

Loudoun County Minority Student Achievement Advisory Committee

*January 27th, 2021
7:00 p.m.*

*Lisa Cylar Barrett
Director of Policy
NAACP Legal Defense and Educational Fund Inc. (LDF)*

NAACP Legal Defense and Educational Fund, Inc (LDF)

- ▶ Founded in 1940 under the leadership of Thurgood Marshall, who subsequently became the first African-American U.S. Supreme Court Justice,
- ▶ LDF's mission to achieve racial justice, equality, and an inclusive society.
- ▶ Four Impact Areas of LDF: Criminal Justice, Economic Justice, Political Participation and Education

NAACP Legal Defense and Educational Fund, Inc (LDF)

- ▶ LDF as legal arm of the civil rights movement, wholly separate from NAACP since 1957
- ▶ *Brown v. Board of Education* the landmark Supreme Court decision in 1954

U.S. Department of the Office of Civil Rights (OCR)

- Federal civil rights enforcement agency, part of the U.S. Department of Education.
- OCR ensures that recipients of federal financial assistance and certain public entities comply with the civil rights statutes that it is authorized to enforce. OCR addresses civil rights issues through enforcement (34 CFR Section 100.7) and technical assistance activities.

OCR Across the Country

www.ed.gov/ocr



OCR's Jurisdiction

- ▶ OCR enforces six civil rights laws.
- ▶ Together, these laws prohibit discrimination on the basis of race, color, national origin, sex, disability, and age, as well as discrimination against certain patriotic youth groups that wish to meet at public schools.

Laws Enforced by OCR

- ▶ Title VI of the Civil Rights Act of 1964
- ▶ Title IX of the Education Amendments of 1972
- ▶ Section 504 of the Rehabilitation Act of 1973
- ▶ Title II of the Americans with Disabilities Act of 1990
- ▶ The Age Discrimination Act of 1975
- ▶ Boy Scouts of America Equal Access Act

OCR's Jurisdiction

OCR has jurisdiction over programs and activities that receive financial assistance from the Department of Education. These may include:

- ▶ state education agencies
- ▶ elementary and secondary school systems
- ▶ colleges and universities
- ▶ state vocational rehabilitation agencies

OCR's Jurisdiction

- ▶ OCR also has jurisdiction over certain public entities under Title II of the Americans with Disabilities Act of 1990, which prohibits disability discrimination by public entities whether or not they receive federal financial assistance.

Title VI of the Civil Rights Act of 1964

- ▶ Prohibits discrimination on the basis of Race, Color, or National Origin

Title VI Protections

Depending on the specific facts of the case, examples of prohibited discrimination may include:

- ▶ Disciplining students differently on the basis of race, color or national origin
- ▶ Assigning a student to an educational program or class on the basis of the student's race
- ▶ Harassment on the basis of race, color, or national origin
- ▶ Providing inadequate educational resources to limited English proficient students

Title IX of the Education Amendments of 1972

Prohibits discrimination on the basis of
Sex

Title IX Protections

Depending on the specific facts of the case, examples of prohibited discrimination may include:

- ▶ Discrimination on the basis of sex in providing opportunities to participate in interscholastic or intercollegiate athletics
- ▶ Sexual harassment

Section 504 of the Rehabilitation Act of 1973 & Title II of the Americans with Disabilities Act of 1990

Prohibit discrimination on the basis of
Disability

Section 504 and Title II Protections

Depending on the specific facts of the case, examples of prohibited discrimination under both Section 504 and Title II may include:

- ▶ Failure to provide a free appropriate public education to an elementary or secondary student with a disability
- ▶ Failure to provide appropriate academic adjustments to a qualified college student with a disability
- ▶ Denying access to a school's program or activities because a school's facilities are inaccessible.

OCR Enforcement

- ▶ An important responsibility of OCR is to investigate and resolve complaints of discrimination and other proactive investigations

Filing a Complaint

- A complaint may be filed by mail or fax with any OCR office or by using OCR's electronic complaint form at www.ed.gov/ocr/complaintintro.html
- How OCR Handles Complaints (overview): <https://www2.ed.gov/about/offices/list/ocr/complaints-how.html>
- OCR's Case Processing Manual (CPM): <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>

Complaint Resolution Types

- ▶ Facilitated Resolution Between the Parties (FRBP)
- ▶ Resolution before the conclusion of an investigation (Section 302, Case Processing Manual)
- ▶ Resolution after investigation (Sections 303(a) and (b), Case Processing Manual)

Technical Assistance

OCR provides technical assistance to help institutions, parents and students understand their rights and responsibilities.

Types of technical assistance:

- Presentations
- Responses to telephone and written inquiries
- Workshops

How To Reach OCR

Website: www.ed.gov/ocr

Contact your regional office directly:

<https://ocrcas.ed.gov/contact-ocr>

The OCR office for Virginia:

Washington DC (Metro)
Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1475

Telephone: 202-453-6020
FAX: 202-453-6021; TDD: 800-877-8339
Email: OCR.DC@ed.gov



IDEF

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Lessons Learned from Filing OCR Disparate Impact Complaint

Complaint Filed by LDF

Bryan ISD Complaint (2013)

- **Complaint filed against school district in Texas for its use of misdemeanor tickets for “Disruption of Class” and “Disorderly Conduct”**
- **Black students at the time made up less than 25% of the students in Bryan ISD but accounted for more than half of the Class C ticketing**
- **Serious consequences for minor misbehavior**
- **Practice violates Title VI of the Civil Rights Act of 1964 because it disproportionately harms Black students; does not support the school district’s educational mission, and could be replaced by less discriminatory alternatives**
- **Complaint parameters and status shifted with changes in the administration**
- **Ticketing practices changed during pendency of complaint**
- **Complaint closed in October 2017**

https://www.naacpldf.org/wp-content/uploads/Engage-for-Equity-ESSA_Full-Toolkit.pdf