

Voice of the Nation's Blind Blog

Disturbing Developments at the Department of Education

Posted by [Mark Riccobono](#) | 05/31/2018 | [Access Technology](#), [Advocacy](#)

The National Federation of the Blind is actively engaged in improving access to education for blind students. Our activities on this front include our push for passage of the [AIM HIGH Act](#), our [self-advocacy in Higher Education Toolkit](#) to help students assert their rights, and, when necessary, the filing of discrimination complaints against colleges and universities. In the past, the Office for Civil Rights within the United States Department of Education (OCR) has often been an ally in the struggle to make colleges and universities meet their legal and ethical obligations to blind students. But the recent activities of OCR show troubling indications that we can no longer count on such an alliance.

The most disturbing indication of backsliding at OCR is the recent publication of the office's new case processing manual. Until this new manual was issued in March, both the Section 504 regulations and OCR's prior versions of the manual required OCR personnel to investigate incoming complaints of discrimination, with few exceptions. But the new language provides that OCR personnel will dismiss complaints filed by an individual or organization who has filed a complaint before, as well as complaints against multiple colleges. This rule can have no effect, and probably no purpose, other than to make it difficult or impossible for the National Federation of the Blind and other advocates to bring violations to the attention of OCR. Apparently, vigilant advocates who face repeated discrimination and call it out are now considered troublemakers who are wasting the government's valuable time.

The National Federation of the Blind, along with the Council of Parent Attorneys and Advocates (COPAA) and the National Association for the Advancement of Colored People (NAACP), have filed suit to stop this part of the new case processing manual from going into effect. We believe this rule isn't valid, but our argument boils down to this: OCR is planning to decide what cases it investigates on an arbitrary basis. Obviously, we abhor meritless civil rights complaints, but whether a complaint is actually meritorious should be determined by proper investigation. There is no good reason for OCR to ignore a complaint simply because the complainant has rightfully challenged discrimination before. That approach denies due process to those who bring complaints in good faith and flouts the anti-discrimination laws that OCR is supposed to enforce.

This arbitrary rule change isn't the only disturbing signal coming from OCR. Recently, the office revisited eleven resolution agreements it had reached with colleges and universities to make their educational content accessible. These agreements, which had required the institutions be proactive about accessibility so that content would be accessible to all current or future blind students, have now been rewritten to require only that equal access be provided when a student requests it. This is, of course, a step backward to the failed ad hoc accommodation model we know so well and which has frustrated so many blind students. Putting the burden on a student to request accessible content from a college or university is unlawful and wrong. It also doesn't work, as the many thousands of blind students who have waited in vain for accessible course materials from a Disabled Student Services office can testify.

The National Federation of the Blind will do everything in our power to make sure that this failed approach does not once again become the norm.