



Fiscal Year 2023

Annual Report

Report to
THE PRESIDENT
and
**SECRETARY OF
EDUCATION**



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

U.S. Department of Education Office for Civil Rights

Catherine E. Lhamon, Assistant Secretary for Civil Rights

2024

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

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

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

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Message from the ASSISTANT SECRETARY for CIVIL RIGHTS



The Office for Civil Rights (OCR) vigilantly enforces federal civil rights laws in schools and other recipients of Department of Education federal funding throughout the nation—resolving case investigations, publishing policy resources, providing school and community technical assistance, collecting and reporting data, and managing and sustaining an expert staff working in 12 regional offices. This report highlights the results of that work in fiscal year (FY) 2023, affirming OCR’s indispensable role upholding the civil rights of all persons protected by our nation’s laws.

This report describes case resolutions this fiscal year requiring a school community to stop segregating its students with disabilities from their general education peers; prohibiting school districts from disregarding their responsibility to address the civil rights effects of sexual assault, rape, and other egregious misconduct, including from school staff who sometimes serially perpetrate such conduct as well as from student peers; ensuring postsecondary institutions and school districts address race-based, antisemitic, and disability-based harassment of students that limit their access to education; confirming again schools’ obligation to end discriminatory discipline practices based on disability and race; stopping a school from excluding a nonbinary child from in-person instruction as a response to unremitting harassment from peers; recommitting schools to provide girls and boys and men and women, and students with disabilities, equal access to athletics; and ending school practices that deny students the supports—including the wheelchair that lets a child physically access the education a district offers—they need to learn. The continued need for reminders and enforcement of these core civil rights requirements is disheartening. Yet, school communities’ commitments to right what had been wrong and to support their students’ full and fair access to education inspire me, protect students, and fulfill our nation’s highest aspirations for whom we will be. We in OCR were pleased to support school communities to understand and fulfill those commitments with 11 policy resources to provide school communities with concrete information about statutory and regulatory requirements, reminding them of how they must serve their communities. And we are pleased to share technical assistance resources to cement knowledge about what the law is and how we enforce it.

I am deeply grateful to OCR’s policy staff for crafting and publishing information for parents, students, and schools about how the laws we enforce apply to particular facts and for crafting updates to the regulations implementing the laws in our jurisdiction; to OCR’s enforcement staff for giving their all

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to fulfill civil rights guarantees for everyone who needs us; to OCR's data scientists for working with schools throughout the nation to collect and report civil rights indicators; and to OCR's resource management team and Freedom of Information Act (FOIA) and customer service experts who sustain the operational effectiveness and responsiveness of our work. Together, OCR this year achieved needed change for students in schools across our jurisdictional areas. I look forward, in the coming year, to our continued forward progress to deliver more justice.

Sincerely,

Catherine E. Lhamon

Assistant Secretary for Civil Rights

EXECUTIVE SUMMARY *and* REPORT HIGHLIGHTS

In FY 2023, OCR confronted the highest volume of complaints in our history, receiving **19,201** complaints. That number represented a 2% increase over our previous record high in FY 2022 of 18,804 complaints. Nonetheless, we kept pace with the high volume, resolving **16,448** cases compared to the previous fiscal year's 16,515 cases, and achieving the third highest number of complaint resolutions in OCR history. Simultaneously, OCR managed the increasing complexity of civil rights concerns in this caseload; initiated 10 proactive, targeted compliance reviews; supported school communities' civil

rights compliance through publication of 11 sets of policy resources and guidance, as well as the provision of 197 technical assistance presentations; developed revised regulations; implemented optional opt-in mediation for more expeditious case resolutions; recruited, onboarded, and trained 60 new staff to help manage our docket effectively; instituted core safeguards to ensure the high quality of our work persists; responded to more than 4,400 inquiries and 1,276 Freedom of Information Act (FOIA) requests for information; and secured a 45% increase in the number of case resolution agreements obtained compared to the prior fiscal year (which had already been an increase compared to the one before that). These pages highlight and reflect the scope and impact of our work both to safeguard civil rights in the nation's schools during FY 2023 and lay a foundation for the efficient, effective, and robust assurance of civil rights still to come.



The 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. The office 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), Title II of the Americans with Disabilities Act of 1990 (Title II), the Age Discrimination Act of 1975, 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, by disseminating

information and technical assistance about students' rights and schools' responsibilities, and by 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

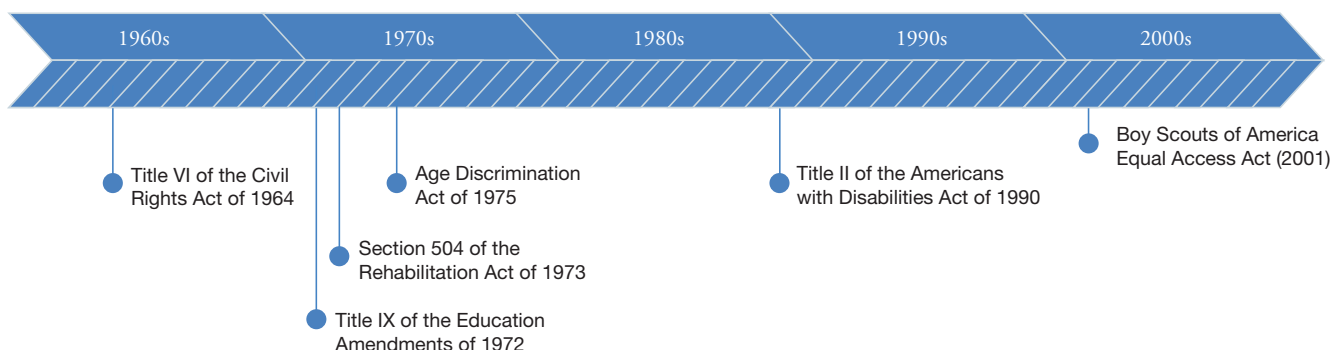
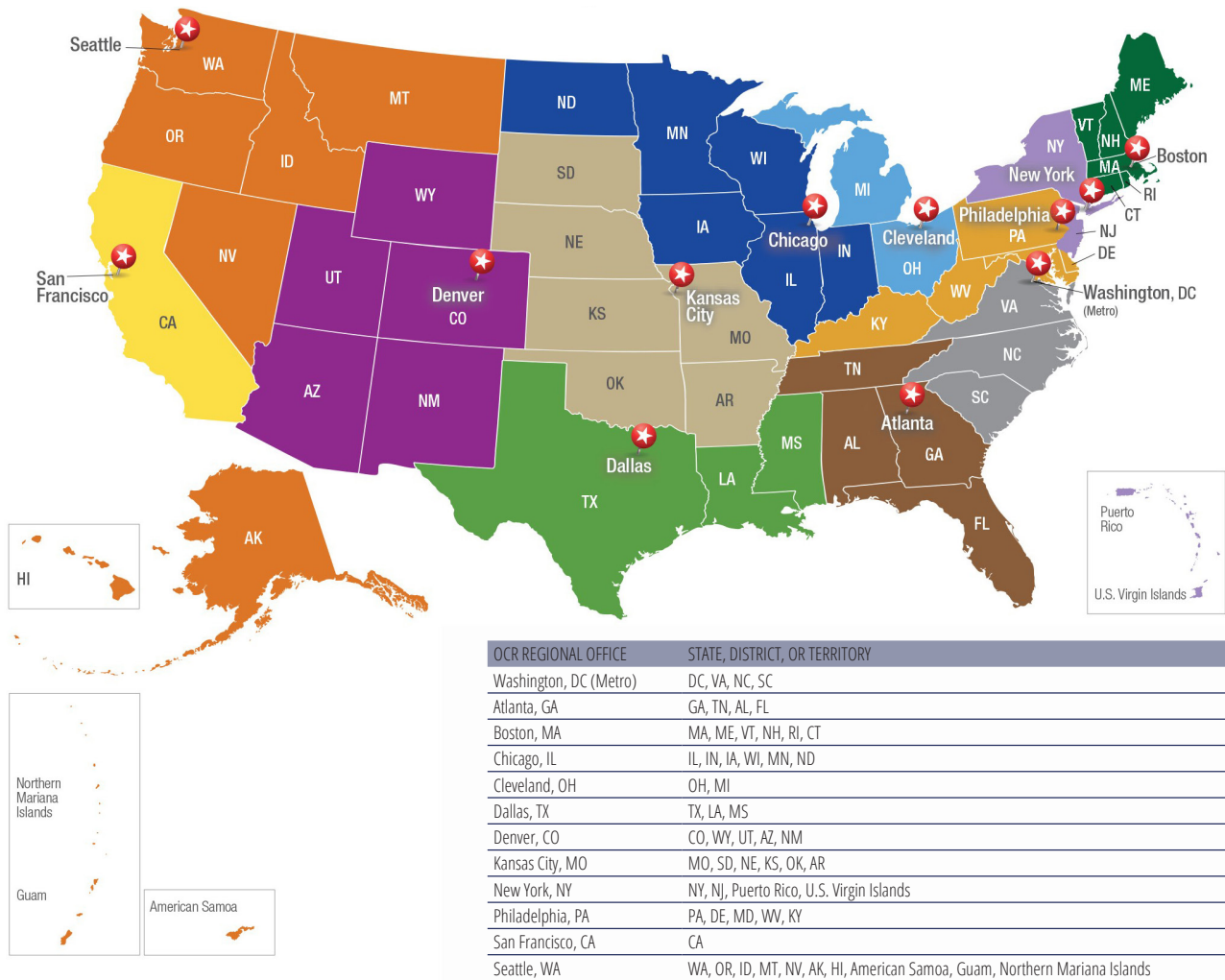


Figure 2: Map of the OCR Regional Offices*



- Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination, including discrimination based on shared ancestry or ethnic characteristics);
- Title IX of the Education Amendments of 1972 (prohibiting sex discrimination);
- Section 504 of the Rehabilitation Act of 1972 (prohibiting disability 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);

- Age Discrimination Act of 1975 (prohibiting age discrimination); 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

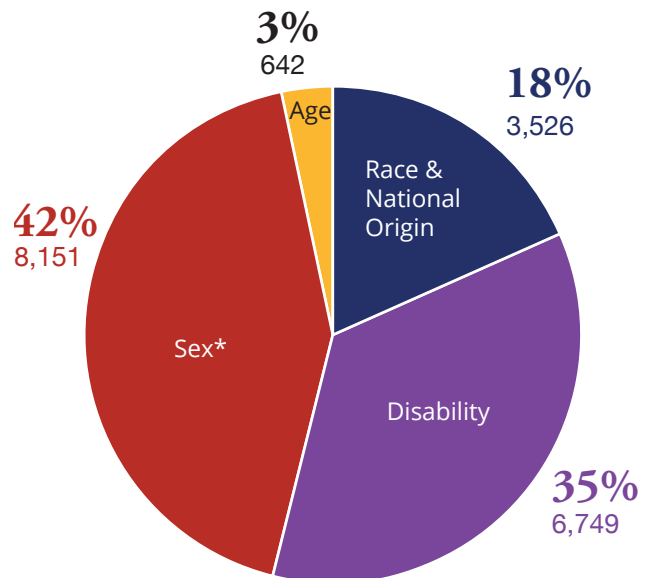
The Assistant Secretary for Civil Rights, who serves at the pleasure of the President of the United States and is appointed with the advice and consent of the U.S. Senate, leads the Office for Civil Rights. During FY 2022, the Office of the Assistant Secretary for Civil Rights included a Principal Deputy Assistant Secretary, a Deputy Assistant Secretary for Enforcement, a Deputy Assistant Secretary for Policy, a Deputy Assistant Secretary for Strategic Operations and Outreach, a Deputy Assistant Secretary for Management and Operations, a Chief of Staff, three 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 2023 saw a continued increase in complaints filed with OCR, at 19,201 complaints received, up from 18,806 in FY 2022 and 8,934 in FY 2021. The total number of complaints has almost tripled since FY 2009, and during this same period OCR's number of full time equivalent (FTE) staff has decreased from 629 to 556. Typically, over the years, the majority of complaints received have raised allegations regarding disability. In FY 2023, however, a single individual filed 5,590 complaints 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 18% (3,526) of all complaints received

Figure 3: Percentage of Complaints Received by Type of Alleged Discrimination (FY2023)



**5,590 complaints were filed by a single individual*

comprised 35% (6,749) of all complaints this year, up from 30% in FY 2022; sex discrimination complaints comprised 42% (8,151) down from 50% in FY 2022; age discrimination complaints comprised 3% (642); and complaints under the Boy Scouts of America Equal Access Act comprised 0.2% (57) (See Figure 3).

Over the life of the agency, OCR's overall staffing level has declined significantly – falling from nearly 1,100 FTE staff in FY 1981 to 556 FTE staff in FY 2023. This reduction comes even as the volume of complaints received has grown significantly, increasing from under 3,000 in FY 1981 to 19,201 in FY 2023.

FULFILLING FREEDOM OF INFORMATION ACT REQUESTS AND RESPONDING TO PUBLIC INQUIRIES

In FY 2023, OCR processed 1,276 FOIA requests, with an increase in timely closures of 21.8% over FY 2022, and a 37% overall decrease of



OCR's FOIA backlog. In addition, OCR's OPEN Center responded to 4,439 inquiries—an average of 85.36 per week—regarding the scope and reach of the laws OCR enforces. In March 2023, the OPEN Center implemented new protocols for its customer service team to increase response accuracy and improve overall timeliness and tracking. Through this greater oversight, the customer service team realized a 14% improvement in accuracy and timeliness of its responses. The OPEN Center also processed 95 inquiries from members of Congress during FY23. 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.

MAXIMIZING EFFICIENCY AND EFFECTIVENESS IN ENFORCEMENT

Fiscal Year 2023 was the first full fiscal year during which OCR offered mediation for any complaint topic at complainants' request at the time of filing, creating a new option for speedy resolution using OCR's mediation expertise where OCR has jurisdiction and the parties are willing to mediate. OCR successfully mediated 422 complaints in FY 2023 using this new resolution option, managing the incoming caseload and helping

school communities achieve results they and complainants agreed on—in as few as 44 days from complaint filing to signed agreement—to redress allegations ranging from discriminatory harassment to physically inaccessible school buildings to disparate treatment on the basis of race. Using this new mediation option, as well as the mediation of cases at OCR's initiation, OCR increased our successful mediations by nearly 400% compared to the previous fiscal year, securing 551 mediation agreements in FY 2023 compared to 148 mediation agreements in FY 2022.

In addition, OCR investigators made efficient and effective use of our Rapid Resolution Procedure, resolving a total of 213 cases through this process. As just one example of its effectiveness, in March 2023, OCR investigators swiftly resolved an investigation of allegations that the New York Department of Education failed to provide a nurse for a student with a disability during field trips and department-sponsored swimming classes and failed to convene the Section 504 team to discuss provision of a nurse for these activities. During the course of OCR's investigation, the department took necessary steps to ensure compliance with Section 504, including developing a protocol for handling nurse absences to ensure coverage is provided for students with disabilities entitled to nursing services during field trips (including the student on whose behalf OCR investigated); convening a Section 504 team to reevaluate the student and modify the student's plan as needed; and training school staff regarding relevant Section 504 obligations. OCR investigated and fully resolved this case in 149 days, securing needed departmental change with no need for future commitments because we had achieved complete resolution using the Rapid Resolution Procedure.

AMPLIFYING THE IMPACT: NOTABLE OUTREACH *and* COLLABORATIVE ACTIVITIES

In FY 2023, OCR partnered with other components of the Department of Education, as well as other federal agencies, to amplify the application of laws in our jurisdiction and the ways OCR works to protect the civil rights of all students.

For example, OCR helped lead the Department of Education's response, together with the Civil Rights Division of the Department of Justice (DOJ), to the U.S. Supreme Court's June 2023 decision in *Students for Fair Admissions, Inc. v. Harvard College and the University of North Carolina*, which limited the use of race in selective college admission programs. In the weeks following the decision, OCR participated in the Department of Education's National Summit on Equal Opportunity in Higher Education, which the Department hosted to highlight strategies that institutions of higher education are employing to promote diversity in higher education, consistent with the law. In addition, OCR worked with DOJ to develop and publish resources that help colleges and universities understand and comply with the Court's decision.

In FY 2023, in response to the rise in book bans in school communities across the country, OCR

named a coordinator for responding to book bans in order to support the public and school communities in understanding the civil rights impact that book restrictions can have and the circumstances under which such restrictions can violate federal civil rights laws.

OCR's outreach and public education this fiscal year included participation in the development and implementation of the Biden-Harris administration's [National Strategy to Counter Antisemitism](#), released in May 2023. In the months leading up to release, OCR actively participated weekly in the interagency working group to develop and inform the National Strategy. OCR also issued a [Dear Colleague Letter](#) reminding schools of their legal obligation under Title VI to address complaints of discrimination—including harassment based on race, color, or national origin—and reaffirming that these protections extend to Jewish students.

OCR also participated in the Department of Education's Free to Learn conference, organized by the Department's Center for Faith-Based and Neighborhood Partnerships. The convening focused on creating and maintaining equal opportunity and safety for students of all faiths and none, highlighting strategies for preventing and addressing bullying that students may experience because of their actual or perceived religious affiliation. OCR highlighted our Title VI enforcement work to protect students from discrimination based on shared ancestry. Such discrimination can occur when students are subjected to ethnic or ancestral slurs; harassed for the way they look, dress, or speak in ways linked to ethnicity or ancestry (such as skin color, religious attire, and language spoken); or stereotyped based on perceived shared ancestral

or ethnic characteristics. Hindu, Jewish, Muslim, and Sikh students, among others, may be discriminated against based on shared ancestry or ethnic characteristics.

In our ongoing work to protect the civil rights of students with disabilities, OCR joined the White House and agency partners to mark the 50th anniversary of the landmark Rehabilitation Act of 1973. Section 504 of the Act is a cornerstone of OCR's enforcement work to ensure that students with disabilities have equal access to educational programs and activities in K-12 schools and institutions of higher learning. OCR hosted the White House and the Department of Health and Human Services at an anniversary event to highlight the ongoing important benefits to students and the nation of effective and robust enforcement of this important law.

TECHNICAL ASSISTANCE

Every year, OCR provides technical assistance to schools and communities around the country on longstanding and emerging civil rights issues. In FY 2023, through both in-person and virtual

convenings, OCR's regional offices provided 197 technical assistance sessions to schools, communities, and organizations on various aspects of the civil rights laws OCR enforces.



POLICY RESOURCES: AN OVERVIEW

During FY 2023, OCR published 11 policy guidance and resource packages addressing a wide range of civil rights topics, as summarized in Figure 4 below. When appropriate, OCR issues these resources jointly with other civil rights offices, such as the Civil Rights Division of the United States Department of Justice (DOJ), as reflected in Figure 4 and below in this Report.

Figure 4: Policy Resources Issued in FY 2023

| Statute | Issue/Release Date | Description |
|----------|---|---|
| Title VI | Protecting Students from Discrimination Based on Shared Ancestry or Ethnic Characteristics January 4, 2023 | Describes the ways that Title VI protects students who are or are perceived to be Jewish, Christian, Muslim, Arab, Sikh, Hindu, Buddhist, or of another religious or ethnic group |
| | Diversity and Inclusion Activities under Title VI January 31, 2023 | Assists school communities in understanding that activities intended, in whole or in part, to further objectives such as diversity, equity, accessibility, and inclusion are not generally or categorically prohibited under Title VI |
| | Dear Colleague Letter on Addressing Discrimination Against Jewish Students May 25, 2023 | Reminds schools of their legal obligations under Title VI to provide Jewish students with a school environment free from discrimination |

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| Statute | Issue/Release Date | Description |
|---|---|---|
| Title VI | Resource on Confronting Racial Discrimination in Student Discipline May 26, 2023 (released jointly with DOJ) | Explains the Title VI prohibition on discrimination based on race, color, or national origin and describes how Departments of Education and Justice, under Title VI and Title IV, resolve investigations involving concerns about discrimination in schools' use of out-of-school suspensions, expulsions, school-based arrests, referrals to law enforcement, involuntary discipline transfers, informal removals, and other disciplinary actions against Black, Latino, and/or Native American students |
| | Ensuring Meaningful Participation in Advanced Coursework and Specialized Programs for Students Who are English Learners June 20, 2023 | Discusses legal requirements for ensuring English learners' access to specialized programs, and reminds schools that students who are English learners are entitled to appropriate language assistance services |
| | Protecting Access to Education for Migratory and Unaccompanied Children June 14, 2023 (released jointly with DOJ) | Highlights specific challenges some migratory children and unaccompanied children may face while accessing public education, and reminds public schools of their responsibilities to them under Title VI |
| | Resources on <i>Students for Fair Admissions, Inc. v. President and Fellows of Harvard College</i> and <i>Students for Fair Admissions, Inc. v. University of North Carolina et al.</i> (SFFA cases) August 14, 2023 (released jointly with DOJ) | Distills the U.S. Supreme Court holding and share information regarding lawful activities to pursue racially diverse campuses and include students with a range of viewpoints, talents, backgrounds, and experiences |
| | Dear Colleague Letter on Race and School Programming August 24, 2023 | Clarifies the circumstances under which schools can, consistent with Title VI, develop curricula and programs or engage in activities that promote racially inclusive school communities |
| Title IX | Resources on Equal Athletic Opportunities February 17, 2023 | Three new resources to support equal opportunity in athletic programs consistent with Title IX, including an overview resource with examples of the kinds of situations that could, depending upon facts and circumstances, raise Title IX concerns at any education level; a specialized resource for K-12 schools; and a specialized resource for colleges and universities |
| | Resource on Discrimination Based on Pregnancy and Related Conditions October 4, 2022 | Reminds school communities that Title IX protects students and employees from discrimination based on pregnancy and related conditions |
| Section 504 and Title II of the Americans with Disabilities Act (ADA) | Joint Letter on Postsecondary Online Accessibility May 19, 2023 (released jointly with DOJ) | Describes current online accessibility challenges for people with disabilities, and ways schools can be proactive about ensuring the accessibility of their digital content and technology in compliance with Section 504 and Title II |

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.

POLICY RESOURCES

During FY 2023, OCR issued several resources to support full implementation of Title VI, including the following:

- In January 2023, OCR issued a fact sheet, [Protecting Students from Discrimination Based on Shared Ancestry or Ethnic Characteristics](#), describing how Title VI protects students who are, or are perceived to be, Jewish, Christian, Muslim, Sikh, Hindu, Buddhist, or members of another religious group from discrimination, including harassment based on shared ancestry.
- In January 2023, OCR released the [Diversity & Inclusion Activities Under Title VI](#) fact sheet, which clarifies the scope of Title VI protection against race and national origin discrimination and confirms that diversity, equity, and inclusion activities are not generally or categorically prohibited under Title VI.
- In May 2023, OCR issued a [Resource on Confronting Racial Discrimination in Student Discipline](#) jointly with the Civil Rights Division at DOJ. This resource explains the Title VI prohibition on discrimination based on race, color, or national origin and confirms that such discrimination continues to be a significant concern in school communities. The resource also explains that the Title VI prohibition applies to any program or activity of a recipient of federal funds directly or through contractual arrangements and summarizes examples of resolutions from OCR and DOJ on the topic over the current and two most recent presidential administrations.
- In May 2023, OCR released a [Dear Colleague Letter on Addressing Discrimination Against Jewish Students](#). This letter reminds schools of

“

We applaud the Administration’s decision to clearly and straightforwardly establish that diversity, equity, and inclusion training programs are in complete accordance with existing civil rights law. It reflects the current state of our nation that this fundamental aspect of civil rights law needs to be clarified.”

*Janai S. Nelson, President and Director-Counsel, NAACP
Legal Defense Fund (LDF)*

their legal obligations under Title VI to provide all students, including students who are or are perceived to be Jewish, a school environment free from discrimination based on race, color, or national origin, including shared ancestry or ethnic characteristics

- In June 2023, OCR released [Protecting Access to Education for Migratory Children](#) and [Protecting Access to Education for Unaccompanied Children](#), both in partnership with the DOJ Civil Rights Division. These fact sheets highlight specific challenges some migratory children and unaccompanied children may face while accessing public education. They also explain where families can seek help and remind public schools of their responsibilities to migratory and unaccompanied children under Title VI (enforced by OCR and DOJ) and Title IV of the Civil Rights Act of 1964 (enforced by DOJ).
- In June 2023, OCR released [Ensuring Meaningful Participation in Advanced Coursework and Specialized Programs for Students Who Are English Learners](#). This fact sheet explains the legal requirements under Title VI that schools must follow to ensure that eligibility requirements and procedures for specialized or advanced educational programs do not screen out students who are English Learners because of their limited English proficiency, unless a program is demonstrated to require English proficiency for meaningful participation.
- In August 2023, in partnership with the DOJ Civil Rights Division, OCR issued resources to help colleges and universities understand the U.S. Supreme Court's decisions in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College* and *Students for Fair Admissions, Inc. v. University of North Carolina et al.*, as

postsecondary institutions continue to work to lawfully pursue efforts to achieve a student body that is diverse across a range of factors, including race and ethnicity. The Departments' [Dear Colleague Letter](#) and [Questions and Answers Resource](#) distill the Court's core holding and offer examples of steps colleges and universities can lawfully take to achieve a student body that is diverse across a range of factors, including race and ethnicity. These steps include targeted outreach, recruitment, and pathway programs; evaluation of admission policies; and retention strategies and programs.



Today's guidance from the department's Office for Civil Rights (OCR) is a welcome reminder that not only does Title VI of the Civil Rights Act of 1964 continue to allow for discussions of race, but that race consciousness is often required in order to achieve equal educational opportunity. The civil rights community has called for such guidelines over many months and welcomes this much needed step in the fight to ensure equal opportunity for all students."

Maya Wiley, President and CEO, The Leadership Conference on Civil and Human Rights

- In August 2023, OCR released a [Dear Colleague Letter on Race and School Programming](#) to clarify the circumstances under which schools can, consistent with Title VI, develop curricula and programs or engage in activities that promote racially inclusive school communities. The letter explains that Title VI generally does not restrict school districts from holding assemblies, meetings, focus groups, or listening sessions that relate to students' experiences with race in their school or community. It also

states that school-sponsored or recognized groups or programs with a special emphasis on race, such as a student club or mentorship opportunity, that are open to all students, do not violate Title VI simply because of a race-related theme. However, the DCL notes that schools may violate Title VI when they separate students based on race or treat individual students or groups of students differently based on race. It clarifies that schools may also violate Title VI when they create, encourage, accept, tolerate, or fail to correct a racially hostile educational environment

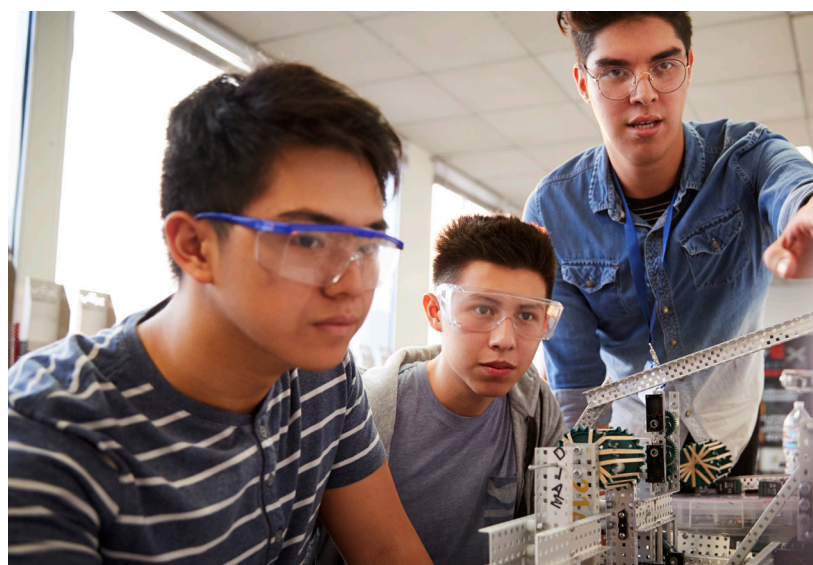
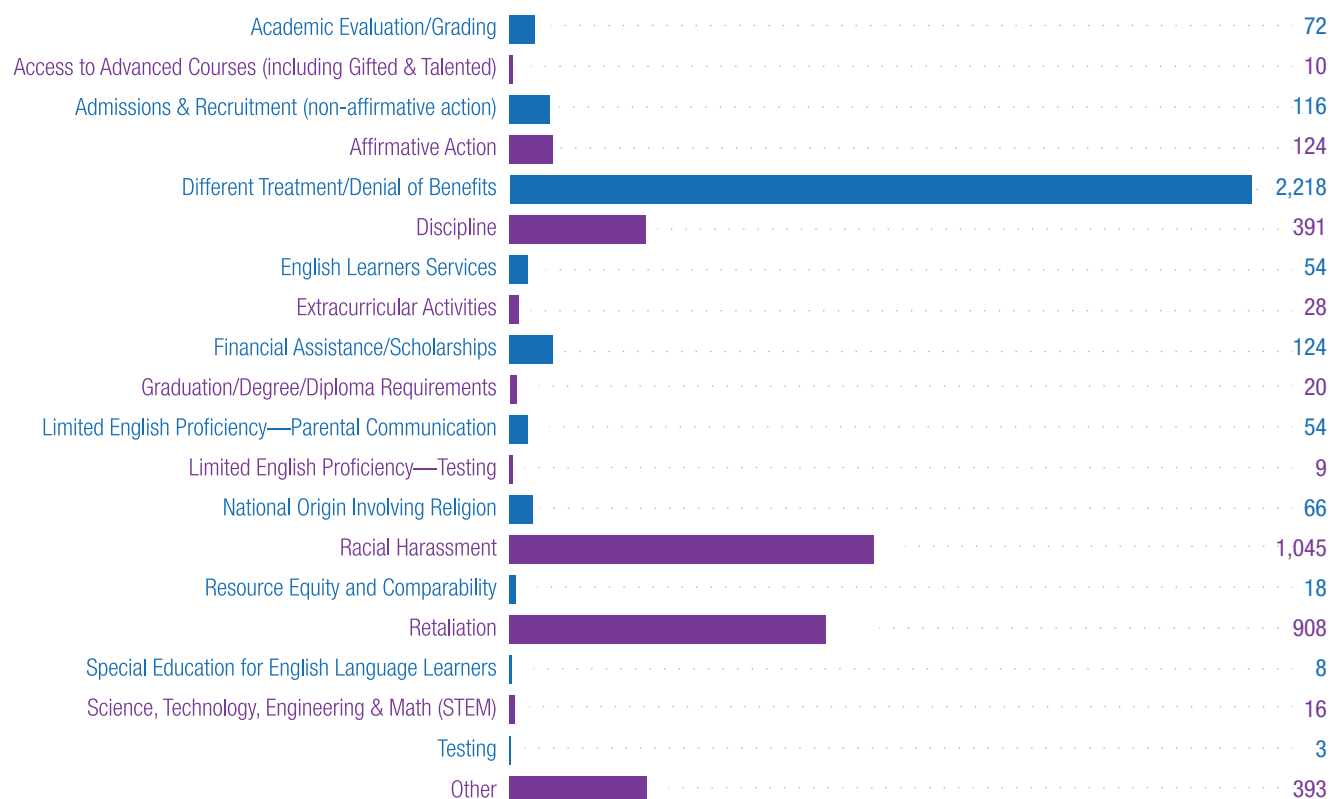


Figure 5: Title VI Complaint Allegations Received in FY 2023



Total Number of Complaints Raising Title VI Issues, **FY 2023 = 3,526**

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 2023, OCR resolved 3,001 Title VI complaints that, collectively, addressed Title VI-related issues in institutions across the nation (see Figure 5) that range from allegations of race 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

John Doe University:¹ At a university, a student reported experiencing repeated race-based harassment, including suffering a physical attack and repeated verbal abuse. On one occasion, an instructor slapped the student's hand and asked the student whether their response was typical of their race: "Why are you breathing heavily? Do all [redacted] breathe heavily like you?" The student experienced ongoing stress in response to the differential treatment based on race, and their efforts to seek redress through the university's complaint system were unsuccessful. OCR's investigation revealed that the university had reason to suspect the existence of a hostile environment but failed to determine whether the harassment had been based on race. The investigation also raised concerns about the adequacy of the university's response once it received actual notice of the physical attack and verbal harassment. The university appeared to believe – incorrectly – that it lacked jurisdiction to investigate because the alleged discrimination occurred in a clinical internship program.

To remedy OCR's concerns, in January 2023, the

university agreed to allow the complainant to re-enroll in the relevant course at no cost and to change a failing grade the student had received in a course. The university also agreed to train staff on Title VI legal requirements, provide students with notice of how to file complaints of discrimination and retaliation with the university, and track complaints of discrimination.

Torrington Board of Education (CT): In September 2023, OCR resolved an investigation of this school district's response to race-based harassment, which included multiple students being called racial slurs in an online group chat. The online chat was then shared and discussed among students while in the classroom. In response, the district initiated disciplinary proceedings for "inappropriate language," but it did not follow its own nondiscrimination procedures or otherwise take steps to ensure that it addressed a potential racially hostile environment. OCR's investigation also indicated systemic concerns with the district's tracking of and response to race-based incidents. For instance, the district originally asserted that no other race-based complaints existed, but subsequently produced nearly two dozen case files of such incidents, most of which were incomplete and signaled inadequate mechanisms to track and address Title VI complaints.

To remedy these concerns, the school district committed to provide a forum for impacted students to discuss the incident with the Superintendent and to offer individual supports to these students. The agreement also requires the district to revise district procedures to ensure appropriate processing of race-based complaints, comprehensive annual trainings for all district

¹ OCR has not disclosed the actual name of the institution in this case because of privacy considerations.

staff, age-appropriate instructional programming for district middle- and high-school students, a climate survey for students with an annual audit and responsive action plan based on the results, and an obligation to create and maintain accurate recordkeeping systems for race-based complaints.

Ottumwa Community School District (IA): An OCR investigation determined that a student had been subjected to a hostile environment for two years due to race harassment and that the school district violated Title VI because it had notice of the hostile environment but failed to take necessary steps to protect the student. The harassment included racial slurs, including calling the student the “n” word, a “slave” to white students, “blackie,” and “cotton-picker.” Students also made monkey noises in class toward the student and raised their fists in the air to mock Black Power. One white student used the term KKK as a reference to the “Kool Kids Klub,” and another knelt on a Gatorade bottle in the student’s presence and said, “It can’t breathe,” mimicking George Floyd’s death. OCR concluded that school administrators were insufficiently responsive to these incidents and that the district disregarded its obligations to investigate whether its response to the reported harassment was effective in eliminating the hostile environment. OCR also did not find evidence that the district addressed either the cumulative effect of the incidents on the harassed student or the impact the widespread conduct may have had on other students.

In December 2022, the district entered into a resolution agreement committing it to publishing an anti-harassment statement, reviewing and revising its policies and procedures to address Title VI’s prohibition on harassment, training district staff, providing age-appropriate information programs to

address race harassment, conducting a climate survey to assess the prevalence of harassment in the student’s former school, and providing suggestions for effective ways that the district can address harassment.

Beecher Community Unit School District 200 (IL): In June 2023, OCR resolved an investigation of a Title VI complaint alleging that this school district had discriminated against students when it failed to respond to repeated instances of racial harassment occurring over two school years. The harassment included classroom PowerPoint presentations with Confederate flags that were unrelated to the subject matter for discussion, Snapchat messages circulated during school hours calling someone the “n” word and dehumanizing the individual by saying “It” was here to deliver an item. During a classroom activity that used an online platform, a white student identified himself as “Ni99er,” and on another occasion white students shook the school bus as Black students were exiting. The investigation revealed that the district did not adequately investigate possible racially harassing conduct, nor did it appear to consider the totality of the circumstances and the



cumulative effects of the race harassment. OCR also identified concerns that the district did not take steps reasonably designed to prevent the harassment from recurring or remedy the effects of the harassment on students.

To resolve the complaint, the district agreed to investigate allegations from previous school years and remedy the effects of racial harassment with compensatory services, offer training to staff and students on race discrimination and harassment, and develop a school climate survey to administer to students at the school with approval from OCR. The district also agreed to maintain documents relating to specific complaints or other reports of racial harassment to ensure that its files contain all information necessary to process complaints under Title VI.

University of Vermont and State Agricultural College (VT): In April 2023, OCR resolved a complaint alleging that this university had failed to respond effectively to reports of antisemitic harassment. OCR's investigation revealed that the university's Office of Equal Opportunity declined to investigate incidents after receiving notice of targeted antisemitic harassment on campus, including allegations that a teaching assistant had posted on social media about not giving Jewish students course participation credit, subtracting points from Jewish students' work, celebrating the theft of an Israeli flag from a Jewish student's residence, and adding the word "Kristallnacht" above a picture of a damaged storefront with accompanying Hebrew text. OCR's investigation also reflected that the university did not effectively investigate allegations that students threw rocks and other objects at an on-campus Jewish students' center and dormitory. OCR had concerns that these failures to investigate and the university's

failure to communicate to students responsive actions it took.

To remedy these concerns, the university agreed to review and revise its nondiscrimination policies and procedures to ensure compliance with Title VI, including by developing protocols clarifying the roles of university staff in resolving allegations of discrimination. The university also agreed to provide training to university leadership, staff, and students on Title VI and its prohibition on harassment based on national origin and shared ancestry, and, on an annual basis, to submit to OCR copies of case files of complaints of antisemitism filed during the previous year. Finally, the university agreed to publicly commit to addressing antisemitism and other forms of shared ancestry discrimination on campus, and to review campus climate surveys to determine whether further action is needed.

“

In the wake of this landmark settlement — the first of its kind — there has been a remarkable evolution in visible support for Jewish students, updated policies, and improved systems and processes for bias reporting. In short, Jewish life at UVM is thriving. Even as we face rising levels of antisemitism around the country and flurries of activity on campus, the Title VI resolution and subsequent policy, systems, and process changes on campus have helped Jewish students feel better supported at UVM.”

***Matt Vogel**, Executive Director, University of Vermont Hillel*

Also...

See **Forsyth County Schools**, p. 34
(addressing race and sex discrimination)

Combating Discriminatory Discipline

Winston-Salem/Forsyth County Schools (NC):

OCR's investigation of this district revealed persistent and significant race disparities in district disciplinary referral and suspension rates, and evidence suggested that Black students had been subjected to harsher discipline than white students with similar discipline histories and conduct. During the 2022-2023 school year, the district reported that Black students received 57.2% of discipline resulting in in-school or out-of-school suspension, while white students received only 14.2% (as of March 2023). During that school year, 29% of district students were Black and 34% were white. The discipline code in effect prior to 2022 did not clearly define some of the most common offenses, which may have contributed to the different treatment of students based on race that the district's records suggested. While the district had recently revised its discipline code to include definitions for most offenses that should provide better guidance to staff, the revised 2022 code left OCR concerned about the clarity of the guidance to staff and administrators about when to make referrals and how to determine appropriate consequences, particularly given the broad range of potential consequences for many offenses.

In September 2023, to resolve the investigation, the district committed to take steps to ensure disciplinary practices do not discriminate against students on the basis of race by agreeing to review its current discipline code to determine if further revisions are necessary; train administrators and staff; collect complete and accurate data on all disciplinary referrals; analyze its current discipline data for evidence of unlawful discrimination or failure to comply with the discipline code; take corrective actions to address

any concerns it identifies through its data analysis; coordinate with local law enforcement agencies on School Resource Officer data collection, training, and monitoring; conduct an assessment of alternative school programs for students who commit discipline violations to determine program effectiveness, as well as assess whether referrals to these programs are consistent with the district discipline code; provide information on its discipline policies for students and families; and submit to OCR annual reports regarding the effectiveness of its efforts for OCR review and assessment.



We want to be held accountable, and we're very committed to this work . . . This is work that we are really passionate about, and I'm glad this resolution came up because it's just going to make us reflect on what we're doing and how to make it better."

***Tricia McManus**, Superintendent, Winston-Salem/Forsyth County Schools*

Ensuring Equal Opportunities for English Learners

Tucson Unified School District (AZ):

In investigating a complaint alleging that this school district had discriminated against English learner (EL) students based on national origin, OCR identified numerous Title VI violations. OCR found that the district failed to timely identify potential EL students in need of an English language development program and did not monitor the progress of those EL students who opted out of the program in attaining English proficiency or

accessing the core curriculum. Teachers did not know who the opt-out students were in their classes and did not provide EL services to all who qualified based on assessment scores.

Additionally, OCR found that individualized education program (IEP) teams did not consider dually identified students for any language assistance and the district failed to monitor students who were not meaningfully participating in the English language development program. Finally, OCR found that the district failed to document withdrawals from the program, failed to inform parents of the progress of students within the program, and failed to provide parents with all the information on the withdrawal process. After reviewing communications and student records, in addition to conducting witness interviews, OCR concluded that the district encouraged parents and students to withdraw from the program due to staffing shortages and provided parents with incomplete information on the withdrawal process in a language they could not understand. The district even removed students who indicated an interest in opting out before the parent withdrawal process was complete.

In April 2023, to resolve the complaint, the district agreed to implement new policies, procedures, and forms to provide language services to EL students; develop a plan to provide compensatory services to EL students; analyze the funding and staffing needed to properly serve EL students; provide parents with the necessary information on EL services and their right to opt out on behalf of their child; annually train all relevant staff on new policies, procedures and forms; and implement a plan to monitor the district's compliance.

Los Banos Unified School District (CA): In May 2023, OCR resolved complaints alleging



that this school district had failed to provide EL elementary students with an English Language Development (ELD) program. OCR found that the district's ELD plan failed to provide effective services to EL elementary students by failing to provide elementary sites with specific models of ELD delivery, not having descriptions of how sites should monitor EL student progress, failing to provide assistance with identifying and implementing intervention for at-risk students, and failing to have strategies in place for implementing EL services. OCR also discovered that teachers at the district often chose to ignore the district's ineffective ELD plan, and instead used alternative materials and curriculum.

The district agreed to revise its ELD plan to clarify program models, monitoring procedures, and interventions for at-risk or long-term EL students; create clear expectations for program implementation and site accountability; and implement a professional development program to support teachers and staff in the delivery of ELD instruction and monitoring of EL students.

Douglas County School District (CO): In August 2023, OCR resolved a complaint alleging that



this school district had discriminated against a student and her parent based on national origin when the school failed to ensure meaningful communication with the parent, whose primary language is not English. This communication lapse caused the student to be denied free and reduced lunch assistance and benefits due to incorrect reporting and resulted in the student incurring fines. During its investigation, OCR identified concerns relating to the district's process for identifying parents in need of communication services solely at the time of registration. Additionally, OCR did not find any indication of staff training on how to recognize when language services are needed, nor did the school's website provide information to students and parents on how to receive language assistance.

To remedy OCR's concerns, the district agreed to provide notice to the parent regarding the availability of language assistance services, and provide the parent with a point of contact for future requests for such services; develop a plan for oral and written language assistance at the school for national origin minority parents

and guardians with limited English proficiency; disseminate the plan following OCR's approval (LEP); and train school administrators and staff who interact with LEP parents/guardians of school students.

Learning Community Public Charter School

(RI): After investigating a complaint alleging this school district had discriminated against parents with limited English proficiency (LEP), OCR identified concerns that the district used untrained staff members and other individuals to provide most of its translation and interpretation services. OCR found evidence that the district failed to provide written translations of essential documents to parents and guardians who speak specific languages, raising concerns the district may not have been providing LEP parents with effective access to school-related information comparable to that which English-speaking parents received.

The district's May 2023 resolution agreement requires it to provide qualified interpreter services and to develop a procedure for translating documents. The district also agreed to conduct training regarding communicating essential information to parents and guardians, including training on employees' obligation to review language access needs before scheduling meetings and sending out notices, what information must be translated or interpreted, what constitutes a qualified interpreter or translator, when and how to obtain qualified interpreters and translators, where to find accurate and up-to-date translations of documents when needed, and other best practices for communicating with LEP parents and guardians.

TITLE IX: *Discrimination Based on Sex*

Title IX of the Education Amendments of 1972 (Title IX) states: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.” Title IX applies to recipients of federal financial assistance, including colleges, universities, and public-school districts. OCR enforces Title IX to ensure equal access to educational opportunities.

POLICY RESOURCES AND PROPOSED RULEMAKING

During FY 2023, OCR continued to develop the Department’s proposed rulemaking to support full implementation of Title IX and issued the following policy resources:

- In October 2022, OCR issued a Resource on [Discrimination Based on Pregnancy and Related Conditions](#), reminding school communities that Title IX of the Education Amendments of 1972 protects students and employees from discrimination based on pregnancy and related conditions.
- In February 2023, OCR released three new resources on Title IX and athletic opportunities, which provide information about how students, parents, coaches, athletic directors, and school officials can evaluate whether a school is meeting its obligation to provide equal athletic opportunity regardless of sex consistent with Title IX of the Education Amendments of 1972.
- In April 2023, the Department released a proposed amendment to its Title IX regulations on eligibility for male and female athletic teams. The proposed regulation would permit a school to use criteria that would limit or deny a student’s eligibility to participate on a male or female team consistent with their gender identity if those criteria are substantially related to the achievement of an important educational objective. Schools would be required to take into account differences in grade and education level, level of competition, and sports. The proposed regulation would also require a school to minimize harms to students whose



The [overview resource](#) provides information about schools’ responsibility under Title IX to provide equal athletic opportunities to all students, regardless of sex, and includes examples of the kinds of situations that could, depending on the facts and circumstances, raise Title IX concerns in school athletic programs at all education levels. The two specialized resources—one [for K-12 schools](#) and one for [colleges and universities](#)—offer information specific to these school communities.

participation on teams consistent with their gender identity would be limited or denied. One-size-fits-all policies that ban transgender students from participating consistent with their gender identity across all sports, age groups, and levels of competition would not satisfy the proposed regulation. In conjunction with the release of the proposed regulation, OCR issued a [fact sheet summarizing the proposed amendment](#).

ENFORCEMENT

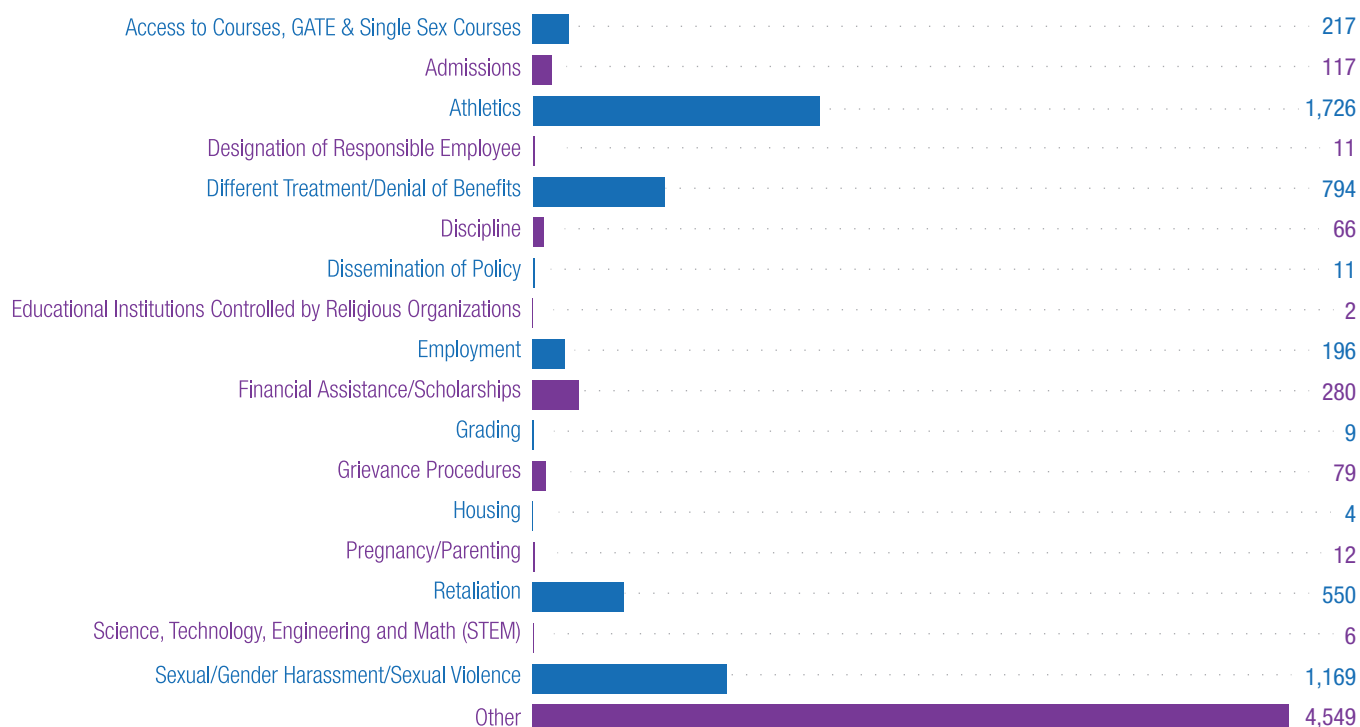
In FY 2023, OCR **resolved 7,757** Title IX complaints, addressing a broad range of Title IX issues across the nation, including sexual violence at the elementary, secondary, and postsecondary levels; equal access to athletic opportunities; and

harassment (see Figure 6). The following cases illustrate OCR’s Title IX resolutions in FY 2023.

Eradicating Sexual Harassment and Sexual Violence

Val Verde Unified School District (CA): In June 2023, OCR resolved a compliance review of this school district’s response to complaints and reports of student-to-student and employee-to-student sexual harassment. The violations OCR found included the district systemically failing to coordinate its response to sexual harassment through its Title IX Coordinator (who did not participate in any of the 41 documented incidents OCR reviewed and who only received notification of three of those 41 incidents); never investigating a complaint of sexual assault on school grounds;

Figure 6: Title IX Complaint Allegations Received in FY 2023



Total Number of Complaints Raising Title IX Issues, **FY 2023 = 8,151**

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

not taking required steps responsive to reports of sexual harassment in more than a third of the 41 files OCR reviewed; and operating grievance procedures that were inequitable for complainants as well as respondents. The evidence OCR reviewed included, for example, the Title IX Coordinator stating that the district did not investigate a report that a student raped another student on a Friday night in an unsupervised classroom area on campus during a football game because the incident occurred after school hours and was being investigated by law enforcement as possible criminal activity. Those bases for not investigating do not satisfy Title IX. In another example, OCR did not find evidence that a school considered a class schedule change or a safety plan to protect a student after the student reported that another student told her multiple times that he was going to rape her.

To remedy nearly a decade of Title IX noncompliance, the resolution agreement committed the district to developing a program that assesses the effectiveness of the district's Title IX anti-discrimination efforts; implementing new Title IX policies and procedures; training staff and students on the new Title IX procedures, how to identify sexual harassment, and how to report it; maintaining required records on sexual harassment; disseminating a notice of non-discrimination in compliance with Title IX; and producing a biannual school climate survey to employees and students to analyze the climate at each school with respect to sexual harassment.

Montgomery College, Takoma/Silver Spring Campus (MD): In June 2023, OCR resolved a sexual harassment complaint alleging that a professor at this college had engaged in sexual harassment of female students during his class

by requiring the students to remove their shirts and wear only their bras—and then commenting on their bodies—ostensibly to demonstrate a medical assessment, despite the fact that the assessment required neither the clothing removal nor the bodily commentary. Within approximately three months of receiving the initial report of the professor's harassment, the college's investigation confirmed that the professor's conduct created a hostile environment on the basis of sex. The college proceeded to terminate the professor's employment and provided written notice of the outcome of its investigation to the student in the class who initially reported experiencing sexual harassment, and also offered supportive services to affected students. However, the college did not notify all affected students regarding the conclusion of its investigation, raising a concern that the college may not have taken necessary steps to ensure that a hostile environment did not persist for all affected students. To remedy these concerns, the college agreed to notify in writing all students in the professor's class that the college had completed its investigation of the sexual harassment complaint against the professor. In order for OCR to determine whether the college needs to take additional steps to ensure students are able to access their education free from discrimination, it also agreed to provide OCR with the results of its 2022 Title IX climate survey and a narrative summary of the steps it has taken in response to any concerns raised by that survey.

Newark Public School District (NJ): In August 2023, OCR found that this school district had violated Title IX after investigating its response to student and employee harassment of students. OCR found that the district failed to investigate any incidents of employees' sexually harassing students, and deferred its Title IX obligations to

respond to such sexual harassment to a state agency for several years without ensuring those obligations were met. OCR further found that the district repeatedly failed to respond to incidents of student-to-student sexual harassment, to address its effect on targeted students, to prevent its recurrence, or to notify the parties of investigation outcomes. In addition, OCR found the Title IX Coordinator did not coordinate the district's efforts to comply with its responsibilities under Title IX.

Through a resolution agreement, the district committed to ensuring that the Title IX Coordinator handles all of its efforts to comply with Title IX moving forward; developing a program to assess the effectiveness of its Title IX anti-discrimination efforts; revising policies and procedures to comply with the Title IX regulations; training staff and students regarding the district's Title IX procedures regarding sexual harassment; maintaining required records about reports of sexual harassment; reviewing case files for reported incidents of sexual harassment of district students from specified prior school years to determine if further action is needed to resolve each incident equitably; disseminating a notice of nondiscrimination that complies with Title IX; and administering an annual school climate survey to district employees and students at each district school.

Garland Independent School District (TX):

In July 2023, OCR resolved an investigation of this school district's handling of sexual assault allegations, determining that it had violated Title IX by routinely delaying its investigation of Title IX complaints when law enforcement was involved, and, in some instances, failing ever to conduct a Title IX investigation and instead relying on law enforcement findings. In addition, OCR found that



the district failed to provide interim measures to protect students and the campus environment; failed to adequately train relevant staff and ensure proper coordination between the district and its Title IX Coordinator; failed to ensure that the district's grievance procedures and notice of nondiscrimination included the necessary clarity and information required by Title IX; and lacked a centralized recordkeeping system for Title IX complaints. OCR found that 42 of the 48 student-involved district files reviewed contained no evidence that the district considered, offered, and/or provided interim supportive measures to the allegedly harassed student at any juncture of the Title IX process. These case files revealed inadequate district responses under Title IX—including an incident for which school video footage reflected a student forcing another student to perform a sex act but no evidence showed that the district provided a prompt and equitable Title IX response to the harassed student, such as by providing her support or assessing and addressing the impact the harassment had on her. In another case file OCR reviewed, the district inexplicably waited 35 days after completing an investigation—until after law enforcement arrested the harassers—to discipline

two students who harassed and assaulted two other students daily over several weeks.

As part of its resolution agreement, the district committed to reviewing and revising its Title IX grievance procedures and notice of nondiscrimination; developing and implementing a centralized record-keeping system that enables the district to accurately document and preserve all complaints of sexual harassment and sexual assault; providing OCR with information regarding the district's processing of each formal complaint of sexual harassment and sexual assault filed with the district during the next three school years; offering training on Title IX and its revised grievance procedures to district staff; offering age-appropriate student training districtwide regarding sexual harassment sexual assault, including how and to whom to report sexual harassment; and developing and conducting a climate survey of its students and staff regarding sexual harassment, including sexual assault.

Pflugerville Independent School District (TX):

In August 2023, OCR determined that this school district had violated Title IX by failing to respond equitably to notice that a student had been sexually assaulted by another student in a school restroom, and violated Section 504 and Title II by failing to provide the student with a required disability accommodation in one of her classes as provided by her Section 504 plan. OCR found that the district never undertook a Title IX investigation of the reported sexual assault, even after completion of law enforcement activities. OCR further found that the investigation by the district was incomplete and that the district relied on stereotypes about how a person should respond to sexual assault to draw investigative conclusions that were inconsistent with Title IX. In addition,

OCR found that the district response failed to provide fair process to both the accused student and to his accuser.

To resolve the case, the district agreed to offer the student and her family a meeting to discuss the district's handling of the sexual assault allegation and reimbursement for the student's related counseling expenses; designate a Title IX Coordinator; conduct Title IX and Section 504/Title II training for relevant district and school staff; provide OCR with information and documentation regarding sexual harassment complaints received during the 2021-2022 and 2022-2023 school years; develop and disseminate a sexual harassment climate survey to the district's students; and develop and implement a record-keeping system and procedures to document and preserve all sexual harassment complaints and related documentation.

Alpine School District (UT): In September 2023, OCR determined that this school district had failed to respond to reports of sexual assault by employees and students or to coordinate its responses to such reports through its Title IX coordinators, among other Title IX violations. In particular, OCR found that the district failed to investigate or redress employee-to-student and student-to-student sexual assault allegations after the allegations were reported to law enforcement, leaving affected students vulnerable to the discrimination that Title IX prohibits but that law enforcement does not address. For example, in one employee-to-student case, district records state that a teacher performed a "sexual act" on a student in the teacher's classroom immediately after school. After the student told a third party, who reported the incident to law enforcement, law enforcement questioned and arrested the

teacher, who later pleaded guilty to unlawful sexual conduct with a minor. The district allowed this teacher to resign without conducting a Title IX investigation to determine whether this student or other students needed remedies under Title IX, and if so to provide them.

Apart from these employee-to-student incidents, the district involved its Title IX coordinator in only one of 88 reported student-to-student sexual assaults during the school years OCR reviewed. OCR also identified compliance concerns in connection with the district's responses to off-campus sexual harassment, its training for employees responsible for ensuring compliance with Title IX, and its recordkeeping system to track incidents of sexual harassment. For example, OCR found that the district had reported only one sexual assault for OCR's 2017-18 Civil Rights Data Collection, whereas the district reported 20 student-to-student sexual assaults during that same year in response to the compliance review.

To resolve the violations and concerns OCR identified, the district agreed to review case files for reported incidents of employee-to-student and student-to-student sexual harassment to determine whether further action is needed to provide an equitable resolution of each incident; ensure that its Title IX Coordinators coordinate all of the district's efforts to comply with Title IX; revise Title IX policies and procedures to comply with the Title IX regulations and to train employees and students regarding these procedures; improve its record-keeping system to ensure that records about sexual harassment are created and maintained and to report complete and accurate data to the Civil Rights Data Collection (CRDC); and administer school climate surveys to students, parents, and district employees.

Mingo County School District (WV): In May 2023, OCR secured a resolution agreement to address concerns that the district had neither completed an investigation of serial misconduct nor responded equitably to complaints of sexual assault, including because it may have treated male respondents less favorably than female respondents. OCR also determined that the district had violated Title IX by failing to identify a Title IX Coordinator prior to August 2020, failing to adopt and publish grievance procedures and a notice of nondiscrimination that complied with Title IX, and failing to adopt recordkeeping practices with regard to Title IX complaints.

To resolve this compliance review, the district committed to designating and identifying its Title IX Coordinator and providing training; reviewing and revising its Title IX policies; submitting to OCR case file documentation sufficient to show that the district's revised Title IX policies are compliant and effective; publishing a compliant notice of nondiscrimination; reviewing all complaints of student and staff Title IX misconduct during the period of the investigation; and conducting a survey of students and parents to identify additional changes to achieve compliance with Title IX.

Equal Access to Athletic Opportunities and Benefits

University of Maryland, Eastern Shore (MD):

In May 2023, OCR resolved a complaint alleging that this university had discriminated on the basis of sex when it failed to properly investigate whether the softball program was being treated less favorably than other athletic programs on the basis of sex. The complaint also alleged that the university failed to provide equal opportunities to female athletes in a variety of ways in its intercollegiate athletic program.



During investigation, OCR identified concerns that the university was not providing equal athletic opportunities with respect to the underrepresentation of women in the athletics program; the quality of the equipment and supplies used; the unavailability of indoor practice time for the women; the travel and per diem allowance; the absence of an academic advisor; the insufficient number of coaches; the quality of the locker rooms, practice, and competitive facilities; the availability of trainers; the availability of media personnel; and the scholarship monies available for recruitment. In addition, OCR was concerned that the university's nondiscrimination policy did not clearly apply to complaints of different treatment on the basis of sex and that the University appeared to have failed to adhere to its policy when it responded to a complaint it received regarding the softball program offerings.

To resolve OCR's concerns, the university agreed to revise its policy for addressing complaints of sex discrimination and committed to investigating the complaint in line with the new policy. In addition, the university also agreed to provide opportunities for female and male students that equally and effectively accommodate the

athletic interests and abilities of members of both sexes. Accordingly, the university agreed to provide athletic participation opportunities that are either substantially proportionate to each sex's enrollment in its programs or demonstrate that the interests and abilities of female students are fully and effectively accommodated by the university's current athletic programs. The university also agreed to provide male and female students equal athletic opportunity in the provision of equipment and supplies; the scheduling of games and practice times; with respect to travel and per diem allowance; in the availability, assignment, and compensation of tutors; the assignment and compensation of coaches; in the provision of locker room, practice, and competitive facilities; the provision of medical and training facilities and services; the provision of publicity; and with respect to recruitment.

Salem-Keizer School District No. 24J (OR): In November 2022, OCR resolved an investigation in which it learned that the boys' baseball program at a district high school had superior playing fields, dugouts, bullpens, fencing, landscaping, bleachers, batting cages, and storage compared to what was provided for girls' softball. Additionally, players on the boys' baseball team had access to a team room, whereas players on the girls' softball team did not, and the district provided boys' baseball teams with superior and newer uniforms than the district provided for girls' softball teams. In addition, OCR's investigation uncovered that the girls' softball teams also had less opportunity to receive coaching as compared to the boys' baseball teams because the girls' softball head coach did not receive a prep period to prepare the fields immediately before practices and games, while the boys' baseball head coach did receive such a prep period.

OCR MONITORING REPORT

In July 2023, OCR completed monitoring of the Hamburg Area School District's (PA) compliance with the resolution agreement it entered into in December 2018 requiring this district to take steps to provide the girls' interscholastic athletic program access to locker rooms, practice fields and facilities, and competitive fields and facilities equivalent to the access that the boys' interscholastic program receives. Through monitoring, OCR confirmed that the district's locker rooms, practice facilities, and competition facilities assigned to the boys' and girls' programs had become similar in quality and availability and, in many instances, the locker rooms and facilities were now identical. Most recently, the district renovated its high school softball field, added new bleachers to the field, installed new benches in the dugouts, placed an extended walkway from the field to the nearest parking lot, and upgraded all the lockers in the high school girls' locker room. In addition, the district renovated the middle school softball field and provided in-service training to the staff who maintain the fields.

To remedy the concerns, the district committed to conducting assessments of the facilities, equipment, and supplies. The district also committed to providing opportunities for coaching to the boys' and girls' interscholastic athletic teams at the district high school to ensure that members of both sexes are provided with equivalent benefits, opportunities, and treatment. Additionally, the district agreed to create and implement a corrective action plan to address any inequities that the district identifies.

Academy School District 20 (CO): OCR resolved an investigation in March 2023 in response to allegations that this school district had discriminated against female participants in a high school's athletics program with respect to locker rooms, athletic equipment and supplies, modes

of transportation to away games, availability of trainers and medical personnel, and support services. The parent who filed the complaint also alleged that the district refused to allow female team managers to attend the football team's field trip to Las Vegas and, in response to her raising these concerns at the school, claimed she experienced retaliation and was prohibited from going on the trip as a volunteer. The complaint further asserted that unequal distribution of funds, including those raised by team booster clubs, contributed to the inequalities that the complaint identified.

Over the course of its investigation, OCR identified concerns that the school was not providing equal athletic opportunities for members of both sexes. These included a concern that the school did not provide male and female student athletes with equivalent locker rooms because the female locker rooms have fewer and smaller lockers. OCR also had a concern that there was a disparity in the provision of equipment and uniforms and other apparel purchased for athletes. For example, the school's male tennis team had \$3,494.88 more in fundraising than the female tennis team. OCR was further concerned that female athletes were not being provided with transportation or athletic trainers equivalent to those being provided to male athletes. Finally, OCR was concerned that female team managers had been excluded from the football team's field trip to Las Vegas.

The district agreed to a range of measures to address OCR's concerns. With respect to the student's individual complaint, the district agreed to invite the parent to participate in future volunteering positions. Regarding the systemic concerns that OCR's investigation identified, the district agreed to conduct a comprehensive equity

assessment of all teams in interscholastic athletic programs at the school that would examine the disparities identified in the initial complaint. Following this assessment, the district agreed to develop and implement written guidelines to ensure that the district provides equivalent athletic opportunities for male and female athletes. These guidelines included a commitment on the part of the district to address how funding from booster clubs or any other source might affect the balance of equivalent benefits and services for male and female athletes. The district also committed to conduct training of key personnel in the district and at the school.

Prentiss County School District (MS): In September 2023, OCR resolved an investigation that reflected unequal access to athletic opportunities for girls, including, for example, because unlike the boys' baseball team, the girls' softball team did not have a designated field or locker room. In its resolution agreement, the district committed to assessing the quality, availability, and maintenance of the locker rooms and practice and competitive facilities provided to its male and female interscholastic athletes; creating a plan, with timeframes, to provide both sexes in the interscholastic athletics program with equal athletic opportunities regarding the provision of locker rooms and practice and competitive facilities; and, by no later than the end of the 2023-2024 school year, ensuring that both sexes have equal athletic opportunities in the provision of locker rooms and practice and competitive facilities.

Preventing Discrimination Based on Pregnancy or Parental Status

Troy University (AL): In January 2023, OCR resolved an investigation that addressed concerns regarding this university's response to a student's requests for pregnancy-related adjustments during the 2020-2021 school year. OCR's investigation confirmed that a student had notified the university of her pregnancy before the start of the fall semester. OCR's investigation found repeated instances in which the student experienced negative consequences stemming from a lack of accommodations for her pregnancy. For example, when the student became unable to fit into a classroom desk due to her pregnancy, she requested a table for one of her classes but never received one. She also was penalized in a class for poor attendance and received a failing grade in

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It's actually quite common for the Office for Civil Rights to look at systemic problems, because the way they look at it is if there is a situation where there is a problem with one student, that may be an indicator that there is a problem with the way that the school or the district handled these kinds of gender discrimination issues.”

Igor Raykin, Colorado Title IX Attorney



another class because she was denied the ability to make up work. OCR's investigation identified concerns that the university did not make reasonable and responsive adjustments following the student's pregnancy-related requests; that the responses the university offered to the student's requests were ad hoc and uncoordinated; that the Title IX Coordinator did not consistently or timely intervene when the student alerted him to issues with certain classes; that no evidence reflected that the Title IX Coordinator responded to a professor who sought guidance in addressing the student's requests; and that the lack of information about how to obtain pregnancy-related adjustments may have contributed to the university's uncoordinated response, requiring the student to make multiple requests through both the university's Title IX Coordinator and individual professors.

To resolve OCR's concerns, the university agreed to reimburse the student for documented expenses related to courses she had to retake since the semester when she was pregnant; adjust grades that were negatively impacted by the university's handling of her requests; review and, as necessary, revise its policies pertaining to Title IX protection of individuals who are pregnant and publish the policies on its website; develop a system for tracking pregnancy-related adjustments made for students; and provide Title IX training to all faculty and staff involved in providing Title IX resources, in addition to conducting a survey to ascertain the effectiveness of that training.

California Career College (CA): In February 2023, OCR resolved an investigation into whether this college had discriminated against a student based on pregnancy when it forced her to withdraw upon learning that she was pregnant. The college

informed the student that, upon her return following the birth of her child, she would have to repeat the entire previous semester. During the investigation, the student informed OCR that she wished to return to her program at the same point she took her leave of absence but was told to complete the entire previous semester. Additionally, OCR was unable to locate the notice of non-discrimination, the Title IX Coordinator's contact information, or any Title IX training materials on the college's website.

To resolve OCR's concerns, the college committed to making updates to both the website and its catalog regarding the rights of pregnant students pursuant to Title IX, as well as offering the student the opportunity to re-enroll at the college at the same status as the time when her pregnancy-related leave of absence began.



Cuyahoga Community College (OH): In September 2023, OCR resolved a complaint regarding a college student who had difficulty obtaining accommodations during her pregnancy. During the investigation, OCR identified

compliance concerns that the college had not made reasonable and responsive adjustments for the student in response to her pregnancy-related requests. Although the college had a policy for accommodating temporary disabilities, the college did not provide information to pregnant students on its Title IX webpage or elsewhere about how to seek accommodations related to pregnancy. The college also did not provide information on its website regarding how to obtain pregnancy leave or academic adjustments.

To resolve the complaint, the college agreed to review its practices, policies, and procedures for adjustments for pregnant students to ensure that the college complies with Title IX's prohibition on discrimination on the basis of pregnancy; revise or, as needed, develop written policies and procedures; and submit the updated policies and procedures to OCR for review. The college also agreed to publish the policies prominently on its website and elsewhere, as appropriate, as well as information regarding how to obtain pregnancy-related accommodations, academic adjustments, and the grievance procedure for students to file complaints of sex discrimination, including pregnancy-related complaints. The college also agreed to provide a training on the Title IX rights of pregnant students and the college's obligations under Title IX related to pregnant students; conduct a survey of faculty and staff who attended the training to assess the effectiveness of the training; and develop a system to track requests for pregnancy-related adjustments, the college's responses to those requests, and the reasons for the denial of any such requests, in addition to providing OCR with a monthly compiled list containing that information.

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We applaud the Department of Education for recognizing that harassment is always the fault of the harasser and making clear that the girls of Nash County must have their #TitleIX rights protected.”

Girls Inc. on X



Sex Discrimination and Dress Codes

Nash County Public Schools (NC): In September 2023, OCR resolved investigation of a complaint that, at the beginning of the 2022-2023 school year, this school district had held a dress code assembly only for girls—without holding any such assembly for boys—with the purpose, in part, to address “inappropriate” messages on social media by students that threatened sexual violence against other students. During this assembly, district staff appeared to blame the girls for the harassment they experienced, saying that their manner of dress was “opening the door” to harassment and that they should not then “wonder why they [boys] disrespect you.” The district also took the position that it had not

known about social media threats to rape students and other such harassing social media posts, but documentation OCR reviewed confirmed that the district did receive actual notice of these threats. There was no evidence, however, that the district investigated or responded to these notices, other than to hold the dress code assembly for girls. These facts, among others (including that the district had disciplined boys for dress code violations as often as they disciplined girls but did not hold an assembly for boys to address their noncompliance), led to concerns that the district did not respond as Title IX requires to notice of possible sexual harassment and that the district selectively enforced its dress code based on sex stereotypes.

To resolve these concerns, the district agreed to review and revise its dress code to ensure that it does not discriminate on the basis of sex; to train staff regarding their Title IX obligations with respect to responding to reports of sexual harassment and enforcing the dress code; and to review and investigate reports of sexual harassment at the high school, and assess the need for supportive measures for students.

Eliminating Discrimination Against and Harassment of LGBTQI+ Students

Forsyth County Schools (GA): This school district received complaints from some parents and community members who stated that certain school library books were inappropriate because of sexual content. The district responded by limiting access to certain books. Students appeared at school board meetings, where they stated that they understood books were being screened to exclude diverse authors and characters who were LGBTQI+ and/or not white and shared the impact of the book removals

on them. The students reported that the school environment had become “more harsh” in the aftermath of the book removals and that there was increased fear about going to school, being out as LGBTQI+ at school, and checking out books by and about people of color.

OCR’s investigation revealed that the district had notice based on students’ statements that the district’s library book screening process may have created a hostile environment for students based on race and sex, and that the district’s responses were insufficient to ameliorate any resultant racially and/or sexually hostile environment.

In May 2023, to remedy the concerns, the district committed to issue statements explaining that its review focused on sexually explicit material and that no books were removed based on characteristics of the book’s author or characters. The district also agreed to acknowledge that the screening process had created an environment that may have impacted students and to give notice that students who feel impacted may receive supportive measures.



Rhinelander School District (WI): In July 2023, OCR resolved the investigation of this school district after identifying concerns that its response

to a student's report of persistent harassment had limited the student's participation in school activities. OCR's investigation found that in school year 2021-2022, a nonbinary student repeatedly was mocked and targeted by other students and referred to using the wrong pronouns by multiple teachers. OCR also reviewed evidence that students bumped into the harassed student in the hallways and called them a derogatory slur for LGBTQI+ people. Ultimately, the student was removed from a class altogether on the ground that the teacher could not protect them from other students' harassment. The school limited the student to three in-person classes and required them to take their remaining classes through self-directed study.

To resolve the compliance concerns OCR identified, the school agreed to evaluate the harassed student to see if they need compensatory services due to the instructional time they missed when attending in-person classes on a part-time basis; train all district administrators and staff regarding their obligation to respond to complaints of sex-based harassment; educate the students, in an age-appropriate manner, on what sex-based harassment is and what they should do if they see it; and conduct a climate survey to assess the prevalence of sex-based harassment and report to OCR for approval of any responsive action.



SECTION 504 *and* ADA TITLE II: DISCRIMINATION BASED ON DISABILITY

OCR protects the rights of persons with disabilities under two federal laws prohibiting discrimination in education. Section 504 of the Rehabilitation Act of 1973 (Section 504) 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 enforcement of compliance with Title II with the Department of Justice. 28 C.F.R. § 35.190(b)(2).



POLICY GUIDANCE AND RESOURCES

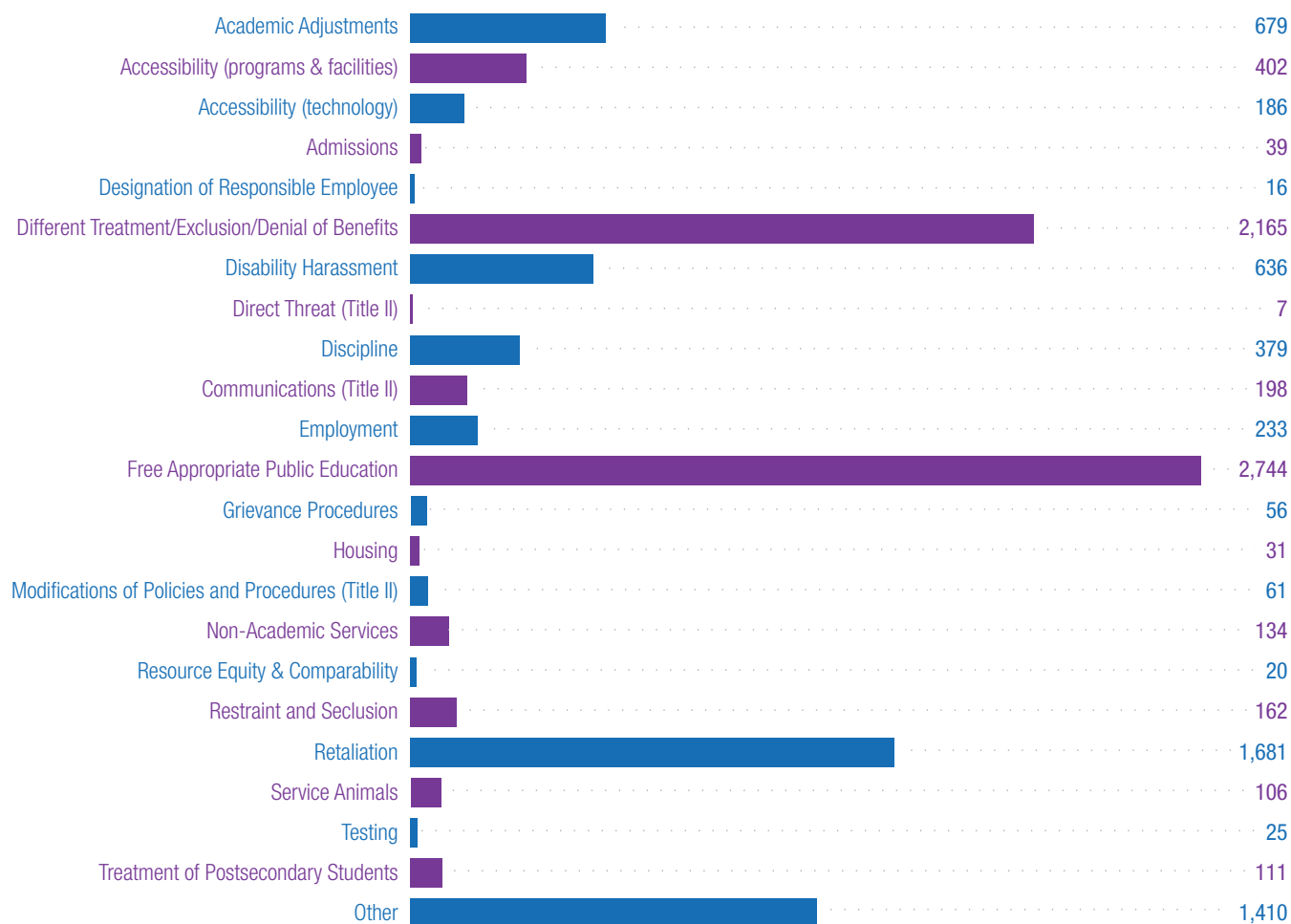
In May 2023, OCR and the U.S. Department of Justice released a joint [Dear Colleague Letter on Postsecondary Online Accessibility](#). The letter underscores the Departments’ ongoing efforts, under Title II and Section 504, to address barriers that prevent people with disabilities from participating in online services, programs, and activities that colleges, universities, and other postsecondary institutions make available to students and the public.

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This joint DOE and DOJ ‘Dear Colleague’ letter provides one of the most direct and comprehensive assessments to date on how the ADA and Section 504 apply to online content produced by higher education institutions. . . . The letter itself is a critical reminder about the necessity of online accessibility, but also functions as a strong statement to those in higher education that the DOJ and DOE expect all online content to be accessible going forward.”

Jena Wallace, “What Does the Latest DOE & DOJ Dear Colleague Letter Mean for Online Accessibility in Higher Education.” 3Play Media

Figure 7: Section 504/Title II Complaint Allegations Received in FY 2023



Total Number of Complaints Raising Disability Issues, **FY 2023 = 6,749**

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 2023, OCR resolved 6,409 Section 504/Title II-related complaints, addressing the broad range of issues raised with OCR in complaints under these laws (see Figure 7). The following cases illustrate OCR's enforcement work related to discrimination on the basis of disability.

Protecting the Civil Rights of Students with Disabilities during the COVID-19 Pandemic

Fairfax County Public Schools (VA): In November 2022, OCR resolved an investigation of this school division's provision of FAPE to students with disabilities during the COVID-19 pandemic. OCR's investigation found the school division had failed to provide thousands of students with disabilities with services identified in the students' IEPs and 504 plans during remote learning. Specifically, the

school division had reduced and placed limits on special education services based on considerations other than the students' individual education needs; failed to accurately or sufficiently track services provided to students with disabilities; and inaccurately informed staff that the school division was not required to provide compensatory education to students with disabilities who did not receive a FAPE during the COVID-19 pandemic because the school division was not at fault.

The school division 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. This included designating a plan administrator who will oversee the creation and implementation of the plan; convening 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; tracking and reporting to OCR the implementation of the plan for compensatory education; providing written guidance and/or training about the plan to all school division staff with responsibilities under Section 504 and Title II; and conducting outreach to parents, guardians, students, and other community members to publicize the plan for compensatory education.

Oxnard Union High School District (CA): In January 2023, OCR resolved an investigation that determined a student had not received one-on-one support as required by her Individualized Education Program (IEP), based on the school's closure during the COVID-19 pandemic. As a result, the student suffered significant behavioral

regression and was left insufficient time to make meaningful progress towards her goals before her age-specific eligibility for special education ended. Additionally, the district did not consider her need for compensatory services. Further, OCR was concerned the district may have similarly denied a free appropriate public education (FAPE) to other students with disabilities who experienced reductions in their IEP services, unrelated to their individual educational needs, during the COVID-19 pandemic in 2020.

To resolve OCR's investigation, the district agreed to convene a meeting to determine compensatory services for the student, convene meetings for other students with disabilities who were enrolled in the district during the COVID-19 pandemic to determine whether compensatory services are appropriate, and provide training to district staff.

According to a September 2023 report of the board of the Fairfax County Public Schools, the district completed 96.7% of the meetings that the resolution agreement required, determining whether more than 30,000 students with disabilities required compensatory services and/or reimbursement for out-of-pocket expenses. As a result of these meetings, the district provided more than 27,000 hours of compensatory services to students and paid more than \$5.5 million in reimbursement to families for private services.

Board Report, Fairfax County Public Schools

Birmingham Public Schools (MI): In this investigation, OCR found that, while this school district was providing virtual instruction to its students during the COVID-19 pandemic, it had failed to provide a student with certain services as

required by the student's IEP, thereby resulting in a denial of FAPE. To resolve this investigation, the district agreed to submit documentation showing that it convened an IEP team meeting for students with disabilities in the program and determined whether each student received or should receive compensatory education or other remedial services. The district also agreed to revise and submit for OCR approval its Section 504 policies and procedures to ensure they are consistent with legal requirements regarding providing services to students with disabilities during periods of remote/hybrid learning.



Ensuring Accessibility of Programs, Services, and Facilities

Grand Canyon University (AZ): In November 2022, OCR resolved a complaint alleging that this university had discriminated against students on the basis of disability by failing to provide them with adequate gluten-free and allergen-safe dining and housing options. OCR's investigation raised concerns that the university's approach to housing accommodations appeared to rely on blanket decisions rather than on the

required individualized determinations made through an interactive process; failed to consider modifications or accommodations for a student with a disability that may be perceived as more favorable than housing options available to other students; and relied on general concepts of reasonableness rather than on regulatory standards in considering requests for modifications.

To remedy OCR's concerns, the university agreed to review and revise its procedures for providing accommodations to students with disabilities, including housing accommodations; develop and provide training to relevant university staff involved in handling requests for accommodations; and provide a letter to the original complainant with instructions on requesting housing accommodations, an assurance that the university will engage in an interactive process, and the provision of additional and individualized support necessary for the student to successfully navigate the process of obtaining campus housing.

Framingham Public Schools (MA): In December 2022, OCR resolved the investigation of this school district for failing to accommodate a student with a disability after the student was unable to participate in his school's afterschool program. OCR's investigation found that the district did not complete an interactive process with the student's parents to gather information about the student's needs under his Section 504 plan. OCR also found that the district failed to provide the parents' requested accommodations simply because similarly situated students did not also require those accommodations. Accordingly, OCR found that the district did not make an individualized assessment of the support that the student needed to participate in the program

and instead may have relied on a generalized understanding of the supports that students with disabilities require. OCR also identified concerns that the district's policies generally did not fully comply with the requirements of Section 504 and Title II to make individualized assessments of the modifications, aids, and/or services that each student might need, possibly contributing to staff confusion about the district's obligations to provide equal access to extracurricular activities for students with disabilities.

To resolve the investigation, the district agreed to offer the student tuition credit for the time he was unable to participate in the afterschool program, revise its policies and procedures, and train staff who are expected to serve as points of contact for families who wish to enroll their children in similar programs.

New York City Department of Education (NY):

In March 2023, OCR resolved a complaint alleging that the department had discriminated against children with disabilities in an educational center's program by limiting their participation in the program to only three hours per day. In addition, the complaint alleged that the center prematurely referred children for special education evaluations and subsequently informed their parent(s)/guardian(s) that the children could no longer attend the program because they required special education services. Upon investigation, OCR identified potential systemic compliance concerns that led to the exclusion or limited participation of students with disabilities.

To address OCR's concerns, the department agreed to issue a letter regarding the requirements of Section 504 and Title II to the center staff and department employees. Consistent with the obligation not to discriminate,

the department stated that it will continue to serve students even if the parent or guardian has not consented to an evaluation and that it will take into account the needs of students with disabilities on an individual basis in determining which services to provide. The department also agreed to provide training to remind center staff that Section 504 prohibits the department from providing significant financial assistance to an agency, organization, or person that discriminates based on disability.

Also...

See **Tucson Unified School District**, p. 20 (addressing national origin and disability-based discrimination)

Tempe Union High School District (AZ): In April 2023, OCR resolved a complaint that alleged this school district had discriminated against students with disabilities by segregating them in classes and in the cafeteria, limiting their ability to select courses, failing to consider a student's individual needs, and failing to provide reasonable modifications to or accommodations for non-academic and extracurricular activities. OCR's investigation confirmed that students with disabilities all shared the same elective courses and learned with only 1.2% of the general school population, segregating these students from the rest of the school.

To resolve the Investigation, the district agreed to develop a policy for making individualized determinations when placing students and not placing students based on stereotypes; conduct an audit of the course schedules for all students with disabilities to ensure that decisions are made based on the individualized needs of each student;

provide individual remedies for all impacted students; and ensure that students with disabilities are integrated to the maximum extent appropriate to their needs with non-disabled students.

Jefferson County School District (WV): In September 2023, OCR resolved a complaint alleging that this school district had discriminated against a disabled student by preventing him from using his wheelchair during the 2022-2023 school year and requiring its use to be reviewed and approved by the student's IEP team.

Upon learning from OCR that Title II requires recipients to allow the use of a mobility device without needing prior approval by the IEP team, the district informed and trained staff on the requirement to allow students with mobility impairments to bring mobility devices to school.

Ensuring the Timely Evaluation of Students

Alan Rowe College Preparatory School (CA): In July 2023, OCR determined that this school had failed to timely evaluate a student for special education services and denied the student's parent required procedural safeguards for 14 months from when the student enrolled, despite the parent having provided the school with documentation during enrollment regarding the student's asthma and necessary medication.

In response to OCR's findings, the school agreed to revise its Section 504 policies and procedures to be consistent with Section 504 and Title II and to issue written guidance and training for school staff regarding the school's obligations to students with disabilities. The school specifically agreed to include an explanation of the process for administering asthma medication and to engage in self-monitoring assessments regarding

the administration and monitoring of asthma medication. The school also agreed to convene a Section 504 meeting to determine whether any compensatory services are appropriate for the complainant student due to the student's asthma-related absences.



Agra Public Schools (OK): In July 2023, OCR resolved a complaint alleging that this school district had failed to evaluate a student for an IEP or a Section 504 plan and had failed to provide the student with a FAPE. OCR obtained evidence raising concerns that the district may have been aware of the student's disabilities and should have evaluated the student pursuant to the requirements of Section 504. The evidence also raised concerns that the school district may not have provided regular or special education services designed to meet the student's individual educational needs, which may have denied the student a FAPE.

To remedy OCR's concerns, the district agreed to issue written correspondence to the complainant, assuring that the student will be evaluated to identify disabilities and consider appropriate placement, and to determine whether the student requires compensatory or remedial services. The

district also agreed to adopt new policies and revise existing policies as necessary to ensure compliance with Section 504 and Title II, and to train all staff regarding Section 504 and Title II—including, but not limited to—identifying students who may be eligible for evaluations, referring students for evaluations, and training staff on the evaluation process more generally.

Horry County Schools (SC): In September 2023, OCR resolved a complaint alleging that this school district had discriminated against elementary school students by refusing to grant them excused absences for medically prescribed appointments with non-district providers of physical, health, or occupational therapy. During the investigation, OCR found that the district maintained a blanket policy for all students, providing that if a student missed school as a result of a non-district therapy session, the student would receive an unexcused absence. OCR identified a concern that, in implementing this policy, the district may have failed to evaluate or re-evaluate students who had repeated unexcused absences for therapy appointments to consider whether they required special education or related aids and services to receive a FAPE.

Under the resolution agreement, the district committed to: assessing whether students with unexcused absences due to outside therapy need to be evaluated or access additional services; considering and providing compensatory services as appropriate; revising its policies to ensure that information about student absences due to outside therapy is shared with special education staff to determine if further action is needed; and training district staff on their obligations under Section 504 and Title II.

Also...

See **Pflugerville Independent School District**, p. 27 (addressing disability-based discrimination and sex discrimination, including harassment)

Hopi Junior Senior High School (AZ): In September 2023, OCR determined that this school district had violated Section 504 and Title II by discriminating against a student based on his disability. OCR's investigation showed that the school required the mother of a student with a disability to join the student at school as a condition of the student's enrollment; disciplined the student for disability-based behaviors; conditioned the student's return to school following suspension on the school director's discretion, as distinct from involving his IEP team; and subjected the student to shortened school days for behavioral reasons without individually determining his needs or consistently documenting these school exclusions.

Additionally, OCR's investigation revealed multiple systemic compliance concerns. OCR was concerned that the school was regularly asking parents or guardians of students with disabilities to attend school with their children due to staffing shortages. OCR was also concerned that the school was requiring students with disabilities who finished a suspension or temporary alternative placement to attend reinstatement meetings with the principal prior to the implementation of their IEPs—meetings in which the principal unilaterally decided if the student could return to school.

In response to OCR's concerns and violation findings, the school committed to convening knowledgeable individuals to develop a written plan to provide compensatory services to the student, at no cost to the student or his mother, and to identifying any other students with disabilities who were denied the opportunity to return to school after a removal or attend school because their parent or guardian could not accompany them. In the event other students are identified, the school agreed to convene a team to discuss whether a FAPE was denied to those students and, if so, to create plans to provide remedies to them at no cost to the parent or guardian of the student. The school also agreed to train staff and disseminate or make available approved policies and procedures to staff, students, and parents.

Baltimore County Public Schools (MD): In September 2023, OCR resolved a complaint alleging that this school district had denied a FAPE to a student with a disability by failing to provide a home and hospital tutor for several months during the school year. After an investigation, OCR found that the district had failed to provide a FAPE to this student, as well as 168 other students who also were enrolled in the home and hospital program. OCR found that the district failed to develop and implement a plan to address the denial of a FAPE and did not accurately or sufficiently track the tutoring services that it did provide to students.

To remedy the violations, the district agreed to determine whether the student's hours of home and hospital tutoring being provided were sufficient to meet the complaining student's needs and those of other students enrolled in

the program; ensure students in the home and hospital tutoring program receive the tutoring hours they are entitled to receive; provide training to district personnel on the obligation to provide a FAPE to students participating in the home and hospital program; and implement an electronic tracking system to track tutoring services for students with disabilities while enrolled in the home and hospital tutoring program, in addition to providing OCR with quarterly reports from the tracking system.



Ensuring Access to Athletics for Students with Disabilities

John Doe University:² In February 2023, OCR resolved an investigation of this university's treatment of a student athlete with a disability. During the student's first few weeks at school, she had trouble with medication management for her mental health disability and went home in distress. Her coach sent her mother a text message saying he felt it best that the student not return to school and that he felt "deceived in the recruiting process" because he was unaware

² OCR has not disclosed the actual name of the institution in this case because of privacy considerations.

of her disability. This message raised concerns regarding decision-making based on stereotypes about students with mental health disabilities, rather than individualized decision-making based on the student's particular needs.

To remedy OCR's concerns, the university agreed to issue a memorandum to all athletics department staff reminding them of their obligations under Section 504 and Title II, train athletics department staff regarding the university's Section 504 obligations, revise its policies and procedures for addressing student threats of self-harm, maintain records and report to OCR on threat assessments, and refund the student's monetary loss.



Addressing Civil Rights Related to Restraint and Seclusion

Davis Joint Unified School District (CA): In December 2022, OCR completed a compliance review of this school district's use of restraint and seclusion, finding that students whom the district had placed in non-public schools were subjected to repeated and prolonged restraints and seclusions, costing each student days of lost instructional time and resulting in one student's death. Despite notification of their repeated use

of restraint and seclusion, the district did not visit the non-public schools after learning about the incidents, nor did the district document all uses of restraint and seclusion, leading OCR to believe that it may have failed to identify all students subjected to the practice. OCR's documentation concerns, coupled with district staff not having access to complete information about restraint and seclusion, raised a related concern for OCR that parents did not consistently have access to the information needed to participate meaningfully on the IEP teams for their children.

To remedy the violations and compliance concerns, the district agreed to make comprehensive changes to its policies and procedures; distribute revised policies to the school community; develop and implement a recordkeeping process regarding the use of restraint and seclusion against district students; and ensure training for district personnel and staff at non-public schools where district students are placed with respect to the use of restraint and seclusion. The district also agreed to remedy prior instances where restraint and seclusion of its students in non-public school settings denied or may have denied them a FAPE and to develop a monitoring program to ensure that any future restraint or seclusion complies with Section 504 and Title II.

Spectrum Academy (UT): In September 2023, OCR completed a compliance review of this school finding, for example, that the school did not hold required IEP meetings for specific students with disabilities to evaluate the impact of repeated use of restraint and seclusion. OCR identified approximately 692 total incidents of restraint and seclusion involving 109 students that occurred in one school year but the school failed to consider the need for those students to receive compensatory services. Additionally, OCR was concerned that the school's recordkeeping practices may have prevented the school from

determining whether its current offerings of special education and related aids and services were sufficient to provide a FAPE. Finally, OCR's investigation revealed significant inaccuracies in the school's reporting to the 2017-2018 CRDC.

To resolve the compliance review, the school committed to revising and distributing its policies, procedures, and forms on restraint and seclusion; providing training to relevant staff on relevant topics, including on the use of restraint and seclusion and Section 504 FAPE-related requirements; providing individual remedies for students subjected to restraint and seclusion during the review period, including the determination and provision of necessary compensatory services; reviewing whether students were denied a FAPE due to the school's use of restraint and seclusion and implementing responsive remedies; ensuring appropriate recordkeeping about the school's use of restraint and seclusion and proper CRDC reporting; and implementing a program to monitor the use of restraint and seclusion to safeguard students' rights.

Southeastern Cooperative Educational Programs (VA): In December 2022, Southeastern Cooperative Educational Programs agreed to resolve OCR concerns that the program's use of restraint and seclusion may have denied a FAPE to students with disabilities, with some students with disabilities experiencing double- and triple-digit numbers of incidents. OCR's investigation found that one student spent 10,715 minutes in seclusion in a single school year and another student experienced 157 restraints and 155 instances of seclusion. OCR's investigation revealed that the program did not reevaluate students after multiple incidents of restraint and seclusion and that the program did not consider whether to provide compensatory services to students who missed significant instructional time.

To address these compliance concerns, the program agreed to formalize its policy and procedures on the use of restraint and seclusion; modify its recordkeeping system; train staff on its revised policies, procedures, and recordkeeping system; review files of currently enrolled students who were restrained and secluded since the start of the 2016-2017 school year to determine, in part, whether any student requires compensatory education for educational services missed due to incidents of restraint and seclusion; and develop and implement an internal assessment tool to monitor and oversee the program's use of restraint and seclusion.

Combating Bullying and Harassment on the Basis of Disability

Marshfield Public Schools (MA): OCR investigated whether this school district had discriminated following a serious bullying incident against a student with a disability, yielding concerns that the district may not have satisfied its Section 504 and Title II obligations. Although the district disciplined the student who engaged in bullying and took steps to support a return to school for the student who had been bullied, it did not convene the bullied student's IEP team to consider the impact of the bullying incident on their receipt of FAPE. In addition, OCR's investigation yielded evidence suggesting that the student who was bullied missed multiple disability services, including occupational therapy and counseling sessions, due to his absences related to the bullying incident.

In November 2022, to remedy OCR's concerns, the district committed to assessing the impact of the bullying on the student and the need for compensatory services. The agreement also required the school to conduct staff training on Section 504 and Title II and to provide one year of

data on the school's response to bullying incidents targeted at students with disabilities.

Allegheny Valley School District (PA): In September 2023, OCR concluded that this school district violated Section 504 and Title II when it failed to respond adequately to ongoing, disability-based harassment of a student. The evidence showed that the harassing conduct directed at the student, including repeated slurs and assault, created a hostile environment that impacted the student's ability to participate in the educational program. The evidence also reflected that the district did not investigate all reported incidents and that the district discounted videotaped and eyewitness reports of harassment as not being disability-related. In addition, the investigation confirmed that the district did not convene the student's IEP team until more than six months after the first reported incident of disability harassment and that, when the IEP team did convene, the IEP team did not consider whether the harassment impacted the student's receipt of a FAPE or supported a need for adjustments to the student's IEP.

In response to OCR's findings, the district agreed to take corrective steps that included distributing a memorandum to staff that states the district's obligations under Section 504 and Title II of the ADA; training all school staff; offering individual remedies to the student, such as counseling, academic, or other therapeutic services to remedy the effects of the harassment; convening the student's IEP team, as appropriate, to determine whether the student's receipt of a FAPE had been impacted by the harassment; reviewing all bullying incidents for a three-year period at the school to determine any needed additional remedies; and conducting a climate assessment

to evaluate any needed additional supports to ensure a nondiscriminatory school environment for all students with disabilities.

Shortened School Days for Students with Disabilities

McLean County Unit School District No. 5 (IL): An OCR investigation found that a district elementary school had ongoing violations of Section 504 and Title II when, for multiple years, the school dismissed students with disabilities early based on the belief that dismissing them with the rest of the school would result in behavioral outbursts. These students were subjected to shortened school days without an individualized determination of their needs, leaving them with 25 fewer instructional minutes per week and 150 fewer bell-to-bell minutes per week than their non-disabled peers. OCR discovered that the district, in order to account for the missing instructional minutes, provided these students with social skill instruction during their 25-minute lunch period, effectively segregating the students from their peers during this time as well.

In January 2023, the district agreed to resolve the complaint with commitments to ensure that, within 12 days, all district students with disabilities will have the same access to education as their nondisabled peers. The district also agreed to convene IEP meetings by the end of May 2023 for each student enrolled in the program during the previous two school years to make individualized determinations regarding the students' educational needs and determine whether the students need compensatory services. OCR also required the district to train relevant staff on Section 504 and Title II obligations and to assess whether further training is necessary.



Ensuring the Accessibility of the Web and of Assistive Technology for Students with Disabilities

Inter-American University of Puerto Rico (PR):

In May 2023, OCR resolved concerns regarding the accommodations provided by this university to a blind doctoral candidate, including whether the school gave the student the opportunity to request auxiliary aids or other accommodations he requires to access PDF communications he received from the university's Institutional Review Board (IRB). OCR also noted concerns as to whether the university's programs, services, and activities communicated through its website and IRB platform are accessible to individuals who use screen readers and refreshable Braille displays. In addition, OCR found that the university failed to afford persons with disabilities who use assistive technologies, including screen readers and refreshable Braille displays, access to important information about the university's process for requesting academic adjustments and auxiliary aids and services. Finally, OCR found that the university failed to provide required notice of its designated Section 504 Coordinator.

To ensure that students with disabilities have the information needed in order to request auxiliary aids and services, the university agreed to update its Section 504 notice to include the name and/or title and the contact information of the Section 504 Coordinator, and to publish a version of the university's Guidelines, Standards, and Procedures regarding Student Requests for Reasonable Accommodations that is accessible for students with disabilities who use screen readers and refreshable Braille displays. The university also agreed to invite the graduate student who filed the complaint to engage in an interactive process regarding his communications with the IRB. As a result, the student was able to restart his doctoral program with appropriate academic adjustments and auxiliary aids and services.

Community College of Denver (CO): In July 2023, OCR resolved a complaint from a student who uses assistive technology alleging that the college's website contained technological barriers that discriminate against individuals with disabilities. The student also alleged that the college failed to ensure he had an equal opportunity to participate in an online course in which he was enrolled due to barriers in the technology used to deliver the course, which were neither removed nor adequately addressed through academic adjustments or reasonable accommodations. During investigation, OCR identified several concerns, including that students with disabilities lacked access to all the contents and functions of the college's public-facing website; the public facing website and specific course webpages lacked sufficient contrast for people with low vision; and PDF course materials for one of the online Spanish classes were inaccessible to people with vision disabilities who use screen readers.

To resolve the investigation, the college committed to adopting an accessibility standard and posting 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. In addition, the college agreed to complete an audit of its website to identify barriers to access to its online programs, services, and activities, and to remedy barriers that it identifies. To resolve the course-specific allegation, the college agreed to refund the tuition the student paid for the online course; conduct an in-depth audit of the course to identify all barriers to access for students with disabilities; and either develop a plan for OCR's approval as to how it will make the existing course accessible to students with disabilities or replace the course with a more accessible online course on the same subject.



Addressing Disability Rights Related to Artificial Intelligence

Florida Gateway College (FL): OCR resolved a complaint in October 2022 raising allegations that this college's use of an online test proctoring program that uses artificial intelligence (AI) to detect behavior through facial recognition and eye tracking generated false academic integrity flags based on a student's disability.

Specifically, the complainant alleged that the AI test proctoring program used by the college wrongly interpreted a student's disability-related eye movement as cheating. OCR's investigation confirmed that the AI test proctoring program flagged the student's recorded behavior and the student's professor reviewed the student's testing video. Based on the video, the professor gave the student a failing grade for the quiz and warned the student that if the behavior occurred again the student would be expelled from the college.

During investigation, OCR determined that the college violated Section 504 and Title II because the college's Executive Director of Technology Programs and Public Service Programs unilaterally determined that the student's request for an exception to the AI test proctoring program was not reasonable and did not offer the student reasonable alternatives to the AI program. Further, OCR found no evidence that the College's Disability Services Office, which is the designated office to respond to requests for academic adjustments, was involved in the decision. To resolve these violations, the College agreed to provide Section 504 and Title II training to faculty, staff, and administrators responsible for evaluating students for disability-related requests for academic adjustments and/or auxiliary aids and services.

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 2023, OCR resolved 658 complaints under the Age Discrimination Act. Common remedies in OCR resolutions under this law include provisions

that require the recipient to provide training for staff, update and disseminate nondiscrimination policies, and investigate 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 2023, OCR resolved 97 complaints under the Boy Scouts of America Equal Access Act.



LOOKING AHEAD

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

