

Archived Information

Department of Education

OFFICE FOR CIVIL RIGHTS

Fiscal Year 2008 Budget Request

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OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, \$93,771,000.

Note: A regular 2007 appropriation for this account had not been enacted at the time the budget was prepared; therefore, this account is operating under a continuing resolution (P.L. 109-289, Division B, as amended). The amounts included for 2007 in this budget reflect the levels provided by the continuing resolution.

OFFICE FOR CIVIL RIGHTS
Amounts Available for Obligation
(\$000s)

	2006	2007	2008
Discretionary appropriation:			
Appropriation	\$91,526	0	\$93,771
Across-the-board reduction	-915	0	0
CR annual rate	<u>0</u>	<u>\$90,311</u>	<u>0</u>
Subtotal, appropriation	90,611	90,311	93,771
Unobligated balance expiring	<u>-300</u>	<u>0</u>	<u>0</u>
Total, direct obligations	90,311	90,311	93,771

OFFICE FOR CIVIL RIGHTS

Obligations by Object Classification (\$000s)

Object Class		2006	2007	2008	CHANGE FROM 2007 to 2008
11.10	Full-time permanent	\$50,776	\$53,297	\$55,350	\$2,053
11.31	Full-time temporary	1,093	887	921	34
11.32	Part-time	1,498	1,596	1,658	62
11.33	Consultants	0	0	0	0
11.51	Overtime	13	18	18	0
11.52	Awards	1,096	600	600	0
11.80	Other Compensation	0	0	0	0
	Compensation subtotal	54,476	56,398	58,547	2,149
12.00	Benefits	13,119	13,790	14,432	642
13.10	Benefits for former personnel	0	0	0	0
	Comp/benefits subtotal	67,595	70,188	72,979	2,791
21.00	Travel	815	1,000	1,000	0
22.00	Transportation of things	122	4	4	0
23.10	Rental Payments to GSA	6,700	7,581	7,543	(38)
23.31	Communications	1,742	1,242	1,177	(65)
23.32	Postage/fees	12	35	36	1
	Subtotal 23	8,454	8,858	8,756	(102)
24.00	Printing & Reproduction	73	36	36	0
25.10	Advisory and Assistance Svcs	0	280	280	0
25.21	Other Services	3,655	1,692	1,411	(281)
25.22	Training/Tuition/Contracts	429	222	275	53
25.23	Field Readers	0	0	0	0
25.30	Goods/Services from Gov't	2,174	2,715	2,830	115
25.40	Operations/Maint of Facilities	0	1	1	0
25.50	Research & Development	0	0	0	0
25.71	Operations/Maint of Equipment	80	63	62	(1)
25.72	IT Services/Contracts	4,904	3,572	4,794	1,222
	Subtotal 25	11,242	8,545	9,653	1,108
26.00	Supplies	359	283	253	(30)
31.10	IT Equipment/Software	765	147	160	13
31.30	Other Equipment	636	827	644	(183)
	Subtotal 31	1,401	974	804	(170)
32.00	Building Alterations	250	423	286	(137)
41.10	Grants	0	0	0	0
41.23B	Admin Expense Allowance	0	0	0	0
43.10	Interest and Dividends	0	0	0	0
	Total	90,311	90,311	93,771	3,460

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Summary of Changes
(\$000s)

2007	\$90,311
2008	<u>93,771</u>
Net change.....	+3,460

	<u>2007 base</u>	<u>Change from base</u>
Increases:		
<u>Built in:</u>		
Increase in personnel compensation primarily for the 2.2 percent FY 2007 and proposed 3.0 percent FY 2008 pay increases, and two additional paid days in 2008.	\$56,398	+\$2,149
Increase in benefits for OCR's share of health, retirement, and other benefits.	13,790	+642
<u>Program:</u>		
Increase in postage.	35	+1
Increase in training for headquarters and regional employees.	222	+53
Increase in goods and services for Philadelphia and Seattle relocations.	2,715	+115
Increase in IT services and contracts primarily for OCR's share of network operations, EDWeb maintenance and Enterprise Architecture Development, Planning and Analysis.	3,572	+1,222
Increase for IT equipment and software for IPv6 network hardware and software.	147	<u>+13</u>
Subtotal, increases		+4,195

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Summary of Changes (\$000s)

	<u>2007 base</u>	<u>Change from base</u>
Decreases:		
<u>Program:</u>		
Decrease in rent.	\$7,581	-\$38
Decrease in communications due to lower projected usage of local telephone services.	1,242	-65
Decrease in other services due to lower anticipated costs for regional relocations and reduced costs from the E&S Survey off-year biennial projections.	1,692	-281
Decrease of operations and maintenance of equipment.	63	-1
Decrease in supplies.	283	-30
Decrease in other equipment due to fewer requirements for modifications of existing office space.	827	-183
Decrease in cost of building alterations due to the completion in 2007 of building alterations for relocation in Philadelphia.	423	<u>-137</u>
Subtotal, decreases		-735
Net change		+3,460

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Authorizing Legislation
(\$000s)

Activity	2007 Authorized	2007 Estimate	2008 Authorized	2008 Request
Civil rights (DEOA, Section 203)	Indefinite	\$90,311	Indefinite	\$93,771

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Appropriations History
(\$000s)

	Budget Estimate to Congress	House Allowance	Senate Allowance	Appropriation
1999	68,000	61,500	63,500	66,000
2000	73,262	66,000	71,200	71,200
2001	76,000	71,200	73,244	75,822
2002	79,934	79,934	79,934	79,934
2002 Rescission				-268
2003	89,710	86,276	86,276	85,715
2004	91,275	91,275	77,884	88,305
2005	92,801	90,248	92,801	89,375
2006	91,526	91,526	91,526	90,611
2007	92,866			90,311 ¹
2008	93,771			

¹ A regular 2007 appropriation for this account had not been enacted at the time the budget was prepared; therefore, this account is operating under a continuing resolution (P.L. 109-289, Division B, as amended). The amounts included for 2007 in this budget reflect the levels provided by the continuing resolution.

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Significant Items in FY 2007 Appropriations Reports

Title IX

- Senate: To eliminate confusion regarding the use of interest surveys to demonstrate compliance with prong three, the Committee urges the Department to provide public notice of the understanding of the Additional Clarification of Intercollegiate Athletics Policy: Three-Part Test – Part Three to all entities covered under title IX, including by posting such notice on the Department's website. The Committee requests that the Department take this action no later than 60 days after enactment of this act.
- Response: On March 17, 2005, the Department issued the "Additional Clarification of Intercollegiate Athletics Policy: Three-Part Test – Part Three" (Additional Clarification) and accompanying "User's Guide to Developing Student Interest Surveys Under Title IX" (User's Guide) to reinforce the flexibility of the three-part test. These documents are posted on the Department's Web site at www.ed.gov/about/offices/list/ocr/docs/title9guidanceadditional.html. The Department has subsequently responded to numerous inquiries from the public regarding the Additional Clarification's guidelines. The Department continues to provide ongoing technical assistance on the Additional Clarification and on the use of interest surveys and has been actively leading the dialogue regarding the provision of equal athletic opportunity to hundreds of coaches, athletic directors, Title IX coordinators and legal advisors at both the postsecondary and secondary levels in a variety of national and regional forums, in addition to providing technical assistance to recipients on an ongoing basis. The Department will continue to proactively seek opportunities to educate recipients, educational and athletic organizations, administrators, parents, and students regarding the nondiscriminatory implementation of the Additional Clarification's guidelines.
- House: The Committee supports the tremendous strides for women made possible through title IX of the Education Amendments of 1972, but is concerned about any possible unintended consequences from its enforcement. The Committee has heard complaints that some schools have chosen to eliminate teams as a mechanism to gain title IX compliance. The Committee requests the Department to report by February 1, 2007 on its activities to educate school administrators on the full scope of compliance strategies and its efforts to clarify that compliance does not require the elimination of teams or limitation of male participation in athletic programs.
- Response: The Department plans to work towards providing the Committee with information by February 1, 2007.

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Office for Civil Rights

(DEOA, section 203)

FY 2008 Authorization (\$000s): Indefinite

Budget Authority (\$000s):

	<u>2007</u>	<u>2008</u>	<u>Change</u>
Personnel	\$70,188	\$72,979	+ \$2,791
Non-Personnel	<u>20,123</u>	<u>20,792</u>	<u>+669</u>
Total	\$90,311	\$93,771	+3,460
FTE Level	629	629	0

PROGRAM DESCRIPTION

The Office for Civil Rights (OCR) enforces Federal civil rights laws and implements regulations that prohibit discrimination on the basis of race, color, national origin, sex, disability, and age in all programs and institutions that receive financial assistance from the Department. These laws are:

- Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination);
- Title IX of the Education Amendments of 1972 (prohibiting sex discrimination);
- Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination);
- Age Discrimination Act of 1975 (prohibiting age discrimination); and
- 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).

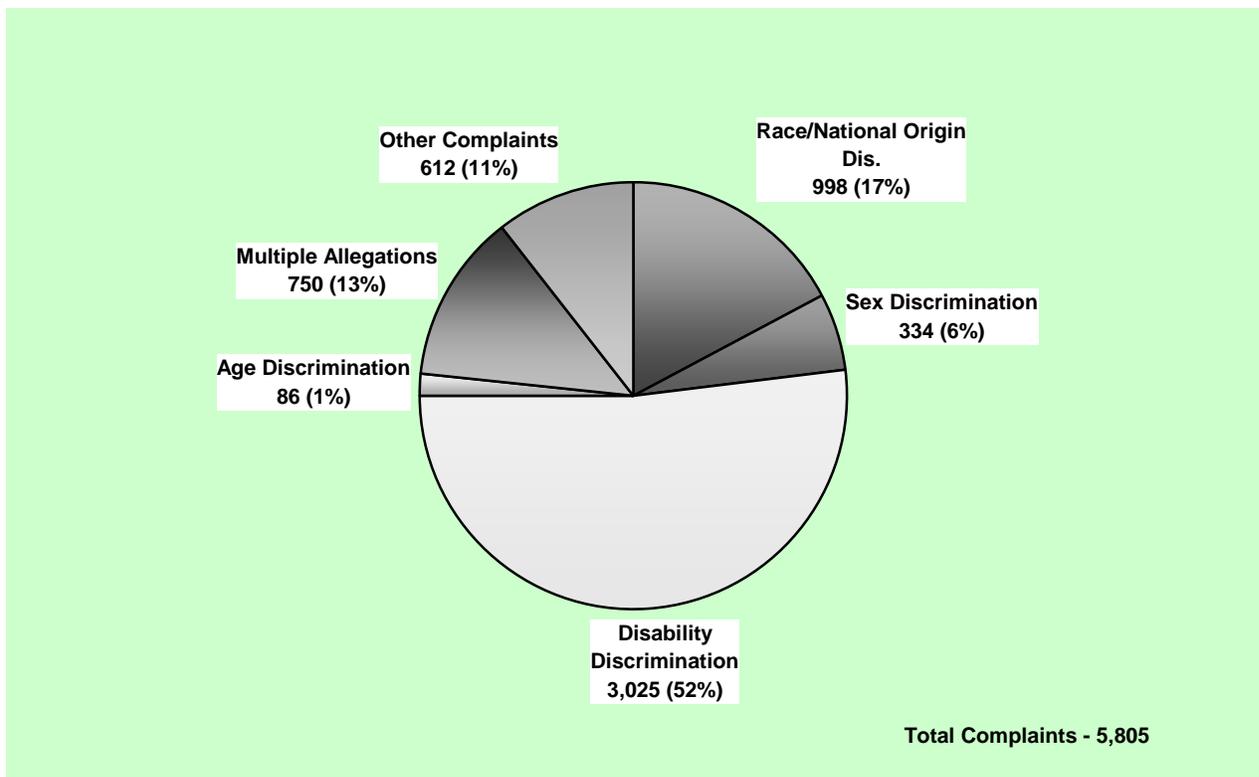
In addition, as of January 8, 2002, OCR has enforced the Boy Scouts of America Equal Access Act. Under the Act, no public elementary school, public secondary school, or State educational agency or local educational agency that provides an opportunity for one or more outside youth or community groups to meet on school premises or in school facilities before or after school hours shall deny equal access or a fair opportunity to meet, or discriminate against, any group officially affiliated with the Boy Scouts of America or any other youth group listed as a patriotic society in Title 36 of the United States Code.

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OCR is also charged with carrying out civil rights provisions in Title V, Part A, of the Elementary and Secondary Education Act (the Magnet Schools Assistance program), and providing technical assistance to Federal award recipients and beneficiaries, the public, and other organizations in order to obtain voluntary compliance with civil rights laws.

These civil rights laws extend to a wide range of Federal recipients, including: all State educational agencies; approximately 15,000 local educational agencies; nearly 10,000 postsecondary institutions, including proprietary schools and community colleges; 82 State rehabilitation agencies and their subrecipients; as well as other institutions that receive U. S. Department of Education financial assistance, such as libraries, museums, and correctional institutions. More than 69 million individuals are beneficiaries of the financial assistance these institutions and agencies receive from the Department.

OCR provides information to the public on its activities, including assistance on how to file complaints. In 2006, over half of the complaints filed with OCR alleged discrimination on the basis of disability, as shown below.



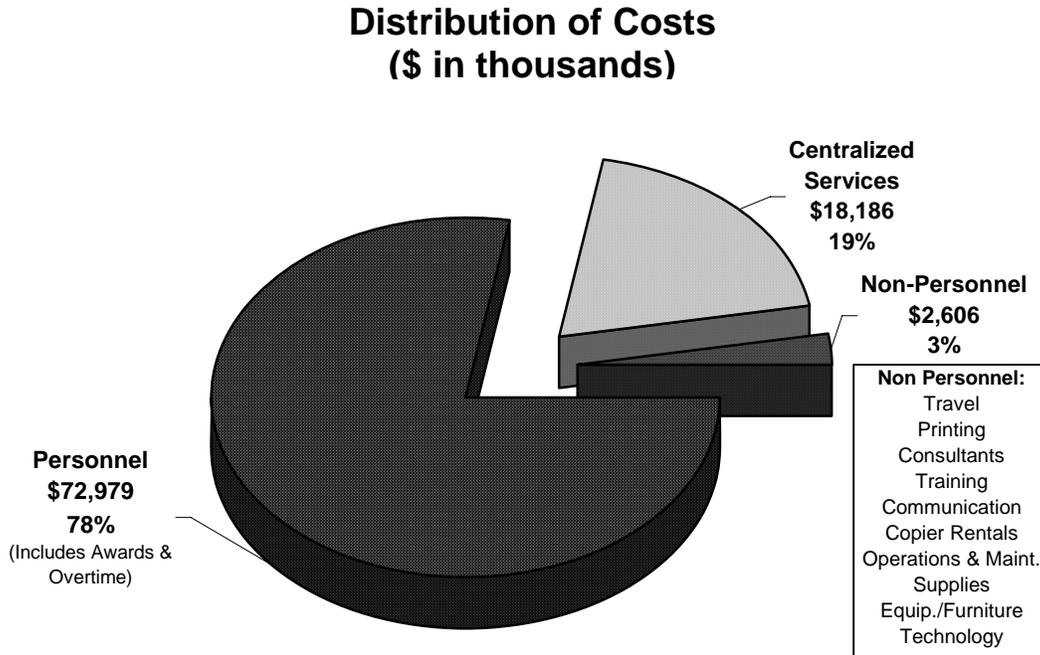
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Funding levels for the past 5 fiscal years were:

	(\$000s)
2003.....	\$85,715
2004.....	88,305
2005.....	89,375
2006.....	90,611
2007.....	90,311

FY 2008 BUDGET REQUEST

The total FY 2008 request is \$93.771 million, a net increase of \$3.460 million or 3.8 percent over FY 2007, with the same staffing level of 629 full-time equivalent (FTE). The only increases are for the proposed 3.0 percent pay raise in 2008 (\$2.791 million) and Centralized Services (\$1.218 million). Discretionary spending will decrease by \$549,000. The distribution of the requested funds for FY 2008 is shown below.



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Personnel Costs

Approximately 78 percent, or \$72.979 million, of the total FY 2008 request is for personnel compensation and benefits (PC&B) to support a staffing level of 629 FTE, the same as in FY 2007. OCR continues to operate at this staffing level by strategically aligning and aggressively managing its human capital. OCR's staff is the primary resource for conducting its program responsibilities. The PC&B funding requested for personnel costs is critical to maintaining a high level of program performance. OCR's staffing level of 629 FTE supports its statutorily mandated civil rights compliance and enforcement program.

The PC&B request of \$72.979 million, an increase of \$2.791 million over the FY 2007 level, will support OCR's proposed staffing level, the Governmentwide pay raise of 2.2 percent in FY 2007 and proposed pay raise of 3.0 percent in FY 2008, and historically based increases for benefits and overtime.

Awards & Overtime

OCR is maintaining its awards and overtime budget at \$600,000 for FY 2008. This will enable OCR to provide appropriate recognition for high performance and will compensate those who work additional hours to complete work in tight deadlines, consistent with Departmental policy.

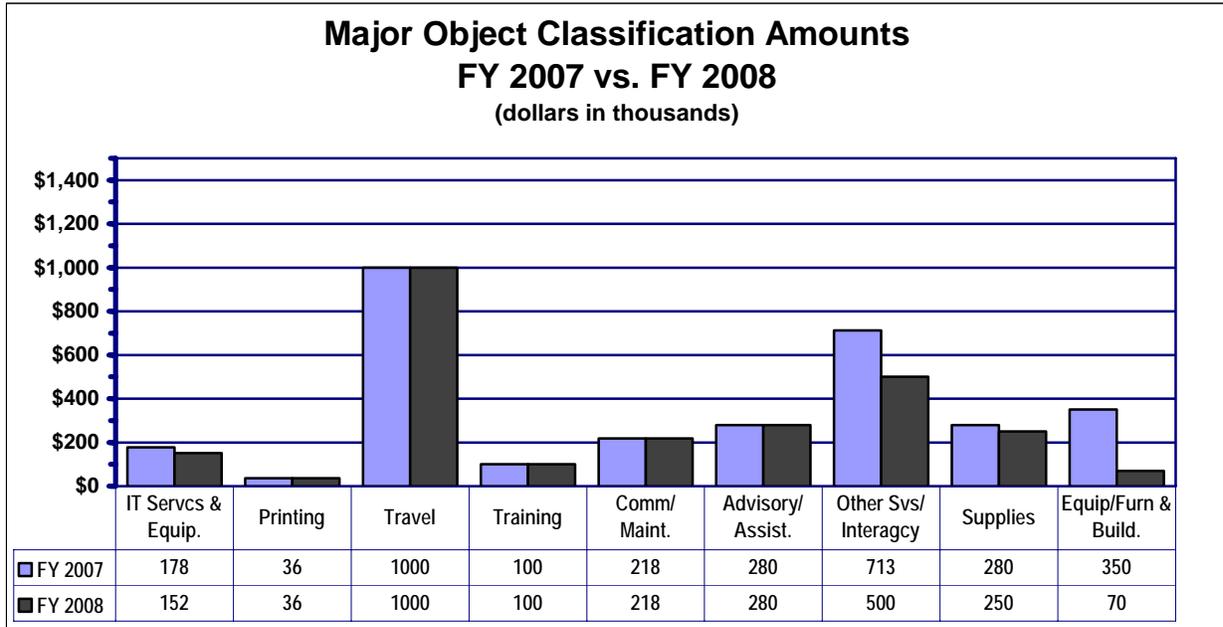
Non-Personnel Costs

OCR's Non-Personnel costs are critical to ensure that OCR staff has the resources needed to accomplish its mission of civil rights enforcement. The total request for non-personnel activities in 2008, excluding Departmental centralized services, is \$2.606 million, a decrease of \$549,000 below the 2007 level. The majority of the decrease is in Other Services, especially for Elementary and Secondary (E&S) Data Analysis and Non-Information Technology (IT) Equipment and Building Alterations.

The requested non-personnel funds provide essential program support to resolve complaints of discrimination filed by the public and to ensure that institutions receiving Federal financial assistance are in compliance with the civil rights laws enforced by OCR. The request provides resources for the Case and Activities Management System, travel for case investigation, monitoring activities, technical assistance and training, E&S school data analysis, printing of new materials and updating out-of-date publications, civil rights studies and research in high priority areas, enhanced staff training, maintenance of equipment, and supplies.

The 2008 request for non-personnel activities, other than departmental centralized services, provides funding as shown below:

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Information Technology Services/Contracts and Equipment — OCR is requesting \$152,000. Of this amount, \$110,000 is for the Case and Activity Management System (CAMS), a decrease of \$26,000 below FY 2007, because the system is fully operational and requires mostly maintenance. Funding provides for (a) technical support to operate and maintain the CAMS, (b) an enhancement to apply business process changes and to improve the usage of CAMS, (c) software subscription services to maintain version upgrades and technical phone support of the Hummingbird Document Management (DM) portion, (d) additional DM licenses, and (e) IT security updates through fiscal year 2008. Maintaining CAMS provides users the ability to manage and track cases, and related documents and other compliance activities, and to retrieve real-time status information on case activity.

CAMS includes Case Management, Activity Management, and Document Management modules, and provides users the ability to:

- Maintain, manage, and track individual case and activity records and, through database functions, perform a variety of tasks associated with accessing, creating, and updating case and activity records.
- Maintain and retrieve real-time status information, as well as enable field office users to electronically collaborate and store all case-related or activity-related documents, thereby providing end-to-end electronic processing of complaints, compliance reviews, deliverables, and tracking of OCR's daily activities.
- House an updated central repository for documents on OCR policy and compliance standards, casework tools, technical assistance tools, and training materials.

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For IT Equipment in FY 2008, OCR is requesting \$42,000, a decrease of \$1,000 from FY 2007, for new telecommunication equipment (Blackberries, cell phones, etc.) and IT equipment not covered by centralized services.

Printing — OCR is requesting \$36,000 for printing, level funded from FY 2007. The funds are for printing new materials for the public such as regulations, policy guidance, pamphlets to customers and recipients, and Dear Colleague letters; updating previously published documents; and restocking OCR's publications inventory.

Travel — OCR is requesting a travel budget of \$1 million, level funded from FY 2007. The majority of OCR's travel funds are directly associated with investigating complaints, conducting compliance reviews, monitoring corrective action plans, providing technical assistance, and conducting other compliance activities. Complaint investigations and compliance reviews often require staff to go onsite to gather data and conduct interviews to determine if civil rights laws have been violated. Travel costs are also associated with training, conference attendance, workshops, invitational speakers, and management meetings.

Training — OCR is requesting \$100,000 for staff training, level funded from FY 2007. These funds will enable OCR to continue its national training and development strategy. As part of an ongoing succession plan and development model, OCR provides employees with appropriate programmatic and professional training.

Communication/Copier Rentals and Operations and Maintenance of Equipment — OCR is requesting a total of \$218,000, level funded from FY 2007. The funds are needed for maintenance contracts necessary for the upkeep of office equipment, e.g., copiers, printers, and facsimile machines.

Advisory and Assistant Services — OCR is requesting \$280,000 for consultants and expert services, level funded from FY 2007. These funds will be used to conduct studies and analyses on high priority civil rights issues and to contract with experts and subject matter consultants to assist with complex case investigations.

Other Services/Interagency — OCR is requesting \$500,000, a decrease of \$213,000. The Elementary and Secondary School Data Analysis (E&S) is reduced by \$195,000 because State and national projections are completed on a biennial basis. A reduction of \$40,000 for the Integrated Postsecondary Education Data System (IPEDS) Staffing Survey and Completions Survey, which is completed in even years only, is partially offset by an increase of \$25,000 for the IPEDS Fall Enrollment Report, which is completed in odd years. In addition, office telecommunications is reduced by \$3,000 by consolidating cell phones and Blackberries and by reducing the number of calling cards.

- Elementary and Secondary School Data Analysis (\$105,000) — There is an ongoing need for statistical analysis of civil rights data. For the 2006 Civil Rights Data Collection, OCR will continue the development of State and national projections, all related analytic activities, and documentation of all data items in the civil rights data collection data file. The FY 2006 Civil Rights Data Analysis is from a "sample" of the approximately 6,000 school districts and all schools in those districts that collect data on issues related to civil

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rights needs. In addition, OCR will continue to make both the reported and projected data available through the Internet and Intranet.

- IPEDS Fall Enrollment Report (\$25,000) — In even numbered fiscal years, the IPEDS Fall Enrollment Survey is conducted in collaboration with the National Center for Education Statistics. This survey collects data on student enrollment in postsecondary educational institutions by race, ethnicity, and sex.
- Legal Research Services (\$100,000) — This contract, level funded from FY 2007, provides an automated full-text legal information system that offers online access to continuously updated and archived Federal and State case law, statutes of all 50 States, legal publications, and law reports.
- All Other Services/Interagency (\$270,000) — This includes ED Pubs (\$50,000); conference space rentals, personnel recruitment advertisements, and translation services (\$50,000); telecommunication services for office cell phones and Blackberries (\$121,000); sending files to the records center (\$4,000); interagency services for General Services Administration (GSA) leased vehicles and equipment (\$44,000); and repairs made to office buildings and facilities (\$1,000) not included in centralized services.

Supplies — OCR is requesting \$250,000, a decrease of \$30,000 from FY 2007. Office supplies are used on a daily basis to support a staff level of 629 FTE. The majority is used for work-related items such as subscriptions to higher education directories, updated materials for OCR's law libraries, and copier paper and toner cartridges for copier machines and printers.

Equipment/Furniture and Building Alterations — OCR is requesting \$70,000 for office furniture and building alterations, a decrease of \$280,000 below the FY 2007 level. Funds will be used for GSA-mandated moves. Building alterations include additions and modifications made to the building structure such as expanding office space, improving the lighting, and other associated costs to improve employees' working conditions.

Departmental Centralized Services

Almost 83 percent of the total non-personnel budget requested is to cover OCR's share of the Department's centralized services. The FY 2008 request is \$18.186 million, an increase of \$1.218 million or 7.2 percent over the FY 2007 level. These costs cover services such as building lease expirations and GSA mandated relocations; telecommunications; IT processing services and contracts to cover OCR's share of the Department's network support contracts that provide end-user support, maintenance, and improvements; training; records information management support services; and interagency agreements for administrative services provided by other Federal agencies, such as payroll processing, overtime utilities, and training coordinator and career counseling provided by other Federal agencies. Some of the cost increases in the projects above were partially offset by other project decreases.

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Organizational Structure and Staffing

Since December 21, 2005, Stephanie Monroe has been the Assistant Secretary for Civil Rights with a staff of 629 full-time employees located in 13 offices around the country. Eighty-five percent of OCR's staff is allocated to its 12 enforcement offices. Within the Office of the Assistant Secretary, two Deputy Assistant Secretaries and two Enforcement Directors are responsible for providing leadership and coordination of compliance activities and for directing and coordinating the program operations and resources of the 12 enforcement offices. The Enforcement Directors report directly to the Deputy Assistant Secretary for Enforcement.

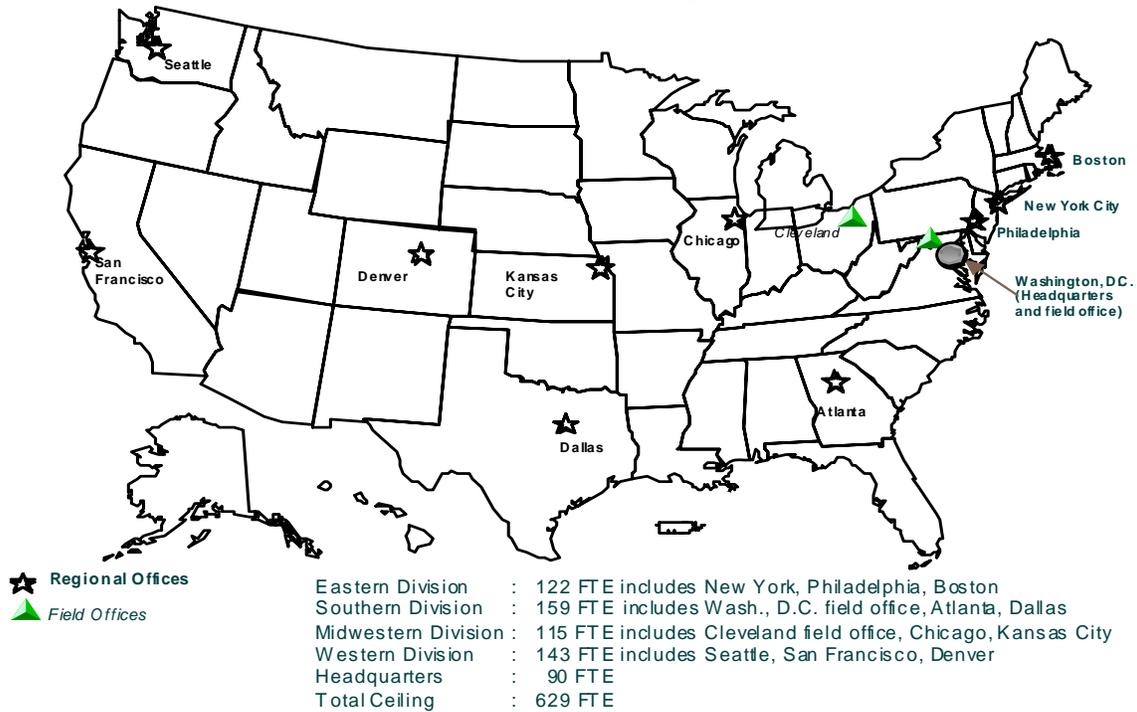
Within headquarters, the Office of the Assistant Secretary is supported by a Program Legal Group that provides a range of legal services including developing policy guidance on civil rights issues, developing technical assistance materials, and consulting on cases from the enforcement divisions. This Group also consults with the Department on civil rights data collection, analysis and dissemination of data, and helps ensure that civil rights issues are appropriately addressed within Department programs and initiatives and among Federal agencies. A Resource Management Group supports the agency in the areas of customer service, information technology, budget, and the management of human capital.

As shown on the following map, OCR has a headquarters office located in Washington, DC, and four enforcement divisions, each of which comprises three field offices. The twelve enforcement offices are located in the 10 regional centers and 2 field locations throughout the Nation: Boston, New York, Philadelphia, Washington, DC, Atlanta, Dallas, Cleveland, Chicago, Kansas City, Denver, San Francisco, and Seattle. Compliance activity teams in the field offices, composed mainly of attorneys and investigators, are the organizational units responsible for investigating discrimination complaints, undertaking compliance reviews, and providing technical assistance to recipients, parents, and other stakeholders.

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FY 2008 Headquarters/Regional Staff



PROGRAM OUTPUT MEASURES

OCR is a civil rights law enforcement agency whose core business is resolving complaints alleging discrimination in federally funded educational programs and activities. As evidenced in the performance measures below, OCR is committed to resolving discrimination complaints within 180 days of receipt. Denying equal educational access to students for longer than 6 months can have not only a negative impact on their education, but possibly on their lives. To achieve a greater efficiency in complaint resolution, in FY 2006, OCR changed the measurement that tracks complaint investigations to include its entire complaint workload. Rather than tracking only resolved complaints, the measure now tracks new complaint receipts that OCR has committed to resolve in 180 days. In addition, OCR established a performance target that limits the number of complaints over 180 days to no more than 25 percent of OCR's pending complaint workload.

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Current performance measures for complaint workload:

Fiscal Year	Number of Complaints with Due Dates in FY 2006*	Number of Complaints Resolved Within 180 Days of Receipt	Percentage of Complaints Resolved Within 180 Days
2006	5,692	5,201	91%

*Complaints received April 1, 2005 through March 31, 2006 have due dates in FY 2006.

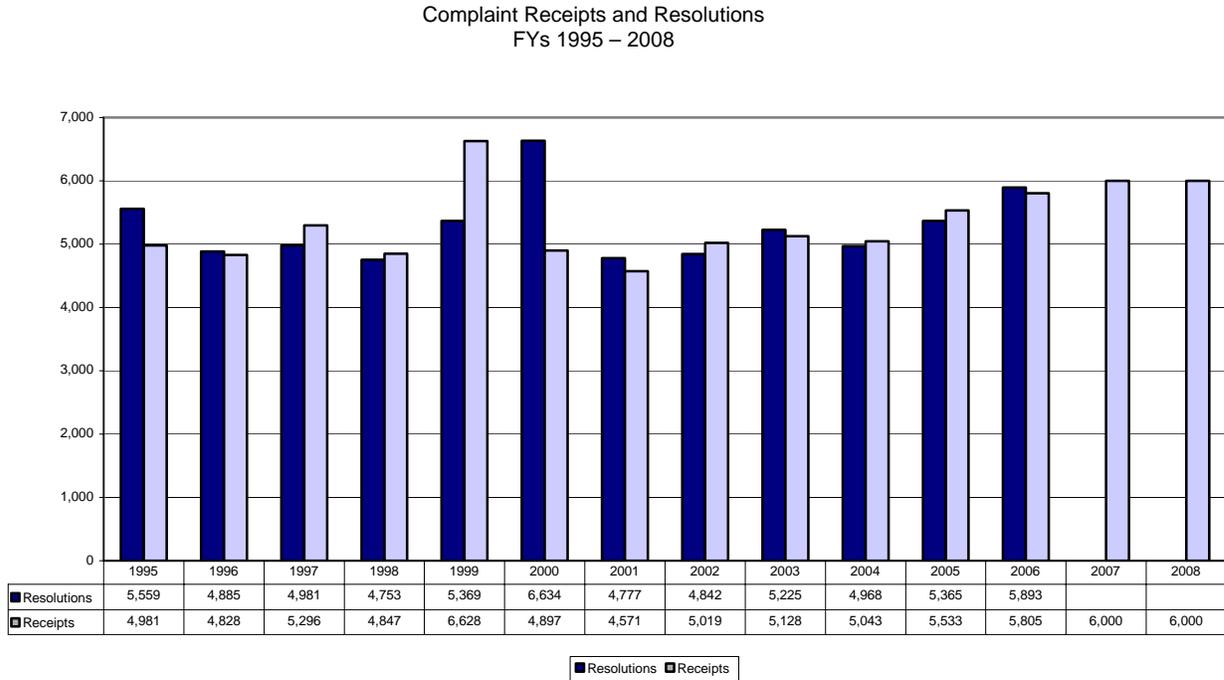
Fiscal Year	Number of Pending Complaints	Number of Pending Complaints over 180 Days	Percentage of Pending Complaints over 180 Days
2006	1,458	308	21%

Historical performance measure for complaint workload:

Fiscal Year	Number of Complaints Resolved	Number of Complaints Resolved Within 180 Days	Percentage of Complaints Resolved Within 180 Days
2002	4,842	4,301	89%
2003	5,225	4,737	91%
2004	4,968	4,539	92%
2005	5,365	4,924	92%
2006	5,692	5,201	91%

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The following chart shows the number of complaint receipts and resolutions since 1995. Actuals are shown for FYs 1995-2006; estimates for receipts are shown for FYs 2007-2008.



PROGRAM PERFORMANCE INFORMATION

Since OCR is a law enforcement agency, staff are its greatest resource. A sufficient number of well-trained staff is necessary to effectively implement OCR’s law enforcement responsibilities. Approximately 77 percent of OCR’s budget is spent on staff salaries, 19 percent on common support, and 4 percent on discretionary costs. Over the past decade, from FY 1996 to FY 2006, OCR’s complaint receipts have risen 20 percent, from 4,828 to 5,805, while the number of staff has decreased 15 percent, from 743 to 629. While OCR’s law enforcement program includes policy development, proactive initiatives, administrative enforcement, and other activities, resolving complaints alleging discrimination is the core work of the agency.

OCR’s performance measures are designed to assess the efficiency and accessibility of the complaint resolution process. The first performance measure has two targets encompassing OCR’s entire complaint workload: 80 percent of new complaints are resolved in 180 days and no more than 25 percent of OCR’s pending complaint workload is over 180 days old. Together, the two targets hold OCR accountable for efficient case resolution, resulting in students’ timely access to equal educational opportunity. OCR has consistently met or exceeded the performance target, while its staff level has steadily declined.

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OCR's second performance measure looks at customer satisfaction through a customer service survey that is distributed after case resolution to both complainants and recipients. The survey measures courteous and considerate treatment of customers, prompt written and oral communication, clear and responsive oral and written communication, and whether the customer was kept informed about his or her case. Based on responses to the survey in FY 2006, OCR's customer satisfaction performance baseline was established at 3.84, on a scale of 1 through 5, with 5 being the highest score possible.

Civil Rights Compliance and Enforcement

In FY 2006, over 10 percent of the workforce left OCR. Experienced staff are continuing to retire from OCR, taking institutional knowledge with them. To offset this loss, OCR's Assistant Secretary completed a comprehensive staffing and workload needs assessment. As a result of the assessment's findings, in addition to the training and knowledge-sharing initiatives discussed below, OCR has identified critical positions that need to be filled throughout the agency. An aggressive hiring plan is being implemented to replace approximately 30 staff in critical positions vacated during FY 2006. Maintaining a staffing level of 629 FTE is necessary to ensure that OCR can execute its law enforcement responsibilities and sustain the quality of its work.

Complaint investigation is a labor intensive activity. A variety of techniques are used to resolve complaints. Under some circumstances, a voluntary resolution is facilitated between the parties. More typically, however, once a complaint has been evaluated and the allegations are found to be within OCR's jurisdiction, a full investigation is conducted. Agreements are negotiated with recipients when compliance concerns are established. Once an agreement is reached, OCR monitors the agreement's implementation until the recipient completes all necessary action. If the recipient does not agree to remedy the civil rights concern, OCR issues a violation Letter of Findings. The recipient is then given another opportunity to negotiate a remedy before OCR initiates and conducts enforcement proceedings through an administrative hearing or refers the case to the Department of Justice.

During FY 2006, OCR staff spent most of their time resolving over 5,600 complaints alleging discrimination and monitoring over 900 resolution agreements. Policy development, promulgating regulations implementing civil rights legislation, outreach and technical assistance, staff training and development, and administrative enforcement are activities necessary to support OCR's investigative core function. Proactive activities targeted by the Assistant Secretary complete OCR's civil rights compliance and enforcement program.

Over the last decade more than 50 percent of OCR's complaint receipts have alleged disability discrimination. OCR intends to maximize the impact of resources spent on these investigations by expanding its proactive compliance activities under Section 504 and Title II. OCR's National Enforcement Strategy focuses on proactive activities in the area of disability, addressing such issues as: overrepresentation of minorities in special education; misidentification of language minority students in special education; physical accessibility to postsecondary education programs and facilities; and the transition of students with disabilities from high school to college, including a Dear Colleague letter informing students and parents of their rights.

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Other significant proactive activities in the Enforcement Strategy include: a training initiative on Title IX compliance; compliance reviews addressing underrepresentation in postsecondary math and science programs; a review on Title VI discipline; comprehensive procedural and policy reviews under Title VI, Title IX, and Section 504; as well as studies and/or analyses of several high priority civil rights issues such as the underrepresentation of certain groups in Advanced Placement courses.

Major activities supporting and enhancing OCR's complaint investigations are discussed below. These activities support the Department's three strategic goals, as well as its commitment to excellent management practices. The goals in the Strategic Plan are to:

- 1) Improve student achievement, with a focus on bringing all students to grade level in reading and math by 2014.
- 2) Increase the academic achievement of all high school students.
- 3) Ensure the accessibility, affordability and accountability of higher education, and better prepare students and adults for employment and future learning.

Initiatives Supporting the Department's Strategic Plan

Boy Scouts of America Equal Access Act

OCR published final regulations on March 24, 2006. OCR is in the process of developing training and technical assistance materials to aid staff in enforcing the Boy Scouts Act and its implementing regulations. The materials will also help staff to inform recipients of their responsibilities, and parents and students of their rights under the law. In addition, the Boy Scouts Act regulation requires public elementary and secondary schools, local educational agencies (LEAs), and State educational agencies (SEAs) that receive funds made available through the Department, to submit an assurance of compliance with the law.

OCR has received OMB approval to amend OCR's assurance of compliance form to include the Boy Scouts Act. OCR will be obtaining new assurances of compliance from LEAs and SEAs – a total of more than 17,000 recipients. OCR will send LEAs and SEAs the revised assurance of compliance form, along with a Dear Colleague letter from the Assistant Secretary that describes the new form and its purpose. Continuing into FY 2007, OCR will collect the signed assurances and keep them on file for recordkeeping purposes, as well as for possible use in future compliance activities. OCR will also devise, as necessary, technical assistance information for recipients regarding the assurance of compliance form, and the obligation to comply with the Boy Scouts Act.

Enforcement of NCLB Reporting Requirements Regarding Disabled Students

Consistent with the Department's strategic priorities, OCR will implement activities to support the No Child Left Behind Act (NCLB) and ensure that students are not discriminated against in the implementation of NCLB testing requirements. NCLB requires schools to report and disaggregate student testing data by various subgroups under OCR's jurisdiction—i.e., racial and ethnic minorities, limited English proficient (LEP) students, and students with disabilities. Allegations have been made that schools are manipulating subgroup numbers to avoid NCLB reporting requirements and to lower the risk that subgroup performance would result in schools and districts being identified as in need of improvement. In so doing, these schools may be increasing segregation and failing to provide equal educational opportunities to students of

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various subgroups. Examples of potential civil rights issues include: denying admission; clustering or dispersing members of subgroups; counseling lower-performing students to dropout of high school; reclassifying members of subgroups, such as altering LEP exit criteria; denying test-taking accommodations for disabled students; and different treatment based on test results, which may provide a proxy for race and ethnicity. OCR will initiate efforts to assess and address NCLB-related civil rights issues, such as conducting compliance reviews, research and analysis, development of materials, and delivery of technical assistance.

Single Sex Classes and Schools: Title IX

OCR published a Notice of Proposed Rulemaking (NPRM) on March 9, 2004. The NPRM proposed to amend the Department's Title IX regulations to allow more flexibility for recipients to provide non-vocational single-sex classes and schools at the elementary and secondary levels. In response to the NPRM, the Department received approximately 6,000 comments. OCR analyzed the comments and drafted final regulations. On October 25, 2006, OCR published amended Title IX single-sex regulations in the Federal Register. OCR is preparing training and technical assistance materials so that staff can assist school districts that choose to provide single-sex classrooms and schools pursuant to the revised Title IX regulations, and inform recipients, parents, and students of their options under the law.

Outreach to LEP Parents and the Misidentification of LEP Students in Special Education

OCR will continue its proactive initiative to increase proper communications with LEP parents and to avoid misidentification of LEP students in special education. While special education programs are essential to ensure that students with disabilities receive an appropriate education, studies have documented discrepancies in the rates of referral and placement of LEP students in special education. OCR's compliance reviews, focusing on school districts with a disproportionately high percentage of LEP students in special education, will determine whether national-origin minority students have been subjected to discrimination on the basis of their limited English proficiency in the referral, evaluation and placement in special education programs. If compliance issues are found, OCR's activities will include technical assistance and outreach to parents of LEP students so that they can actively participate in their children's education.

Overrepresentation of Minorities in Special Education

OCR will continue conducting its compliance reviews, begun in FY 2003, focusing upon inappropriate placement of minority students in special education. Where investigations have revealed that school districts were not in compliance, OCR has been negotiating agreements with the school districts to remedy violations.

Title IX Math and Science Initiative

Consistent with the Department's initiative on increasing achievement and participation in math and science, OCR will conduct outreach activities and several compliance reviews to address concerns of underrepresentation in these areas. While conducting these reviews, OCR will look at related procedural and policy issues under Title VI and Section 504, as well as under Title IX.

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Sexual Harassment Initiative

As articulated in the January 2006, Dear Colleague Letter issued by the Assistant Secretary for Civil Rights, OCR is committed to addressing issues of sexual harassment in the Nation's schools. OCR will conduct compliance reviews related to sexual harassment in schools to ensure that students have a safe and secure educational environment that affords them equal educational opportunities, regardless of their sex.

Preventing Racial Isolation and Resegregation

On June 5, 2006, the United States Supreme Court accepted certiorari in two cases involving school districts' consideration of students' race in elementary and secondary school admissions, in order to reduce racial isolation and secure the educational benefits of diversity. After the Supreme Court's decisions in these cases are handed down in 2007, OCR will develop and issue policy or technical assistance documents to provide guidance in this area to public school districts. OCR will also develop and disseminate policy or technical assistance guidance to postsecondary institutions regarding the appropriate, narrowly tailored use of race as a factor, as well as the use of race-neutral factors in college admission decisions, consistent with current Supreme Court jurisprudence.

Physical Accessibility Reviews

OCR will expand this nationwide enforcement initiative under Section 504 and Title II of the Age Discrimination Act (ADA) focused on eliminating barriers for physically disabled postsecondary students. OCR will create a comprehensive national plan to conduct these reviews at both public and private postsecondary and elementary and secondary institutions. Begun in FY 2004, these compliance reviews may include, but are not limited to: accessibility of residence halls, academic buildings, classrooms, and parking facilities.

Transition of Disabled Students from High School to College

OCR will expand this technical assistance effort to assist students with disabilities making the transition from high school to college by broadly distributing a Dear Colleague letter informing recipients and others of the availability of OCR's technical assistance pamphlet, *Students with Disabilities Preparing for Postsecondary Education*, and recommending its distribution to students and parents. Begun in FY 2004, "Transition" activities address the need for accurate information about the different obligations of public secondary school districts and postsecondary institutions and the specific rights of students with disabilities at the postsecondary level.

Activities Supporting Departmental Priority Initiatives

Hurricane Katrina Gulf Coast Displacement Initiative

Because of disasters in the Gulf Coast, many school districts accepted students who cannot attend schools in their former school districts. In this technical assistance initiative, OCR will continue to collaborate with State departments of education to obtain information on the enrollment and provision of educational services to displaced students and the unique needs faced by local educational agencies in addressing the educational needs of the newly displaced students (i.e., services for LEP students, disabled students, assignment to schools, etc.). Based on this information, OCR will provide useful information to school administrators,

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teachers, parents, and parent teacher associations to ensure that, consistent with civil rights laws and regulations, school programs are accessible to all students displaced by the hurricanes.

Title IX Compliance Initiative

OCR will conduct an initiative to train recipients on Title IX compliance. OCR will give presentations on the subject at regional conferences, with particular emphasis on the requirements of compliance.

Civil Rights Studies and Analyses

Consistent with its authorizing legislation, OCR will conduct studies and analyses on high priority civil rights issues such as racial isolation in elementary and secondary schools and the underrepresentation of certain groups in Advanced Placement courses. The information gained through the studies and/or analyses will help OCR develop legal theories and approaches for conducting reviews in those areas.

Management Tools and Activities Supporting Civil Rights Enforcement

Automated Freedom of Information Act (FOIA) and Privacy Act Case Management

The President's recent Executive Order 13392 and the Secretary's emphasis on FOIA legal requirements have resulted in increased Department responsibility in this area.

OCR is committed to producing tangible and measurable improvements in FOIA processing and, in FY 2006, successfully piloted FOIAXpress, the Department's Web-based solution for FOIA and Privacy Act case management in two field offices. OCR plans to have FOIAXpress fully implemented in all 12 offices by June 2007.

Case Resolution and Investigation Manual

The Case Resolution and Investigation Manual (CRIM) is OCR's roadmap for conducting complaint investigations. While OCR has been using an investigative approach that stresses full investigations since FY 2002, OCR revised the CRIM in FY 2004 to reflect that shift. The CRIM undergoes continuous review, evaluation, and revision to promote quality control and efficient case processing. CRIM training is provided to staff on a regular basis to promote consistent application of OCR's case management process.

Quality Review Program

Initiated in June 2005, the purpose of OCR's Quality Review Program is to identify best investigative practices and facilitate measurable reduction of errors in case processing. Cases are reviewed to identify the best practice approaches to case investigation, and analytical models are shared among all enforcement offices to enhance the nationwide quality, efficiency, and consistency of OCR's investigative work.

Policy Repository

The Policy Repository was developed to provide a single, reliable, user-friendly electronic document storage and retrieval system for current OCR policy documents. Following the first comprehensive document integrity review in over a decade, almost 300 documents in OCR's current policy collection were screened to ensure an accurate collection of current policies. OCR will continue phasing in levels of review to complete the identification of all current policy.

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Using information from the Repository, OCR will create a comprehensive, easy-to-use reference manual on current OCR policy.

National Training and Development Strategy

During FY 2007 and FY 2008, OCR will fully implement its national training and developmental strategy, ensuring that OCR employees receive adequate programmatic and professional development training. Staff training and development is part of OCR's succession planning strategy and provides opportunities for staff to participate in leadership programs, supervisory training, management retreats, policy conferences, college level courses, and continuing legal education. It also incorporates training on the expanded use of electronic systems for case management and FOIA requests and appeals, and the development of OCR-specific Web-based training modules.

Web-Based Training Modules

As part of the national strategy, OCR has invested in the development of two Web-based training modules: one on general investigative procedures and a second on investigating allegations of sexual harassment. While Web-based training will not replace classroom training, it will be available to staff at their desks and at a minimal cost to the agency.

Case and Activity Management System (CAMS)

OCR's Case and Activities Management System (CAMS) tracks both OCR's case-related and non-case related activities. CAMS also includes an electronic document management function for document management, storage, and retrieval. OCR will provide staff additional CAMS training on the System's functionality to increase productivity and will expand the use of CAMS within OCR components. Software upgrades and maintenance are performed annually.

National Enforcement Strategy

OCR's National Enforcement Strategy contains proactive activities in the area of disability to address the issues of: overrepresentation of minorities in special education; misidentification of language minority students in special education; physical accessibility to postsecondary and elementary and secondary education programs and facilities; and the transition of students with disabilities from high school to college, including a Dear Colleague letter informing students and parents of their rights. Other significant proactive activities in the Enforcement Strategy include: a training initiative on Title IX compliance; compliance reviews addressing underrepresentation in postsecondary math and science programs; a review of Title VI discipline; comprehensive procedural and policy reviews under Title VI, Title IX, and Section 504; as well as studies and/or analyses of several high priority civil rights issues such as the underrepresentation of certain groups in Advanced Placement courses. In addition to the start of 14 new compliance reviews and numerous technical assistance activities, OCR will continue resolving over 50 open reviews and monitoring resolution agreements for over 130 reviews.

Elementary and Secondary School Data Collection

For the last 3 years, OCR has been partnering with the Department on the development of a centralized Civil Rights Data Collection. Currently, OCR is working with the Department's Office of Planning, Evaluation, and Policy Development to transition from collecting civil rights data directly from school districts to collecting State-level data through the Education Data Exchange Network. Since FY 2003, OCR has supported the Department's centralized data

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collection efforts with staff and fiscal resources. In FY 2003, OCR transferred \$2.1 million to the Department to build a civil rights survey tool. In FY 2005, OCR transferred \$658,000 to the Department for the 2004/5 school year Civil Rights Data Collection. OCR transferred \$1.7 million to the Department in FY 2006 to fund the 2006/07 school year Civil Rights Data Collection. If the project progresses as planned, future funding from OCR will be unnecessary.

Elementary and Secondary School Data Analysis

OCR has direct responsibility for the analysis and reporting functions related to the Civil Rights Data Collection. The next State and national projections will be for data from the 2006-2007 Data Collection and will become available for projection in FY 2008. In addition, OCR will continue to supplement the reported and projected data available through the *EDFacts* reporting system by making the data available on the Internet.