

What Rules? What Expertise?

A Quick Look at the Department of Education's
Office for Civil Rights

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Department of Education's Office for Civil Rights (OCR)

Jurisdiction

Title VI of the Civil Rights Act of 1964

- Discrimination based on race and national origin

Title IX of the Education Amendments of 1972

- Sex discrimination in educational programs

Section 504 of the 1973 Rehabilitation Act

- Discrimination on the basis of handicap

Title II of Americans with Disability Act

- Discrimination based on disability

Age Discrimination Act of 1975

- Discrimination against those over 40

“Inside the ‘Administrative State’: The Enigmatic Office for Civil Rights,” The Forum (July, 2024)

The Crucible of Desegregation: The Uncertain Search for Educational Equality (Chicago, 2023)

The Transformation of Title IX: Regulating Gender Equality in Education (Brookings, 2018)

Major OCR Rules and Guidance on Title VI and Title IX

YEAR

SUBJECT (APA rules in red)

1975	Final Title IX rules (HEW; signed by President Ford)
1979	"Interpretation" of Title IX rules on athletics (HEW)
1996	"Clarification" of 1979 "Interpretation" on Title IX and athletics
1997	Guidance on Title IX and sexual harassment
1998	Dear Colleague Letter, athletic scholarships
2001	Revised Title IX sexual harassment guidance (issued last day of Clinton's term)
2003	Further "clarification" of "interpretation" on Title IX athletic policy
2004	Dear Colleague Letter on antisemitism
2005	Additional "clarification" of "interpretation" on Title IX athletic policy
2010	Guidance on accommodation of student athletes' interest and ability
2010	Dear Colleague Letter, bullying
2011	Dear Colleague Letter, sexual harassment
2011	Guidance on voluntary use of race to achieve diversity in K-12 schools
2011	Guidance on voluntary use of race to achieve diversity in post-secondary schools
2013	Questions and answers on <i>Fischer v. University of Texas</i>
2013	Dear Colleague Letter, equal access for immigrant students
2013	Dear Colleague Letter, Title IX rules on pregnant and parenting students
2013	Dear Colleague Letter, retaliation
2014	Questions and Answers on sexual harassment
2014	Dear Colleague Letter, discrimination in school discipline
2014	Dear Colleague Letter, equal educational resources
2016	Dear Colleague Letter, transgender students
2016	Policies and emergent practices for supporting transgender students
2016	Dear Colleague Letter, Title IX coordinators
2016	Dear Colleague Letter, discrimination against Asian-Americans, Muslims . . .
2020	Final Title IX rules on sexual harassment
2021	Questions and Answers on combatting anti-Semitism
2022	Notice of interpretation, discrimination on sexual orientation and gender identity
2023	Resources on racial discrimination in school discipline
2023	Dear Colleague Letter, discrimination on shared ancestry or ethnic characteristics
2024	Dear Colleague Letter, discrimination against Muslim, Arab, Sikh, South Asian . . .
2024	Final title IX rules on sexual harassment, pregnancy, transgender, and retaliation (overturned by a number of courts)
2025	Dear Colleague Letter, revocation of 2024 Title IX rule
2025	Dear Colleague Letter, use of race after <i>Students for Fair Admissions</i> decision
2025	Frequently asked questions about racial preference and stereotypes, Title VI

Use of Educational Studies in OCR's Major Title VI and Title IX Guidance

Document	# of pages	# footnotes	# studies
1997, sexual harassment	18	101	0
2001, sexual harassment	45	108	0
2011, sexual harassment	19	46	4*
2014, sexual harassment	46	37	0
2020, Title IX rules	2,033	1,971	150-200*
2024, Title IX rules	1,561	125	17*
2011, use of race, K-12	13	17	0
2011, use of race, post-secondary	10	14	0
2025, use of race after SFFA	4	9	0
2025, racial preference and stereotypes	10	37	0
2014, equal educational resources	37	63	almost 100*
2016, transgender	8	35	1
2014, school discipline	24	36	14*
2023, shared ancestry	4	5	1
2024, Muslim, Arab, Sikh	18	35	0
2010, bullying	10	19	1

How well was the evidence used?

A few examples

2011 DCL on sexual violence, p. 2:

“A report prepared for the National Institute of Justice found that about 1 in 5 women are victims of completed or attempted sexual violence while in college.*

*Christopher P. Krebs et al, The Campus Sexual Assault Study: Final Report”

Christopher P. Krebs and Christine Linquist, lead authors of that study, 2014:

“The 1-in-5 statistic is *not* a representative estimate of the prevalence of sexual assault, and we have never presented it as being representative of anything other than the population of senior undergraduate women at the two universities where data was collected—two large public universities, one in the South and one in the Midwest.”

2014 DCL on equitable distribution of school resources, p. 3

“For example, participation in high-quality arts programs, including music and visual arts, is valuable to all students.*”

*See [lists three studies] *but see* Ellen Winner & Monica Cooper, *Mute those Claims: No Evidence (Yet) for a Causal Link between Arts Study and Achievement*, J of Aesthetic Education, Autumn-Winter 2000.

2014 DCL on addressing racial disparities in school discipline

Central claim = disparities in discipline are the result of discriminatory policies and use of discretion

Studies *did* control for poverty levels, but did *not* control for—

- Number of past infractions
- Differences among schools
- Growing up in single-parent family
- Living in high-crime neighborhoods
- Abuse and neglect within family