

CLIENT NEWS BRIEF

Office for Civil Rights Issues Warning and Guidance on Retaliation Related to Civil Rights Claims

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Recently, the United States Department of Education's (DOE) Office for Civil Rights (OCR) issued a [Dear Colleague Letter](#) explaining the responsibilities of school districts and postsecondary institutions related to retaliation in the context of civil rights complaints. This letter, the first public guidance issued by the OCR regarding retaliation, was issued due to the significant portion of civil rights complaints received by the OCR that include retaliation claims.

While most managers are aware that federal law prohibits discrimination based on race, color, national origin, sex, disability, or age, they may not be aware that recipients of DOE financial assistance are also prohibited by law from any act of retaliation in the civil rights context. Specifically, it is unlawful to retaliate against an individual for the purpose of interfering with any rights or privileges secured by federal civil rights laws. Prohibited retaliation includes intimidation, threats, coercion, or further discrimination against an individual because he or she has made a complaint, or otherwise testified or participated in an OCR investigation or proceeding.

To ensure equal educational opportunity, the OCR believes it is critical to create an environment where students, parents, teachers, coaches, and others feel that they can report civil rights violations without fear of retaliation. According to the OCR, federal civil rights violations are often only addressed and remedied when such reports are made.

The Dear Colleague Letter details the illegality of retaliatory activity to punish or discourage involvement in the protection of civil rights, and details OCR's methods of enforcing the non-retaliation laws. If a violation occurs, the OCR will first seek a voluntary commitment to take specific action to remedy the noncompliance, including training, better communication regarding policies and procedures related to civil rights and retaliation, and public outreach regarding these issues. If a recipient of DOE funds engaged in retaliation refuses these voluntary steps, enforcement action may be taken. Enforcement action includes administrative proceedings relating to suspending or terminating funding, or a referral to the Department of Justice for judicial proceedings.

While the letter does not contain any new policy or legal interpretations, it makes clear that the DOE views retaliation as a significant problem. OCR's issuance of such specific guidance regarding retaliation may indicate an increased focus on this area. The letter provides a good opportunity for school districts and postsecondary institutions to review and update applicable policies and procedures, and to ensure that those policies and procedures are properly communicated and publicized.

For further information regarding OCR's [Dear Colleague Letter](#), civil rights discrimination and retaliation issues in general, or practical steps that can be taken with regard to these issues, please feel free to contact one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).



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