



## **At OCR, complaints resolved outpace number of complaints received for 3rd consecutive year**

The U.S. Education Department's Office for Civil Rights' FY 2019 [Annual Report to the Secretary, the President, and the Congress](#) highlights the department's work in the areas of restraint and seclusion, online and website accessibility, and sexual assault while building upon its momentum in processing complaints and closing cases.

In 2019, OCR launched two initiatives for students with disabilities, according to the report. The first aims to protect students from the inappropriate use of [restraint and seclusion](#) in public elementary and secondary schools; the second to increase online and website accessibility. Under these two initiatives, the department opened more than 700 proactive investigations. Additionally, the formal rulemaking process to amend the Title IX regulations also began in FY 2019, culminating with the final Title IX regulations, issued May 6, 2020. s

"Be aware of the areas that OCR is targeting," said Ronald S. Stadler, a school attorney at Jackson Lewis P.C. in Milwaukee. "In each of these areas, it is procedural missteps or the lack of documentation that pose problems for schools," he said. "The best way to avoid and defend against claims in these areas is to review your policies and procedures before you receive a complaint." Districts should take the time now to evaluate their seclusion and restraint and sexual harassment policies and procedures to ensure that they are compliant, he said.

FY 2019 was the third consecutive year in which OCR's resolved complaints outpaced the number of complaints received, according to the report.

"The facts speak for themselves," said U.S. Secretary of Education Betsy DeVos in a press release. "Because of the hard work at the Office for Civil Rights, more students are getting results, and institutions are being held accountable."

"Thanks to the hard work of OCR's talented staff, we have achieved remarkable things during challenging times, including resolving thousands of civil rights complaints with change and greatly reducing OCR's backlog," said Assistant Secretary for Civil Rights Kenneth L. Marcus in the report. Marcus is [leaving the department](#) to return to the private sector at the end of this month.

"OCR is priding itself on the fact that it is receiving and processing more complaints than ever before," Stadler said. "This means that most school districts will see an OCR complaint over the next 1-2 years."

"As OCR continues to address the backlog of cases, take care to preserve records and documents relevant to OCR complaints that may already be years old," advised school attorney and former OCR attorney Josh Douglass with Mickes O'Toole in St. Louis. "In order to resolve these old cases, OCR will often request additional information not previously requested or which was created subsequent to the original OCR data request," he said. "This additional information can be critical."

Area	Complaints received	Complaints resolved	Number of allegations resolved in number of complaints with change
OCR caseload	9,990	10,644	Resolved 1,800 allegations in 1,214 complaints with change.
Title IX	1,802	2,005	Resolved 250 allegations in 180 complaints with change.
Section 504/Title II	5,831	6,210	Resolved 1,387 allegations in 955 complaints with change

Examining the complaints of discrimination on the basis of disability under Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act, the largest numbers of allegations involved claims that a school:

- Failed to provide a student with a disability with FAPE.
- Treated students with disabilities differently from other students.
- Retaliated against individuals who asserted their Section 504 and Title II rights, or those of others.
- Failed to make programs or activities accessible to students with disabilities.

"Disability discrimination continues to generate the most OCR complaints," Douglass said. "Ensuring a solid understanding and implementation of Section 504 requirements by special education teachers and other school staff remains the most effective preventative measure for an OCR complaint."

On a related note, the department states in the report that due to the extraordinary circumstances created by the COVID-19 pandemic, OCR has decided to postpone by one year the 2019-20 [Civil Rights Data Collection](#). ED says the decision does not impact the CRDC alone and that "adjustments and shifts are being made with regard to several other data collections administered by the Department."

*See also:*

- [OCR resolves 'more cases than ever before' in FYs 2017-18](#)
- [OCR announces further revisions to Case Processing Manual](#)
- [SmartStart: Office for Civil Rights -- Overview](#)

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