



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

APR 20 1995

The Honorable Richard W. Riley
Secretary of Education
Washington, D.C. 20202

Dear Secretary Riley:

Pursuant to Section 203(b)(1) of the Department of Education Organization Act (DEOA), the Assistant Secretary for Civil Rights is required to submit an annual report to the Secretary of Education, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems.

In accordance with the requirements of the DEOA, I am respectfully transmitting the Fiscal Year 1994 Annual Report to Congress, which covers significant accomplishments in civil rights enforcement in education.

Sincerely,

Norma V. Cantú
Norma V. Cantú
Assistant Secretary
for Civil Rights

Enclosure



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

APR 20 1995

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

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Respectfully,

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Assistant Secretary
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APR 20 1995

The Honorable Albert Gore, Jr.
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

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THE ASSISTANT SECRETARY

APR 20 1995

The Honorable Newt Gingrich
Speaker of the House
of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

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FISCAL YEAR 1995 ANNUAL REPORT TO CONGRESS

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INTRODUCTION: OCR IS CHANGING

The Office for Civil Rights enforces the laws that prevent discrimination on the basis of race, national origin, sex, disability and age in America's schools, colleges and universities. OCR ensures that remedies to discrimination that has occurred are strong and educationally sound. Through education and outreach, OCR prevents illegal discrimination from occurring in the first place.

OCR works with communities and their schools. Information from local educators and civil rights advocates informs OCR's development of its proactive agenda. Investigations may require on-site visits to interview witnesses and gather evidence. In a case of illegal discrimination, parent monitoring groups and the involvement of local education resources will enhance the strength of a remedial plan. Administrative hearings for cases that cannot be resolved through negotiation with school officials typically take place in the jurisdiction where the school is located. In all cases, strong communication with local educators and civil rights advocates reduces the adversarial nature of OCR's law enforcement activities, and promotes preventive approaches to avoiding illegal discrimination.

In 1993, this Administration inherited a reactive approach to civil rights enforcement. More than 420 complaints of discrimination from the public had been unresolved for more than a year. The US General Accounting Office and witnesses before Congress year after year criticized OCR for its failure to protect students from egregious cases of discrimination. Credibility among parents and advocates, as well as among school, college and university officials who had to work with the agency, was low. Because the vast majority of the agency's resources were spent reacting to complaints that arrived in the morning mail, glaring instances of long-standing discrimination went unredressed.

By 1995, OCR had built a proactive civil rights law enforcement program that could credibly claim to protect America's most vulnerable students from illegal discrimination. Resolution of 178 agency-initiated actions in FY 1995 alone (up from 82 resolutions in FY 1993) resulted in equal access to education for thousands of additional students facing illegal discrimination. This proactive agenda in no way compromised OCR's commitment to the prompt and appropriate resolution of each complaint of discrimination from the public. OCR resolved more than 5,500 complaints from the public in FY 1995, more than ever before, on average within 120 days, more promptly than ever before. At the same time, OCR's staff reduction from 854 Full Time Equivalent (FTE) in FY 1993 to 788 in FY 1995 evidenced the agency's commitment to efficiency.

Most of OCR's critical activities take place in its enforcement offices. As a result of changes of the past few years, 87% of OCR staff in FY 1996 work outside of Washington (or in the newly-established District of Columbia enforcement office), and virtually all decisions affecting OCR's cases and their resolution are made in the field. In Washington, a small Office of the Assistant Secretary provides overall leadership and coordination of OCR's four enforcement divisions. A program/legal group supports the work of the enforcement divisions, and provides important policy coordination and legal advice with other parts of the

Department and government. A resource group provides centralized services for the enforcement divisions and the public in the areas of customer service, information technology, budget and personnel. OCR thereby achieves the maximum concentration of effort on its critical work of identifying, stopping and remedying illegal discrimination against America's students.

OCR RESOLVES COMPLAINTS OF ILLEGAL DISCRIMINATION

When a member of the public complains to OCR of discrimination, OCR gets to work. Because of improvements in how OCR does its job, OCR started work on virtually all complaints in FY 1995 within ten days. OCR knows that problems that are addressed immediately can often be resolved more amicably and less intrusively. Thus, OCR staff are on the telephone or on site as quickly as possible, working with parents and schools to identify and remedy problems of illegal discrimination. In cases where agency intervention is not appropriate, or where the facts provide an insufficient basis to find that there is illegal discrimination, OCR can also end its involvement more quickly.

OCR's new attitude and new approaches continue to produce results. OCR resolved 5,559 complaints of illegal discrimination in FY 1995, up from 4,480 in FY 1993. In almost 1,800 cases, schools, colleges and universities took corrective action that resolved any underlying problem of illegal discrimination. The public, on average, waited 119 days for OCR's resolution of a complaint in FY 1995, down from 131 days in FY 1993.

Fifty-four percent of all complaints received by OCR alleged discrimination based on disability. OCR enforces Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability, 29 U.S.C. 794 (implementing regulation at 34 C.F.R. Part 104), and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12131 (implementing regulation at 28 C.F.R. Part 35), which prohibits discrimination on the basis of disability.

Parents of a Native American high school student with a disability (Dandy-Walker hydrocephalus) in the Klamath-Trinity Unified School District (California), for example, complained that their son was excluded from the regular school program because of his disability. The district was sending non-certified teachers to his home. OCR determined that the student should not have been excluded from attending school, and that his education had been severely affected. Because of the extended time the student had been inappropriately kept from attending school, and because the student was already a sophomore, the district agreed to remedy its past inaction by forming a trust to fund the student's future evaluations, transitional services, and his enrollment in a postsecondary program. Illegal discrimination was ended, and a strong, educationally sound remedy put in place.

At the postsecondary level, a complaint was filed against Salem State College (Massachusetts) alleging a violation of Section 504 and Title II of the Americans with Disabilities Act (ADA) of 1990. The complainant charged the College discriminated against him by not making necessary academic adjustments. The complainant has a language-based

learning disability that affects his processing of oral and written information. His requests for several adjustments, including untimed testing, note takers, and access to lecture notes prior to attending classes, were denied. Following OCR's intervention, Salem State repaid \$1,020 toward the complainant's tuition loan. Salem also is implementing new procedures so that students requesting academic adjustments are assisted promptly. As a result of becoming educated on this issue, Salem is now voluntarily assisting Massachusetts' other public colleges to develop methods for promptly and appropriately determining appropriate adjustments for students with disabilities.

Twenty percent of complaints received in FY 1995 alleged illegal discrimination on the basis of race or national origin. OCR enforces 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).

One student at Purdue University (Indiana), for example, complained to OCR that his ability to participate in the university's educational program had been threatened by racial harassment. Under Title VI of the Civil Rights Act of 1964 (Title VI), an educational institution may be held responsible for racial harassment if the harassment is sufficiently severe or pervasive to create a hostile environment and the institution fails to respond adequately. After working with OCR, the University agreed to the need to develop procedures for enforcing its anti-harassment policy. The University decided to establish a "DiversiTeam" consisting of faculty, students and staff who were specially trained to offer workshops for all recognized student organizations, fraternities, sororities, cooperative houses and residence halls during the 1994-95 academic year. The University's actions ensure that the approximately 36,000 students on its main campus, and the 33,000 students on its regional campuses, are able to benefit from its educational programs regardless of their race or national origin.

Seven percent of complaints received in FY 1995 alleged illegal discrimination on the basis of sex. OCR enforces 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).

OCR investigated a complaint filed against the Chicago Public Schools, District No. 299 (Illinois), for example, and found that few female students at the elementary level participated on the district's interscholastic elementary teams. The district was not making sufficient efforts to provide athletic opportunities for female athletes at that level. In addition, OCR found the district was not meeting the interests of female high school athletes. In response to OCR's findings, the district is now providing a post-season softball tournament and a volleyball camp for girls, and has agreed to establish interscholastic volleyball competition for girls at the elementary level. In subsequent years, the district has also agreed to establish additional teams and sports until girls' interests and abilities in athletic competition are fully met.

OCR's remaining complaints were filed on multiple discrimination bases, on age discrimination or on other discrimination bases. OCR also enforces 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).

OCR INITIATES INVESTIGATIONS IN SERIOUS CASES OF ILLEGAL DISCRIMINATION

Not all illegal discrimination can be stopped or remedied by responding to complaints that arrive from the public. Agency-initiated cases, typically called compliance reviews, permit OCR to target resources on compliance problems that appear particularly acute or national in scope. Targeted compliance reviews maximize the impact of OCR's limited resources and balance our enforcement program. Selection of reviews is based on various sources of information, including survey data and information provided by complainants, education groups, media and the public. In FY 1995, OCR resolved 178 agency-initiated actions, compared to 90 in FY 1994 and 82 in FY 1993.

The racially discriminatory overinclusion of minority students in special education classes is of growing concern to parents, educators and OCR. In Montgomery County (Alabama), for example, statistics and anecdotal information suggested that the school district disproportionately assigned minority students to classes for educable mentally retarded (EMR) students. While the district had as a criterion for placement in EMR that a student must score lower than 70 on an IQ test, OCR's investigation uncovered a pattern of placing African American students with IQ scores above that cutoff in EMR classes. The inappropriate placement of students in EMR can remove them from the core academic curriculum, and may lead to lower levels of achievement, decreased likelihood of postsecondary advancement and more limited employment opportunities. OCR has required the district to re-evaluate each decision to place an African American student in EMR and to make appropriate placements based solely on educational needs. African American students will be given any remedial assistance needed to bring them back into full participation in regular education, and to full opportunity for academic achievement.

A number of OCR-initiated cases target the needs of students who need to learn English in order to achieve access to educational programs and opportunities in the larger society. OCR found that some limited English proficient (LEP) students (particularly Southeast Asian students) in the Lawrence Public Schools (Massachusetts), for example, were not being served, that others were not adequately served, and the teaching staff was not adequately trained. Many LEP students were placed in special education programs segregated from other school programs. The in-grade retention and drop-out rates of LEP students were unusually high. Several linguistically identifiable schools were overcrowded and inferior to other schools. For example, one school with a 96 percent Hispanic enrollment had no library, limited recreation areas and overcrowded classrooms. The school was rodent-infested.

As a result of OCR's intervention, the district agreed to meet the needs of LEP students and to provide staff training to ensure teachers are qualified in second language teaching methods. Lawrence also agreed to provide transitional bilingual education or English as a Second Language to all LEP students and provide interpreters so that parents can more fully understand and make decisions concerning the educational needs of their children. The district is committed to proper referral, evaluation and placement of students who may need special education. School facilities and resources will no longer be influenced by the racial or ethnic composition of a school's student enrollment. These actions are expected to improve educational opportunities for more than 3,400 LEP students.

Other OCR-initiated cases target the overinclusion of LEP students in special education. In the Union Free School District of the Tarrytowns (New York), for example, a disproportionate number of Hispanic students were placed in special education. OCR reviewed whether the district's special education program, including the pre-referral, referral, evaluation, and placement of students, violated Title VI or Section 504. The evidence indicated that the district enrolled a large number of new immigrant students, many with little or no prior educational experience. School staff acknowledged difficulty in evaluating these students, especially in distinguishing educational deprivation and English language proficiency from learning disabilities. OCR found that evaluations were not conducted timely because Union Free employed only one bilingual psychologist. The district was using an invalid screening instrument. Hispanic students also were placed in self-contained special education classes for longer periods of time than their non-Hispanic classmates. The district is now remedying each of the identified violations. These actions are expected to increase educational opportunities for the more than 700 Hispanic students in the Union Free district, including the 134 students currently receiving special education services.

OCR also targeted illegal racial harassment (as defined under Title VI) in some schools and universities. The resolution of such cases often highlights the value of strong working relationships between OCR and schools. In Edmonds County (Washington), for example, OCR planned to investigate allegations of severe racial harassment at one high school. Early in the investigative process, a longer-term cooperative venture developed for solving racial and ethnic tensions in the entire school district. Edmonds County now has a plan in place that has strict rules for punishing harassment. However, Edmonds also established, on a voluntary basis, a curriculum that will address intergroup relations, intercultural communication, stereotyping, and peer mediation. Teachers will be trained in teaching tolerance and student leaders will conduct equity workshops. The partnership has allowed Edmonds and OCR to save substantial time and resources as well as help teachers, parents and students create a safe and disciplined environment for learning.

OCR in FY 1995 maintained a docket of agency-initiated Title IX cases. An intercollegiate athletics review was undertaken at Georgetown University (Washington, D.C.), for example, because of possible substantial disparities in athletic opportunities being provided to male and female students. As a result of OCR's work, the university has hired a women's soccer coach, increased publicity services for women's teams, and adjusted assignment and

compensation of coaches. The University will survey athletic interests and abilities and add women's teams if the need is indicated. Georgetown has made commitments to eliminate substantial disparities regarding equipment and supplies, support services and recruitment of women athletes. Such cases help to underline that schools and universities will, for the most part, work with OCR to remedy illegal discrimination. Georgetown has expressed appreciation for OCR's analysis, and has already taken steps to increase opportunity for women athletes in the upcoming year.

OCR has ongoing obligations to ensure the desegregation of formerly racially segregated systems of higher education. In FY 1995, OCR developed a "partnership/stakeholder" approach as a more positive and effective approach to affording equal access to higher educational opportunities for African Americans in states with histories of segregation in higher education systems. In keeping with the Supreme Court's 1992 *Fordice* decision, OCR is assessing the compliance status of several states. Florida and Pennsylvania are working with OCR to address not only the desegregation compliance standards under the Supreme Court's decision but also the issues of access to educational excellence -- concerns that track the interest of the Department in increasing access to high-quality education for all students.

While in the vast majority of cases OCR can come to agreement with schools, colleges and universities on the steps necessary to stop and remedy illegal discrimination, this is unfortunately not always the case. In one case, Southwestern Virginia Training Center, a state-operated facility for the developmentally disabled, provided no accommodation for employees with physical disabilities who were 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. 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. On June 30, 1995, an Administrative Law Judge (ALJ) issued an initial decision finding the Center in violation of Section 504. The ALJ also issued a proposed order to terminate Federal funds to the Center. The case is now on appeal before the Department's Civil Rights Reviewing Authority.

OCR also initiated cases in the areas of illegal discrimination in program admissions; underrepresentation of women, girls and minorities in math and science and other high track courses due to legally impermissible reasons; and illegal segregation.

OCR EMPOWERS OTHERS TO PREVENT ILLEGAL DISCRIMINATION

OCR's 788 FTE staff in FY 1995 resolved more than 5,700 complaint-driven and agency-initiated cases. This number, however, is small in relation to the nation's tens of thousands of schools and thousands of postsecondary institutions. OCR therefore recognizes that its efforts alone are insufficient to stop illegal discrimination in education. Students, parents and educators must have the knowledge and skills to prevent illegal discrimination from occurring in the first place. OCR pursues a number of approaches to the empowerment of others.

One major project in FY 1995 was the publication of a guide to help schools conduct an evaluation of their compliance with the Americans with Disabilities Act of 1990 (ADA). Written in straightforward, non-legalistic language, the guide reviews requirements of the ADA and offers suggestions and work sheets to assess compliance. Initial feedback suggests that the guide does in fact help school districts in complying with the requirements of the ADA. The guide was made available free of charge to each of the nation's 14,880 school districts.

A document was issued on July 7, 1995 that sets forth the legal issues surrounding disproportionate representation of minority students in special education, a persistent problem in the nation's schools. The guidance is being used by OCR staff in investigations, and has gained a larger audience outside the agency. Work also commenced on compiling strategies and models that hold promise in preventing and remedying illegally discriminatory practices in assignment to special education classes. OCR worked with Project Forum, a part of the National Association of State Directors of Special Education, to develop a resource guide for regions to use with local schools and school districts in devising resolution agreements on this compliance issue.

The Department of Education confirmed in September 1995 that the guidance on race-targeted student financial aid (issued in February 1994) had not changed as a result of the United States Supreme Court's decision in *Adarand Constructors v. Peña*, 115 S.Ct. 2097 (1995). As a result, the Office for Civil Rights continues to implement this guidance in case investigations and to provide technical assistance to institutions that seek to develop or implement financial aid programs pursuant to the policy and federal court decisions.

An Electronic Library containing OCR regulations, policies and important case-related documents was launched during the year. This system, which will reside on OCR's Wide Area Network, permits easy access to these materials by OCR staff. Future improvements will include public access through the Department's World Wide Web site.

OCR works with the Department's Office of Elementary and Secondary Education to ensure that school districts' plans for funding under the Department of Education's Magnet Schools Assistance Program (MSAP) do not foster discrimination. OCR responded to approximately 300 requests for technical assistance from school districts and consortia preparing MSAP applications and certified the civil rights assurances of 171 applicants for MSAP funding in FY 1995.

Pursuant to vocational education regulations, all states monitor their programs, and those of their subrecipients, to ensure compliance with Federal civil rights laws. OCR is responsible for ensuring that each state has met its commitments. To eliminate burdensome reporting requirements and provide greater flexibility to states, OCR reinvented its evaluation requirements. A large part of OCR's new approach involved bringing state officials together to learn from each other. States now spend more time learning about and implementing better practices, and less time producing paper.

The aim of OCR's efforts is in all cases 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 tens of thousands of telephone consultations annually. OCR thus empowers students, parents and educators to secure the equal access to educational opportunity required by law.

OCR CONTINUES TO IMPROVE HOW IT DOES ITS WORK

The Office for Civil Rights in the last three years has fundamentally redesigned its approach to civil rights enforcement. For complaints from the public, the emphasis is now on prompt and appropriate resolution of any underlying civil rights problems, rather than on the production of documents summarizing agency findings. Mindful of its obligation to end illegal discrimination whether or not the agency has received an individual complaint, OCR has built an enforcement program that proactively uncovers, stops and remedies egregious cases of illegal discrimination. OCR's program of empowering others also took significant strides forward in FY 1995.

OCR has extended its consultation efforts through its conversations with school staff and interested community groups to pinpoint problems and establish partnerships to resolve civil rights issues. Many of OCR's offices have also developed customer service teams to be more responsive to our partners and stakeholders. Throughout OCR, labor management partnerships have been fully implemented.

After extensive redesign efforts, OCR implemented an update to its PC-based Case Information System that eliminated costly mainframe programs. This enhanced system reduces staff time needed to keep track of OCR's cases and streamlines reporting, while saving money.

OCR's core organizational unit is now the Case Resolution Team. Groups of attorneys, investigators and support staff in OCR's 12 enforcement offices work on the same team to promptly and appropriately resolve cases of illegal discrimination. Containing all the skills and resources necessary, the teams have authority to reach final determinations in all but a small minority of OCR cases. This innovative approach, which earned OCR a 1994 Vice Presidential Heroes of Reinvention ("Hammer") Award, was implemented throughout OCR in FY 1995.

In the coming year, OCR will complete its reorganization into four enforcement divisions, each containing three of OCR's enforcement offices, including a new enforcement office based in Washington, DC. OCR will maintain appropriate centralization, while operating with lower travel budgets and benefitting from increased local involvement and strong working relationships that accrue from its on-the-ground presence in multiple locations. When fully implemented, the division management team will conduct enforcement activities, planning, training, and administration across office lines. This approach was in large measure made possible by OCR initiating its investment in appropriate information

technology, and by OCR's use of team approaches at the management, as well as the staff level.

As OCR's number of staff decreases under government-wide downsizing, we know that OCR must continue to do much more to stop and remedy illegal discrimination. Fewer staff can appropriately resolve a greater number of civil rights cases, if they have the tools at hand to do so. OCR will need to invest more heavily in technology and outside expert support in order to maintain its core capacity to identify, investigate and remedy complex cases of discrimination; promptly and appropriately resolve complaints of discrimination from the public; and provide the education, outreach and technical assistance needed to prevent discrimination from occurring and recurring in America's schools, colleges and universities. OCR's upgrading of its technology infrastructure will also enable OCR to provide an appropriate level of service to our customers and the ready access to information that will enable parents and students to play a more active role in securing equal access to quality education.

OCR's post-rescission funding level in FY 1995 was \$58,236,000. Under the FY 1996 continuing resolutions, OCR has been funded at a level of only \$53,951,000, putting at serious risk the agency's improvements. Adequate investment is required to provide funding for OCR's staff and non-personnel needs including costs of prosecuting cases, development of strong, educationally sound remedies, staff improvement, legal research, publications and outreach, and the national civil rights surveys postponed in FY 1996 because of its funding level under the continuing resolutions. The President has proposed a budget for OCR in FY 1997 of \$60,000,000. This is less than a dollar per year for each of America's students. An end to illegal discrimination in the nation's schools deserves no less.

Respectfully submitted,

Norma V. Cantú

Norma V. Cantú
Assistant Secretary for Civil Rights

April 2, 1996

APPENDIX A

STAFFING & BUDGET

OCR's authorized staff ceiling for FY 1995 was 833 full-time equivalent (FTE) positions (made up of full-time permanent and other-than-full-time permanent staff). OCR was unable to staff up to its FTE ceiling due to the dollar amount appropriated.

The appropriation after sequester was \$58,236,000 for FY 1995. The following table provides budget and staffing information on OCR for the past seven fiscal years.

BUDGET AND STAFFING INFORMATION

FY	President's Budget Estimate to Congress	Appropriation	Appropriation After Sequester Supplemental	Congressional Budget FTE Level	Actual FTE Usage
1989	41,341,000	40,845,000	41,635,000	820	789
1990	45,178,000	45,178,000	44,572,000	820	815
1991	49,900,000	48,404,371	48,404,371	820	797
1992	56,000,000	55,000,000	53,625,000	855	848
1993	61,400,000	56,857,000	56,402,000	858	854
1994	58,570,000	56,570,000	56,570,000	851	821
1995	61,457,000	58,325,000	58,236,000	833	788

APPENDIX B PUBLICATIONS

Contact any OCR office (see Appendix C for listing) to obtain any of these publications.

General

OCR's Annual Reports to Congress, Fiscal Years 1990 through 1995

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 & 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)

Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test (January 16, 1996) (includes Dear Colleague Letter, January 16, 1996)

Title IX Grievance Procedures: An Introductory Manual

Title IX and Sex Discrimination (available in English and Spanish)

Title IX Athletics Manual (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 & 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

Age Discrimination Regulations, Federal Register, July 27, 1993

Americans with Disabilities Act

Compliance with the Americans with Disabilities Act: A Self-Evaluation Guide for Public Elementary and Secondary Schools

US Department of Justice pamphlet on Americans with Disabilities Act

APPENDIX C
OFFICE ADDRESSES & TELEPHONE NUMBERS

U.S. Department of Education
Office for Civil Rights
330 C Street, SW Suite 5000
Washington, DC 20202-1100
(202) 205-5413

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
75 Park Place, 14th Floor
New York, NY 10278-0082
(212) 637-6466; TDD (212) 637-6333

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) 331-7236

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, 05-4010
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, 06-3010
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) 880-4202; TDD (816) 891-0582

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, Region IX
U.S. Department of Education
Old Federal Building
50 United Nations Plaza, Room 239, 09-8010
San Francisco, CA 94102-4102
(415) 556-7700; TDD (415) 437-7786

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



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETAR

APR 2 1996

The President
The White House
Washington, D.C.

Dear Mr. President:

Pursuant to Section 203(b)(1) of the Department of Education Organization Act (DEOA), the Assistant Secretary for Civil Rights is required to submit an annual report to the Secretary of Education, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems.

In accordance with the requirements of the DEOA, I am respectfully transmitting the Fiscal Year 1995 Annual Report to Congress, which covers significant accomplishments in civil rights enforcement in education.

Respectfully,

Norma V. Cantú

Norma V. Cantú
Assistant Secretary for Civil Rights

Enclosure



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

APR 2 1996

The Honorable Albert Gore, Jr.
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

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Sincerely,

Norma V. Cantù

Norma V. Cantù
Assistant Secretary for Civil Rights

Enclosure



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETAR

APR 2 1996

The Honorable Newt Gingrich
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

Pursuant to Section 203(b)(1) of the Department of Education Organization Act (DEOA), the Assistant Secretary for Civil Rights is required to submit an annual report to the Secretary of Education, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems.

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Sincerely,

Norma V. Cantú

Norma V. Cantú
Assistant Secretary for Civil Rights

Enclosure



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

APR 2 1996

The Honorable Richard W. Riley
Secretary of Education
Washington, D.C. 20202

Dear Secretary Riley:

Pursuant to Section 203(b)(1) of the Department of Education Organization Act (DEOA), the Assistant Secretary for Civil Rights is required to submit an annual report to the Secretary of Education, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems.

In accordance with the requirements of the DEOA, I am respectfully transmitting the Fiscal Year 1995 Annual Report to Congress, which covers significant accomplishments in civil rights enforcement in education.

Sincerely,

Norma V. Cantú

Norma V. Cantú
Assistant Secretary for Civil Rights

Enclosure



Annual Report to Congress

Fiscal Year 1996

U.S. Department of Education
Office for Civil Rights

"Establishing equal opportunity is more than ever the key to America's social and economic well-being. It also is necessary if America is to fulfill its basic promise -- to allow all people to realize their individual talents and capacities to the fullest."

Norma V. Cantú
Assistant Secretary
for Civil Rights

Responsibilities of the Office for Civil Rights

The Office for Civil Rights (OCR), in the U.S. Department of Education, is a law enforcement agency. It is charged with enforcing the federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, sex, disability, and age in programs and activities that receive federal financial assistance. These laws are:

- o Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination)
- o Title IX of the Education Amendments of 1972 (prohibiting sex discrimination)
- o Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination)
- o Age Discrimination Act of 1975 (prohibiting age discrimination)
- o Title II of the Americans with Disabilities Act of 1990 (prohibiting disability discrimination by public entities, including public school districts, public colleges and universities, public vocational schools, and public libraries, whether or not they receive federal financial assistance)

The civil rights laws represent a national commitment to end discrimination in educational programs. The laws are in harmony with the mission of the Department of Education — ensuring equal access to education and promoting educational excellence throughout the nation.

Most of OCR's activities are conducted by enforcement offices throughout the country. The Office of the Assistant Secretary for Civil Rights provides overall leadership and coordination.

The Laws Apply to Educational Institutions

The civil rights laws enforced by OCR cover programs and activities that benefit from federal financial assistance. Because most educational institutions receive some type of federal financial assistance, these laws have broad application throughout the nation. Coverage of these civil rights laws extends to:

- o almost 15,000 school districts
- o more than 3,600 colleges and universities
- o about 10,000 proprietary organizations
- o thousands of libraries, museums, vocational rehabilitation agencies, and correctional facilities

The Laws Apply to Students and Employees

The civil rights laws protect large numbers of students attending, or applying to attend, our educational institutions. The laws protect:

- o about 51.7 million students attending elementary and secondary schools
- o about 14.4 million students attending our colleges and universities

The laws also protect, in certain situations, persons who are employed, or seeking employment, at educational institutions.

We have changed the nature of our relationships with those outside OCR by establishing constructive working relationships to achieve shared objectives of these civil rights laws. Here are just a few examples of collaborative approaches between OCR and others that have resulted in positive outcomes for students facing discrimination:

- o The State of Tennessee has asked OCR's Atlanta Office to assist in implementing a recently enacted state statute that applies Title VI requirements to all state agencies. OCR will train state staff and help develop a compliance program.
- o Partnerships are being encouraged to increase parental involvement and participation. A number of Colorado school districts are using parent groups to monitor voluntary action plans and to obtain recommendations for improving access to quality education. OCR's Chicago Office held a workshop entitled "Language Minority Parents as Partners in Education" that focused on 16 Indiana school districts.
- o At the request of the Los Angeles Public Schools, OCR's San Francisco Office is providing technical consultation to assist the district in revising its master plan for serving 295,000 limited English proficient students.

Working together with States and other stakeholders, OCR achieves positive change for students facing discrimination.

"If I have learned anything ... as Secretary, it is that serious change in education cannot be imposed from without. We have learned that serious change comes from within. It comes when people in a community come to the table and engage in constructive and thoughtful conversation with each other. And it comes when all parties to an issue form and work towards a true partnership for change."

Secretary of Education, Richard Riley
October 16, 1995

"We felt that your collaboration with us on the issues of the resolution truly embodied the concept of 'Team.' ... You developed an atmosphere of comfortable collaboration that we never anticipated from a government agency. In this district, you have left an impression of an agency which truly seeks to meet the needs of the people it serves."

Director of Special Education
Putnam Valley Central School District, New York
October 2, 1996

OCR Responds to Discrimination Complaints from the Public

Persons who believe there has been a violation of the civil rights laws enforced by OCR may file discrimination complaints with the office. The complaint process provides a forum for resolution of alleged discrimination against individuals protected by the civil rights laws.

During FY 1996, OCR received 4,828 discrimination complaints alleging a wide range of civil rights concerns affecting access to equal educational opportunities. Of the total, OCR received 868 Title VI complaints alleging race, color or national origin discrimination. Complaints alleged a variety of discriminatory situations, including issues related to:

- o discriminatory ability grouping practices
- o discriminatory discipline practices
- o discriminatory student assignment policies
- o discriminatory interdistrict student transfers
- o unlawful school segregation
- o racial harassment
- o discriminatory student housing practices on college campuses
- o discriminatory academic grading practices

Three hundred twenty-one complaints were received alleging sex discrimination in violation of Title IX. Issues raised by these complaints included:

- o denial of equal opportunity in interscholastic or intercollegiate athletics
- o discriminatory treatment of pregnant students
- o discriminatory admission practices in postsecondary institutions
- o ~~sexual harassment~~
- o discriminatory administration of student health insurance plans

Disability discrimination complaints received pursuant to Section 504 and Title II totaled 2,533. They also presented a variety of discriminatory situations including:

- o discrimination occasioned by inaccessible school facilities and programs

- o failure to provide appropriate regular or special education services
- o failure to provide services to students with disabilities in appropriate integrated settings consistent with their educational needs
- o discrimination in suspension and expulsion of students with disabilities
- o denial of appropriate academic adjustments and modifications
- o failure to provide auxiliary aids for students with impaired sensory, manual, or speaking skills

Every day the Office for Civil Rights provides guidance and resolves cases that touch the lives of America's students. The office works to achieve positive solutions that will make a real difference in providing educational opportunities that would otherwise be improperly denied or limited.

For example, OCR is developing for the first time in the agency's history a statement of legal principles to guide OCR's work in the area of testing and assessment, and instituted an ongoing relationship with the National Academy of Sciences to further develop the agency's expertise and ability to address problems of discrimination related to various testing practices. Among its most significant case resolutions in 1996, OCR successfully resolved the allegations of a complaint against the Educational Testing Service and the College Entrance Examination Board. As a result, beginning with the October 1997 administration of the PSAT, a test of written English (a multiple choice test that measures writing skills) will be added to the test. The revised test will more accurately reflect the true potential of the students competing for National Merit Scholarships.

"From the first phone call I felt confident [the OCR investigator] would do all she could to solve my problem, which admittedly was not major, but it was important to my son, who has emotional problems, so that makes it very important to me. ... There was a time constraint on this problem and she got it resolved right on time. I can't say enough about her true concern and professionalism throughout."

A parent from Pearl River School District, New Jersey

In almost 60 percent of the 1996 cases determined appropriate for OCR intervention and resolution, OCR facilitated a resolution that resulted in changes on behalf of students protected by the civil rights laws. In 1,452 cases involving many times more students, OCR helped students achieve equal access to educational opportunity by putting an end to discriminatory practices.

"Words do not express accurately the feelings of gratitude my parents and I share for your commitment to help me ... As I walk across the stage to receive my diploma, I will say thank you in my heart for your help ... Without all of your support I would not graduate with the honors cords that mean so much to me."

A high school graduate from Stover, Missouri

How OCR Resolves Complaints

OCR's primary objective in complaint resolution is to resolve the complainant's allegations of discrimination promptly and appropriately. OCR used a variety of techniques to resolve 4,886 complaints in FY 1996. These include early complaint resolution (where OCR facilitates voluntary resolution discussion between the parties), agreements for corrective action (which affords the subjects of the complaints the opportunity to voluntarily address the concerns raised in the complaint), and enforcement (which involves requiring remedies where investigations result in findings of civil rights violations which are not voluntarily corrected). Any approach, or combination of approaches, may be initiated at any time and multiple approaches may be used to resolve any complaint. This flexible approach allows OCR to:

- o provide timely and effective intervention at the beginning of the complaint process
- o focus on achieving effective change
- o make students, parents and school officials central to the resolution of complaints

OCR Conducts Compliance Reviews

Not all illegal discrimination can be stopped or remedied by responding to complaints that arrive from the public. Agency-initiated cases, typically called "compliance reviews," permit OCR to target resources on compliance problems that are particularly acute, or national in scope, or which are newly emerging.

Targeted compliance reviews maximize the impact of OCR's resources and balance the enforcement program. Compliance reviews assure that vulnerable groups, such as limited-English speaking individuals, have their civil rights protected. Experience indicates that carefully targeted compliance reviews are likely to benefit large numbers of students through policy or program changes that are designed to secure the promise of equal opportunity — unlike complaints where remedies may benefit only the complaining party. OCR initiated 146 reviews in FY 1996 — the most undertaken within the last eight years — and brought 173 reviews to successful resolution.

Selection of reviews is based on various sources of information, including survey data and information provided by parents, education groups, media, community organizations and the public. OCR conducts compliance reviews on such issues as:

- o ensuring nondiscriminatory practices are followed in the placement of minority students in special education and low track courses
- o ensuring that access to English language instruction as well as content courses and other educational benefits are afforded to limited-English proficient students
- o ensuring student assessment practices are nondiscriminatory

- o providing nondiscriminatory access to gifted and talented and other high ability programs and classes

OCR recognizes that federal, state, and local education agencies, as well as parents and other interested parties, share a common goal of providing equal opportunity and access to high quality education. OCR combines its expertise with these partners and stakeholders to come up with effective solutions, including educationally sound remedies that increase educational opportunities for all students.

OCR emphasizes the benefits of prevention over after-the-fact reactive solutions. Here are just a few examples of recent efforts:

- o OCR provided a clarification of the requirements of Title IX as it applies to provision of equal opportunity in intercollegiate athletics. Based on settled legal principles, the clarification resulted from discussions with interested parties over a two-year period and from consideration of nearly 300 written comments. The final clarification was sent to the presidents of all colleges and universities that have intercollegiate athletics programs, as well as over 4,500 other interested parties.

"Take advantage of OCR services. These are the folks that have the knowledge."
Assistant Athletic Director
Georgetown University
- o OCR's Philadelphia Office conducted a national conference on minorities and special education. Conference participants looked in depth at issues involving the testing of minority students and the effect that cultural differences can have on interpreting results; at special education referral practices; and at ways to prevent misidentification of minority students. The Mayor of Philadelphia issued a proclamation in honor of OCR's work in this area.

"In many ways, we see ... the [Sexual Harassment] Guidance as a 'godsend.' ... [It provides] in one convenient place the clear implications of the statutes, regulations, and case law."
Vice President for Student Affairs, University of Maine
- o OCR published for comment draft guidance regarding the application of Title IX to instances of peer ~~sexual harassment~~ harassment that occurs during school activities or on school grounds by one student against another. The guidance provides educational institutions with information on the standards used by OCR to investigate and resolve cases involving claims that peer sexual harassment has created a hostile environment.

In all of our work, OCR engages stakeholders and comes to the table to provide common sense guidance to real-world problems.

OCR's Technical Assistance Helps People and Institutions

The aim of OCR's technical assistance is to prevent violations of the civil rights laws. This is accomplished by helping recipients comply with the laws and helping beneficiaries understand their rights. In view of the millions of students protected by the civil rights laws, OCR recognizes that its efforts alone are insufficient to stop illegal discrimination in education. Students, parents, and educators must have the knowledge and skills to prevent illegal discrimination from occurring in the first place.

OCR provides assistance to enable institutions to come into compliance during the complaint resolution process or during a compliance review. In addition, OCR also engages in a broad range of proactive outreach through such activities as onsite consultations, conference sponsorship and participation, training classes, workshops, and community meetings. Written and telephone guidance is also provided in response to tens of thousands of inquiries received annually. OCR continually compiles strategies and programs that hold promise in addressing civil rights concerns. Also, many OCR offices have developed customer service teams to be more responsive to our partners and stakeholders and members of the public. OCR has established a home page, which is located at <http://www.ed.gov/offices/ocr>.

Impact of the Civil Rights Laws

Enforcement of the federal civil rights laws has helped bring about profound changes in American education as it has improved the educational opportunities of millions of students. Many barriers that once prevented individuals from freely choosing the educational opportunities and careers they would like to pursue have been removed. For example, we are witnessing a growing participation of minority students in Advanced Placement (AP) classes. Many school systems are now making it possible for students who are not yet proficient in English to participate effectively in their educational programs. Many more students with disabilities are now able, with the provision of supplementary aids and services, to participate in regular education classes. Female and male students are taking algebra, geometry, calculus, biology and chemistry in about the same proportion. There also has been a dramatic increase in the number of women entering traditionally male-dominated professional fields.

The civil rights laws have opened the doors to our schools and classrooms, our auditoriums, athletic fields and arenas. In response, people from the many diverse backgrounds that represent today's America are coming through the doors, on the way to becoming our future leaders in business, government, science, arts, and education.

Contacting OCR

Anyone who would like more information about the laws enforced by the Office for Civil Rights, how a person can file a complaint, or how OCR may provide technical assistance, may contact one of OCR's enforcement offices. The addresses and telephone numbers of the enforcement offices are listed on the last page.

OCR has demonstrated its ongoing commitment to innovation and improvement of its civil rights enforcement efforts. Here are just a few examples of OCR's improvements:

- o In furtherance of its reinvention initiatives, OCR has moved from a system of required investigative procedures to one of flexible resolution approaches. OCR has made students, parents, and school officials more central to the resolution of their own complaints. Likewise, our office structures have been flattened by shifting to a team model that reduces layers of review and increases the level of responsibility assumed by staff directly involved in cases, resulting in better service to our customers.
- "I strongly support [OCR's] philosophy that ... help[s] kids in a positive way. [OCR's] reviews will achieve twice the results of the old way of doing compliance reviews. We love [this] approach in Kansas and appreciate the Region's helpful and constructive way of working with our schools. ... [OCR's new approach] is a breath of fresh air from the federal government."

Dr. Dale Dennis
Interim Chief State School Officer, Kansas
- o OCR in 1996 began a redesign of its Elementary and Secondary School Civil Rights Survey to make it more useful and accessible to OCR staff as well as user groups at the local, state, and national level. A private research organization, in collaboration with users and other stakeholders, is developing recommendations on using technology to receive, process, and edit survey information. The study also is exploring cost efficient ways to enable survey data to be in the hands of OCR staff and other users in a more expedited manner.
 - o Together with State agencies and other stakeholders, OCR developed a Memorandum of Procedures to provide guidance in monitoring vocational education programs. A streamlined process will allow states to devote more resources to ensuring compliance and dramatically less effort on administrative reporting requirements.

OCR's operational improvement efforts have received special recognition. Three OCR offices -- New York, Kansas City, and Cleveland -- have received the Vice President's Heroes of Reinvention (Hammer) Award, in recognition of OCR's significant contributions to the streamlining and improvement of government. The awards resulted from OCR's work in resolving discrimination complaints, developing partnerships with stakeholders, and improving customer service.

CHALLENGES

Although OCR is justifiably proud of its achievements, we would be remiss if we failed to emphasize the many challenges OCR faces.

First is the reality of discrimination. Despite the progress of the past decades, and despite federal, state and local efforts to eradicate barriers to equal educational opportunity, real and flagrant examples of intentional discrimination remind us that not every member of the education community can be counted on to act in good faith. In dramatically more cases, adequate education and assistance have not reached those who may be ignorant of the civil rights laws and the terrible consequences for students and the country alike when equal access to educational opportunity is denied.

Second is the increasing gap between the work of the Office and the resources available to carry out our vital mission. Each decade since 1964 has brought additional responsibilities to the Office for Civil Rights. More recent budget pressures at the federal, state and local level make it perhaps more difficult for schools, colleges and universities to confront the problems of equal educational opportunity. So while OCR loses staff -- its most vital resource -- its workload continues to grow. This is shown on the table below.

**U.S. DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
(FY 1990 - FY 1997)**

FY	Presidential Request	Congressional Appropriation*	FTE		Complaints		Compliance Reviews	
			Ceiling	Usage	Filed	Resolved	Initiated	Resolved
1990	\$45,178,000	\$44,572,000	820	815	3,384	3,130	32	30
1991	\$49,900,000	\$48,404,000	820	797	3,809	3,497	41	22
1992	\$56,000,000	\$53,625,000	855	848	4,432	4,180	77	50
1993	\$61,400,000	\$56,402,000	858	854	5,090	4,484	101	82
1994	\$56,570,000	\$56,570,000	851	821	5,302	5,751	144	90
1995	\$61,457,000	\$58,236,000	833	788	4,981	5,559	96	178
1996	\$62,784,000	\$55,277,000	763	745	4,828	4,886	146	173
1997	\$50,000,000	\$54,900,000	724	-	-	-	-	-

*FY 1990 and FY 1995 Appropriation after sequestration; FY 1997 Appropriation after rescission

OCR's budget has dropped from a high of \$58,236,000 in FY 1995 to \$55,277,000 in FY 1996 and only \$54,900,000 in FY 1997.

Adequate investment is required to provide funding for OCR's staff and non-personnel needs. These include costs of prosecuting cases, development of strong, educationally sound remedies, staff improvement, legal research, publications and outreach, and the national civil rights surveys postponed in FY 1996 because of lack of funding level under the continuing resolutions. The President has proposed a budget for OCR in FY 1998 of \$61,500,000. This is less than a dollar per year for each of America's students. An end to illegal discrimination in the nation's schools and colleges deserves no less.

"I believe the most important thing you can do is to have high expectations for students -- to make them believe they can learn, to tell them they're going to have to learn really difficult, challenging things, to assess whether they're learning or not, and to hold them accountable as well as to reward them. ... Once you have high standards and high expectations, there is an unlimited number of things that can be done."

President Clinton
National Education Summit
March 27, 1996

"While I rode in the back seat on the bus of opportunity during my lifetime, I want my daughter's daughter and her peers to be able to select a seat based on their abilities and their willingness to work. Don't deny them the things I dreamed of, don't deny them the opportunities that are and should be their birth right."

Joan Martin, parent and Senior Associate
Director of Athletics, Monmouth University

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

Eastern Division

Connecticut, Maine, Massachusetts,
New Hampshire, Rhode Island, Vermont
Office for Civil Rights, Boston Office
U.S. Department of Education
J. W. McCormack Post Office and
Courthouse
Room 222, 01-0061
Boston, MA 02109-4557 (617) 223-9662
FAX#(617) 223-9669; TDD (617) 223-9695

New Jersey, New York, Puerto Rico,
Virgin Islands
Office for Civil Rights, New York Office
U.S. Department of Education
75 Park Place, 14th Floor
New York, NY 10007-2146 (212) 637-6465
FAX#(212) 264-3803; TDD (212) 637-0478

Delaware, Maryland, Kentucky, Pennsylvania,
West Virginia
Office for Civil Rights, Philadelphia Office
U.S. Department of Education
3535 Market Street, Room 6300, 03-2010
Philadelphia, PA 19104-3326 (215) 596-6787
FAX#(215) 596-4862; TDD (215) 596-6794

Southern Division

Alabama, Florida, Georgia, South Carolina,
Tennessee
Office for Civil Rights, Atlanta Office
U.S. Department of Education
61 Forsyth Street, S.W., Suite 19T70
Atlanta, GA 30303 (404) 562-6350
FAX# (404) 562-6455; TDD (404) 331-4761

Arkansas, Louisiana, Mississippi, Oklahoma,
Texas
Office for Civil Rights, Dallas Office
U.S. Department of Education
1200 Main Tower Building,
Suite 2260, 06-5010
Dallas, TX 75202-9998 (214) 767-3959
FAX# (214) 767-8509, TDD (214) 767-3639

North Carolina, Virginia, Washington, DC
Office for Civil Rights, District of Columbia
Office
U.S. Department of Education
330 C Street S.W., Room 5074
Washington, D.C. 20202 (202) 260-9225
FAX# (202) 260-7250

Midwestern Division

Illinois, Indiana, Michigan, Minnesota, Ohio,
Wisconsin
Office for Civil Rights, Chicago Office
U.S. Department of Education
111 North Canal Street, Suite 1053
Chicago, IL 60606-7204 (312) 886-8434
FAX# (312) 353-4888; TDD (312) 353-2540

Michigan, Ohio
Office for Civil Rights, Cleveland Office
U.S. Department of Education
600 Superior Avenue East
Bank One Center, Room 750
Cleveland, OH 44114-2611 (216) 522-4970
FAX# (216) 522-2573; TDD (216) 522-4944

Iowa, Kansas, Missouri, Nebraska, North Dakota,
South Dakota
Office for Civil Rights, Kansas City Office
U.S. Department of Education
10220 North Executive Hills Boulevard
8th Floor, 07-6010
Kansas City, MO 64153-1367 (816)880-4202
FAX# (816) 891-0644; TDD (816) 891-0582

Western Division

Arizona, Colorado, Montana, New Mexico, Utah,
Wyoming
Office for Civil Rights, Denver Office
U.S. Department of Education
Federal Building, Suite 310, 08-7010
1244 Speer Boulevard
Denver, CO 80204-3582 (303) 844-5695
FAX# (303) 844-4303; TDD (303) 844-3417

California
Office for Civil Rights, San Francisco Office
U.S. Department of Education
Old Federal Building
50 United Nations Plaza, Room 239
San Francisco, CA 94102-4102 (415) 437-7700
FAX# (415) 437-7783 TDD (415) 437-7786

Alaska, Hawaii, Idaho, Nevada, Oregon,
Washington, American Samoa, Guam,
Trust Territory of the Pacific Islands
Office for Civil Rights, Seattle Office
U.S. Department of Education
915 Second Avenue, Room 3310, 10-9010
Seattle, WA 98174-1099 (206) 220-7880
FAX# (206) 220-7887; TDD (206) 220-7907

Annual Report to Congress

Fiscal Year 1997

U.S. Department of Education Office for Civil Rights

"Federal statutes, regulations and policies promise that students will not be denied access to education on the basis of race, color, national origin, ethnicity, gender, age or disability. Each year we draw closer to making that promise a reality as we forge partnerships to enforce the civil rights laws."

Norma V. Cantú
Assistant Secretary
for Civil Rights

Education has always been the heart of opportunity in this country. And it is the embodiment of everything we must do to prepare for the 21st century. Nothing will do more to open the doors of opportunity to every American and prepare them for unimagined new work and careers. Nothing will do more to instill a sense of responsibility in every American as they work to make the most of their education. And nothing will do more to build a strong, united community of all Americans -- for if we all have the tools to succeed, we can move forward together, as one America.

President Clinton - Radio Address to Nation
May 17, 1997

I. RESPONSIBILITIES OF THE OFFICE FOR CIVIL RIGHTS

The U.S. Department of Education's Office for Civil Rights (OCR) is a law enforcement agency. It derives its authority from the Department of Education Organization Act, 20 U.S.C. §3401, *et seq.*, and enforces the federal civil rights laws prohibiting discrimination in programs and activities receiving federal financial assistance from the Department of Education. In limited cases, the OCR also performs this responsibility for 18 other federal agencies that have delegated civil rights compliance responsibilities to the OCR.

The Law

The laws enforced by the OCR are:

1. Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination on the basis of race, color, and national origin;
2. Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex;
3. Section 504 of the Rehabilitation Act of 1973 (Section 504), which prohibits discrimination on the basis of disability;
4. Age Discrimination Act of 1975, which prohibits age discrimination; and
5. Title II of the Americans with Disabilities Act of 1990 (Title II), which prohibits discrimination on the basis of disability by public entities, whether or not they receive federal financial assistance.

These civil rights laws cover the actions of federally funded educational programs and activities and have broad application because most educational institutions receive some type of federal financial assistance. Therefore, the OCR's enforcement authority extends to:

- almost 15,000 school districts;
- more than 3,600 colleges and universities;
- approximately 5,000 proprietary organizations; and
- thousands of libraries, vocational rehabilitation agencies, and correctional facilities.

Moreover, these laws represent America's commitment to end discrimination in educational programs. This commitment is reflected in the Department of Education's mission -- ensuring equal access to education and promoting educational excellence throughout the nation. Within the Department of Education, the OCR works to ensure that all federally-funded educational institutions are meeting the civil rights requirements established by law and regulation. Furthermore, the OCR is committed to the balanced enforcement of these laws to ensure equal opportunity for *all* students and employees in these educational institutions.

The OCR's Work

Most of the OCR's activities are conducted by its 12 enforcement offices, located throughout the country. The Office of the Assistant Secretary for Civil Rights provides overall leadership and coordination. The OCR's work includes responding to complaints from the public and ensuring compliance with the civil rights laws through agency-initiated reviews. The OCR also provides information and other services to help federally funded educational institutions comply with the civil rights laws and to help their students and employees understand their rights under the laws.

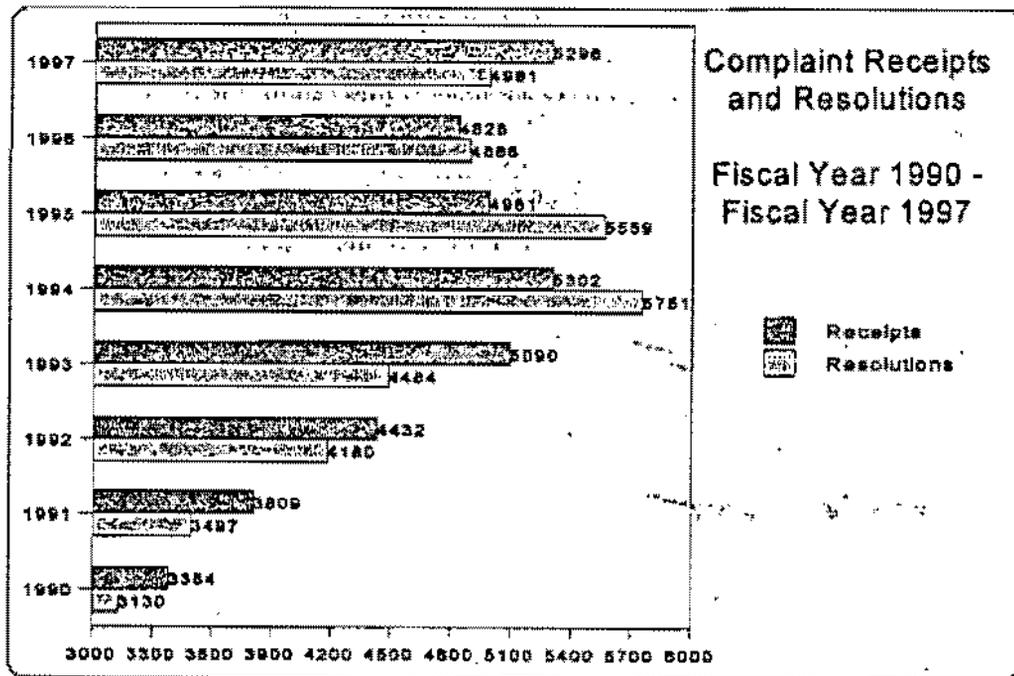
During fiscal year 1997, the OCR focused on the following issues: disability discrimination; discrimination against minorities in special education and remedial courses; discrimination against minorities in math and science and other advanced placement courses; access to programs for limited English proficient students; racial and sexual harassment; discrimination in the misuse of tests and assessments; discrimination in higher education admissions and the appropriate use of affirmative action; equity in athletics; and higher education and elementary and secondary school desegregation.

The Government Performance and Results Act of 1993 asks federal agencies to focus on the results of their programs. Focusing on accountability and results is not new to this agency. The OCR's performance indicators, developed in response to the Act, are derived from its Strategic Plan. These performance indicators define results for the OCR as increasing the number of students having access to high quality education, increasing the number of students affected by our efforts, increasing the number of successful partnerships with educators, and increasing the involvement of parents and students as part of our compliance efforts.

II. THE LAWS PROTECT STUDENTS AND EMPLOYEES

The civil rights laws protect more than 52.2 million students attending elementary and secondary schools and more than 14 million students attending our colleges and universities. The laws also protect students applying to attend America's postsecondary educational institutions. During fiscal year 1997, the OCR received 5,296 complaints alleging a wide range of civil rights violations and resolved 4,981 complaints, some of which were received during previous fiscal years.¹

People who are employed, or are seeking employment, at federally funded educational institutions are also generally protected under the statutes enforced by the OCR. The OCR's authority in this area, however, is limited. Under Title VI, the OCR has jurisdiction only where the purpose of the federal aid is to provide for employment or where discrimination in employment may have a discriminatory impact on students. Under Title IX, the OCR generally refers complaints solely alleging employment discrimination against an individual to the Equal Employment Opportunity Commission (EEOC). Under Title II and Section 504, the OCR also often refers complaints solely alleging employment discrimination against an individual on the basis of disability to the EEOC. The OCR has no jurisdiction over complaints of employment discrimination on the basis of age. The OCR received 582 new complaints of employment discrimination in fiscal year 1997 and resolved 569 employment discrimination complaints during fiscal year 1997, some of which were carried over from previous fiscal years.



¹ 953 of the 5,296 complaints received contained multiple legal bases of discrimination. As a result, the number of complaints identified by subject in the remaining text will total more than the 5,296 separate complaints received by the OCR. Also, in this report, "resolved" means a complaint was assessed and one of the following occurred: the complaint was found inappropriate for the OCR action; the complaint was found appropriate for the OCR action and civil rights concerns were addressed; the complaint was found appropriate for the OCR action and there were no civil rights violations.

IV. THE OCR CONDUCTS COMPLIANCE REVIEWS

Not all discrimination can be addressed simply by responding to complaints from the public. Therefore, the OCR also reviews the practices of educational institutions to ensure they are complying with the civil rights laws. 34 C.F.R. §100.7(a). These agency-initiated cases are called "compliance reviews."

Compliance reviews maximize the impact of the OCR's resources and balance its enforcement program. Carefully designed compliance reviews can benefit large numbers of students, through policy or program changes.

Decisions to conduct reviews are based on a variety of information, including information provided by parents, education groups, media, community organizations, and the general public. We confirm solid leads with objective data from various sources, including the OCR's Elementary and Secondary School Civil Rights Compliance Report (E & S Report). The E & S Report survey is conducted every two years with a representative sample of approximately one third of America's public school districts. Since 1968, the E & S Report has been the cornerstone for the Department's civil rights records keeping system for the nation's public schools.

The OCR initiated 152 compliance reviews in fiscal year 1997, the most undertaken during this decade.

V. THE OCR PROVIDES TECHNICAL ASSISTANCE

The OCR alone cannot stop discrimination in education! Students, parents, and educators need the knowledge and skills to prevent discrimination from occurring in the first place. Therefore, in addition to responding to complaints and conducting compliance reviews, the OCR provides information and other services to help federally funded educational institutions comply with the civil rights laws and to help their students and employees understand their rights under the laws. This help is known as "technical assistance."

The OCR provides technical assistance through onsite consultations, conference sponsorship and participation, training classes, community meetings and the internet. Written and telephone guidance is also given in response to tens of thousands of inquiries received annually from parents, students, educators, as well as from the federal, state and local governments.

The OCR's customer service team, is the agency's first organizational unit dedicated entirely to customer service. The team acts as a single point of contact for external inquiries and complaints, provides the public with information on civil rights matters and the OCR's cases, and provides a central point of contact for customer complaints. All of the OCR offices have customer service teams to help respond to these inquiries. Approximately 500 parents and educators call these teams for information and assistance every week.

VI. THE OCR'S WORK BENEFITS ALL AMERICANS

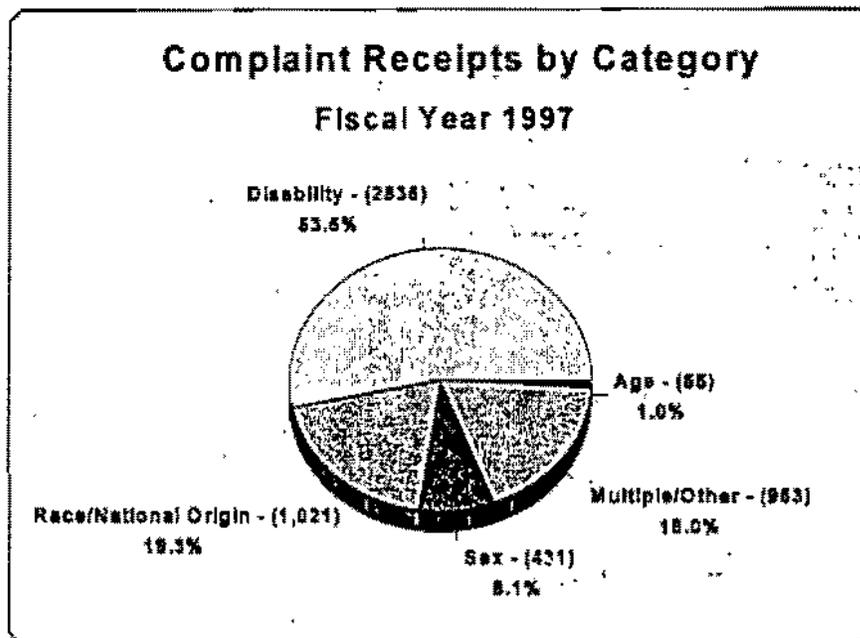
...[The OCR] was able to immediately comprehend the situation and give me intelligent, clear and precise directions of the various options to consider. Your effectiveness gives great credit to our government."

Parent of law student
February 21, 1997

The civil rights laws have opened the doors to our classrooms and have leveled the playing fields. The OCR's enforcement of these laws helps ensure equal educational opportunities for millions of students. As a result, all students are given the chance to become our future leaders in business, government, science, arts, education and other fields.

The chart below shows the type and amount of cases the OCR received during fiscal year

1997.



Total FY 1997 Complaint Receipts are 5,296. Multiple/Other represents complaints containing multiple legal bases in the claim of discrimination.

TITLE VI

Introduction

Title VI prohibits discrimination, on the basis of race, color and national origin, in federally funded programs and activities. 42 U.S.C. §2000(d), *et seq.* Yet, this type of discrimination still exists in our federally funded educational institutions and the OCR unites with students, parents and educators to fight it daily.

The OCR receives a large number of complaints involving Title VI issues. During fiscal year 1997, the public filed 1,421 complaints alleging Title VI violations in the following areas:

- racial harassment;
- discipline practices;
- student assignment policies;
- school segregation;
- ability grouping practices; and
- academic grading practices.

The OCR also pursues many compliance reviews in this area. During fiscal year 1997, it initiated 138 Title VI compliance reviews. These issues included access of students with limited proficiency in English to alternative language services, assessment of these students for special educational services, under representation of minorities in gifted and talented programs and over representation of minorities in special education.

Fiscal Year 1997 Case Examples

During fiscal year 1997, much of the OCR's Title VI work focused on five areas: discriminatory placement and tracking practices, testing, issues relating to students with limited English proficiency and affirmative action.

Discriminatory placement and tracking practices

In one state, the OCR found widespread misclassification of minority children in special education programs, which limited their educational opportunities. The treatment of minorities in special education programs is an important issue because minorities are often wrongly placed in these programs, resulting in within school segregation. Working with the OCR, the state developed and agreed to a plan requiring each school district to ensure race neutral practices in regular *and* special education. There have already been changes including re-classification of or less restrictive placements for some black and white students, and the development and implementation of procedures to ensure students are referred for special education only when necessary and appropriate.

In another state, the OCR found African-American students were excluded from upper level courses although they were more qualified than some enrolled white students. Additionally, Hispanic students with average intelligence scores were inappropriately identified

as cognitively disabled and assigned to special education, without any educational justification. In the resolution of the case, the school district agreed to establish a monitoring committee of teachers, administrators, parents, and community members; change the criteria for higher level courses; create pre-referral support teams to work with students before referring them to special education; and revamp language assistance programs.

As a further example, the OCR entered into an agreement with a school district concerning the high number of African-American students being identified as learning disabled and mentally disabled. In September 1996, 35% of the students in the district were African-American, but 232 of the 442 students classified as mentally disabled or learning disabled (52%) were African-American. During the 1997-98 school year, that number dropped to 205 students, a 12% decrease. The change is largely the result of improved methods of helping students who are experiencing difficulty in the regular classroom, staff training, and a more educationally sound and rigorous scrutiny of students who are being considered for special education.

As a final example, one complaint alleged discrimination against minority students because access to information about a board of education's schools and programs was systemically denied to minority parents. This information included information about registration procedures, variances, and gifted programs. The board agreed to create a procedure for providing information to *all* parents. Moreover, information of the range and detail now provided, due to the OCR's efforts, was not previously available to *any* parents. Accordingly, the OCR's resolution improves the information available for all parents of the 1.1 million students in board schools.

Testing

In the area of testing, the OCR had one of its most significant case resolutions in 1997. The OCR resolved a complaint regarding the use of a statewide proficiency test. The civil rights laws require equal opportunities in educational testing and assessment used for high stake decisions. High stakes tests are defined as those having an impact on the educational opportunities of students -- through placement, promotion or graduation decisions, for instance. The complaint alleged minority students were discriminated against because they could not pass the state test and, therefore, did not receive their high school diplomas. The OCR did not challenge the state's decision to have the test determine graduation. Instead, the OCR worked in partnership with the state to ensure all public school students have an equal opportunity to access curriculum and instruction necessary to pass the tests, regardless of race or national origin.

Students with limited English proficiency

In the area of students with limited English proficiency, the OCR still finds many schools are not providing necessary services to these students. The U. S. Supreme Court has held that school districts are required to ensure that students who are unable to speak and understand English can participate meaningfully in their school district's education programs. Lack of English language proficiency often results in a student's repeated failure in the classroom, falling behind in grade, inappropriate placement in special education, and dropping out of school. Without special help in learning English, most of these students will not receive the equal access necessary for academic, social and economic success in this country.

To meet the challenges facing states, local communities, educators, and parents in serving limited English proficient students, the OCR helps school districts understand and meet their obligation to provide effective services to these students. The school district selects the educational program for serving limited English proficient students and the OCR helps to ensure adequate implementation and evaluation of the chosen method.

For example, in 1995, the OCR and a state department of education began working in partnership with a large school district to develop plans for providing language services to some 35,000 students who were not proficient in English. Prior to implementing these plans, the district had not provided basic services to such students. The students were neither learning English language skills nor other subjects, such as math and science. There were also serious shortages in qualified staff and other resources, which are now being rectified. Since 1996, the drop out rate for language minority students in the district has decreased by more than 40%. This is largely due to the district implementing remedial plans after the investigation by the state department of education and the OCR.

Affirmative action

In the area of affirmative action, the OCR upholds two fundamental Title VI standards in higher education. First, colleges and universities must eradicate discrimination and its effects. Second, unless limited by federal court decision or controlling state law, colleges and universities may consider race or national origin as one factor among many where necessary to achieve the educational benefits of diversity, among qualified individuals.

The OCR's enforcement of Title VI helps open doors for all students to receive a strong education that prepares them to be productive citizens in the 21st Century. American higher education is enriched when all students attend schools offering the educational excellence created by campus diversity.

Through outreach and investigations, the OCR uses its authority to ensure compliance with Title VI. The OCR also equips colleges with the legal and educational information they need to ensure that admissions and financial aid are implemented in a manner consistent with Title VI.

Moreover, the OCR is committed to the even-handed application of Title VI to ensure equal opportunity for all students. Through investigations, the OCR makes certain quotas and other unlawful preferences are eliminated so that educational benefits, like admissions opportunities or scholarships, are available to all qualified students, free of unlawful discrimination. For example, an Asian American student's parents complained about a statewide financial aid program available only to students from under represented minority groups, which did not include Asian Americans. The OCR resolved the case by obtaining the state's agreement to convert the aid program from one targeted exclusively for under represented racial and ethnic groups to a program requiring that race or national origin be used as one factor among other educational factors and to consider race only where necessary to achieve the educational benefits of campus diversity for all students in a narrowly tailored way. The mended program will help the state's public colleges and universities realize the educational benefits of diversity in a lawful manner by supporting qualified students with needed financial assistance.

Racial harassment

In addition to addressing testing, language minority and affirmative action issues, the OCR also dealt with 442 complaints of racial harassment in fiscal year 1997. In one state, the OCR resolved a case where an African American high school student was subjected to racial taunts by white fellow members of the school's basketball team. School district officials did not respond appropriately to his complaints, and the coach kicked him off the team for raising the issue with the school district administration. In the OCR's resolution of the case, the school district agreed to adopt a revised policy prohibiting racial harassment, and to train staff. It also committed to notify all students, parents and staff that it does not tolerate retaliation against persons for asserting their civil rights.

In another case, a middle school principal bound and gagged two Latino boys as a disciplinary measure and paraded one of them around the cafeteria in that condition. The complainants alleged the treatment was part of a broader pattern of discrimination against Latino students in disciplinary matters. Due to the OCR's efforts, the district committed to reassign the principal to an administrative position and to train the principal and other personnel in proper disciplinary practices, cross-cultural communication, teaching and interacting with language minority students. The district also committed to better disciplinary record keeping; to distribute student disciplinary policies in English and Spanish to all students and parents; and to hire a Special Assistant to the Superintendent for Multi-cultural Education Development.

TITLE IX

Introduction

Title IX, which prohibits sex discrimination in federally funded educational programs, including athletics, 20 U.S.C. §1681, *et seq.*, turned 25 years old during fiscal year 1997. To celebrate the anniversary, the OCR was an integral part of the planning of the commemoration ceremony, held at the White House on June 17, 1997. During the ceremony the President announced his plan for strengthening Title IX enforcement and the OCR presented its new pamphlet, "TITLE IX: 25 Years of Progress."

Since its passage in 1972, Title IX has had a profound impact on helping to change attitudes, assumptions and behavior and, consequently, our understanding about how sexual stereotypes can limit educational opportunities. Still, this type of discrimination is far from over and the OCR works diligently to enforce this law on behalf of all students.

During fiscal year 1997, the OCR received 700 complaints alleging discrimination under Title IX, which is an increase of nearly 17% over the number of Title IX complaints received during fiscal year 1996. Additionally, the OCR initiated two Title IX compliance reviews and continued work on 50 open reviews carried over from previous years. Issues raised by the complaints related to equal opportunity in interscholastic or intercollegiate athletics and sexual harassment.

Fiscal Year 1997 Case Examples

Equity in athletics

During fiscal year 1997, the issue of equity in athletics generated great public interest, particularly because of the 25th anniversary of Title IX. One example of a case in this area involves a school district in which the OCR found that boys' athletic teams received priority use of better gyms at optimal practice times, girls' teams did not participate in as many competitions as boys' teams, and practice sessions for girls' teams were not as long as were those of boys' teams. Due to the OCR's efforts, the school district signed an agreement under which girls' and boys' teams will rotate practices in preferred gyms, girls' teams will compete in the same number of competitions as the boys' teams, and practice sessions for the girls' teams will be equivalent to the boys' sessions.

In another case, the OCR resolved a complaint which alleged a university discriminated against women in its intercollegiate athletic program with respect to the effective accommodation of student interests and abilities, the awarding of athletic financial assistance, the opportunity to receive coaching and the assignment and compensation of coaches, travel and per diem allowance, the provision of locker rooms, practice and competitive facilities, the scheduling of games and practice times, the provision of medical and training services, the provision of housing and dining services, publicity, and the recruitment of student athletes. The university entered into a settlement agreement with the OCR in which the university voluntarily committed promptly to ensure equal treatment of its female intercollegiate athletes with respect to each of the issues raised by the complaint. Among the highlights of the agreement were the university's commitment to increase the number of women participating in intercollegiate athletics by a minimum of 11% by the 1997-98 academic year and to take any additional actions to ensure the effective accommodation of student interests and abilities. The university also agreed to increase significantly the amount of athletic financial assistance awarded to female athletes during the 1996-97 and 1997-98 academic years.

Sexual harassment

In addition to addressing equal opportunity in athletics, Title IX also prohibits sex discrimination, including sexual harassment. Sexual harassment of students is a real and serious problem and can affect any student, regardless of sex, race, or age. It also occurs at all levels, from elementary schools to colleges and universities. Preventing and remedying sexual harassment in schools is essential to ensuring nondiscriminatory, safe environments in which students can learn.

The OCR strongly urges school personnel to consider the age and maturity of students when responding to allegations of sexual harassment. Age is relevant in determining whether sexual harassment occurred in the first instance, as well as in determining the appropriate response by the school. For example, as stated in the OCR's Sexual Harassment Guidance, 62 Fed. Reg. 12034 (1997), a kiss on the cheek by a first grader does not constitute sexual harassment. Age is also a factor to be considered by school personnel when determining what type of education or training to provide to students and staff in order to prevent sexual harassment.

During fiscal year 1997, the OCR received 209 new sexual harassment cases and continued work on 88 cases carried over from prior years. In one case, a middle-school girl was subjected to repeated inappropriate physical contacts by a schoolmate. In response to a complaint, the OCR found the school district failed to take appropriate action to address her reported incidents of sexual harassment. Due to the OCR's efforts, the school district revised its harassment investigation procedures, trained its staff, and conducted sexual harassment training for all of its 1,500 students on the sexual harassment guidelines and policies.

In another case, three high school students were sexually harassed while at an overnight high school camp. The harassment occurred during hazing of freshmen by upperclassmen. The hazing contained unmistakable sexual elements, including making the boys and girls simulate sex acts and mimic prostitutes. Many of the events were witnessed by adult, school district-sanctioned chaperons and were well known, by students and school officials, to have occurred during previous camps. There even appeared to be a level of official sanction for the activities. The school district had neither a Title IX grievance procedure nor a sexual harassment policy for students. Due to the OCR's efforts, the school district agreed to pay for psychological counseling fees for the student victims, to provide training to all staff members, parent-volunteers and chaperons, and all students; and to develop and publish a prompt and equitable Title IX sex discrimination grievance procedure.

Testing

In another case, a testing advocacy group filed a complaint alleging the College Entrance Examination Board (College Board) and Educational Testing Service (ETS) (both federally funded) discriminated against students under consideration by the National Merit Scholarship Corporation (NMSC) for National Merit Scholarships by developing, administering and co-sponsoring the Preliminary Scholastic Assessment Tests/National Merit Scholarship Qualifying Tests (PSAT/NMSQT). The PSAT/NMSQT, which is the exclusive means by which students are identified as commended scholars or semi-finalists and creates the pool from which National Merit Scholars are identified, had a statistically significant adverse impact on the basis of sex. The OCR's October 1996 resolution of this case expanded the PSAT/NMSQT to include a test of written English, which the College Board, ETS and NMSC have determined is a better assessment tool for all 1.2 million PSAT/NMSQT takers each year.

SECTION 504/Title II

Introduction

Section 504 prohibits discrimination on the basis of disability in federally funded programs and activities. 29 U.S.C. §794. Title II prohibits discrimination on the basis of disability by public entities, whether or not they receive federal financial assistance. 42 U.S.C. §12132. During fiscal year 1997, the OCR received 4,063 complaints of disability discrimination under these laws, initiated several new compliance reviews and continued 26 open reviews. The majority of complaints alleged discrimination in one or more of the following areas:

- provision of accessible school facilities and programs;
- provision of appropriate regular or special education services;
- provision of services to students with disabilities in the least restrictive settings consistent with their educational needs;
- provision of appropriate academic adjustments and modifications; and
- provision of auxiliary aids for students with impaired sensory, manual, or speaking skills.

Fiscal Year 1997 Case Examples

One disability case the OCR addressed during fiscal year 1997 involved a school district's refusal to continue serving, in its after school day care program, a second grade boy with Down's Syndrome and visual and hearing impairments. To participate in the program, the student needed an aide. The OCR found the district violated Section 504 and Title II because the student met the essential eligibility requirements for the day care program, and the district's policy had the effect of excluding disabled students. The OCR determined that providing an aide did not fundamentally alter the program nor did it create an undue burden. The district agreed to correct the violation and allow the student in the program.

In another case, a school district, enrolling approximately 6,000 students in 19 school buildings, was found in violation of the law because its buildings and programs were inaccessible to students with disabilities. The schools lacked accessible entrances, bathrooms and interior routes to all parts of the building. In some cases, this meant a student in a wheelchair could not go to the cafeteria or library. After the district signed an agreement to make certain schools accessible, the OCR learned the district did not do so, although it reported otherwise. In spite of the OCR's repeated attempts to get the district to honor its commitments, the district refused to implement its agreement with the OCR. With little other choice, the OCR notified the district of its intention to hold a hearing to terminate funding, whereupon the district finally agreed to implement the corrective actions. With only a few minor exceptions, the district has completed its obligations, which now permits disabled students to have full access to the district's programs and activities.

[Thank you for] the OCR "proving that our Government cares and for protecting my daughter's civil rights."

Parent of high school student

October 3, 1997

AGE DISCRIMINATION ACT OF 1975

The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs or activities receiving federal funding. The OCR received 203 age discrimination complaints in fiscal year 1997. The most frequently cited issue was "academic dismissal." The OCR resolved 210 age complaints during fiscal year 1997, some of which were received in previous fiscal years.

PREVENTION

The OCR emphasizes the benefits of prevention over after-the-fact solutions. As part of its prevention efforts, the OCR develops and maintains working relationships to achieve compliance with the civil rights laws.

In the area of Title VI, for example, the OCR collaborated with a state department of education and a national association of educators in a number of projects and activities designed to ensure equal educational opportunities to thousands of limited English proficient students enrolled in the state's school districts. The OCR helped the state develop its "Handbook of Planning for Limited English Proficient Student Success" and its draft procedural guidelines, "Special Education and Second Language Learners: Meeting the Challenges, Realizing the Opportunities." To further this collaborative effort, the OCR participated with the state and the association in a series of presentations regarding effective educational services for limited English proficient students.

In response to a Congressional invitation and in conjunction with its review of a school district's services to language minority limited-English proficient students, the OCR staff attended a congressional town hall meeting focusing on related housing concerns. Presentations were made by representatives of federal, state and local government agencies. The OCR staff were available to address attendees' education civil rights concerns.

In March 1997, the OCR published, in the Federal Register, guidance on Title IX and sexual harassment of students. Among other things, the guidance tells educational institutions how to prevent sexual harassment, address sexual harassment allegations, and minimize harm to students if, despite their best efforts, sexual harassment still occurs. The OCR also published a pamphlet for parents and students, so they will recognize sexual harassment if it occurs and will understand how they can stop it.

The OCR also provided nationwide technical assistance regarding sex discrimination in intercollegiate athletics. The OCR participated in two seminars, sponsored by the National Collegiate Athletic Association, on the athletics provision of Title IX. In these presentations, the OCR addressed a national gathering of college and university administrators on this topic of particular relevance during 1997, the 25th anniversary of the passage of Title IX.

As a final example, the OCR participated in several nationwide conferences on disability issues during fiscal year 1997. In one such conference, held by a national association of administrators, the OCR discussed major components, distinctions and areas in which Section 504 and IDEA overlap. At the conference, the OCR served on a panel, along with representatives from a state's attorney general's office and school district, which responded to questions from a 160-member audience comprised of advocates, school administrators, attorneys, special education professionals and other interested persons.

VII. CONTINUED STREAMLINING TO BETTER SERVE STUDENTS, EDUCATORS AND PARENTS

The OCR is committed to improving its civil rights enforcement efforts. A recipient of three Vice Presidential "Hammer Awards," the OCR is proud of its efforts to streamline its processes and to devote more of its resources to its core business--eliminating discrimination in education.

For example, during the past four years the OCR created national "communities of interest" in which information regarding new or innovative approaches to problems of discrimination can be routinely shared. The OCR also established information systems that are directly responsive to customer needs and preferences; established a national docket of cases to better track the more complex cases, provided consultant services nationally, and facilitated communications across federal and state agencies on this range of issues. Most notably, the OCR has worked closely with the Department of Justice regarding its role in federal litigation affecting education. Addressing issues such as sexual harassment, affirmative action, and desegregation standards, the OCR has provided significant educational and legal support to the Administration's efforts to ensure that the promise of the anti-discrimination laws becomes a reality for all students.

One of the OCR's recent improvements was the creation of the District of Columbia enforcement office, which is responsible for addressing civil rights concerns in North Carolina, Virginia, and the District of Columbia. The office was created from existing staff and became fully operational on October 1, 1996. The District of Columbia office is just one more example of the OCR's commitment to making the most efficient and effective use of its resources.

One example of this office's significant case resolutions involved a school district of approximately 6,000 students. The complaint alleged racial discrimination in the provision of services to gifted and talented students. The district agreed to revise procedures for the admission of students into gifted and talented programs, and to conduct outreach in communities of children who had not been served. The new procedures will provide greater opportunities for participation, not just for minority students, but for *all* students.

The office also obtained an agreement from a school district to overhaul its responses to sex discrimination and sexual harassment. Training is being provided for students, faculty, and even the board of education. The original complaint was filed at a school of approximately 300 students, but the positive impact will be felt throughout the entire district.

Described in 1997 by the U.S. Commission on Civil Rights as generally "operating a highly developed civil rights implementation, compliance, and enforcement program that should serve as a model for other civil rights agencies," the OCR will continue to fulfill its mission of ensuring equal opportunity and access to educational excellence for all students.

"[The OCR was e]xtremely effective in providing the District with an excellent in-service regarding the important issues of developing a plan to establish an effective racial non-discrimination policy in the District...It is particularly noteworthy to point out the professionalism and caring nature of the individuals who represented your federal agency so effectively...Moreover, the OCR team assisted the District in efforts to resolve three complaints through the mediation process...Through the efforts of this team, the District was able to make significant strides toward the issue of protecting the rights of all children in our District relative to matters of discrimination."

School District Superintendent
August 15, 1997

VIII. CHALLENGES

The OCR is justifiably proud of its achievements, especially in light of its recent austere budget years. In fiscal year 1997, the OCR staff was at an all-time low this decade due to budget constraints. In fact, during fiscal years 1994 through 1997, the OCR was severely understaffed due to insufficient funding. Thus, the OCR's achievements are particularly impressive. With a nationwide staff of under 700 (including just 110 attorneys), the OCR resolved 5,121 cases, which includes both complaints and compliance reviews, during fiscal year 1997. Fortunately, the OCR received a fiscal year 1998 appropriation of \$61,500,000, fully funding the OCR for the first time this decade. Funding at this level will allow the OCR to hire to its ceiling of 724 FTE, and to fulfill its commitment to ensure equal access to a quality education for all students:

U.S. DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
(FY 1990 - FY 1997)

FY	Presidential Request	Congressional Appropriation	FTE		Complaints		Compliance Reviews	
			Usage	Filed	Resolved	Initiated	Resolved	
1990	\$45,178,000	\$44,572,000	815	3,384	3,130	32	30	
1991	\$49,900,000	\$48,404,000	797	3,809	3,497	41	22	
1992	\$56,000,000	\$53,625,000	848	4,432	4,180	77	50	
1993	\$61,400,000	\$56,402,000	854	5,090	4,484	101	82	
1994	\$56,570,000	\$56,570,000	821	5,302	5,751	144	90	
1995	\$61,457,000	\$58,236,000	788	4,981	5,559	96	178	
1996	\$62,784,000	\$55,277,000	745	4,828	4,886	146	173	
1997	\$60,000,000	\$54,900,000	681	5,296	4,981	152	140	
1998	\$61,500,000	\$61,500,000						

*FY 1990 and FY 1995 Appropriation after sequestration; FY 1997 Appropriation after rescission

Still, the OCR's civil rights enforcement continues to present new challenges. The OCR must continue to establish partnerships within the educational community and better educate the public about the civil rights laws. The OCR must also help the public understand that anti-discrimination principles and educational excellence go hand-in-hand and find new ways to identify and tackle problems that are, if more subtle, no less severe than those of the 1950's and 1960's.

Despite the progress of the past decades, and despite federal, state and local efforts to eradicate barriers to equal educational opportunity, real and flagrant examples of discrimination remind us that discrimination still exists in the United States. In many cases, information has not reached those who may be unaware of the civil rights laws and the terrible consequences for students and the country alike when equal access to educational opportunity is denied.

Adequate investment is required to provide funding for the OCR's needs. These include costs of: developing strong, educationally sound remedies; staff training; prosecuting cases; legal research; publications; outreach, and conducting the national civil rights surveys. The President has proposed a budget for the OCR in fiscal year 1999 of \$68,000,000. This is approximately a dollar per year for each of America's students.

Office for Civil Rights U.S. Department of Education

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Washington, DC 20202-1100

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Office for Civil Rights
Fiscal Year 1998

Annual Report to Congress

*Guaranteeing Equal Access
to High-Standards Education*

U.S. Department of Education
Office for Civil Rights



MESSAGE FROM THE ASSISTANT SECRETARY

In fiscal year 1998, the Office for Civil Rights continued its civil rights enforcement program in a collaborative style. Our even-handed approach is people-intensive. For example, we build relationships with school districts, colleges and community groups to resolve cases amicably, and to ensure that remedies are fully implemented. These efforts require a highly trained staff who are both dedicated and motivated.

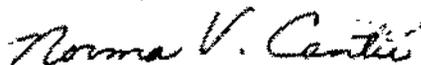
At the beginning of the civil rights movement of the 1960s and during the early days of this agency, we focused on school districts and colleges that were operating flagrantly discriminatory education systems. Contemporary equity issues are more complex and subtle. In addition to these complicated issues, we also must harmonize enforcement with high standards in education. We must guarantee equal access not only to basic, high-quality education, but also to programs for gifted and talented students. We seek both parity and excellence: for without both, there can be no true equity.

Our job is far from over. For example, too few black men are entering and graduating from college. The needs of many English-learning students are not being met. Women athletes are not receiving an equitable share of scholarships. The high-school dropout rate for Latino students is higher than it ever has been. Disabled students are too often denied the most basic services they need to learn. In short, our workload is as heavy as ever.

In fiscal year 1998, our work positively changed the lives of a greater number of students than we ever have done before. Our continued goal is to serve more children and adult learners through our partnerships with educators, and parent and community groups.

We ask you to join us in the commitment to guarantee equal access to high-standards education.

Respectfully submitted,



Norma V. Cantú

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GUARANTEEING EQUAL ACCESS TO HIGH-STANDARDS EDUCATION

The greatest social legacy of the twentieth century is the movement toward equal rights for all Americans. Within this civil rights challenge, a paramount issue has always been one of educational access: how can we, as a nation, achieve equal access to high-quality education for all people, no matter what their race, color, national origin, sex, disability or age?

Through federal and state action, the work of education, community and religious groups, and the singular effort of those strong individuals who would not give up the struggle for equality, tremendous strides have been made in the last half of this century. The actions of a wide range of people helped thousands of young people to reach their potential. As we move toward the next millenium, we remain concerned about the civil rights based on a person's race, color, national origin, sex, disability or age.

The civil rights issues in education appeared clear-cut at one time in the recent past: some children were served by well-maintained school buildings with state-of-the-art science labs, while others were assigned to dilapidated schoolhouses that served up decades-old secondhand textbooks. The pipeline to a first-rate education was wide open for many children but virtually closed to others.

Although many of these gross inequities have been eradicated, other disparities remain – some easily visible; many more, less so. These more complex issues – such as how schools should give all children equal access to the most challenging coursework possible – are those that the Office for Civil Rights (OCR) currently is working to address.

The civil rights issues relevant to American students and their classrooms are dynamic and ever-changing, and so those of us with federal responsibility for correcting education inequities still have work to do. Who, at the beginning of the struggle for civil rights, would have foreseen that by the end of the century the majority of student and parent civil rights complaints would focus on student disabilities? Who would have anticipated that large numbers of racial minority students would be placed inappropriately in special education classes or denied fair access to gifted and talented programs? Or that there would be the need for federal guidance to be issued on sexual harassment in the classroom? Or that there would be a great number of children – born in more than 150 foreign countries – entering American schools as English-language learners? These are some of the current issues with which the OCR grapples every day, and they are the topics that require a specialized federal work force: statisticians, linguists and psychometricians as well as investigators and attorneys.

As we move into the twenty-first century, our national concern remains centered on quality of education: how well are our students performing? All our students ultimately must be equipped to fulfill the new technological needs of the nation's manufacturing and service industries, as well as to fulfill their own potential in those and other areas of endeavor. After all, our country's standing rests on

No American child deserves to get a second-class education.

President William J. Clinton

issues too crucial and too extensive to be served by only a small proportion of the population. In order to maintain our national place in the competitive global marketplace, every American must have equal access to the highest-quality education possible.

The OCR will play a critical role in helping the nation reach its competitive goal by guaranteeing equal access to high-standards in education. All students must be prepared to meet the new challenges of the next century. There should be no discriminatory barriers that stand in their way; the pipeline to high-quality schooling must be wide enough for everyone's passage. The OCR is dedicated to breaking down any civil rights obstructions that block or narrow the path to national educational excellence. At the same time, the agency will work with school and college officials, community groups, and students and parents, to build and reinforce those systems and methods that support full access to high-standards education. The OCR's work will assist every student – regardless of race, sex or disability – to achieve the best work possible in the nation's schools and colleges.

The most important thing we can do to strengthen our country for the twenty-first century is to give our people the best education system in the world.

President William J. Clinton

RESPONSIBILITIES OF THE OFFICE FOR CIVIL RIGHTS

The OCR is the agency within the United States Department of Education (ED) that regulates and enforces civil rights laws against discrimination in programs and activities receiving federal financial assistance. In limited cases, the OCR carries out this role for the 18 other federal agencies that have delegated their civil rights compliance activities to the agency. The OCR's authority is derived from the Department of Education Organization Act, 20 U.S.C. 3401, *et seq.*

The OCR enforces five laws that prohibit discrimination on the bases of race, color, national origin, sex, disability and age. They are:

- ▶ Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits race, color and national origin discrimination;
 - ▶ Title IX of the Education Amendments of 1972 (Title IX), which prohibits sex discrimination;
 - ▶ Section 504 of the Rehabilitation Act of 1973 (Section 504), which prohibits disability discrimination;
 - ▶ Age Discrimination Act of 1975, which prohibits age discrimination;
- and
- ▶ Title II of the Americans with Disabilities Act of 1990 (Title II), which prohibits disability discrimination by any public entity.

These widespread civil rights laws reach virtually the entire scope of education in this nation, as nearly all education institutions in the nation – from elementary through graduate or professional schools – receive federal financial assistance. The OCR's broad coverage extends to activities, practices and policies of:

- ▶ nearly 15,000 public school districts;
- ▶ more than 3,600 colleges and universities;
- ▶ approximately 5,000 proprietary organizations, such as training schools for truck drivers and cosmetologists; and
- ▶ thousands of public libraries, museums and vocational rehabilitation agencies.

A staggering number of students and others are affected by the OCR's work. Our statutory responsibilities cover these people:

- ▶ 52.2 million students attending elementary and secondary schools;
- ▶ 14 million students attending colleges and universities, as well as the millions of applicants to these colleges and universities;
- ▶ tens of thousands of students attending proprietary schools;
- ▶ thousands of students in vocational rehabilitation agencies; and
- ▶ millions of people using libraries and museums.

The focus of the agency is on the provision of equal access to programs and services to students and to student applicants. Although people seeking employment in education, or those already employed by schools and colleges, are

The ideals behind this and other civil rights legislation are ones we all should strive for – building a society that celebrates the differences and abilities of all of its citizens.

Secretary of Education
Richard W. Riley

generally protected under the OCR's statutes, the agency's authority over employment cases is limited. We refer the great majority of the employment cases in education to the Equal Employment Opportunity Commission.

The OCR also carries out civil rights provisions for the Magnet Schools Assistance program (Title V, Part A of the Elementary and Secondary Education Act). In the last fiscal year, for example, we reviewed magnet school applications and provided civil rights assistance to these applicant schools.

HOW THE OCR DOES ITS WORK

The Office of the Assistant Secretary for Civil Rights, located in Washington, D.C., provides overall leadership, support and coordination to the 12 enforcement offices throughout the country. The headquarters office also issues policy clarifications to help educators meet their civil rights obligations when new issues emerge or when legislation and court decisions take place. In fiscal year 1998, new policy was disseminated on a number of issues.

- Secretary Riley, with the OCR's input, issued a Dear Colleague letter to chief state school officers and district superintendents reminding them of their obligations regarding sexual harassment. The letter served to follow up the United States Supreme Court ruling in *Gebser v. Lago Vista Independent School District*.
- The OCR issued two letters clarifying the application of Title IX to athletic scholarship awards for intercollegiate athletic programs.

The OCR carries out its civil rights compliance responsibilities through a number of activities, including complaint investigations, compliance reviews and technical assistance. A large share of the agency's work is devoted to investigating civil rights complaints filed by students, parents and others. Although it is difficult to predict what complaints will be filed, the OCR monitors current trends through analysis of its complaint data. The OCR also conducts agency-initiated compliance reviews on issues deemed critical within education and civil rights fields. To assist others in understanding and complying with the nation's civil rights laws, the agency also provides cost-effective assistance in the form of workshops, conferences, and publications and other outreach services, to help schools and colleges, and their students and employees.

There are not words to express my appreciation for your efforts. I don't know when I have worked with issues where there were so many complex steps needed to be taken and where they were so efficiently completed. Thank you for this.

Letter from Parent to
OCR Investigator

The OCR Investigates Complaints

Any person may file a complaint with the OCR if he or she believes someone has suffered discrimination due to race, color, national origin, sex, disability, or age in a federally funded education program or activity. The person who files the complaint does not have to be the one who experienced discrimination; for example, parents often file complaints on behalf of their elementary or secondary school children. In fact, anyone may file a complaint on behalf of any other person or group of people.

The goal of the OCR is to resolve the complaint allegations promptly, fairly and appropriately. The agency has found that the best way to resolve problems is a collaborative approach among students, parents, community groups, state education agencies, and schools and colleges. We realize that these different stakeholders have a common interest in ensuring a high quality education for all students, and we also recognize our need to consider their unique perspectives. In addition, the involvement of these citizens – no matter how diverse their interests

may appear to be – results in their mutual ownership of the problem's resolution. We remain convinced that the best and most effective solutions to allegations of discrimination come from these collaborative approaches.

The OCR is creative in its use of techniques to resolve complaints. For example, the agency may help move the student or parent and the school or college toward an agreement on how to resolve the complaint. In another technique, the OCR may negotiate an agreement resolving the allegations raised by the student or parent. Of course, the OCR may also determine that there is not enough evidence to support a finding of a civil rights violation. In other situations, the agency may issue a finding based on its investigation and negotiate an agreement with the school or college. OCR allows these methods, or any combination of them, to be used at any time to reach resolution.

These methods are effective because they:

- provide timely intervention at the beginning of the complaint process;
- focus on achieving positive change; and
- put the concerns of students, parents and school administrators at the center of the issue.

Through these non-adversarial approaches, the OCR resolves civil rights violations. The agency tries every logical means to end disputes by working with students and parents, and with schools and college officials. Rarely does the OCR need to move to formal enforcement; however, it will take this step when all other alternatives fail.

The OCR Conducts Compliance Reviews

To combat discrimination effectively, the OCR reviews the policies and practices of education institutions to ensure their compliance with law. It cannot rely solely on complaints filed by students and others as these complaints may focus, in any one year, on education issues that are not fully representative of the most acute civil rights problems. Therefore, the agency initiates compliance reviews to balance its enforcement program by looking at areas and issues that may be under-represented by complaints. Also, the agency designs its compliance reviews to benefit the greatest numbers of students. These reviews make the best use of the agency's resources, as well as balance its enforcement program.

During fiscal year 1998, the OCR initiated 102 reviews and it completed 100 reviews, some of which were started in earlier years. The reviews initiated focused on:

- discrimination against minorities in special education and remedial courses;
- discrimination against minorities in gifted and talented and other advanced placement courses;
- access to programs for English-language-learning students;
- racial harassment;
- discrimination on the basis of sex in athletics; and

desegregation in higher education, and in elementary and secondary school systems.

The OCR uses the best information available to select issues and schools for review. Education and civil rights groups, community organizations, parents and the media all contribute a variety of knowledge used in the agency's decision-making. The OCR backs this up with statistical data from such sources as the Elementary and Secondary School Civil Rights Compliance Report, which it administers. Since 1968, this survey has been the chief source of data collection on the status of civil rights in the nation's schools. One-third of the nation's school districts are included in its biennial representative sample.

The OCR Gives Technical Assistance

Putting an end to discrimination includes preventing it before it starts. It is for this reason that the OCR provides information and other support services—known as technical assistance—to schools and colleges, as well as to community, student and parent groups. The aid that the OCR gives to education institutions helps them comply with federal civil rights requirements, while the assistance given to students and others informs them of their rights under law regarding equal access to high-quality education.

One example of the timely assistance given by the OCR to school districts and state education departments is the work of the OCR's San Francisco office. California's Proposition 227, which passed in June 1998, requires school districts to redesign their education programs for the state's 1.4 million English-language learners. Before the start of the new school year, districts had to develop new curriculum; obtain new teaching material, revamp student and teacher assignments, and educate teachers and parents about new state requirements. The OCR assisted California districts by working with the state education department to offer a series of workshops focusing on federal law in the context of the new state law. The workshops began in September and are being given at school districts and county offices of education.

Technical assistance is given by the OCR's headquarters and 12 enforcement offices through a variety of methods that include on-site consultations, conferences, training, community meetings and published materials. A customer service team in the agency's headquarters office in Washington, D.C., serves as the first point of contact for students, parents, educators and community members who need a question answered, who want a copy of one of the OCR publications, or who have a Freedom of Information Act request. In addition to the headquarters team, each of the 12 enforcement offices includes a staff member serving as a liaison to the customer service team.

In addition, the agency serves the public through its web page at the address <http://www.ed.gov/offices/ocr>. The agency also operates an 800 telephone line [1-800-421-3481] that is staffed during business hours, eastern time. Calls and letters requesting assistance come from other federal agencies, state agencies, local school districts, community groups, and parents and students.

This conference should not be viewed as a one-time event. It should be the beginning of a long-overdue process to bring together the federal, state and local structures with voluntary parent agencies and other stakeholders.

Parent group representative

The conference provided me with an update on the current issues as they related to living language-minority students. All sessions were very informative. Thank you.

State education agency official

Nearly 5,000 hotline phone inquiries were answered by the customer service team in the last fiscal year and just about all these questions were answered through this single point-of-contact. The team also responds to an increasing volume of e-mail.

HOW THE OCR MEASURES ITS WORK

The OCR's aim is to accomplish its functions as efficiently as possible. To achieve this goal in fiscal year 1998, we worked with a broad cross-section of people to define the positive changes we want to achieve. We concluded that the most meaningful way to demonstrate the OCR's high performance is by its impact on five major areas.

- **Access:** We often use the word "pipeline" to indicate access to high-quality education, which is a right of every child in the nation. Unfortunately, for some children the pipeline is narrow and they do not get through due to their race, limited-English-language ability, disability or sex. The OCR works to widen this pipeline so that access to high-quality education increases each year.

- **Number of students affected:** Depending on the civil rights issue under resolution, the number of students may be counted as those directly affected by OCR's work (for example, the number of English-learning students) and as those who comprise the student body (for example, a school district that issues a new sexual harassment student handbook affects its entire student population).

- **Increased compliance:** This number reflects the policies, procedures or practices that were amended to comply with federal civil rights laws within our jurisdiction. Each school district or college that agrees to make a correction as a result of intervention by the OCR counts as a compliance change, as do changes coming about through technical assistance.

- **Efficient resolution of complaints:** This measure is to resolve 80 percent of complaints within 180 days of their receipt by the OCR.

- **Successful partnerships:** The process of working with educators and with community, parent and student groups is as important as resolving the issue. Through our collaborative efforts, we can educate school people and others about the importance of equal access to high-standards learning, and we can help them internalize these goals. A partnership is counted as successful each time we reach out to parents and students and work together as colleagues – rather than as adversaries – to achieve strong civil rights compliance.

A RIGHT-SIZED OCR

In fiscal year 1998, Congress appropriated \$61.5 million to OCR. The appropriation was a much-needed increase for the agency, reflecting a 12-percentage-point rise above the prior year. For the OCR, the 1990s had been a period of austerity. For example, in fiscal year 1997, the OCR staff level was at its all-time low, following several years of severe under-staffing due to insufficient funding. In that year, the office only had 700 staff nationwide, including just 101 attorneys in the enforcement offices. Caseload level at that point was 1:67.

At the beginning of fiscal year 1998, the OCR had a staff level of 661 people on board, which was the fewest number of staff at any time since the 1980 creation of EID. In fiscal year 1998, the Congress recognized this shortfall by fully funding the agency for the first time in a decade. At the year's end, the ratio of attorneys in the enforcement offices to complaint caseload was 1:47.

APPROPRIATION AND WORKLOAD FISCAL YEAR 1990 - FISCAL YEAR 1998

FY	Presidential Request	Congressional Appropriation*	FTE	Complaints		Compliance Reviews	
			Usage	Filed	Resolved	Initiated	Resolved
1998	\$61,500,000	\$61,500,000	685	4847	4753	102	100
1997	\$60,000,000	\$54,900,000	681	5296	4981	152	140
1996	\$62,784,000	\$55,277,000	745	4828	4886	146	173
1995	\$61,452,000	\$58,236,000	788	4981	5559	96	178
1994	\$56,570,000	\$56,570,000	821	5302	5751	144	90
1993	\$61,400,000	\$56,402,000	854	5090	4484	101	82
1992	\$56,000,000	\$53,625,000	848	4432	4180	77	50
1991	\$49,900,000	\$48,404,000	797	3809	3497	41	22
1990	\$45,178,000	\$44,572,000	815	3384	3130	32	30

*FY 1990 and FY 1995 Appropriation after sequestration; FY 1997 Appropriation after rescission

With the full fiscal year 1998 appropriation, the OCR is now better equipped to carry out its mission. As a result of the fiscal year 1998 budget increase, the agency hired 91 new employees, with a greater number of attorneys and investigators hired than any other job category. The majority of these new staff are located in the 12 enforcement offices throughout the country. Training and development for skill enhancement of this new staff – as well as compensatory training of experienced staff that had been delayed due to insufficient funds – took place immediately after hiring and will continue through the next several fiscal years. We are deeply committed to our investment in staff. In addition, we have moved from traditional enforcement toward the collaborative resolution processes of mediation and negotiation, and we must make sure staff skills are commensurate with their new duties.

Civil rights enforcement is a labor-intensive effort. The greatest part of the appropriation for the OCR is used to pay salary and benefits. In fact, 78 percent of the OCR's budget request goes for those staffing expenses. Therefore, anytime the OCR does not receive full funding, staffing levels might have to be proportionately reduced. When we must limit our staff number due to fiscal constraints, staff must first devote their energies to investigating and resolving the many thousands of individual complaints received each year.

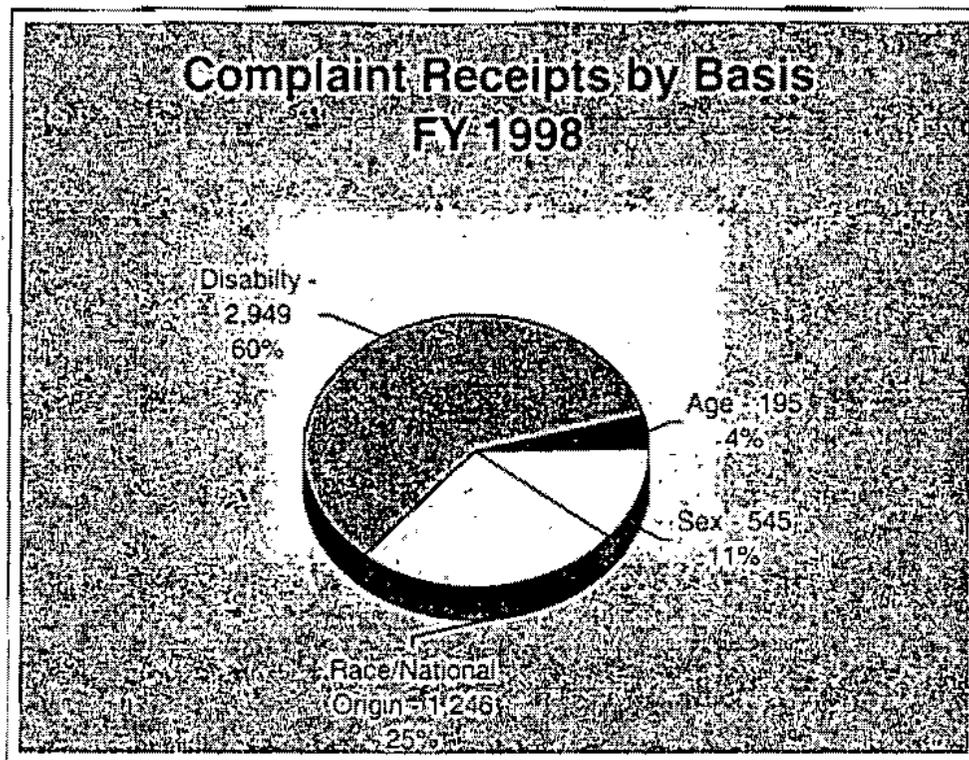
But when the OCR is given full funding, staff can conduct compliance reviews and provide information assistance, as well as resolving complaints. By choosing to give assistance to larger school districts or even to entire states, and by conducting reviews on issues that affect the greatest number of students, we can maximize educational access for the greatest number of students.

In the last fiscal year, our work directly affected nearly six million students. We widened the pipeline to provide greater access to high-quality education, increased the number of students and potential students affected by our work, raised civil rights compliance levels nationwide, maintained our case-processing time, and successfully worked with educators, parents and students, and community groups throughout the country.

As our newly hired staff becomes fully trained and more experienced, we look forward to increasing our activities and our efficiencies. However, without full funding in fiscal year 2000 and the years beyond, the OCR will be forced to severely cut back on information assistance as well as enforcement activities. Although we look forward to making a significant difference to a great number of students in fiscal year 1999, we do not want to return to a position where we cannot address the civil rights concerns of student and parents, or of schools and colleges, by having to curtail our work in that or subsequent years.

THE OCR'S NATIONAL IMPACT

The OCR received 4,847 complaints from students, parents and others in fiscal year 1998. These complaints represented a wide range of civil rights issues and were filed against institutions at all levels of education. Sixty-eight percent of the complaints in fiscal year 1998 were filed against elementary or secondary schools, 25 percent against colleges and universities, and 7 percent against such other agencies as vocational rehabilitation, proprietary schools, and libraries.



(Due to complaints filed on more than one basis, the total number of complaint receipts by basis is greater than the number received.)

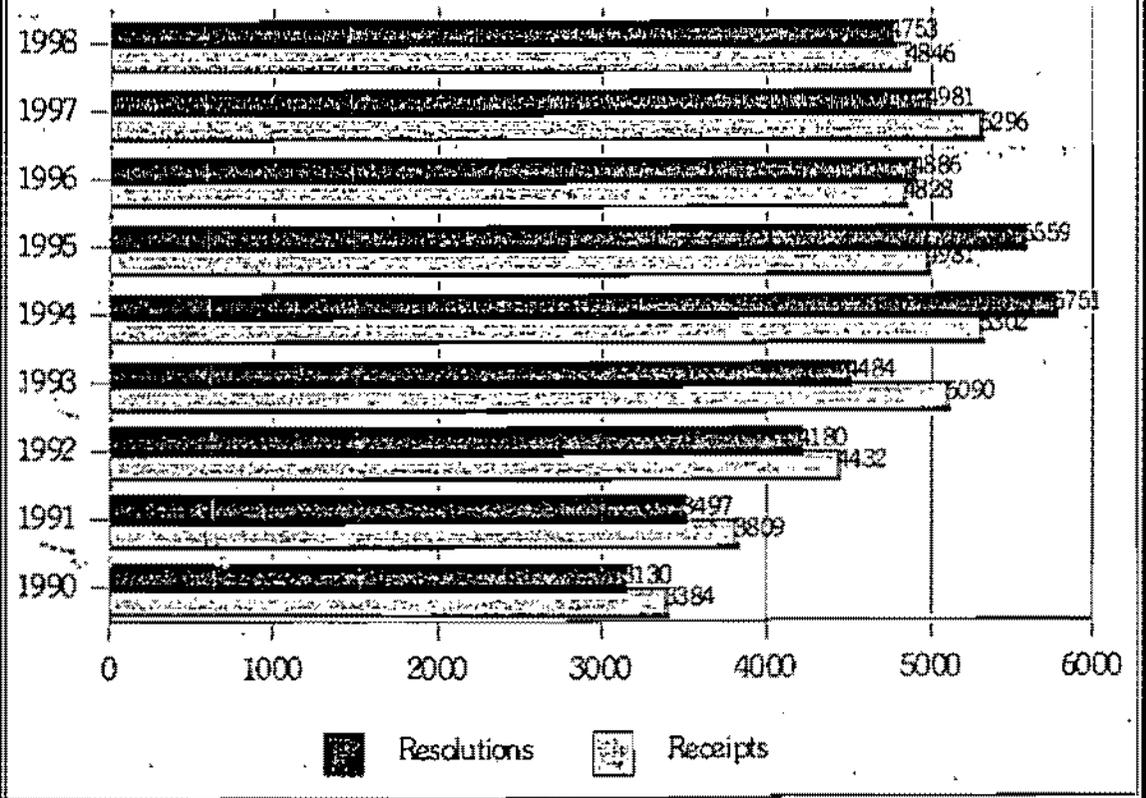
For the past decade, the most common basis for a civil rights complaint in education has been discrimination on the basis of a disability. As shown in the figure, the majority of complaints received by the OCR in the last fiscal year are disability complaints (Section 504 and Title II); these complaints comprise about 60 percent of the total. Following behind are those filed on the basis of race, color or national origin (Title VI); these complaints comprise 25 percent of the total. Complaints alleging sex discrimination (Title IX) constitute 11 percent of the total and complaints alleging age discrimination make up 4 percent of the total. If a typical complaint could be identified solely from this data, it would be one filed against an elementary or secondary school by a student or parent charging discrimination on the basis of disability to a program, service or activity.

In the last fiscal year, eight percent of complaints (405 complaints) were filed on more than one discrimination basis. The most prevalent multiple-basis complaint was filed on the two issues of disability and race/national origin discrimination. The second most common multiple-basis complaint was filed on the grounds of race/national origin and sex discrimination, and the third most prevalent multiple-basis complaint was filed on disability and sex discrimination.

In fiscal year 1998, 4,753 complaints were resolved, including some that had been filed in a prior year. There are a number of ways a complaint can be resolved: by addressing civil rights violations, or by finding that no civil rights violations occurred, or that there was insufficient evidence to find that a violation occurred, or by finding the complaint inappropriate for the OCR's action, often due to lack of statutory jurisdiction. During fiscal year 1998, the OCR worked successfully with school districts and colleges to resolve complaints in a manner that effectively resulted in positive change for students.

Complaint Receipts and Resolutions

Fiscal Year 1990 - Fiscal Year 1998



HOW THE OCR SERVES STUDENTS AND THEIR SCHOOLS

Addressing Discrimination On The Basis Of Disability

The OCR enforces Section 504, prohibiting disability discrimination in federally funded programs and activities, and Title II, prohibiting disability discrimination by all public entities. Fully 60 percent of all complaints filed with the OCR in fiscal year 1998 were filed by students and their parents who alleged discrimination on the basis of disability. Along with investigating these 2,949 disability complaints, OCR also initiated 6 new compliance reviews covering both disability and race/national origin issues, and 1 review on the issues of disability, race/national origin and sex.

The bulk of the OCR's investigations in the past year focused on the provision of:

- accessible school facilities and programs;
- appropriate regular or special education services;
- services to students with disabilities in the least restrictive settings consistent with their educational needs;
- appropriate academic adjustments and modifications; and
- auxiliary aids for students with impaired sensory, manual or speaking skills.

Here are some of the stories of the OCR's work in fiscal year 1998 that represent the struggle to provide equal access to an appropriate education program for students with disabilities.

No Playgrounds Available To Children With Disabilities

Young children who are mobility impaired were unable to play outdoors with their classmates because they could not use the school's playground equipment or even enter the play area. After working with the OCR to resolve a parent's complaint, the school district agreed to provide a range of accessible play facilities equivalent to those provided to students who are not mobility impaired, and to make sure that routes to play equipment and sand areas are available to all students.

School Discounted Student's Disability Because I.Q. Was So High

A fifth-grade student with Asperger's Syndrome – a form of autism often accompanied by a high I.Q. – was denied a free and appropriate education because his school district did not believe it had a legal obligation to serve him due to his high intelligence. As a result of the OCR's actions, the district provided the student with the education, services and aids he requires based on his needs. This case also served to alert the OCR to potential future problems in this school district. As a result of the agency's work, the district agreed to identify and locate every

qualified student with a disability who was not receiving a public education, and inform them and their parents of the district's obligations under Section 504.

The purpose of this letter is to send you the enclosed facsimile of my son's graduation announcement and to thank the employees of your department who so unselfishly assisted me and my son last year. Jimmy's future is much brighter because of the help and support we received from ... your department.

Letter from parent

Hearing-impaired Parents Needed Interpreter For School Events

Parents who were hearing impaired were having a difficult time participating in their kindergarten daughter's schooling because they received inadequate and inaccurate information from an interpreter hired by the school district. Civil rights laws in education covering disabilities ensure access to education information not just for students with disabilities but also for students' parents or guardians who may be disabled. With OCR's assistance, the parents and their district resolved their differences and agreed to a strategy for improving communication for the next 12 years of the child's education.

Program For Children With Mental Health Problems Refused Boy With Diabetes

A camp that asked a local school district for referrals to enroll children with mental health problems refused to admit a child who also had diabetes. The camp cited possible health risks despite assurances from the child's physician and his grandmother that his health was well-managed and posed no risk as long as camp employees were notified of his diabetes. The OCR mediated to allow the child to enter the camp program. It also made the school district aware of its legal obligations to students when it worked with other organizations. In addition, the OCR alerted its sister organization, the Office for Civil Rights in the United States Department of Health and Human Services, so that this agency with direct jurisdiction over the camp could provide technical assistance to camp administrators:

Charter Schools Must Comply With Disability Laws

A disabled kindergarten student who was enrolled in a charter school during its first year of operation was having behavioral problems related to his disability. Few special services were given him and, at the beginning of his second year, the charter school notified the parents of a decision to hold an expulsion hearing for their child. The parents withdrew their son from the school and filed a complaint with the OCR, which determined that the charter school had violated anti-discrimination laws by failing to provide supplementary aids and a continuum of special education services to the child. The charter school agreed to readmit the boy and reimburse his family for the remedial tutoring, therapy and child care that resulted from his exclusion. The student is now in third grade and is making good progress at the school. The OCR continues to monitor the charter school's provision of special education services to students.

As I look back to where I was one year ago, I must thank you for your help. It's because of the work you do that I will be able to graduate.

Letter from mobility-impaired university student

Proprietary School Made Disabled Student Take Additional Tests

An older student who had lost one hand and a leg was required by his business college to demonstrate his typing skills and his ability to move around the classroom before the school would admit him to its keyboarding class, although it made no other students demonstrate skills or agility. The school's additional requirement for the student on the basis of his disability is prohibited by civil rights laws. As a result of the OCR's intervention, the business college amended its policies and practices, admitted the student to the program and purchased a tutorial program appropriate for use by a person without two hands.

110 Community Colleges Lacked Services For Students With Visual Impairments

In a state that serves nearly one million students through the largest community college system in the nation, students with visual impairments were being denied access to print materials and computer-based information. Their chance to attain degrees was significantly impaired by an inability to receive publications and other information in a format they could use. The OCR worked with administrators of all 110 colleges to: develop a strategy that purchased adaptive hardware cost-effectively; provide advanced adaptive technology training for specialists; create disability-access guidelines for distance learning and Web pages; establish a system-wide translation center; create a central registry of tape and Braille materials; and move responsibility for accessible libraries to library personnel rather than student services personnel. Through these actions, thousands of already-enrolled visually impaired students significantly increased their ease of access and ability to complete college requirements. Future students with visual impairments, too, will enjoy equal access to necessary educational information.

University Failed to Lighten Course Load For Disabled Student

A freshman college student fell into a coma. When he recovered, he had lost some of his cognitive skills and short-term memory. Altogether, he was out of school for 18 months. When he returned, his physician recommended that he enroll in no more than three courses a semester. The university refused to lower its four-course requirement for more than one semester because its policy was to allow only eight semesters total to complete undergraduate requirements. University officials defended their position by stating they had been flexible in allowing the student one part-time semester and that rigorous standards were a hallmark of the top-ranked school. After the OCR saw that the university had not considered the severity of the student's disability and that giving him additional time would not jeopardize its competitive ranking, officials agreed to change their policy for this student and all future students with disabilities whose conditions make them incapable of successful full-time enrollment.

OCR's Boston office received a phone call from a mother who, five years earlier, had filed a complaint against the special education program in her sons' school district. The parent wanted to thank OCR once again and let the investigator know that one son was an assistant manager of a retail store and the other was in his third year of college, preparing to become a special education teacher.

And more ...

- A 13-year-old student with multiple disabilities learned he couldn't go on field trips with his classmates because his school would not arrange accessible transportation for him. The OCR negotiated with his school district to ensure proper transportation and an aide whenever there was a field trip involving his class.
- A nine-year-old girl with clinical childhood depression needed an individualized education program. As a result of the OCR's efforts, the rural school district initiated staff training addressing the needs of young children with emotional problems that will assist teachers working with future students with similar issues.
- A student's father could not attend his daughter's athletic events because they were held at facilities where his wheelchair could not be accommodated, which is a violation of civil rights laws. He needed the OCR to inform the school district of their obligations.
- A high school senior with bi-polar disorder and other medical issues earned a high school diploma but was told that she could not take part in the graduation ceremony with her twin sister and classmates because her last semester was spent in a special program. The OCR received her complaint only four days before graduation but quickly responded with intensive effort so that the senior could take part in the ceremony with her classmates.

Addressing Discrimination On The Basis Of Race, Color and National Origin

Title VI prohibits discrimination on the basis of race, color and national origin in federally funded programs and activities. It is the longest-standing law over which the OCR has jurisdiction, and was passed in 1964. Complaints based on Title VI discrimination comprise the second largest group of complaints filed by students, parents and others. The 1,246 complaints, or one-quarter of the total filed in fiscal year 1998, alleged Title VI violation in these areas, and others:

- ability-grouping practices, including placement in special education programs and programs for the gifted and talented;
- access to alternative-language services by English-language-learners;
- racial harassment;
- school assignment policies;
- school segregation;
- discipline practices; and
- academic grading practices.

A significant number of compliance reviews are conducted by the OCR in the Title VI area; in fiscal year 1998, 85 reviews focused on race/national origin issues solely, while 6 were on race/national origin and disability issues, 4 were on race/national origin and sex discrimination, and 1 combined the issues of race/national origin, sex and disability. These reviews included the areas of over-

OCR investigated a complaint regarding the lack of opportunity for English-language-learning students and monitored changes put in place by the school district for the past five years. In response to a district-administered survey, 100 percent of the parents of these English-language-learning children said that their children's English-literacy skills increased, as well as their school achievement. One student responded, "The English-as-a-second-language class is the best class for me because I can realize that my English is getting better and better every day."

representation of minority students in special education programs and under-representation in gifted and talented programs; access to alternative language services by students who are English-language learners; and segregation of English-language-learning students.

Here are some of these students' stories:

Untrained Staff Assigned To English-Language Learners

The United States Supreme Court has held that school districts are required to ensure that students who are unable to speak and understand English can participate meaningfully in their school district's education programs. OCR's guidance, based on well-settled law, requires districts to adopt, implement and evaluate a sound program grounded in recognized education theory or on a legitimate experimental strategy.

The OCR does not require districts to adopt any particular program of instruction. Regardless of the type of program offered, school districts must make sure they provide English-language-learners with a meaningful opportunity to participate in the regular curriculum. For example, the OCR learned that in ten school districts located in the same state, the majority of 11,800 English-language-learning students were not receiving instruction from teachers who were properly trained in language acquisition skills. In fact, OCR learned that these students were being instructed by para-professionals who did not possess even basic teaching credentials.

To correct the problems found in these ten school districts, the school districts worked with OCR to ensure that all English-language-learning students were taught by certified and trained teachers under a sound program based on recognized language-acquisition theory.

Minority School Lacked Qualified Librarian

This school district had eight elementary schools. All except one employed a full-time qualified librarian to assist students. The only elementary school in the district lacking a librarian was also the only school with a predominantly minority enrollment. The minority school had to make do with a volunteer who worked in the library part-time and, when she wasn't present, classroom teachers had to retrieve materials from the library for students. After a parent filed a complaint, the school district worked with the OCR and hired a certified librarian for the elementary school, assuring students at this school of services comparable to those provided at the other predominantly non-minority elementary schools.

Identifying Gifted Minority Students

In many school districts, minority students are under-represented in programs for gifted and talented students. The issue in five school districts was whether the pipeline to programs for gifted students had been narrowed, illegally denying access to minority students. In all the districts, a resolution agreement specified that students would have equal access to these programs through improved policies and practices that include better notice, broader screening strategies designed to locate non-traditional gifted students, and the use of a

You and the leadership of OCR can be very proud of the work of all these professionals in representing OCR's rationale for giving priority attention to issues related to minorities, English-language learners and special education.

Letter from the director of a conference sponsored by The Urban Special Education Leadership Collaborative

broader variety of evaluation and eligibility criteria. In addition, one of these districts – with only two percent of its gifted students being minority students – started up a pilot program to identify gifted students. The pilot was a success from all perspectives: the district was pleased at the additional number of minority students it expected to identify for gifted programs, and the youngsters were excited by being given challenges they had not been given in the past to show their writing skills, carry out research and perform laboratory experiments.

Latino Students Were Segregated

The OCR established that a school district unjustifiably segregated Latino students from other students during both academic and non-academic classes. Latino students were even separated from others for lunch and assemblies. The reason for their segregation was solely their national origin: the district did not measure their English-language skills before grouping them with other Latino students. The district had other problems, as well. In these children's academic program, the quality of schooling varied from one grade to the next and lacked an overall educational framework. By the time the students reached high school, they had a significantly higher drop-out rate and a lower college admission rate than students who were not Latino. Through assistance from the OCR and its ties to the state department of education and the Mid-Atlantic Equity Center, the district designed a comprehensive program to end segregation and implement effective programs for English-language-learning students of all national origins. Both the district and the community have praised the OCR for our method of resolving this issue and for the continuing assistance provided.

State Used One Criterion For Black Students, Another For White Students

One state administered standardized tests to determine which low-achieving students should be placed in classes for the educationally mentally retarded and which should be placed in classes for the learning disabled. In general, educators believe it is more favorable and less restrictive for students to be placed in classes for learning disorders than in classes for educationally mentally retarded students. Despite the similar scores of African American and white students, the African American students were nearly all grouped in educationally mentally retarded classes, while white students were grouped in classes for students with learning disabilities. The OCR worked with the state department of education and local school districts to develop valid and fair methods of determining program placement that were administered reliably and equitably to students of all races.

Addressing Racial Harassment

A parent of a high school student complained that her son and another African American student were being racially harassed by other students. These students used racial slurs and epithets about these two students and about her. The district is 97 percent white. The district's student handbook did not refer to any disciplinary sanctions for students who commit actions of racial discrimination,

This letter is to express ... our sincere gratitude and appreciation for the quality assistance, guidance and leadership that has been provided by you and your staff in managing our complaint against the [state].

Associated Directors of
Bilingual Education of [state]

including racial harassment and name-calling. In addition, the complainant said that the school did not discipline the students involved nor did it adequately address her concerns. As a result of the OCR's intervention, the school district agreed to modify its racial harassment policy and establish a community forum to address this issue and others. The district will also take steps to learn how to recruit minority teachers successfully by working with the area Desegregation Assistance Center.

Enhancement of Historically Black University

One historically black university that is part of a state's higher education system had been, for a period of decades, underfunded compared to other universities in the state. Working with the OCR, the state agreed to construct and renovate university buildings. The state also enhanced a number of popular academic programs with the expectation that the strengthened programs will assist the university in attracting both minority and non-minority students. During the OCR-state partnership, *Time* magazine named this historically black university its college of the year.

And more ...

- A school district agreed to establish a disciplinary committee – including students, parents and community members as well as teachers and school officials – responsible for reviewing regulations and policies after a disproportionately high number of African American students were disciplined. Data on disciplinary actions also will be collected and analyzed, with the aim of identifying and addressing patterns of concern.
- A school district with a large immigrant Korean population agreed to provide information in Korean to parents who have limited-English skills in accordance with civil rights laws, so they could be informed and involved in their children's education.
- Racial epithets scrawled on school walls were not removed, resulting in a protest by the district's African American students, who were arrested by police for inciting a riot. In this case, the state education department and the United States Department of Justice, as well as the OCR, investigated. The district took action to ensure better understanding between races, as well as making changes in curriculum and hiring practices, and adding a mentoring program for African American students.

Addressing Discrimination On The Basis Of Sex

A Title IX prohibits sex discrimination in federally funded education programs. Since its passage 26 years ago, girls and women have made incredible progress in attaining college and graduate degrees, as well as in entering non-traditional fields.

In fiscal year 1998, 545 complaints, or 11 percent, were filed on the grounds of sex discrimination. Issues covered in these complaints included:

- pregnancy and parenting;

- ▶ interscholastic or intercollegiate athletic services;
- ▶ sexual harassment; and
- ▶ assignment to gifted and talented programs.

Three compliance reviews were conducted solely on sex discrimination issues, four combined the issues of race/national origin and sex, and one was on the issues of race/national origin, disability and sex. The areas covered by these reviews were equal opportunity in interscholastic or intercollegiate athletics, and sexual harassment.

Pregnant Students Were Isolated

A complaint came in to OCR about a school district that required pregnant students to take all their academic classes at an off-campus site, as well as mandating their attendance at a parenting program. The OCR found that the district, in violation of Title IX, assigned all pregnant girls to a program exclusively for pregnant students that limited their participation in some education and all extracurricular activities. Through the efforts of the OCR, the district agreed to give pregnant students equal access to regular education services and extracurricular activities, and to open the parenting program to any interested student.

Rehabilitation Center Must Address Sexual Harassment

A disabled middle-school student was being sexually harassed by a disabled boy who verbally assaulted her and made lewd physical gestures at the rehabilitation center where the school district had placed her. The district admitted that it had not informed its contract center of the district's sexual harassment policy, nor did the district determine the extent to which the male's behavior was symptomatic of his disability. Nor did it investigate the girl's mother's complaints, and its actions were insufficient in ending the harassment. With the OCR, the district worked out an agreement that stipulated revision and dissemination of the sexual harassment policy to all parties including contractors, training of all staff including contractors, compensatory services and a plan to keep the student and her harasser separated.

ROTC Program Discriminated Against Female Cadets

A female cadet in a United States Army/District Cadet Junior ROTC program that was administered by a local school district was denied promotion to the battalion commander rank due to her sex, suffered discriminatory remarks by her ROTC instructor and was threatened by his assistant. The student filed a complaint based on sex discrimination with OCR because of its jurisdiction over the district's programs and activities. As a result, the district enhanced its nondiscrimination policy and sensitized the ROTC instructors to their obligations under Title IX, focusing on sex discrimination and sexual harassment. After the agreement was implemented, the girl's parents called their local OCR office and informed the staff of their daughter's promotion to battalion commander, the first time a girl had held this position in the history of the school's ROTC program.

Because of your expertise, diligence and follow-through, all of these [Title IX athletics] issues have been resolved and the children are now being educated correctly.

Letter from citizen on several state athletic associations

School Offered Home Instruction Rather Than Stop Harassment

One ninth-grade girl was subjected to unbearable sexual harassment by a group of female students. When her school would not address the harassment despite repeated parental appeals, the girl received home-bound instruction, which further isolated her, in both her academic and social lives. The OCR made clear the school's obligation to provide a non-threatening environment in which all students could learn and, as a result, the girl returned to school and was promoted to the tenth grade. Besides stopping the harassing action, the school took measures to prevent similar incidents from occurring in the future.

Community College Expands Women's Athletic Opportunities And Helps Men, Too

To bring its intercollegiate athletics program into compliance with Title IX, one community college expanded opportunities for women by proposing to add athletic teams. By doing this, the college was meeting the requirements of the OCR's three-part test on intercollegiate athletics, which states that a college provides nondiscriminatory opportunities for men and women if it meets any one part of this test. The three parts are:

- ▶ providing athletic opportunities in numbers substantially proportionate to enrollment by sex;
- ▶ establishing a history and continuing practice of program expansion for members of the under-represented sex – which, in the case of this college, was women; and
- ▶ fully and effectively accommodating the interests and abilities of the under-represented sex.

About two-thirds of colleges chose to comply with Title IX by deciding to fully and effectively accommodate the interest and abilities of the under-represented sex and this story is a good example of a college using this method. During its discussions with the OCR, the college saw that by adding golf, swimming and tennis teams for women, it could also add men's teams in these same sports for little additional cost. Although not all colleges are able to add men's teams as this one did, never would the OCR mandate a college to drop a team for men to comply with Title IX. With assistance from the OCR, the college determined the interest and ability of women students and, as a result, has nearly doubled participation opportunities for women as well as increasing opportunities for men.

State-Of-The-Art Field For Boys; Inadequate Field For Girls

A brand-new high school included a state-of-the-art baseball facility for boys, including dugouts, generous seating, lockers, a storage room and PA system. In addition, the field was large enough for both the junior and senior players to practice and play. In contrast, the girls were told there was no softball field for them: instead, the school had made arrangements with a local church to share their field. This field had no seating, locker room, dugout, storage room or PA system, and the field itself was not comparable in quality or size to the one

provided to boys. After OCR's intervention, the school district not only built a comparable softball facility for girls but it also reviewed facilities for girls at other schools to determine any needed upgrades.

Quarter-Million In Women's Scholarships

A complaint filed by a national advocacy group against a university alleged that it discriminated against women athletes in awarding scholarships. Title IX provides that when a college or university awards athletic scholarships, these scholarship awards must be granted to "members of each sex in proportion to the number of students of each sex participating in ... intercollegiate athletics." In this case, the OCR's investigation concluded that the university was not awarding substantially equal amounts of scholarship dollars to the men's and women's programs, and it initiated settlement discussions. Working voluntarily with the OCR, the university will ensure that both the male and female athletic programs receive an equitable share of scholarship monies. As an immediate remedy to the identified disparity, the women's athletic program will receive an increase of about \$269,000 over the next two years.

And more ...

- A pregnant student was denied the right to participate in an automobile-painting class because her teacher claimed the chemicals would pose risk to her unborn child. Her physician's statement that she was not at risk as long as she wore the same protective clothing as the other students was disregarded and her instructor continued to verbally abuse her for her behavior. The OCR requested that the school reinstate her to the class and the district sent the instructor to sensitivity training classes.

- A district, with the help of the OCR, agreed to enroll a student in a neighboring district as she had requested because she had been sexually harassed rather than make her continue to face her former harassers.

INTO THE NEXT CENTURY

The OCR is better equipped to handle the complex education challenges raised by the civil rights issues of this decade than it was during its austere years. We have invested heavily in ensuring the best training and development for both our new staff members and our more experienced workers. Still, the OCR staff must keep current in the ever-changing fields of technology. We also must stay up-to-date in the area of appropriate dispute resolution. For example, in working with school districts, the agency's investigative staff need to extend their techniques beyond traditional ones to include the newer appropriate dispute resolution methods of facilitation and negotiation.

In addition, the OCR staff must learn to identify clearly the impact of its work on students, on student access, on compliance activities and on partnerships with groups inside and outside the federal arena. Staff will also need to keep careful measurements of complaints to ensure their timely resolution. In the next fiscal year, we want to bring about change more efficiently for the greatest number of students – many of whom experience substandard schooling through circumstances of birth and geography.

With the full funding enjoyed by the OCR during the last fiscal year, we have been able to move away from putting nearly all our resources into investigating individual complaints. With this year's staff, we can now plan broad activities, including conducting compliance reviews and providing technical assistance on the areas that would do the most good for the greatest number of people. We have moved from an exclusively reactive mode that was necessary during our staff shortfall.

OCR has strengthened its time-honored goal of bringing equity to all students. In fiscal year 1998, we have made positive changes in the educational experiences of nearly six million students. Each of the efforts we make toward improving the lives of approximately 5.9 million students – whether it was moving an African American child into the gifted and talented courses appropriate for her, or making sure that visually impaired students studying in 110 state colleges would be able to use material from the library collection – has resulted in a federal expenditure, on the average, of only \$1 per student nationwide. We pledge to continue our work so that the OCR benefits the greatest number of people and impacts the most severe discrimination problems – and does it in the most efficient way possible.

We have to have high hopes for all of our children. And we have to make them know that they can have high hopes for themselves. A great nation that aspires to even greater things in a new century in a new millennium cannot afford to leave a single child behind.

President William J. Clinton

CR PUBLICATIONS

Please call 1-800-421-3481 if you would like one or more copies of these publications.

Title VI of the Civil Rights Act of 1964

Education and Title VI

English

Spanish

Historically Black Colleges & Universities and Higher Education Desegregation

Magnet Schools: Promoting Equal Opportunity and Quality Education

Provision of an Equal Education Opportunity to Limited-English Proficient Students

English

Spanish

Student Assignment in Elementary & Secondary Schools & Title VI

Title IX of the Education Amendments of 1972

Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test

Equal Opportunity in Intercollegiate Athletics

Sexual Harassment: It's Not Academic

Student Assignment in Elementary and Secondary Schools & Title IX

Teenage Pregnancy and Parenthood Issues

Title IX and Sex Discrimination

Title IX: 25 Years of Progress

Title IX Grievance Procedures: An Introductory Manual

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

Auxiliary Aids and Services for Postsecondary Students with Disabilities

Clarification of School Districts' Responsibilities to Evaluate Children with

Attention Deficit Disorders

Discipline of Students With Handicaps in Elementary and Secondary Schools

Free Appropriate Public Education for Students with Disabilities

Placement of School Children with AIDS

Rights of Individuals With Handicaps Under Federal Law

English

Spanish

Student Placement in Elementary & Secondary Schools and Section 504 and Title II

Civil Rights of Students with Hidden Disabilities

GENERAL

Annual Report to Congress (Years 93, 94, 95, 96, 97)

Application of Federal Civil Rights Laws to Public Charter Schools

Guidance Counselor's Role in Ensuring Equal Educational Opportunity

How to File a Discrimination Complaint with the Office for Civil Rights

English

Spanish

Vietnamese

Cantonese

Hmong

Impact of the Civil Rights Laws

GENERAL - (cont)

Nondiscrimination in Employment Practices in Education
Notice of Nondiscrimination
Office for Civil Rights: Ensuring Equal Access to Quality Education
Vocational Education & Civil Rights
What Schools Can Do to Improve Math & Science Achievement by Minority
& Female Students

OCR Regulations/Federal Register Policies

Age Discrimination Act of 1975
Award of Student Financial Assistance
Deaf Students Education Services; Policy Guidance; Notices
Guidelines for Vocational Education Programs
Intercollegiate Athletics Policy Interpretation
Title VI Civil Rights Act of 1964
Title IX Education Amendments of 1972
Racial Incidents and Harassment Investigative Guidance
Section 504 Rehabilitation Act of 1973
Sexual Harassment Guidance: Harassment of Students by School Employees,
Other Students, or Third Parties; Notice
Title II of the Americans with Disabilities Act of 1990

Other Miscellaneous Documents

ADA Self-Evaluation Guide for Public Elementary and Secondary
Schools (available through GPO)
Uniform Federal Accessibility Standard (UFAS)

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