

OCR: THE BASICS	
 Functions: Resolving complaints of discrimination Compliance reviews Technical assistance Structure: 12 enforcement offices 2 Enforcement Directors Administrative office in Washington, D.C. 	
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OCR: THE LAWS

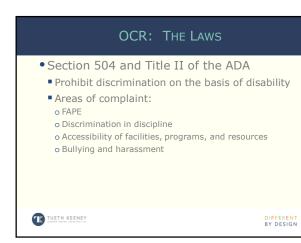
- Title VI of the Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
 Section 504 of the Rehabilitation Act of
- 1973
- Title II of the Americans with Disabilities Act
- Age Discrimination Act of 1975
- Boy Scouts of America Equal Access Act



OCR: THE LAWS

- Title IX of the Education Amendments 1972
- Prohibits discrimination on the basis of sex
- Areas of complaint:
- o Gender equity in athletics
- o Sexual violence
- o Access to comparable educational opportunities
- o Bullying and harassment

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OCR: THE LAWS

• Boy Scouts of America Equal Access Act

No school that provides an opportunity for one or more outside youth or community groups to meet on school premises or in school facilities shall deny equal access or a fair opportunity to meet to, or discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in Title 36 of the U.S. Code as a patriotic society, that wishes to meet at the school

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OCR: REQUIREMENTS

- Notice of Nondiscrimination
 - ▶ Required under each law
 - Can combine into one notice OCR's preference
- Title IX and Section 504 require designation of compliance coordinator
- o If two separate compliance coordinators, identify BOTH in the notice
 ➤Many include contact information for OCR make sure the address is current!
- ▶ Publish in handbooks, online, newsletters, etc.

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OCR: REQUIREMENTS

Notice of Nondiscrimination (con't.)

Sample:

The [NAME OF RECIPIENT] does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following person [OR INDIVIDUALS] has [HAVE] been designated to handle inquiries regarding the nondiscrimination policies: [NAME AND/OR TITLE, ADDRESS, TELEPHONE]

 O Any person who is unable to resolve a problem or grievance arising under any of the laws and regulations cited above may contact the Office for Civil Rights, Region VII, One Petticoat Lane, 1010 Walnut Street, 3rd floor, Suite 320, Kansas City, MO 64106; telephone (816) 268-0550.

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OCR: REQUIREMENTS

Nondiscrimination policies

- Ensure compliance coordinator is designated and identified
- ► Identify grievance procedure
- Identify a separate process for Section 504 complaints regarding FAPE – independent hearing officer
- ➢Review timelines
- ➢Publication

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OCR: REQUIREMENTS

Nondiscrimination policies

- ≻Training!!
- o Does your compliance coordinator know that he/she is the compliance coordinator?
- o Consider training for the compliance coordinator
- o At a minimum, review nondiscrimination policies \underline{each} year with \underline{both} staff and students
- Training should include examples of prohibited conduct & information about what to do if become aware of a complaint

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OCR: RECENT DEVELOPMENTS • June 2017 – Internal guidance memorandum • Relaxed data collection guidelines • Only open "systemic" or "class action" complaint when systemic issue is alleged • Emphasis on swiftly addressing complaints & reasonable resolutions • Withdrawal of "Dear Colleague" Guidance Letters • February 2017 – Guidance on Transgender Students

- September 2017 Guidance on Sexual Violence (2011 & 2014)
- March 2018 New Case Processing Manual

• Complaint Filed

►Jurisdiction?

o the complaint must allege, or OCR must be able to infer from the facts given, an allegation of (1) discrimination based on race, color, national origin, sex, disability or age; (2) discrimination in violation of the Boys Scouts of America Equal Access Act of 2001; or (3) retaliation o Recipient of federal funds? (except Title II of the ADA)

≻Timely?

o 180 calendar days or waiver

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OCR: PROCESS Complaint Filed >Evaluation stage (NEW!) – Dismissal of Allegations: ✓Allegation fails to state a violation of law enforced by OCR ✓Allegation lacks sufficient detail $\checkmark \mbox{Allegation}$ is so speculative, conclusory, or incoherent that OCR cannot infer discrimination may have occurred ✓Based upon review of information from complainant, OCR unable to conclude that allegation establishes violation of law



- Evaluation stage (NEW!) Dismissal of Allegations (con't):
- ✓ Complaint filed against the same recipient raises the same or similar allegation(s) based on the same operative facts that was previously dismissed or closed by OCR
- ✓OCR has recently investigated or is currently investigating the same or similar allegation(s) based on the same operative facts involving the same recipient
- ✓ Complainant withdraws the complaint
- ✓OCR transfers to another agency for investigation

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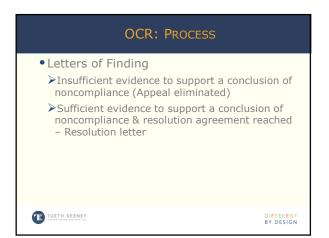
OCR: PROCESS >Evaluation stage (NEW!) – Dismissal of Allegations (con't) ✓Death of the complainant ✓OCR's ability to investigate is substantially impaired by the complainant's refusal to provide information ✓Lack of jurisdiction Complaint is a continuation of a pattern of complaints previously filed with OCR by an individual or group against multiple recipients or a complaint is filed for the first time against multiple recipients that, viewed as a whole, places an unreasonable burden on OCR's resources ✓Allegation is moot TUETH KEENEY

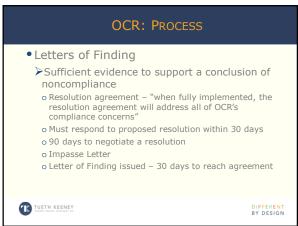
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OCR: PROCESS Rapid Resolution Process >Where recipient has already taken action that will resolve the complaint \rightarrow Dismissal ▶ Recipient has indicated willingness to take action to resolve the complaint \rightarrow Resolution Agreement >OCR obtains sufficient information to make compliance determination \rightarrow Letter of Finding or Letter of Finding + Resolution Agreement DIFFERENT BY DESIGN

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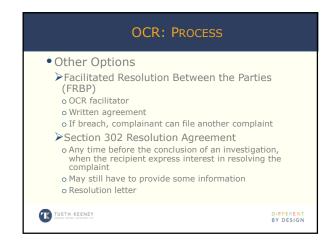




- Enforcement Action
 - ► Letter of Impending Enforcement Action
 - Possible deferral of funds
 - ▶ Initiation of Enforcement Action
 - oNotice of Hearing when deferral of federal funds imposed
 - oPossible referral to Department of Justice

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OCR: PROCESS Resolution Agreement Signed by person with authority Include: Specific steps by district to resolve compliance issues Dates for implementing each step & submission of reports Timeframes for implementation Agreement to provide additional information as necessary for OCR to determine whether terms of agreement have been met Notice of Breach – 60 days to cure



- Compliance Reviews
 - Title VI regulations require OCR to initiate "periodic compliance reviews" to assess practices of recipients
 - \succ Incorporated by reference for other statutes
 - ➢Broad discretion for OCR
- Directed Investigations
- Matter warrants immediate attention
- ➢Not otherwise being addressed through the complaint, compliance review, or technical assistance process

	OCR:	CAUTION	
compliai raised ir address provide	the complaint or issues the complaint or of the complaint or issues the compliance concert technical assistance,	investigation, OCR ident g unrelated issues that w ues under investigation, C erns in the resolution lette or open a compliance rev	ere not DCR can er,
 Denial o 	f Access \rightarrow Enforceme	ent Action	
school		ours to information maintaine to determine the compliance s th resolution agreement	
o Access	to employees during regu	lar business hours	
	tion of applicable OMB-ap to an investigation	proved compliance and surve	y forms
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OCR:	SUMMARY OF CHANG	ES
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OCR: HELPFUL HINTS

- Review policies and procedures
- Be proactive in training and document it

• Remember Technical Assistance option – but seek guidance first

–Possibility for training

- Consultation before implementing policy/practice
- When issues arise in schools, consider whether any of these laws are implicated
- Follow your procedures!

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