complete its investigations. Finally, OCR identified concern that the district did not appropriately analyze Title IX obligations, twice failing to consider school responsibility to remedy effects of sexual harassment.

The district agreed at resolution to provide Title IX training to all appropriate district and school personnel; distribute contact information for the Title IX Coordinator and information about its grievance procedures; provide a prompt response at all stages of the grievance process; provide appropriate remedies, including interim remedies and supportive measures such as counseling and academic assistance; and provide prompt written notice of the outcome of the investigation to the parties.

Equal Access to Athletic Opportunities and Benefits

Seaside School District (OR): In July 2021, OCR resolved a complaint alleging that a school district discriminated against female students on the basis of sex in the provision of locker rooms, practice, and competitive facilities in the district's athletics program. During the investigation, OCR identified many compliance concerns with the quality and availability of the facilities used by one school's baseball and softball programs. Specifically, the softball field contained infield markings for soccer and football in addition to those for softball while the baseball field contained no infield markings other than for baseball. There also were reported

safety hazards on the softball field (a hole near the pitching mound and a hole on the third base line) but not on the baseball field. In addition, the softball field had only limited spectator seating and a partially obstructed view from the bleachers while there were no reports indicating an obstructed view from the baseball bleachers. The softball team also had to set up and take down a temporary outfield fence that would fall repeatedly during practice and competitions, while the baseball field had a permanent fence. Similarly, the softball team installed temporary foul poles themselves throughout the season, as compared to the permanent foul poles on the baseball field. Further, the baseball field was much closer to the restrooms than the softball field. Finally, witnesses reported that stray baseballs would enter the softball field during softball practices and games because the district permitted the baseball team to practice during softball games, while prohibiting the softball team from practicing during baseball games.

The district entered into a resolution agreement to develop a detailed plan of actions it will take to ensure equity between baseball and softball practice and competitive facilities. The plan also provides for interim actions the district will take at the current softball facility to improve equity while permanent changes are being made.

Falmouth Public Schools (MA): In October 2020, OCR resolved allegations that the district discriminated against female athletes by denying them equal opportunity in its athletic programs in a variety of ways, including participation opportunities, the scheduling of games and practices, coaching, athletic facilities; and the use of booster club funds. Based on evidence obtained in its investigation, OCR had concerns in each of these areas. For example, although the district provided far fewer athletic opportunities to female students, it repeatedly denied requests to create a junior varsity (JV) girls' ice hockey team. Evidence suggested, however, that

dozens of female students may be interested in a JV girls' team, including many members of the varsity team who received little to no playing time, and that there were at least eight other JV girls' ice hockey teams in the area that would be available for local competition.

Prior to the completion of the investigation, the district resolved the complaint by committing to provide athletic participation opportunities that were either substantially proportionate to male and female students' enrollment in the district's high school or to demonstrate that it was fully and effectively accommodating the interests and abilities of female athletes. The district also committed to conduct an objective assessment to determine the existence and scope of any unmet athletic interests of female students in grades 8-12 and then add athletic opportunities as necessary, and to ensure that male and female teams receive equivalent benefits from booster club funding.



Cleveland County Schools (NC): In July 2021, OCR resolved a complaint alleging that the district discriminated against female student athletes on the high school softball team with respect to practice and competitive facilities and equipment and supplies. During the investigation, OCR identified several concerns about inequities in the treatment of the high school softball players as compared to the high school baseball players. In particular, OCR learned that the high school baseball field underwent a \$2.8 million upgrade in 2013, with additional improvements to the stadium in more recent years, while the high school softball team used a softball field that was constructed in 2014 and was located behind a middle school over a mile away from the high school. Witnesses informed OCR that the route to the softball field was dangerous and that there was no transportation for the softball players walking to the softball field with their equipment. In addition, the baseball dugouts had hooks and cubbies for helmets and other items, which the softball dugouts did not have. Also, the baseball foul poles were marked with distances but there were not similar distance markers on the softball field foul poles. Regarding equipment, witnesses reported that baseball players typically received two hats each season, whereas the softball players had to purchase their own for the 2018 season, and the former softball coach provided them with hats in prior seasons.

The district entered into a resolution agreement with OCR in which it agreed to provide transportation for high school softball athletes and coaches to and from the softball field for practices and competitions and to ensure that the softball field dugouts have hooks and helmet cubbies comparable to those in the baseball field dugouts and that the softball field has distance markers and batting cages comparable to those at the baseball field. The district also committed to prepare and maintain the softball field surface in a manner that is appropriate for

practice and competition, including its turf, drainage, grading, and more, and to have a policy in place for equal athletic program benefits and services to members of male and female teams consistent with Title IX. In addition, the district agreed to assess the equipment and supplies it provides to each team at the high school to ensure that all athletic equipment, uniforms, and other athletic supplies at the high school (e.g., practice balls, hats, and jerseys) are either provided to both male and female teams equally or shared equitably by both male and female teams.

SECTION 504 *and* ADA TITLE II: DISCRIMINATION *Based on* DISABILITY

OCR protects the rights of persons with disabilities under two Federal laws in the education context. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability in any program or activity operated by recipients of Federal funds. It states: "No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...." Title II of the Americans with Disabilities Act of 1990 (ADA) prohibits discrimination based on disability by public entities, regardless of whether they receive Federal financial assistance. It states: "[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." OCR shares with the Department of Justice responsibility for compliance with Title II with regard to educational institutions. 28 CFR § 35.190(b)(2).

POLICY GUIDANCE AND RESOURCES

During FY 2021, OCR, in partnership with the Department's Office of Special Education and Rehabilitative Services, issued a resource document entitled [Long COVID under Section 504 and the IDEA: A Resource to Support Children, Students, Educators, Schools, Service Providers, and Families](#), providing information about the obligations of schools, public agencies, and postsecondary

institutions to students and children with long COVID.

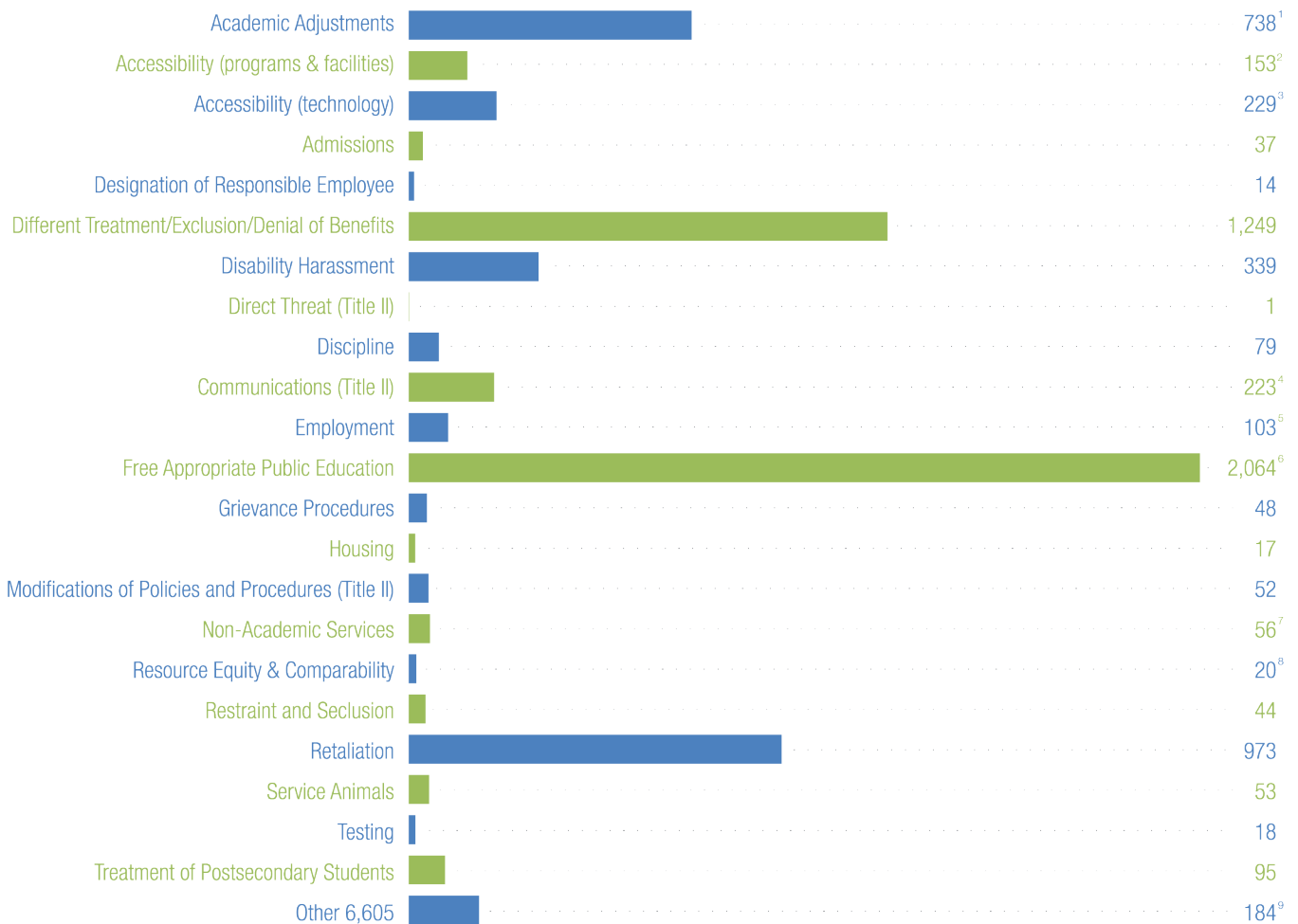
ENFORCEMENT

In FY 2021, OCR received 4,870 complaints alleging violations of disability laws and covering a broad range of issues (*see Figure 6*). In addition, OCR initiated eleven directed investigations based on concerns about potential violations of disability laws. Over the course of FY 2021, OCR successfully resolved 4,417 Section 504/Title II-related complaints. The following cases illustrate the diversity of issues, complainants, institutions, geographical regions, and remedies in OCR's enforcement work.

Ensuring Equal Access to Comparable Educational Opportunities: Recruitment, Admissions, and Enrollment

Sumter County School District (FL): In March 2021, OCR resolved a complaint alleging that the district discriminated against a student on the basis of disability when she was denied admission by a district charter school because the school concluded it could not implement her Individualized Education Plan (IEP). In addition, the school application asked "Does this child/children have any special needs or learning disabilities?", which is inconsistent with the Section 504 regulatory prohibition on such inquiries. OCR was also concerned that a school administrator stated in an interview with OCR that students with disabilities whose IEP required more than 20% time away from the general educational environment would not be admitted. The resolution agreement committed the district to invite the complainant to reapply to the school, remove the question regarding a prospective student's disabilities from the application form, and provide

Figure 6: Section 504/Title II Complaint Allegations Received in FY 2021*



Total Number of Complaints Raising Section 504/Title II Issues, FY 2021 = 6,789

Note: * Multiple issues/allegations are frequently raised in a single complaint. Consequently, the total number of issues raised exceeds the CMS number of complaints received.

- 1. Includes all issues under §§ 104.44(a) (academic requirements), 104.44(c) (course exams), and 104.44(d), as well as §§ 35.130(b)(7) (modification of policies) and 35.160(b) (auxiliary aids).
- 2. Includes all issues under § 104.21 (accessibility), § 104.22 (existing facilities/program accessibility), and § 104.23 (physical accessibility/new construction), except § 104.22-1 (accessible technology).

3. Includes § 104.22-1 (accessible technology).

4. Includes § 35.160(a).

5. Does not include § 104.12 (reasonable accommodation), § 104.13 (employment criteria), or § 104.14 (pre employment inquiries).

6. Includes all issues under §§ 104.33-104.36 (except restraint and seclusion), i.e., includes FAPE (§ 104.33), Education Setting (§ 104.34), Evaluation and Placement (§ 104.35), and Procedural Safeguards (§ 104.36).

training to relevant school staff, including teachers, administrators, and admissions office personnel, on the school's obligations not to discriminate on the basis of disability and to provide a free appropriate public education (FAPE) to all students with disabilities.



New York University (NY): In September 2021, OCR resolved a complaint alleging that the university discriminated on the basis of disability by imposing a housing surcharge on single dormitory rooms and dormitory rooms with amenities that the university provided as accommodations for a student's disability. OCR found that during at least two academic years, the university charged students the published room rate even when a certain room type or housing amenity was provided as an approved accommodation for a disability.

The university agreed to adopt and publish policies and procedures for the provision of housing accommodations to ensure that its staff do not charge students with disabilities approved for housing accommodations a higher residence hall room rate because of the need for the accommodation. The university also

agreed to provide training to any university officials and administrators who are involved in evaluating requests for, making decisions about, and determining charges for approved housing accommodations. Further, the university agreed to assess the rates it charged to students with disabilities who received housing accommodations and submit to OCR any proposed recommendations for reimbursements to students who were charged the full rate for the rooms in which they were placed as an accommodation for their disability.

Also...

See **Western Reserve Local School District (OH)**, p. 38 (ensuring that students with disabilities have an equal opportunity to participate in the district's open enrollment program, and requiring the district to conduct an individualized assessment of the disability-related aids and services necessary to provide each student with a disability a FAPE).

Ensuring Accessibility of Programs, Services, and Facilities

Arizona State University (AZ): In October 2020, OCR resolved a complaint alleging that the university discriminated against individuals with disabilities by not having a plan to evacuate individuals with disabilities in the event of an emergency at its large football stadium with a seating capacity of more than 50,000 people. During the investigation, OCR identified concerns with the effectiveness of the evacuation plan notice for visitors with a variety of disabilities including visual, hearing, mobility, and respiratory disabilities, along with a signage concern about the location of an elevator purportedly

designated for use during emergency evacuations. Following discussion of these concerns with the university, the university entered into an agreement with OCR to develop and implement emergency procedures for the stadium that will address the evacuation needs of students, staff, and visitors with a variety of disabilities in the event of an emergency, including information about how visitors can request assistance during an emergency. The university also agreed to provide training on the approved emergency procedures to all stadium staff.

Springfield R-XII School District (MO): In May 2021, OCR resolved an investigation that reflected a school principal asking the complainant, who had entered a stadium to watch a high school football game, to reveal his disability and provide documentation that his service dog was a qualified service animal. The dog was wearing a service animal vest at the time and was trained to perform tasks related to the complainant's disability.

The district entered into a resolution agreement that, in part, requires the district to provide training to all district employees responsible for providing security at district events, including administrators and school resource officers, on the policies, procedures, laws and regulations applicable to individuals with service animals.

West Windsor-Plainsboro Regional School District (NJ): In October 2020, OCR found that on multiple occasions the district failed to implement provisions in a Section 504 Plan for a student with diabetes and, as a result, the student was unable to participate fully in district programs and activities. In response, the district agreed to provide training to all district administrators and Section 504 team members regarding their obligations under Section 504 and Title II related to the development and implementation of Section 504 plans.

Ensuring Appropriate Educational Supports for Students with Disabilities

American Health University of Health Sciences (CA): In October 2020, OCR resolved an allegation that the university discriminated against a student based on disability by failing to provide her with approved testing accommodations. During the course of the investigation, OCR identified compliance concerns that a university professor failed to provide the student with her testing accommodations. Though the student provided notice to university administrators that the professor was not implementing her approved accommodations on at least two occasions, the university failed to ensure that she was able to receive her accommodations in a reasonably prompt manner. OCR also identified concerns related to test administration when the university went to virtual learning due to the pandemic, including regarding the university's obligation to engage in an interactive process with the student regarding her request for accommodations related to the university's virtual proctoring program.

To address the concerns OCR identified, the university agreed to change how the course appeared on her transcript; allow her to retake the course at no cost; engage in an interactive process with her regarding her disability related needs; and provide her with a point of contact to help her address any disability-related concerns in the future. The university also agreed to provide guidance and training for its employees, including the professor at issue in this case, regarding the university's obligations under Section 504, and to develop a new or revised policy for responding to student complaints when a professor is not implementing accommodations.

Ivy Tech Community College (IN): In November 2020, OCR resolved a complaint alleging the college

subjected a hearing-impaired student to disability discrimination when it failed to provide the student with academic adjustments and auxiliary aids in various classes and review sessions. OCR identified compliance concerns regarding the college's provision of necessary academic adjustments and auxiliary aids for the student, including when the student went without a notetaker for 6 weeks of an 8-week course in one term and the first portion of the two courses in the following term and ultimately had to locate his own notetaker for one course.

The college agreed to allow the student the choice in the affected courses of recalculated grades or an opportunity to re-take the courses at no cost with the appropriate aids or adjustments. Further, the college agreed to evaluate its process for recruiting, hiring, and retaining notetakers for students with disabilities, as well as its process for providing auxiliary aids for deaf and hard-of-hearing students on short notice and to offer an effective alternative should necessary services become unavailable. Finally, the college agreed to train staff on its policies for providing approved adjustments and process for determining if a student was denied effective services.

Community High School of Vermont (VT): In September 2021, OCR resolved a compliance review examining whether the school, located within the Vermont Department of Corrections and enrolling incarcerated adults into a high school diploma curriculum, was providing qualified students with disabilities a FAPE. Early in OCR's compliance review, OCR learned that the school did not have written standards and procedures for the evaluation and placement of students with disabilities, including for exiting students from services. The school subsequently developed and revised its Section 504 policies and procedures, but OCR continued to identify concerns as to internal consistency, adherence to definitions of "disability" consistent



with Federal law, and procedural requirements regarding the identification, referral, and evaluation of students who need or are believed to need special education or related services. OCR's review also identified concerns about whether school personnel were using valid tests to assess students' disability-related needs, after OCR identified case files in which staff may have made these determinations based exclusively on academic performance such as written expression, math calculation, and writing/spelling, but did not address emotional or behavioral services.

The school, along with the Vermont Department of Corrections, entered into a resolution agreement in which the school agreed to revise in full its policies and procedures for the evaluation and placement of students with disabilities to comply with Section 504 and Title II starting from the point at which the Vermont Department of Corrections identifies a student as eligible for enrollment in the school; to provide training to relevant staff, including Vermont Department of Corrections case managers, based on the approved policies and procedures; and to reconsider eligibility for Section 504 services for

students who had been exited from services and to provide compensatory services where appropriate.

Cypress-Fairbanks Independent School District (TX): In April 2021, OCR resolved a complaint alleging that the district failed to timely evaluate a student for special education or related services. OCR's investigation found that the district did not complete a Section 504 evaluation for more than two years, and then only after a request from the complainant. However, the district was aware more than two years earlier that the student was taking medication used to treat a disability, the school began administering that daily medication for the student more than a year earlier, and the evidence indicated the district was aware that the student struggled both academically and behaviorally.

To resolve the complaint, the district agreed to policy revision as needed with respect to Section 504 and Title II evaluations, training provision to district staff located at the elementary school attended by the student, and evaluation to determine whether compensatory education services are necessary for the student as a result of the district's failure to timely conduct an evaluation under Section 504 and Title II.

Also...

See **Portland Public Schools (ME)**, p. 21 (resolving two complaints by English Learner students with the district's commitment to systemically revise its entire plan for providing appropriate services to its EL students, including appropriate evaluation and provision of services to EL students with disabilities).

Addressing Civil Rights Related to Restraint and Seclusion

Knox County Schools, Tennessee (TN): In June 2021, OCR resolved a compliance review of the district's use of restraint and seclusion. During the investigation, OCR obtained evidence indicating that IEP teams did not consistently make an individualized determination of the maximum allowable restraint and seclusion times for students and did not consistently include or involve persons knowledgeable about students' evaluation data when making or revising student plans. The teams also did not consistently consider updated and comprehensive data for students including, for example, data about the frequency of student behaviors that resulted in restraint or seclusion – nor did they consider whether additional supports or types of services would enable the district to better meet the needs of students or whether those students who were not classified as having disabilities may have had disabilities. OCR also obtained evidence that students were not receiving educational services during periods of restraint and seclusion.

The resolution agreement requires that the district: 1) conduct internal reviews to determine whether the district provided FAPE to students with disabilities who were subjected to restraint or seclusion during the 2017-2018 and 2018-2019 school years and if not, determine whether any additional services were needed to remedy a denial of FAPE; 2) evaluate students without disabilities who were restrained or secluded to determine whether they may be students with disabilities who require services under Section 504 and Title II; 3) revise its record-keeping policies and procedures concerning restraint and seclusion; and 4) provide additional staff training on the requirements of Section 504 and Title II, including the requirement

that students subjected to restraint and seclusion be provided with a FAPE.



The district entered a resolution agreement to, among other remedial steps, develop policies and procedures concerning the use of restraints and seclusion in its schools, periodically train administrators and teachers on these policies and procedures, establish an improved record-keeping system, and evaluate students identified in OCR's review for appropriate special education services, including compensatory educational services.

Parker Unified School District (AZ): Based on a comprehensive review of documentary and testimonial evidence, an August 2021 resolution identified violations of Section 504 and Title II and compliance concerns about the district's use of restraint and seclusion and related denials of FAPE to affected students with disabilities. Specifically, OCR found that the district failed to properly evaluate or reevaluate students who had individually been subjected to as many as sixty restraints in a year. OCR also identified concerns regarding missed instruction resulting in denials of FAPE where the district removed students from their regular classrooms and lacked evidence of their receiving special education and related services. During the review, OCR also identified a violation and compliance concern regarding the provision of FAPE at a district alternative school, where OCR discovered a district practice to ask parents of students wishing to enroll at the alternative school to waive their students' right to receive special education or related services.

National Digital Access Team

Safeguarding the Accessibility of Educational Technology

OCR's National Digital Access Team (NDAT) enforces Section 504 and Title II in a digital context, addressing digital access barriers often in real time and supporting schools to ensure that digital access is equally available for people with disabilities and for people without disabilities.

During FY 2021, OCR closed 190 directed investigations and 19 complaint investigations after NDAT worked with recipients to bring their online programs, services, and activities into compliance with the law. NDAT worked with 193 recipients to address digital accessibility barriers, resolving these investigations without the need for resolution agreements because NDAT's comprehensive, individualized technical assistance successfully removed barriers to access. NDAT also secured 16 resolution agreements from recipients needing more time to come into compliance.

NDAT members engaged in substantial outreach and technical assistance throughout FY 2021, including giving 56 formal presentations on digital accessibility that reached thousands of audience members. Recognizing that schools and districts rely on private companies to provide the technology necessary for many of their digital services, NDAT has also provided technical assistance that helped dozens of companies provide more accessible products to the recipient community, making it easier for recipients to come into compliance with the law.

The following cases illustrate some of the types of OCR's enforcement work that ensures equal access to digital materials for people with disabilities:



Arlington Public Schools (VA): In September 2021, OCR resolved a complaint about the accessibility of digital programs and services the district offered to students and families when schools were closed, beginning in March 2020, due to the COVID-19 pandemic. OCR's investigation examined whether blind parents were able to access their kindergarten son's remote learning management system (LMS) and PDF document work packets. OCR tested the accessibility of the LMS on a computer web browser and also tested various PDF document work packets. This testing identified various compliance concerns including, for example, some instances where users with disabilities who use computer keyboards for navigation due to a disability would not have access to all contents and functions in the LMS.

Other compliance concerns related to access to certain important graphics or images in the learning management system and PDF work packets that were missing meaningful alternative text, posing a barrier to people with vision disabilities who use screen readers. The district entered a resolution agreement in which it committed to work with OCR and the software vendor to ensure that the LMS software is successfully updated to make it accessible for individuals with disabilities. The district also agreed to provide interim measures in any classrooms that use the software while updates are being made to ensure individuals with disabilities have equally effective alternative access to all class content and functionality. In addition, the district agreed to provide training to appropriate staff members regarding the development and deployment of those interim measures and of accessible electronic documents.



University of North Texas – Denton (TX): In December 2020, OCR resolved allegations that the university discriminated against individuals with disabilities for its use of an LMS by the Spanish

Department that was not accessible to individuals who are blind and who use screen readers. OCR reviewed the report provided by the university of an internal study that highlighted known accessibility concerns including, for example, the lack of alternative text presentations for graphics in online assignments and the misidentification of language (Spanish) necessary to cue assistive technology so it could appropriately read document text out loud. The university agreed to ensure that the LMS and related digital course materials were made accessible to individuals with disabilities for all courses in the Spanish Department, provide notice of its plan to ensure digital accessibility to external vendors of the applicable software, and conduct mandatory training through the university's Center for Learning Experimentation, Application, and Research to Spanish Department faculty and staff.

Cabarrus County Schools (NC): A September 2021 resolution identified concerns, based on the evidence obtained during investigation, that technological barriers may have impeded the ability of some students with disabilities to access some of the district's course materials that were provided digitally, and that the alternative means utilized by the district to present that course content may not have provided equal access for some students with disabilities.

The resolution agreement requires the district to ensure that all applications or other digital means of delivering course material—or alternative means of presenting that material—comply with accessibility standards that OCR approves.

Eliminating Retaliation for Exercising Civil Rights

Pioneer Technology and Arts Academy (TX):

In May 2021, OCR resolved a complaint alleging that a student and parent were subjected to multiple incidents of retaliation because the parent filed a state disability complaint against the Academy and otherwise advocated for the student's disability-related needs. OCR had compliance concerns based on evidence indicating that the student's emails were deleted; the school prohibited the parent from communicating with certain personnel based on unsupported allegations that the parent harassed staff; a school official sat in on the student's classes and allegedly followed the student around the school; the same official prevented communications between school staff and the parent, stressing "loyalty" to the school in conversations with staff; the school contacted police when the parent appeared at school; and the school informed the parent that she could not go on campus to pick up school lunches or school supplies.

In the resolution agreement, the school agreed to lift the prohibitions on communications between the parent and school staff and to ensure the parent has the same opportunities to communicate with teachers and staff and visit the campus as all other parents and guardians of currently enrolled students; to review and ensure the integrity of the student's email account; to notify the parent of the school official's observations of the student's classes during the remainder of the 2020-21 academic year; to draft policies relating to the Academy's use of law enforcement on the campus; and to conduct training for all campus administrators and staff on the anti-retaliation provisions in Section 504 and Title II.

Adrian College (MI): In September 2021, OCR resolved two complaints alleging that the college released a Black student from an intercollegiate athletics team because of the student's race and

retaliated against the student by issuing the student a sanction letter that threatened to suspend or expel the student from the college after the student filed an OCR complaint. Prior to the student's release from the team, the student was a highly accomplished player with a leadership role on the team. The head coach could not indicate what behavior by the student or which team policy the student violated led to her dismissal. OCR's investigation revealed that the college did not follow its own progressive discipline policy before removing the student from the intercollegiate athletics team and that it was unable to identify any code of conduct violation that led to her removal. The information reviewed by OCR also raised concerns about whether the college's issuance of the sanction letter was retaliatory, as it was issued only a few weeks after the student notified the college of the student's first OCR complaint.

The resolution agreement required the college to provide staff training on Title VI's prohibition on discrimination, including Title VI's protection against different treatment based on race, color, or national origin and against retaliation for activity protected



under Title VI. The college also agreed to issue a letter to the student stating that the college did not follow its internal policies in dismissing the student from the team and notifying the student that the college is committed to maintaining a campus environment free from discrimination. In addition, the college committed to develop and implement a procedure to ensure that any decision to remove players from the team at issue is reviewed by a non-coach administrator to ensure that Federal civil rights laws have been followed. The college also agreed to develop and implement a procedure to ensure that any decisions to issue notices such as the notice issued to the student are reviewed by more than one administrator to ensure consistency with Federal civil rights laws.

Western Reserve Local School District (OH): In September 2021, OCR resolved a complaint alleging that in denying a prospective student's open-enrollment request, the district discriminated based on disability and retaliated because the student's parent advocated on behalf of the student's sibling, who also has disabilities and was already enrolled in the school. OCR found information supporting a connection between the student's denied request and the parent's advocacy for the student's sibling and concluded that the student was subjected to an adverse action because of the student's parent's disability-related advocacy. During the investigation, the district asserted that it had a legitimate non-discriminatory reason for denying the student's open enrollment request because the student required speech and language services as part of his IEP, which were not available at the district. However, OCR received information during the investigation that the services required by the student's IEP were in fact available in the district, giving rise to a concern about retaliation against the student in violation of Section 504 and Title II.

To resolve the investigation, the district agreed to invite the student's parent to submit a new open enrollment application for the student for the 2022-2023 school year and notify the parent that the district will not deny the application on the basis of the student's disability and will conduct an individualized assessment regarding the services needed to provide the student with a FAPE. The district also agreed to revise and submit to OCR for review and approval its open enrollment policy and regulations to ensure that students with disabilities have an equal opportunity to participate in the district's open enrollment program, and that the district will conduct an individualized assessment of the disability-related aids and services necessary to provide each student with a disability a FAPE. After OCR's approval, the district will adopt, implement, and disseminate the approved policy and regulations.

ENFORCEMENT ACTIVITY UNDER OTHER STATUTES

OCR also has jurisdiction over two additional civil rights laws: the Age Discrimination Act of 1975 and the Boy Scouts of America Equal Access Act (2001).



THE AGE DISCRIMINATION ACT OF 1975

The Age Discrimination Act of 1975 prohibits discrimination based on age in programs or activities that receive Federal financial assistance. This prohibition extends to all state education agencies, elementary and secondary school systems, colleges and universities, vocational schools, proprietary schools, state vocational rehabilitation agencies, libraries, and museums that receive Federal financial assistance from the U.S. Department of Education. Programs or activities that receive such funds must provide aids, benefits, or services in a nondiscriminatory manner. These include (but are not limited to) admissions, recruitment, financial aid,

academic programs, student treatment and services, counseling and guidance, discipline, classroom assignment, grading, vocational education, recreation, physical education, athletics, and housing. Though the Act does not limit protections against discrimination to a certain age group, it does allow for exceptions such as when colleges offer special programs that are geared toward providing special benefits to children and the elderly.

In FY 2021, OCR received 1,149 complaints under the Age Discrimination Act⁶ and resolved 1,006 complaints. Common remedies in OCR resolutions under this law include provisions that require training for staff, updating and disseminating nondiscrimination policies, and investigation by the institution into the specific incidents that resulted in the allegation of age discrimination.

THE BOY SCOUTS OF AMERICA EQUAL ACCESS ACT (2001)

OCR also enforces the Boy Scouts of America Equal Access Act. Under this Act, no public elementary school, public secondary school, or state or local education agency that provides an opportunity for one or more outside youth or community groups to meet at the school, before or after school hours, shall deny equal access or a fair opportunity to meet or otherwise discriminate against any group officially affiliated with the Boy Scouts of America or any other youth group listed in Title 36 of the United States Code as a patriotic society. In FY 2021, OCR received 5 complaints under the Boy Scouts Act and resolved 11 complaints.

LOOKING AHEAD

OCR's abiding goal is to ensure that all students – irrespective of their race, ethnicity, national origin, sex, or disability – are afforded equal access to education, from preschool through postsecondary education. The preceding pages illustrate OCR's activities in FY 2021 to fulfill this mission for students.

In the future, addressing the rising number of civil rights complaints will be challenging for OCR, which must continue to investigate and resolve cases with rigor and speed to protect students' civil rights and ensure they have equal access to education. With our dedicated and expert staff, and with sufficient resources, OCR can and will succeed in meeting this obligation.

We look forward to continuing to execute Congress' mandate of nondiscrimination for students nationwide.



ENDNOTES

- 1 _____ Executive Order on Supporting the Reopening and Continuing Operation of Schools and Early Childhood Education Providers. Exec. Order No. 14000, 86 Fed. Reg. 7,215 (Jan. 26, 2021).
- 2 _____ OCR anticipates receiving 28,457 complaints in fiscal year 2022, which is 70% higher than the 16,720 complaints received in FY 2016, the highest number of complaints received on record. Excluding the thousands of complaints filed by a small number of complainants, OCR projects a total of 10,843 complaints in fiscal year 2022, an increase of 22% over the number received in fiscal year 2021.
- 3 _____ OCR has not disclosed the actual name of the institution in this case because of privacy considerations.
- 4 _____ On January 15, 2021, OCR issued Part 1 and Part 2 of a Questions and Answers document regarding implementation of the Department's Title IX regulation. Questions and Answers on the Title IX Regulations on Sexual Harassment, included in the text above, provides updated information for schools, students, families and the public, and clarifies how OCR interprets schools' existing obligations under the 2020 amendments to the Department's Title IX regulations, including the areas in which schools have discretion in their procedures for responding to reports of sexual harassment.
- 5 _____ OCR has not disclosed the actual name of the institution in this case because of privacy considerations.
- 6 _____ 407 of these complaints were filed by one complainant.