

A History of the  
U.S. Department of Education  
During the Clinton Administration  
1993-2001



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# U.S. Department of Education



## Strategic Plan, 2001-2005

September 2000

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# Introduction

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No nation can be strong or great without providing for the growth and development of its next generation. This strategic plan represents the five-year vision beginning in Fall 2000, for the Department of Education to fulfill its national education responsibilities. This vision is built upon a decade of increasing national recognition of the importance of education and the need for a leadership role for the U.S. Department of Education in achieving national education goals.

Since education is a state and local function in the United States, the primary Federal role in education has been to encourage and support state, local, institutional and private efforts to ensure that all students receive a world-class education. Our nation has made many improvements in educational quality and access in recent years. This strategic plan documents the next steps the Department of Education needs to take at the Federal level to continue to prepare our students educationally to be productive workers in a demanding workplace and productive citizens in an increasingly interconnected society.

The Department of Education's mission is to ensure equal access to education and to promote educational excellence for all students throughout the Nation. We have a special obligation to ensure that all students have the opportunity to meet the challenging standards of educational excellence. This commitment often requires that we focus our resources and activities on students who are most at risk of educational failure. The Department of Education helps to ensure that students from all backgrounds—regardless of race, national origin, color, disability, age, or gender—have the opportunity to achieve excellence under the American educational system. Where this plan states that "all" students are the focus of a particular national objective or strategy, it means just that.

To achieve effective education reform that meets the needs of all students, many partners must be involved: students; parents; educational leaders at the school, district, and state levels; community members, businesses, and religious groups; and government at all levels. The U.S. Department of Education will continue to focus its support and activities to strengthen these core components of the U.S. education system.

Key roles of the Department to carry out our mission, as follows:

- Leadership to address critical issues in American education.
- Grants to education agencies and institutions to support state and local reform; strengthen teaching and learning; strengthen schools and institutions; and prepare students for citizenship, employment, and lifelong learning.
- Student grants and loans to help pay for the costs of postsecondary education.
- Grants for literacy, employment, and self-sufficiency training for adults.
- Monitoring and enforcement of civil rights to ensure nondiscrimination by recipients of Federal education funds.
- Support for statistics, research, development, evaluation, and dissemination of information to improve educational quality and effectiveness.

#### 4. Applying Knowledge of Effective Instructional Practices

Effective instruction framed around research-driven practices will move our students toward the goal of reading well and independently by the third grade and mastering challenging mathematics by the eighth grade. Reading is the foundation of all other skills essential for learning, yet, based on the 1998 National Assessment of Educational Progress, only 62 percent of fourth-graders read at the basic level or higher. Although there has been some recent progress, two-thirds of fourth-graders in high poverty schools were unable to reach the basic level, compared with a quarter of fourth-graders in wealthier schools. The 1998 National Assessment of Educational Progress indicates that the gap is narrowing in mathematics. However, the mathematical performance of U.S. students is weaker in the middle grades and upper grades than observed in other industrialized countries.

Clearly, more must be done to improve the teaching and learning of reading and mathematics in our Nation's schools. Fortunately, we know a lot about what works in teaching reading and mathematics. The National Research Council report *Preventing Reading Difficulties in Young Children* laid out a series of research findings for effective reading instruction using a balanced approach that provides students with opportunities to develop phonemic awareness and comprehension skills, to practice with writing skills, and to participate in varied reading activities (National Reading Panel). Upcoming Research Council reports for mathematics and the *Eager-to-Learn* report on early childhood education should spell out in considerable detail the body of research supporting effective instructional practices in each area.

The Department of Education has launched a number of program changes and new programs that are designed to help support effective instruction of reading and mathematics. A key requirement for Title I school-wide programs is to use school-wide reform strategies that are based on effective means of improving achievement. The Reading Excellence Act (REA) requires that reading instruction be based on scientifically based reading research. The Comprehensive School Reform Demonstration (CSR/D) program requires that schools adopt comprehensive school reforms using strategies based on reliable research and effective practices. In its first year, the Class Size Reduction Program reduced average class size for 1.7 million students from 23 to 18 students in the targeted grades.<sup>9</sup> This program responds to the growing body of research showing that students attending small classes in the early grades make more rapid educational progress than students in larger classes and that these gains persist in later grades.

#### *Implications for the Future:*

- The Department should place a greater emphasis on the wide dissemination of information on particularly effective and promising approaches. Such information should be made available through a variety of means to reach different audiences, including through extensive professional development opportunities using Web-based technologies.
- The Department of Education needs to incorporate findings of the early childhood and mathematics research reports into its program focus and outreach activities.

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<sup>9</sup> U.S. Department of Education, *The Class-Size Reduction Program: Boosting Student Achievement in Schools Across the Nation, A First-Year Report*. (Washington, DC: September 2000), p. 2.

- The Department of Education should review school-wide models for their effectiveness and consistency with the research.

## 5. Improving the Recruitment, Preparation and Retention of High-Quality Teachers.

There is universal agreement that every child deserves a caring, competent and qualified teacher. Research shows that the quality of teaching in our Nation's classrooms is the most important in-school factor for improving student achievement. Today, however, we face several challenges to meeting standards of high-quality teaching. Over the next 10 years, our nation's schools will need more than 2 million teachers, most of whom will be first-time teachers. All teachers, more than ever before, must be able to educate an increasingly diverse student population, and they must be able to educate students to meet high academic content standards. In addition, teachers need supportive environments within school—with strong school leadership from principals and administrators—to ensure that their classrooms become learning communities where all teachers and students work to their highest potential.

Through the Teacher Quality Enhancement Grants programs, the Department of Education supports the recruitment of high-quality teachers, fundamental improvements in postsecondary teacher education programs, and comprehensive reforms in state licensing requirements for new teachers. The Preparing Tomorrow's Teachers to Use Technology program promotes reforms in teacher preparation to ensure that future teachers can effectively integrate technology into their classroom practice. Federal funds for on-going professional development come from several Department of Education programs, including the Eisenhower Professional Development program, Title I, special education, and vocational and bilingual education programs.

### *Implications for the Future:*

- The Department of Education should continue to support new K-16 partnerships: teaching and learning will improve only when institutions of higher education are connected to K-12 schools so that teachers' initial preparation and on-going development are grounded in practical experience and aligned with student content and performance standards.
- The Department of Education should encourage the continued recruitment and retention of high-quality teachers including supporting strategies for increasing teacher pay, reducing red tape for teachers, and creating an ethnically diverse teaching force.
- The Department of Education should ensure that teachers are trained to effectively integrate technology into their instructional practice so that all students can succeed in a technologically advanced society.
- The Department of Education should encourage innovative approaches to recruiting, preparing and supporting principals, school administrators and other school leaders to strengthen in-school working conditions for teachers.
- The Department of Education should develop improved methods of measuring teacher quality—including assessments of classroom performance—to ensure that all teachers are meeting standards of high quality.

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# **Annual Report to Congress**

**Fiscal Year 1993**



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

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**FY 1993 ANNUAL REPORT TO CONGRESS  
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## FOREWORD

### 1993 ANNUAL REPORT TO CONGRESS

*This is an exciting time for all of us engaged in the education of America's children. The 103rd Congress, with strong bipartisan support, enacted the President's comprehensive education agenda. The bills it passed promote higher academic standards, safer schools, more family involvement, better teacher training and community-based school improvement efforts. It has been nearly three decades since the nation has seen this push for education reform.*

*In enacting the legislative initiatives, the Congress acceded to the public's concern that America's children be ready for the 21st century and the global economic era that is already upon us. This would mean that all children are prepared for the new, emerging high-tech, high-knowledge economy. The enactment of the legislation deals a last blow at the low expectations and watered down curricula that too often, in the past, were held out for a minority student, or a female student, or a student with a disability, or a language minority student or a student from an economically disadvantaged background. We now will rightfully insist on high expectations, high standards and a high quality curriculum for all students as they prepare to enter higher education or take their place in the work force.*

*Like the education reform legislation, the federal civil rights laws were intended to eliminate barriers to educational opportunities -- and to replace barriers with rights of access. The challenge now is to join education reform efforts with the reinstatement of an effective civil rights program so they are working hand-in-hand with the mission of this Department -- equal access to educational excellence.*

*Respectfully submitted,*

*Norma V. Cantú*

## CHAPTER I COMPLAINT AND ENFORCEMENT ACTIVITIES

This report describes OCR's policy guidance efforts, complaint investigations and enforcement activities conducted during Fiscal Year 1993, from October 1, 1992 through September 30, 1993.

### *OCR Policy Guidance on Age and Race Discrimination*

#### **Age Discrimination**

OCR is responsible for enforcement as it relates to discrimination on the basis of age in Federally funded education programs or activities. OCR issued regulations for the Age Discrimination Act of 1975 on July 27, 1993. This was the first regulation published by OCR since 1980. In FY 1993, OCR received 245 complaints that alleged discrimination on the basis of age. Of these, 159 were resolved in OCR while 48 were referred to the Federal Mediation and Conciliation Service for resolution through mediation. Additional complaints were referred to the appropriate Federal agency. The Office also sponsored outreach activities and conducted compliance reviews on age discrimination issues.

#### **Race-Targeted Scholarships**

Secretary of Education Richard W. Riley issued a statement to college and university presidents on March 4, 1993, stating that race-targeted scholarships "can be a valuable tool for providing equal educational opportunity and for enhancing a diverse educational environment for the benefit of all students." The statement emphasized both the legality of most of these scholarships and restored the relationship between OCR and higher education institutions.

Acting for the Department of Education, the U.S. Department of Justice filed an amicus curiae brief on July 27, 1993, in the U.S. District Court of Maryland. The brief urged the court to declare the Benjamin Banneker Scholarship program, a merit-based scholarship exclusively for black students at the University of Maryland's College Park campus, a legal desegregation measure.

### *Complaint Investigations*

#### **Complaint Receipts**

In FY 1993, OCR devoted a significant portion of resources to investigating complaints. OCR received 5,090 complaints alleging discrimination on the basis of race, national origin, sex, disability or age by a recipient of Federal financial assistance. OCR's primary goal was to resolve those complaints in a timely manner, while ensuring thorough investigations. This has become more difficult over the last five years because complaints have risen by 89 percent while staff resources have not.

Part of the reason for this dramatic increase is the March 1988 passage of the Civil Rights Restoration Act (CRRA). The CRRA restored OCR's institution-wide jurisdiction rather than limiting jurisdiction to few programs that directly receive Federal aid. The impact of CRRA means far fewer complaints are closed due to lack of jurisdiction. Thus, OCR received both a greater number of complaints in FY 1993 and had jurisdiction over a greater proportion of them than prior to the passage of CRRA.

Approximately 56 percent of all complaints filed with OCR alleged discrimination based on disability. Race and national origin complaints accounted for 18 percent of complaints. Nine percent of complaints alleged sex discrimination. The remaining 17 percent of the complaints were filed on multiple discrimination bases, on age discrimination or on other discrimination bases.

### Complaint Resolution

OCR resolved 4,480 complaints in FY 1993. Seventeen percent were closed because there was no jurisdiction for OCR to investigate the complaint. About one-quarter of the complaints, 1,149, or 26 percent, were resolved with corrective action where the recipient changed its policies or practices, or changed the situation that was the basis of a complaint. About 948 complaints, or 21 percent, were found to have no substantive basis and did not require corrective action. 1,613 complaints, or 36 percent, were determined to be inappropriate for OCR intervention, either because the complaint was more appropriately resolved in another forum (where there was pending Federal court litigation, for example), or because OCR could not otherwise proceed with the case (because the complaint was untimely, for example).

### Complaint Workload

As with closures, pending complaints affect OCR's workload. Many more complaint receipts were pending at the end of FY 1993 than in FY 1992. There were 2,429 complaints pending at the end of FY 1993, which represented an increase of 33 percent from the 1,624 complaints pending at the end of FY 1992.

OCR resolved a significant number of complaints through Early Complaint Resolution (ECR). ECR is a voluntary process in which OCR brings the parties together to try to help settle differences between the complainant and the recipient. Over the past five years, OCR resolved about 10 percent of its closures using ECR.

FY 1993 saw the continued growth of complaints received by OCR. Even with this increase, OCR staff resolved these complaints well within established time frames. However, the complaint statistics do not tell the complete story. Many of the cases OCR resolved made an impact on individuals' lives.

## *Impact of Complaint Investigations on Elementary and Secondary Students' Lives*

Many of the issues raised in complaints filed against some of the Nation's 16,000 school districts that receive Federal funds concerned the basic right of access to equal education by individuals as well as groups. The real-life stories told below are drawn from complaints in which OCR secured voluntary corrective action from school districts to resolve civil rights violations.

### **Disability Complaints**

Complaints alleging discrimination on the basis of disability can be filed under Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990. They accounted for more complaints filed than on any other basis. In FY 1993, 65 percent of elementary and secondary level complaints alleged discrimination due to a student's disabling condition.

OCR resolved a number of complaints in FY 1993 involving some of the most fundamental rights of children with disabilities to equal educational opportunity. In one case, the district assigned all students classified as educable mentally retarded, trainable mentally retarded, and learning disabled to one classroom in the basement of one school building. There was no distinction made regarding the age or the individual educational needs of these students. Parents also were asked to purchase supplies and materials made available to students without disabilities at no cost. Following OCR's investigation, the district will educate students with disabilities with other students to the maximum extent possible. Where students with disabilities cannot be educated in the regular educational environment with the use of supplementary aids and services, the district will place them in a comparable educational setting and furnish appropriate educational supplies and materials.

In another school district, there were no physically accessible elementary or middle school buildings. Prior to a complaint filed with OCR, the district was told by a consulting architect that it would cost \$765,000 to make its educational program accessible to persons with disabilities. While conducting a complaint investigation, OCR explained alternatives for making the district's educational program accessible. The district incorporated this information in undertaking changes, leading to compliance with the law at a cost of only \$40,000.

### **Disability Complaints Filed by a Single Complainant**

In FY 1993, a single complainant filed hundreds of complaints alleging that students with disabilities lack access to education programs in public and parochial schools. Most of these complaints were filed against schools in the northeast United States, in OCR's Regions I and III. These complaints added significantly to both the Nation's total complaint receipts and to the receipts of the two regions that were affected. Region III's complaints, for example, increased by 83 percent in FY 1993 due to this single complainant.

To investigate effectively these complaints with no significant extra resources, the two regions took into account the systemic problem that underlay the complaints. In Region III, for example, complaints against many Philadelphia parochial schools were merged so the Region could work with Philadelphia's single parochial school district. This action eliminated the need to work with administrators of each parochial school. In Region I, OCR officials met with the Chief State School Officers of the area to address the numerous program accessibility problems. In Vermont, for example, OCR explored the approaches and available options to achieve program access with the Commissioner of Education.

### Limited English Proficient Students

Discrimination based on English language proficiency violates Title VI of the Civil Rights Act of 1964, but lack of language assistance programs and access to educational opportunities continue to be persistent barriers to students with limited English proficiency. About 16 percent of all FY 1993 elementary and secondary level complaints were filed on the basis of race or national origin. A typical complaint filed on national origin grounds was against Washington's Pasco School District. The complaint alleged there were 2,600 students of limited English language proficiency (LEP) who were not given the educational services they needed to participate effectively in school. OCR found that the district had not adequately identified all of its LEP students, that it did not have enough qualified staff for its LEP programs, that the LEP students who had left the programs were not properly monitored and that the evaluation of its program was insufficient.

As a result of OCR's investigation, the Pasco district agreed to correct the violations. In the settlement OCR negotiated with the district, OCR will monitor the alternative language services provided to individual LEP students for the next three years. Not only are the district's current 2,600 LEP students helped by this agreement but future LEP students also will gain. In fact, advocacy organizations are using OCR's actions as a model for other school districts that wish to address possible deficiencies in their own programs.

### Racial Harassment

Other Title VI complaints were filed solely on race discrimination. In the predominantly white suburban School District #113, in Highland Park, Illinois, harassment against black students was severe and pervasive, creating a hostile environment. The seven black high school students were subjected to racial stereotypes, slurs and racial conflict--despite the district's written policy covering discrimination issues, including racial and ethnic harassment. OCR negotiated a settlement agreement that implemented the district's non-discrimination policy. The district agreed to give in-service training for all staff on their responsibility to enforce non-discrimination policies. Staff also received guidance on how to report racial incidents among students. Students received orientation on interracial understanding and cultural diversity, and were educated about the district's non-discrimination policy. They were also given information on filing racial harassment grievances and were informed that racial harassment and discrimination would not be tolerated by school staff or the administrator.

## Sexual Harassment

Discrimination based on sex violates Title IX of the Education Amendments of 1972. In FY 1993, about seven percent of all complaints alleged sex discrimination in elementary and secondary schools, and OCR received its first complaints of sexual harassment of girls in elementary school. The first complaint investigated by OCR about sexual harassment of young girls was filed against Eden Prairie Independent School District #242, Minnesota. Some of the students sexually harassed were as young as six years old and were in first grade. OCR found sexual harassment against these girls and others to be severe and pervasive, including sexual slurs and actual or threatened physical contact.

As a result of OCR's investigation, the district agreed to several remedies, beginning with guidelines for implementing its policy on sexual harassment and procedures for reporting, documenting and investigating these complaints. Staff received training in sexual harassment issues and procedures for recognizing and evaluating incidents of sexual harassment. The district also applied the investigative and reporting measures to all reports of student-to-student sexual harassment as clarified in its policy. The district's curriculum for students now addresses the issue of sexual harassment.

In addition to investigating complaints of sexual harassment, OCR provides technical assistance. OCR's regional office in California assisted three school districts—Modesto City Schools, Santa Paula Unified School District and Santa Rosa Elementary School District—in recognizing that a district must recognize and take steps to remedy the hostile environment that is created by sexual harassment.

### *Impact of Complaint Investigations on Postsecondary Students' Lives*

About 27 percent of all OCR complaints were filed against the Nation's colleges and universities in FY 1993. This proportion of postsecondary school complaints has not changed over the past five years.

### **Disability Complaints**

As with elementary and secondary school complaints, the greatest number of complaints against colleges and universities, 38 percent, were filed on the basis of disability status.

One complaint alleged discrimination against students with disabilities at City College of San Francisco, citing lack of physical accessibility as the issue. When OCR investigated, it found the entire campus inaccessible to people with disabilities. For example, students with impaired mobility were assigned to classrooms that presented physical barriers to them.

As a result of OCR's investigation, City College of San Francisco agreed to complete extensive structural modifications throughout the campus and to adopt notices, policies and procedures to ensure that all programs and activities are readily accessible. Because of OCR's efforts, this College will become one that attracts students with disabilities rather than being viewed as inhospitable due to substantial physical barriers.

## Minority Participation in Programs

The second highest number of complaints filed against colleges and universities, or 22 percent, was on the basis of race and national origin discrimination.

One complaint in Connecticut was filed against the State Board of Governors for Higher Education. The Board is responsible for governing Connecticut's public education system. Asian-Americans and Native American Indians were being excluded from the state's Minority Advance Program, which had been founded to increase minority representation for students, faculty and staff in higher education within the state. The state had included only blacks in the program. OCR found the exclusion of Asian-American and Native American students to be improper and helped the Board develop a voluntary compliance plan that will allow all racial minorities to benefit from the program.

## ~~Sexual Harassment~~

Fourteen percent of complaints against colleges and universities alleged sex discrimination. One complaint resolved in FY 1993 involved a professor at the State University of New York (SUNY) at Buffalo. This male professor sexually harassed female students. After OCR's intervention, SUNY disciplined the professor and expanded its student survey to include responses on possible sexual harassment.

## Compliance Reviews

### Compliance Reviews Initiated

Compliance reviews are an important part of OCR's overall civil rights enforcement responsibilities. Compliance reviews permit OCR to target resources on compliance problems that appear to be serious or national in scope. In addition, OCR can use knowledge of which issues are priorities to focus limited discretionary resources and to bring a balance between complaint and compliance review issues.

Selection of review sites is based on various sources of information, which include survey data and information provided by complainants, interest groups, media and the public.

During FY 1993, 101 compliance reviews were begun. This number represents a 31 percent increase in reviews over the prior year. In FY 1993, OCR closed 82 compliance reviews, the second highest number of reviews resolved in the past five years.

### Compliance Review Resolutions

OCR issues Letters of Findings (LOF) to recipients notifying them of determinations on issues OCR investigates in the course of compliance reviews. When violations are found, OCR tries to negotiate corrective action before issuing an LOF. If the negotiations are successful, a violation-corrected LOF is issued. If the negotiations are unsuccessful, a violation LOF is issued. If no violation is found, a no-violation LOF may be issued.

In OCR's compliance reviews resolved in FY 1993, civil rights violations requiring corrective action were found in 66 percent of cases. OCR was able to negotiate corrective action in most of the instances and, as a result, very few cases proceeded towards enforcement action.

### *Other Compliance Activities*

In addition to complaint investigations and compliance reviews, other compliance activities are conducted by OCR.

### **Magnet Schools Assistance Program**

OCR works with the Office of Elementary and Secondary Education to certify that applicants of the Magnet Schools Assistance Program (MSAP) will meet nondiscrimination assurances. MSAP funding is intended to reduce, eliminate and prevent minority isolation in elementary and secondary magnet schools. In FY 1993, OCR reviewed the nondiscrimination assurances from 151 school districts that applied for MSAP grants or continuation grants.

### **Vocational Education**

All states develop Methods of Administration (MOA) plans that describe how they will monitor their own programs and those of their subrecipients to ensure compliance with Federal civil rights laws, including those enforced by OCR. OCR is responsible for certifying that each state has met its MOA commitments.

For 13 years, annual reports were submitted to OCR by each of the states and other entities. We found this process inefficient and ineffective. In the spirit of the Reinventing Government initiative, we examined the purpose and intent of the MOA process. The aim was to strengthen the civil rights roots of MOAs through providing greater flexibility to states, through making efficient use of Federal resources, cutting burdensome reporting requirements and holding states accountable for the achievement of substantive civil rights goals.

As part of the redesign process, OCR gave two-thirds of the states an option of not submitting an MOA report in 1993. We also surveyed the states and civil rights and vocational education organizations for suggestions on how OCR can support the states' activities. The result will be both a streamlined MOA process and a new partnership with states to achieve nondiscrimination in vocational education.

## Administrative Litigation

### Southwestern Virginia Training Center

A complaint was filed by a residential aide at the Southwestern Virginia Training Center, a state operated training facility for developmentally disabled individuals. The aide was fired due to a work-related disability after the Center adopted a non-accommodation policy. After extensive efforts at voluntary compliance, the Center was given a Notice of Opportunity for Hearing. Due to the egregious nature of the violation, OCR has deferred final approval of the Center's applications for new financial assistance or increases in financial assistance. The hearing is scheduled to be held in 1994.

### California Department of Corrections

OCR received a complaint from a vocational education instructor at the state's Soledad Training Center who was fired after the Center learned that he had dyslexia. This action violated Section 504. However, the Center would not voluntarily comply with Federal non-discriminatory requirements. A Notice of Opportunity for Hearing was issued in January 1993, but shortly after, the state entered a comprehensive settlement agreement. The administrative proceeding was stayed pending full implementation of the settlement agreement.

### Higher Education Desegregation

OCR monitors higher education desegregation plans in those states that previously operated dual systems of higher education. There are six states that OCR has not made a final determination as to whether they have corrected Title VI violations. These states are Florida, Kentucky, Maryland, Pennsylvania, Texas, and Virginia.

The U.S. Supreme Court issued its decision in Avers v. Fordice on June 26, 1992. The decision enunciated standards for determining whether former racially segregated public higher education systems have eliminated vestiges of racial discrimination. It held that race neutral policies alone are not sufficient to demonstrate a state has effectively discharged its affirmative obligation to dismantle a *de jure* system of higher education.

This decision is directly relevant to the Department's higher education activities. The Fordice decision held that before a State has discharged its affirmative duty to eliminate the vestiges of its *de jure* system, it must examine a "wide range of factors to determine whether [a] State has perpetuated its formerly *de jure* segregation in any facet of its institutional system."

### Technical Assistance

The aim of OCR's technical assistance (TA) efforts is to prevent violations of the civil rights laws. Technical assistance is provided through such activities as on-site consultations, conference participation, training classes, workshops and meetings, as well as through

written information and telephone consultations. Although TA is often provided during a complaint investigation or a compliance review, OCR also conducts a broad program of proactive TA outreach.

In FY 1993, in addition to tens of thousands of informal requests for information, OCR responded to 2,498 requests for TA. This total represents a 23 percent increase in TA deliveries over FY 1992.

Most requests for TA (54 percent) came from such individual beneficiaries as students or parents. Recipient institutions made about one-third of these requests, with colleges and universities accounting for 16 percent of the total. There were 28 percent more requests in FY 1993 than in the previous year. As in the past, most of these requests (71 percent) were about disability discrimination issues.

Technical assistance is delivered to a variety of organizations and their people. For example, one region initiated a major outreach to the Illinois State Board of Education on Title II of the ADA. Another region conducted workshops on racial harassment with Eastern Michigan University and Western Michigan University. In a western region, a school district's bilingual staff was provided with TA on their obligations toward national origin minority students with limited English proficiency. In a different region, parents received written information and telephone responses to their questions on their children and Section 504 and Title II of the ADA.

#### New Publications

"The Provision of An Equal Education Opportunity to Limited English Proficient-Students" was sent with a cover letter signed by the Secretary to 380 state and local officials and organizations having an interest in LEP issues.

In addition, a poster titled, "Campus Diversity--See People in the Right Light," was distributed to the leaders of all postsecondary schools in the country. Regional offices are also providing the posters to interested recipients.

## CHAPTER II      LOOKING FORWARD

OCR has begun to set its course for 1994 and beyond. In 1993, the new Assistant Secretary held an unprecedented number of town meetings, focus groups and other forums to bring to light the concerns, hopes and ideas of OCR staff and of the education community. In each region, OCR staff are listening to their local communities. This outreach will provide the foundation for the clear articulation of OCR's agenda, the direction for OCR's enforcement activities and staff resources.

### *Setting Priorities*

In a world of competing demands and limited resources, only a focused effort will allow OCR to continue effective resolution of civil rights problems. OCR intends to develop a more strategic approach to civil rights enforcement. Growing out of its outreach efforts, a number of themes are already clear.

OCR must direct itself towards impact on students' lives. OCR will maximize the impact of available resources on civil rights in education. OCR will consider as broad a range of input as practicable in the setting of its priorities to ensure that OCR addresses the most acute problems of discrimination. OCR will provide tangible assistance to the greatest number of students possible.

OCR must work in partnership with students and parents. OCR will help others to learn to solve their problems of securing equal access to quality education. OCR will focus on systemic education reform that enables communities throughout the nation to understand, commit to and implement strategies that provide opportunities for all to learn.

Finally, OCR must invest in people. OCR will recruit and retain the highest calibre staff, and will develop the training and tools they need to become most effective. OCR will need to provide an environment that values participation, innovation and change. OCR will need to model diversity, fairness and concern for employee well-being.

### *Civil Rights Cases and Policy*

In 1993, nearly 90 percent of OCR resources were spent in a complaint mode. This approach did not adequately address the variety of civil rights problems faced by vulnerable groups in the U.S. unable or afraid to complain. For example, LEP students were largely unserved by the OCR complaint process.

In 1994, OCR will revisit fundamentally its approach to complaint processing. Our goal is to provide more timely and more effective intervention at the beginning of the complaint process. OCR anticipates that students, parents and educators will become more central to the resolution of their own complaints.

OCR will also renew its compliance review program. Working wherever possible in partnership with state and local educational institutions, OCR will seek to address civil rights

problems early and proactively. This will require OCR's dedication to collaboration within the Department of Education and throughout the education community. To ensure that Federal funds do not support discrimination, however, OCR is prepared to take enforcement action when voluntary compliance cannot be obtained.

OCR must also facilitate discussion on a wide range of policy problems that have been largely ignored over the past decade. Desegregation, race targeted scholarships, racial and sexual harassment, treatment of disabled students and other issues require the collective attention of policy makers inside and outside of the Department.

### *Management Reform*

Hardly a year has gone by without a public report critical of OCR's operations. Carrying out its civil rights responsibilities will require OCR to address fundamentally its methods of doing business.

The National Performance Review (NPR) provides the blueprint for a government that works better and costs less. OCR intends to apply the NPR's principles of staff empowerment, delayering and customer orientation to its management initiatives. These activities will necessitate a greater degree of labor/management partnership than ever before.

## APPENDIX A

### Statutory Responsibilities and Federal Relationships

The Office for Civil Rights (OCR) in the U.S. Department of Education (ED) is a law enforcement agency. Its primary responsibility is to ensure that recipients of Federal financial assistance do not discriminate against students, faculty, or other individuals on the basis of race, color, national origin, sex, disability, or age.

OCR is responsible for enforcing the following Federal civil rights laws:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin, 42 U.S.C. 2000d *et seq.* (implementing regulation at 34 C.F.R. Parts 100 and 101);
- Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in educational programs; 20 U.S.C. 1681 *et seq.* (implementing regulation at 34 C.F.R. Part 106);
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of physical and mental disability, 29 U.S.C. 794 (implementing regulation at 34 C.F.R. Part 104);
- The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age, 42 U.S.C. 6101 *et seq.* (implementing regulation at 34 C.F.R. Part 110); and
- Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability.

Under the first four statutes, OCR has jurisdiction over programs and activities that receive Federal financial assistance. For educational institutions, the Civil Rights Restoration Act of 1987 defines jurisdiction over programs and activities as authority over all the operations of a recipient. Under the Americans with Disabilities Act (ADA), OCR has jurisdiction over public elementary and secondary education systems, public institutions of higher education, vocational education programs and public libraries.

OCR also has been delegated civil rights enforcement authority by eleven other Executive Branch departments and agencies, including a delegation agreement that OCR entered with the Department of Interior in FY 1992.

The civil rights laws enforced by OCR extend to a wide range of recipients of Federal funds. Recipients covered by these laws include all state education and rehabilitation agencies and their subrecipients, as well as the education and rehabilitation agencies of the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa,

Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States. These recipients also include nearly every school district and postsecondary institution; thousands of proprietary schools, libraries, museums, and correctional facilities; and other institutions that receive Federal financial assistance from ED.

In carrying out its civil rights enforcement responsibilities, OCR works with other Federal agencies, including the Department of Justice (DOJ), the Equal Employment Opportunity Commission (EEOC), and the Federal Mediation and Conciliation Service (FMCS).

Under Executive Order 12250, DOJ is responsible for coordinating Federal Government agencies' enforcement of Title VI, Title IX, Section 504, and other Federal laws that prohibit discrimination on the basis of race, color, national origin, sex, disability, or religion in programs and activities receiving Federal financial assistance. Primary enforcement responsibility remains with the individual agencies, while leadership and coordination responsibility, in areas other than employment, is vested in DOJ. Pursuant to Executive Order 12250, other Federal agencies have delegated authority to OCR to conduct civil rights compliance activities in educational institutions on their behalf.

EEOC has primary coordinating authority under Executive Order 12067 for complaints of employment discrimination. OCR generally refers to EEOC those Title VI and Title IX complaints that allege discrimination solely in employment and that are not systemic or class-based in nature. Section 504 employment complaints, as well as systemic and class-based employment complaints, under Title VI and Title IX, are generally retained for processing by OCR.

EEOC also has jurisdiction in employment cases alleging age discrimination. When complaints of discrimination in employment on the basis of age are filed with OCR, they are transferred to EEOC for investigation and resolution because OCR has no jurisdiction over these cases under the Age Discrimination Act.

OCR shares responsibility with FMCS for processing age discrimination complaints that do not involve employment. OCR screens complaints alleging age discrimination to determine whether it has jurisdiction. If jurisdiction is established, the complaint is forwarded to FMCS for voluntary resolution. If FMCS is unsuccessful, or either party does not agree to mediation by FMCS, OCR investigates the complaint in the same manner as complaints alleging other types of discrimination.

DOJ has primary authority for complaints under the ADA. Under Title II of the Americans with Disabilities Act, DOJ has delegated jurisdiction to ED/OCR for investigating complaints alleging discrimination on the basis of disability that are filed against public elementary, secondary, and postsecondary institutions as well as public libraries.

OCR works with ED's Office of Special Education and Rehabilitative Services to coordinate the enforcement of certain provisions of the Individuals with Disabilities Education Act with Section 504. OCR also works with ED's Office of Elementary and Secondary Education to implement the civil rights provisions of Title III of the Elementary and Secondary Education Act of 1965, as amended, i.e., the Magnet Schools Assistance Program.

## APPENDIX B

### STAFFING & BUDGET.

OCR's authorized staff ceiling for FY 1993 was 867 full-time equivalent (FTE) positions (made up of full-time permanent and other-than-full-time permanent staff). However, in accordance with Executive Order 12839, which mandated reductions in the Federal civilian work force, OCR's ceiling was reduced to 858 FTE. Twenty-two percent of the staff were located in headquarters and 78 percent were in the ten regional offices.

OCR had a total funding level of \$56,402,000 for FY 1993. The following table provides budget and staffing information on OCR for the past five fiscal years.

### BUDGET AND STAFFING INFORMATION

FY	Budget Estimate to Congress	Appropriation	Appropriation After Sequester Supplemental	Congressional Budget FTE Level
1989	41,341,000	40,845,000	41,635,000	820
1990	45,178,000	43,178,000	44,572,000	820
1991	49,900,000	48,404,371	48,405,000	820
1992	56,000,000	55,000,000	53,623,000	855
1993	61,400,000	56,857,000	56,402,000	858

## APPENDIX C

### PUBLICATIONS

Contact your regional civil rights office (see Appendix D for listing) to obtain any of the publications listed below.

#### General

OCR's 1992 Annual Report to Congress  
OCR's 1991 Annual Report to Congress  
OCR's 1990 Annual Report to Congress  
ED Facts: Information about the OCR  
Notice of Nondiscrimination  
How to File A Discrimination Complaint  
Federal Regulations, Vocational Education Program Guidelines  
(March 21, 1979)  
Vocational Education and Civil Rights  
The Guidance Counselor's Role in Ensuring Equal Educational  
Opportunity  
Nondiscrimination in Employment Practices in Education  
What Schools Can Do to Improve Math and Science Achievement by  
Minority and Female Students

#### Title VI of the Civil Rights Act of 1964 (Title VI)

Title VI Regulations, Federal Register, May 9, 1980  
Education and Title VI (Available in English and Spanish)  
Student Assignment in Elementary and Secondary Schools and Title VI  
Magnet Schools: Promoting Equal Opportunity and Quality Education  
Historically Black Colleges and Universities and Higher Education  
Desegregation  
The Provision of an Equal Education Opportunity to Limited English  
Proficient Students

#### Title IX of the Education Amendments of 1972 (Title IX)

Title IX Regulations, Federal Register, May 9, 1980  
Federal Regulations, Policy Interpretation on Title IX Intercollegiate  
Athletics, December 1979  
Title IX Grievance Procedures: An Introductory Manual  
Title IX and Sex Discrimination (Available in English and Spanish)  
Title IX Athletics Manual (Includes Regulations, Policy Interpretations, &  
OCR Fact Sheet)  
Equal Opportunity in Intercollegiate Athletics: Requirements Under Title IX  
of the Education Amendments of 1972

Student Assignment in Elementary & Secondary Schools and Title IX  
Sexual Harassment: It's Not Academic  
Teenage Pregnancy and Parenthood Issues Under Title IX

Section 504 of the Rehabilitation Act of 1973 (Section 504)

Section 504 Regulations, Federal Register, May 9, 1980 (Includes  
December 1990 Amendment)  
Auxiliary Aids and Services for Postsecondary Students with Handicaps  
Discipline of Students With Handicaps in Elementary and Secondary  
Schools  
Free Appropriate Public Education for Students with Handicaps  
Placement of School Children with AIDS  
Student Placement in Elementary and Secondary Schools and Section 504  
Civil Rights of Students with Hidden Disabilities Under Section 504  
Rights of Individuals with Handicaps Under Federal Law (Available in  
English and Spanish)

Age Discrimination Act of 1975

Federal Regulations, Age Discrimination Act of 1975  
Federal Regulations, Department of Education, Age Discrimination Act,  
Federal Register, July 27, 1993

Americans with Disabilities Act

Department of Justice pamphlet on Americans with Disabilities Act

**APPENDIX D  
OCR REGIONAL OFFICES**

**Region I**

Connecticut, Maine, Massachusetts,  
New Hampshire, Rhode Island, Vermont  
Office for Civil Rights, Region I  
U.S. Department of Education  
J.W. McCormack Post Office and Courthouse  
Room 222, 01-0061  
Boston, MA 02109-4557  
(617) 223-9662; TDD (617) 223-9695

**Region II**

New Jersey, New York, Puerto Rico,  
Virgin Islands  
Office for Civil Rights, Region II  
U.S. Department of Education  
26 Federal Plaza, 33rd Floor  
Room 33-130, 02-1010  
New York, NY 10278-0082  
(212) 264-4633; TDD (212) 264-9464

**Region III**

Delaware, District of Columbia, Maryland,  
Pennsylvania, Virginia, West Virginia  
Office for Civil Rights, Region III  
U.S. Department of Education  
3535 Market Street  
Room 6300, 03-2010  
Philadelphia, PA 19104-3326  
(215) 596-6787; TDD (215) 596-6794

**Region IV**

Alabama, Florida, Georgia, North  
Carolina, South Carolina, Tennessee  
Office for Civil Rights, Region IV  
U.S. Department of Education  
Post Office Box 2048, 04-3010  
101 Marietta Tower-Suite 2000  
Atlanta, GA 30301-2048  
(404) 331-2954; TDD (404) 331-2236

**Region V**

Illinois, Indiana, Michigan, Minnesota,  
Ohio, Wisconsin  
Office for Civil Rights, Region V  
U.S. Department of Education  
401 South State Street  
Room 700C, 05-4010  
Chicago, IL 60605-1202  
(312) 886-3456; TDD (312) 353-2540

**Region VI**

Arkansas, Louisiana, Mississippi,  
Oklahoma, Texas  
Office for Civil Rights, Region VI  
U.S. Department of Education  
1200 Main Tower Building  
Suite 2260, 06-5010  
Dallas, TX 75202-9998  
(214) 767-3936, TDD (214) 767-3639

**Region VII**

Iowa, Kansas, Kentucky, Missouri,  
Nebraska  
Office for Civil Rights, Region VII  
U.S. Department of Education  
10220 North Executive Hills Boulevard  
8th Floor 07-6010  
Kansas City, MO 64153-1367  
(816) 891-8026; TDD (816) 374-6461

**Region VIII**

Arizona, Colorado, Montana, New  
Mexico, North Dakota, South Dakota,  
Utah, Wyoming  
Office for Civil Rights, Region VIII  
U.S. Department of Education  
Federal Building, Suite 310, 08-7010  
1244 Speer Boulevard  
Denver, CO 80204-3582  
(303) 844-5695; TDD (303) 844-3417

**REGION IX**

California  
Office for Civil Rights, IX  
U.S. Department of Education  
Old Federal Building  
50 United Nations Plaza-Room 239, 09-8010  
San Francisco, CA 94102-4102  
(415) 556-7000, TDD (415) 556-6806

**Region X**

Alaska, Hawaii, Idaho, Nevada, Oregon,  
Washington, American Samoa, Guam, Trust Territory  
of the Pacific Islands  
Office for Civil Rights, Region X  
U.S. Department of Education  
915 Second Avenue  
Room 3310, 10-9010  
Seattle, WA 98174-1099  
(206) 220-7880; TDD (206) 220-7907

# OFFICE FOR CIVIL RIGHTS

**Goal: To ensure equal access to education for all students through the vigorous enforcement of civil rights.**

**Relationship of Program to Volume 1, Department-wide Objectives:** This program contributes to Goals 1 (Build a solid foundation for learning for all children); 2 (Reform the U.S. education system to help make it the best in the world.); and 3 (Ensure access for all to a high-quality postsecondary education and lifelong learning.).

FY 2000—\$71,200,000

FY 2001—\$76,000,000 (Requested budget)

**OBJECTIVE 1: TO ELIMINATE DISCRIMINATORY EDUCATIONAL PRACTICES WITHIN SCHOOLS:**

**Indicator 1.1 Increased compliance:** The number of recipients of Federal funds (e.g., school districts, postsecondary institutions, and state educational agencies (SEAs), that change policies, procedures, or practices to comply with Federal civil rights laws will increase.

Targets and Performance Data			Assessment of Progress	Sources and Data Quality
Year	Actual Performance	Performance Targets	<p>Status: Target met.</p> <p>Explanation: In FY 1998, 1,378 recipients—consisting of approximately 1,013 school districts, 22 SEAs (with 2,936 school districts), 233 postsecondary institutions, and two state systems of higher education—changed policies, practices, and procedures to comply with Federal civil rights law.</p> <p>In FY 1999, 1,563 recipients—consisting of approximately 1,152 school districts, five SEAs (with 6,670 school districts), 403 postsecondary institutions, and two state systems of higher education (with 139 postsecondary institutions)—changed policies, practices, and procedures to comply with Federal civil rights laws.</p> <p>In FY 2000, 2,035 recipients—consisting of approximately 1,165 school districts, nine SEAs (with 14,160 school districts), 852 postsecondary institutions, and two state systems of higher education (with 43 postsecondary institutions)—changed policies, practices, and procedures to comply with Federal civil rights laws.</p>	<p>Source: Annual data from OCR's Case Information System, 1999.                      Frequency: Annually.                      Next collection update: 2001.                      Data to be reported: 2002</p> <p>Validation Procedure: ED Data Quality Attestation Process and ED <u>Standards for Evaluating Program Performance Indicators</u>.</p> <p>Limitations of Data and Planned Improvements: <i>Limitations:</i> OCR chose to measure compliance at the point of case resolution rather than at the end of monitoring. In doing so, OCR recognizes that the extent of influence of the agreement to effect change is being measured, rather than the actual accomplished change. While this indicator places equal value on all recipients, it is important to note that changes to policies, procedures, and practices at the state or district-wide level have a more systemic impact than those made at a school-based level. <i>Planned Improvements:</i> Exploratory work completed on a new case management system that will replace CIS with a more user friendly and less labor-intensive system. When adequate funding for the project is secured, the new system will have the capacity to link CIS data to specific case files, which will improve the validity of the data. In addition, OCR will move CIS to a platform that is compatible with the Department's information technology environment.</p>
		Baseline/year		
FY 1998:	1,378			
FY 1999:	1,563	Increase over 1,378*		
FY 2000:	2,035	Increase over 1,563*		
FY 2001:				
FY 2002:				
<ul style="list-style-type: none"> <li>• Meeting the targets is contingent on workload and funding.*</li> </ul>				

**Indicator 1.2 Number of students affected: The estimated number of students positively affected by OCR's work will increase.**

Targets and Performance Data			Assessment of Progress	Sources and Data Quality
Year	Actual Performance	Performance Targets	<p>Status: Target met.</p> <p>Explanation: This indicator expands on the results of Indicator 1.1. It demonstrates the number of students positively affected by improved access to equal educational opportunity when recipients change policies, practices, and procedures to eliminate or prevent civil rights problems.</p> <p>OCR counts student impact at the point of case resolution rather than at the end of monitoring because case resolution is the point in case processing that provides the most reliable, available, and contemporaneous information for making meaningful program management decisions within the budget cycle. In doing so, OCR recognizes the extent of influence of the agreement to effect change is being measured, rather than the actual accomplished change. OCR is careful to count only the students who are expected to directly experience change through the implementation of a resolution agreement. In some instances, the numbers are small, such as the resolution of a gifted and talented case or one that involves only English-language learners. The resolution of a disability complaint often affects one student. Alternatively, the numbers can be large, such as with the resolution of a sexual harassment case that involves training all staff and students on the implementation of a new policy.</p>	<p>Source: Annual data from OCR's Case Information System, 1999. Frequency: Annually. Next collection update: 2001. Data to be reported: 2002</p> <p>Validation Procedure: ED Data Quality Attestation Process and ED Standards for Evaluating Program Performance Indicators.</p> <p>Limitations of Data and Planned Improvements: <i>Limitations:</i> Student enrollment data used by OCR to calculate student impact is the most current data available to the recipient. <i>Planned Improvements:</i> Exploratory work completed on new case management system that will replace CIS with a user-friendlier and less labor-intensive system. When adequate funding for the project is secured, the new system will have the capacity to link CIS data to specific case files, which will improve the validity of the data. In addition, OCR will move CIS to a platform that is compatible with the Department's IT environment.</p>
FY 1998:	5,900,000	Baseline year		
FY 1999:	6,571,725	Increase over 5,900,000*		
FY 2000:	7,7695,025	Increase over 6,571,725*		
FY 2001:		*		
FY 2002:		*		
<p>* Meeting the targets is contingent on workload and funding.*</p>				

**OBJECTIVE 2: TO TEACH PARENTS AND STUDENTS HOW TO RESOLVE PROBLEMS OF SECURING EQUAL ACCESS TO HIGH-QUALITY EDUCATION.**

**Indicator 2.1 Successful partnerships: The number of partnerships with parents that lead to civil rights compliance will increase.**

Targets and Performance Data			Assessment of Progress	Sources and Data Quality
Year	Actual Performance	Performance Targets	<p>Status: Baseline established.</p> <p>Explanation: A parental partnership is established when OCR, as a result of a case resolution or other activity, facilitates a collaboration between parents and schools to achieve ongoing civil rights compliance without OCR's continued involvement.</p>	<p>Source: Annual data from OCR's Case Information System, 1999.</p> <p>Frequency: Annually.</p> <p>Next collection update: 2001.</p> <p>Data to be reported: 2002.</p> <p>Validation Procedure: ED Data Quality Attestation Process and ED Standards for Evaluating Program Performance Indicators.</p> <p>Limitations of Data and Planned Improvements: <i>Limitations:</i> OCR's conservative approach to measuring parent partnerships generated by OCR's activities results in an undercount of potential benefits to students. We count a parent partnership when OCR, as a result of a case resolution or other activity, facilitates a collaboration between parents and schools to achieve ongoing civil rights compliance without OCR's continued involvement. <i>Planned Improvements:</i> Exploratory work completed on new case management system that will replace CIS with an user-friendlier and less labor-intensive system. When adequate funding for the project is secured, the new system will have the capacity to link CIS data to specific case files, which will improve the validity of the data. In addition, OCR will move CIS to a platform that is compatible with the Department's information technology environment.</p>
FY 1999:	18	Baseline year		
FY 2000:	38	Increase over 18*		
FY 2001:		Increase over #*		
FY 2002:		Increase over FY 2001*		
<p>* Meeting the targets is contingent on workload and funding.*</p>				

**OBJECTIVE 3: TO OBTAIN RESULTS BY THE EFFICIENT MANAGEMENT OF CIVIL RIGHTS COMPLIANCE ACTIVITIES.**

**Indicator 3.1 Resolution of complaints: Eighty percent of the complaints are resolved within 180 days of receipt.**

Targets and Performance Data			Assessment of Progress	Sources and Data Quality
Year	Actual Performance	Performance Targets	Status: Target met.	
1997:	80%		<p><b>Explanation:</b> A key factor contributing to OCR's success in prompt complaint resolution is the ability to establish a target date for resolving each case on its own merit in an appropriate and timely way. Informed by experience in case resolution and given adequate funding, OCR determined that approximately 80 percent of its cases could be resolved in 180 days or less. Twenty percent of OCR's cases are so large in scope and complexity that the time needed to resolve these cases exceeds 180 days. These circumstances are not expected to change in the foreseeable future. Consequently, OCR does not anticipate changing its performance targets.</p> <p>The actual performance in FY 2000, 78 %, is an anomaly and not indicative of a trend. Timely and effective attention in FY 2000 to an increasing number of cases pending over 180 days resulted in significantly more cases resolved than prior fiscal years and a significant decrease in the inventory of pending cases over 180 days.</p>	<p><b>Source:</b> Annual data from OCR's Case Information System and analysis of complaint workload, 1999.  <b>Frequency:</b> Annually.  <b>Next collection update:</b> 2001.  <b>Data to be reported:</b> 2002</p> <p><b>Validation Procedure:</b> ED Data Quality Attestation Process and ED Standards for Evaluating Program Performance Indicators.</p> <p><b>Limitations of Data and Planned Improvements:</b> <i>Planned Improvements:</i> Exploratory work completed on new case management system that will replace CIS with a more user friendly and less labor-intensive system. When adequate funding for the project is secured, the new system will have the capacity to link CIS data to specific case files, which will improve the validity of the data. In addition, OCR will move CIS to a platform that is compatible with the Department's information technology environment.</p>
1998:	81%			
1999:	80%	80%		
2000:	78%	80%		
2001:		80%		
2002:		80%		

**KEY STRATEGIES**

New or Strengthened Strategies

- ❖ **Maximize the Impact of Available Resources:** To manage an increasing workload and address complex civil rights issues, the Office for Civil Rights (OCR) continues to move from a reactive complaint-driven system to implement a balanced enforcement program by responding promptly to complaints and initiating activities that target resources for maximum impact. A Government Accounting Office (GAO) study dated February 23, 1999, acknowledged significant improvements in OCR's operations between FY 1993 and FY 1997 in the time to process complaints, the number of complaints processed annually, and the average backlog of unprocessed complaints at year end. The GAO concluded: "OCR has improved its complaint resolution process in two major ways, replacing a process that focused on investigating complaints with a more flexible system that focuses on resolving complaints as soon as possible ... allow[ing] complaints to be resolved at any point in the process [and improving performance] by undertak[ing] several information and communication efforts."
- ❖ **Outreach and Sharing Good Practices:** To expand customer service, OCR provides civil-rights-related information, technical expertise, and assistance to a broad range of stakeholders engaged in collaborative efforts to ensure equal educational opportunity.
- ❖ **Strong Remedies for Effective Change:** To ensure that investigative strategies and resolution approaches are well informed, OCR develops case resolution agreements that provide for the active participation of parents and students.
- ❖ **Investment in People:** To maintain a technically proficient and highly trained staff, OCR uses performance measures, individual development plans, and multiple training delivery options to develop staff and build internal capacity.
- ❖ **Prompt and Responsive Service:** OCR's numerical benchmarks and performance indicators provide only one body of quantifiable information relevant to the assessment of OCR's work. There are many other facets to the evaluation of OCR's work that are not readily quantifiable, such as the professionalism and responsiveness of OCR staff to increase customer satisfaction with the quality and delivery of services, information, and products.

## KEY STRATEGIES (CONTINUED)

### New or Strengthened Strategies

- ❖ **Tools to Facilitate Positive Change by Stakeholders:** (1) OCR posted on the OCR/ED Internet website a guide for School Districts to use in developing programs for English Language Learners; (2) OCR partnered with the National Association of Attorneys General to publish a guide for schools, Protecting Students from Harassment and Hate Crime. The guide was posted on the ED Internet Web site and disseminated to over 20,000 school superintendents and state attorneys general; (3) OCR collaborated with a state educational agency and a state interscholastic athletic agency to develop a Web site to enable school districts throughout the state to conduct self-evaluations of their athletic programs. This Web site was added to a prominent athletic equity site on the Web increasing the availability of the self-evaluation tools OCR assisted in developing; (4) OCR issued Dear Colleague letter to school superintendents and presidents of colleges and universities on disability harassment; (5) OCR disseminated Questions and Answers on civil rights related issues pertaining to charter schools; (6) OCR improved questions on the biennial survey of school districts to include emerging civil rights issues; (7) The Families and Schools As Partners fact sheet was created and disseminated in cooperation with the National Coalition for Parent Involvement in Education, an association with forty member parent organizations around the country, to inform parents on their basic rights and how to work with children and their schools for educational improvement.
- ❖ **Strategies for Statewide Collaborations to Achieve Positive Educational Results:** (1) OCR worked collaboratively with statewide higher education systems that may have vestiges of *de jure* segregation to take action to ensure access to postsecondary education and to enhance facilities and programs of Historically Black Colleges and Universities; (2) OCR collaborations with state educational agencies resulted in statewide resolutions on important access issues including services to English-language learners and access to gifted and talented programs.
- ❖ **Sound Educational Results and Customer Service:** (1) OCR is continuing to evaluate to what degree OCR agreements in designated issues, such as services to English-language learners, are producing good educational results. As OCR identifies practices that are working well for districts, OCR will share them with other recipients; (2) An OCR project evaluating the effectiveness of resolution agreements in minorities and special education cases disclosed additional educationally effective strategies that are being used; (3) OCR established a new strategy for monitoring, with additional attention paid to active and frequent engagement with recipients and other stakeholders, to ensure that OCR's agreements are effective in achieving change.
- ❖ **Educational Reform and Equity:** OCR continues to be a leader in Departmental efforts to ensure that issues of equity are appropriately addressed in the context of elementary and secondary standards-based reforms. OCR's work with external stakeholders in this area is illustrated by (1) OCR's ongoing work with the National Academy of Sciences' Board on Testing and Assessment; (2) OCR's primary oversight responsibility for Board on Testing Assessment's Forum on Educational Excellence and Testing Equity (designed to provide useful forums and resources to educational and policy stakeholders regarding educational testing issues); (3) OCR's publication of a resource guide for educators and policymakers that comprehensively addresses testing and nondiscrimination issues; (4) OCR's co-sponsorship with the National Academy of Sciences and other ED offices of the Millennium Conference on raising educational achievement for minority students for Federal, State, and local educators and policy makers; and (5) OCR's ongoing work with the TREES workgroup to ensure that all students receive the resources to achieve educational excellence.
- ❖ **Staff Development to Build Capacity:** OCR is building staff capacity to use methods that emphasize listening to educators and educational experts, collaborating with recipients to resolve civil rights issues, linking stakeholders with similar interests, providing legally sufficient models for civil rights compliance that are educationally sound, and providing students and parents with information about their civil rights.
- ❖ **Technology:** OCR's Technology Advisory Board coordinates enterprise-wide planning on technology to ensure that technology funding decisions are integrally related to program objectives. Projects under way include the Internet redesign, the creation of an intranet community of practice, development of a Case Management information system, and an integrated data collection system. The focus of Internet redesign is to better meet the information resource needs of students, parents, recipients, and other stakeholders.

### HOW THIS PROGRAM COORDINATES WITH OTHER FEDERAL ACTIVITIES

- ❖ Civil rights information in postsecondary education is acquired through a cooperative agreement with the National Center for Education Statistics in its Integrated Postsecondary Education Data System. A pilot project between OCR and the Office of Special Education Programs is testing the feasibility of collecting data related to students with disabilities into a single, consolidated data collection instrument.
- ❖ OCR works with the Department of Justice, Department of Health and Human Services, the Equal Employment Opportunity Commission, and other Federal agencies to ensure consistency, as appropriate, in legal interpretations on issues of common interest. OCR and other ED components (Office of the General Counsel, Office of Elementary and Secondary Education, Office of Bilingual Education and Minority Languages Affairs, Office of Special Education and Rehabilitative Services, Office of Vocational and Adult Education, Office of Postsecondary Education, Office of Educational Research and Improvement, etc.) work together on issues of educational equity and program reauthorization activities. Where appropriate, OESE and OSERS issue policy guidance jointly with OCR in overlapping areas. Working closely with other Departmental components on issues of common interest ensures that OCR uses resources effectively.

**DRAFT**

**CHALLENGES TO ACHIEVING PROGRAM GOALS**

- ❖ Providing increasing resources to respond to growing customer expectations in a web enabled world.
- ❖ Attracting and maintaining talented staff with high order legal and technical skills.
- ❖ Managing an increasing workload and addressing civil rights issues that raise increasingly complex educational issues in the context of limited FTE and financial resources.
- ❖ Ensuring investigative strategies, resolution approaches, and technical assistance tools such as case models are well informed and support educational excellence.
- ❖ Serving language minority parents in Federally conducted education and training programs as required by Executive Order 13160.
- ❖ OCR strengthened financial controls in response to an IG recommendation and continues to examine all financial systems to ensure that there are no material weaknesses.

**INDICATOR CHANGES**

**From FY 1999 Annual Plan (two years old)**

Adjusted

- ❖ FY 1999 Indicator 2.1 was modified to focus specifically on partnerships with parents.

Dropped

- ❖ FY 1999 Indicator 1.1, Access to quality education, was dropped.

**From FY 2000 Annual Plan (last year's)**

Adjusted—None.

Dropped—None.

New

- ❖ For FY 1999, the descriptions of Objectives 1 and 2 were modified to more specifically reflect OCR's critical programmatic performance goals.
- ❖ For FY 1999, Objective 3 was added to measure management efficiencies that have significant impact on results.
- ❖ For FY 1999, the data sources for Indicators 1.1, 1.2, and 1.3 were further clarified.

161910

GAO

United States  
General Accounting Office  
Washington, D.C. 20548

Health, Education, and  
Human Services Division

B-281748

March 23, 1999

The Honorable Nathan Deal  
House of Representatives

Subject: Department of Education: Resolving Discrimination Complaints Has  
Improved With New Processing System

Dear Mr. Deal:

The Department of Education's Office for Civil Rights (OCR) enforces federal civil rights laws prohibiting discrimination in education programs and activities receiving federal financial assistance from the Department. At the end of fiscal year 1993, OCR had a backlog of nearly 2,400 unresolved discrimination complaints—an increase of 34 percent from the year before. Recognizing the need to reassess its approach to complaint processing, OCR initiated major changes in the way in which it processed and resolved complaints in early fiscal year 1994. You asked us to provide information on these changes and their effects, thus far. Specifically, you asked us to describe

- the changes OCR has made in its complaint resolution process since fiscal year 1993 and
- any changes in the timeliness and efficiency in resolving complaints between fiscal years 1993 and 1997.

In conducting our review, we obtained information for the period between fiscal years 1993 through 1997 from interviews with officials at OCR headquarters and selected field offices and from OCR databases. In addition, we reviewed reports by the U.S. Commission on Civil Rights and the Office of Inspector General in the Department of Education on OCR's complaint processing. We also interviewed officials of these organizations. Our review was conducted between June 1998 and March 1999 in accordance with generally accepted government auditing standards.

In summary, since fiscal year 1993, OCR has improved its complaint resolution process in two major ways. First, it replaced a process that focused on investigating complaints with a more flexible system that focuses on resolving complaints as soon as possible, which allows complaints to be mutually resolved at any point in the process. OCR has also replaced its hierarchical structure for investigating complaints with case resolution teams—which include attorneys, investigators, and support staff—having the authority to reach final determination for most complaints. Second, OCR has undertaken several information and communication efforts to (1) replace a mainframe-based discrimination case information system with a personal computer-based system directly accessible by field office staff, (2) provide on-line access to critical case resolution resources through an electronic library, and (3) establish internal networks for key subject matter issues.

During fiscal years 1993 through 1997, OCR improved the average time to resolve complaints and reduced its inventory of unresolved complaints. For example, the average time to resolve a complaint was reduced from 152 days to 98 days, while the year-end backlog of unprocessed complaints dropped by 35 percent during the period. These improvements occurred while the annual number of complaints received by OCR increased slightly (from 5,093 to 5,296) and OCR's staffing declined 20 percent (from 854 to 681 full-time equivalent staff).

### **BACKGROUND**

OCR enforces federal civil rights laws prohibiting discrimination in programs and activities receiving federal financial assistance from the Department of Education. It derives its authority from the Department of Education Organization Act. The civil rights laws prohibit discrimination on the basis of race, color, national origin, sex, disability, and age. Most of OCR's activities are conducted by its staff in 12 offices located throughout the country. The Assistant Secretary for Civil Rights provides overall leadership and coordination.

OCR responds to complaints of discrimination and conducts reviews to ensure compliance with civil rights laws. It also provides technical assistance—that is, information and other services—to help educational institutions that receive federal funds to comply with civil rights laws and to help their students and employees understand their rights under the laws.

A discrimination complaint may be filed by anyone who believes that an educational institution receiving federal financial assistance has discriminated against someone on the basis of race, color, national origin, sex, handicap, or age. The person or organization filing the complaint need not be a victim of the alleged

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discrimination but may complain on behalf of another person or group.<sup>1</sup> OCR's discrimination complaint workload data for fiscal year 1997 show that OCR received 5,296 complaints alleging a range of civil rights violations and resolved 4,981 complaints, some of which were received during previous years. Almost 54 percent of complaints filed alleged discrimination due to disability, more than 19 percent alleged race or national origin discrimination, about 8 percent alleged sex discrimination, 1 percent alleged age discrimination, and the remaining 18 percent of complaints filed alleged discrimination citing either multiple causes or other types of discrimination.

Compliance reviews evaluate the practices of educational institutions to ensure they are complying with civil rights laws. They differ from complaint investigations in that they are initiated by OCR and usually cover broader issues and affect larger numbers of individuals than complaint investigations. OCR completed 140 compliance reviews in fiscal year 1997.

OCR provides technical assistance to parents, students, and educators, as well as federal, state, and local governments through on-site consultations, conferences, training, community meetings, and the Internet. In addition, guidance is given, in writing and over the telephone, in response to tens of thousands of inquiries OCR receives annually from these groups.

Historically, OCR's procedures for processing complaints were extremely rigid. OCR was required—as a result of a 1977 court order and subsequent court orders—to process discrimination complaints within specified time frames.<sup>2</sup> To help ensure it met these time frames, OCR established a step-by-step complaint

<sup>1</sup> 34 C.F.R. 100.7(b)

<sup>2</sup> The 1977 court order was issued by the U.S. District Court for the District of Columbia in *Adams v. California*, 430 F. Supp. 118, 120, 121. The litigation began in 1970 when the NAACP Legal Defense and Educational Fund filed a class-action suit against the U.S. Department of Health, Education, and Welfare's Office for Civil Rights. The plaintiffs—mainly students attending public schools and their parents—alleged that OCR had failed to enforce title VI of the Civil Rights Act of 1964 in 17 southern and border states. The plaintiffs argued that OCR refused to initiate enforcement proceedings against a number of state systems of higher education, state-operated vocational and special-purpose schools, and local school districts found in actual or presumptive violation of title VI. In February 1973, the district court issued an order granting the plaintiffs declaratory and injunctive relief. Later that year, the U.S. Court of Appeals for the District of Columbia affirmed the district court's order, with modifications. Through a series of court orders issued in the litigation between 1973 and 1977, the court guided OCR's implementation, compliance, and enforcement activities toward more stringent enforcement procedures. The court's oversight required that OCR, within a certain specified time period, begin enforcement proceedings against various school districts and state systems of higher education found in actual or presumptive violation of title VI.

resolution process with extensive documentation requirements. Each step of the procedure was also subjected to multiple hierarchical reviews. According to an OCR official, complaint investigations that were not terminated by a mutual resolution between the parties early in the process had to be carried through to their conclusion. On June 25, 1990, the U.S. Court of Appeals for the District of Columbia removed all related court-imposed obligations from OCR,<sup>1</sup> effectively freeing OCR of its rigid requirements.

### OCR CHANGES IN COMPLAINT PROCESSING

Following numerous meetings with the education community and OCR staff, the Assistant Secretary for Civil Rights directed a study of OCR's approach to complaint processing, focusing on its timeliness and effectiveness. Two major changes initiated after fiscal year 1993 profoundly modified the way in which OCR processes complaints. First, rather than investigating complaints, the process was revised to focus on resolving them, allowing complaints to be processed as soon as possible. Second, its hierarchical structure for investigating complaints was replaced with case resolution teams—which usually include a team leader, attorneys, investigators, and support staff—having the authority to reach final determination for most complaints. In addition, OCR has initiated several information and communication efforts since fiscal year 1993, which it credits with contributing to improved timeliness and efficiency of its complaint processing. OCR officials believe that the restructuring of its senior management also contributed to improved complaint resolution.

#### More Flexible Complaint Resolution Process

OCR's revised process for handling complaints shifted from focusing on investigating complaints to focusing on resolving complaints. Its Complaint Resolution Manual (CRM), issued on December 1, 1993,<sup>2</sup> documents the new process and replaced the Investigation Procedures Manual. OCR trained all its regional employees on the new complaint resolution process.

CRM focuses on a complaint's allegations of discrimination and what it would take to resolve them, including reaching a settlement between the parties. Since CRM was issued, more complaints have been resolved in this manner. CRM also

<sup>1</sup>The 1990 case, *Women's Equity Action League v. Cavazos*, 905 F.2d 742, denied the plaintiff's claim of a private right of action against the Department of Education under civil rights statutes and the Administrative Procedures Act. This ended the litigation's 20-year history.

<sup>2</sup>The manual was renamed "Case Resolution Manual" in November 1994.

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allows complaints that involve multiple allegations to be unbundled so each allegation can be handled using the most appropriate type of resolution procedure.

According to Department officials, OCR formed a standing committee to evaluate suggested changes to CRM. A number of suggestions were made after CRM was first issued, and it was revised in February 1994. Although the number of suggestions has declined somewhat since then, CRM has been revised several times, most recently in February 1998.

#### Case Resolution Teams Introduced

OCR also instituted case resolution teams in all of its regions to handle complaints. OCR piloted the team approach in October 1993 in OCR's region II—receiving the Vice President's Heroes of Reinvention ("Hammer") Award in 1994 for the pilot—and implemented resolution teams throughout OCR in fiscal year 1995.

Although there is some variability among OCR offices as to how case resolution teams are formed, generally a team is headed by a team leader and consists of investigators, attorneys, and support staff. These teams have taken on most programmatic responsibilities and, according to OCR, minimized paper-shuffling and multiple layers of review. Working with both the pilot and a control group, OCR collected data to show major improvements in productivity in region II. For example, the average number of days for complaint resolution was reduced from 169 days under the old structure to 129 days with the new teams, a 24-percent improvement.

#### Information and Communication Initiatives

Since fiscal year 1993, OCR has also improved or created several systems to provide its staff with information needed to conduct and report on complaint investigations. OCR officials credit these changes with helping investigators more quickly and efficiently resolve complaints, noting three significant changes: using a personal computer-based discrimination case information system that is directly accessible by field offices; providing all OCR staff on-line access to critical case resolution resources through an electronic library; and establishing internal networks for key subject matter issues.

Region II is responsible for OCR activities in New Jersey, New York, Puerto Rico, and the Virgin Islands.

- **Direct access to case files:** In December 1993, OCR announced that staff would be provided direct access to case files through a personal computer-based case information system. The new system—adopted because OCR determined that its old mainframe-based computer system could not practicably be modified to accommodate the new CRM processes—collects essential complaint case data and provides basic management information. By providing OCR managers, attorneys, and investigators direct access to information regarding the status of all civil rights cases, the system allows OCR to more effectively track and process complaints and compliance reviews.
- **Electronic library established:** OCR's electronic library assists staff research by providing convenient on-line access to current documents related to civil rights and education, such as OCR and other federal statutes and regulations, policy documents, and selected case resolution letters. OCR's electronic library was first made available to headquarters staff in 1993; by the beginning of 1996, it was available to all regional offices. The Department of Education plans to make the local and wide area networks electronically accessible to all interested parties.
- **Issue area networks created:** In August 1996, OCR created networks of internal staff at multiple geographic locations who work in one of several key issue areas, including testing, affirmative action, and racial harassment and student discipline. The networks help OCR develop internal capacity and consistency by building organizational bridges between people doing the same job in different parts of the country. Networked staff collaborate on legal issues and provide one another on-the-job coaching and other professional support. One of the networks' common objectives is to refine case resolution tools and, thereby, increase the timeliness and efficiency of OCR's complaint processing. A facilitator was appointed for each issue area network to ensure that an active, multisite group was maintained for the issue area.

**COMPLAINT PROCESSING TIMELINESS AND  
EFFICIENCY IMPROVED IN THE PERIOD  
BETWEEN FISCAL YEARS 1993 AND 1997**

Between fiscal years 1993 and 1997, OCR showed improvement in three principal performance indicators: the time to process a complaint, the number of complaints processed annually, and the average backlog of unprocessed complaints at year end. These improvements occurred while the annual number of complaints received by OCR increased slightly—rising from 5,093 in fiscal year 1993 to 5,296 in fiscal year 1997—and while OCR's overall staffing level declined,

due to budget constraints, from 854 full-time equivalent staff in 1993 to 681 in 1997—a 20-percent reduction.

OCR reduced the average time required to resolve complaints between fiscal year 1994 and fiscal year 1997. (Data were not available for fiscal year 1993.) In fiscal year 1994, the average number of days to resolve complaints was 152; by fiscal year 1997, it was 98. As table 1 shows, the average number of days increased by 1 day in fiscal year 1995 before declining sharply in fiscal years 1996 and 1997. An OCR official said the 1-day increase in fiscal year 1995 may have been caused by OCR's resolution of a number of complaints that had been under investigation for a much longer than normal period of time.

**Table 1: Average Number of Days for OCR to Resolve Complaints in Fiscal Years 1994 Through 1997**

Fiscal year	Average number of days to resolve complaint
1994	152
1995	153
1996	126
1997	98

Note: Information may differ slightly from that OCR used in its budget requests and annual reports to the Congress due to subsequent adjustments made by the Department.

During the fiscal year 1993 through 1997 period, the number of complaints resolved increased from less than 4,500 in fiscal year 1993 to over 5,700 in fiscal year 1994 but fell back to less than 5,000 in 1997. (See table 2.) Overall, during this period the annual number of complaints resolved by OCR rose by 11 percent. An OCR representative said that OCR had not made an analysis to determine why there was a rise in the number of complaints resolved.

\*Resolved means a complaint was assessed and one of the following occurred: the complaint was found inappropriate for OCR action, the complaint was found appropriate for OCR action and civil rights concerns were addressed, or the complaint was found appropriate for the OCR action and there were no civil rights violations.

Table 2: Number of Complaints OCR Received, Resolved, and Had Outstanding in Fiscal Years 1993 Through 1997

Fiscal year	Complaints outstanding at start of year	Complaints received*	Complaints resolved	Complaints outstanding at year end
1993	1,777	5,093	4,484	2,386
1994	2,386	5,273	5,735	1,924
1995	1,924	4,981	5,594	1,311
1996	1,311	4,831	4,898	1,244
1997	1,244	5,296	4,981	1,559

\*Does not include complaints outstanding at start of year.

Note: Information may differ slightly from that OCR used in its budget requests and annual reports to the Congress due to subsequent adjustments made by the Department.

OCR's inventory of unresolved complaints at year end declined from 2,386 in fiscal year 1993 to 1,244 in fiscal year 1996 and increased to 1,559 in fiscal year 1997. For the entire fiscal year 1993 through 1997 period, outstanding complaints declined by 35 percent because in 3 of the 4 years, and overall for the period, OCR resolved more complaints than it received.

#### AGENCY COMMENTS

The Department of Education in commenting on a draft of this letter agreed with our evaluation of OCR's improvements in resolving discrimination complaints. It also said that the restructuring of OCR's senior management contributed to these improvements. We have added a statement recognizing this restructuring and the Department's belief that the restructuring may have contributed to the improvement in case procession. However, our review focused specifically on case processing initiatives, and we did not attempt to evaluate the impact of the restructuring on case processing. The Department also provided several technical comments which we have incorporated as appropriate. Education's written comments are included as an appendix.

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We are sending copies of this letter to the Secretary of Education and other interested congressional offices. We will also provide copies to others on request. If you have any questions, please feel free to contact me or Joseph J. Eglin, Jr., Assistant Director, at (202) 512-7014. Charles M. Novak also contributed to this letter.

Sincerely yours,



Carlotta C. Joyner  
Director, Education and  
Employment Issues

COMMENTS FROM THE DEPARTMENT OF EDUCATION

## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

MAR 3 1988

Ms. Carlotta C. Joyner  
 Director, Education and  
 Employment Issues  
 U.S. General Accounting Office  
 Washington, D.C. 20548

Dear Ms. Joyner:

Thank you for the opportunity to comment on the draft of the General Accounting Office (GAO) report to Congressman Nathan Deal on the changes made to the processes for resolving discrimination complaints in the U.S. Department of Education's Office for Civil Rights (OCR). We believe that the organizational and operational changes we introduced in OCR have made us more efficient and improved the agency's ability to promptly and appropriately resolve complaints filed with this office. It is encouraging to see this confirmed in an independent study by GAO.

In addition to the factors discussed in your report, we believe that the OCR senior management restructuring contributed to the agency's improved performance in complaint resolution. Where OCR had ten regional offices reporting to a Deputy Assistant Secretary, OCR now has four divisions, each containing three enforcement offices, that report to two Enforcement Directors. This restructuring resulted in a larger percentage of OCR staff devoted to case work, as opposed to administrative functions. An OCR division now has greater resources than did a regional office to ensure that the division's complaints are resolved in an expeditious manner. Also, the case resolution teams within the divisions now have greater access to senior management through the Enforcement Directors than was previously available.

In a footnote to the data charts, the report notes that there are some discrepancies based on comparisons of the data submitted for this report to the data included in OCR budget requests to Congress for those same years. The minor discrepancies result from the need to report budget data soon after the end of the fiscal year. Other reports, such as OCR's Annual Report to Congress and the data submitted to GAO, are drawn from OCR's Case Information System later, after year-end edits have been made. The budget data are not revised to reflect the updated numbers, because the differences are statistically insignificant and would not affect funding decisions. With the exception of FY 1987, all data disparities in question are less than six-tenths of one percent. In FY 1987, because one field office reported its

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information late in the cycle, the disparity in data was less than two percent. To avoid these minor discrepancies in the future, OCR plans to complete the year-end edit process sooner so that, beginning in FY 1999, the data will be consistent.

Thank you for the opportunity to comment on the report. We appreciate the recognition of the improvements that we have made in OCR's complaint resolution process.

Sincerely,

*Norma V. Cantú*

Norma V. Cantú

(104939)

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# Annual Report to Congress

Office of the Assistant Secretary for  
Civil Rights, ED  
U.S. Department of Education  
Washington, D.C. 20540

## Fiscal Year 1994



U.S. Department of Education  
Office for Civil Rights

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FY 1994 ANNUAL REPORT TO CONGRESS  
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## FOREWORD

### 1994 ANNUAL REPORT TO CONGRESS

*Discrimination against students is an ugly reality. Racial segregation, racial and sexual harassment, denial of education to students with limited English proficiency, warehousing of severely disabled students, and other less pernicious but equally damaging practices unfortunately continue.*

*In more than half of the cases determined appropriate for OCR intervention and resolution, OCR requires a recipient of federal education funds to make changes to stop or prevent discrimination against students. In FY 1994, in over 1,400 cases involving many times more students, OCR helped students achieve equal access to educational opportunity by putting an end to discriminatory practices.*

*OCR is fundamentally a law enforcement agency. OCR's effective operation requires on-site investigations at any of the nation's 16,000 school districts or 3,500 colleges and universities; substantial data analysis; and, to uphold the law and while being fair to both recipients and complainants, a highly trained investigatory and legal staff.*

*In an era of decreasing staff resources and increasing case loads, OCR is developing new approaches to the resolution of complaints of discrimination. OCR's leadership and innovation are avoiding case backlogging, preserving OCR's ability to assist both recipients and complainants through technical assistance, and combining OCR's enforcement obligations with cooperative approaches to the development of strong, educationally sound remedies to serious civil rights problems.*

*This report shows that we are on course to enforce the important non-discrimination laws the Congress has enacted. A commitment to the goals of the civil rights compliance program — equal access, educational excellence, and high standards education for all students — is an investment that must be made if we are to secure America's future.*

*Respectfully submitted,*

*Norma V. Cantú*

## CHAPTER I

## COMPLAINT AND ENFORCEMENT ACTIVITIES

This report describes OCR's policy guidance efforts, complaint investigations and enforcement activities conducted during Fiscal Year 1994, from October 1, 1993 through September 30, 1994.

### *Policy Guidance on Discrimination*

#### **Racial Harassment**

On March 10, 1994, the Department published investigative guidance on the procedures and analysis that OCR staff will follow when investigating allegations involving racial incidents and harassment against students at all levels of education. The guidance recognizes that harassment on the basis of race, color, or national origin denies students the right to an education free of discrimination and violates Title VI of the Civil Rights Act of 1964. By publishing this guidance and explaining the legal standards involved, OCR hopes to raise awareness among staff and students of educational institutions regarding their rights and responsibilities with regard to this form of discrimination.

#### **Race-Targeted Financial Aid**

The Department published final policy guidance in the Federal Register on February 23, 1994, clarifying the extent to which colleges can use race-targeted financial aid to provide equal educational opportunity and a diverse educational environment for all students consistent with Title VI. The policy guidance sets forth principles describing the circumstances in which consideration of race or national origin in the award of financial aid is permissible under Title VI and relevant case law.

#### **Higher Education Desegregation**

On January 31, 1994, OCR published a notice in the Federal Register on the application of the U.S. Supreme Court decision in *United States v. Fordice*. The Supreme Court enunciated standards for determining whether a state has met its obligation to dismantle a *de jure* segregated system of higher education under the Fourteenth Amendment to the U.S. Constitution and Title VI. The notice makes it clear that the standards enunciated by the U.S. Supreme Court will be used by OCR in determining whether states have met their obligations to affirmatively dismantle all remnants of their prior segregated systems.

## *Complaint Investigations*

### **Complaint Receipts**

In FY 1994, OCR devoted a significant portion of resources to investigating complaints. OCR received 5,302 complaints alleging discrimination on the basis of race, national origin, sex, disability or age by a recipient of Federal financial assistance. OCR's primary goal was to professionally and appropriately resolve those complaints in a timely manner. This has become increasingly difficult as complaints have increased while staff resources have not.

Approximately 52 percent of all complaints filed with OCR alleged discrimination based on disability. Race and national origin complaints accounted for 22 percent of complaints. Eight percent of complaints alleged sex discrimination. The remaining 18 percent of the complaints were filed on multiple discrimination bases, on age discrimination or on other discrimination bases.

### **Complaint Resolution**

OCR resolved 5,752 complaints in FY 1994. In 1,465 cases, or 25 percent, OCR facilitated or required corrective action whereby a recipient of federal funds changed its policies or practices, or changed the situation that was the basis of the complaint to remedy discrimination. 1,301 complaints, or 23 percent, were found to have no substantive basis and did not require corrective action. 2,986 complaints, or 52 percent, were determined to be inappropriate for OCR action, either because the complaint was more appropriately resolved in another forum (where there was pending Federal court litigation, for example), or because OCR could not otherwise proceed with the case (because the complaint was untimely, for example).

### **Complaint Workload**

Fewer complaints were pending at the end of FY 1994 than in FY 1993. There were 1,926 complaints pending at the end of FY 1994. Despite OCR's growing case load, this represented a decrease of 21 percent from the 2,429 complaints pending at the end of FY 1993.

OCR resolved a growing number of complaints by facilitating agreements between the complainant and the recipient. In FY 1994 OCR resolved about 20 percent of its cases by voluntary agreement among the parties.

FY 1994 saw the continued growth of complaints received by OCR. Even with this increase, OCR staff resolved these complaints well within established time frames. However, the complaint statistics do not tell the complete story. The next section describes the impact of some of these cases on the lives of actual students.

## **Impact of Complaint Investigations on Elementary and Secondary Students' Lives**

The issues raised in complaints filed against some of the nation's 16,000 school districts that receive Federal funds concerned the basic right of access to equal education by individuals as well as groups. The real-life stories told below are drawn from complaints in which OCR secured corrective action from school districts to resolve civil rights violations.

### **Disability Complaints**

Complaints alleging discrimination on the basis of disability can be filed under Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990. In FY 1994, 62 percent of elementary and secondary level complaints alleged discrimination due to a student's disabling condition. OCR resolved a number of complaints in FY 1994 involving some of the most fundamental rights of children with disabilities to equal educational opportunities.

In one case, the Chicago Public Schools (Illinois) categorically placed children with severe cognitive disabilities in private schools. OCR found deplorable conditions in some of the private schools, including instances where restraints were used on students without authorization and practices that denied students privacy during activities of personal hygiene. Some of the schools lacked basic equipment and supplies and individualized education programs were not being implemented. Since standards and procedures for approving these private schools rested with the state, OCR also conducted a companion investigation of the Illinois State Board of Education (ISBE). OCR found ISBE's less stringent criteria governing qualifications for staff and administrators in private schools and their staff/student ratios resulted in the denial of an appropriate education to the students enrolled in such facilities.

Both Chicago and the ISBE adopted agreements that now require equivalent employee qualification standards and teacher/student ratios in public and private schools serving students with disabilities. Procedures are being established to ensure that students with disabilities receive necessary services, equipment, and supplies. OCR is continuing its work to ensure that these agreements are implemented.

### **Limited English Proficient Students**

Denial of access to educational programs to limited English proficient students violates Title VI of the Civil Rights Act of 1964, but lack of language assistance programs and access to educational opportunities continue to be persistent barriers to students with limited English proficiency. OCR found that limited English proficient (LEP) students at an elementary school in New York City were physically isolated. The New York City Board of Education agreed to relocate the special language classes to ensure that the program is no longer separated from the rest of the school. Also, LEP students are now placed with other students in all nonacademic subjects, such as art, music, and physical education. Such adjustments will maximize the opportunity for these students to transition out of LEP programs and into the regular classroom.

## Student Assignment

School districts must assign students to schools without regard to their race or national origin. OCR determined that the Alief Independent School District (Texas) created racially identifiable elementary schools by gerrymandering attendance zones and building new schools in areas projected with high minority enrollments. The racial identity of schools was reinforced by assigning large numbers of minority faculty and staff to predominantly minority schools. Also, when overcrowding occurred, white students were transferred to mobile classrooms at other predominantly white schools rather than being sent to schools with substantial numbers of minority students. In light of these findings, Alief submitted a plan for reducing racial isolation at its 19 elementary schools. The plan uses a number of techniques that promote school desegregation and quality education, including school pairing, revised attendance zones and magnet school programs.

## Racial Harassment

Other Title VI complaints were filed because of race discrimination. In one such instance, the complainants alleged that the Greenbrier County Public Schools (West Virginia) subjected black students to a racially hostile environment at a junior high school. Students at the school were passing out Ku Klux Klan literature, and at least one white student was physically threatened for being friends with black students. The district agreed to adopt and publish grievance procedures for resolving complaints alleging discrimination based on race and issue a policy condemning racial discrimination and harassment in any activities. Greenbrier also requested and received OCR's assistance in delivering training on race relations.

## Sexual Harassment

Discrimination based on sex violates Title IX of the Education Amendments of 1972. In one such case, OCR successfully resolved a complaint which alleged that the Albion School District (Michigan) failed to take appropriate action to address incidents of sexual harassment involving female high school students. In one instance, a female student was subjected to repeated vulgar comments over a three year period from numerous students. The student developed ulcers and stomach problems because of the harassment she received. Other students also were subjected to sexually offensive conduct. The district knew or should have known of the sexually hostile environment of student-to-student harassment, yet failed to take effective corrective action. OCR obtained agreement from the district to develop disciplinary guidelines and assist administrators in determining disciplinary actions to address sexual harassment in all programs and activities. OCR's investigation received state-wide media coverage. As a result, several Michigan school systems asked OCR for technical assistance to address sexual harassment problems proactively.

## Impact of Complaint Investigations on Postsecondary Students' Lives

About 27 percent of all OCR complaints were filed against the nation's colleges and universities in FY 1994. This proportion of postsecondary school complaints has not changed materially over the past six years.

### Program Accessibility

The greatest number of complaints against colleges and universities, 46 percent, were filed on the basis of disability status. One complaint was filed with OCR alleging that the main campus of the University of Oklahoma (Norman, Oklahoma) had failed to make certain of its buildings accessible to and usable by persons with disabilities. These buildings included the University's main library and offices administering student affairs, financial support, and career planning. The University agreed to install automated doors at building entrances and relocate critical programs and services to accessible building sites. Also, the University will make staff available to provide library and computer lab assistance upon request by students with disabilities. A similar agreement was reached with Northwestern Oklahoma State University and extended to designating accessible parking spaces, alteration of ramps, drinking fountains and bathrooms, and installation of elevators and new alarm systems. As a result, these colleges will become attractive to students with disabilities rather than being inhospitable due to substantial physical barriers.

### Disciplinary Actions

The second highest number of complaints filed against colleges and universities, or 33 percent, was on the basis of race and national origin discrimination.

Title VI requires that discipline policies be applied in an even-handed manner to all students, regardless of race or national origin. At West Texas A&M University, in an incident of disorderly conduct, the University called in the police on a black student, resulting in his arrest and incarceration, where white students under similar circumstances were referred to an internal disciplinary process. OCR's intervention resulted in West Texas A&M offering reinstatement and agreeing to reimburse the student for the tuition, fees and costs of books for the courses he could not complete. New procedures will ensure that students are fairly disciplined without regard to their race or national origin.

### ~~Sexual Harassment~~

Twenty-one percent of complaints against colleges and universities alleged sex discrimination. A complaint against the University of California, Santa Cruz, alleged severe and pervasive incidents of sexual harassment, assault and rape on campus and that the University had not responded adequately under Title IX. The continuing inadequacy and unreliability of the University systems and procedures for handling sexual harassment complaints, and in particular the inadequacies of the University response to a group of 1993 complaints of harassment, sexual assault and rape, allowed a discriminatory environment to

exist for female students on campus. The University entered into a voluntary resolution plan. The agreement grants personal and academic relief to student victims.

## *Compliance Reviews*

### **Compliance Reviews Initiated**

Compliance reviews are an important part of OCR's overall civil rights enforcement responsibilities. Compliance reviews permit OCR to target resources on compliance problems that appear to be serious or national in scope. In addition, OCR can focus limited discretionary resources to balance its enforcement program. Selection of review sites is based on various sources of information, which include survey data and information provided by complainants, education groups, media and the public.

During FY 1994, 153 compliance reviews were begun. This number represents a 51 percent increase in reviews over the prior year. In FY 1994, OCR resolved 90 compliance reviews, the highest number of reviews resolved in the past six years.

### **Impact of Compliance Reviews on Students' Lives**

Compliance reviews conducted during FY 1994 covered a number of high priority educational equity issues.

#### **Limited English Proficient Students**

Language minority students must be afforded the opportunity to participate effectively in educational programs offered by school systems. When these students cannot speak and understand English, a school district must provide a program to help them develop English language and other academic competence.

In the Farmington Public Schools (Michigan), OCR found that 196 limited English proficient (LEP) students were not receiving services because of staffing limitations. Most unserved students experienced academic difficulty. At one high school, unserved students had grade point averages between 1.0 and 1.9 (on a 4.0 scale) and test scores ranging from the 1st to 26th percentile. Most of the students who were served received language instruction from paraprofessionals. None of the LEP elementary students received services from a bilingual or ESL certified teacher. Students who spoke no English received only 60 minutes of services per week at one school, although Farmington acknowledged these students needed 250-600 minutes of weekly instruction. The district had objective criteria for exiting students from alternative language services. However, school officials had to discontinue services to LEP students before they met the criteria in order to make room for other students with greater needs. As a result of being dropped, many students were failing one or more subjects. Farmington also had no system for monitoring progress of current or former LEP students and had not conducted an evaluation to ensure its alternative language program is effective in removing language barriers.

Farmington is now making efforts to ensure adequate staffing of its alternative language program. This includes assisting paraprofessionals who are working towards certification in ESL or bilingual education.

### **Overrepresentation of Minority Students in Special Education Classes**

OCR recognizes that special education programs are beneficial to children who need such services. However, care is needed to ensure that children are not inappropriately placed in these programs. In the Alton Community Unit School District #11 (Illinois), the announced policy was to use regular education intervention strategies and assess their success before referring students for special education evaluation. There were no district-wide standards, however, for identifying students who required regular education interventions or who needed to be referred for special education evaluation. As a consequence, some teachers based referral decisions on student behavior or how they felt parents would respond to referral decisions. Students with similar scores on the reading, language, and mathematics sections of the California Achievement Test also were treated differently. Half the teachers interviewed during OCR's compliance review wanted training. A major finding concerned the availability of regular education intervention opportunities -- resource teachers, staff and peer tutoring, before and after school homework and enrichment programs, and structured parent involvement. The schools with these opportunities referred few black students for special education evaluation. In fact, the school with the largest intervention program did not refer any students (minority or non-minority).

After OCR's review, Alton made a number of revisions so all students will have the opportunity to benefit from the regular education program before referral is considered. Each school will now have written student plans specifying regular education interventions and the effectiveness of these plans will be evaluated. Guidelines are being prepared for referring students for evaluations when regular education interventions prove unsuccessful. Under its settlement agreement, Alton also will increase regular intervention opportunities. Alton is now piloting its revised referral system at three schools that enroll more than 1200 students. After the system is refined, based on the pilot, it will be extended to all schools, including secondary schools, at the start of the 1995-96 school year.

### **Gifted and Talented Programs**

School districts must provide equal opportunity for all students to participate in educational programs, including gifted and talented programs. The practices and procedures used in nominating, screening and placing students in gifted and talented programs must not have the effect of denying minority students equal access.

The Denton Independent School District (Texas) operates a gifted and talented program known as EXPO. At the time of OCR's compliance review, there were no black students enrolled in gifted programs at two elementary schools; no black student had ever been enrolled at one of the elementary schools. Hispanic participation was also particularly low.

OCR's review concluded that the underrepresentation of black and Hispanic students was due to the failure of teachers and parents to nominate these students. Most minority parents were unaware they could nominate their children for EXPO. Also, there was evidence that minority parents were not receiving sufficient information about the program and some of the information may have been confusing.

Denton adopted a plan to increase the referral and placement of minority students in EXPO. A community outreach program was established to educate the community and solicit nominations and referrals of minority students. The district also will aim for wider dissemination of information about EXPO by advertising in local and minority-focused newspapers and radio stations and seeking assistance from civic organizations. Training will be conducted each year for school administrators, counselors and teachers with particular reference to the needs of students who may be overlooked in the regular gifted and talented screening process. Several of Denton's neighboring school districts have contacted OCR as a result of this compliance review to obtain assistance regarding increasing the participation of qualified minority students in their own gifted and talented programs.

### **Athletic Programs**

Colleges and universities are required to provide equal athletic opportunities to male and female students. This requirement includes providing an equal opportunity to participate and equivalent benefits and services for men's and women's athletic programs.

At Orange Coast College (California), women comprised 50 percent of the enrollment but only 28 percent of the athletes. The College never made an effort to determine the reasons for the low participation of women in its intercollegiate athletic program.

OCR found disparities in opportunities and treatment of athletes in a number of program areas. The combined disparities resulted in a denial of equal opportunity for women athletes. For example, the women's crew team was provided shells designed for men that were too heavy to use in practice or in competitions. There was no locker room at the boat house available to women when men and women crew teams competed on weekends. The women's softball facility, used by the football team, had dangerous divots resulting in injuries to female athletes. Not one woman received an athletic scholarship.

Scholarships will be awarded to women athletes based in proportion to their athletic participation. Orange Coast has repaired the women's facilities and is working to improve the softball field. The women's crew team will be provided two gender-appropriate racing shells and new guidelines will be put in place promoting women's sports, including posters, flyers, and mailers. These and other changes will result in equal opportunity for male and female athletes.

### **Technical Assistance**

The aim of OCR's technical assistance efforts is to prevent violations of the civil rights laws. Technical assistance is provided through such activities as on-site consultations, conference

participation, training classes, workshops and meetings, as well as through written information and telephone consultations. Although technical assistance is often provided during a complaint investigation or a compliance review, OCR also conducts a broad program of proactive technical assistance outreach.

Technical assistance is delivered to a variety of organizations and their people. For example, OCR's Region IV conducted day-long workshops specifically designed to train in-school administrators on a variety of Title VI and Title IX compliance issues. The workshops were co-sponsored by the respective State Departments of Education and the Southern Desegregation Center. OCR's Region VI conducted parental outreach workshops on the issue of overrepresentation of minorities in special education. Delta State University requested technical assistance in the area of provision of academic adjustments and auxiliary aids to postsecondary students with disabilities. An OCR attorney advisor from OCR's Region X met with Latino parents of limited English proficient and non-English proficient (LEP/NEP) students. The workshop was conducted in Spanish and all of the participants were provided information on equal educational opportunities for language minority students and the responsibilities of school officials in communicating with parents.

In other examples of technical assistance, OCR responded to several requests for assistance from parents with children with disabilities. In one case, a student with cerebral palsy was told she could not go on a school-sponsored trip to Toronto because the district was unwilling to assist the student with her special needs. In a second case, a school district was unwilling to arrange for a nurse so that a student, who requires medication administered through a feeding tube, could go on a field trip with her class. After OCR contacted school officials about the right of all students to participate in extracurricular activities, both districts made the necessary accommodations and the students were able to join their classmates on the field trips. In another case, a parent of a kindergarten student with hemophilia contacted OCR after a school bus driver expressed concerns about transporting her son. After OCR's assistance, the school district provided training about hemophilia to the bus driver and two substitute drivers. OCR received statements of appreciation from school officials for helping to resolve these matters and avoiding expensive and time-consuming investigations.

#### *Other Compliance Activities*

In addition to complaint investigations and compliance reviews, other compliance activities are conducted by OCR.

#### **Magnet Schools Assistance Program**

OCR works with the Office of Elementary and Secondary Education to certify that applicants of the Magnet Schools Assistance Program (MSAP) will meet nondiscrimination assurances. MSAP funding is intended to reduce, eliminate and prevent minority isolation in elementary and secondary magnet schools. In FY 1994, OCR reviewed the nondiscrimination assurances from 57 school districts that applied for a continuation of their MSAP grants. As a result of these reviews, OCR was able to certify the continued eligibility of these recipients.

## Vocational Education

All states develop Methods of Administration (MOA) plans that describe how they will monitor their own programs and those of their sub-recipients to ensure compliance with Federal civil rights laws, including those enforced by OCR. OCR is responsible for certifying that each state has met its MOA commitments.

For 14 years, OCR required burdensome annual reports from each of the states and other entities. OCR found this process inefficient and ineffective. In the spirit of Reinventing Government, OCR strengthened the civil rights roots of MOAs, provided greater flexibility to states, used Federal resources more efficiently, and cut burdensome reporting requirements.

As part of the redesign process, OCR gave two-thirds of the states an option of not submitting an MOA report in 1994. OCR conducted a national conference for the states' MOA coordinators to provide them with up to date information on high priority civil rights issues and to discuss options for redesigning the MOA process. The redesigned MOA process will promote more effective partnerships with the states in achieving nondiscrimination in vocational education.

## Administrative Enforcement Action and Referrals to DOJ

### Illinois State Board of Education

In a complaint investigation, OCR determined that incarcerated students with disabilities were being denied special education services in the Cook County Jail School, which is operated by the Chicago Public Schools. After OCR's attempts at securing compliance through a settlement agreement failed, the Department of Justice (DOJ) intervened in *Donnell C. v. Illinois State Board of Education*, a private lawsuit involving similar issues. The parties are currently discussing a consent decree.

### Livingston Parish Louisiana School Board

This case involved the failure of the school board to have a system of procedural safeguards in place to identify, evaluate and place children with disabilities in accordance with the requirements of Section 504 of the Rehabilitation Act of 1973. Before an administrative enforcement hearing could be held, the school district agreed to a settlement which included all necessary corrective action, including the reimbursement for the private placement of the complainant's son, an evaluation of the complainant's son for special education and related services by qualified personnel agreed to by the parents and the school district, and the adoption by the school district of notice procedures of due process rights.

### Southwestern Virginia Training Center

This case involved the policy of the training center, a state operated facility for the developmentally disabled, of providing no accommodation for employees with physical

disabilities who are fully able to perform the essential functions of their jobs. The case was initiated as the result of a complaint from a residential aide at the facility who was fired because of this policy. OCR determined that the aide had performed successfully for a number of years in her position. She was released because of a physical condition which resulted in her being unable to lift in excess of 20 pounds.

After extensive efforts at voluntary compliance, the Center finally agreed, after administrative enforcement proceedings were initiated, to amend its discriminatory policy. However, the Center refused to reimburse the employee for lost wages and benefits. As a result, an administrative enforcement hearing was conducted in June 1994. A decision is expected during FY 1995.

### San Juan School District

The Department of Justice filed a complaint in the case of *Sinjani v. Board of Education of San Juan School District*. This matter originated as an OCR compliance review conducted in 1991. The district was found in violation of Title VI for not having procedures in place for identifying and assessing LEP Native American students. There was no overall approach to educate LEP students and ensure they have an opportunity to learn English. Native American students also were placed in special education classes without assurances that placement was not based on their English language ability. The district entered into a corrective action plan. However, after receiving several monitoring reports under the plan it became clear that the district was not fulfilling its commitments. In February 1994, OCR referred the matter to the Department of Justice, which then intervened as a party in the private lawsuit. The case is currently pending in Federal district court.

## CHAPTER II MANAGEMENT REFORM

OCR has set its course for 1995 and beyond. As a result of the Assistant Secretary's town meetings, focus groups and other forums, the concerns, hopes and ideas of the education community have been brought to light. In each region, OCR staff listen to their local communities. Our continued outreach will provide the direction for OCR's enforcement activities and staff resources.

### *Setting Priorities*

OCR's commitment is to effectively facilitate strong, educationally sound remedies to civil rights problems. OCR's strategy is clear.

OCR must direct itself toward impact on students' lives. OCR will maximize the impact of available resources on civil rights in education. OCR will consider as broad a range of input as practicable in the setting of its priorities to ensure that OCR addresses the most acute problems of discrimination. OCR will provide tangible assistance to the greatest number of students possible.

OCR must work in partnership with students, parents and educators. OCR will help others to learn to solve their problems of securing equal access to quality education. OCR will focus on systemic education reform that enables communities throughout the nation to understand, commit to and implement strategies that provide opportunities for all to learn.

Finally, OCR must invest in people. OCR will recruit and retain the highest calibre staff, and will develop the training and tools they need to become most effective. OCR will provide an environment that values participation, innovation and change. OCR will model diversity, fairness and concern for employee well-being.

### *A Focus on Complaint Resolution*

OCR has, with extensive internal and external consultation, fundamentally re-engineered its approach to responding to individual complaints of discrimination. These changes move OCR from a system of required investigative procedures to one of flexible resolution approaches. This customized approach to each complainant's concerns is embodied in OCR's new Complaint Resolution Manual. All regional employees have received complaint resolution training based on the new approach. Preliminary data show substantial improvement in case resolution timeliness, and, anecdotally, in customer satisfaction. Under the new approach, OCR resolves more complaints of discrimination with fewer staff. OCR's facilitation of voluntary resolution agreements acceptable to both the complainant and the recipient has doubled.

Equally notable, an OCR team produced the new Complaint Resolution Manual in 14 days. From first meeting to actual implementation took only 60 days.

### *A Focus on Technology*

When OCR's mainframe-based case tracking system proved too inflexible for the new complaint resolution process, a team of users and programmers created a PC-based case information system from the ground up—in about a month. Users and developers continue to work together to perfect the system and ensure that needed data is provided quickly and efficiently to line staff, managers and external users.

Two additional technology initiatives were started in FY 1994. The first will finally network and provide electronic communication among all of OCR's regional offices. The second will provide on-line access to critical case resolution resources through an OCR Electronic Library.

### *A Focus on New Ways of Doing Business*

OCR is redeploying staff to improve productivity. OCR is delivering a stronger civil rights enforcement program, focusing energy on internal and external customer service, reducing formal layers of review, and moving the maximum number of staff to program activities.

OCR has eliminated bureaucratic practices and procedures that impeded fulfillment of its mission. In October 1993, employees in Region II began a unique and highly successful program to improve the Region's operation and service to Office for Civil Rights customers. The structure in Region II had been a long-standing OCR example of overly rigid and cumbersome systems, operating in a classical hierarchical structure. The Region piloted case resolution teams that take on most programmatic responsibilities, eliminating paper-shuffling and multiple layers of review.

OCR accomplished major changes through its new approach. OCR established criteria for measuring success in terms of efficiency, quality of work products and improved morale. Working with a pilot group and a control group, data were collected showing major improvements in all of these areas. For example, the average number of days for complaint resolution under the old bureaucratic structure was 169 days. The new teams reduced the average number of days to resolve a complaint to 129, a 24 percent improvement.

These innovative approaches, begun in Region II and replicated in other parts of the organization, earned OCR the Vice President's Heroes of Reinvention ("Hammer") Award. OCR is justifiably proud of this award. All the same, OCR will continue to seek out opportunities to more efficiently and effectively develop strong, educationally sound remedies for students facing discrimination.

## APPENDIX A

### Statutory Responsibilities and Federal Relationships

The Office for Civil Rights (OCR) in the U.S. Department of Education (ED) is a law enforcement agency. Its primary responsibility is to ensure that recipients of Federal financial assistance do not discriminate against students, faculty, or other individuals on the basis of race, color, national origin, sex, disability, or age.

OCR is responsible for enforcing the following Federal civil rights laws:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin, 42 U.S.C. 2000d *et seq.* (implementing regulation at 34 C.F.R. Parts 100 and 101);
- Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in educational programs, 20 U.S.C. 1681 *et seq.* (implementing regulation at 34 C.F.R. Part 106);
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of physical and mental disability, 29 U.S.C. 794 (implementing regulation at 34 C.F.R. Part 104);
- The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age, 42 U.S.C. 6101 *et seq.* (implementing regulation at 34 C.F.R. Part 110); and
- Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability.

Under the first four statutes, OCR has jurisdiction over programs and activities that receive Federal financial assistance. For educational institutions, the Civil Rights Restoration Act of 1987 defines programs and activities receiving Federal assistance as encompassing all the operations of a recipient of such assistance. Under the Americans with Disabilities Act (ADA), OCR has jurisdiction over public elementary and secondary education systems, public institutions of higher education, vocational education programs and public libraries.

OCR also has been delegated civil rights enforcement authority by eleven other Executive Branch departments and agencies.

The civil rights laws enforced by OCR extend to a wide range of recipients of Federal funds. Recipients covered by these laws include all state education and rehabilitation agencies and their subrecipients, as well as the education and rehabilitation agencies of the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United

States. These recipients also include nearly every school district and postsecondary institution; thousands of proprietary schools, libraries, museums, and correctional facilities; and other institutions that receive Federal financial assistance from ED.

In carrying out its civil rights enforcement responsibilities, OCR works with other Federal agencies, including the Department of Justice (DOJ), the Equal Employment Opportunity Commission (EEOC), and the Federal Mediation and Conciliation Service (FMCS).

Under Executive Order 12250, DOJ is responsible for coordinating Federal Government agencies' enforcement of Title VI, Title IX, Section 504, and other Federal laws that prohibit discrimination on the basis of race, color, national origin, sex, disability, or religion in programs and activities receiving Federal financial assistance. Primary enforcement responsibility remains with the individual agencies, while leadership and coordination responsibility, in areas other than employment, is vested in DOJ. Pursuant to Executive Order 12250, other Federal agencies have delegated authority to OCR to conduct civil rights compliance activities in educational institutions on their behalf.

EEOC has primary coordinating authority under Executive Order 12067 for complaints of employment discrimination. OCR generally refers to EEOC those Title VI and Title IX complaints that allege discrimination solely in employment and that are not systemic or class-based in nature. Section 504 employment complaints, as well as systemic and class-based employment complaints under Title VI and Title IX, are generally retained for processing by OCR.

EEOC also has jurisdiction in employment cases alleging age discrimination. When complaints of discrimination in employment on the basis of age are filed with OCR, they are transferred to EEOC for investigation and resolution because OCR has no jurisdiction over these cases under the Age Discrimination Act.

OCR shares responsibility with FMCS for processing age discrimination complaints that do not involve employment. OCR screens complaints alleging age discrimination to determine whether it has jurisdiction. If jurisdiction is established, the complaint is forwarded to FMCS for voluntary resolution. If FMCS is unsuccessful, or either party does not agree to mediation by FMCS, OCR investigates the complaint in the same manner as complaints alleging other types of discrimination.

DOJ has primary authority for complaints under the ADA. Under Title II of the Americans with Disabilities Act, DOJ has delegated jurisdiction to ED/OCR for investigating complaints alleging discrimination on the basis of disability that are filed against public elementary, secondary, and postsecondary institutions as well as public libraries.

OCR works with ED's Office of Special Education and Rehabilitative Services to coordinate the enforcement of certain provisions of the Individuals with Disabilities Education Act with Section 504. OCR also works with ED's Office of Elementary and Secondary Education to implement the civil rights provisions of the Magnet Schools Assistance Program.

## APPENDIX B

### STAFFING & BUDGET

OCR's authorized staff ceiling for FY 1994 was 851 full-time equivalent (FTE) positions (made up of full-time permanent and other-than-full-time permanent staff). Twenty-one percent of the staff were located in headquarters and 79 percent were in the ten regional offices.

OCR had a total funding level of \$56,570,000 for FY 1994. The following table provides budget and staffing information on OCR for the past six fiscal years.

### BUDGET AND STAFFING INFORMATION

FY	Budget Estimate to Congress	Appropriation	Appropriation After Sequester Supplemental	Congressional Budget FTE Level
1989	41,341,000	40,845,000	41,633,000	820
1990	45,178,000	45,178,000	44,372,000	820
1991	49,900,000	48,405,000	48,404,371	820
1992	56,000,000	55,000,000	53,623,000	855
1993	61,400,000	56,857,000	56,402,000	858
1994	56,570,000	56,570,000	56,570,000	851

## APPENDIX C

### PUBLICATIONS

Contact your regional civil rights office (see Appendix D for listing) to obtain any of the publications listed below.

#### General

OCR's 1993 Annual Report to Congress  
OCR's 1992 Annual Report to Congress  
OCR's 1991 Annual Report to Congress  
OCR's 1990 Annual Report to Congress  
ED Facts: Information about the OCR  
Notice of Nondiscrimination  
How to File A Discrimination Complaint  
Federal Regulations, Vocational Education Program Guidelines  
(March 21, 1979)  
Vocational Education and Civil Rights  
The Guidance Counselor's Role in Ensuring Equal Educational  
Opportunity  
Nondiscrimination in Employment Practices in Education  
What Schools Can Do to Improve Math and Science Achievement by  
Minority and Female Students

#### Title VI of the Civil Rights Act of 1964 (Title VI)

Title VI Regulations, Federal Register, May 9, 1980  
Education and Title VI (Available in English and Spanish)  
Student Assignment in Elementary and Secondary Schools and Title VI  
Magnet Schools: Promoting Equal Opportunity and Quality Education  
Historically Black Colleges and Universities and Higher Education  
Desegregation  
The Provision of an Equal Education Opportunity to Limited English  
Proficient Students

#### Title IX of the Education Amendments of 1972 (Title IX)

Title IX Regulations, Federal Register, May 9, 1980  
Federal Regulations, Policy Interpretation on Title IX Intercollegiate  
Athletics, December 1979  
Title IX Grievance Procedures: An Introductory Manual  
Title IX and Sex Discrimination (Available in English and Spanish)  
Title IX Athletics Manual (Includes Regulations, Policy Interpretations, &  
OCR Fact Sheet)

Equal Opportunity in Intercollegiate Athletics: Requirements Under Title IX of the Education Amendments of 1972

Student Assignment in Elementary & Secondary Schools and Title IX

Sexual Harassment: It's Not Academic

Teenage Pregnancy and Parenthood Issues Under Title IX

Section 504 of the Rehabilitation Act of 1973 (Section 504)

Section 504 Regulations, Federal Register, May 9, 1980 (Includes December 1990 Amendment)

Auxiliary Aids and Services for Postsecondary Students with Handicaps  
Discipline of Students With Handicaps in Elementary and Secondary Schools

Free Appropriate Public Education for Students with Handicaps

Placement of School Children with AIDS

Student Placement in Elementary and Secondary Schools and Section 504

Civil Rights of Students with Hidden Disabilities Under Section 504

Rights of Individuals with Handicaps Under Federal Law (Available in English and Spanish)

Age Discrimination Act of 1975

Federal Regulations, Age Discrimination Act of 1975

Federal Regulations, Department of Education, Age Discrimination Act, Federal Register, July 27, 1993

Americans with Disabilities Act

Department of Justice pamphlet on Americans with Disabilities Act

**APPENDIX D  
OCR REGIONAL OFFICES**

**Region I**  
Connecticut, Maine, Massachusetts,  
New Hampshire, Rhode Island, Vermont  
Office for Civil Rights, Region I  
U.S. Department of Education  
J.W. McCormack Post Office and Courthouse  
Room 222, 01-0061  
Boston, MA 02109-4557  
(617) 223-9667; TDD (617) 223-9695

**Region II**  
New Jersey, New York, Puerto Rico,  
Virgin Islands  
Office for Civil Rights, Region II  
U.S. Department of Education  
26 Federal Plaza, 33rd Floor  
Room 33-130, 02-1010  
New York, NY 10278-0082  
(212) 264-3180; TDD (212) 264-9464

**Region III**  
Delaware, District of Columbia, Maryland,  
Pennsylvania, Virginia, West Virginia  
Office for Civil Rights, Region III  
U.S. Department of Education  
3535 Market Street  
Room 6300, 03-2010  
Philadelphia, PA 19104-3326  
(215) 596-6787; TDD (215) 596-6794

**Region IV**  
Alabama, Florida, Georgia, North  
Carolina, South Carolina, Tennessee  
Office for Civil Rights, Region IV  
U.S. Department of Education  
Post Office Box 2048, 04-3010  
101 Atlanta Tower-Suite 2000  
Atlanta, GA 30301-2048  
(404) 331-2954; TDD (404) 331-7236

**Region V**  
Illinois, Indiana, Michigan, Minnesota,  
Ohio, Wisconsin  
Office for Civil Rights, Region V  
U.S. Department of Education  
401 South State Street  
Room 700C, 05-1010  
Chicago, IL 60603-1202  
(312) 886-1456; TDD (312) 353-2540

**Region VI**  
Arkansas, Louisiana, Mississippi,  
Oklahoma, Texas  
Office for Civil Rights, Region VI  
U.S. Department of Education  
1200 Main Tower Building  
Suite 2260, 06-5010  
Dallas, TX 75202-9998  
(214) 767-3959; TDD (214) 767-3639

**Region VII**  
Iowa, Kansas, Kentucky, Missouri,  
Nebraska  
Office for Civil Rights, Region VII  
U.S. Department of Education  
10220 North Executive Hills Boulevard  
8th Floor, 07-6010  
Kansas City, MO 64153-1367  
(816) 891-8026; TDD (816) 374-6461

**Region VIII**  
Arizona, Colorado, Montana, New  
Mexico, North Dakota, South Dakota,  
Utah, Wyoming  
Office for Civil Rights, Region VIII  
U.S. Department of Education  
Federal Building, Suite 310, 08-7010  
1344 Speer Boulevard  
Denver, CO 80204-3582  
(303) 844-5695; TDD (303) 844-3417

**REGION IX**  
California  
Office for Civil Rights, IX  
U.S. Department of Education  
Old Federal Building  
50 United Nations Plaza-Rm 239, 09-8010  
San Francisco, CA 94102-4102  
(415) 556-7000; TDD (415) 556-6806

**Region X**  
Alaska, Hawaii, Idaho, Nevada, Oregon,  
Washington, American Samoa, Guam, Trust Territory  
of the Pacific Islands  
Office for Civil Rights, Region X  
U.S. Department of Education  
915 Second Avenue  
Room 3310, 10-9010  
Seattle, WA 98174-1099  
(206) 320-7880; TDD (206) 553-6419