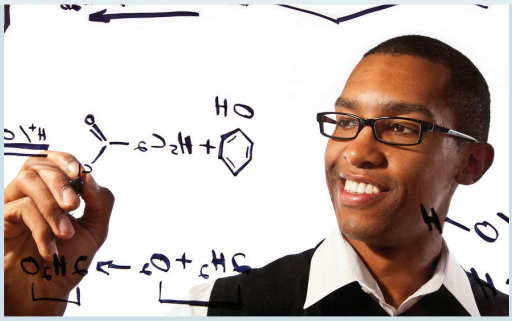
U.S. Department of Education
Office for Civil Rights

DELIVERING JUSTICE



Report to the President and Secretary of Education

Under Section 203(b)(1)
of the Department of Education
Organization Act

FISCAL YEAR 2015

U.S. Department of Education
Office for Civil Rights

Catherine E. Lhamon
Assistant Secretary

May 2016

This report is submitted under Section 203(b)(1) of the Department of Education Organization Act of 1979, Pub. L. No. 96–88, which provides: "The Assistant Secretary for Civil Rights shall make an annual report to the Secretary, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made." 20 U.S.C. §3413(b)(1).

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Delivering Justice, Under Section 203(b)(1) of the Department of Education Organization Act, FY 2015, Washington, DC, 2016.

This report is also available on the Office for Civil Rights website at http://www.ed.gov/ocr. Any updates to this report will be available at this website.

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MESSAGE FROM THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

Nothing is more important to us at the U.S. Department of Education, including the Office for Civil Rights (OCR), than increasing and fostering equitable and excellent educational opportunities for all students. Far too many students lack robust access to the core elements of a quality education – or face barriers to their education in the form of discriminatory harassment, violence, or exclusionary discipline, or other types of discrimination. We must make sure our students' background or identity – including their race, ethnicity, or national origin; their sex; or whether or not they have a disability – neither limits their opportunity nor dims their horizon. Instead, we must achieve equity and excellence at every level of our education system, in every school, for every student.

As the pages of this report describe, during fiscal year (FY) 2015, OCR processed nearly 10,400 complaints – a new record high – opened more than 3,000 investigations, and reached more than 1,000 resolutions that secured changes protective of students' civil rights in schools around the nation. We nearly doubled the number of sexual violence cases resolved[1] in FY 2015 (84) compared to FY 2014 (44). We provided more than 250 technical assistance sessions to recipients and other stakeholders. We released nine policy documents on key issues to provide schools with a clearer roadmap of how to comply with the laws we enforce. And we responded to 7,430 hotline calls, 3,397 public inquiries, and 8,775 publication requests for OCR documents.

We accomplished all of it with a dedicated yet skeleton crew of 540 staff – the smallest cadre in OCR history – for whose skill and passion I owe my deepest gratitude. While I am pleased we will add to their numbers in FY 2016, it is my strong hope that in the future we will obtain the resources needed to allow OCR's work to continue with the speed and skill we expect of ourselves, and that students who seek our help deserve.

The pages of this report contain the stories of America: individual accounts of hurt or inequity faced by students and families as they struggle to access a quality education and to get ahead in life. But these are also stories of redemption, of justice, and of courage and leadership shown by teachers, administrators, and educational institutions as they strive to make their schools safer, fairer, and more equitable. These stories give me hope that, school by school, we can build a better education system where no student suffers the indignity of discrimination, and where the full potential of every student is realized.

Sincerely,

Catherine E. Lhamon
Assistant Secretary for Civil Rights

EXECUTIVE SUMMARY AND REPORT HIGHLIGHTS

In FY 2015, OCR promoted excellence in education through conducting investigations and monitoring schools under resolution agreements; ensuring equal access to educational opportunity through the release of policy guidance; providing technical assistance to enforce federal civil rights laws; and improving the Civil Rights Data Collection.

- In FY 2015, the quality and pace of OCR's **enforcement work** remained high. OCR received a record-high 10,392 complaints, initiated 19 compliance reviews and directed inquiries, and resolved[2] 9,250 cases overall, including 1,044 resolutions that secured changes protective of students' civil rights in schools around the nation. (See the Appendix for the total number of resolution agreements in FY 2015 by jurisdiction, state, and type of investigation.) Over several years, the number of complaints OCR received generally rose in several areas, including restraint or seclusion of students with disabilities; accessibility of curriculum through technology for students with disabilities; harassment based on race, color, or national origin; appropriate support for English Learner (EL) students; and sexual violence.

- OCR developed and released **nine policy guidance documents** and hosted policy-related listening sessions with stakeholders on the following issue areas:

  - resource equity and resource comparability and discrimination based on race and national origin;
  - obligations of elementary and secondary schools to respond to the bullying of students with disabilities that denies a free appropriate public education (FAPE) and disability-based harassment of students with disabilities;
  - schools' obligations surrounding effective communication for students with disabilities;
  - questions and answers regarding single-sex elementary and secondary classes and extracurricular activities;
  - applicability of federal civil rights laws to juvenile justice residential facilities;
  - implementing the Centers for Disease Control and Prevention's (CDC) Ebola guidance for schools;
  - schools' obligations to ensure that EL students can participate meaningfully and equally in school and to communicate information to limited English proficient (LEP) parents in a language they can understand;
  - addressing the risk of measles in schools and school obligations to students with disabilities medically unable to obtain vaccinations; and
  - the importance and role of Title IX coordinators in fostering compliance with Title IX of the Education Amendments of 1972.

- OCR provided more than 250 **technical assistance** sessions to a wide range of stakeholders – including schools and districts, state education agencies, colleges and universities, parent groups, nonprofit organizations, advocacy organizations, and other federal agencies – and conducted other outreach to galvanize action on important civil rights topics. Notable outreach efforts include a convening at the White House on school discipline (with the Supportive School Discipline Initiative), a celebration of the 25th Anniversary of the Americans with Disabilities Act, and continued leadership in the White House Task Force to Protect Students from Sexual Assault.

- OCR administered and collected data for the 2013-14 school year **Civil Rights Data Collection (CRDC)** from approximately 97,000 public schools serving about 49 million students nationwide. OCR improved the data collection process for thousands of school districts by instituting customized data submission checks that provided them with real-time technical assistance while significantly cutting back on the possibility of submission errors. OCR also launched a pilot program with eight states to pre-populate local CRDC data, thereby dramatically reducing the reporting burden on districts in those states.

THE OFFICE FOR CIVIL RIGHTS: OVERVIEW AND TRENDS

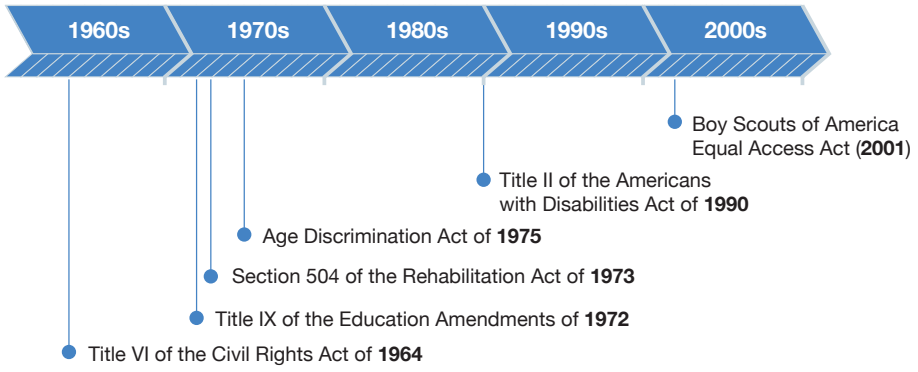
For decades, OCR has enforced civil rights in our nation's preschool through 12th grade (P-12) and post-secondary schools, which now serve almost 80 million students annually.

Mission and Scope

To advance the U.S. Department of Education's mission of promoting student achievement and to prepare students for global competitiveness, OCR's purpose is to foster educational excellence and ensure equal access by enforcing federal civil rights laws and implementing regulations that prohibit discrimination on the basis of race, color, national origin, sex, disability, or age in all programs or activities that receive federal financial assistance.

Figure 1

The Office for Civil Rights Enforcement Jurisdiction Timeline



Federal Civil Rights Laws under OCR's Jurisdiction

OCR's charge is to enforce and implement the following laws (*See* ***Figure 1***):

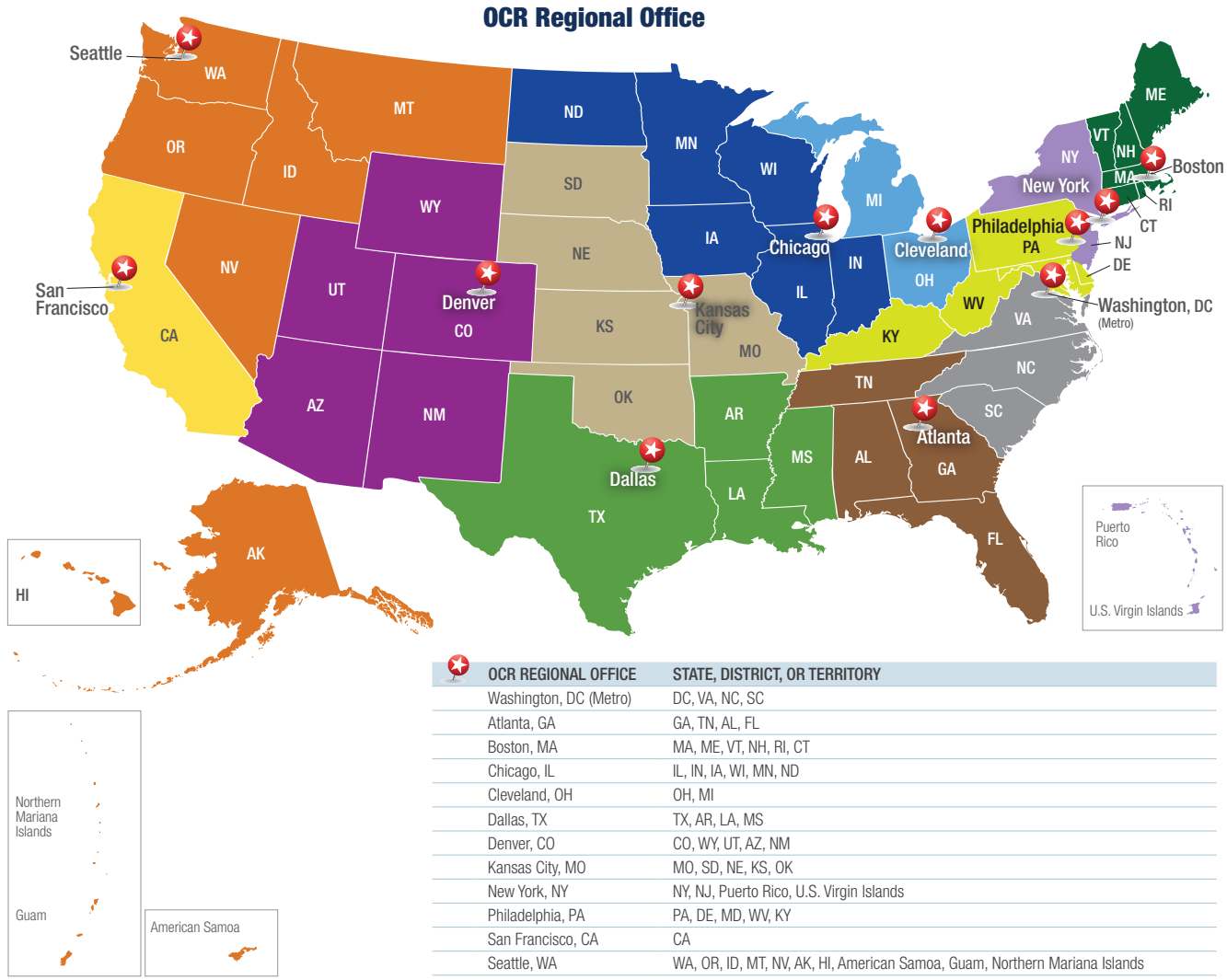
- Title VI of the Civil Rights Act of 1964 (prohibiting race, color, or national origin discrimination in all programs or activities receiving federal financial assistance);
- Title IX of the Education Amendments of 1972 (prohibiting sex discrimination in all education programs or activities receiving federal financial assistance);
- Section 504 of the Rehabilitation Act of 1973 (prohibiting discrimination on the basis of disability in programs, services, and activities receiving federal financial assistance);
- Age Discrimination Act of 1975 (prohibiting age discrimination in all programs or activities receiving federal financial assistance);
- Title II of the Americans with Disabilities Act of 1990 (prohibiting disability discrimination in state and local government services—whether or not programs receive federal financial assistance); and
- Boy Scouts of America Equal Access Act (2001) (prohibiting public elementary and secondary schools, local educational agencies, and state educational agencies from denying any group officially affiliated with the Boy Scouts of America or certain other youth groups equal access to school facilities for meetings).

These and other civil rights laws extend to a wide range of federal recipients, including all state educational agencies; approximately 16,900 local educational agencies; approximately 7,200 postsecondary institutions, including proprietary schools and community colleges; 80 state vocational rehabilitation agencies and their sub-recipients; as well as other institutions that receive U.S. Department of Education financial assistance, such as libraries, museums, and correctional institutions. Nearly 80 million individuals are beneficiaries of the financial assistance these institutions and agencies receive on behalf of the Department.

Structure and Functions

OCR is headed by an Assistant Secretary, appointed by the President of the United States with the advice and consent of the U.S. Senate. The senior staff supporting the Assistant Secretary include a Principal Deputy Assistant Secretary, a Deputy Assistant Secretary for Enforcement, an Acting Deputy Assistant Secretary

Figure 2



OCR REGIONAL OFFICE	STATE, DISTRICT, OR TERRITORY
Washington, DC (Metro)	DC, VA, NC, SC
Atlanta, GA	GA, TN, AL, FL
Boston, MA	MA, ME, VT, NH, RI, CT
Chicago, IL	IL, IN, IA, WI, MN, ND
Cleveland, OH	OH, MI
Dallas, TX	TX, AR, LA, MS
Denver, CO	CO, WY, UT, AZ, NM
Kansas City, MO	MO, SD, NE, KS, OK
New York, NY	NY, NJ, Puerto Rico, U.S. Virgin Islands
Philadelphia, PA	PA, DE, MD, WV, KY
San Francisco, CA	CA
Seattle, WA	WA, OR, ID, MT, NV, AK, HI, American Samoa, Guam, Northern Mariana Islands

for Policy, a Deputy Assistant Secretary for Strategic Operations and Outreach, a Deputy Assistant Secretary for Management and Operations, a Chief of Staff, and two additional senior counsel, among others.

OCR is composed of a headquarters office and 12 enforcement offices throughout the country (*See* ***Figure 2***). The Headquarters and DC Metro enforcement offices are located in Washington, DC, and the remaining 11 enforcement offices are in Atlanta, Boston, Chicago, Cleveland, Dallas, Denver, Kansas City, New York, Philadelphia, San Francisco, and Seattle.

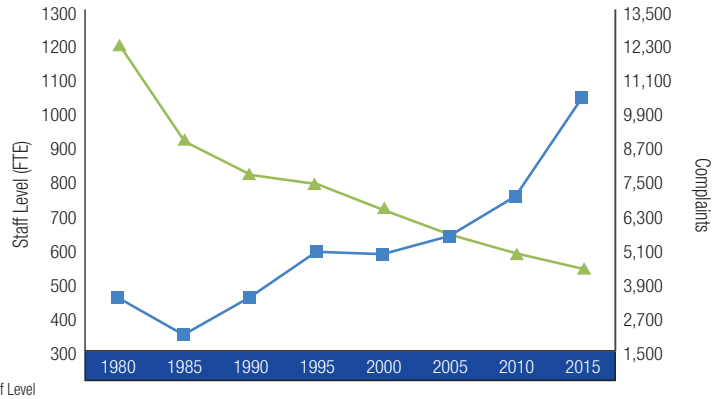
OCR's core activities include responding to civil rights complaints filed by members of the public and conducting proactive investigations to enforce federal civil rights laws; monitoring institutions' adherence to resolution agreements reached with OCR; issuing policy guidance to increase recipients' understanding of their civil rights obligations and students' awareness of their civil rights; responding to requests for information from and providing technical assistance to the public; and administering and disseminating the Civil Rights Data Collection. This report details notable accomplishments in these activities during FY 2015.

Enforcement and Staffing Trends

OCR's staffing level has consistently declined over the life of the agency even though complaint volume has significantly increased (*See* ***Figure 3***). OCR's staff level at the end of FY 2015 was 540 Full Time Equivalents

Figure 3

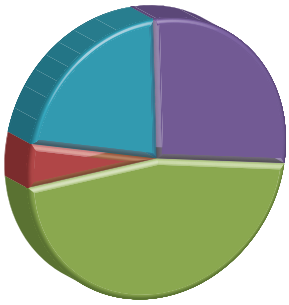
OCR Staff Level (FTE) and Complaints Received, FY 1980-2015



	1980	1985	1990	1995	2000	2005	2010	2015
Staff Level (FTE)	1,148	913	815	788	712	640	585	540
Complaint Receipts	3,497	2,199	3,384	4,981	4,897	5,533	6,933	10,392

Figure 4

Percentage of Complaints Received in FY 2015 by Type of Alleged Discrimination
(both raw numbers and percentage)*



Disability	4,806	46%
Sex	2,939	28%
Race & National Origin	2,157	21%
Age	550	5%

* Raw numbers do not add up to 10,392 because some complaints cover more than one statute.

(FTE), marking an all-time low in staff levels since 1980, when the Department of Education (ED) separated from what had until then been the Department of Health, Education, and Welfare, establishing an OCR within ED. At the end of FY 2015, the number of OCR staff was 100 FTE or 15% below the level 10 years ago (640 FTE in FY 2005), while OCR's complaint volume nearly doubled in that time span (10,392 in FY 2015 compared to 5,533 in FY 2005). The number of complaints reached an all-time high of 10,392 in FY 2015 (*See* ***Figure 4***). Processing and resolving complaints generate the largest share of workload for OCR.

OCR has seen a general increase in complaints in some specific areas as well, including appropriate support for English learner (EL) students; harassment based on race, color, or national origin; restraint or seclusion of students with disabilities; accessibility of curriculum through technology for students with disabilities; and sexual violence. Increased complaint volume in these areas has resulted in large increases in workload for OCR staff, as these and other cases tend to include issues that are complex and campus- or institution-wide in addition to those pertaining to specific students. This combination of volume and scope has led to greater variance in the length of investigations.

- **EL Students**

  OCR saw an increase in the number of complaints received involving implementation of policies that promote educational equity in its programs for EL students (*See* ***Figure 5***). In FY 2015, OCR received 82 such complaints, similar to levels received over each of the last 5 years, which is a 51% increase over the number of complaints received in FY 2009 (54).

- **Racial Harassment**

  At the elementary and secondary education level, the last four years have seen an average of 347 annual complaints regarding racial harassment, while the preceding ten years averaged 210 complaints per year (*See* ***Figure 6***). There have been similar increases at the postsecondary level; for example, in FY 2015, OCR received 146 racial harassment complaints—nearly triple the number of racial harassment complaints received in FY 2005 (50).

- **Inappropriate Restraint or Seclusion of Students with Disabilities**

  Since FY 2011, OCR has seen an increase in the number of complaints received involving the inappropriate restraint or seclusion of students with disabilities (*See* ***Figure 7***). FY 2015 saw the highest number of such complaints – 76, an increase

of 58% from FY 2014 (48) – since OCR began tracking this issue in FY 2011.

- **Online Accessibility for All Students, Including Students with Disabilities**

  Although OCR receives comparatively fewer complaints in the area of web accessibility for students with disabilities, the number of complaints in this area has grown significantly in recent years (*See* ***Figure 8***). The 25 complaints that OCR received in FY 2015 marked the highest number since OCR began tracking the issue in FY 2011.[3]

- **Sexual Violence**

  Complaints of sexual violence at the postsecondary level have increased dramatically over the past seven years, from 11 in FY 2009 to 164 in FY 2015 (*See* ***Figure 9***). At the elementary and secondary school level, OCR received 65 complaints in FY 2015, which is more than double the previous highest number of complaints received in a year (31) in FY 2013.

Figure 5

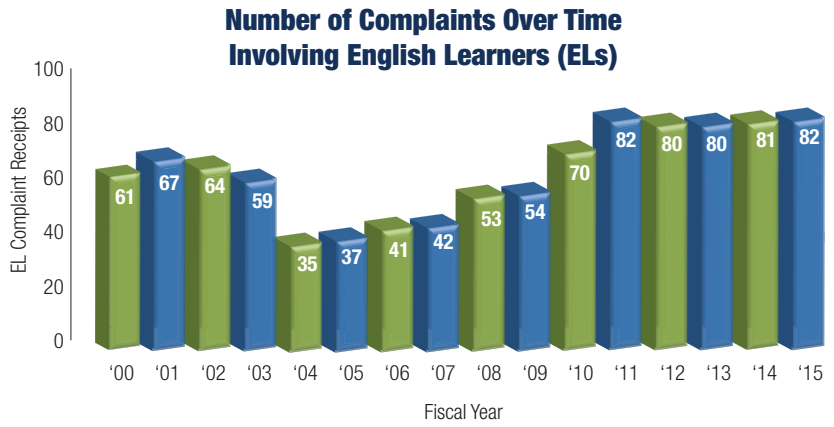
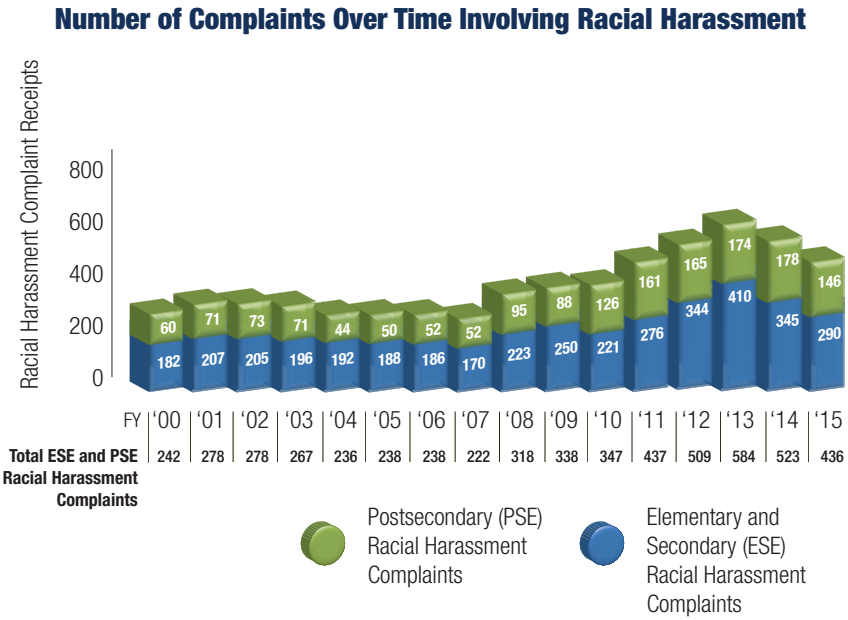


Figure 6



Increasing Transparency

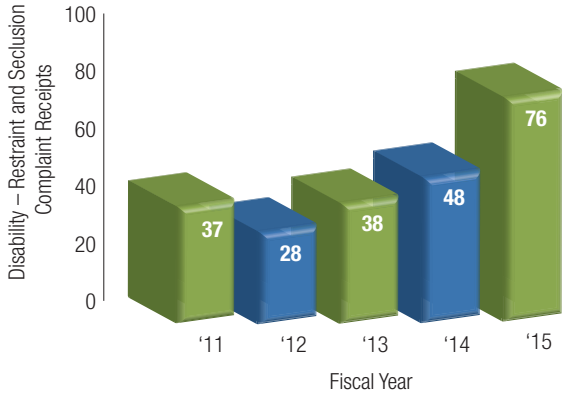
Consistent with the Administration's commitment to open government, OCR is committed to improving transparency in its work and the civil rights data it collects to shed light on the status of equity and opportunity in public schools. OCR believes strongly in the educative effect of transparency: Publicizing resolution agreements of civil rights investigations gives schools and communities additional tools to take proactive steps to prevent and address discrimination without OCR involvement. It also provides the public with a better understanding of civil rights issues and the volume of incidents occurring in schools today. In addition to transparency in enforcement processes, OCR is pleased to afford the public full access to the civil rights data collected by OCR that show progress and gaps in providing equal educational opportunity in P-12 schools nationwide. And OCR has taken additional steps to make policy and investigative work more accessible on OCR's website and to respond more speedily and vigorously to public and media requests for information.

- **Enforcement Resolutions**

  OCR continued its practice of making publicly available resolution letters and agreements for cases resolved in the last two fiscal years. Currently, OCR's website posts resolution letters and agreements in more than 700 cases. In addition, since May 2014, OCR has proactively released to the public and the press a list of educational institutions currently under investigation for whether their policies and practices related to sexual violence meet Title IX requirements. Release of this information at the

Figure 7

Number of Complaints Over Time Involving Restraint and Seclusion* of Students with Disabilities**

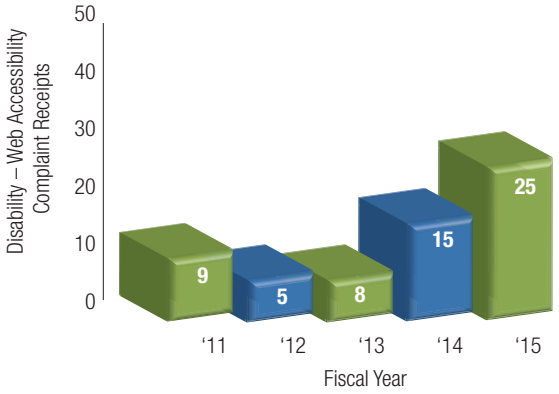


*Restraint is a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely, or it is the use of any device or equipment to restrict a student's freedom of movement. Seclusion is the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving.

** OCR's case management database did not track this discrete issue prior to FY 2011.

Figure 8

Number of Complaints Over Time Involving Web Accessibility*



* OCR's case management database did not track this discrete issue prior to FY 2011.

postsecondary level on a weekly basis, in response to a record-high volume of requests for the information, has furthered the national dialogue on an important civil rights issue.

Civil Rights Data Collection

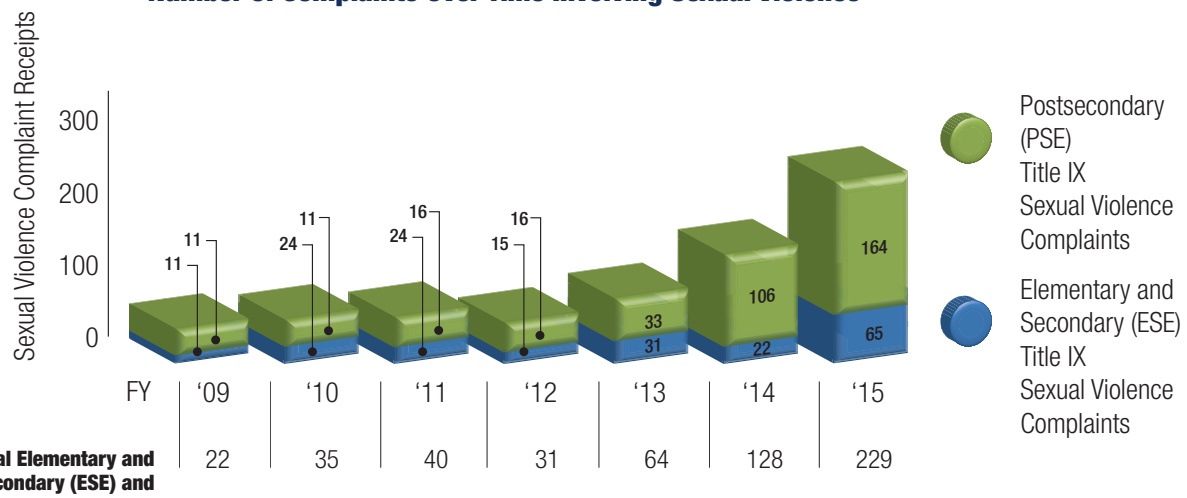
In FY 2015, OCR collected data for the 2013-14 school year from every public school district in the nation, including long-term, secure juvenile justice facilities, charter schools, alternative schools, and schools serving students with disabilities. In an effort to speed up the availability of data to schools and reduce the burden in submitting data, OCR implemented a number of innovations – including the launch of a new data collection tool that allowed 17,000 school districts to receive summary reports of their 2013-14 CRDC data immediately after submission, which was up to eight months earlier than would have been the case without this new report feature. OCR continued the option to upload data using Excel templates and revised the file upload methodology to be more flexible by allowing for partial data uploads. This feature reduced burden and assisted many districts with large data submissions. OCR also reduced the burden of at least 2,000 school districts to comply with data collection requirements through collaboration with states. For the first time, data edit checks were customized to specific school district characteristics (e.g., grades offered), and district data responses were compared automatically to other data sources such as the district's website or data submitted elsewhere within the Department. The customized data checks eliminated a manual edit-checking process that otherwise would have taken OCR an additional two months after the data collection period ended, and thus contributed to OCR's projected timely release of the data to the public in 2016. For more information about the CRDC, **see page 15** of this report.

OCR Website

In FY 2015, in order to improve the public's ability to file a complaint and access important civil rights information, OCR overhauled its website, updating and enhancing web-accessible content. OCR streamlined the organization of the website to improve navigability and make it more user-friendly; reorganized the electronic reading room with more robust content, including policy documents and guidance across all of the statutes that OCR enforces; and developed a search engine that allows users to search for recent case resolution documents. OCR also improved the ease of access to resources in languages other than English and developed an online "news room" where recent items of interest to the public are posted.

Figure 9

Number of Complaints Over Time Involving Sexual Violence*



FY	'09	'10	'11	'12	'13	'14	'15
Total Elementary and Secondary (ESE) and Postsecondary (PSE) Title IX Sexual Violence Complaints	22	35	40	31	64	128	229

* OCR's case management database did not track this discrete issue prior to FY 2009.

Media and Public Inquiries

In addition to enhancing the content of OCR's website to provide more information directly to the public, OCR's customer service team responded to 7,430 hotline calls, answered 3,397 public inquiries, and fulfilled 8,775 publication requests for OCR documents to ensure the public has accurate information about civil rights laws and policy to promote equity in education. Through the Department's Office of Communications and Outreach, OCR also provides information in response to media inquiries to ensure that the public is well-informed of OCR's work. In FY 2015, OCR responded to more than 1,200 unique media inquiries.

Freedom of Information Act (FOIA)

Timely and accurate responses to FOIA requests are vital to open government and are an integral part of the Department's work. OCR's timely and accurate responses to FOIA requests – made by complainants, educational institutions, non-profit organizations, the media, and others – serve the public interest, enhance transparency, and ensure accountability.

OCR reaffirmed its commitment to providing excellent customer service by launching a National FOIA Pilot Project in FY 2015 to address issues related to expansive requests for information involving multiple offices. OCR also provided greater and more coordinated support throughout the regional offices

Figure 10

Comparison of Freedom of Information Act (FOIA) Requests at OCR between FY 2014 and FY 2015

Date	Requests Processed	Open FOIA Requests at Beginning of FY	Average Age of Requests Open at Beginning of FY	Median Age of Requests Open at Beginning of FY	Requests Open >180 Days at Beginning of FY
FY 2014	997	206	166 days	102 days	68
FY 2015	1,092	158	68 days	41 days	9
% Change	+10%	- 23%	-59%	-60%	-87%

"The courage of the Office for Civil Rights in expanding the value and availability of the Civil Rights Data Collection, issuing guidance clarifying nondiscrimination in Title VI regarding school discipline and resource equity, and shining a light on the safety of women on college campuses will have lasting effects for a generation of young people."

WADE HENDERSON, President and CEO, The Leadership Conference on Civil and Human Rights, March 2016.

to enable us to process FOIA requests more expeditiously. These steps resulted in a 10% increase in FOIA cases processed in FY 2015 compared to FY 2014. Additionally, compared to the same date at the end of FY 2014, in FY 2015 OCR saw a 23% reduction in the number of open FOIA requests, a 59% reduction in the average age of open FOIA requests, and an 87% reduction in the number of FOIA requests open more than 180 days.

In FY 2015, FOIA case processing efficiency and speed in closing out longstanding cases (thus reducing average and median age of open FOIA requests) improved immensely (*See* ***Figure 10***).

Technical Assistance Activities

Educators, as well as parents and students, should have the knowledge and skills to identify, prevent, and address discrimination, or get help when they experience discrimination. Every year, OCR provides technical assistance to schools and communities around the country on both longstanding and emerging civil rights issues. In FY 2015, OCR provided more than 250 technical assistance sessions to a wide range of stakeholders, including schools and districts, state education agencies, colleges and universities, parent groups, nonprofit organizations, advocacy organizations, and legal organizations, among others. Examples of technical assistance provided include the following:

- OCR's Kansas City regional office wrote and produced a video filmed by the Missouri School Board Association to help teachers, districts, and the public better understand OCR's January 2014 guidance on school discipline.
- OCR's Program Legal Group presented a live-streamed webinar to nearly 100 organizations on civil rights compliance for race-targeted or sex-specific programming.
- OCR provided technical assistance in English and Spanish to Parents Helping Parents on the rights of students with disabilities and limited English proficient (LEP) parents' rights for meaningful access to their children's education.
- OCR gave a presentation to the Oregon Department of Education on Title IX, specifically addressing sexual harassment, including sexual violence and harassment on the basis of gender identity and gender nonconformity.

NOTABLE OUTREACH AND COLLABORATIVE ACTIVITIES

OCR extends the reach of its core activities through ongoing work on inter- and intra-agency initiatives, as well as public events.

OCR continued its partnership with other federal agencies and remained active in the **Supportive School Discipline Initiative (SSDI)** and its efforts to promote alternatives to exclusionary school discipline. In July 2015, OCR partnered with other offices across the Department, the U.S. Department of Justice (DOJ), and the White House Domestic Policy Council to host a supportive school discipline convening at the White House. The convening brought together teams of educators from 40 school districts across the country to share challenges they have faced in addressing school discipline issues. Participants also identified next steps for action on school discipline so as to ensure continued progress toward supportive approaches to school discipline. Through this work, OCR helped advance a national conversation around school discipline practices while highlighting relevant OCR/DOJ guidance and promoting best practices to prevent race discrimination in discipline. OCR's CRDC data also supported the creation of a series of maps that shine a light on the rate of discipline in a given district, disaggregated by race/ethnicity, sex, and disability. These interactive maps are a valuable tool for local- and state-level educators, policymakers, and communities as a starting place for evaluating their policies and practices.

OCR commemorated the **25th anniversary of the signing of the landmark Americans with Disabilities Act of 1990** with an event keynoted by Secretary Arne Duncan. The event focused on progress and goals, highlighted the perspectives of youth leaders with different types of disabilities, hosted information tables from federal agencies and community organizations, and featured activity stations showcasing ways in which students with and without disabilities participate in extracurricular athletics and sports.

OCR continues participation in the **White House Task Force to Protect Students from Sexual Assault** (Task Force), which President Obama established in January 2014. The Task Force released a resource guide in September 2015 that included OCR's April 2015 resource guide for Title IX coordinators and sample language for schools to establish a memorandum of understanding with local law enforcement. OCR also continues its practice of transparency by making available the list of schools OCR is investigating in the area of Title IX sexual violence and by posting its resolution agreements on its website.

> *"We really appreciate the leadership that the Office for Civil Rights has shown in the Obama Administration on disability issues."*
>
> **ANDREW IMPARATO,** Executive Director of the Association of University Centers on Disabilities, 25th Anniversary of Americans with Disabilities Act event, July 24, 2015.

Using Data to Highlight Discipline Disparities

In July 2015, at a White House event entitled "Rethink School Discipline," OCR released the state- and national-level discipline estimations from the 2011-12 CRDC as well as interactive maps of discipline data. The discipline data include information on students who received suspensions, expulsions, referrals to law enforcement, school-related arrests, and corporal punishment. The White House event trended on Twitter and sparked national conversation on how to reduce exclusionary school discipline. One week after the release, the number of visitors to the CRDC website spiked noticeably, reaching 14,625 page views. These events contributed to an overall increase of over 12,000 page views of the CRDC website in July 2015 from the previous month.

"A valuable national conversation about the proper role for colleges and universities in appropriately responding to sexual and interpersonal violence and preventing such violence has followed upon the April 2011 Office for Civil Rights Dear Colleague letter and its 2014 and 2015 progeny – the 2013 reauthorization of the Violence Against Women Act and its concomitant changes to the Clery Act – as well as the White House's April 2014 task force report."

JOSEPH STORCH, Associate Counsel, State University of New York (SUNY) Office of General Counsel, March 14, 2016, discussing federal government influence on the national conversation regarding sexual violence on college campuses.

In collaboration with the Office of the Under Secretary and the Office of the Elementary and Secondary Education, OCR participates on the Law **Enforcement Equipment Working Group** (LEEWG), a consortium of representatives from the Departments of Defense, Justice, Homeland Security, Treasury, Interior, and others, convened by the President under Executive Order 13688 to better coordinate federal support for the acquisition of certain federal equipment by state, local, and tribal law enforcement agencies, including those at educational institutions. The LEEWG issued a 120-day report in May 2015 about the acquisition and use of federally-provided, controlled law enforcement equipment by local law enforcement agencies. OCR worked with other federal agencies to formulate a policy barring the receipt of such equipment by law enforcement agencies operated by P-12 school districts. In collaboration with other federal agency colleagues, OCR and the Department of Education also met with stakeholders and drafted criteria that governed the acquisition of federally-provided, controlled equipment by institutions of higher education.

OCR worked with the Department's Office of the General Counsel and colleagues at DOJ to develop legal briefs in federal district court and appellate cases of significant importance to the Department. In FY 2015, OCR participated in five such efforts. The Departments of Education and Justice filed two statements of interest in FY 2015 regarding the rights of transgender students under Title IX to access restroom or locker room facilities consistent with their gender identity in *G.G. v. Gloucester County Sch. Bd.* and *Tooley v. Van Buren Pub. Schs.* OCR also contributed to briefs in cases about students with disabilities.

THE CIVIL RIGHTS DATA COLLECTION

Since 1968, the Civil Rights Data Collection (CRDC) has been a longstanding and important component of OCR's overall strategy for administering and enforcing the civil rights statutes for which it is responsible. The CRDC is a biennial survey of the nation's public schools. Its purpose is to collect data on leading civil rights indicators related to access and barriers to educational opportunity at the P-12 school levels. OCR uses the CRDC in its own enforcement work and to disseminate information to the public on the equity indicators in public schools. Information compiled through the CRDC includes data on student enrollment, student discipline and school climate, school expenditures, teachers and other school staff, and access to preschool and to P-12 educational courses, programs, and services – disaggregated by race/ethnicity, sex, limited English proficiency, and disability. The CRDC is a valuable resource for other Department offices and federal agencies, policymakers and researchers, educators and school officials, parents and students, and the public.

New Data Reports

In FY 2015, OCR released two new reporting enhancements using the most recently available CRDC data: an English learner report and new estimations of state- and national-level discipline rates.
These reporting strategies will be available for use with subsequent data releases. Both reports are available on the CRDC reporting website.

- The **English learner report** is a visual report that gives new insights in the educational access and attainment of English learners (EL students). The report displays data about EL student enrollment, discipline, and indicators of college and career readiness in one comprehensive report, highlighting opportunity gaps and providing a pathway for members of the public to explore these issues in their own state, district, or school.

- The new **discipline state- and national-estimation report** for the 2011-12 CRDC makes comparative state-level analysis, previously only available to skilled users, accessible. The report provides detailed tables of the number and percentages of students, with and without disabilities, who received various disciplinary actions, including suspension, expulsion, corporal punishment, school-related arrests, and referrals to law enforcement.
The report further supports the use of the CRDC data for relevant, compelling, and accurate stories of education equity.

Find the CRDC at http://ocrdata.ed.gov

Improving Quality and Efficiency in Collection of Dat

In FY 2015, OCR continued its multi-year effort to improve the CRDC data submission process to increase data quality and reduce the burden on school districts in complying with data collection requirements. In April 2015, to prepare for the 2013-14 CRDC, OCR launched a new data submission tool that was used to collect information from about 17,000 school districts and 95,000 schools. Building on work completed in the past two years in collaboration with the National Center for Education Statistics (NCES), new features of the 2013-14 CRDC increased efficiency and accuracy of the collection:

- Survey items appeared in a new module format, which allowed districts and schools to submit data by broad categories instead of item-by-item.

Upcoming Release of 2013-14 CRDC Data

In 2016, OCR plans to release the results of the 2013-14 CRDC. Like the 2011-12 CRDC, the 2013-14 CRDC was a universal collection of data from all public schools and districts in the nation. The 2013-14 CRDC will include new information on the following topics:

- cost of preschool within school districts;
- educational access in youth correctional facilities;
- civil rights coordinators in school districts;
- access to distance education courses, credit recovery, and dual enrollment programs; and
- chronic student absenteeism.

Select Highlights from the 2011-12 CRDC[4]

College and career readiness:

- Only **50%** of our country's public high schools offer calculus and only **63%** offer physics.
- **A quarter** of high schools with the highest percentage of black and Latino students do not offer Algebra II; **a third** of these schools do not offer chemistry.
- **Fewer than half** of American Indian and Native-Alaskan high school students have access to the full range of core mathematics and science courses in their high school. The core courses include: Algebra I, geometry, Algebra II, calculus, biology, chemistry, and physics.

School discipline:

- Black students are suspended and expelled at a rate **three times greater** than white students.
- Students with disabilities are **more than twice as likely** to receive an out-of-school suspension (13%) than students without disabilities (6%).
- Black children make up **18%** of preschool enrollment, but **42%** of preschool children suspended once and **48%** of preschool children suspended more than once.

Early childhood education:

- **About 40%** of school districts do not offer preschool programs.
- **57%** of school districts that operate public preschool programs offer only part-day preschool.

Teacher and staff equity:

- Black, Latino, American Indian and Native-Alaskan students attend schools with higher concentrations of first year teachers **at higher rates** than white students.
- Nationwide, **one in five** high schools lacks a school counselor.

- Automated edit checks implemented prior to districts' certification of their data provided customized quality control of the data.
- Individualized feedback reports assisted districts in resolving possible reporting errors and provided them with an instant, visually-intuitive depiction of their 2013–14 data months in advance of their release to the public.
- School districts were able to prepare for the 2015–16 CRDC by previewing data elements that will be introduced in that collection; new data elements for the 2015–16 collection were included as optional items in the 2013–14 CRDC data submission tool.
- OCR developed tip sheets to address emerging issues and common questions; more than 119,000 downloads of these new technical assistance documents occurred during the data submission period.
- OCR implemented a pilot program to support the pre-population of data by the state educational agency (SEA) to reduce the burden on individual school districts and schools; eight SEAs saved their school districts valuable time and effort by pre-populating CRDC survey forms with between 40 and 100 percent of the required data elements.

POLICY GUIDANCE: AN OVERVIEW

During FY 2015, OCR issued nine policy guidance documents addressing issues ranging from resource equity concerns to the obligations of schools to designate a Title IX coordinator (*See* ***Figure 11***). These documents serve to assist schools and other educational institutions receiving federal financial assistance in understanding how OCR interprets and enforces federal civil rights laws. In some instances, the guidance OCR issues directly responds to emerging trends reflected in the Civil Rights Data Collection (CRDC), requests OCR receives for technical assistance, compliance issues in career and technical education programs as identified through the Methods of Administration program, and OCR's own complaint investigations and compliance reviews. When appropriate, OCR issues guidance jointly with other civil rights offices, such as the Civil Rights Division at the U.S. Department of Justice (DOJ). Educational institutions may use OCR's policy guidance to help understand the law, adjusting their own policies and practices to enhance civil rights protections for students and avoid civil rights violations, which can reduce the need for OCR enforcement. Students, families, and communities often utilize OCR's guidance to better understand students' civil rights.

OCR created a more **systematic process** to assure engagement with relevant stakeholders while developing policy guidance. This engagement assures that the guidance OCR develops can continue to reflect and respond to issues schools and students may confront. OCR held 25 listening sessions addressing topics across all substantive areas OCR enforces. The 25 **listening sessions** involved representatives from leading education and civil rights organizations across the country.

Figure 11

Policy Guidance Issued in FY 2015

STATUTE	ISSUE/RELEASE DATE	DESCRIPTION
Title VI, Title IX, and Section 504/Title II	**Juvenile Justice Residential Facilities** December 8, 2014 (released jointly with DOJ)	Reiterates the applicability of federal civil rights laws in juvenile justice residential facilities.
Title VI and Section 504/Title II	**Implementing CDC's Ebola Guidance While Protecting Civil Rights** December 16, 2014	Clarifies how schools can implement CDC's Ebola guidance without discriminating against students on the basis of race, color, national origin, or disability.
Title VI	**Resource Equity** October 1, 2014	Discusses the requirement under Title VI and the Department's implementing regulations that students have equal access to educational resources without regard to race, color, or national origin.
	English Learners (EL Students) & Limited English Proficient (LEP) Parents January 7, 2015 (released jointly with DOJ)	Discusses schools' obligation under Title VI and the Department's implementing regulations to ensure EL students' ability to participate and the obligation of P-12 schools to communicate with LEP parents.
Title IX	**Single-Sex Classes and Extracurricular Activities** December 1, 2014	Clarifies the Title IX requirements that must be met in order for nonvocational, coeducational elementary and secondary schools to offer single-sex nonvocational classes or extracurricular activities.
	Title IX Coordinators April 24, 2015	Reminds recipients of the obligation to designate a Title IX coordinator and provides an overview of Title IX's requirements in several key areas, including athletics, single-sex education, sex-based harassment, and discipline.
Section 504/Title II	**Responding to Bullying of Students with Disabilities** October 21, 2014	Discusses a school's obligation under Section 504 and Title II and their implementing regulations to respond to the bullying, on any basis, of students with disabilities.
	Effective Communication for Students with Disabilities November 12, 2014 (released jointly with the Office of Special Education and Rehabilitative Services (OSERS) and DOJ)	Addresses the responsibility under Section 504 and Title II and their implementing regulations of public schools to ensure that communication with students with hearing, vision, or speech disabilities is as effective as communication with all other students.
	Implementing CDC's Measles Prevention Recommendations Without Discriminating on the Basis of Disability March 18, 2015	Clarifies how schools can implement the CDC's measles prevention recommendations without discriminating against students on the basis of disability, particularly for students who are medically unable to receive vaccines because of a disability.

TITLE VI: DISCRIMINATION BASED ON RACE, COLOR, OR NATIONAL ORIGIN

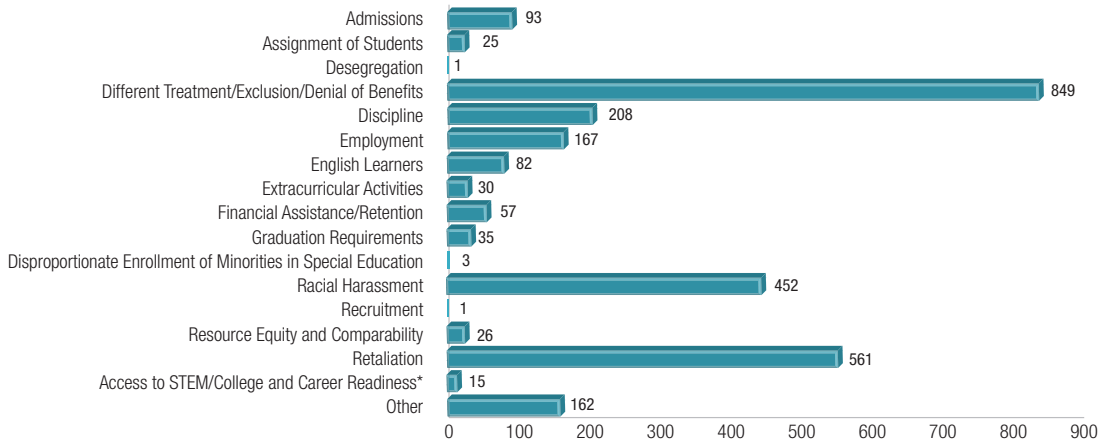
Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities operated by recipients of federal funds. It states: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." In the education arena, Title VI's protections apply to all public elementary and secondary schools and colleges and universities—public or private—that receive federal financial assistance. Its protections extend to all aspects of these institutions' programs and activities. When enforcing Title VI, OCR works to ensure equal access to education services and benefits and to prevent acts of retaliation against those who report Title VI violations.

Policy Guidance: During FY 2015, OCR issued four guidance documents or packages that address Title VI: (1) a *Dear Colleague* letter addressing the need for equal access to educational resources for all students without regard to race, color, or national origin; (2) a *Dear Colleague* letter discussing schools' obligation under Title VI and the Department's implementing regulations to ensure English Learner (EL) students' ability to participate in educational environments as well as the need to adequately communicate with limited English proficient (LEP) parents; (3) a *Dear Colleague* letter reiterating the applicability of federal civil rights laws in juvenile justice residential facilities; and (4) a fact sheet clarifying how schools can implement the CDC's Ebola recommendations without discriminating on the basis of race, color, national origin, or disability.

Technical Assistance: Educators, as well as parents and students, should have the knowledge and skills to identify, prevent, and address discrimination, or get help when it does occur. Every year, OCR provides technical assistance to schools and communities around the country on both longstanding and emerging civil rights issues. In FY 2015, OCR engaged in nearly 100 technical assistance events on Title VI-related issues. These events included presentations on OCR's discipline guidance package and technical assistance on issues faced by EL students.

Figure 12

Number of Title VI Issues Raised in OCR Complaints, by Issue



Total Number of Complaints Raising Title VI Issues, **FY 2015 = 2,157**

Note: A single complaint can raise multiple issues; therefore, the total number of issues raised will exceed the number of complaints received.

* **STEM** refers to science, technology, engineering, and mathematics. College and Career Readiness refers to access to high-level, college preparatory courses and rigorous curricula, such as honors and Advanced Placement (AP) courses.

Enforcement: In FY 2015, OCR received more than 2,150 Title VI-related complaints and launched seven systemic, proactive investigations that, collectively, address a broad range of Title VI-related issues in institutions across the nation *(See **Figure 12**)*. These issues range from discrimination against EL students to differential disciplinary policy on the basis of race. Over the course of the fiscal year, OCR resolved[5] 2,066 Title VI complaints.

Ensuring Access to Equal Educational Opportunity

In FY 2015, OCR received 40 complaints and resolved[6] 23 complaints related to student access to resources, curricula, and opportunities that foster college and career readiness under Title VI. Additionally, in FY 2015, OCR launched three and resolved[7] three proactive, systemic investigations in this area. Illustrative cases include:

South Orange-Maplewood School District (NJ): In October 2014, OCR resolved a compliance review of South Orange-Maplewood School District after concerns arose about the significant and disproportionate underrepresentation of black students in the math enrichment program, middle school honors, advanced honors and accelerated mathematics courses, and high school Advanced Placement (AP) courses. During the course of the investigation, OCR conducted interviews of district staff and clarified how the district's elementary, middle, and high school staff implemented the district's educational achievement placement policy and how students' achievement in lower grades affected their placement in various levels of courses in the middle and high schools. OCR's investigation also identified concerns related to the statistically significant underrepresentation of students of color in AP and other accelerated courses. For example, in the 2012-2013 school year, black students made up about 19% of the district's AP enrollment, while they represented about 52% of the district's high school enrollment. In contrast, white students represented about 38% of the district's total high school enrollment and nearly 70% of the district's high school AP course takers. To address OCR's concerns, the district agreed to conduct a review and self-assessment of its current programs and courses offered at all school levels to identify any potential barriers to black students' participation; survey students, parents/guardians, and staff to gain information that could help the district equalize access to its high-rigor courses; and hire a consultant with expertise in addressing the underrepresentation of black students in college and career preparatory programs and courses in high school.

Guidance on Responsibility of Schools to Provide Students With Equal Access to Educational Resources

On October 1, 2014, OCR released a *Dear Colleague* letter and fact sheet on the responsibility of states, districts, and schools, under Title VI and the Department's implementing regulations, to provide students with equal access to educational resources without regard to race, color, or national origin. The guidance provides superintendents and other state and district officials with information regarding the importance of comparable educational resources, how OCR investigates resource disparities and determines whether unlawful discrimination has occurred, and what states, districts, and schools can do to meet their Title VI obligations to all students.

Arlington Independent School District (TX): In June 2015, OCR resolved an investigation of Arlington Independent School District assessing whether the district discriminated against black and Latino students on the basis of race or national origin with respect to providing equal access to, and equal opportunity to participate in, college and career preparatory programs and courses, including the district's Advanced Placement (AP) and International Baccalaureate (IB) programs and other high-level and career-building learning opportunities. OCR also examined whether discrimination occurred regarding access to foundation courses that are essential to prepare students to take rigorous courses in high school and to provide them with the skills necessary for success in college and their careers. OCR's investigation revealed that for the preceding two school years, black and Latino students

OCR MONITORING REPORT

District overhauls procedures to address racially disparate impact in access to gifted and talented programs and advanced coursework:

The Elk Grove Unified School District in California entered into a resolution agreement with OCR in July 2014 after OCR found that the district's policies and procedures for identifying gifted and talented (GATE) students and enrolling students in honors and AP courses resulted in an unlawful disparate impact on black students. The district agreed to establish and implement modified eligibility and selection criteria for the district's GATE program and to provide OCR with an analysis of the changes with data to be disaggregated by school, grade level, and race. The district has since worked with an equity consultant to identify best practices for equitable access to GATE, honors, and AP courses; created a GATE/equity committee that will evaluate whether the district's efforts are effectively increasing black students' participation in GATE programs; approved changes to the admission requirements to 42 honors, AP, and International Baccalaureate (IB) courses to eliminate barriers to enrollment; established equity initiatives at middle and high schools, including honors/AP "boot camp" summer programs, extended day tutoring support, counseling, peer mentoring, and PSAT for All; and had all principals affirm that their school is adhering to the agreed-upon course prerequisites and enrollment processes and conducting student outreach to increase equitable enrollment.

were enrolled in the gifted and talented services, AP courses and IB programs, and dual credit courses at statistically significant lower rates than their respective districtwide enrollment rate. OCR identified several possible barriers to enrollment of black and Latino students in these courses, including the publication of enrollment criteria, which negated the characterization by district officials of the college and career preparatory programs as having "open" enrollment; the fact that not all students were aware of the district's IB program; and the need to take prerequisite courses for AP course enrollment as early as junior high school. To address these issues, the district agreed to develop a comprehensive districtwide plan for ensuring equal opportunity to enroll in college and career preparatory courses, including AP, IB, dual credit, and other higher-level learning opportunities, as well as in any other advanced academic activities and courses and programs; review and assess any potential barriers to increased student participation in college and career preparatory courses, advanced academic activities, courses and programs, and foundation courses at the elementary and junior high schools; communicate with parents and guardians about these programs; and conduct training for staff at elementary, junior high, and high schools regarding district course offerings, enrollment demographics, and best practices to encourage black and Latino participation and retention in higher-level learning opportunities.

Combating Harassment on the Basis of Race, Color, or National Origin

OCR enforces Title VI to ensure safe and inclusive environments free from discrimination and harassment on the basis of race, color, or national origin for all students. In FY 2015, OCR received 452 complaints and resolved[8] 445 complaints in this area. Additionally, in FY 2015 OCR resolved[9] one proactive, systemic investigation in this area. Illustrative cases include:

John Doe School District:[10] In January 2015, OCR resolved a complaint alleging that the John Doe School District discriminated against a student on the basis of race/national origin (Jewish) and disability. The complainant alleged that the student's peers harassed him using negative stereotypes about Jews, and constantly verbally and physically bullied him more generally for several years. The complainant also alleged that the district failed to respond to reports of this conduct; consequently, the student often responded inappropriately to the conduct, resulting in discipline and, sometimes, missed instructional time. OCR's preliminary investigation revealed that school officials were notified of several alleged instances of language directed at the student potentially implicating his Jewish heritage. Additionally, the district assigned an instructional aide to monitor and provide support for academics, socialization, and safety for the student. Prior to the conclusion of the investigation, the district expressed interest in remedying the concerns raised in the complaint. The district agreed to develop a plan to assess and monitor the climate at the school with respect to harassment, provide annual investigative training to district and school administrators, provide age-appropriate student instruction to increase awareness of what constitutes harassment, and convene a meeting of the student's Individualized Education Program (IEP) team to ensure that the student continues to receive a free appropriate public education (FAPE).

Pinckney Community Schools (MI): In April 2015, OCR resolved a complaint alleging that the district discriminated against students on the basis of national

origin and race at Pinckney Community Schools. Specifically, the complaint alleged that students at the high school subjected other students to derogatory comments, ethnic and racial slurs, and physical threats and attacks based on their race and/or national origin, and that district staff and administrators were made aware of the harassment but failed to take appropriate action to stop the harassment or prevent its recurrence, thereby creating a hostile educational environment. OCR investigated the complaint and found that students at the district's high school were subjected to severe, pervasive, and persistent race-based and national origin-based comments by multiple students at the school, including frequent use of derogatory comments based on race and national origin. OCR also found that the district had actual notice of the hostile environment and did not take steps to adequately redress it. To remedy this, the district agreed to revise its harassment-related policies and procedures to include a statement that the district will offer counseling services to any person found to have been subjected to harassment on the basis of race, color, or national origin and, where appropriate, to the person(s) who committed the harassment. The district also agreed to provide annual, age-appropriate training to high school students and to appoint an administrator, staff person, or independent third party to conduct an annual assessment of the district's educational climate at its high school to assess the effectiveness of its anti-harassment program and to ensure an educational environment free from race and/or national origin discrimination, including harassment.

Springfield City School District (OH): In July 2015, OCR resolved a complaint alleging that the district discriminated against a student on the basis of race by failing to respond appropriately when the student was subjected to racial harassment by another student. The complaint alleged that the student was subjected to racial harassment by another student when that student repeatedly used an offensive racial slur directed at the student, and later threatened the student. OCR found that the district's lack of specific, consistent policies and procedures likely contributed to its failure to respond in a timely, effective manner to racial harassment of which it had notice. The case also raised issues related to impact and proper response in the case of racial harassment of students with disabilities. The student subjected to the harassment had a disability – OCR noted that the district failed to determine whether, as a result of the harassment, the student's needs had changed and whether the student was no longer receiving FAPE. To resolve these issues, the district agreed to reconvene the student's IEP team

to determine whether additional or different services, including compensatory services, were needed as a result of the racial harassment. The district also agreed to review and revise its anti-harassment policy and provide training to district staff.

Fortis College (AL): In September 2015, OCR resolved a complaint against Fortis College alleging that a staff member of the college made racially insensitive comments toward a student and sexually inappropriate comments around the student and other staff members. Specifically, the complaint alleged that over several meetings, the staff member made various comments advising the student to work on being "more White." OCR determined that, based on the college's delayed response and the college's failure to fully remedy the effects of harassment (the college did not initiate an investigation until the student's attorney submitted a letter to the college, approximately one month after the student first attempted to address her concerns, and did not interview the student during its investigation), the student was subjected to a hostile environment on the basis of race and sex. The college entered into a resolution agreement with OCR in which it agreed to revise its notice of nondiscrimination; designate a Title IX coordinator whose position does not pose a conflict of interest; and revise and execute an updated grievance and complaint procedure in response to civil rights complaints.

ALSO: See **Sandwich Community Unit School District #430 (IL)**, p. 36 (bullying/harassment on the bases of disability, race, and sex).

OCR MONITORING REPORT

District finds successful alternatives to exclusionary discipline, keeping more students in class and reducing number of, and racial disparity in, discipline referrals:

The Tupelo Public School District in Mississippi reached a resolution agreement with OCR in September 2014. The agreement followed an OCR compliance review that examined whether the district discriminated against black students by disciplining them more frequently and more harshly than similarly situated white students. The agreement required the district to form student committees and working groups to submit recommendations for improving discipline; review disciplinary data on an ongoing basis with all personnel; and conduct programming to explain disciplinary policies to parents and guardians at each school. At the beginning of the 2015-2016 school year, the district implemented a character education program that focuses on a specific trait, such as respect, each month. It also commenced a training on behavior expectations that occurs each fall and in January after winter break. The district reports 9% fewer referrals during its first semester this school year compared to last, and teachers report a striking improvement in classroom climate, as well as students holding each other accountable for their behavior.

"That's something we've seen this year, students helping students. I just think that's when it's powerful, when kids start taking ownership of their behavior."

CHRISTY CARROLL, Principal at Carver Elementary, Tupelo Public School District, referring to striking evidence of the character education program's success.

Combating Discriminatory Discipline

In FY 2015, OCR received 208 complaints and resolved[11] 153 complaints regarding Title VI racial disparities in discipline brought by parents, students, and individuals concerned about possible civil rights violations involving school discipline practices, policies, and procedures. Additionally, in FY 2015 OCR resolved[12] two proactive, systemic investigations in this area. Below is a case that illustrates some of OCR's work in this area:

Minneapolis Public Schools (MN): In November 2014, OCR resolved an investigation of Minneapolis Public Schools after assessing whether the district discriminated against black students on the basis of race by disciplining them more frequently, and more harshly, than white students who committed similar offenses. The data showed that black students were the subject of higher proportions of each category of discipline than white students in the 2011-2012 school year, and that the disproportionate discipline of black students occurred at almost every school in the district. OCR identified a total of 96 incidents in which district personnel could not provide an explanation of why black students were potentially treated differently than white students. For example, a white 2nd grade student was not suspended for an incident in which he threw a rock and broke a teacher's sunglasses and also hit another student in the head, while a black 2nd grade student was suspended one day out of school for poking a student with a pencil. To remedy these issues, the district agreed to review its student discipline policies, practices, and procedures and make revisions, as necessary; train all teachers and students on the policy annually through age-appropriate programming; and appoint a district discipline supervisor to ensure that its administration of discipline is fair and equitable. The district also agreed to implement student committees and working groups that allow students and parents to make suggestions to help improve the effectiveness of the district's discipline policies, practices, and procedures.

Ensuring Equal Opportunities for English Learners

In FY 2015, OCR received 82 complaints and resolved[13] 74 complaints alleging discrimination against EL students. In addition, in FY 2015 OCR launched three and resolved[14] four proactive, systemic investigations relating to EL programs and services. Illustrative cases include:

Jersey City Public Schools (NJ): In January 2015, OCR resolved an investigation examining Jersey City Public Schools' provision of services to EL students and LEP parents. During the course of the investigation, OCR found that the district was not in compliance with Title VI regarding the district's implementation of its alternative language program; exiting and moni-

toring of EL students; evaluation of its EL program; communication with LEP parents/guardians; exclusion of EL students from certain specialized programs; evaluation and placement of EL students with disabilities; and provision of EL services in the least segregative manner possible. Evidence indicated that no EL students participated in AP courses (other than AP Spanish), the teacher-to-student ratio for EL programs at 12 schools exceeded that of the general education ratio by more than 10 students per teacher, and class time instruction for EL students was not equivalent to class time instruction for non-EL students. To remedy these issues, the district agreed to provide English language services and instruction to all EL students in all educational settings, including special education; identify whether any students who have exited the alternative language program have suffered any academic deficiencies and, if so, take appropriate steps to address them; ensure classroom observation and evaluation of teachers who provide EL instruction; ensure that the district carries out its EL program in the least segregative manner consistent with achieving its stated goal(s); and convene parent forums in a language the parents can understand to provide them with information regarding the alternative language program.

Modesto City Schools (Modesto City Elementary) (CA): In February 2015, OCR reached a resolution agreement with Modesto City Schools (Modesto City Elementary) after a complainant alleged that the elementary district failed to provide adequate oral interpretation for LEP parents at district board meetings. After investigating, OCR concluded that the limited interpretation services provided at board meetings during the 2013-2014 school year failed to comply with Title VI. To come into compliance, the district agreed to develop a procedure to ensure that LEP parents in the district are able to understand and participate effectively in meetings of the district's board, including through the translation of agendas, notices, and calendars of board meetings, and notices that describe how LEP parents can request interpreting services in Spanish and English at board meetings.

Harmony Public Schools (TX): In November 2014, OCR resolved an investigation of Harmony Public Schools (HPS), a public charter school system in Texas, examining whether HPS discriminated on the basis of national origin or disability by failing to provide national origin minority EL students and students with disabilities equal access to, and equal opportunity to participate in, its charter schools. OCR's investigation revealed that the enrollment rate of the 1,152 EL students at the 18 Harmony charter schools was approximately half that at the local school districts (11.5% compared to 22.5%) and the enrollment rate of the 273 students with disabilities was even lower (2.7% compared to 7.3%). OCR had concerns that admissions and enrollment policies at HPS charter schools provided that HPS may exclude students with disciplinary records and require students to provide enrollment documentation that may chill or discourage the participation of students based on their or their parents' or guardians' citizenship or immigration status. To remedy these issues, as part of the resolution agreement, HPS committed to ensure that it takes effective measures to promote and ensure equal opportunities for all students, including EL students and students with disabilities, to enroll and participate in its schools and programs; develop an EL communication plan to ensure meaningful access to LEP parents with respect to student admissions and enrollment in HPS charter schools, including through interpretation and translation services; implement a comprehensive plan for all HPS charter schools regarding the provision of services to EL students that appropriately identifies and assesses EL students for language development services and provides these services to the students; review and revise existing evaluation and placement procedures for students with disabilities to ensure that students are evaluated with appropriate evaluation

Guidance Addressing Schools' Obligations to English Learners

On January 7, 2015, OCR published a *Dear Colleague* letter and two fact sheets addressing schools' obligations under Title VI and the Department's implementing regulations to EL students as well as to LEP parents. The letter outlines common civil rights concerns that schools need to address in order to remain in compliance with the law. Such concerns include:

- Identifying and assessing EL students in a timely, valid, and reliable manner;
- Providing EL students an educationally sound language assistance program with qualified staff and sufficient resources;
- Ensuring EL students have meaningful access to all other curricular and extracurricular programs and are not unnecessarily segregated from other students;
- Properly evaluating and providing for EL students with disabilities; and
- Ensuring meaningful communication with LEP parents.

OCR MONITORING REPORT

District improves climate for, communication with Latino students and parents:

Adams County School District 14 in Colorado entered into a resolution agreement with OCR in April 2014. The agreement required the district to end a hostile environment for Latino students and staff while also communicating with Spanish-speaking community members in a language they could understand. As OCR learned during the monitoring of this district's adherence to the agreement, the district took proactive steps to ensure further equity by establishing a Spanish-speaking advisory committee, led by Superintendent Patrick Sánchez. The purpose of this committee is to empower families whose first language is not English to become engaged partners in their children's education and to discuss important topics concerning the district. The district also hired new staff to focus on equity, language instruction, and STEM, and hosted speakers who spoke about the importance of education and academic achievement, equity, and encouraging students to achieve their dreams. As a result of his distinguished leadership, the White House identified Superintendent Sánchez as a Champion of Change in September 2014.

materials and that schools properly document the educational needs of students in their records; and provide training to administrators and relevant staff on admissions and enrollment policies and procedures, communications with LEP parents, and language assistance services for EL students.

Reynoldsburg City School District (OH): In May 2015, OCR resolved a complaint concerning the provision of English language services to EL students during a teacher strike, which lasted 15 instructional days, at the district during fall 2014. The district contracted with a strike management firm for alternative teaching staff, including 360 temporary replacement teachers, but provided no documentation to OCR regarding the provision of services for EL students during the work stoppage. After indicating its willingness to address loss of EL services faced by the approximately 486 EL students, the district agreed to send a letter to the parents of each EL student, explaining that it has developed a written remedial plan to offer remedial services to all EL students, consistent with each student's previously developed ESL Intervention Plan, to address any loss of services suffered as a result of the teacher strike. The district also agreed to revise its work stoppage procedures to include a specific discussion of how to prevent service disruption for EL students in the event of a future teacher strike or other work stoppage.

Appleton Area School District (WI): In January 2015, OCR resolved an investigation involving whether the district's charter schools discriminated on the basis of national origin against students who were EL students and LEP parents and guardians, and whether the district's charter schools discriminated against students with disabilities. Upon investigation, OCR found that one charter school used selective admission criteria that may have screened out EL students on the basis of their limited English proficiency. OCR also found that the district failed to ensure that its communications with LEP parents and guardians were effective, including its communications relating to admission and enrollment at the charter schools. OCR determined that the district's charter school facilities and the programs, services, and activities located within those facilities were not physically accessible, and that the district failed to provide notice of nondiscrimination on its application materials with respect to Section 504 and Title II. To remedy these issues, the district agreed to develop and implement a plan to ensure EL students' equal access to the district's charter schools, appropriately identify and assess EL students, monitor their progress in the EL program, maintain records of all services provided to EL students, effectively communicate with LEP parents, and make parents aware of translation and interpretation services available. The district also agreed to ensure that its charter school programs and activities are readily accessible to and usable by individuals with disabilities, make physical changes to facilities, and adopt and implement procedures as to the existence and location of services, activities, and facilities that are accessible to and usable by persons with disabilities.

Supporting Lawful and Voluntary Efforts to Pursue Racial Diversity

OCR investigates cases involving challenges to the use of race or national origin to help achieve diversity or reduce racial isolation at the elementary and secondary level and to achieve diversity at the postsecondary level. In FY 2015, OCR received four complaints and resolved[15] six cases (three at the elementary and secondary level and three at the postsecondary level) involving these issues. Below is a case that illustrates some of OCR's work in this area:

Princeton University (NJ): In September 2015, OCR resolved a compliance review of the university's undergraduate admissions policies and practices, specifically examining whether the university discriminated against Asian and Asian American applicants on the basis of race or national origin. OCR conducted a strict scrutiny review of the university's admissions process, which entailed examining whether the university was pursuing a compelling interest in diversity and whether the university's consideration of race and national origin in its admissions process was narrowly tailored to meet that interest, consistent with the standards established by the U.S. Supreme Court. OCR determined that there was insufficient evidence to substantiate that the university violated Title VI. OCR reviewed years of admissions data, conducted file reviews, interviewed current and former staff, and evaluated admissions policies, procedures, applicant files, internal memoranda, training materials, and other documents. While the university sometimes considers race and national origin as factors in admissions, OCR found no evidence that the university does so in a discriminatory manner. Instead, OCR found that the university pursues a compelling interest in student body diversity; and that the university, if it considers race or national origin in admissions, does so in a narrowly-tailored manner in pursuit of that interest.

Eliminating Retaliation for Exercising Civil Rights

OCR received 561 complaints and resolved[16] 544 complaints related to retaliation under Title VI. Although resolutions are based on the individual circumstances and facts of each case, common remedies include implementing policies and procedures regarding how the district must respond to complaints of race discrimination, including the district's internal grievance procedures; providing faculty, staff and administrators training on prohibitions of retaliation; and amending the education records of the affected student as appropriate. Below is a case that illustrates some of OCR's work in this area:

Northcentral University (AZ): In December 2014, OCR resolved a complaint in which a student at Northcentral University alleged that the university retaliated against him after he submitted a claim of discrimination on the basis of national origin against the university. The complainant alleged that the chair of the dissertation committee stopped communicating with him after his discrimination and retaliation claims and would not comment on his work as was necessary for him to complete his graduate program. The complainant also alleged that the university retaliated against him with a threat of legal action and dismissal, including a charge of violation of the code of conduct. OCR found, after speaking with the university about the allegations of retaliation, that the complainant was retaliated against through restricted communications, threatened legal action and dismissal, and the filing of conduct charges for reasons OCR found to be illegitimate. To remedy these issues, the university agreed to offer to re-admit the complainant for enrollment, and, if the student accepted this offer, to return the complainant to his prior academic status and assign him a new chair for his dissertation. In addition, the university agreed to provide training to university administrators and educational staff regarding the prohibition of discrimination on the basis of race, color, or national origin, as well as the prohibition of retaliation against those who are within their rights to file discrimination complaints.

Multi-Jurisdictional Policy Guidance: Juvenile Justice Residential Facilities

On December 8, 2014, OCR issued a *Dear Colleague* letter jointly with the U.S. Department of Justice (DOJ) regarding the protection of civil rights for students in juvenile justice residential facilities. The letter reaffirms the applicability of federal civil rights law to Juvenile Justice Residential Facilities and specifies a number of civil rights concerns, including:

- Ensuring equal access to academic resources by sex;
- Meeting the needs of EL students;
- Ensuring that FAPE is provided to students with disabilities; and
- Eliminating discriminatory disciplinary policies.

TITLE IX: DISCRIMINATION BASED ON SEX

Title IX of the Education Amendments of 1972 (Title IX) states: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Title IX applies to recipients of Federal financial assistance, including colleges, universities, and public school districts. OCR enforces Title IX to ensure that students have equal access to educational opportunity.

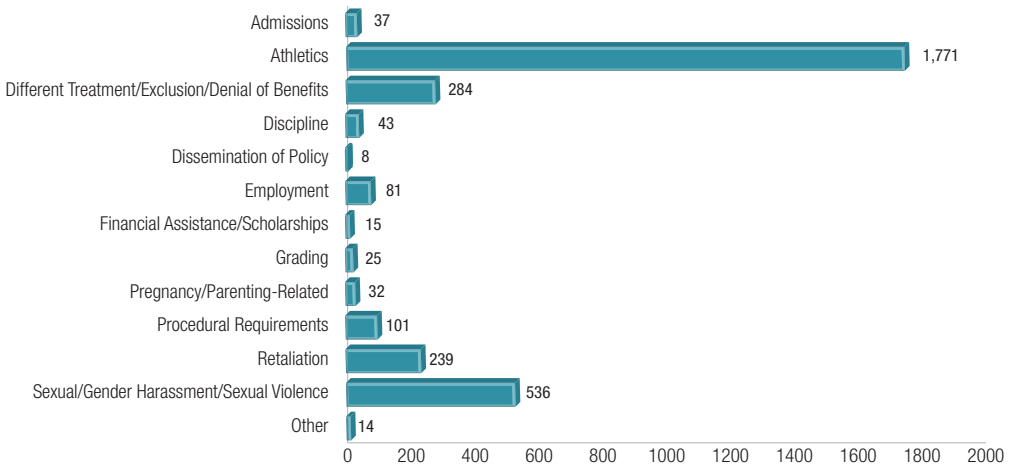
Policy Guidance: During FY 2015, OCR issued three guidance documents or packages that address Title IX: (1) a Questions and Answers document clarifying the principles of Title IX with regard to single-sex classes and extracurricular activities in coeducational elementary and secondary schools; (2) a *Dear Colleague* letter delineating the specific requirements and duties of schools' Title IX coordinators, in addition to a letter to Title IX coordinators and a Title IX resource guide; and (3) a *Dear Colleague* letter reiterating the applicability of federal civil rights laws in juvenile justice residential facilities.

Technical Assistance: Educators, parents, and students should have the knowledge and skills to identify, prevent, and address discrimination or get help when it does occur. Every year, OCR provides technical assistance to schools and communities around the country on both longstanding and emerging civil rights issues. In FY 2015, OCR engaged in over 130 technical assistance events on Title IX–related issues. These events included presentations on the rights of pregnant and parenting students under Title IX and the responsibilities of schools to respond to sexual violence under Title IX.

Enforcement: In FY 2015, OCR received 2,939 Title IX–related complaints and launched 7 proactive investigations that, collectively, address a broad range of Title IX–related issues across the nation, including sexual violence at the elementary, secondary, and postsecondary levels; equal access to athletic opportunities; and harassment (*See* ***Figure 13***). Over the course of FY 2015, OCR resolved[17] 2,663 complaints. When Title IX was enacted in 1972, Congress explicitly provided an exemption for schools controlled by religious organizations to the extent that the law's application would be inconsistent with the organization's religious

Figure 13

Number of Title IX Issues Raised in OCR Complaints, by Issue



Total Number of Complaints Raising Title IX Issues, **FY 2015 = 2,939**

Note: A single complaint can raise multiple issues; therefore, the total number of issues raised will exceed the number of complaints received.

tenets. Since Title IX was enacted through the end of FY 2015, 218 institutions received this exemption. In FY 2015, OCR granted 26 religious exemptions.[18]

Combating Harassment on the Basis of Sex, Including Sex Stereotypes

In FY 2015, OCR received 536 complaints and resolved[19] 375 complaints involving bullying and harassment on the basis of sex. Additionally, in FY 2015 OCR launched two and resolved[20] two proactive, systemic investigations in this area. Illustrative cases include:

Downey Unified School District (CA): In October 2014, OCR resolved a complaint against Downey Unified School District alleging that a transgender student was subjected to different treatment and harassment by district employees because of her gender identity and gender nonconformity, and that when the student was subjected to sexual and gender-based peer harassment, the district failed to provide a prompt and equitable response to notice of the harassment. During OCR's investigation, the complainant asserted that staff at the student's school confiscated her makeup, even though other girls in her class were allowed to wear makeup. Additionally, the complainant alleged that staff forced the student to write an apology letter for making male students uncomfortable by putting on makeup. The complainant also alleged that staff discouraged the student from speaking about her gender identity with her friends and fellow classmates and discontinued her participation in group counseling sessions with other students based on a concern that the student might discuss her gender identity. The complainant also asserted that the student was frequently verbally harassed by her peers and that school administrators' response was to suggest that she transfer to another school. Before the conclusion of OCR's investigation, the district indicated a willingness to address the issues raised in the allegations and OCR's preliminary investigation. Through the agreement, the district committed to review and revise its policies, procedures, and regulations to ensure that all students, including students who do not conform to sex stereotypes, are provided an equal opportunity to participate in all programs and activities; conduct annual climate surveys of students and parents to evaluate the effectiveness of the district's bullying and harassment prevention efforts; conduct mandatory training on issues related to gender nonconformity and gender-based harassment for district administrators; work with a consultant with expertise in child and adolescent gender identity to ensure appropriate implementation of the resolution agreement; treat the student the same as other female students in all respects, including access to sex-designated facilities for female students; and ensure the student is not disciplined for acting or appearing in a manner that does not conform to stereotypical notions of masculinity or femininity.

Guidance Clarifying Application of Title IX to Single-Sex Classes and Extracurricular Activities

On December 1, 2014, OCR issued a Questions and Answers document that clarifies Title IX's application to nonvocational single-sex classes and extracurricular activities. Specifically, the document explains how a school can comply with the regulatory requirements that must be met in order for schools to offer these classes in compliance with the law. The topics in the Q&A include:

- Basing each single-sex class and activity on a justification that demonstrates an important objective and a substantial relationship between the important objective and the single-sex nature of the class or activity;
- Ensuring completely voluntary enrollment in single-sex classes;
- Providing a substantially equal coeducational class in the same subject;
- Offering single-sex classes evenhandedly to male and female students;
- Offering single-sex classes without sex stereotypes;
- Avoiding discrimination based on sex when assigning educators to single-sex classes;
- Assigning transgender students to single-sex classes consistent with the student's gender identity; and
- Conducting periodic evaluations of single-sex classes and activities.

Guidance Clarifying Schools' Obligation to Designate a Title IX Coordinator

Designating a well-qualified, well-trained Title IX coordinator – and giving that coordinator the authority and support necessary to do the job – is a critical responsibility under Title IX. On April 24, 2015, OCR released a guidance package that includes three documents:

- A *Dear Colleague* Letter to districts, colleges, and universities reminding them of their obligation to designate a Title IX coordinator;
- A letter to Title IX coordinators that provides more information about their important role; and
- A Title IX resource guide that includes an overview of Title IX's requirements in several key areas, including recruitment, admissions, and counseling; financial assistance; athletics; sex-based harassment; treatment of pregnant and parenting students; discipline; single-sex education; employment; and retaliation — all topics that schools and their Title IX coordinators frequently confront.

John Doe College:[21] In August 2015, OCR resolved a complaint alleging that the college discriminated against a transgender student on the basis of sex by requiring her to provide identification or medical documentation to verify her sex, suspending her from the college, prohibiting her from completing work that she missed over the course of her suspension, instructing her to use gender-neutral restrooms, and discouraging and then prohibiting her from filing a complaint under the college's Title IX grievance procedures. The complaint also alleged that the college's Title IX grievance procedures, as applied, did not provide for equitable resolution of complaints. OCR identified preliminary concerns relating to the requirement that the student use gender-neutral restrooms and relating to the student's suspension. In addition, OCR found that the college's grievance procedures did not comply with Title IX. In the resolution agreement with OCR, the college agreed to revise its Title IX complaint resolution procedure, communicate to students their right to use the bathroom coinciding with their gender identity, make clear that students need not change their official records as a condition of being addressed by the name or gender of their choice, and ensure that all staff are trained on gender-based discrimination or harassment and on the coverage of transgender students under Title IX. The college also agreed to address issues raised in the complaint regarding discrimination on the basis of sex by expunging the student's record of any disciplinary action taken against her in relation to the complaint; providing her with copies of all updated policies, publications, and training materials regarding Title IX violations and gender-based discrimination or harassment; and offering her the option to retake or be reimbursed for the courses in which she was enrolled at the time of her suspension.

John Doe School District:[22] In March 2015, OCR resolved a complaint of sex discrimination alleging that a student was involved in a physical altercation during which some of the student's body parts were exposed. OCR's investigation confirmed that students at the high school widely circulated a video and photos of the altercation that showed the exposed body parts and that one of the photos circulated around the school had derogatory words written on it. OCR also confirmed that the district's investigation of the harassment was too limited in scope. The district entered into a resolution agreement with OCR in which it agreed to draft grievance procedures and a notice of nondiscrimination and submit them to OCR for review and approval; provide training to the Title IX coordinator, district personnel, and students; and improve its sexual harassment record-keeping practices to allow district staff to evaluate the severity, repetition, or other relevant context for allegations of sexual harassment. The district also agreed to reimburse expenses for counseling services for the student.

John Doe School District:[23] In May 2015, OCR resolved a complaint of sex discrimination alleging that the district subjected a student to a hostile environment because it allowed classmates to harass the student because he did not conform to male gender stereotypes. OCR's investigation revealed that the student endured repeated slurs and name-calling and was assaulted because of his gender identity. Student witnesses reported that district staff members overheard the harassment but refused to respond. OCR concluded that the district's grievance procedures did not comply with Title IX and that the district did not conduct investigations of each reported incident. The district entered into a resolution agreement with OCR in which it agreed to revise its Title IX grievance procedures and notice of nondiscrimination and submit them for OCR's review and approval; develop an ongoing, annual training program for all district personnel; develop and implement a plan to educate high school students and parents about sexual and gender-based harassment; and conduct climate checks.

John Doe School District:[24] In July 2015, OCR resolved a complaint alleging that John Doe School District subjected a male student to discrimination on the basis of sex when the district was aware that the student was subjected to gender-based harassment by other students but failed to respond appropriately. OCR's investigation uncovered that the student had been called "gay" as a derogatory term, had been derided as not having genitals or "male parts," and had his pants pulled down at school. In consultation with OCR after OCR initiated its investigation, the district substantially revised its Title IX policies and procedures to comply with the law. Additionally, under the signed resolution agreement, the district committed to ensure that the student is not subjected to a hostile environment on the basis of sex, including by checking in with the student on a periodic basis (at least monthly) to ascertain whether any instances of sexual harassment have occurred and, if so, taking prompt and appropriate action; provide annual training to all district administrators, faculty, and relevant staff regarding the district's revised policies and procedures relating to sexual harassment; and provide annual, age-appropriate training for all students on the district's sexual harassment policies and procedures.

University of the Rockies (CO): In December 2014, OCR resolved a Title IX sexual harassment complaint alleging that the university failed to adequately respond to a student's allegation of sexual harassment. A student alleged that a professor, who was also her internship supervisor and doctoral thesis advisor, sexually harassed her by making unwanted advances on a daily basis, such as trying to kiss her and sending inappropriate text messages. The investigation revealed evidence that the university initially ignored its obligation under Title IX to investigate the student's allegation and did not provide sufficient remedial actions. Prior to the conclusion of OCR's investigation, the university sought to remedy the issues raised in a resolution agreement. The university agreed to revise its Title IX grievance procedures, develop extensive training materials for all university staff on Title IX requirements, train staff involved in sex discrimination complaints on the university's grievance process, inform the professor he is not allowed access to the campus, provide annual training to students regarding the university's commitment to address discrimination based on sex, and provide the student with a liaison to assist her with any issues that arise while completing her doctoral program.

ALSO: See **Sandwich Community Unit School District #430 (IL)**, p. 36 (bullying/harassment on the bases of disability, race, and sex).

ALSO: See **Fortis College (AL)**, p. 21 (harassment on the bases of race and sex).

Eradicating Sexual Violence

During FY 2015, OCR received 230 complaints and resolved[25] 83 complaints related to Title IX sexual violence at the P-12 and postsecondary levels. During FY 2015, OCR initiated two proactive, systemic investigations and resolved[26] one such investigation related to sexual violence. Illustrative cases include:

Harvard Law School (MA): In December 2014, OCR resolved an investigation of Harvard Law School, determining that the law school's sexual harassment policies and procedures failed to comply with Title IX's requirements for prompt and equitable response to complaints of sexual harassment and sexual assault. OCR found that the law school did not appropriately respond to two student complaints of sexual assault. In one instance, the law school took over a year to make its final determination and did not allow the complainant to participate in an extended appeal process, which ultimately resulted in the reversal of the initial decision to dismiss the accused student. During the course of OCR's investigation, OCR determined that the university complied with the Title IX regulation regarding notice of nondiscrimination with respect to the law school's notice; however, OCR also determined that the law school's newly adopted grievance procedures were not fully compliant with Title IX. To remedy these issues, the law school committed to take further specific steps to ensure that it responds to student complaints of sexual harassment and sexual violence promptly and equitably, including by revising all applicable sexual harassment policies and procedures to comply with Title IX and providing clear notice of which policies and procedures apply to law school complaints; training staff and providing information sessions for students on the policies and procedures applicable to law school complaints; and conducting annual climate assessments to assess whether the steps and measures being taken by the law school are effective and to inform future proactive steps.

"We're on board with OCR that universities need to address these issues, we're on board with the OCR and the national conversation that one incident is one too many. We're on board with the national conversation that these are complicated issues."

LOU ANNA K. SIMON, President, Michigan State University, September 2, 2015, discussing the Michigan State University (MSU) resolution and its independent efforts to improve campus policy.

Michigan State University (MI): In September 2015, OCR resolved two Title IX complaints alleging that the university discriminated against students on the basis of sex by failing to promptly and adequately respond to their complaints of sexual violence. During the investigation, OCR found that, over a three-year period, many of the 30 cases examined took many months and several took nearly a year for the university to resolve. The university's failure to address complaints of sexual harassment, including sexual violence, in a prompt manner, caused a sexually hostile environment and may have contributed to its continuation. Additionally, OCR found that the university failed to take sufficient action when it had notice that a university counselor allegedly sexually harassed students who sought counseling after being sexually assaulted. During OCR's investigation, the university took steps to address some of OCR's concerns, such as hiring more Title IX investigative staff, developing memoranda of understanding with local police, and implementing a campus-wide awareness campaign against sexual assault. In the resolution agreement, the university also agreed to revise its nondiscrimination and complaint procedures, provide mandatory student training on the university's sexual harassment policies and procedures, perform student and employee climate checks in order to monitor the effectiveness of its policy changes, and establish a committee consisting of both students and faculty to increase awareness of university Title IX policies and procedures.

Princeton University (NJ): In November 2014, OCR resolved an investigation of Princeton University after three students at the university alleged that the university failed to promptly and equitably respond to their complaints of sexual violence of which the university had notice. OCR also investigated whether the university failed to respond promptly and equitably to other complaints, reports, and notices to the university of incidents of sexual harassment, sexual assault, and other forms of sexual violence – and whether as a result, students were subjected to a sexually hostile environment. OCR determined that the university failed to provide a prompt and equitable response to complaints of sexual harassment, including sexual assault/violence, as required by Title IX. In one complainant's case, only the accused was given the opportunity to provide an in-person character witness during the hearing, and the appeal was not resolved promptly. As a result, the complainant was subjected to an ongoing hostile environment that limited and denied her access to educational opportunities. Further, in all three cases, an inappropriate standard of evidence was used, and only the accused was permitted to appeal the outcome of the complaint. In the resolution agreement with OCR, the university agreed to submit revised grievance procedures that provide for prompt timeframes for the investigation and appeal processes. The university also agreed to ensure that, upon receipt of a complaint of sexual misconduct, it will provide interim measures to the complainant as appropriate. In addition, the university agreed to conduct trainings for staff and students and provide annual information sessions to students regarding sexual misconduct. The university agreed to provide reimbursement for the three initial complainants for educational and counseling expenses from the dates they reported to Princeton through the date of the resolution agreement.

University of Virginia (VA): In September 2015, OCR resolved a compliance review of the University of Virginia (UVA) after examining the university's handling of complaints and reports of sexual harassment,

including sexual violence, to determine if the university responded promptly and equitably. The review further examined whether any failure to respond appropriately allowed for the creation and continuation of a sexually hostile environment. OCR found UVA to be in violation of Title IX for failing to promptly and equitably respond to complaints of sexual harassment and violence, including sexual assault. OCR also determined that a basis for a hostile environment existed for affected students at UVA and that UVA failed to eliminate the hostile environment and take steps to prevent its recurrence, during certain academic years. OCR also found that the policies that had been used by UVA to investigate and respond to sexual violence did not comply with Title IX because the prior policy did not provide fair process to complainants nor to students accused of sexual violence. However, in July 2015, the university revised its policy and procedures to satisfy Title IX requirements; this policy and accompanying procedures comply with the requirement of Title IX that grievance procedures provide for prompt and equitable resolution of complaints. To remedy the issues identified during OCR's investigation, UVA agreed to continue to implement its revised Title IX policies; ensure that its policies and procedures require that proceedings must provide equal opportunity for both parties to access, review, and present witnesses and other evidence; ensure UVA's agreements with student organizations – including fraternities and sororities – clearly state that sexual harassment, sexual violence, and retaliation are prohibited and that the failure of an organization's student members to comply with the Title IX policy may result in UVA severing all ties with the organization; ensure that all members of the university community – including students, faculty, administrators, and other staff – are trained regularly on issues related to sexual harassment and sexual violence; and develop and implement a system for tracking and reviewing all reports, investigations, interim measures, and resolutions of student and employee conduct that may constitute sexual harassment or sexual violence, to ensure that such reports are adequately, reliably, promptly, and impartially investigated and resolved.

LaPorte Community School Corporation (IN): In April 2015, OCR resolved a complaint against LaPorte Community School Corporation alleging that the corporation violated Title IX when it subjected a high school student to discrimination on the basis of sex because it did not respond promptly and effectively to sexual harassment of a student athlete when a high school athletics coach sexually harassed the student and other members of a girls' sports team. Evidence indicated that the coach directed sexual comments and jokes at players and engaged in sexual relations with a player. The corporation failed for years to promptly and equitably respond to the harassment and had allowed the creation and continuation of a sexually hostile environment for the team members. In the resolution agreement with OCR, the corporation agreed to review and revise its sexual harassment policies and procedures and its code of conduct; provide effective training to students and staff on the revised policies and procedures; establish a working group to make recommendations regarding the effectiveness of the district's anti-harassment program; conduct a climate survey to assess the effectiveness of the steps taken; provide remedial services to affected members of the girls' team, as appropriate; and implement appropriate discipline against employees who failed to take action to report or investigate the harassment of members of the girls' team.

> *"With 134 universities under OCR investigation ... this national dialogue has allowed the [University of Kansas] community to take a critical look at what the university can be doing better."*
>
> **ERINN BARCOMB-PETERSON**, Director of News and Media Relations, University of Kansas, July 15, 2015, discussing KU's inclusion on the list of colleges that are under investigation for Title IX sexual violence investigations.

Ensuring Equal Access to Athletic Opportunities and Benefit

During FY 2015, OCR received 1,771 complaints and resolved[27] 1,658 complaints related to equal access to athletic opportunities and benefits. Additionally, in FY 2015, OCR launched five proactive, systemic investigations examining concerns of equal access to athletic opportunities and resolved[28] one such investigation. Illustrative cases include:

Chicago Public Schools (IL): In July 2015, OCR resolved a case involving the provision of equal athletic opportunities to female students at Chicago Public Schools high schools. OCR's investigation revealed substantial disparities between the enrollment of female students and their participation in high school interscholastic athletics at the majority of district high

schools, and that at one district high school, 477 additional athletic participation opportunities would be available if girls' enrollment and participation were proportionate. The district committed to provide, on a school-by-school basis, an equal opportunity for high school girls to participate in interscholastic athletics at all high schools. Under the terms of the agreement with OCR, the district agreed to add a new Title IX sports compliance coordinator and develop a process for students and parents to use in requesting the addition of new sports. Additionally, based on a comprehensive assessment of the interests and abilities of its students, the district will undertake efforts to add athletics opportunities until each high school is fully accommodating the athletic interests and abilities of its female students or until the participation rate for female students is substantially proportionate to their rate of enrollment.

New York City Department of Education (NY): In February 2015, OCR resolved a complaint against the New York City Department of Education (NYCDOE) alleging discrimination against high school girls because the selection of interscholastic sports at the NYCDOE's high schools did not effectively accommodate the interests and abilities of members of both sexes to the extent necessary to provide equal athletic opportunity. OCR determined that the NYCDOE failed to meet legal standards to demonstrate that it effectively accommodated the athletic interests and abilities of both sexes to the extent necessary. For example, during the 2012-2013 school year, females constituted 48% of enrolled high school students, compared to 52% for males; however, females accounted for only 44% of athletic participants, compared to 56% for males. It also failed to establish a history and continuing practice of athletic program expansion responsive to the interests of female students. The resulting resolution agreement commits the district to provide athletic participation opportunities that are either substantially proportionate to female student enrollment in its high schools or demonstrate that the interests and abilities of female students are fully and effectively accommodated by the district's current athletics program. The district also agreed to conduct an objective assessment of its female student body to determine the existence and/or scope of any unmet athletic interests of female students and, if it identified a sufficient but unmet interest in a sport, add athletic opportunities to meet the expressed interests and abilities of female high school athletes. The resolution agreement also requires the district to develop a process for students, parents, and coaches to request the addition of new sports, and to provide training to the athletic director of each high school on the relevant requirements of Title IX.

Rutgers, The State University of New Jersey (NJ): In July 2015, OCR resolved a compliance review of the athletics program of Rutgers, The State University of New Jersey, that examined whether the university provided male and female students an equal opportunity to participate in the university's intercollegiate athletic program by effectively accommodating their interests and abilities and providing opportunities for athletic financial assistance to members of both sexes in proportion to the participation rate of men and women in the intercollegiate athletics program. OCR determined that there was a significant and unjustified disparity favoring men's teams with respect to the amount of travel funds expended, locker room facilities, and the quantity and quality of publications and other promotional devices used for the teams. To resolve the areas of non-compliance identified, the university agreed to provide its women's athletics teams with locker and team rooms of equivalent quality, size, amenities, and proximity to competitive facilities as provided to its men's athletics teams. The university also agreed to take steps to provide equivalent publicity for men's and women's teams, including but not limited to the assignment of sports information personnel with comparable experience; equivalent publicity resources (such as game highlights, press conferences, and promotional activities like band, dance team, and/or cheerleaders at games); and procedures for seeking and obtaining media coverage. The university further agreed to provide office space for the coaches and administrative staff of men's and women's teams that is equivalent in availability, size, and amenities. Finally, the university agreed to continue implementing its new policy of providing charter flights for all air travel for the women's basketball team, and provide travel expenses to members of its men's and women's teams proportionate to rates of participation.

SECTION 504 AND ADA TITLE II: DISCRIMINATION BASED ON DISABILITY

OCR protects the rights of persons with disabilities, including students and parents, under two federal laws in the education context. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability in any program or activity operated by recipients of federal funds. It states: "No otherwise qualified individual with a disability in the United States…shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance..."

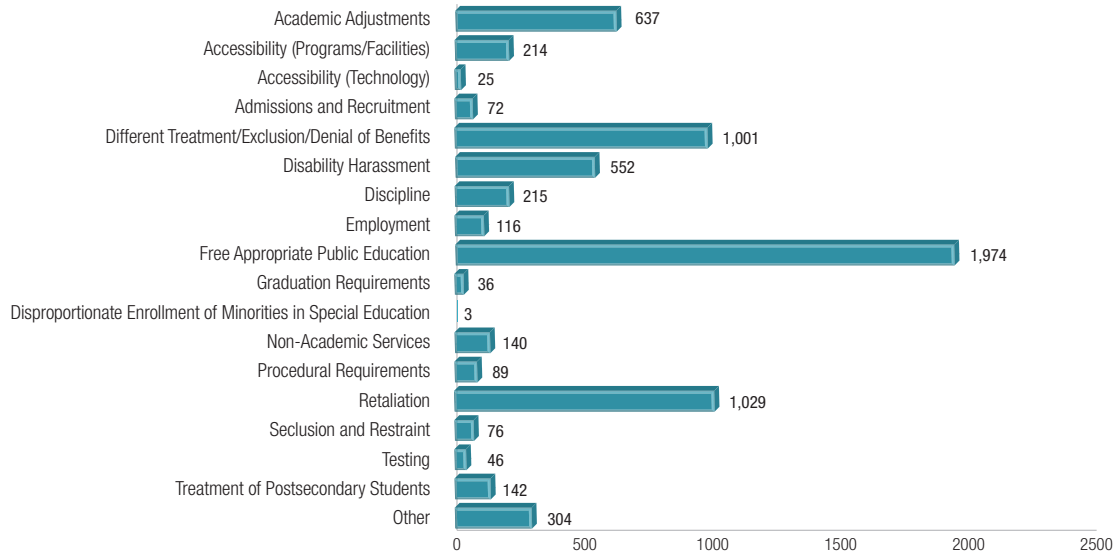
Title II of the Americans with Disabilities Act of 1990 (ADA) prohibits discrimination based on disability by public entities, regardless of whether they receive federal financial assistance. Title II states: "[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."

Policy Guidance: During FY 2015, OCR issued five guidance documents or packages that address Section 504 and/or ADA Title II concerns: (1) a *Dear Colleague* letter and fact sheet addressing a school's obligation under Section 504 and Title II and their implementing regulations to respond to acts of bullying against students with disabilities; (2) a *Dear Colleague* letter, fact sheet, and and frequently asked questions (FAQ) document discussing schools' obligation under Section 504 and Title II and their implementing regulations to facilitate effective communication with students with hearing, vision, and speech impairments; fact sheets clarifying how schools can implement the CDC's (3) Ebola and (4) measles prevention recommendations without discriminating against students on the basis of disability (or, with respect to Ebola prevention, on the basis of race, color or national origin); and (5) a *Dear Colleague* letter reiterating the applicability of federal civil rights laws in juvenile justice residential facilities.

Technical Assistance: In FY 2015, OCR staff delivered 140 technical assistance presentations across

Figure 14

Number of Disability Issues Raised in OCR Complaints, by Issue



Total Number of Complaints Raising Disability Issues, **FY 2015 = 4,806**

Note: A single complaint can raise multiple issues; therefore, the total number of issues raised will exceed the number of complaints received.

the country on disability rights issues. Topics included the obligations of schools, districts, and institutions of higher learning to provide equal access to the full range of programs, services, and activities available to other students; how entities may formulate policies, practices, and procedures that do not discriminate against students with disabilities; and how to remedy potential Section 504 or Title II violations once they are identified.

Enforcement: Of all complaints OCR receives, nearly half involve allegations of disability-based discrimination. In FY 2015, OCR received more than 4,800 complaints alleging violations of disability laws and covering a broad range of issues (*See* ***Figure 14***). Over the course of FY 2015, OCR successfully resolved[29] 4,655 such complaints. Over this same period, OCR initiated six compliance reviews related to disability issues.

Early Complaint Resolution

To help facilitate the expeditious resolution of allegations of discrimination, OCR offers Early Complaint Resolution (ECR), a voluntary mediation process designed to bring parties together to agree upon appropriate next steps. In ECR cases, OCR serves as an impartial, confidential facilitator between the complainant and the institution rather than directly negotiating with the institution to reach an agreement to resolve the case. ECR may be recommended early in the case evaluation process but may also occur during the investigative phase. OCR will monitor the process of ECR to ensure adequate time for completion of OCR's investigation in the event that ECR is unsuccessful. Where ECR is unsuccessful, OCR proceeds with investigation of the complaint allegations to ensure timely resolution of the case.

In FY 2015, OCR resolved 289 complaints through ECR, comprising 28% of complaints that resulted in substantive civil rights changes by, or agreements with, recipients and 3% of all complaints resolved.[33] Most typically, substantive resolutions achieved through ECR addressed the following issues:

- Free Appropriate Public Education (FAPE) (129)
- Different treatment/exclusion/denial of benefits (Disability) (53)
- Retaliation (Disability) (38)
- Academic adjustments (Disability) (38)

On average, ECR cases took approximately 120 days to reach agreement between the parties, compared to an average of 256 days for non-ECR cases that resulted in substantive civil rights changes or agreements. While the saved time resulted from multiple factors (including the fact that more complex cases tend not to be selected for ECR) and not the ECR process alone, the ECR process expedited the resolution of certain cases that that might have taken longer to resolve if they were to go through regular processing – while still achieving substantive changes and remedies for complainants, as chronicled in several enforcement resolution descriptions in this report.

Ensuring Equal Access to Comparable Educational Opportunities: Recruitment, Admissions, and Enrollment

In FY 2015, OCR received 72 complaints and resolved[30] 78 complaints related to admissions and recruitment of students with disabilities. Additionally, in FY 2015, OCR resolved[31] two proactive investigations in this area. Illustrative cases include:

John Doe College:[32] In June 2015, OCR resolved a complaint alleging that John Doe College discriminated against a student on the basis of disability by failing to provide the complainant with an American Sign Language (ASL) interpreter for meetings with college staff and denying the complainant the opportunity to enroll and register for classes in its commercial truck driving program to obtain a Class A Commercial Driver's License. Through OCR's ECR process, the student was permitted to register for the winter 2016 quarter, and the college committed to provide the student with an ASL interpreter for pre-registration and registration meetings, and events as needed, when given advance notice. The college also agreed to provide an ASL interpreter for in-class instruction and provide behind-the-wheel instruction for the complainant in a parking lot and in traffic with a cab retro-fitted to allow interpretation. The college also agreed to provide the retro-fitted cab for the complainant's use when taking the State Department of Licensing test.

Shaw University (NC): In June 2015, OCR resolved a complaint alleging that the university rescinded a student's admission several days after meeting the student at freshman orientation because the student's needs due to cerebral palsy were, in the university's words to the student, "beyond the scope of what the university can reasonably provide." During the investigation, evidence revealed that the university was actively discriminating against students with disabilities

during the admissions process in part because the university's admissions office regularly coordinated with the disability services coordinator to ensure that the university did not admit any student with a disability where there was a concern that the university may not be able to meet the student's disability-related needs. To remedy the issues identified, the university committed to revise its policies and procedures; ensure that a nondiscrimination statement for people with disabilities and the Section 504 coordinator's contact information appear in all relevant publications; ensure that it does not impose additional educational requirements on students with disabilities; review the applications of all non-admitted students with disabilities and offer them a chance to enroll if qualified for admission; offer all students with disabilities whose admissions were rescinded a chance to enroll; and implement training for all relevant officials.

Colorado Charter School Institute (CO): In June 2015, OCR resolved a complaint alleging discrimination on the basis of disability because of the disenrollment of a student after the institute learned of his disability. The complainant, filing on behalf of the student, stated that after acceptance to the institute, the family visited the school during an open house where the school noticed the student's physical disabilities. Following this, the school terminated the student's enrollment, stating that it could not meet the needs as outlined in the student's Individualized Education Program (IEP). During the investigation, OCR asked the school about its justification for the termination of the student's enrollment. OCR found that the school believed it was justified in its denial of his acceptance because it could not provide a free appropriate public education (FAPE) without altering its facilities. OCR determined that the possibility that the school's building created physical barriers, including the route to the playground and access to the elevator, were not legitimate reasons for denial. OCR concluded that the student was treated differently because of his disability and that the school violated Section 504 and Title II. To remedy this, the institute agreed to review and revise its enrollment policies and procedures to comply with Title II and Section 504, facilitate staff training regarding compliance laws and the application process for students with disabilities, and remedy the disenrollment of the student by offering him reapplication and reimbursement for out-of-pocket expenses incurred. Additionally, the school agreed to formulate a plan for addressing any self-identified accessibility compliance concerns and submit it to OCR for review and approval. The plan will include a schedule (not to exceed three years) for any modifications or other steps needed to achieve regulatory compliance.

ALSO: See **Harmony Public Schools (TX)**, p. 23 (admissions and recruitment of students with disabilities and the rights of English Learner (EL) students).

Ensuring Appropriate Educational Support for Students with Disabilities

During FY 2015, OCR received 1,974 complaints and resolved[34] 1,849 complaints related to FAPE. Additionally, in FY 2015, OCR launched five and resolved[35] two proactive investigations related to FAPE denial. Illustrative cases include:

John Doe School District:[36] In June 2015, OCR resolved a complaint that alleged that John Doe School District discriminated on the basis of disability when it failed to evaluate a student whom the district had reason to suspect had a disability, instead removing that student from school over a three-week period without appropriate justification and without providing educational services or instruction. After investigating, OCR found that the Section 504 coordinator for the student's school did not view the student as having a potential disability and stated she would not have initiated an evaluation for a suspected disability without a request from the parent, even though the principal had determined that the student required a mental health evaluation by a doctor because of the student's emotional issues. The resolution agreement committed the district to revise its risk assessment and nondiscrimination policies and provide training on the revised policies to relevant district staff, offer to provide the student with counseling, reimburse the family for the private mental health evaluation and related expenses, and provide the student reimbursement for a state-level band competition the district precluded the student from attending while it had removed the student from school.

Oakland Unified School District (CA): In November 2014, OCR resolved a complaint alleging that Oakland Unified School District failed to provide a student with FAPE by failing to identify and assess the student in a timely manner for special education and related services. The complainant alleged that the district's failure to provide the student with these related aids and services impacted his ability to graduate from high school,

Guidance Addressing Bullying and Harassment of Students with Disabilities

On October 21, 2014, OCR released a *Dear Colleague* letter and fact sheet regarding the obligation under Section 504 and Title II and their implementing regulations for schools to respond appropriately to bullying of students with disabilities. These documents clarify that if a student with a disability is being bullied, federal law requires schools to take immediate and appropriate action to investigate and, as necessary, take steps to stop the bullying and prevent it from recurring. Regardless of the basis of the bullying, schools must remedy the effects of bullying on the services that a student with a disability receives (such as special education or other disability-related services) to ensure that the student continues to receive FAPE.

and that the district utilized methods of administration that have the effect of subjecting qualified disabled individuals to discrimination when students transfer from other schools. OCR found that despite the student's special education history in the district, his academic struggles, and the complainant's multiple requests for an evaluation, the district did not complete the process for evaluating and placing the student until the end of his senior year in high school. While the student had a Section 504 plan at another high school, neither the process used by that school to develop the Section 504 plan nor the one used by his current school to determine accommodations was based upon an evaluation consistent with the law. Because of this, OCR found that the district failed to evaluate the student for special education and related aids and services and failed to provide such services to the student for most of the student's educational history in the district for a number of years, in violation of the law. To remedy these issues, in the resolution agreement, the district agreed to compensate the student for tuition, tutoring, counseling, fees, educational materials and equipment, and other educational related services. The district also agreed to issue cross-departmental administrative guidance on appropriate evaluation and assessment procedures, identify a method to track referrals and outcomes to special education evaluations and assessments, and provide training to staff who have responsibilities related to special education.

Paradise Valley Unified School District (AZ): In May 2015, OCR resolved a complaint alleging that the district discriminated on the basis of disability by changing how students with IEPs would receive reading, writing, and math instruction without consulting students' IEP teams. The complaint also alleged that students with IEPs were denied an equal opportunity to be taught science, social studies, and history, and have Accelerated Reading time, because they were required to receive special education services during those periods. After a preliminary investigation in which OCR interviewed several district staff regarding these allegations, the district indicated its willingness to reach an agreement with OCR to resolve these issues. In the resolution agreement, the district agreed to audit all special education models to ensure they are compliant with Section 504 and Title II; identify all students during the 2014-2015 school year who did not have an equal opportunity to subject-specific curriculum and offer enrichment activities focused on social studies and science; provide training to all school principals, psychologists, and special education teachers about the parameters that must be followed to ensure the compliance with Section 504 and Title II; and appoint a parent liaison to help ensure that parental input is carefully considered during IEP meetings.

ALSO: See **John Doe School District**,[37] p. 20 (provision of FAPE and bullying/harassment on the bases of race, sex, and disability).

ALSO: See **Springfield City School District (OH)**, p. 21 (provision of FAPE and racial harassment).

Combating Bullying and Harassment on the Basis of Disability

In FY 2015, OCR received 552 complaints and resolved[38] 541 complaints involving disability-related harassment. Additionally, in FY 2015, OCR launched one and resolved[39] one proactive investigation in this area. Below is a case that illustrates some of OCR's work in this area:

Sandwich Community Unit School District #430 (IL): In July 2015, OCR resolved an investigation of the Sandwich Community Unit School District #430 to address allegations that the district discriminated against a student by failing to respond appropriately to verbal and physical harassment that he was subjected to by multiple students based on his disability, sex, and race/national origin. OCR found that the student was subjected to continuous verbal bullying by his peers, including verbal insults, and that the bullying escalated

from verbal to physical attacks. The student was also subjected to race- and sex-based insults and acts. OCR determined that district administrators were not informed by school staff that the student had exhibited severe emotional problems as a result of the bullying and harassment, and that the student's IEP team did not meet to determine whether his IEP needed to be revised in light of this information. OCR further determined that the student was subjected to harassment that was sufficiently severe or serious that it created a hostile environment; that the district failed to take appropriate action to end the harassment of which it had notice and eliminate the hostile environment; and that the district failed to remedy in a timely and effective manner the denial of FAPE services for the student that was the result of bullying by his peers. To remedy these issues, the district agreed to provide relief to the student to ensure he is not subjected to harassment or bullying on any basis; issue a statement that it does not tolerate bullying or harassment on any basis; review and revise its policies and procedures; provide training to all district personnel; and develop and provide an orientation program for all students, administrators, and staff on the district's policies and procedures related to student conduct, bullying, and harassment.

Ensuring Accessibility of Programs, Services, and Facilities

In FY 2015, OCR received 214 complaints and resolved[40] 194 complaints related to accessibility of programs, services, and facilities. Additionally, in FY 2015 OCR resolved[41] two proactive investigations in this area. Illustrative cases include:

Anchorage School District (AK): In June 2015, OCR resolved a complaint alleging discrimination on the basis of disability in only 42 days through ECR. The complaint alleged that the district discriminated against an elementary student and other students with disabilities by segregating them unnecessarily from students without disabilities in the classroom, at lunch, and at recess. Through the ECR, the district committed to review and revise its policies and procedures to ensure that students with disabilities are not unnecessarily segregated or isolated from students without disabilities. The district also agreed to provide notice of these policies and procedures to all staff at the school in question.

John Doe Schools:[42] In June 2015, OCR resolved a complaint that alleged that the district had denied a parent's requests for an American Sign Language (ASL) interpreter for multiple school events, including a registration day and a school musical in which the parent's child was involved. OCR found that the district failed to provide the complainant with effective communication, as legally required, when it did not provide her with an ASL interpreter as requested. In its resolution agreement with OCR, the district agreed to provide effective communication for all school-related activities when requested for any parent, relative, or companion who is deaf or hard of hearing; draft and implement procedures to ensure this effective communication will be provided, which will then be shared and discussed with district staff; and send a letter to all parents and guardians known to be deaf or hard of hearing to inform them of their right to request an interpreter for school events.

Upper Freehold Regional School District (NJ): In November 2014, OCR resolved an investigation of Upper Freehold Regional School District following a complaint alleging that the district rescinded its offer of admission to a student for an advanced study program after learning that the admitted student had a disability, arguing that the implementation of the student's IEP would require the district to fundamentally alter the nature of its program and create an undue financial burden. OCR concluded that the district's actions in rescinding the student's admission offer denied the student an equal opportunity to participate in the program and subjected him to different treatment on the basis of his disability. The district entered into a resolution agreement whereby it agreed to provide weekly tutoring to the student for the rest of that school year. Additionally, the district agreed to review and revise its procedures and practices for admitting students into the program and provide training to staff.

Brookfield Local Schools (OH): In June 2015, OCR resolved a complaint against Brookfield Local Schools alleging that the district's high school football stadium was inaccessible to individuals with mobility impairments and lacked seating, parking, an accessible route, and restrooms to serve individuals with mobility impairments. OCR found the school in violation of Section 504 and Title II. The agreement requires the district either to find alternative locations to host its football programs or to make modifications to the stadium and its facilities, including its parking facilities, routes, restrooms, seating, and press boxes, and to disseminate information regarding the location of accessible seating and parking for games.

Guidance Addressing Effective Communication for Students with Disabilities

On November 12, 2014, OCR, in collaboration with the Office of Special Education and Rehabilitative Services and the U.S. Department of Justice (DOJ), released guidance regarding the obligation under Section 504 and Title II of the ADA to provide effective communication to students with hearing, vision, or speech impairments. An FAQ document provides an overview of relevant laws, emphasizes that public schools must comply with both the Individuals with Disabilities Education Act (IDEA) and Title II of the ADA, and addresses the interplay of the IDEA requirements and the Title II effective communication requirements. A fact sheet summarizes students' rights and districts' obligations in this area under these laws.

Seaside School District 10 (OR): In May 2015, OCR resolved three pending cases at the district, including 32 specific allegations of violations of Section 504 and Title II. The complaints alleged that the district discriminated against individuals with disabilities because main buildings, classrooms, and bathrooms were inaccessible to students in wheelchairs, and specifically, bathroom stalls were too narrow for use and the mounting of soap and paper towel dispensers too high. In its resolution agreement with OCR, the district agreed to conduct an accessibility evaluation of the facilities and elements in question; develop an action plan to correct any facilities and elements determined to be inaccessible; review and revise its accessibility policies and procedures; designate an employee who will provide accessibility information and address accessibility complaints; and provide notice and training to parents, students, and district employees regarding accessibility.

John Doe Schools:[43] In February 2015, OCR resolved two cases at John Doe Schools involving allegations that the district discriminated on the basis of disability by holding school training sessions that were inaccessible to a student with a hearing impairment. OCR investigated whether the district failed to take appropriate steps to ensure that its communications with a student with a disability were as effective as its communications with students without disabilities. Before the conclusion of the investigation, the district agreed to remedy any preliminary issues identified by OCR. In the resolution agreement, the district committed to provide computer assisted real-time transcription (CART) or similar services for all assemblies where the audience will exceed 75 individuals and for other circumstances as necessary to provide equal opportunity for participation for students with hearing impairments. Further, the district agreed to train staff members as to the need to notify appropriate district personnel when activities fitting the criteria are offered, with sufficient detail and timeliness that the district can arrange for appropriate services. The district also agreed to develop a backup method by which it can provide services and convey information presented in an assembly in case of a technological malfunction.

University of Alabama in Huntsville (AL): In March 2015, OCR resolved a complaint against the University of Alabama in Huntsville alleging that staff members at the university made impermissible inquiries regarding a service animal, inappropriately excluded the service animal from some areas on campus, and required additional training for the service animal at the expense of the animal's owner. During the course of the investigation, OCR also identified that the university's grievance procedures were not consistent with due process standards and were inadequate to ensure a prompt, effective resolution. The university entered into a resolution agreement with OCR in which it agreed to revise its policies and grievance procedures and train staff regarding the new policies and grievance procedures. The resolution agreement further required the university to refund the cost of additional training required by the university.

John Doe Public Schools:[44] In March 2015, OCR resolved a complaint alleging discrimination on the basis of disability when John Doe Public Schools refused to provide a registered nurse to accompany a diabetic high school baseball player during the baseball team's pre-season training trip to a different state. The district had denied the service based on the view that the trip was optional for players and that the district was not obligated to provide necessary supports for such ex-

tracurricular activities. In its resolution agreement with OCR, the district developed a plan for providing the student sufficient nursing coverage in order to manage his diabetes and to attend and fully participate with his teammates in all aspects of the trip. The district also agreed to revise relevant policies and procedures and to train staff (including coaches) to ensure that other students with disabilities can participate in extracurricular activities, including athletics, in a manner equal to participation by students without disabilities.

ALSO: See **Appleton Area School District (WI)**, p. 24 (accessibility for students with disabilities and the rights of EL students).

Safeguarding Accessibility of Appropriate Technology

In FY 2015, OCR received 25 complaints and resolved[45] 24 complaints related to accessibility of technology. Additionally, in FY 2015 OCR resolved[46] two proactive investigations related to accessibility of technology. Illustrative case resolutions include:

Michigan Department of Education (MI): In June 2015, OCR resolved a complaint that alleged that a Michigan Department of Education (MDE) webpage was inaccessible to persons with disabilities. In the investigation, OCR found that the evidence was sufficient to support a violation of Section 504 and Title II because the MDE website in question was not accessible to individuals with vision impairments and the MDE does not provide a notice of nondiscrimination on its website. The resolution agreement required the MDE, among other remedies, to develop and publish an appropriate notice of nondiscrimination on its website pursuant to Section 504; designate one or more persons to coordinate its efforts to comply with Section 504 and Title II with respect to its website; develop, adopt, and provide notice of a web accessibility policy and implementation and remediation plan to ensure adherence to the policy and periodic review of the MDE website to identify and ameliorate any accessibility problems; and provide training to staff responsible for web content development.

University of Cincinnati (OH): In December 2014, OCR resolved an investigation of the University of Cincinnati's websites that assessed whether or not they were accessible to students with visual disabilities. During the course of the investigation, OCR identified compliance concerns relating to the designation of a Section 504 coordinator, the university's nondiscrimination notice, and the accessibility of particular pages on the university's website. The resulting resolution ensures that the university's websites are accessible to all and requires the district to provide staff training to all website designers. Furthermore, the agreement requires the university to designate persons to coordinate the university's efforts to comply with Section 504 and Title II and to publish a notice of nondiscrimination in a readily-available location on the university's website, accessible to those with impaired vision.

University of Phoenix (AZ): In June 2015, the University of Phoenix, the largest online education provider in the United States, entered into a resolution agreement with OCR to resolve a complaint that the university's online learning management program and other web-based services were inaccessible to people with disabilities who use assistive technology. The resolution agreement requires the university to create a plan to ensure its new online technology is accessible, audit its existing technology, create a plan to remove accessibility barriers, establish a new help desk for students who use assistive technology, communicate the contents of the agreement to students, and appoint special coordinators to handle disability technology issues. The resolution agreement also provides specific remedies for the complainant, including the opportunity to complete her degree tuition-free and reimbursement for courses where a lack of assistive technology prevented her from having an equal opportunity to participate. The agreement further stipulates that the university must identify other students who may have encountered problems in their academic careers due to barriers to access in the technology and provide them with opportunities for grade reevaluation and to repeat courses and/or take new courses tuition-free, as appropriate.

Odenton Regional Library (Anne Arundel County Public Library) (MD): In March 2015, OCR resolved a complaint using the Rapid Resolution Process (RRP) alleging that the library discriminated against the complainant on the basis of disability by failing to provide assistive text-to-speech technology. OCR has jurisdiction, under Title II of the ADA, over complaints alleging discrimination on the basis of disability that are filed against certain public entities, including public libraries. As a result of OCR's intervention, the library purchased network licenses for the assistive technology which will allow use of the software at public computers in each of the fifteen libraries that comprise the Anne Arundel County Public Library system. In addition, the library purchased assistive technology specifically for the Odenton Regional Library.

ENFORCEMENT ACTIVITY UNDER OTHER STATUTES

OCR also has jurisdiction over two additional civil rights laws: the Age Discrimination Act of 1975 and the Boy Scouts of America Equal Access Act (2001).

The Age Discrimination Act of 1975

The Age Discrimination Act of 1975 prohibits discrimination based on age in programs or activities that receive federal financial assistance. This prohibition extends to all state education agencies, elementary and secondary school systems, colleges and universities, vocational schools, proprietary schools, state vocational rehabilitation agencies, libraries, and museums that receive federal financial assistance from the U.S. Department of Education. Programs or activities that receive such funds must provide aids, benefits, or services in a nondiscriminatory manner. These include (but are not limited to) admissions, recruitment, financial aid, academic programs, student treatment and services, counseling and guidance, discipline, classroom assignment, grading, vocational education, recreation, physical education, athletics, and housing. Though the Act does not limit protections against discrimination to a certain age group, it does allow for exceptions such as when colleges offer special programs that are geared toward providing special benefits to children and the elderly.

In FY 2015, OCR **received 550 complaints** under the Age Discrimination Act and **resolved**[47] **533 complaints**. Common remedies in OCR resolutions include provisions that require training for staff, updating and disseminating nondiscrimination policies, and investigation by the institution into the specific incidents that resulted in the allegation of age discrimination.

The Boy Scouts of America Equal Access Act (2001)

OCR also enforces the Boy Scouts of America Equal Access Act. Under this Act, no public elementary school, public secondary school, or state or local education agency that provides an opportunity for one or more outside youth or community groups to meet at the school, before or after school hours, shall deny equal access or a fair opportunity to meet or otherwise discriminate against any group officially affiliated with the Boy Scouts of America or any other youth group listed in Title 36 of the United States Code as a patriotic society.

In FY 2015, OCR **received 21 complaints** under the Boy Scouts Act and **resolved**[48] **22 cases**. Many of the complaints filed under this statute sought enforcement of the requirement that institutions' nondiscrimination policies include a statement about the Boy Scouts Act and its provisions.

LOOKING AHEAD

The preceding pages give examples of significant progress toward upholding the promise of equal educational opportunity for all students. We in OCR are deeply pleased with the specific steps that schools and other institutions committed to take in resolving cases with us. And we are regretfully aware that so many more students continue to need our help. So we continue working toward more justice, for every student, in every school in America.

Our students in schools today don't have time to wait for their rights. Carrying the civil rights mantle forward means ensuring, now, that students may reap the benefits of the justice our nation promises them in our federal civil rights laws.

APPENDIX: INDEX OF CASES RESOLVED WITH AGREEMENTS

Total number of resolution agreements in FY 2015 by jurisdiction, statute, and type of investigation

	Title VI			Title IX			Disability			Age			
State, District, or Territory	TOTAL	Complaints	Compliance Reviews	TOTAL	Complaints	Compliance Reviews	TOTAL	Complaints	Compliance Reviews	TOTAL	Complaints	Compliance Reviews	TOTAL Per State*
AK							0						0
AL	2	2		2	2		7	7					11
AR				1	1		1	1					2
AS							0						0
AZ	2	2		1	1		30	30					33
CA	18	17	1	10	10		72	72		1	1		101
CO	3	3		2	2		10	10					15
CT	1	1		1	1		2	2					4
DC							8	8					8
DE							1	1					1
FL	3	3		2	2		17	17					22
GA	1	1		2	2		23	23					26
HI							0						0
IA							2	2					2
ID							1	1					1
IL	5	5		5	5		10	10					20
IN	1	1		1	1		3	3					5
KS				1	1		7	7					8
KY	3	3		2	2		3	3					8
LA							6	6					6
MA	3	3		2	2		7	7					12
MD				2	2		15	15					17
ME							3	3					3
MH							0						0
MI	3	3		4	4		35	35					42
MN	3	1	2	1	1		6	6					10
MO	2	2		2	2		18	18					22
MS				1	1		5	5					6
MT							2	2					2
NC	1	1		10	10		24	24					35
ND							7	7					7
NE							2	2					2
NH							0						0
NJ	4	2	2	2	1	1	7	7					13
NM	2	2					6	6					8
NV							1	1					1
NY	2	2		3	3		21	21					26
OH	5	4	1	2	2		26	23	3				33
OK							2	2					2
OR	3	3		1	1		7	7					11
PA	1	1		10	10		16	16					27
PR							3	3					3
RI							1	1					1
SC							5	5					5
SD							1	1					1
TN	2	2					11	11					13
TX	5	3	2	6	6		24	23	1	1	1		36
UT				1	1		2	2					3
VA	2	2		6	5	1	16	16					24
VI							0						0
VT							1	1					1
WA	1		1	3	2	1	6	5	1				10
WI	1		1	4	4		5	4	1				10
WV				1	1		4	4					5
WY							0						0
TOTAL Per Statute	79			91			492			2			664**

* There were no resolution agreements involving the Boy Scouts of America Equal Access Act in FY 2015.

** 629 cases resulted in resolution agreements during FY 2015. However the total listed here reflects the fact that many cases included issues across multiple statutes. Additionally, there were 2 claims of age discrimination that are included in this total.

ENDNOTES

1 Resolved cases include cases that resulted in dismissal, administrative closure, a finding of no violation, an early complaint resolution, or a resolution agreement. Note: the number of cases resolved in FY 2015 includes cases received prior to FY 2015.

2 Resolved cases include cases that resulted in dismissal, administrative closure, a finding of no violation, an early complaint resolution, or a resolution agreement. Note: the number of cases resolved in FY 2015 includes cases received prior to FY 2015.

3 Excludes 153 multiple complaints filed by an individual in FY 2013.

4 The CRDC collects information on public schools in school districts across the nation.

5 Resolved cases include cases that resulted in dismissal, administrative closure, a finding of no violation, an early complaint resolution, or a resolution agreement. Note: the number of cases resolved in FY 2015 includes cases received prior to FY 2015.

6 Resolved cases include cases that resulted in dismissal, administrative closure, a finding of no violation, an early complaint resolution, or a resolution agreement. Note: the number of cases resolved in FY 2015 includes cases received prior to FY 2015.

7 Resolved proactive, systemic investigations (compliance reviews) include those launched prior to FY 2015.

8 Resolved cases include cases that resulted in dismissal, administrative closure, a finding of no violation, an early complaint resolution, or a resolution agreement. Note: the number of cases resolved in FY 2015 includes cases received prior to FY 2015.

9 Resolved proactive, systemic investigations (compliance reviews) include those launched prior to FY 2015.

10 OCR has not disclosed the actual name of the institution in this case because of privacy considerations.

11 Resolved cases include cases that resulted in dismissal, administrative closure, a finding of no violation, an early complaint resolution, or a resolution agreement. Note: the number of cases resolved in FY 2015 includes cases received prior to FY 2015.

12 Resolved proactive, systemic investigations (compliance reviews) include those launched prior to FY 2015.

13 Resolved cases include cases that resulted in dismissal, administrative closure, a finding of no violation, an early complaint resolution, or a resolution agreement. Note: the number of cases resolved in FY 2015 includes cases received prior to FY 2015.

14 Resolved proactive, systemic investigations (compliance reviews) include those launched prior to FY 2015.

15 Resolved cases include cases that resulted in dismissal, administrative closure, a finding of no violation, an early complaint resolution, or a resolution agreement. Note: the number of cases resolved in FY 2015 includes cases received prior to FY 2015.

16 Resolved cases include cases that resulted in dismissal, administrative closure, a finding of no violation, an early complaint resolution, or a resolution agreement. Note: the number of cases resolved in FY 2015 includes cases received prior to FY 2015.

17 Resolved cases include cases that resulted in dismissal, administrative closure, a finding of no violation, an early complaint resolution, or a resolution agreement. Note: the number of cases resolved in FY 2015 includes cases received prior to FY 2015.

18 Title IX's legal protections do not govern schools that qualify for and assert the religious exemption. The exemption does not cover all school activities; it is limited to the actual conflicts present between Title IX and the religious organization's tenets. OCR has been using the same standard to evaluate exemption applications for close to four decades.

19 Resolved cases include cases that resulted in dismissal, administrative closure, a finding of no violation, an early complaint resolution, or a resolution agreement. Note: the number of cases resolved in FY 2015 includes cases received prior to FY 2015.

20 Resolved proactive, systemic investigations (compliance reviews) include those launched prior to FY 2015.

21 OCR has not disclosed the actual name of the institution in this case because of privacy considerations.

22 OCR has not disclosed the actual name of the institution in this case because of privacy considerations.

23 OCR has not disclosed the actual name of the institution in this case because of privacy considerations.

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25 Resolved cases include cases that resulted in dismissal, administrative closure, a finding of no violation, an early complaint resolution, or a resolution agreement. Note: the number of cases resolved in FY 2015 includes cases received prior to FY 2015.

26 Resolved proactive, systemic investigations (compliance reviews) include those launched prior to FY 2015.

27 Resolved cases include cases that resulted in dismissal, administrative closure, a finding of no violation, an early complaint resolution, or a resolution agreement. Note: the number of cases resolved in FY 2015 includes cases received prior to FY 2015.

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32 OCR has not disclosed the actual name of the institution in this case because of privacy considerations.

33 Substantive closures included insufficient evidence, ECR, and change with/without agreement.

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