



U.S. Department of Education
Office for Civil Rights

Fiscal Year 2022 | Annual Report



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

2023

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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U.S. Department of Education, Office for Civil Rights

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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



Fiscal Year 2022 saw an unprecedented surge of civil rights complaints to the Office for Civil Rights regarding student experiences in America's schools. I am proud of and grateful to OCR's staff for rising to that challenge, sharing their expertise and commitment and drive to deliver significant results for school communities, produce policy resources and guidance and technical assistance to help school communities fulfill federal civil rights guarantees, and support and inspire each other to maintain OCR's consistently high-quality work.

This report describes those successes, in addition to reflecting the variety and persistence of civil rights harms students continue to experience as part of their education, notwithstanding our national aspirations and guarantees to the contrary. Each complaint reflects hope that government will fulfill Congress' nondiscrimination promise, helping to make rights real in the nation's schools. We in OCR take seriously and work to honor that hope, reflecting back our best judgment about when laws we enforce are violated and what school communities need to remedy those harms. The work of civil rights includes ensuring that acts of injustice become opportunities for change, which is why we partner with schools to find solutions that work for all students.

With my thanks to OCR staff for what we achieved in FY 2022, and my own hope as a parent as well as the chief civil rights enforcer in the nation's schools for the transformation in opportunity that will follow from that work, this report offers a snapshot of the status of civil rights in education this fiscal year and of our work to support schools in fulfilling the obligations Congress has set for them for ensuring equal opportunity for all learners.

Sincerely,

Catherine E. Lhamon

Assistant Secretary for Civil Rights

EXECUTIVE SUMMARY *and* REPORT HIGHLIGHTS

In FY 2022, OCR confronted the highest volume of complaints in our history, receiving **18,804** complaints. While that number exceeded our previous record high in FY 2016 of 16,720 complaints by 12%, we worked to process those cases with approximately 18% fewer investigative staff than we had had at that time. Nonetheless, we kept pace with the high volume – resolving the second highest number of complaints in our history, at **16,515** cases – while simultaneously managing the increasing complexity of civil rights concerns in this caseload;

initiating an unprecedented and targeted 100 proactive compliance reviews; supporting school communities’ civil rights satisfaction through publication of seven sets of resources and guidance as well as the provision of 186 technical assistance presentations; developing revised regulations to propose across our jurisdictional areas; revising our case processing procedures; collecting a new national round of civil rights data with historic reporting success; recruiting, onboarding, and training 47 additional staff to manage our docket effectively; instituting core safeguards to ensure high quality of our work persists; and responding to 633 inquiries and 826 FOIA requests for information. These pages highlight and reflect the scope and impact of our work to safeguard civil rights in the nation’s schools during FY 2022 and lay a foundation for our efficient, effective, and robust assurance of civil rights still to come.



OFFICE FOR CIVIL RIGHTS: OVERVIEW *and* TRENDS

MISSION AND SCOPE

OCR’s mission is to ensure equal access to education and to promote educational excellence across the nation through the vigorous enforcement of civil rights laws. 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), the Age Discrimination Act of 1975, Title II of the Americans with Disabilities Act of 1990 (Title II), and the Boy Scouts of America Equal Access Act of 2001. In addition, OCR safeguards students’ rights by developing policy guidance to assist schools and other educational institutions receiving Federal financial assistance in understanding how OCR interprets and enforces Federal civil rights laws, disseminating information

and technical assistance about students’ rights and schools’ responsibilities, and collecting and reporting 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):

Figure 1: OCR Enforcement Jurisdiction Timeline

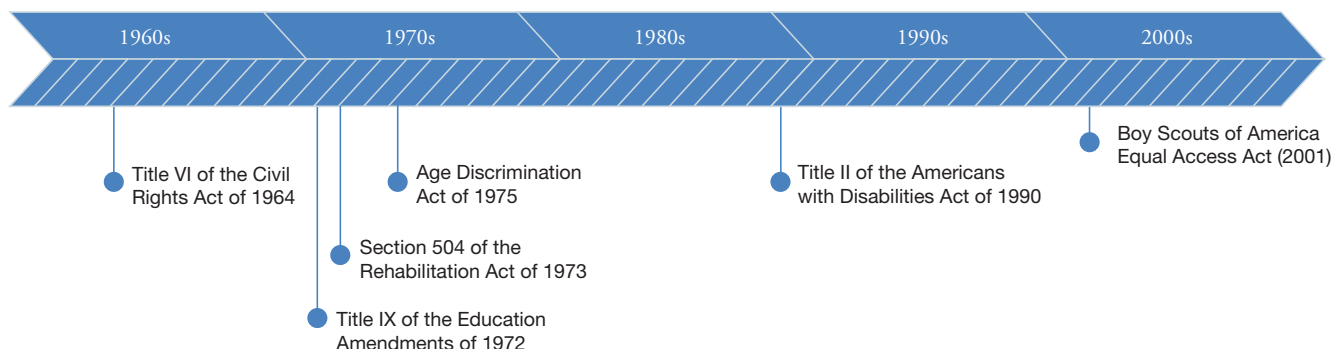
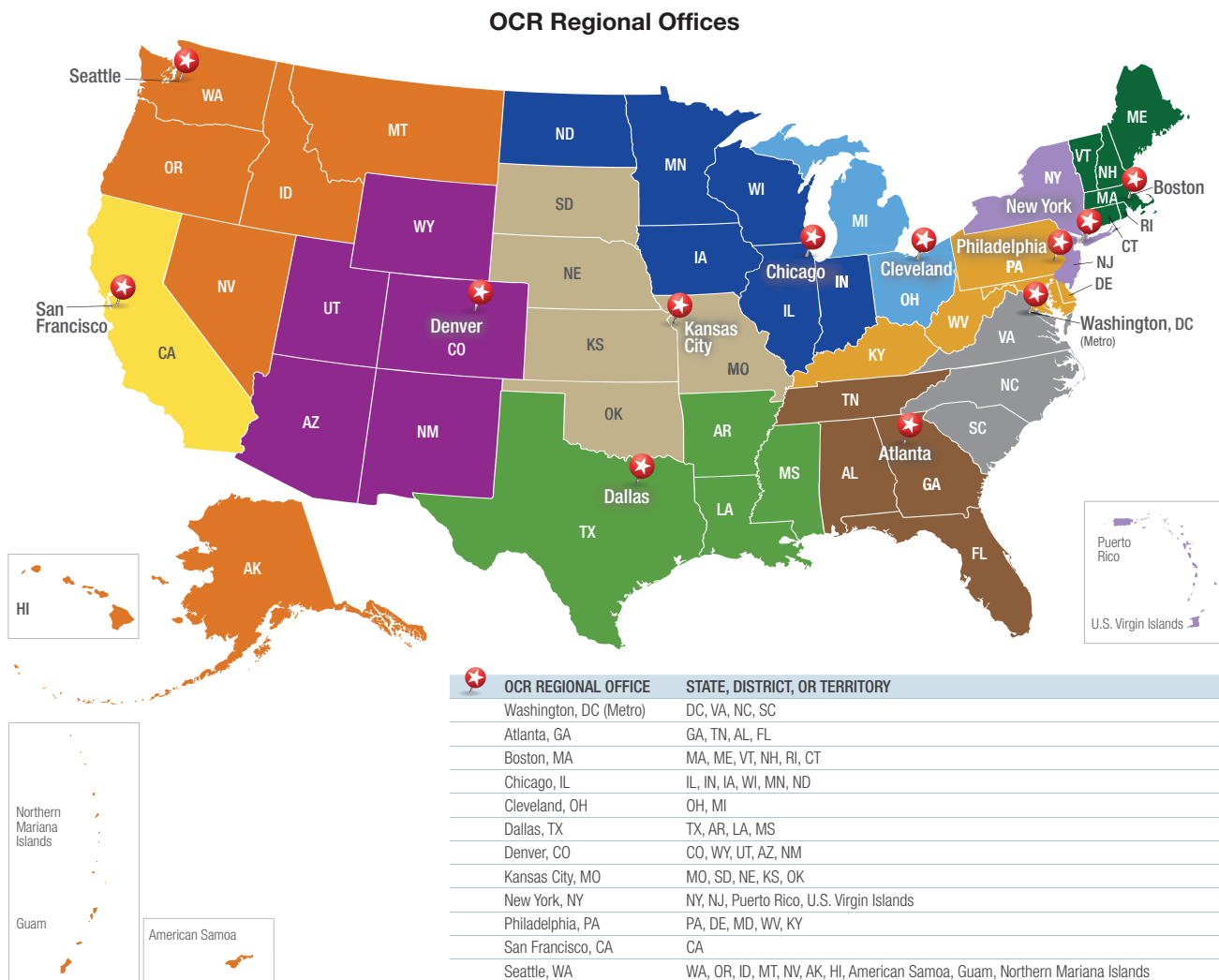


Figure 2: Map of OCR Regional Offices*



- Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination);
- Title IX of the Education Amendments of 1972 (prohibiting sex discrimination);
- Section 504 of the Rehabilitation Act of 1972 (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 – regardless of whether 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 discriminating against, or denying equal access or a fair opportunity to meet to, 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

The Assistant Secretary for Civil Rights, who serves at the pleasure of the President of the United States and is appointed with the advice and consent of the U.S. Senate, leads the Office for Civil Rights. During Fiscal Year 2022, 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 Legal Affairs, a Deputy Assistant Secretary for Management and Operations, a Chief of Staff, four Senior Counsel, and two Confidential Assistants.

OCR serves our nation’s students through 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 enforcement offices are in Atlanta, Boston, Chicago, Cleveland, Dallas, Denver, Kansas City, New York, Philadelphia, San Francisco, and Seattle (see Figure 2).

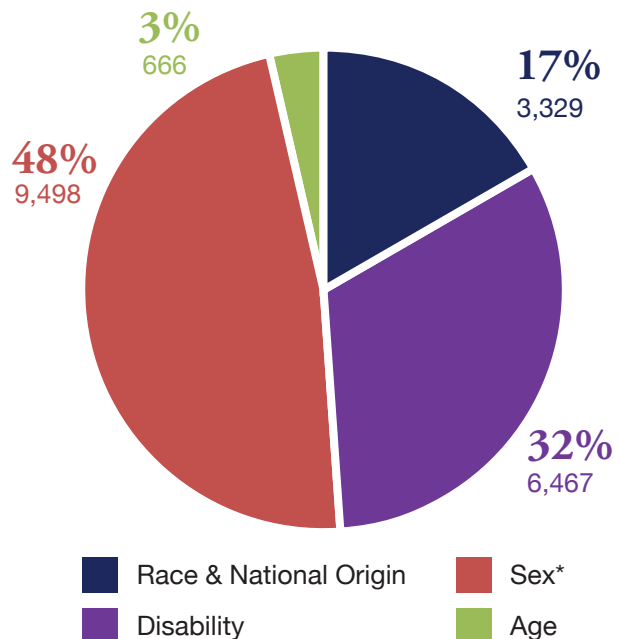
ENFORCEMENT AND STAFFING TRENDS

FY 2022 saw a massive increase in complaints filed with OCR, at 18,804 complaints received, up from 8,935 the year before and 9,719 the year before that. Typically over the years, the majority of the complaints received have raised disability concerns. In FY 2022, however, OCR received 7,339 complaints filed by a single individual, raising sex discrimination allegations; this high volume altered the ratio of complaint filings for this fiscal year. With these data, complaints of race, color, or national origin discrimination comprised 17% (3,329) of all complaints

received in the year, down from 24% in FY 2021. Complaints involving discrimination based on disability comprised 32% (6,467) of all complaints this year, down from 48% in FY 2021; sex discrimination complaints comprised 48% (9,498) up from 17% to FY 2021; and age discrimination complaints comprised 3% (666) (the majority of which were filed by a single complainant), down from 11% in FY 2021. (See Figure 3).

OCR’s overall staffing level has declined significantly over the life of the agency, falling from nearly 1,100 Full Time Equivalent (FTE) staff in fiscal year 1981 to 546 FTE staff in fiscal year 2022. This reduction in staffing comes even as the volume of complaints received has grown significantly, increasing from under 3,000 in fiscal year 1981 to 18,804 in fiscal year 2022.

Figure 3: Percentage of Complaints Received by Type of Alleged Discrimination (FY 2022)



**7,339 complaints were filed by a single individual*

FULFILLING FREEDOM OF INFORMATION ACT REQUESTS

OCR processed 826 Freedom of Information Act (FOIA) requests in a timely manner, an increase of more than 20% over the previous year.

MAXIMIZING EFFICIENCY AND EFFECTIVENESS IN ENFORCEMENT

OCR worked to maximize our efficiency and effectiveness in enforcement to meet the high caseload demand without sacrificing quality in our work. In July 2022, we revised our case processing manual to clarify our processes and to add a new tool for resolution to help manage our caseload and meet complainants' and recipients' interest in efficient resolution. For the first time, OCR began offering mediation as an option complainants can request at the time of filing, leaving an option for speedy resolution using OCR's mediation expertise where OCR has jurisdiction over a complaint and the parties are willing to mediate. To ensure ready transition to effective use of this new tool, OCR offered repeated training to OCR staff in mediation. Early results in this fiscal year suggest parties' willingness to avail themselves of this new tool for resolution. In addition to these new procedures, OCR has emphasized staff training and development during FY 2022, to support our staff to resolve cases consistently, efficiently, and effectively.



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The revised CPM [Complaint Processing Manual] appears to be designed to bolster OCR's complaint investigation and resolution practices, so that ED's broader non-discrimination and student access to high-quality learning initiatives can succeed.”

Teri Engler, school attorney at Engler Callaway Baasten & Sraga LLC in Oak Brook, Ill, quoted in Special Ed Connection on 7/21/22

INCREASED OUTREACH, PUBLIC EDUCATION, *and* TECHNICAL ASSISTANCE

OUTREACH AND PUBLIC EDUCATION

During FY 2022, OCR strengthened outreach in person, online, and through social media to schools, families, and the general public to increase awareness of and information about the civil rights laws OCR enforces. In addition to publishing written resources for school communities regarding the laws OCR enforces, this fiscal year OCR, in partnership with the ADA National Network, produced a [20-part video series](#) sharing information about web accessibility and addressing technological barriers that can interfere with the ability of parents and students with disabilities to participate in modern American education. OCR designed these videos as tools to maximize digital accessibility for students and school community members with low vision and other disabilities, equalizing access to education consistent with the laws we enforce. Related to this video series focused on web accessibility, OCR provided 59 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, OCR 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.

OCR processed 633 inquiries from the public and members of Congress, a 31% increase over last year and a 43% increase over FY 2020. Through the [Reading Room](#), OCR 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.

TECHNICAL ASSISTANCE

Every year, OCR provides technical assistance to schools and communities around the country on longstanding and emerging civil rights issues. Although the COVID-19 pandemic reduced opportunities to provide technical assistance through in-person workshops and convenings, OCR's regional offices provided 186 technical assistance sessions to schools, communities, and organizations on various aspects of the civil rights laws OCR enforces.



POLICY GUIDANCE: AN OVERVIEW

During FY 2022, OCR published seven sets of policy guidance and resources addressing a wide range of civil rights topics, as summarized in

Figure 4 below. When appropriate, OCR issues guidance jointly with other civil rights offices, such as the Civil Rights Division of the United States Department of Justice, as reflected in Figure 4 and below in this Report.

Figure 4: Policy Guidance Issued in FY 2022

Statute	Issue/Release Date	Description
Section 504/Title II	Supporting and Protecting the Rights of Students at Risk of Self-Harm in the Era of COVID-19 October 13, 2021 (released jointly with DOJ)	Provides information about federal legal requirements governing school decisions about how to respond to students at risk of self-harm
	Providing Students with Disabilities Free Appropriate Public Education During the COVID-19 Pandemic and Addressing the Need for Compensatory Services Under Section 504 February 16, 2022	Clarifies the obligation for schools to provide compensatory services for students with disabilities who did not receive evaluations or services to which they were entitled to during the pandemic
	Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973 July 19, 2022	Explains the nondiscrimination requirements that public elementary and secondary schools must follow with regard to the discipline of students with disabilities under Section 504
	FAQs on the Disability-Related Rights of Student Veterans with Disabilities May 23, 2022	Describes when veterans with disabilities are entitled to academic adjustments and how they may request them
	20-Part Video Series on Digital Accessibility (in partnership with the ADA National Network) May 23, 2022	Covers a variety of topics on digital access in education, including how people with disabilities use technology, applicable Federal regulations, and identifying and remediating barriers to access.
Title IX	Supporting Intersex Students October 26, 2021	Explains that federal civil rights law protects intersex students from sex discrimination
	Questions and Answers on the Title IX Regulations on Sexual Harassment June 28, 2022	Clarifies how OCR interprets schools' existing obligations under the 2020 amendments to the Department's Title IX regulations.

The CIVIL RIGHTS DATA COLLECTION

Since 1968, OCR has conducted the Civil Rights Data Collection (CRDC), a generally biennial survey of the nation's public schools that gathers information about student access to educational opportunity from early childhood through grade 12. Public schools and school districts are required by statute¹ to submit information to this survey to assist OCR in evaluating data necessary to ensure compliance with civil rights laws within OCR's jurisdiction, prohibiting discrimination based on race, color, national origin, sex, age, and disability. Over 17,000 school districts and nearly 100,000 schools self-aggregate and self-report their data.

¹ 20 U.S.C. § 3413(c)(1).

The CRDC gathers information about student access to educational opportunities and school climate factors, such as student discipline and sexual harassment and violence.

ADMINISTRATION OF THE 2020 – 2021 CRDC

During FY 2022, OCR administered the 2020-21 CRDC. Public school districts and schools submitted their civil rights data to OCR from December 13, 2021, through April 8, 2022. For the first time since administering the survey to all public-school districts and schools, OCR achieved a 100% response rate, meaning that all school districts submitted data. OCR plans to release the public data file and accompanying data reports for the 2020-21 CRDC in 2023.

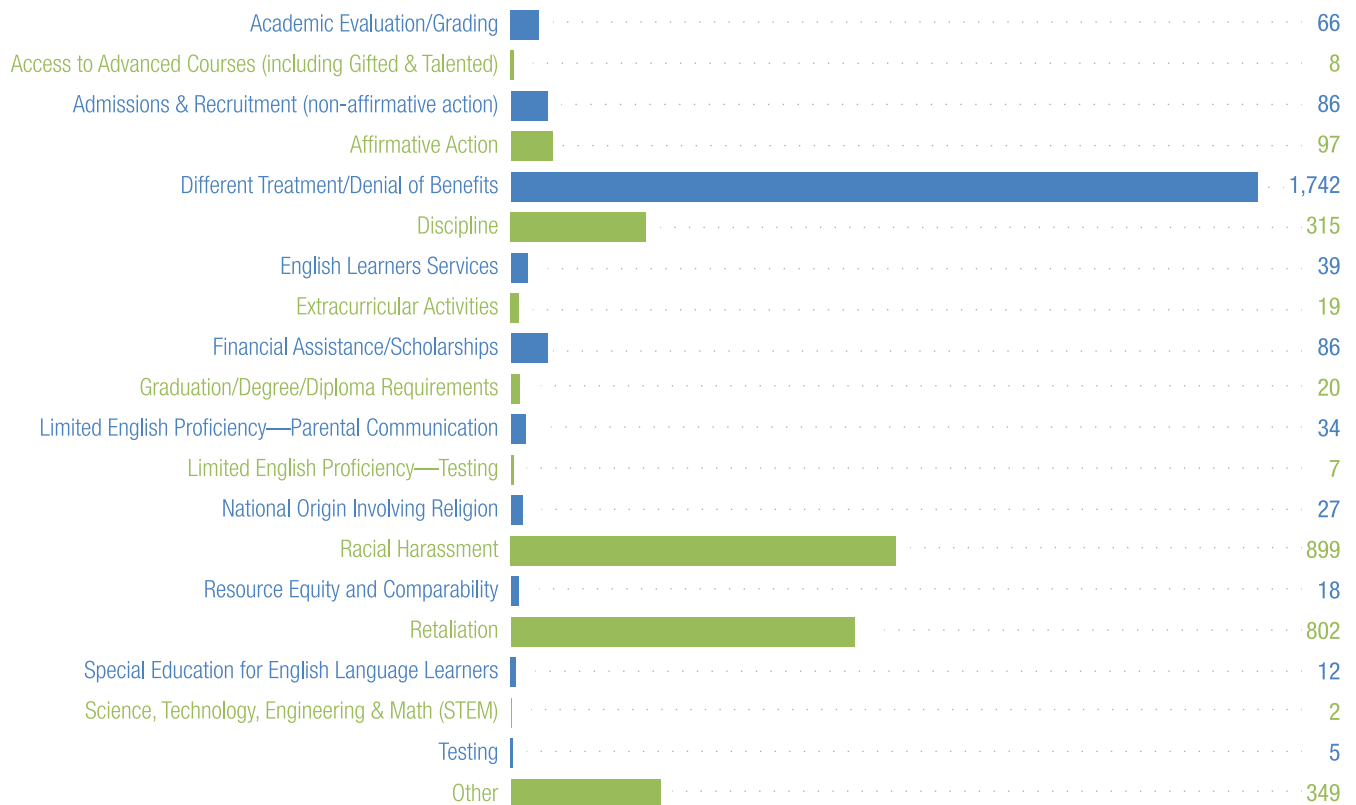


TITLE VI: *Discrimination Based on Race, Color, or National Origin*

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 5: Title VI Complaint Allegations Received in FY 2022



Total Number of Complaints Raising Title VI Issues, **FY 2022 = 3,329**

Note: A single complaint can raise multiple issues; therefore, the total number of issues raised will exceed the number of complaints received.



ENFORCEMENT

In FY 2022, OCR resolved **2,408** Title VI complaints that, collectively, address a broad range of Title VI-related issues in institutions across the nation (see Figure 5). These issues range from allegations of antisemitic harassment to allegations of discrimination against English Learner students and their families. The following case resolutions illustrate OCR’s investigative work over the fiscal year to enforce Title VI:

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

Kyrene School District (AZ): In August 2022, OCR determined that the district violated Title VI by failing to respond appropriately to notice of ongoing anti-Semitic harassment of a student by numerous classmates, both in school and on social media, for over five months. The harassment included anti-Semitic slurs and disparaging remarks about the student’s Jewish heritage. The harassment the student experienced and the district’s failure to provide

the student with a safe school environment caused the student to suffer significant and enduring academic and emotional harm. OCR also found that the harassment persisted schoolwide. Specifically, despite confirming that the anti-Semitic harassment occurred in classrooms and elsewhere on campus—including identifying nine students who engaged in anti-Semitic harassment for several months—the district failed to assess whether the verified, widespread harassment negatively impacted other students. The district also did not take any schoolwide measures to address the anti-Semitic harassment until several months after confirming its existence, which allowed a potential hostile environment to persist in the school.

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The facts in this resolution agreement underscore the importance of training teachers and staff members to recognize discriminatory harassment and to understand their obligations to respond and report. A little bit of training can go a long way toward equipping teachers and staff members with the knowledge they need to meet reporting obligations and create a discrimination-free environment for their students.”

***Dan Fotoples**, Director of Content Development,
TNG Consulting*

To remedy the violation, the district agreed to address the student’s academic and counseling needs resulting from the harassment, review and revise its policies and clarify that its prohibition against harassment includes anti-Semitic harassment, provide training to district staff, and

provide developmentally appropriate education to students. Additionally, the agreement required the district to develop a climate survey to administer in the entire district and to plan additional steps based on the results.

Peoria Unified School District (AZ): In September 2022, OCR found that racial harassment from student peers and district employees created a hostile environment for students of color that the district had notice of and failed to adequately address. The investigation uncovered evidence of harassment by fellow students that included race-based slurs; mocking police killings of Black people; pulling eyes back to taunt Asian students; mimicking “Heil Hitler” salutes; drawing Swastikas on photographs of students’ faces; and saying that Black people “do not deserve to live” and “should die,” a student’s skin looked like “burnt” food, and another student should “go back to [their] country” and “eat dog.” Harassment by employees involved repeated touching of and comments exclusively about a Black student’s hair. The persistent, pervasive, and severe harassment and the district’s ineffective response caused significant and enduring academic, social, and emotional harm to the student who was the subject of the OCR complaint. Moreover, though the complaint was lodged by a single Black student, in its investigation OCR found that a schoolwide hostile environment existed because at least a dozen other students of color at the school were likewise harassed based on race, color, or national origin by numerous peers.

Although administrators and teachers at the school were aware of widespread harassment based on race, color, or failed to adequately investigate whether the harassment created a hostile environment for students and failed

to offer any supports or remedies to students who were harassed. OCR found that these failures allowed the harassment to continue on a consistent basis and to create a schoolwide hostile environment. OCR also found that the district failed to identify other students who may have been subjected to a hostile environment but did not report their experiences given the school’s repeated failures to respond promptly and effectively to reported harassment.

To remedy the violations, the district agreed to: provide support and remedies to affected students; conduct a climate assessment on the prevalence and school’s handling of harassment; review and revise policies, forms, and record-keeping procedures; and train staff in reporting, cultural competency, and implicit bias. The district also agreed to provide developmentally appropriate educational programs for its students about how to recognize and report harassment based on race, color, and national origin.

Also...

See **San Juan Bautista School of Medicine**, p. 22 (addressing race and sex discrimination, including harassment)

Orland Joint Unified School District (CA): In July 2022, OCR identified concerns after investigating allegations that a school principal required a Black student to remove his do-rag and then threatened to change the school’s dress code to prohibit the wearing of do-rags after the student’s mother complained that the principal’s action discriminated based on race. Although the principal stated that he associated do-rags with gang activity, OCR’s investigation indicated that the district had no information to suggest a

connection between wearing do-rags and gang affiliation. OCR's investigation also found that the principal knew the student was one of very few Black students in the school and, therefore, one of very few students to whom the policy change would specifically apply.

To resolve the complaint with OCR, the district agreed to: communicate in a letter to the parent and student the district's commitment to provide an educational environment free from discrimination, including retaliation, for all its students as well as its commitment to resolving incidents implicating race, color, or national origin in a manner consistent with its internal complaint procedures; designate a school employee to serve as a supportive contact for the student; issue a statement to parents and guardians at the school stating that the district does not tolerate discrimination, including retaliation; communicate to all students, in an age-appropriate manner, the prohibition against discrimination, including retaliation, and how to report an incident involving discrimination; issue a written guidance memorandum to school employees regarding its anti-discrimination/anti-retaliation statement on the basis of race, color, or national origin, and the steps staff should take when they witness or are told of discrimination/retaliation; provide training

for school employees on how to recognize conduct that may constitute discrimination, including retaliation; and develop a written self-evaluation plan for monitoring the climate at the school.

Combating Discriminatory Discipline

Victor Valley Union High School District (CA):

In August 2022, OCR found that this district violated Title VI by disciplining Black students more frequently and more harshly than similarly situated white students. OCR identified a pattern of disparate disciplinary actions across types of discipline (e.g., suspensions, expulsions, truancy, law enforcement citations), across schools, and across grade levels that imposed greater harms—including in significant lost learning time—on Black students than on their white peers. For example, OCR identified instances in which Black students received harsher discipline than similarly situated white students for cutting class, wearing their pants low or “sagging,” engaging in a mutual altercation, or making disruptive noises. This reported discrimination was consistent with statistical evidence of racial disparities in student discipline, as well as with district records reflecting specific instances of harsher discipline of Black students as compared to white students who

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We commend the Office for Civil Rights for its work to hold the Victor Valley Union High School District accountable for violating the Civil Rights Act and the rights, dignity, and futures of numerous children who were disproportionately targeted and harshly disciplined because they are Black. As we applaud the OCR for this essential work, we hope the news of the agreement between the government and the Victor Valley Union High School District puts other school districts engaged in discriminatory discipline practices on notice that such conduct is unlawful and will not be tolerated.”

Janai Nelson, President and Director-Counsel, NAACP Legal Defense Fund

engaged in similar behavior. OCR's investigation also revealed that some of the district's discipline practices that disproportionately harmed Black students departed from district policies and state law. Additionally, OCR also found that the district failed to maintain and produce timely, complete, and accurate records regarding student discipline to demonstrate its compliance with Title VI.

To remedy these violations, the district committed to: examine the causes of racial disparities in the district's student discipline practices and to develop and implement a corresponding corrective action plan; establish a stakeholder equity committee to inform the district's implementation of the plan and agreement; revise its discipline policies and procedures, including regarding law enforcement involvement in student discipline; ensure accurate and complete student discipline record-keeping and reporting; regularly analyze student discipline data and other information to address possible areas of discrimination; clarify prohibited discipline practices through a memorandum to appropriate staff; provide training for staff on the revised discipline policies, practices, and record-keeping; conduct student and parent information sessions regarding student discipline policies; publicly report disaggregated discipline data; conduct school climate surveys to assess perceptions of fairness and safety in the district; and provide compensatory education to students subjected to discriminatory discipline policies and practices.

Ensuring Equal Opportunities for English Learners

Pecatonica Area School District (WI): In March 2022, after investigating whether the district discriminated against an eighth-grade student on the basis of national origin by not providing her

with appropriate English Learner (EL) services, OCR determined that the district violated Title VI by failing to take affirmative steps to address the student's language needs, determine what services were appropriate, and track or monitor her progress to ensure that she was not left with academic deficits. Additionally, the District did not have procedures in place to effectively monitor the student's progress.

To resolve the violations, the district agreed to review and revise or develop policies for identification and assessment, as well as monitoring, of EL students and provide responsive training to staff; develop a recordkeeping system that identifies and tracks all EL students in the district; designate a staff member responsible for the assessment and evaluation of the district's EL program; and provide individual relief for the student, including by providing the results of her language testing to her parent(s), identifying any need for academic support, and ascertaining the need for and if so providing compensatory services to the student.



Shelton SD No. 309 (WA): In investigating a complaint alleging that the district discriminated against limited English proficient (LEP) parents on the basis of national origin, OCR identified concerns that the district may not have been providing LEP parents with effective access to school-related information comparable to English-speaking parents during the school's parent-teacher conferences or in attempts to raise concerns with the principal. The investigation yielded evidence that the district also may not have had a consistent process to ensure interpreters were qualified to provide effective services, or a process to provide school staff consistent notice about the variety of interpretation services available to parents.

To remedy the concerns, the district agreed in November 2021 to review and revise its policies and procedures to ensure that LEP parents and guardians are notified of school activities and other matters in a language they can understand. The district also agreed to notify LEP parents of the availability of free language assistance services with respect to school programs and activities, as well as information on how this assistance may be obtained, and provide LEP parents with a contact person who can answer any questions regarding parental communication and assist parents to access interpreter services or translated documents. Finally, the district agreed to provide training for all school administrators and other staff members involved in the provision of interpreter and translation services.

Fulton County Schools (GA): In December 2021, OCR resolved a complaint alleging that the district discriminated against limited English proficient (LEP) parents when it failed to provide interpretation services during a virtual meeting held for parents. OCR's investigation indicated

that the district did not provide meaningful communication (i.e., interpretation or translation of documents) to LEP parents and guardians during the virtual meeting. The information provided by the district also raised a concern about whether the district had a process to ensure meaningful communication with LEP parents and guardians at meetings organized by the district's central office, or whether the district notified LEP parents and guardians, in a language the parents and guardians can understand, about the availability of language assistance services and about the process for requesting such services at these meetings. OCR was also concerned that the district's written procedures did not address requests for interpretation services that could not be submitted five business days before the scheduled service date.

To resolve the complaint, the district agreed to develop and submit to OCR for review and approval a written plan to provide language assistance to LEP parents and guardians that ensures they have meaningful access to meetings (virtual and in-person) organized by the district's central office; adopt and implement the language assistance plan upon OCR's approval; and train the superintendent and central office staff on the language assistance plan.

Leadership Learning Academy (UT): In August 2022, OCR resolved a complaint alleging the academy discriminated against English Learner (EL) students based on disability and national origin. OCR's investigation yielded evidence that school staff may have required that EL students receive three years of English instruction before school staff would refer them for special education evaluation. Additionally, OCR was concerned that staff members who had not been trained to provide translation and interpretation

assistance sometimes provided such assistance. To resolve this investigation, the academy agreed to provide staff training regarding EL students and special education services, including training to explain that delaying special education referrals and evaluations of EL students based on EL status is impermissible; provide training for staff who provide oral interpretation and/or written translation for parents/guardians; and determine whether any EL students should be referred for special education evaluations.

Logan City School District (UT): In September 2022, OCR resolved a complaint alleging the district discriminated against English Learner (EL) students based on national origin and disability. OCR's investigation yielded evidence of confusion among staff about whether EL students had to have three years of English instruction before being referred for special education evaluation. Additionally, OCR noted concerns related to the district's treatment of a particular LEP parent and student, including that the district did not ensure meaningful communication with the LEP parent, did not properly conduct a manifestation determination review meeting for the student to determine if the student's behavior was a manifestation of disability, and failed to provide educational services during the time the student was suspended. The resolution agreement requires the district to expunge the student's disciplinary record of one incident, develop and implement a communication plan with the parent, convene an IEP meeting to discuss compensatory services for the student, develop and implement a district plan for providing interpreter services and written translation to LEP parents/guardians of students, disseminate a memorandum to all administrators, teachers, and special education staff regarding the district's

obligations under Section 504/Title II, provide training to all administrators, teachers and special education staff on Section 504/Title II, and revise the district's disciplinary policy and form letter notifying parents/guardians of a long-term suspension.

Protecting the Equal Rights of All Students to Attend Public School Regardless of Immigration or Citizenship Status

Deer Park ISD (TX): In September 2022, OCR resolved a complaint alleging the district discriminated against students on the basis of national origin when it issued letters to parents requiring them to provide Social Security cards to enroll their children in the district. OCR's investigation revealed concerns that the district's requests for Social Security cards and state-issued birth certificates to register new students could have barred or deterred non-citizens who did not have such documentation from enrolling their children in the district's schools.

To resolve the complaint, the district agreed to revise and disseminate its enrollment policy and related addenda, per OCR's review and approval; publish a statement about the revised enrollment policy in both English and Spanish, targeted to parents and guardians who may have previously been discouraged from enrolling their children under the district's prior enrollment policy; and provide training on their updated policies, practices, and procedures for all staff involved in the student enrollment process.

TITLE IX:

Discrimination Based on Sex

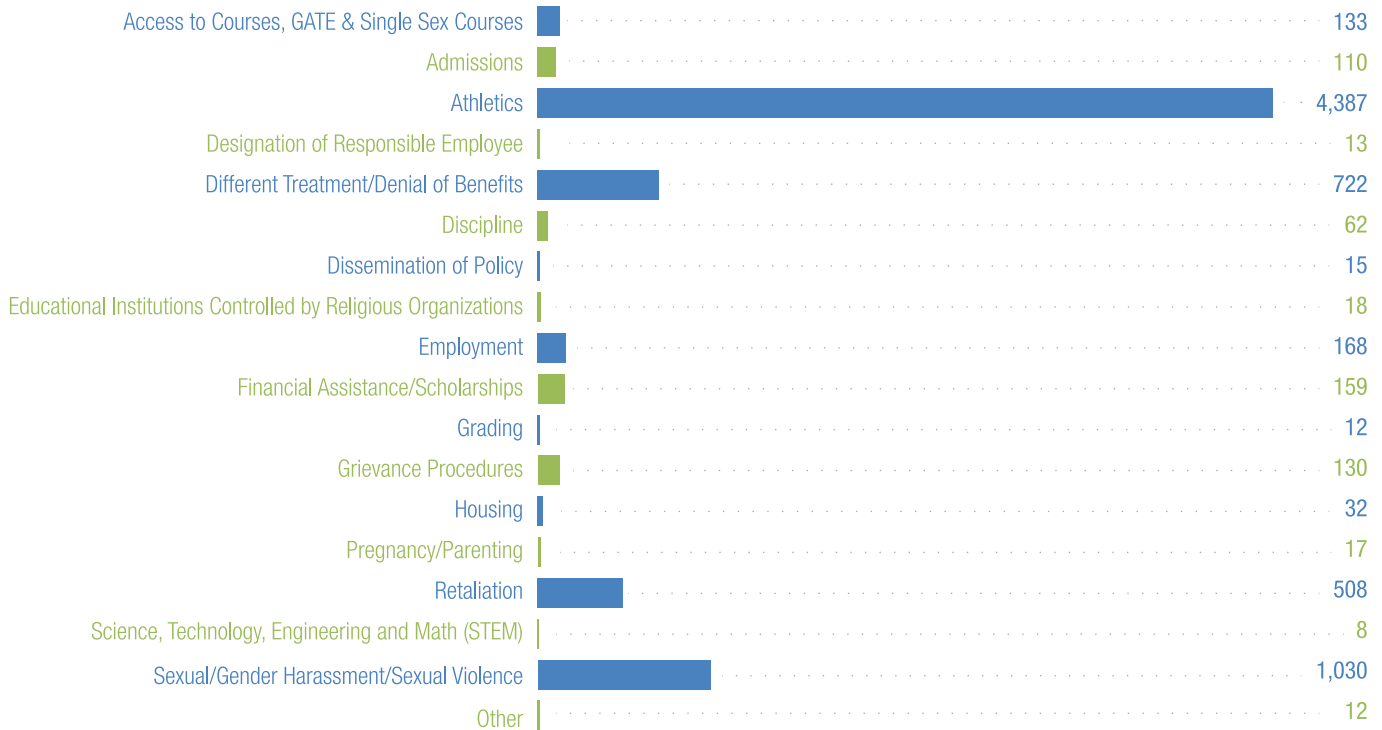
Title IX of the Education Amendments of 1972 (Title IX) states: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”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

PROPOSED RULEMAKING AND POLICY RESOURCES

During FY 2022, OCR issued the following proposed rulemaking and resources to support full implementation of Title IX, including:

- [Proposed Amendments to Title IX Regulations.](#) In June 2022, the Department proposed amendments to its regulations implementing Title IX. The proposed regulations would, among other things, require schools to take prompt and effective action to end any sex discrimination in their education programs or activities, prevent its recurrence, and remedy its effects. They would also require schools to address complaints of sex discrimination with a fair and reliable process and provide

Figure 6: Title IX Complaint Allegations Received by OCR in FY 2022



Total Number of Complaints Raising Title IX Issues, **FY 2022 = 9,498**

Note: A single complaint can raise multiple issues; therefore, the total number of issues raised will exceed the number of complaints received.

supportive measures to those affected. Finally, they would clarify that Title IX protects against discrimination based on sexual orientation, gender identity, and sex characteristics, as well as pregnancy and pregnancy-related conditions. The Department received public comments for 90 days between June and September 2022, and will review and respond to submitted comments before issuing a final rule in 2023.

- In June 2022, OCR issued this update in light of the Federal district court ruling in *Victim Rights Law Center et al. v. Cardona*, No. 1:20-cv-11104, 2021 WL 3185743 (D. Mass. July 28, 2021), appeals pending (1st Cir), which vacated the part of the regulation at 34 C.F.R. § 106.45(b)(6)(i) that prohibited a decision-maker at a postsecondary school from considering statements not subject to cross-examination.
- [Supporting Intersex Students: A Resource for Students, Families, and Educators](#). Released in October 2021, this fact sheet lists key issues intersex students may face in schools, including bullying, harassment, or other discrimination related to their physical characteristics or because they do not conform to sex stereotypes. The resource offers suggestions on ways schools can best support intersex students, such as using inclusive language in school mission statements and affirming students' rights to be free from all forms of sex discrimination at school. The fact sheet also includes steps to take if students believe that they, or others, have been discriminated against at school based on sex.

ENFORCEMENT

The following cases illustrate OCR's Title IX resolutions in FY 2022.



Combating Harassment on the Basis of Sex, Including Sex Stereotypes

Hickory City Schools (NC): In April 2022, OCR resolved a complaint alleging that the district discriminated on the basis of sex at a district middle school in its enforcement of the school's dress code. OCR's investigation indicated that the district held assemblies only for girls but not boys to discuss hygiene issues and dress code enforcement and that a school employee commented during one of these assemblies about girls needing to "sav[e] leggings for marriage." The evidence also reflected that school staff issued warnings during the girls-only assemblies that students would be suspended for dress code violations, whereas the district dress code stated that schools should require compliance with the code "with the least amount of disciplinary action."

To resolve the complaint, the district agreed to revise its dress code to include a statement that the district will not discriminate on the basis of sex in the administration of its dress code and a

statement that students, parents, and staff may contact the district's Title IX Coordinator to file a complaint if they believe that the dress code has been administered in a discriminatory manner. Additionally, the district agreed to provide training to staff regarding the revised dress code and the school's responsibilities under Title IX; revise the School's Handbook/Code of Conduct; and monitor to ensure that the school is enforcing the dress code in a manner that does not discriminate on the basis of sex.

Wayne Highlands School District (PA): In July 2022, OCR resolved a complaint that alleged the district discriminated against a male student when it prohibited him from wearing an earring in school. OCR was concerned that the district's dress code policy relied on sex stereotypes that prohibited boys but not girls from wearing earrings. To resolve the investigation, the district agreed to revise its dress code to comply with Title IX; distribute a memorandum to all staff, students, parents and guardians in the district advising them of the revised dress code policy; and issue a formal apology to the student and his parent, including a copy of the revised dress code policy, and advising the student that he may wear an earring to school.

Eradicating Sexual Harassment and Sexual Violence

Chino Valley Unified School District (CA): In April 2022, OCR found that the district violated Title IX by failing to respond promptly and effectively to notice of sexual harassment of students on a high school athletic team by some of their teammates. OCR's investigation uncovered repeated and pervasive harassment by some team members on the team bus, in locker and weight rooms, and in the physical education

classroom. Some team members subjected others to harassment that was so serious that it limited their ability to access the athletics program. The harassing conduct included videotaped assaults of teammates, students forcibly physically overpowering other students and sharing photos of their genitals among the team and on social media, and students placing their genitals on and near other students' faces and bodies. The response from administrators, including coaches, to these incidents was insufficient to end the harassing conduct and did not prevent its recurrence. Additionally, the district's response following its investigations did not address the conduct adequately and failed to consider interim supportive measures to protect student athletes from sexual harassment.

To remedy these violations, the district agreed to contact all former athletes from the school's fall 2017 team and offer counseling services or reimbursement for such services received to address the effects of the district's failure to address known sexual harassment on the team; conduct a climate survey for the school's athletics team; train district leaders, school administrators, and coaches about their responsibilities for responding effectively to sexual harassment; conduct Title IX education for student athletes; and report to OCR on the district's training and responses to complaints of sexual harassment through the end of the 2022-2023 school year.

San Juan Bautista School of Medicine (PR): In May 2022, OCR resolved complaints of sex and race discrimination in the school's handling of Title IX investigations. OCR determined that the school failed ever, over more than four years, to investigate a student's report that another student sexually assaulted her. OCR also found that the school's procedures for resolving complaints

of sexual harassment did not comply with Title IX. OCR also identified compliance concerns regarding both the promptness and equity of the school's investigation of allegations of race and sex discrimination, including because school records reflected that the school did not follow its own procedures for investigating discrimination complaints and that the school predetermined an investigation outcome before contacting the complainant to schedule an interview.

To resolve the complaints, the school agreed to conduct the missing sexual assault investigation, reimburse the complainant for specified coursework, train relevant employees, and update its grievance procedures to comply with Title IX.

Also...

See **Peoria Unified School District**, p. 15 (investigation of racial harassment)

Tamalpais Union High School District (CA):

In June 2022, OCR determined that this district violated Title IX by failing to respond promptly and effectively to repeated notice of ongoing sex-based harassment of a transgender student by another student, predicated on sex stereotyping. During the investigation, OCR found that the district failed to investigate allegations that the other student had repeatedly harassed the transgender student about her appearance, her voice, her body, her name, and her pronouns the school year OCR investigated. OCR found that this failure to investigate, in addition to the district's failure to respond promptly or effectively to later notice of continuing harassment, permitted the student to be subjected to a hostile environment

that was sufficiently serious to deny or limit her ability to participate in or benefit from the school's program.

The resolution agreement committed the district to reimburse the student and her family for counseling costs incurred because of the harassment, review and revise district policies and procedures to clarify that harassment based on sex includes harassment based on sex stereotyping, train school staff and contractors on their obligations under Title IX, and document to OCR that the district's responses to complaints of sex-based harassment during the most recent two school years complied with the resolution agreement and with Title IX.

Eastern Mennonite University (VA):

In February 2022, OCR resolved an allegation that the university discriminated against a university faculty member by failing to respond appropriately to a report of sexual harassment made against him. The evidence reflected that although the university found the faculty member not responsible for sexual harassment after a student in the faculty member's class alleged he engaged in inappropriate and sexually suggestive behavior, the university had not answered his request for interim measures during the investigation, including switching his class and office hours to Zoom so that he would not be face-to-face with the complaining student, getting a third party to audit his grading practices, and eliminating the requirement that he be a student advisor during the investigation.

To resolve OCR's concerns regarding equitable treatment for the faculty member, the University agreed to conduct a Title IX training with an emphasis on interim measures and retaliation and to develop a plan to assess the

appropriateness of the university's response to the faculty member including, if necessary, consideration of remedial options.

Equal Access to Athletic Opportunities and Benefits

Santa Maria Joint Union High School District (CA): In February 2022, OCR resolved a complaint alleging the school district discriminated on the basis of sex in, among other things, the provision of locker rooms, scheduling of games and practice time, transportation, and per diem allowance in the district's athletic program. During the investigation, OCR identified concerns about equal opportunity and facilities, including that, during two school years, the school's varsity girls' athletic teams: had fewer regular season competition opportunities than its varsity boys' teams; had fewer opportunities for practice and travel; and were provided equipment, facilities (including locker room), and coaching that were not equivalent to what the boys' teams received.

To resolve these concerns, the district agreed to provide training on the district's Title IX responsibilities to its Title IX coordinator, the school's athletic director, principal, and all coaches; take steps to ensure that its girls' athletic teams have equivalent competitive opportunities, practice hours, equipment and supplies, and opportunities to use school vans for travel; use an equivalent ratio of coaches per student for the girls and boys athletic teams; ensure that male and female student athletes are treated the same with respect to fundraising requirements; and provide equivalent team rooms and locker rooms to girls and boys.



Western Illinois University (IL): In February 2022, OCR resolved an investigation that had identified concerns that the university did not effectively accommodate the interest and abilities of female students and did not provide equal athletic opportunity based on sex in connection with the opportunity to receive coaching and the recruitment of student athletes. To resolve the complaint, the university agreed to conduct a full assessment of how it can equally and effectively accommodate the athletic interests and abilities of female students to the extent necessary to provide equal opportunities for female students in its intercollegiate athletic program and to accommodate the athletic interests and abilities of its female students equally and effectively by no later than the 2024-2025 academic year. The agreement requires the university to assess the opportunity to receive coaching and assignment and compensation of coaches for its female athletes and create a plan to provide equal opportunities in this component by no later than the 2023-2024 academic year; to conduct a full assessment of its recruitment of student athletes and create a plan to provide equal opportunities for male and female students in this component by the 2022-2023 academic year.

Preventing Discrimination Based on Pregnancy or Parental Status

Bryant & Stratton College, Virginia Beach Campus (VA): In January 2022, OCR resolved a complaint alleging the college discriminated on the basis of pregnancy when it denied the complainant's request to finish her last scheduled class early to accommodate her estimated due date. While OCR was conducting its investigation, the college allowed the complainant to complete the program early as initially requested, but OCR remained concerned that college staff may not have sufficient guidance to respond appropriately to a request for a reasonable adjustment due to pregnancy status.

To resolve these concerns, the college agreed to adopt policies and procedures that ensure students are not unlawfully excluded from the college's educational programs or activities based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom, including with respect to any student requests for reasonable adjustments on these bases. The college also agreed to train its employees on these policies and procedures.

Salt Lake Community College (UT): In June 2022, OCR resolved a student's complaint of pregnancy discrimination after learning in its investigation, among other things, that the student reported to the college that a professor had encouraged her to drop a course due to her pregnancy, that college administrators did not appropriately address the student's report, and that the college had not provided the student with accommodations during her pregnancy. OCR determined that the college violated Title IX by failing to respond promptly and equitably to the student's complaint of pregnancy discrimination,



failing to excuse her pregnancy-related absences or allow her to submit work following those absences, and failing to engage in an interactive process to provide her with academic adjustments or necessary accommodations during her pregnancy. OCR also found that the college violated Section 504 by failing to consider whether her pregnancy caused a temporary disability requiring academic adjustments.

To remedy these violations, the college agreed to revise its nondiscrimination notice and grievance procedures to comply with Title IX; publish information on its website for pregnant students about their Title IX rights and how to seek academic adjustments, special services, or excused absences; train its Title IX coordinator, Disabilities Resource Center staff, and other school employees regarding Title IX's and Section 504's protections for pregnant students and the academic adjustments and special services available to pregnant students; complete and document its investigation of the student's complaint of pregnancy discrimination; and take other measures to remedy the discrimination against the student.

SECTION 504 and 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 (Title II) 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.” With regard to educational institutions, OCR shares compliance with Title II with the Department of Justice. 28 C.F.R. § 35.190(b)(2).

POLICY GUIDANCE AND RESOURCES

During FY 2022, OCR issued five sets of resources that describe recipients’ obligations to protect the civil rights of students with disabilities, including

innovating in a new format for the first time to provide a 20-part video series breaking down elements of fulfilling digital accessibility for students and school community members with low or no vision, who are deaf or hard of hearing, or who have other disabilities that affect their digital access.

- [Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline](#). In July 2022, OCR issued a Dear Colleague Letter along with a related [Fact Sheet](#), which describes schools’ responsibilities under Section 504 to ensure that they do not discriminate against students based on disability when imposing student discipline. The documents summarize public schools’ obligation to provide a free appropriate public education to K-12 students with disability-based behaviors; make reasonable modifications to disciplinary policies for students with disabilities necessary to avoid disability discrimination; and administer student discipline requirements in a nondiscriminatory manner.

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This new guidance is worth celebrating. It offers concrete strategies for districts and schools”

Rachael Goeler, high school special education teacher and member of Educators for Excellence’s National Teacher Leader Council

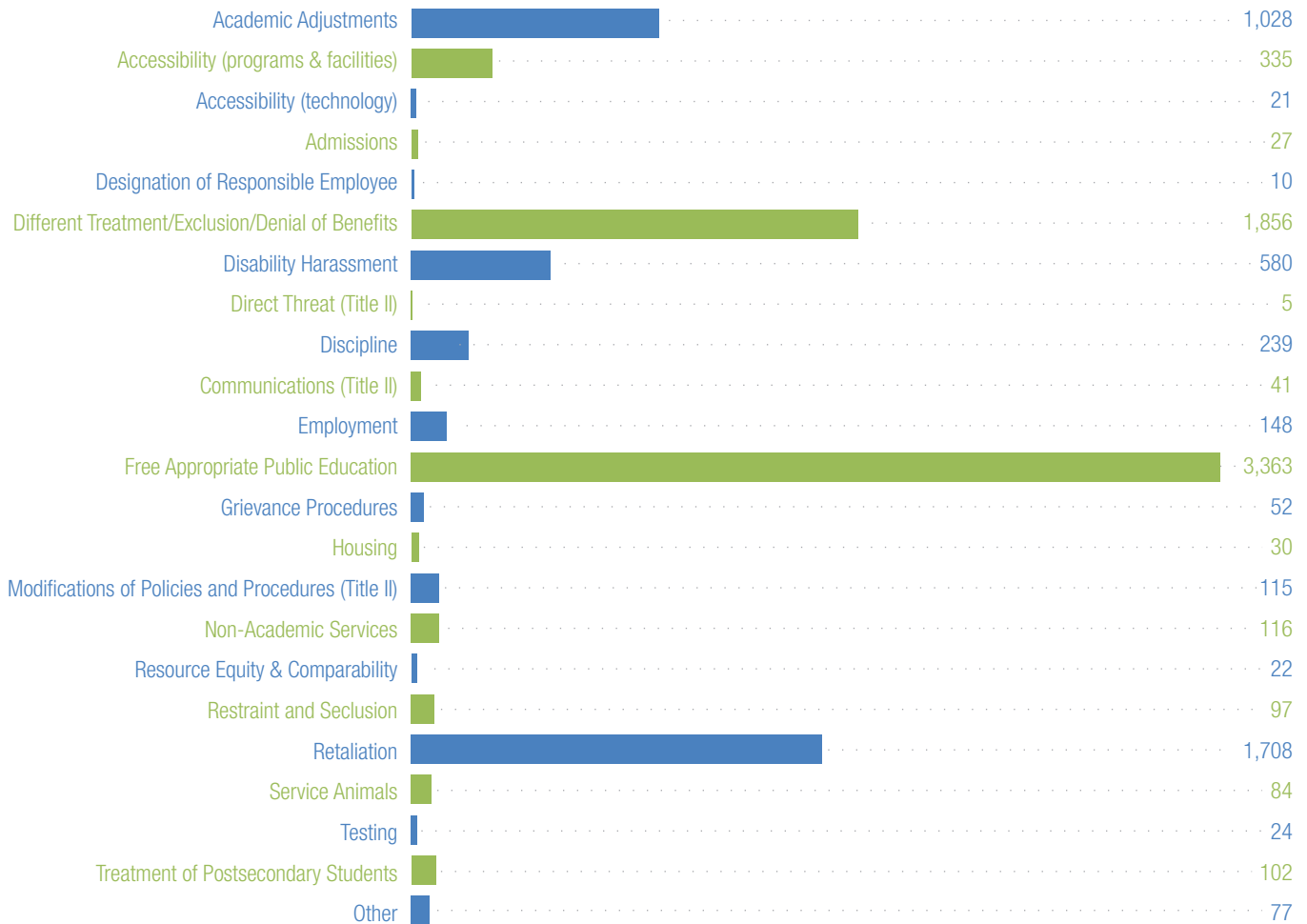
- [Supporting and Protecting the Rights of Students at Risk of Self-Harm in the Era of COVID-19](#). OCR issued this fact sheet jointly with the Department of Justice’s Civil Rights Division in October 2021, recognizing that the stressors associated with the COVID-19 pandemic may have caused some students to experience a mental health disability for the first time, while for others, an existing



mental health disability may have worsened. The fact sheet reiterates that students with mental health disabilities are protected by Section 504 and Title II and that these laws require K-12 schools and postsecondary institutions to provide students with an equal opportunity to learn, free from discrimination, including during public health crises.

- [Supporting College Success: FAQs on the Disability-Related Rights of Student Veterans with Disabilities](#). In May 2022, OCR issued this resource to help students and administrators in postsecondary institutions understand how Section 504 covers veterans with disabilities who apply to or attend college. The FAQ highlights that the legal standards used to determine disability status under Section 504 are not the same as the standards used by the U.S. military and the U.S. Department of Veteran Affairs, and describes when veterans with disabilities are entitled to academic adjustments and how they may request them.
- Also in May 2022, in partnership with the ADA National Network, OCR released a [20-part video series](#) covering topics such as applicable Federal laws, how people with disabilities use technology, and how to identify and remediate different types of technological barriers that can interfere with the ability of parents and students with disabilities to participate in modern American education. The intent of the series is to provide a basic instruction to many different digital accessibility concepts, such as fundamental manual testing techniques, use of color, logical reading order, meaningful video captions, and others. The videos are designed for a wide range of audience members, including school website managers, parents and students with disabilities, and educational app developers, and other IT vendors.
- [Providing Students with Disabilities Free Appropriate Public Education During the COVID-19 Pandemic and Addressing the Need for Compensatory Services Under Section 504](#). Issued in February 2022, this document confirms that students with disabilities retain their right to FAPE during the COVID-19 pandemic and summarizes elementary and secondary public schools' obligations under Section 504 to provide appropriate evaluations and services to students with disabilities during the COVID-19 pandemic, including schools' responsibility to provide compensatory services. It goes on to explain that if a student with a disability did not receive appropriate evaluations or services, including the services that the school had previously determined the student was entitled to, then the school must convene a group of knowledgeable persons to make an individualized determination

Figure 7: Section 504/Title II Complaint Allegations Received in FY 2022



Total Number of Complaints Raising Disability Issues, **FY 2022 = 6,467**

Note: A single complaint can raise multiple issues; therefore, the total number of issues raised will exceed the number of complaints received.

of whether, and to what extent, compensatory services are required to remedy any educational or other deficits that resulted.

In May 2022, OCR [announced](#) our intention to propose amendments to the Department’s regulations implementing Section 504. OCR set up an email address to receive input regarding potential amendments to these regulations, in addition to listening sessions with interested

parties, and has incorporated input received so far while developing proposed amendments.

ENFORCEMENT

In FY 2022, OCR resolved **5,187** Section 504/ Title II-related complaints, addressing the generally broad range of issues raised with OCR in complaints under these laws (see Figure 7). In addition, OCR initiated 100 compliance reviews focused on web accessibility and based on

concerns about potential violations of disability laws. The following cases illustrate OCR's enforcement work related to disability.

Ensuring Appropriate Educational Supports for Students with Disabilities

Los Angeles Unified School District (CA): In April 2022, OCR resolved a directed investigation of whether the district provided the free appropriate public education (FAPE) to which federal civil rights law entitles students with disabilities during the COVID 19 pandemic. OCR's investigation found that during remote learning, the district limited the services provided to students with disabilities based on considerations other than the students' individual educational needs; failed to accurately or sufficiently track services provided to students with disabilities; directed service providers to include attempts to communicate with students and parents—including emails and phone calls—as the provision of services, documenting such attempts on students' service records; informed staff that the district was not responsible for providing compensatory education to students with disabilities who did not receive FAPE during COVID-19-related school closures because the district was not at fault for the closure; and failed to develop and implement a plan adequate to remedy the instances in which students with disabilities were not provided FAPE during remote learning.

The district agreed to resolve these violations by creating and implementing a comprehensive plan to address the compensatory education needs of students with disabilities due to the COVID-19 pandemic. Through implementation of the resolution agreement, the district agreed to develop and implement a plan to appropriately assess and provide compensatory education to

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The National Center for Learning Disabilities applauded Los Angeles schools for entering the resolution and the federal Education Department for sending a signal that it takes its 'watchdog role' seriously by taking such a large school district to task.”

Lindsay Kubatzky, Director of Policy and Advocacy, National Center for Learning Disabilities

students with disabilities who did not receive FAPE during the COVID-19 pandemic; designate a plan administrator to implement the plan for assessment of compensatory education; convene IEP and Section 504 teams to determine whether students were not provided the regular or special education and related aids and services designed to meet their individual needs during remote learning and determine compensatory education; track and report to OCR the implementation of the plan for compensatory education; and conduct outreach to parents, guardians, students, and other stakeholders to publicize the plan for compensatory education and the roles of the plan administrator and independent ombudsperson.

Rapid City Area Schools 51-4 (SD): In December 2021, OCR resolved an investigation that had revealed evidence that the district limited the total number of students who could be evaluated for learning disabilities, delayed provision of services to students who have or are suspected to have disabilities while using Response to Intervention services, and sometimes served an even smaller number of students with disabilities than the systemic cap the evidence showed the district had placed on students who could receive services, even when the district had reason to believe a

larger number of students should be evaluated and served. Although the district revised its program during the course of the investigation, it did not communicate in writing to district staff or train staff regarding the claimed discontinuation of the cap on the number or percentage of students who could receive Response to Intervention services and the district did not identify students who may have been denied or delayed in receiving evaluations or services. To resolve the investigation, the district committed to the discontinuation of any practice or policy of limiting the number of students who could be identified or evaluated for learning disabilities; timely identification, referral, evaluation, and placement at each district school of students suspected of having learning disabilities; policy evaluation and reporting to OCR regarding revisions; relevant training for district employees; and district review of student educational records from 2015 through 2021 to determine whether students should be provided compensatory services.

Also...

See **Leadership Learning Academy**, p. 18 (imposing language requirements on English Learner students with disabilities before becoming eligible for special education services)

Oakland City University (IN): In August 2022, OCR determined that the university failed to comply with Section 504 and Title II when it prohibited a student from attending in-person instruction without following proper procedures to make an individualized threat assessment using the best objective evidence

that the student posed an imminent risk of substantial harm that could not be reduced or eliminated with mitigating measures. The university excluded the student from in-person classes because administrators were concerned that he might harm others on campus and disparage the university's reputation. During the investigation, OCR found no evidence that the student attempted to harm or made threats to any university personnel or students and found that the university made the determination to exclude the student prior to meeting with him and giving him an opportunity to explain himself. The university also did not consider possible mitigating measures to address its concerns. The evidence indicated that the decision was based on disability-based generalizations and stereotypes, rather than an individualized assessment, including assuming that the student's statement regarding emotional outbursts since leaving the military, in light of his anxiety, was an admission that he was a threat to the university community.

To remedy the violation, the university entered into an agreement that requires it to establish a policy and procedures for identifying, evaluating, and addressing student threats, potential threats or safety concerns; provide training to all individuals involved in identifying, evaluating, and addressing student threats, potential threats or safety concerns; assess the effectiveness of the training and provide additional training if the training provided was not effective; maintain records of all threat assessments including all documents relied on in making the threat assessment and all mitigating measures considered to reduce or eliminate the threat; and reimburse the student for the monetary loss of his Veteran Affairs stipend for the time in which he was prohibited from attending the university in-person.

Triton School District (MA): In June 2022, OCR resolved a complaint that alleged the district discriminated on the basis of disability. The complainant requested that her son be evaluated for a Section 504 plan after missing several days of school for a diagnosed medical reason. During the investigation, OCR identified two compliance concerns – first, that instead of evaluating the student, the district paused the 504-evaluation process in order to attempt supportive measures, and second, that the district ultimately convened a Section 504 meeting and determined that the student was ineligible using a checklist with a limited number of potential major life activities and no option to add any others. In particular, OCR was concerned that teams completing this checklist may have been given the mistaken impression that they need not consider other potential major life activities not already listed. To resolve the complaint, the district agreed to revise its Section 504 Eligibility Determination Form to make clear that the major life activities list is non-exhaustive and provide a space to write in others; provide training on Section 504 and Title II to any staff directly involved in the evaluation process, focusing on eligibility standards; re-evaluate the student in a team meeting using the revised eligibility form; and determine whether there are any other students district-wide whose evaluations were delayed or who were evaluated using the inaccurate checklist, consider whether these students are suspected of having a disability under correct standards, and if so, conduct a team meeting to determine eligibility.

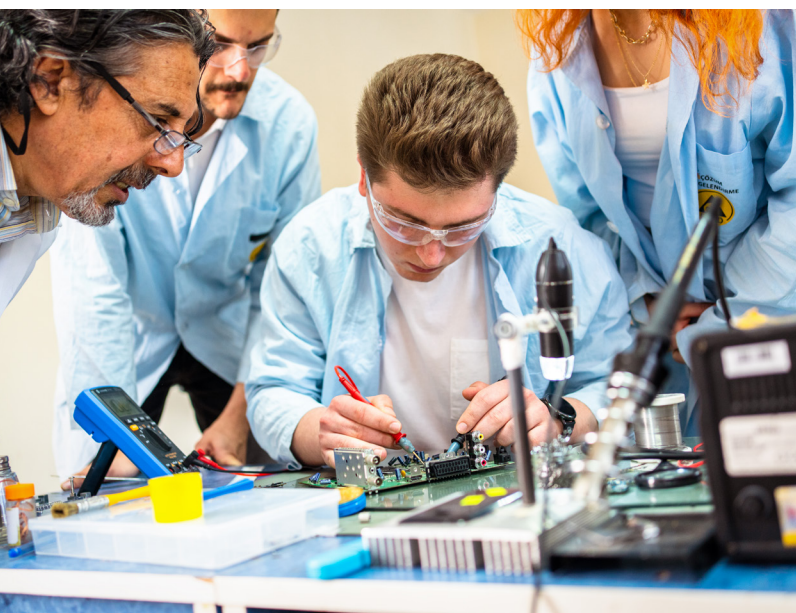
Pasadena Unified School District (CA): In November 2021, OCR determined that the district denied a FAPE by failing to provide counseling services to students whose IEPs entitled them to such services. OCR reviewed data from the 2019-

2020 school year and found that almost 80% of district students with IEPs received partial or none of the counseling services to which they were entitled, and in the 2020-2021 school year almost 55% of students similarly received partial or none of the counseling services to which they were entitled. In addition, the district's data-keeping practices and its training for psychologists during this time period were both inconsistent.



To remedy these violations, the district agreed to review IEPs for the 2020-2021 school year to identify students who were entitled to counseling services they did not receive, determine whether it would be appropriate to provide compensatory counseling services, and if necessary, provide those services. Additionally, the district agreed to: review IEPs for the 2021-2022 and 2022-2023 school years to ensure all IEPs providing for counseling services are implemented and to correct any discrepancies; review its process for providing counseling services to special education students entitled to such services and create a plan to ensure the timely provision of counseling services; provide annual training to school psychologists both on the district's obligations to

implement students' IEPs and on the system used to maintain data on its provision of counseling services; and issue a guidance memorandum to district employees responsible for securing counseling services to remind them of the district's obligations and procedures to provide these services in full.



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

Colorado Charter Schools: In October 2021, OCR resolved 29 complaints against 22 Colorado school districts alleging that charter schools authorized by the districts discriminated against students with disabilities because the charter schools requested information about the disability status of prospective students as part of the application process. The Section 504 regulations generally prohibit pre-enrollment inquiries because they represent unnecessary different treatment on the basis of disability.

OCR worked with each district to discontinue the practice of pre-enrollment inquiry and verified that requests for disability-related information were removed from the charter schools' application materials. OCR also received documentation showing that each charter school's application materials were updated to include a notice of nondiscrimination. Each school district provided information to charter school leaders about the rights of students with disabilities in charter schools. In the course of resolving these complaints, OCR provided technical assistance to state officials who were in the process of revising state standards for charter schools. The relevant state standards now prohibit pre-enrollment inquiries for charter school admissions.

Puerto Rico Department of Education (PR):

In May 2022, OCR resolved a complaint alleging that the Puerto Rico Department of Education (PRDOE) discriminated on the basis of disability by requiring students with disabilities enrolled in a multi-grade self-contained special education classroom at a PRDOE school to wear orange shirts as part of their school uniforms rather than the shirt in the color that corresponded to their grade levels, like all other children in the school wore. During the investigation, OCR found that the school's Facebook page included images of uniform shirts in different colors based on grade level, assigning the students in the multi-grade self-contained special education classroom the same color as the pre-kindergarten students, while assigning students in other grades shirts in various colors. The investigation also reflected information that directors of other PRDOE schools required students with disabilities to wear uniform shirts that are different in color from those worn by students without disabilities.

To address the concerns OCR identified, the PRDOE agreed to notify all school directors and boards that they must not discriminate on the basis of disability in their uniform policies; notify school staff, parents/guardians, and students that the schools will not assign students' school uniforms based on disability and provide information about how to file a complaint if needed; and train all school directors and boards about their obligations under Section 504 and Title II.

Washoe County School District (NV): In October 2021, OCR resolved a complaint alleging that a school district discriminated based on disability by requiring that, in order to enroll in the district's adult education program and earn an adult diploma only available through its RISE Academy, students with IEPs must first revoke their right to special education services.

To remedy concerns raised by OCR's investigation, the district committed to revise the RISE Academy requirements to ensure that students with disabilities, including those with IEPs, are not excluded; review the records of all current RISE Academy students to determine whether any received special education services under an IEP at another district high school and provide written notice to them about the process to access disability-related services while enrolled at RISE Academy; provide training to RISE Academy administrators, school counselors, and teachers about their responsibilities to support the students' IEPs and Section 504 plans; and train all district high school administrators, school counselors, and special education case managers about how students with disabilities can access RISE Academy to pursue an adult diploma.

California State University, Monterey Bay (CA): In June 2022, OCR resolved an investigation after

finding that the university had provided a student with a disability a double bedroom without a roommate and with an accompanying bathroom as a disability accommodation but that the university violated Section 504 and Title II when it charged the student a higher rate for a single-occupancy bedroom.

To remedy this violation, the university agreed to develop a written housing policy to ensure that students with disabilities who require private housing features as a means of accommodating their disability are appropriately accommodated and not charged a higher (single) housing rate. The university also agreed to provide training to relevant university staff and contractors on the revised housing policy and reimburse the student any amount paid in excess of the cost for a double bedroom with a bathroom.

Ensuring Accessibility of Programs, Services, and Facilities

Northshore School District (WA): In August 2022, OCR resolved a complaint alleging that the district discriminated based on disability by failing to communicate effectively with people with disabilities during public school board meetings that are livestreamed and posted online. OCR's investigation yielded evidence that the district had not provided effective real-time captioning to the public since March 2021.

To resolve this complaint, the district agreed to revise its policies, procedures, and practices to ensure that the district provides effective real-time captions during all school board meetings as they are live streamed to the public, including captions that effectively identify each speaker and convey the content delivered orally. The district also agreed to submit a report to OCR that

documents its use of real-time captioning and its revised policies, procedures, and practices.

Jefferson County School District (CO): In December 2021, OCR resolved a complaint alleging that the district denied students with mobility disabilities access to programs and activities at an elementary school by failing to provide an accessible route connecting the school's main entrance to designated accessible parking spaces, a temporary building used for classrooms, and a field area used for recess and physical education. OCR identified slope concerns with two temporary routes that did not comply with Section 504 and Title II.

The resolution agreement requires that the district incorporate the necessary accessibility requirements into its final plans for school expansion and submit the plans to OCR for review before implementation. Further, the agreement requires that the district develop and immediately implement an interim plan that ensures exterior routes from the main building to parking spaces, recreation fields, and auxiliary buildings are accessible to and usable by persons with mobility disabilities until permanent construction is completed.

Ensuring Appropriate Educational Support for Students with Disabilities

Wake County Public Schools (NC): In September 2022, OCR resolved an investigation that had raised concerns that a student with a disability, who played on two sports teams, did not receive necessary accommodations to support his participation in these extracurricular activities.

To resolve this investigation, the district held a Section 504 meeting to discuss the student's participation in extracurricular sports, conducted



an individualized inquiry regarding the student's disability-related needs, and offered to provide reasonable modifications and services to allow the student an equal opportunity to participate in extracurricular activities.

Francis Marion University (SC): In October 2021, OCR resolved a complaint alleging that the university discriminated based on disability by not providing an individualized assessment of a student's request for a disability-related testing accommodation. OCR's investigation yielded concerns that the university applied a blanket prohibition on the specific accommodation the student requested rather than engaging in the individualized assessment required by Section 504 and Title II.

To resolve the complaint, the university agreed to develop or revise its policy to ensure that the needs of students with disabilities requesting academic adjustments are assessed on an individual basis, and that the university does not maintain a blanket prohibition on adjustments to testing conditions as an accommodation. The agreement also required that the university issue a letter to the student informing her that if she chooses to take courses at the university in the

future, the university will reconsider her disability accommodation requests on an individualized basis.

Also...

See **Salt Lake Community College**, p. 25 (individualized assessment of pregnant students for academic adjustment)

Denver Public Schools (CO): In June 2022, OCR resolved a complaint alleging the district discriminated on the basis of disability because the district failed to provide services in a student's IEP for two months. OCR's investigation revealed that the two special education teachers at a school resigned around the same time as each other, suggesting that other students also may not have received needed services.

To resolve the investigation, the district agreed to provide documentation showing that it had hired two special education teachers to replace the two who had resigned; compile a list of all students at the school who did not receive services or accommodations to which they were entitled under IEPs or Section 504 plans during the time the district did not have special education teachers in place, as well as compile dates and amounts of services and accommodations that were not provided for each student; and offer in writing to the parent or guardian of each student an opportunity to meet to discuss compensatory or related services.

Bloomfield School District (NM): In April 2022, OCR resolved a complaint alleging that the school district had discriminated against a student based on disability when it failed to reevaluate the student, implement the student's IEP, and educate

the student in the least restrictive environment. According to the student's IEP, his team determined that the least restrictive environment for him was 27%-81% of his time in general education and the remainder in the Bloomfield Behavioral Intervention Program (BBI). During investigation, OCR found that the student spent no time in the general education environment and had no access to peers without disabilities. Additional evidence OCR gathered suggested that the district failed to re-evaluate the student before significantly changing his placement in BBI to full-time; did not re-evaluate the student even after he remained in BBI on a full-time basis for multiple years, had failing grades, failed to make progress toward his IEP goals, and continued engaging in behaviors for which he was disciplined in school; failed to provide him with a FAPE by not providing the services specified in his IEP, including special education from a special education teacher, any services in a "regular classroom," and all of his required weekly psychological and social work services; and by failing to educate him in the least restrictive environment or demonstrate that satisfactory education could not be achieved in the regular environment with the use of supplementary aids and services.

The district entered into a resolution agreement with OCR committing to develop and disseminate policies and procedures for BBI; train staff about policies and procedures approved by OCR; convene team meetings for each student in BBI to discuss whether the student had been denied a FAPE and, if so, create a plan for compensatory services or other remedial measures; and report to OCR about each student placed in BBI during the following school year.



ADDRESSING CIVIL RIGHTS RELATED TO RESTRAINT AND SECLUSION

Saco Public Schools (ME): In November 2021, OCR resolved a compliance review of the district's use of restraint and seclusion to assess whether its use denied students with disabilities a FAPE. OCR's investigation raised several concerns, including incidence of restraint and/or seclusion as high as 61 times in a single school year for a single student, whether students who experienced frequent or lengthy restraints and/or seclusion received a FAPE, the district's practice of sending students home early or requiring them to stay home for a few days following certain incidents of restraint or seclusion, and inaccurate reporting of restraint data to the CRDC. Notably, OCR found the district dramatically changed its restraint and seclusion practices during the course of OCR's review to focus on de-escalation practices and using least restrictive responses (such as remaining in the seclusion space with the student), resulting in a more than 80% reduction in the use of restraint and seclusion in the second year OCR reviewed, and an additional 33% decline in the third year OCR reviewed.

To address the concerns OCR identified and build on the improvements the district began during the course of the review, the district committed to assess whether students with disabilities who were subjected to restraint or seclusion during the three-year period OCR reviewed require additional remedies or services, including compensatory education; develop or revise its policies regarding non-disciplinary behavior-related dismissals or stay-home directives to ensure students do not unnecessarily lose instructional time; assess the appropriate involvement of a school resource officer in incidents involving student behavior and provide school resource officers with specialized training, including training on responding to incidents involving students with disabilities; comply with CRDC obligations to submit correct data; and provide training related to restraint and seclusion to district staff.

Huron Valley Schools (MI): In January 2022, OCR resolved a compliance review examining whether the district's use of restraint and seclusion denied students with disabilities who participated in the district's programs a FAPE. During the investigation, OCR identified compliance concerns regarding inconsistent recordkeeping and whether the district was providing students with disabilities subjected to restraint and seclusion the opportunity to recoup lost instructional time.

To resolve the compliance review, the district agreed to review its use of restraint and seclusion; assess whether students with disabilities who were subjected to restraint and seclusion required additional remedies or services, including compensatory education; and develop new systems for documenting the use of restraint or seclusion.

Horry County Schools (SC): In May 2022, OCR resolved a compliance review of the district's use of restraint or seclusion. OCR's investigation yielded concerns that district staff restrained or secluded students not for emergency reasons but to address behavioral issues such as disrupting class, walking out of class, or refusing to follow directions, which unnecessarily caused students to lose instructional time. Of the seclusion and restraint incidents the district recorded for the 2017-2018 school year, all involved students with disabilities. The evidence showed that the district did not conduct necessary reevaluations for students who were repeatedly restrained or secluded and used generally identical standardized language to document restraints or seclusion, suggesting that the district may not have reviewed the incidents in an individualized manner. Additionally, the district did not consistently report all incidents of restraint or seclusion, incorrectly viewed shortening a student's school day as a permissible alternative to restraint or seclusion without factoring in that such a change would first require an individualized assessment and reported inaccurate data to the CRDC.

The district agreed to change its practices and examine and remedy prior instances where restraint and seclusion of its students may have denied those students a FAPE. Additionally, the district agreed to revise its procedures and guidance documents on the use of restraint and seclusion; clarify the roles and responsibilities of those involved in monitoring and oversight of the district's use of restraint or seclusion; modify its recordkeeping system; create a plan to accurately report data to the CRDC; train staff on the district's procedures and new recordkeeping system; review files of currently enrolled students

who were restrained or secluded since the start of the 2017-2018 school year to determine, in part, whether any student requires compensatory education for educational services missed due to incidents of restraint or seclusion; and implement a monitoring program to assess the district's use of restraint or seclusion.

WEB ACCESSIBILITY

Highland Community College (IL): In April 2022, OCR resolved a complaint that alleged technological barriers on the college's website discriminated against individuals with disabilities. OCR's investigation identified concerns such as missing captions on videos, no alternative text to describe images, and multiple barriers to access for people who use screen reader technology, among others.

To resolve the complaint, the college committed to adopt an accessibility standard; post a fully accessible notice on the college's website describing how people with disabilities can inform the college of any technology-based barriers to access they have encountered and how they can request access to the underlying college program, service, or activity; complete an



audit of its website to identify barriers to access to its online programs, services, and activities; remediate barriers; assess the effectiveness of the college's testing protocols and remediation steps and make appropriate changes to its testing and remediation protocols until, in OCR's judgment, the college's testing and remediation protocols result in equal opportunities for people with disabilities; and develop a plan for maintaining the accessibility of the services, programs, and activities communicated or facilitated online. The resolution agreement also includes a checklist for testing digital technology to ensure access to people with disabilities.



North Slope Borough School District (AK):

In November 2021, OCR resolved this directed investigation after having identified compliance concerns regarding inaccessible PDFs, non-captioned videos, and the inability for some users with disabilities to access all the content on the district's website.

The resolution agreement required the district to develop and implement a strategy to ensure that individuals with disabilities have an equal opportunity to participate in the district's

programs and activities offered through its website. In addition, OCR and district staff delivered several joint informal technical assistance presentations on digital access issues to the district's web design vendor. Because the vendor works in multiple states, several accessibility improvements to its web design template that resulted from these presentations also will positively impact website accessibility in other school districts throughout the country.

RETALIATION

Brookline PS (MA): In February 2022, OCR found, after an investigation, that the district's Special Education Parent Advisory Council (SEPAC) retaliated against parents who have advocated for students with disabilities by amending its bylaws to prevent individuals who filed complaints against the district from occupying SEPAC Board positions. During the investigation, SEPAC revised its bylaws to remove the provisions at issue. OCR's resolution agreement required that the district send a notice to all families of students in the district about the district's obligation not to retaliate, nor to provide significant assistance to an entity that retaliates, and specifically informing them that the notice is being sent because of an OCR complaint. The agreement also required the district to offer OCR-approved trainings open to all SEPAC-eligible families on these topics.

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 programs that are geared toward providing special benefits to children and the elderly.

In FY 2022, OCR resolved **592** complaints under the Age Discrimination Act. 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

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 2022, OCR resolved **43** complaints under the Boy Scouts of America Equal Access Act.

LOOKING AHEAD

This report summarizes and encapsulates OCR's efforts through this fiscal year to fulfill our charge to ensure civil rights satisfaction among all recipients of federal funds, so no student will experience discrimination based on race, color, national origin, sex, or disability, or age or in violation of the Boy Scouts of America Equal Access Act. OCR looks forward to continuing to meet those challenges for the nation's school communities in the coming years.

