

**Education Alert**  
**July 2017**

**UNITED STATES DEPARTMENT OF EDUCATION'S OFFICE  
FOR CIVIL RIGHTS CHANGES INVESTIGATION  
PROCEDURES**

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On June 8, 2017, Candice Jackson, Acting Assistant Secretary for Civil Rights at the United States Department of Education's Office for Civil Rights ("OCR") purportedly sent to the agency's regional directors a memorandum that changes the practices used to investigate civil rights violations. A copy of the memorandum can be found here:  
<https://assets.documentcloud.org/documents/3863019/doc00742420170609111824.pdf>.

Under the new directive:

- Certain complaints are no longer "sensitive cases" that the Washington D.C. headquarters must review. OCR will determine on a case-by-case basis whether complaints require headquarters' review.
- OCR will no longer require investigators to obtain three years of past complaint data/files. Team leaders and regional directors will now determine what comparative data is necessary.
- Team leaders and regional directors can make a case-by-case determination on the type and scope of the investigation; there is no "one size fits all approach."
- OCR will only open "systemic" or "class-action" investigations if a complaint raises such allegations or if the investigative team determines that such an approach is warranted.
- "Reasonable resolutions agreements with defined, enforceable obligations . . . directly addressing the concerns raised in the individual complaint," are encouraged.

This new guidance applies to all complaints currently in evaluation or investigation, as well as newly-filed complaints.

It is not clear exactly how this directive will change OCR investigations, but it does appear to provide OCR regional offices latitude to scale back the scope of investigations and limit the data requested from school districts. Specifically, it likely indicates that OCR will not use individual complaints to investigate systemic violations in areas of school discipline or sexual harassment,

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unless systemic violations are specifically raised in a complaint. It also appears to indicate that OCR may be more willing to enter into resolution agreements.

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*If you have any questions about this issue, please contact Felicia Vasudevan or the attorney responsible for your account, or call (617) 479-5000.*

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