

U.S. Department of Education  
Office for Civil Rights

Annual Report  
to Congress  
*Fiscal Year 2004*

**U.S. Department of Education**

Margaret Spellings

*Secretary*

**Office for Civil Rights**

James F. Manning

*Delegated the Authority of Assistant Secretary*

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## Mission:

*Ensuring equal access to education and  
promoting educational excellence  
throughout the nation through  
vigorous enforcement of civil rights.*



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## FOREWORD

2004 was a special year in America's longstanding efforts to provide equal educational opportunity for all people. It marked the 50th Anniversary of the U.S. Supreme Court's decision in *Brown v. Board of Education*, which declared racially segregated schools to be unconstitutional. 2004 also marked the 40th Anniversary of the *Civil Rights Act of 1964*, which prohibits racial and national origin discrimination by recipients of federal financial assistance, including educational institutions, and the 30th Anniversary of the U.S. Supreme Court's decision in *Lau v. Nichols*, which affirmed the educational rights of language minority students. These historic milestones helped bring about extraordinary achievements in efforts to eradicate racial segregation, eliminate educational discrimination, and ensure that all students have the opportunity to reach their full educational potential.

This report, which covers the activities of the U.S. Department of Education's Office for Civil Rights (OCR) from Oct. 1, 2003, to Sept. 30, 2004, demonstrates how OCR's compliance program continues in the tradition of these civil rights legacies. From investigating the misidentification of minority students in special education, to ensuring accessibility of college campuses for students with disabilities, to facilitating access of women to equal academic and athletic opportunities, OCR has vigorously pursued its statutory civil rights enforcement responsibilities.

These and other reported accomplishments also demonstrate how the fair, effective and efficient enforcement of the civil rights laws can support the goals of the *No Child Left Behind Act* by advancing both **excellence** and **equity**. After long decades, the pernicious achievement gap is beginning to close. Reading and math test scores are rising across the country, with disadvantaged and minority students leading the way.

In safeguarding the rights of all students to equal access to high quality education, we ensure their future and our nation's future. We need to stay the course. Our children deserve no less.

Respectfully submitted,

James F. Manning  
Delegated the Authority of  
Assistant Secretary for Civil Rights

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"The *Civil Rights Act of 1964* gives all Americans another reason to be proud of our country. The work of equality is not done because the evil of bigotry is not finally defeated. Yet the laws of this nation and the good heart of this nation are on the side of equality."

President George W. Bush  
Remarks Commemorating the 40th Anniversary  
of the *Civil Rights Act of 1964*, July 1, 2004

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"And while our schools are no longer segregated by law, they are still not equal in opportunity and excellence. Justice requires more than a place in a school. Justice requires that every school teach every child in America."

President George W. Bush  
Grand Opening, *Brown v. Board of Education*  
National Historic Site, May 17, 2004

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## OVERVIEW OF OCR COMPLIANCE AND ENFORCEMENT PROGRAM

The Office for Civil Rights (OCR) in the U.S. Department of Education (ED) is responsible for enforcing five federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, sex, disability and age by recipients of federal financial assistance. These laws are:

- Title VI of the *Civil Rights Act of 1964* (prohibiting discrimination based on race, color and national origin);
- Title IX of the *Education Amendments of 1972* (prohibiting sex discrimination in education programs);
- Section 504 of the *Rehabilitation Act of 1973* (prohibiting disability discrimination);
- *The Age Discrimination Act of 1975* (prohibiting age discrimination); and
- Title II of the *Americans with Disabilities Act of 1990* (prohibiting disability discrimination by public entities, e.g., public elementary and secondary school systems, postsecondary schools, and vocational education programs, whether or not they receive federal financial assistance).

In addition, OCR enforces the *Boy Scouts of America Equal Access Act*. This law addresses equal access for the Boy Scouts of America and other designated youth groups to meet in public schools that receive federal funds from the Department of Education.

These civil rights laws represent a national commitment to end discrimination in education programs. Since most educational institutions receive some type of federal financial assistance, these laws apply throughout the nation.

Coverage of these civil rights laws extends to:

- 14,559 school districts;<sup>1</sup>
- 4,168 colleges and universities;<sup>2</sup>
- 5,059 institutions conferring certificates below the associate degree level, such as training schools for truck drivers and cosmetologists;<sup>3</sup> and
- thousands of other entities, such as libraries, museums, and vocational rehabilitation agencies.

Consequently, these civil rights laws protect millions of students attending or seeking to attend our educational institutions. In certain situations, the laws also protect persons who

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<sup>1</sup> U.S. Department of Education, National Center for Education Statistics (2003). *Digest of Education Statistics 2003* (NCES-2005025), Washington, D.C.: Author, Table 85, p. 103.

<sup>2</sup> Ibid, Table 247, p. 311.

<sup>3</sup> Ibid, Table 365, p. 422.

## Overview of OCR Compliance and Enforcement Program

are employed or seeking employment at educational institutions. Overall, these laws protect:

- nearly 54.5 million students attending elementary and secondary schools;<sup>4</sup> and
- nearly 16.5 million students attending colleges and universities.<sup>5</sup>

Enforcing these laws is critical to carrying out the mission of the U.S. Department of Education—ensuring equal access to education and promoting educational excellence throughout the nation.

In FY 2004, OCR's budget was \$88,305,000, with full-time equivalent (FTE) staff of 655. See Figure 1 on historical funding and FTE.

U.S. Department of Education, Office for Civil Rights Appropriations, FTE & Workload Data FY 1994 – FY 2004							
FY	Presidential Request	Congressional Appropriation	FTE	Complaints		Compliance Reviews	
				Filed	Resolved <sup>†</sup>	Initiated	Resolved <sup>†</sup>
2004	\$91,275,000	\$88,305,000	655	5,044	4,968	53	29
2003	\$89,710,000	\$85,715,000	672	5,141	5,246	74	14
2002	\$79,934,000	\$79,666,000	698	5,019	4,842	11	18
2001	\$76,000,000	\$75,822,000	696	4,571	4,777	21	43
2000	\$73,262,000	\$71,200,000	712	4,897	6,364	47	71
1999	\$68,000,000	\$66,000,000	727	6,628 <sup>††</sup>	5,369	76	93
1998	\$61,500,000	\$61,500,000	685	4,847	4,753	102	100
1997	\$60,000,000	\$54,900,000	681	5,296	4,981	152	140
1996	\$62,784,000	\$55,277,000	744	4,828	4,886	146	173
1995	\$61,457,000	\$58,236,000	788	4,981	5,559	96	178
1994	\$56,570,000	\$56,570,000	821	5,302	5,751	144	90

<sup>†</sup> Includes cases carried over from previous years.  
<sup>††</sup> 1,614 filed by a single complainant.

**Figure 1**

<sup>4</sup> U.S. Department of Education, National Center for Education Statistics (2003). *Projections of Education Statistics to 2013* (NCES-2004013), Washington, D.C.: Author, Table 1, p. 45.

<sup>5</sup> Ibid, Table 10, p. 57.

## Organizational Structure

OCR is composed of a headquarters office, located in Washington, D.C., which provides overall leadership, policy development and coordination of enforcement activities, and 12 enforcement offices around the nation. The enforcement offices are responsible for the investigation and resolution of complaints of discrimination, the conduct of compliance reviews, and the provision of technical assistance. The majority of OCR's staff are assigned to the enforcement offices, which are located in Boston, New York, Philadelphia (Eastern Division); Washington, D.C., Atlanta, Dallas (Southern Division); Cleveland, Chicago, Kansas City (Midwestern Division); and Denver, San Francisco, Seattle (Western Division).

## Complaint Investigations and Resolutions

One important way OCR carries out its responsibilities is by investigating and resolving complaints. Persons who believe there has been a violation of the civil rights laws enforced by OCR may file a complaint with the appropriate enforcement office. OCR's process provides a forum for resolution of complaints of discrimination alleging violations of the civil rights laws.

OCR's primary objectives are to promptly investigate the complainant's allegations of discrimination and to accurately determine whether the civil rights laws have been violated. OCR is committed to providing timely relief to students who are denied equal access to educational opportunity. OCR will resolve 80 percent of resolved complaints within 180 days. In FY 2004, OCR received 5,044 complaints and resolved 4,968, some of which had been filed in previous years. OCR resolved 91 percent of these complaints within 180 days, significantly exceeding its goal of 80 percent. Timeliness is critical to students and parents in the resolution of civil rights issues and a very useful measure of the efficiency and effectiveness of our complaint resolution process.

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"The University is pleased to have been a part of the Early Complaint Resolution process, and is equally pleased that the process had a positive outcome. We appreciated the professional manner of the Office for Civil Rights staff."

Aug. 27, 2004, letter from a  
University Legal Counsel

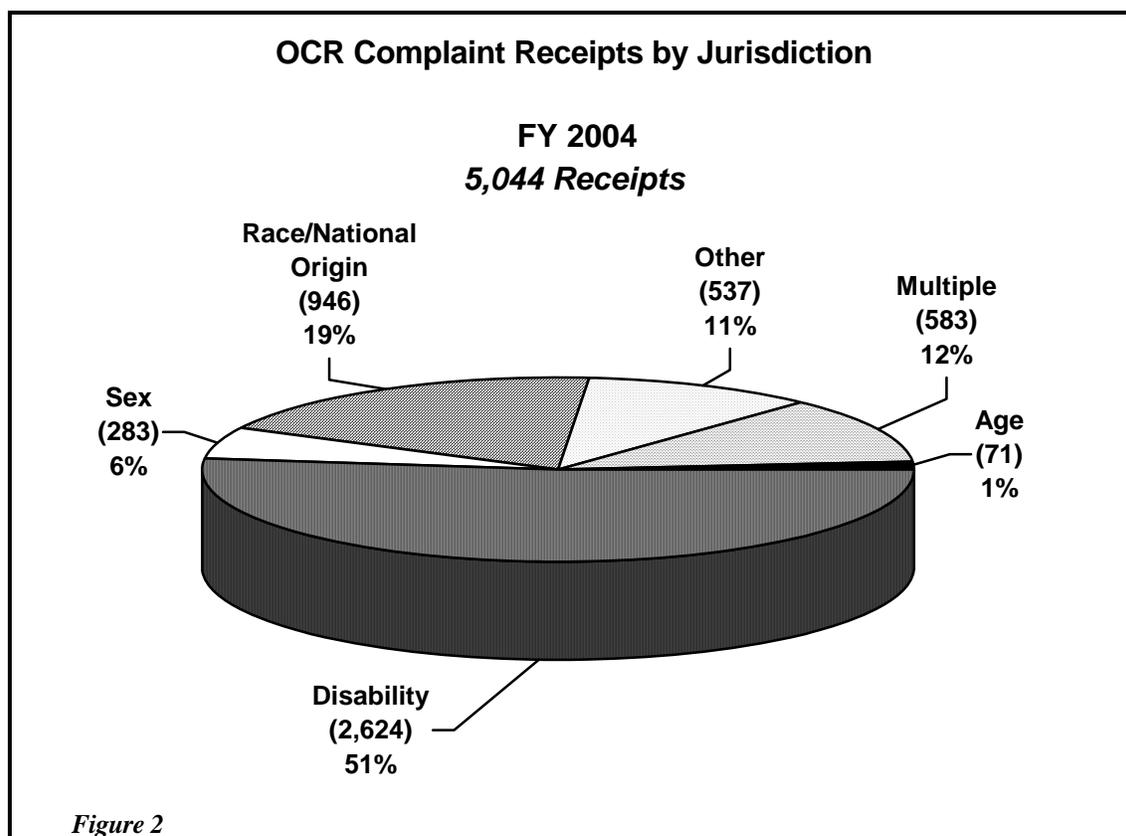
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During FY 2004, OCR revised its *Case Resolution Manual* and renamed it the *Case Resolution and Investigation Manual*. The new name and revised content reflected a shift to an investigative approach, which stresses full investigation of complaints. If these methods fail, OCR issues violation letters and enters into negotiations to correct those violations. It is only after OCR has advised recipients of their failure to comply with the civil rights laws and has determined that compliance cannot be secured by voluntary means that, as a last resort, OCR seeks compliance through the administrative hearing process or refers cases to the U.S. Department of Justice.

As in most years, the majority of complaints OCR received in FY 2004 alleged discrimination on the basis of disability (52 percent). We also find that other egregious

types of discrimination persist. For example, in FY 2004, OCR received a complaint alleging that the principal of a junior high school was placing black and white students in segregated classrooms. OCR initiated an investigation and determined that classes indeed were segregated by race. During the investigative process, OCR learned that the new district superintendent had also reviewed the situation and determined that no legitimate, nondiscriminatory educational justification existed for the segregated classrooms. The district entered into a voluntary agreement with OCR to develop and implement a race-neutral method for assigning students to classrooms.

Figure 2 shows the percentage of complaint receipts by jurisdiction.



Appendix A shows FY 2004 complaint receipts by OCR enforcement offices and Appendix B lists the contact information for each enforcement office.

As part of a nationwide initiative to use OCR's resources more efficiently, some states assigned to certain enforcement offices were realigned during FY 2004. This resulted in transferring from one enforcement office to another the enforcement responsibilities for South Carolina, Oklahoma, Iowa, North Dakota and Montana. These changes are reflected in Appendix B.

## Compliance Reviews and Other Proactive Initiatives

In addition to resolving complaints, OCR initiates compliance reviews and takes other proactive steps to focus on specific compliance problems that are particularly acute or national in scope. In general, targeted compliance reviews and proactive initiatives maximize the impact of OCR's resources and complement the complaint resolution process. These strategic activities benefit large numbers of students through policy or program changes by recipients designed to ensure compliance with the civil rights laws.

OCR initiated 53 compliance reviews in FY 2004 and brought 29 reviews to successful resolution, some of which had been started in previous years. Compliance review sites are selected based on various sources of information, including information provided by parents, education groups, media, community organizations, the public and, in certain circumstances, survey data to the extent it is supported by other sources of information.

More than half of the compliance reviews initiated in FY 2004 (28) involved a nationwide enforcement initiative to eliminate barriers to access for postsecondary students with disabilities. Areas of focus for these compliance reviews at both public and private postsecondary institutions included (but were not limited to) accessibility to residence halls, classrooms and academic buildings, and parking facilities. OCR also continued its efforts to review school districts' misidentification of minority and English language learner students in special education.

Of the 29 compliance reviews closed in FY 2004, 15 involved reviews of state departments of education to ensure that Title IX coordinators were designated and trained and that Title IX nondiscrimination policies and other information were published in accordance with regulations.

Figure 3 shows the number of reviews initiated and resolved by compliance issue.

<b>OCR Compliance Reviews by Issue FY 2004</b>		
<b>Compliance Issue</b>	<b>Initiated</b>	<b>Resolved*</b>
Ability Grouping	0	1
Accessibility	28	0
Admission to Vocational Education Programs (Title IX)	0	2
High Stakes Testing (Section 504)	1	0
Limited English Proficient Students and Special Education/ Services for Students with Limited English Proficiency	8	3
Minorities and Special Education	15	9
Procedural Requirements (Title IX)	0	15
Racial Harassment/Sexual Harassment	1	2
* Includes compliance reviews carried over from previous years. Also, several reviews contain more than one compliance issue.		

**Figure 3**

## Monitoring

To maximize its effectiveness in enforcing the civil rights laws, OCR monitors complaint and compliance review resolution agreements to ensure that the commitments made in these agreements are carried out. During FY 2004, OCR conducted 2,084 monitoring activities. Following are some examples that show OCR's impact on both individual students and groups of students when schools and colleges carried out their resolution agreement commitments.

- A school district refused to allow a student with a disability to transfer to another school but allowed school transfers for students without disabilities. Pursuant to a resolution agreement with OCR, the district revised its transfer policy so that the policy applies equally to all students.

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"I wish to thank you for your immense professionalism, cooperation, technical guidance, and expert management of this review throughout its duration. I personally derived invaluable knowledge and insight on the important role of your office in the continuing pursuit of equity and quality programs for public school children."

July 1, 2004, letter from a school district official after OCR completed compliance review

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- A school district was not exiting English language learner (ELL) students from its alternative language programs. The district later exited approximately 6,500 ELL students in one school year alone after it implemented its agreement with OCR. These students are increasingly successful in passing the state's high school competency examination and now have higher grade passing rates than students whose primary home language is English.
- The number of participation opportunities for female athletes increased by 70 percent at a university after it implemented its agreement with OCR.
- Students with diabetes were excluded from field trips in a school district. Also, staff was insufficiently trained to monitor and administer medications as needed during the school day and in extracurricular activities. These students are now joining their classmates on field trips, and the school district has adequately trained staff to serve the needs of students with diabetes.
- Visually impaired students now have access to information resources and technical staff at a major university. The university is providing various publications in alternative formats and orientation on the use of assistive technology to students with disabilities.
- After conducting a survey at its high school to assess the interests and abilities of its students, a school district added interscholastic girls' softball and volleyball teams. The new teams were provided the necessary equipment and supplies, and a facility was made available for the softball team.

- Mobility-impaired students in one of the nation's largest school districts did not have access to magnet programs at 21 schools. The school district will soon complete renovations, including ramps, elevators, visual alarms, computerized card catalogs and signage, which will allow access of such students to more than 300 magnet programs.
- American Indian students are no longer subject to discriminatory disciplinary procedures after a school district established a record-keeping system to ensure discipline is administered in a fair and nondiscriminatory manner. The district is also using a multicultural committee composed of parents and representatives of the local American Indian community to review disciplinary actions.
- A student using a wheelchair was excluded from physical education and recreation because of conditions at her elementary school's track. The district made the track accessible, and she now can participate in athletic activities.
- To come into compliance with Title IX regulatory requirements, a college that did not provide financial assistance on an equitable basis to its female athletes more than doubled the amount of such assistance during implementation of its agreement with OCR.
- A school district had only two certified teachers for delivering services to ELL students, whose enrollment was increasing at a substantial rate. After implementing its agreement with OCR, the district now has 73 certified teachers for delivering such services.
- Several state departments of education designated Title IX coordinators, adopted and disseminated nondiscrimination policies, and implemented grievance procedures to address complaints of sex discrimination.

### **Technical Assistance**

OCR provides information and other support services—known as technical assistance—to a variety of interested parties, including schools, colleges and community groups. Assistance to educational institutions helps them comply with federal civil rights requirements, while assistance to parents, students and others informs them of their rights under the law. OCR provides technical assistance through a variety of methods, including on-site consultations, conferences, training, community meetings and publishing and disseminating materials. Following are some examples of OCR's FY 2004 technical assistance activities.

In cooperation with the Southwestern Indian Polytechnic Institute, the Intercultural Development Research Association's South Central Collaborative for Equity and the Interwest Equity Assistance Center, OCR hosted the third and final Regional American Indian Symposium in Denver in FY 2004. This symposium was a follow-up to the *No Child Left Behind: Providing Educational Opportunity for American Indian and Alaskan*

Native Students conference hosted by OCR in Washington, D.C., in FY 2003. The Denver symposium included presentations on achieving accountability, reading readiness, teacher quality, school choice, parental involvement and OCR enforcement procedures. More than 250 people representing 29 tribes, 24 public school districts, seven Bureau of Indian Affairs schools, six state offices and parents of Indian students from the states of Arizona,

Colorado, Utah, and New Mexico attended the conference. Information was provided to attendees on *No Child Left Behind* programs and resources that support state and district-level efforts to raise the academic achievement of American Indian and Alaskan Native students.

In FY 2004, OCR participated in the second National Charter School Summit, held in Dallas, Texas. The summit provided an opportunity for states, the federal government, and technical assistance providers to address common strategies for successfully serving students with disabilities in charter schools. More than 200 educators and administrators attended the summit.

OCR continued its collaboration with the Higher Education Leadership Partners (HELP), a consortium of public and private colleges and universities, state education and rehabilitation agencies, and consumers in Virginia that focuses on disability and higher education. OCR worked extensively with the Virginia Association of Higher Education and Disabilities on issues relating to transition and retention, such as documentation and alternative or accessible formats for textbooks.

During FY 2004, OCR conducted several technical assistance presentations as part of an initiative to help migrant parents enhance their involvement in their children's education. These activities informed limited English speaking migrant parents about the civil rights laws and how they protect students and parents. Information also was provided on the importance of the *No Child Left Behind Act* in ensuring that each child succeeds at school. For example, OCR conducted three presentations, organized through the Tri-Valley Opportunity Council and the Texas Migrant Council, that reached 115 limited English speaking migrant parents in Indiana and Minnesota. Also, at the request of the Hispanic Parents Coalition of Adams County in Denver, OCR staff made a presentation in Spanish to approximately 100 limited English proficient parents who have children enrolled in the school district. OCR discussed the district's obligations under the civil rights laws for providing services to national origin minority students with limited English proficiency and parents' rights under the *No Child Left Behind Act*.

As a result of compliance reviews of two state departments of education, OCR was invited to provide training to the state and district Title IX coordinators for both states, including an overview of the requirements of Title IX and the responsibilities of Title IX

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“By ensuring a quality education for every child, we meet an important duty to the next generation. We’re giving young people the confidence and skills they need to succeed in higher education, and to fill the jobs of the 21st century. Education is the gateway to a more hopeful future, and we will make sure that gate is open to all Americans.”

President George W. Bush  
Radio Address to the Nation, Aug. 21, 2004

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coordinators. As a result of the training, a number of recipients have revised their Title IX procedures and updated information on their Web sites and in their publications.

In response to Executive Order 13166, which mandates improved access to federal programs and activities for persons with limited English proficiency, the Department contracted for telephone language assistance services so that those customers can readily communicate with OCR staff. The message on the OCR Hotline now instructs customers to press 9 if they want foreign language or alternate format assistance. The call is then rerouted to an OCR representative to provide appropriate assistance.

OCR also translated several pamphlets, including our most requested publication, *How to File a Discrimination Complaint with the Office for Civil Rights*, into Arabic, Chinese, Farsi, Hindi, Hmong, Korean, Punjabi, Urdu and Vietnamese. These publications will be added to OCR's electronic civil rights reading room on OCR's Internet Web site.

State vocational education agencies are responsible each year for conducting comprehensive civil rights compliance reviews of selected sub-recipient schools and programs and for reporting to OCR about these compliance reviews. Throughout the year, OCR provides technical assistance in response to questions from state agencies concerning the compliance determinations and remedies resulting from these reviews. In addition, OCR provides an annual four-day training conference to state agency coordinators of vocational education civil rights compliance activities. The training conference (offered with a choice between two locations and dates) is designed to provide in-depth training on the procedures and techniques state agencies should use in conducting their civil rights compliance program and reporting to OCR. In addition, the conference provides detailed guidance about legal requirements and investigative techniques relative to specific civil rights issues. The 2004 conference included sessions on program accessibility reviews, Title IX coordinator duties, and misidentification of minority students in special education. The conference also fosters information sharing and collaboration among representatives of the participating state agencies.

In addition to these kinds of proactive initiatives, OCR responds to inquiries and requests from the public. Calls and letters requesting assistance come from other federal agencies, state agencies, local school districts, community groups, parents and students.



## STRATEGIC PRIORITIES

The Office for Civil Rights has aligned its resources to ensure accomplishment of the goals and objectives of the *No Child Left Behind Act*. Following is a discussion and examples of OCR's activities in support of the *No Child Left Behind Act* and other high priority activities.

### Putting Reading First

In *No Child Left Behind*, the president and Congress set a goal that all children will read on grade level by the third grade. The Department has determined that, to reach this goal, reading instruction must be based on sound scientific research. Research shows that reading difficulties and behavior problems are among the most common reasons for referring students for special education. Pre-referral interventions focusing on reading problems have been demonstrated to reduce the number of children who are placed in special education programs.

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"We will no longer accept or excuse schools that do not effectively teach the basics. We will insist on high standards and accountability because we believe that every school should teach and every child can learn."

President George W. Bush  
Radio Address to the Nation, Jan. 3, 2004

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OCR's experience, including previous investigations, and survey data have shown that minority and limited English proficient students in particular may be misidentified in certain special education categories. Students inappropriately identified and then placed in special education programs often do not receive the same curriculum content as regular education students and may face barriers in their later efforts to obtain a regular high school diploma, pursue postsecondary education, or prepare for employment.

In April 2003, OCR launched a nationwide initiative to conduct compliance reviews in school districts around the country on the issue of the misidentification of minority students in special education. The initiative also focused on ensuring that national origin minority students are not referred for evaluation or placed in special education programs based on their limited English proficiency.

Therefore, OCR emphasized the importance of implementing high quality research-based reading programs to reduce the number of students who are misidentified and inappropriately placed in special education. Through its investigative outreach and technical assistance activities, OCR helps ensure that all children have equal access to high quality education.

Additional reviews on these issues were initiated in FY 2004. The reviews focus on school districts' possible misidentification of minority students and ELL students as disabled and whether their placement in special education programs is appropriate.

For example, in some of our reviews resolved in FY 2004, school districts were found in noncompliance with applicable requirements of the Section 504 and Title II implementing regulations with respect to pre-referral interventions, evaluation, and placement in the least restrictive environment.

In a resolution agreement, the district agreed to provide staff training and resource support for interventions, implement a system of record-keeping, and actively monitor the intervention process in the schools. It further agreed to develop guidelines, monitor and provide training in the areas of referral, evaluation, and eligibility determination. The district agreed to review the placements of all students currently identified as Educable Mentally Handicapped (EMH) and Emotionally Handicapped (EH), reevaluate if appropriate, and exit with transition services those students who do not meet eligibility criteria. The district also agreed to develop guidelines regarding least restrictive environment and relevant placement criteria and to assess the variations among the district's schools. It will review placements of all EMH and EH students currently in separate special education classes for more than 50 percent of the instructional day and, where appropriate, initiate changes in placement.

During FY 2004, OCR also provided technical assistance to state departments of education and local school districts on reducing referrals to special education by implementing research-based reading programs. For example, OCR met with representatives of the New Jersey Department of Education (NJDOE), the New York University Equity Assistance Center, and the Northeast Regional Resource Center to provide technical assistance on misidentification of minority students to five school districts identified by NJDOE.

### **Moving English Language Learners to English Proficiency**

One of the key strategies in *No Child Left Behind* is to ensure that English language learners meet rigorous standards. In addition to initiating eight compliance reviews on ELL issues in FY 2004, the OCR enforcement offices continued to work with districts to help them develop evaluation plans to ensure that language acquisition programs are research-based and that ELL students are meeting performance standards.

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"[The school district] appreciates OCR's continued technical assistance in developing and implementing a system of support and oversight of plans and procedures to ensure that [limited English proficient students] have equal and meaningful access to district educational opportunities."

Statement of school superintendent contained in the district's Dec. 13, 2003, monitoring report

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OCR also completed monitoring several resolution agreements, including a school district that was the subject of a compliance review. The district made improvements in providing access for ELL students to subjects other than English, especially at the upper content levels. The district also improved counseling and services for ELL students with disabilities and achieved better communication with parents.

In FY 2004, OCR also resolved a complaint alleging that a school district did not meaningfully communicate school-related information to parents of national origin minority students with limited English proficiency in a language they could understand, as required by Title VI. The district agreed to develop a plan for communicating with LEP parents, establish methods for notifying LEP parents of school-related activities, translate school documents into languages spoken by LEP parents, and recruit and hire interpreters to serve LEP parents.

## **Promoting Innovative Programs and Informed Parental Choice**

### *Transition from High School to College*

OCR continued its nationwide technical assistance initiative to help students with disabilities make the transition from high school to college, making presentations at a number of conferences around the country and hosting interactive group discussions for colleges, parents, students and high school guidance counselors. OCR conducted several “There Are No IEPs in College” workshops throughout the year and co-sponsored an international conference on transition.

### *Single-Sex Education*

OCR published a “Notice of Proposed Rulemaking” in the *Federal Register* on March 9, 2004, that would amend the Title IX regulations to provide additional flexibility for school districts interested in providing single-sex classes and schools consistent with Title IX. The proposed amendments would establish new exceptions, for nonvocational schools at the elementary and secondary education level, to the general prohibition against single-sex classes and would establish new substantive and procedural requirements to ensure nondiscrimination in the operation of single-sex classes under these new exceptions. Also, under the proposed amendments, the requirements applicable to local education agencies that operate a single-sex nonvocational school would change in that they would be permitted to provide either a substantially equal single-sex or coeducational school, rather than be required to offer a single-sex school to students of the excluded sex.

### *Information for Parents and Recipients*

OCR uses technology to deliver timely, accessible information to parents, students, teachers, and education decision makers and to improve access to OCR information appropriate to customer needs through its interactive, Web-based, contact information system (<http://www.ed.gov/ocr>). Approximately half of OCR’s complaints are filed using the agency’s online complaint form. The Department has made certain types of records, created on or after Nov. 1, 1996, available electronically on the Internet.

OCR’s former biennial Elementary and Secondary Schools Survey has now been merged with the Department’s Educational Data Exchange Network (EDEN), a central repository of information on K-12 programs, including *No Child Left Behind Act* data. 2004 civil

rights data is being collected through the Supplemental Survey Tool Civil Rights Data Collection. The Supplemental Survey is primarily a Web-based collection, and a large majority of school districts are now providing civil rights data to the Department using the Web for the first time. In addition, the 2004 civil rights data collection is the first use of the Supplemental Survey Tool, which will assist EDEN in developing a data system that has the capability to collect data from school districts and schools and integrate civil rights and other data with the EDEN database, including essential *No Child Left Behind* data.

### **Encouraging Safe Schools**

Harassment could deny a student the right to an education free of discrimination and could threaten a student's physical or emotional well-being, influence how well a student does in school and make it difficult for a student to achieve his or her career goals. Also, in cases where harassment is so severe, pervasive, and objectively offensive that it interferes with benefits protected by law, the courts have made it clear that such harassment is illegal and requires recipients to take effective action to stop harassment and prevent its recurrence.

#### *Racial Harassment*

OCR found that a school district failed to take appropriate action when notified of incidents of racial harassment. These incidents included a racially motivated fight involving 15 students; racially derogatory remarks directed at African American students; and a white student calling a Pakistani student a "terrorist." The district

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"And our country must abandon all the habits of racism because we cannot carry the message of freedom and the baggage of bigotry at the same time."

President George W. Bush  
Inaugural Address, Jan. 20, 2005

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agreed to revise and disseminate its grievance procedures and conduct training on recognizing harassment and investigating allegations of racial harassment.

#### *Sexual Harassment*

OCR received a complaint that a school district did not take prompt and effective action when notified that a student was sexually harassed by a teacher. Following OCR's investigation, the district agreed to reimburse the family for counseling the student has received to assist in overcoming any effects of sexual harassment and to cover co-payment fees if additional counseling is required. The teacher was disciplined and required to take training on sexual harassment. The student also will be allowed to take a class normally taught by the teacher as an independent study assignment with another teacher.

### *Disability Harassment*

In another OCR complaint resolution, a mother withdrew her son from classes because she felt the school was not trying to prevent harassment directed at him for being disabled. As a result of assurances from the district that it would monitor the situation, the student agreed to return to the school.

### *Post-September 11 Harassment*

OCR continued efforts to assist communities in avoiding incidents of harassment and violence aimed at students, teachers or other persons perceived to be Arab Americans or of Middle Eastern or South Asian origin. For example, one of the enforcement offices worked closely with the Council on American-Islamic Relations and was recognized by the Sikh American Legal Defense and Education Fund, a national Sikh civil rights organization, for its outreach activities.

### *Promoting Safe Schools*

OCR participated in several state initiatives aimed at preventing harassment, intimidation and bullying in the schools. In partnership with the Washington State Office of Public Instruction, OCR delivered eight presentations throughout the state on identifying strategies to promote harassment-free school environments. The sessions were widely attended by school district Title IX coordinators, school counselors, principals and other administrative staff seeking information to promote safe schools.

## **Accountability**

Pursuant to the *President's Management Agenda* and building on the Department's *Culture of Accountability Report* and *Strategic Plan*, in 2003, OCR formed a team to examine its primary line of business—the case resolution process. OCR's Team developed a set of recommendations to reengineer the case resolution process in order to promote consistency and high quality, enhance efficiency, and improve customer service. In July 2003, the Department's Executive Management Team accepted OCR's recommendations. Throughout FY 2004, OCR developed and undertook a comprehensive series of strategies designed to implement the recommendations. Significant strategies are discussed below.

### *Case Management System*

The Case Management System (CMS) is an automated tool that OCR uses to track OCR's complaint and compliance review investigations and proactive activities such as significant technical assistance. CMS is a primary data source for measuring progress in achieving agency objectives. Moreover, the document management part of the CMS reduces reliance on paper complaint files for documenting OCR's case resolution activities and provides users the ability to perform a variety of functions involving

particular cases, such as indexing of party and witness interviews and evidentiary documents.

#### *Customer Service*

OCR adopted improved customer satisfaction in the case resolution process as one of its performance indicators under the *Government Performance and Results Act*. The office developed a new set of customer service standards, addressing such areas as courtesy, promptness, fairness, and consideration of customers' time and needs. These standards are prominently displayed in all OCR offices and on OCR's Web site. OCR is emphasizing the importance of customer service in relevant OCR publications as they are reprinted and in communications about the case resolution process with our customers through training for OCR staff. To evaluate the success of our efforts, OCR began an ongoing survey of customer satisfaction in 2004. The survey responses will help OCR assess the effectiveness of our standards and their implementation and enable us to ensure that we provide high quality service.

#### *Casework Tools*

2004 also brought the rollout of the internal automated casework tools system. Casework tools are documents that have been identified as meeting specific agency standards for high quality and that can be adapted for use by our staff to save time on specific case related activities. Population of the casework tools database is reviewed on an ongoing basis. Identification of casework tools that meet high quality standards and that help all of OCR staff be more efficient is an important step in the process of improving the way we conduct civil rights investigations.

#### *OCR Policy Repository*

In FY 2004, OCR also established an internal automated Policy Repository. The Policy Repository is yet another resource to ensure consistency and high quality, improve efficiency, and enhance customer service. When fully implemented, the repository will consist of a searchable current policy document collection with ensured content integrity that substantially reduces duplication.

#### *Case Processing Standards*

OCR also developed new case planning and monitoring standards in FY 2004. These standards are simple but important principles that apply to all OCR cases. They are intended to enhance quality, efficiency and customer service in OCR's overall case resolution process.

#### ***Boy Scouts of America Equal Access Act Rulemaking***

*The Boy Scouts of America Equal Access Act*, part of the *No Child Left Behind Act*, addresses equal access to meet in public schools that receive federal funds from the

Department. The law covers the Boy Scouts and other youth groups listed in Title 36 of the *U.S. Code* as a patriotic society. During FY 2004, OCR completed drafting a “Notice of Proposed Rulemaking,” which was published in the *Federal Register* on Oct. 19, 2004, and provided for a 45-day public comment period. While OCR received no complaints alleging violations of the act during FY 2004, one of the five complaints submitted the previous year was resolved in FY 2004.

### ***Brown v. Board of Education 50th Anniversary Commission***

In 2001, President Bush signed legislation that established the *Brown v. Board of Education 50th Anniversary Commission* for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the U.S. Supreme Court’s landmark May 17, 1954, decision in *Brown v. Board of Education*, which declared racially segregated schools to be unconstitutional. OCR was primarily responsible for organizing and managing the commission. Over the past three years, the commission disseminated information about the *Brown* decision through lectures, town hall meetings, writing contests and public service announcements. The programs included:

- The Latino Pursuit for Excellence in U.S. Public Schools: *Mendez* (1946) and *Brown*;
- Today and Beyond, Advocating Equality for All: The Impact of Women Civil Rights Activists on *Brown*; and
- Making the Spiritual Practical: The Impact of the Faith Community on *Brown*.

Each program addressed the impact of *Brown* on current educational policies. The U.S. Department of Education also commissioned artwork for a commemorative poster, which was disseminated to every school district in the country.

On May 17, 2004, at the opening of the *Brown v. Board of Education* National Historic Site in Topeka, Kan., President Bush said, “On this day, in this place, we remember with gratitude the good souls who saw a great wrong, and stood their ground, and won their case. And we celebrate a milestone in the history of our glorious nation.”

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“*Brown* promised access to school for all children, regardless of their skin color. Today, *No Child Left Behind* aims to go beyond that question of access: Now that everyone can walk into the schoolhouse door unimpeded and unafraid, we have to make sure that they receive a high-quality education.”

Rod Paige  
Secretary of Education, March 25, 2004

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## OTHER EFFORTS TO ENFORCE THE CIVIL RIGHTS LAWS

### Regulations and Policy Guidance

OCR also pursues compliance by federal fund recipients by promulgating regulations implementing the civil rights laws, by developing clear policy guidance interpreting those laws, and by broadly disseminating this information to educational institutions, parents, students, and others. Effective civil rights enforcement in education requires that educational institutions understand the legal and regulatory requirements and that students, parents, and other members of the public understand their rights. To meet these goals, OCR issues guidance in many different media, including through the Internet, and updates and augments that guidance regularly to ensure that OCR guidance reflects current developments in civil rights law and educational practice.

#### *Race-Neutral Alternatives*

In the 2003 *University of Michigan* decisions, the U.S. Supreme Court held that diversity may be a compelling interest and institutions must undertake “serious good faith consideration of workable race-neutral alternatives” before using racial preferences to achieve student body diversity. In FY 2003, OCR began an initiative to provide technical assistance and public education regarding race-neutral approaches to achieving student body diversity.

OCR’s continuation of this initiative seeks to foster innovative thinking about using race-neutral means to produce diversity in educational institutions and to help create a positive climate in which such race-neutral alternatives can be considered. OCR released a report entitled “Achieving Diversity: Race-Neutral Alternatives in American Education” on March 26, 2004. The report, a revised and expanded version of OCR’s 2003 report, “Race-Neutral Alternatives in Postsecondary Education: Innovative Approaches to Diversity,” catalogs many of the race-neutral approaches that K-12 schools, public and private colleges, and graduate and professional schools are implementing across the country.

For example, the report describes partnerships between colleges and public schools that facilitate mentoring; state partnerships with the College Board to improve educational achievement among students attending low-performing schools; use of socioeconomic criteria for student assignment and university admissions; partnerships between community colleges and traditional research institutions that encourage students to transfer into research institutions; and class-rank plans guaranteeing university admission to high school seniors who graduate within a specified percentage of their class.

*Title IX Administrative Requirements*

In April 2004, OCR issued a Dear Colleague Letter to the chief state school officers and state and local education agencies to remind them of certain requirements of the Title IX regulations. The regulations require recipients to designate a Title IX coordinator, adopt and disseminate a nondiscrimination policy, and implement grievance procedures to address complaints of discrimination on the basis of sex in educational programs and activities. A similar letter was issued in August 2004 to postsecondary institutions.

*Rights of All Students*

OCR issued a Dear Colleague Letter in September 2004 to local education agencies and postsecondary institutions clarifying the rights of all students, including students of faith, to be free from race, national origin, and sex discrimination in cases where such discrimination may be commingled with religious discrimination. The letter makes clear that, although OCR does not have jurisdiction over religious discrimination, OCR will exercise its jurisdiction to enforce the Title VI prohibition against national origin discrimination, regardless of whether the groups targeted for discrimination also exhibit religious characteristics. Thus, for example, OCR aggressively investigates alleged race or ethnic harassment against Arab Muslim, Sikh and Jewish students.

In addition, the letter reminds educational institutions that they must formulate, interpret, and apply their rules in a manner that respects the legal rights of students and faculty, including those court precedents interpreting the concept of free speech.

*Extracurricular Activities*

OCR issued a joint Dear Colleague Letter with the Civil Rights Division of the U.S. Department of Justice reminding the chief state school officers and school districts that extracurricular activities must be operated in a nondiscriminatory manner. The letter makes clear that such practices as allocating awards or honors on the basis of race (for example, racially separate homecoming queens and kings, most popular student) or assistance in facilitating racially separate proms are inconsistent with federal law and should not be tolerated. Further, the letter states that the U.S. Department of Education and the U.S. Department of Justice will act promptly to remedy such violations where they occur, through litigation, if necessary.

**Magnet Schools Assistance Program**

The Magnet Schools Assistance Program (MSAP), administered by the Department's Office of Innovation and Improvement, provides financial assistance to school districts that are seeking to improve educational programs and to reduce, prevent or eliminate minority group isolation. The program provides three-year grants for the enhancement or establishment of magnet schools. The assistant secretary for civil rights is required to certify that applicant school districts will meet nondiscrimination assurances specified in

the MSAP statute. OCR also assesses whether applicants' MSAP plans are consistent with Title VI of the *Civil Rights Act of 1964*.

During FY 2004, OCR provided technical assistance and certified new three-year awards for 50 school districts. OCR concluded that one district could not meet the nondiscrimination assurances required under the MSAP statute. OCR also reviewed and certified the annual reports of two districts already receiving MSAP assistance. As necessary, OCR also provided technical assistance to several MSAP recipients in complying with civil rights statutes as well as program goals.

### **Equal Opportunity in Vocational Education**

Under OCR's Vocational Education Programs Guidelines, state vocational education agencies are responsible for conducting civil rights reviews and other compliance activities with their subrecipient schools and programs and reporting to OCR about these activities. State vocational education agency reports are submitted biennially to OCR. In FY 2004, OCR responded to more than 30 state agency reports by providing suggestions for enhancing the effectiveness of agencies' compliance and enforcement activities in improving student access to vocational education programs on the basis of race, color, national origin, sex, and disability. During the two years covered by these reports, state agencies conducted more than 300 compliance reviews, 80 percent of which resulted in corrective action and improved opportunities for students.

OCR also conducts a four-day training conference each year for state agency civil rights staff on the procedures and techniques state agencies should use in conducting their civil rights compliance reviews and reporting to OCR. Training also is provided about program requirements and investigation techniques applicable to various complex civil rights issues.

### **Higher Education Agreements**

In *United States v. Fordice* the U.S. Supreme Court set out standards for determining whether states that previously operated racially segregated higher education systems have met their affirmative duty to dismantle those systems and their vestiges under the Fourteenth Amendment to the U.S. Constitution and Title VI. After the decision, OCR negotiated and entered into agreements to eliminate such vestiges in Florida, Texas, Kentucky, Ohio, Pennsylvania, Maryland, and Virginia.

During FY 2004, OCR continued to monitor the implementation of its higher education agreements with the seven states. The states made progress in enhancing the facilities of their historically black institutions. For example, Prairie View A&M and Texas Southern are continuing to enhance their facilities and also strengthen high demand academic programs. Florida made significant progress in the graduation of minority students from its two-year community colleges and increased the number of minority associate degree recipients who enroll in the state university system. It also increased funding for need-

based and merit scholarships at its vocational schools, two-year colleges, and four-year universities.

### **Examples of OCR Case Resolutions**

Across the country, OCR's enforcement program is having a profound influence on the lives of students at all education levels. Following are some examples.

#### *Making Academic Adjustments for Students with Disabilities*

A student with neurological disorders was denied a request for academic adjustments in order to reduce distractions while taking examinations. The college resolved the complaint by designating a location for administering examinations for all students who, because of their disability, need a separate facility to take examinations. The college also agreed to post a sign to ensure students are not interrupted while taking examinations.

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"I wish to express my appreciation to the people that handled my son's case. ... [T]hey assured me that they would make sure my son's accommodations would be followed. I knew they really cared. Thank you for having these kinds of people available to care for kids who have come out on the short end of the stick. I'm eternally grateful."

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Oct. 27, 2003, letter from  
complainant after OCR completed investigation  

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#### *Extending Housing to Older Students*

A 40-year-old student was informed that university housing was reserved for students up to 22 years of age. The university resolved the complaint by providing housing to the student.

#### *Disciplining Students Without Regard to Race or National Origin*

The parent of an African American student alleged that her son was given a detention for being late to school while two white students, who also were tardy on the same date, received no sanction. OCR learned that the students involved were on their way to school in the same car when it ran out of gas. While the school was alerted immediately of the situation by the parents of the white students, it received no notice regarding the African American student. After sharing the information and discussing the circumstances, the assistant principal advised the parent that her son did not have to serve the Saturday School detention and that all records related to the incident would be expunged from the student's file.

In one school district, OCR found that Hispanic students were required to attend a meeting and sign contracts accepting more severe disciplinary sanctions than those normally imposed. White students with similar school conduct records were not required to attend. In response to OCR's findings, the district sent a notice to all parents in English and Spanish about using the district's discrimination complaint procedures. Parents of the

students who attended the meeting also received letters expressing regret and outlining steps the district will take to prevent a recurrence.

### *Protecting Students from Disability Harassment*

OCR found that a district failed to take action when informed that a disabled student was harassed during football games. The district resolved the complaint by developing grievance procedures addressing disability harassment and later trained staff and students on the new procedures. The district's disability harassment policy and procedures are now contained in student and staff handbooks.

### *Assigning Students Without Regard to Race*

A class complaint alleged that African American students were discriminatorily assigned to low level ability grouped classes. In investigating the complaint, OCR found the district's placement criteria were inconsistently applied resulting in a majority of African American students placed in low ability groups without sufficient educational justification. The district agreed to revise its ability grouping procedures so that students are assigned in a nondiscriminatory manner.

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"Once again I am writing to give you the status of my son and to thank you for all you have done to make his life a success. In the fall, he finished all of his class requirements. This semester he is interning at a newspaper... He completed his courses with a 3.1 GPA. He has never gotten anything below a B- since his freshman year! His overall GPA went from a 0.9 at the end of freshman year.... You gave him the chance to achieve this success, and we are forever grateful.... He has found his way in life, and you gave him the opportunity to do this. Thank you, thank you, thank you. We can't say it enough."

Jan. 25, 2004, letter from parent whose complaint was resolved by OCR several years ago

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OCR's investigation of a complaint against another school district found intentional segregation of African American kindergarten students. Before each school year, the school principal selected approximately 20 African American children from the pool of new kindergarten students and established an all African American class taught by the district's only African American kindergarten teacher. School administrators offered no legitimate nondiscriminatory educational justification for the establishment of the racially segregated class or its assignment to the school's sole African American teacher. Instead, OCR was informed the class was established in response to requests from African American parents and as an attempt to prevent "white flight." The district made commitments to immediately assign students on a basis other than the race of the student or teacher.

### *Eliminating the Effect of a School Attendance Policy on Students with Disabilities*

A district's policy allows for adding three extra points to a student's average grade per quarter if a student has perfect attendance. The complainant alleged her daughter was adversely affected by this policy because of her asthma. Although the district questioned whether the daughter was disabled, it had not conducted an evaluation. The district

agreed to evaluate the student to determine whether she had an impairment that substantially limits a major life activity, and, if so, whether reasonable modifications could be made to give the student an equal opportunity to benefit from the attendance policy.

*Communicating with Parents Who Do Not Speak English*

A school district discriminated against parents of national origin minority students with limited English proficiency by failing to communicate information about their children in a language they could understand. The complaint was resolved based on the district's commitment to establish interpreter and translation services and other parent communication procedures. The procedures ensure that the district's communication of information to national origin minority parents is as effective as its communication with parents who speak English.

*Communicating with Visually Impaired Students*

A complainant alleged that a university discriminated against a visually impaired student by sending him letters about his financial aid that he was unable to read. Under the agreement OCR negotiated, the university assigned an employee in the financial aid office to reformat outgoing correspondence to the complainant in a font size at least as large as that determined appropriate for written materials in the complainant's classes. The university also provided a page magnifier so that the complainant could review promptly any correspondence from the financial aid office that inadvertently is missed during the manual review.

Another OCR investigation at a state university determined that visually impaired students did not receive requested alternate format textbooks in a timely manner. In several instances, the complainant had to withdraw from classes because textbooks were not available. The university made comprehensive commitments to ensure that visually impaired students have timely access to textbooks. This includes an improved tracking system so students know the status of their requests.

*Eliminating Shortened School Day for Students with Disabilities*

Transportation scheduling resulted in a shortened school day for 140 students with disabilities. OCR's investigation showed that some students were denied as much as one hour of daily instruction. Under its resolution agreement, the district altered bus transportation schedules so that no student was denied access to a full school day. The district also provided compensatory services for the students who were affected by previous transportation schedules.

*Providing Students with Disabilities Equal Access to a Childcare Program*

A parent requested a personal aide for her son, who has Tourette's syndrome and attention deficit hyperactivity disorder (ADHD), to permit his access to a childcare

program. The school district did not act on the parent's request for an aide or consider another reasonable accommodation. This resulted in his termination from the program because of behaviors manifested by his disabilities. As a remedy, the district established a process for responding to all requests for accommodations and will apply the process to the student.

*Providing Necessary Services for Students with Disabilities*

A mobility-impaired student was forced to withdraw from driver's education because the district did not provide an automobile with hand controls and an instructor trained in their use. After discussing the matter with OCR, the district outfitted a car with hand controls and obtained the services of an instructor from the physical therapy department of a medical center, who trained the student in using the equipment. The district also informed OCR that the student's learning permit, which was suspended while she was not participating in the driver's education program, was reinstated. The complainant confirmed, after the district provided the accommodations, that his daughter was able to participate in the road instruction portion of the driving course.

*Removing Discriminatory Pre-Admission Inquiries from Admission Applications*

An applicant was denied admission to a school district's adult and continuing education program based on a response to a question regarding disability on the admissions application. The district deleted the question from the application and granted admission to the complainant.

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"For more than a decade, the female students at [the high school] have been ignored, neglected, and lied to.... They were forced to settle for not less but nothing, while the boys sports programs were given anything they need. The response when you asked someone in charge was 'we'll look into it.' The response when you asked a parent of a female athlete was 'there's no hope'.... OCR solved years of frustration.... For the first time this year, our girls will have adequate and equal facilities. We had been prepared to settle for substandard just to get anything. God bless you."

E-mail message from parents  
at a high school, Jan. 12, 2004

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*Improving Athletic Facilities for Female Athletes*

A complainant alleged that a university was failing to treat female and male student athletes equally in the provision of practice and competitive facilities. OCR's on-site investigation revealed that the interior walls of the women's swimming pool had significant decay, which could present health and safety risks to the team's participants. The swimming facility was the only campus athletic facility that lacked adequate seating arrangements for spectators. The women's soccer field was the only competitive facility without a scoreboard. Also, the women's soccer team practiced on the same field used for competitions. The added wear and tear placed on the soccer field during practices affected the quality of the field available for competitions. The on-campus outdoor tennis courts were not available to the women's tennis team because of the courts' poor quality. As a result, the team had to practice during inconvenient evening hours at two off-site facilities. Also, the women's soccer field was inadequately watered and the women's

softball field was never watered, which diminished the quality of the playing surfaces available to those teams. When reviewing the athletic program as a whole, OCR found that these disparities consistently disadvantaged the university's female athletes and were substantial enough to deny them equal athletic opportunity.

Based on OCR's findings, the university agreed to repair and install spectator seating in the women's swimming facility and install an electronic scoreboard for the women's soccer field. The university ensured that the women's soccer team has access to a separate practice area that adequately met the team's practice needs. Under its agreement, the university also implemented a schedule for the equitable maintenance of all outdoor practice and competitive facilities and will resurface or replace the on-campus outdoor tennis courts.

#### *Making Programs Accessible to Students with Disabilities*

An individual with a disability may not be excluded from an educational program because an institution's facilities are inaccessible or unusable by individuals with disabilities. OCR investigated a complaint on the accessibility of more than 1,500 portable trailers a district uses for regular classrooms. OCR substantiated that all of the trailers lacked ramps and accessible entrances, and also fell into the "new construction" provision of the Section 504 regulation. Additionally, we found that the programs housed in each of these trailers were used to provide educational programs which were not otherwise available in an accessible location. Therefore, all of the trailers were required to meet new construction accessibility standards. The district made commitments to either eliminate the portable trailers or make them accessible to students with mobility impairments.

Students experienced serious problems because a university was not meeting accessibility standards. An undergraduate student had problems entering her dormitory and reaching the card readers to access vending machines. On one occasion, facilities staff bumped her scooter down the stairs to evacuate her from a building because they were unaware of how to transport the scooter. Another student who uses a wheelchair had to wait four months before the university installed a shower seat, hose, and handrails in his dormitory's bathroom. Students in wheelchairs had to be carried while trying to obtain services at the health center.

OCR obtained a compliance agreement that ensured that the campus is fully accessible. The university agreed to a plan ensuring students with mobility impairments access to its programs and activities. Also, the university provided training to all administrators and its student life and disability services employees about Section 504 requirements for accessibility of existing facilities and newly constructed or altered facilities.

#### *Ensuring Emergency Treatment for Students with Diabetes*

A mother of a student with diabetes alleged the district was in violation of the disability laws by not designating trained individuals to administer glucagon in the event the school

nurse is not available at the time of an emergency. The district's policy permitted only registered nurses to administer injections but designates a partner nurse at each campus to fill in during an emergency. The resolution agreement required the district to provide specific information and guidelines on the use of the partner nurse. These include communication procedures between the school campus and partner nurse and a protocol for contacting the parent and the emergency medical system and for monitoring response time.

*Assuring Students Are Not Placed in a Racially Segregated Educational Setting*

A complainant alleged a school discriminated against her son and approximately 70 other third- and fourth-grade African American students by treating them differently on the basis of race. She alleged the students were taken from their classrooms, placed in a racially segregated setting, and given their test scores on the state's assessment test. The test results showed lower scores for African American students compared to white students. The vice principal confirmed that he talked to the African American students without any nonminority students being present. He stated the purpose of the meeting was to encourage African American students to improve their scores. The students were told if they performed better in future tests, they would each be rewarded with a popsicle.

Under Title VI, no person on the basis of race shall be subject to segregation or separate treatment in any matter related to the receipt of any service or benefit. The district submitted assurances that it will not segregate African American students on the basis of race in any educational setting and will treat all similarly situated students the same. Also, the district agreed to write to parents, staff, and students explaining the incident and providing assurance that this type of action will not occur in the future.

*Ensuring Opportunity for Students with Disabilities to Participate in School Graduation*

A mother was informed that her son, because of his disability, would not be allowed to participate in the graduation ceremony the same as other students. Instead, the student would be seated with his parents and his diploma would be handed to him. The decision was based on the opinion of a special education teacher that the student would not be able to participate in the ceremony without difficulty. The complaint was resolved after the district reconvened the student's individual education program team to determine the full extent and manner in which the student could participate in the graduation ceremony.

*Ending Racial Harassment of Minority Students*

A complaint alleged that a school district neglected to prevent and end racial harassment of African American and Hispanic students at a high school. The complainant stated that the district permitted a hallway

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"I am sorry to say that many of the parents will never know how you have made a positive difference in the way their children will be treated in the future. You are a piece of a puzzle that has been interlocked with others so that children and their rights will be protected. I understand this is your job, however it is your integrity I admire the most."

Aug. 30, 2004, letter sent by  
complainant to an OCR enforcement office

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where only white students were allowed to walk, discriminated in enforcing its dress code, and retaliated against the complainant for reporting incidents of racial harassment. OCR participated in detailed discussions and facilitated an agreement whereby the school district consented to conduct school and community forums to improve racial harmony and enforce disciplinary rules prohibiting racial harassment, including offensive conduct.

## MAKING A DIFFERENCE

Congress enacted the civil rights laws as a mandate to bring the formerly excluded into the mainstream of American education. These laws also are designed to carry out the U.S. Department of Education's commitment to assuring access to equal educational opportunity for every individual.

The federal civil rights laws have helped bring about profound changes in American education and improved the educational opportunities of millions of students. Many barriers that once prevented minorities, women and girls, and individuals with disabilities from freely choosing the educational opportunities and careers they would like to pursue have been eliminated.

While we applaud this progress, we recognize that there are persons who continue to be denied equal access to quality education. However, behind statistical data and research findings is a human face—a student hoping for a chance to learn and excel. This hope is expressed eloquently in the letter below from a college student with a disability. The statement serves as a reminder of the potential impact of the civil rights laws in making a difference in improving individual lives.

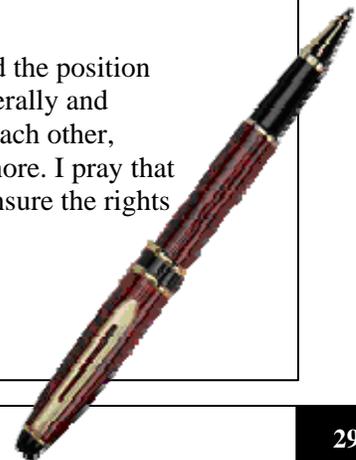
I am one of the millions of students who have a learning disability, dyslexia, and I also have health problems that make ordinary daily living a challenge....

The life I live is hard but not impossible. I am not looking for pity or sympathy or platitudes. I do not want undeserved special treatment. I am not an exception, a freak, a statistical abnormality. I am a real person with real disabilities. The problems I live with are hard for you to see. I have no wheelchair, white cane or hearing aid. If you use your imagination, maybe you can picture my life, wanting to talk, to listen, to read, to learn, and not being able to. Now add to that the confusion of harsh, chronic pain and frequent loss of motor control. This is my condition, a condition compounded by stress and frustration.

All I ask is a little respect in a world where people and institutions are allowed to discriminate against disabled persons in the interest of convenience and conformity. I can achieve anything, learn to do anything, but not in an environment of censure and bureaucratic red tape. I am asking for a chance, a fair chance, to get an education. I am willing to fight for my future. I should not be penalized by the attitudes of people who are allowed to sweep the disabled under a rug, refusing them their rights as individuals.

I am presenting this matter to you so that you might better understand the position of disabled persons. We are fighting for our lives, every day, both literally and figuratively. We have to fight for justice, both for ourselves and for each other, because, whether our disabilities are visible or not, we are easy to ignore. I pray that you will help me complete my education and that you will work to ensure the rights of all disabled students....

Letter from a college student forwarded to OCR  
by a former member of the House of Representatives





**APPENDIX A: FY 2004 COMPLAINT RECEIPTS  
BY OCR ENFORCEMENT OFFICES**

**FY 2004 Complaint Receipts by OCR Enforcement Offices**

	Race/ National Origin	Sex	Disability	Age	Multiple	Other	<i>Total</i>
Boston	41	20	212	3	52	22	<b>350</b>
New York	66	23	231	8	38	74	<b>440</b>
Philadelphia	61	21	223	13	49	34	<b>401</b>
District of Columbia	65	15	124	2	25	24	<b>255</b>
Atlanta	156	28	333	8	58	69	<b>652</b>
Dallas	118	31	292	1	63	58	<b>563</b>
Chicago	94	41	240	12	80	36	<b>503</b>
Cleveland	56	14	171	3	25	20	<b>289</b>
Kansas City	70	20	145	6	48	29	<b>318</b>
Denver	52	14	156	7	27	90	<b>346</b>
San Francisco	117	37	344	6	74	60	<b>638</b>
Seattle	50	19	153	2	44	21	<b>289</b>
<b>National</b>	<b>946</b>	<b>283</b>	<b>2,624</b>	<b>71</b>	<b>583</b>	<b>537</b>	<b>5,044</b>



## APPENDIX B: OFFICES AND ADDRESSES

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

400 Maryland Avenue, SW, Washington, DC 20202-1100  
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