

Strife in the Schools: Education Dept. Logs Record Number of Discrimination Complaints

Some of the highest-profile complaints show how America's culture wars are affecting the nation's children.



By Erica L. Green

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WASHINGTON — The Education Department's Office for Civil Rights logged a record number of discrimination complaints in the past year, the latest indicator of how the social and political strife roiling the country is reverberating in the nation's schools.

Nearly 19,000 complaints were filed to the office in the last fiscal year — between Oct. 1, 2021, and Sept. 30, 2022 — more than double the previous year and breaking the record of 16,000 filed in fiscal year 2016, according to figures provided by the department. The surge reversed the decline in complaints filed to the office under the Trump administration, which rolled back civil rights protections.

Officials say the complaints — most alleging discrimination based on disability, race or sex — reflect grievances that amassed during the worst public health crisis in a century and the most divisive civil rights climate in decades. The complaints were logged as schools struggled to recover from pandemic-related closures, and add to the declining test scores and growing mental health challenges that display the fragility in large parts of the country's education system.

Catherine Lhamon, the assistant secretary for civil rights, said the jump in the number of complaints, which have not yet been made public but will be reflected in the office's annual report in the coming months, is both encouraging and sobering.

"It reflects the confidence in the Office for Civil Rights as a place to seek redress," Ms. Lhamon said. "At the same time, the scope and volume of harm that we're asking our babies to navigate is astronomical."

The Education Department does not comment on pending complaints or investigations prompted by them, but resolution agreements that districts enter into with the department to address violations are made public after the investigations. Complainants can also make the details of their complaints public on their own.

A sampling of recent agreements provides a snapshot of the tumult the department has been asked to remedy.



Dee Dwyer for The New York Times

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In Iowa in December, the Ottumwa Community School District agreed to a series of reforms after department officials determined that the district had failed to protect a Black middle school student from “racial harassment so pervasive that it constituted a racially hostile environment,” including a white student who had knelt on a Gatorade bottle in the Black student’s presence and said, “It can’t breathe,” mocking the murder of George Floyd by a white police officer in Minneapolis in 2020.

In Arizona in September, officials in the Peoria Unified School District agreed to reforms after the department found that white students had invoked “Heil Hitler” salutes, drawn swastikas on photographs of student faces on notebooks and harassed Asian students with anti-Asian slurs.

In both cases the reforms included educating students to recognize and report discrimination, and training school staff in how to respond to it. In Iowa, the district also agreed to reimburse the parents of the Black student for therapy the student needed as a result of the harassment.

The majority of complaints in the past year, as in previous years, allege discrimination against students with disabilities — a population whose plight became more visible during the pandemic when schools drew federal scrutiny for failing to serve such students during school closures.

In Colorado, advocates filed complaints citing a range of violations, including segregating disabled students from their peers in dilapidated trailers. In Arizona, complaints allege that disabled students were bullied by other students and staff members and disproportionately disciplined for disability-related behavior.

“Families really thought that something might change when we went back, and instead many families were stuck with the same bureaucracies that have always failed their kids,” said Denise Marshall, the chief executive officer of the Council of Parent Attorneys and Advocates, a disability rights advocacy group. “What we see from our members is that they’re desperate for somebody to do something about what they see as the chaos that public education is in right now.”

Some of the highest-profile complaints filed with the department show how culture wars waged by adults affect the nation’s children.



Parents and community members shouting at a Loudoun County school board meeting, where policies regarding transgender students were up for discussion, in Ashburn, Va., last year. Evelyn Hockstein/Reuters

A number of civil rights groups blame former President Donald J. Trump for creating an atmosphere of intolerance in America's schools. His promotion of what he called "patriotic education" — which sought to minimize the country's history of slavery — spurred conservative policymakers to support a series of efforts, including banning books, revising curriculums and challenging diversity programs.

"We cannot underestimate the normalizing of intolerant behaviors," said Liz King, the senior program director of educational equity at the Leadership Conference on Civil and Human Rights, a coalition of more than 200 civil rights groups. "And it would be impossible to separate the attacks on what children are allowed to learn from the way in which children are experiencing the school day."

The department is investigating four complaints, including one that the N.A.A.C.P. Legal Defense Fund filed against the Carroll Independent School District in Southlake, Texas, a predominantly white, affluent suburb at the center of a fiery national battle over racial education in the public schools that was documented by the NBC News podcast series "Southlake."

The N.A.A.C.P. complaint detailed how the district for years had ignored the harassment of students based on race, sexual orientation and gender identity. Black students were subjected to racist slurs, the report said, and anti-gay slurs against one L.G.B.T.Q. student escalated to physical violence. The student had thoughts of suicide, the report said, and his family ultimately withdrew from the district.

In a statement, the district said it was fully cooperating with the investigation and that its administrators had "taken significant strides" to "address any instances of bullying, discrimination and harassment consistently and effectively."

Russell Maryland, a member of the group of Black parents in Southlake being represented by the Legal Defense Fund, said that the civil rights complaint is one of the last hopes for reconciliation in the county. Members of the group, known as the Cultural and Racial Equity for Every Dragon, or CREED, worked for years on a plan the district had commissioned to help address rampant racial harassment among students, only to have it abandoned after backlash from a conservative group of parents. The group is hoping that the Education Department's Office of Civil Rights will help mandate reforms.

"We want a desirable plan that will not only protect marginalized kids in this community, but will educate all kids on how to be the best citizens when they leave the school system," Mr. Maryland said.



Zerb Mellish for The New York Times

“We’ve gone back to doing business as usual. It’s been like hubris. Kids feel emboldened; parents feel emboldened.”

Thomas Harvey, left, with Russell Maryland, parents in Southlake, Texas

Other race discrimination complaints reflect a debate about schools' roles in addressing systemic racism. Several longstanding diversity and inclusion efforts came under a microscope during the national reckoning on race after the murder of George Floyd, as conservative pundits denounced such efforts as "indoctrination," and predominantly white parents questioned whether race was playing an outsized role in their children's education.

One group, Parents Defending Education, filed several complaints in the past year challenging diversity, equity and inclusion programming in schools across the country as potential violations of Title VI of the Civil Rights Act and the equal protection clause of the 14th Amendment. Among the programming they asserted violated the laws was a "Families of Color Playground Night" in Colorado and an advertised "Students of Color Field Trip Opportunity" in Illinois.

"The shift toward race-conscious policies means that schools are consciously injecting race into things, when we believe they should not be," said Nicole Neily, who founded Parents Defending Education in 2021.

"There are awful injustices that are taking place," Ms. Neily added. "But I worry that in this continued obsession of trying to inject identity into everything, it almost undermines where there is real injustice."

The department also saw a sharp increase in the number of complaints alleging transgender and gender-identity discrimination in violation of Title IX, the federal law that prohibits discrimination on the basis of sex.

L.G.B.T.Q. rights advocates say that the complaint volume reflects both the heightened visibility of the population and the backlash over laws that are designed to protect them. In recent years, conservatives have zeroed in on transgender rights as a culture war issue, and state leaders have rushed to file hundreds of bills targeting transgender people. Such efforts have not only fueled more harassment of students based on their gender identity and sexual orientation, but has also had a chilling effect on educators' willingness to stop it, advocates say.

"I do think that all of this rhetoric has spooked people," said Cathryn Oakley, the state legislative director and senior counsel at the Human Rights Campaign. "Compassion and respect has become scarily political."

Andrew Burgess, a longtime social studies teacher at Lenape Middle School in the Central Bucks School District in Pennsylvania, learned that lesson the hard way, when he filed a complaint on behalf of a transgender student who was being bullied at the school.

Mr. Burgess was scheduled to speak with federal investigators on May 6 at 11:30 a.m., but on that same day and time he was summoned to a meeting with district officials and suspended immediately with pay, banned from communicating with his colleagues, and escorted from the premises.

Mr. Burgess's suspension sparked a series of protests in the district as the community rallied to support him. Another complaint filed by the state chapter of the A.C.L.U. against the district alleged a "hostile" environment for L.G.B.T.Q students there.



Rachel Wisniewski for The New York Times

“Many educators struggle with a feeling of anxiousness and fear. I felt very privileged because I did end up having community members rally to support me.”

Andrew Burgess, social studies teacher

The Education Department is currently investigating the suspension as a retaliatory measure.

“I did not expect my administrators to be pleased with the decision that I made, but I felt like it was my responsibility as an educator,” Mr. Burgess, who was involuntarily transferred to another school, said in an interview. “But I was concerned that I would be complicit if I became aware of this information and allowed it to sit.”

District officials have denied that Mr. Burgess was suspended for helping an L.G.B.T.Q. student, but said in a statement that the district “takes allegations of discrimination very seriously,” and is conducting its own investigation.

In the midst of the increased complaints, staffing in the Education Department’s civil rights office has declined or stagnated, adding to delayed investigation times, which have long been a source of frustration for complainants.

Civil rights advocates also worry about the increased hostility from local and federal leaders, who they say are seeking to delegitimize the office’s mission.

In the Central Bucks District where Mr. Burgess was suspended and then transferred, the school board president criticized the A.C.L.U. complaint as a “partisan, political tool” and announced the board had hired a high-powered legal team led by Bill McSwain, a former Trump-appointed U.S. attorney. Mr. McSwain unsuccessfully sought the Republican nomination for governor of the state last year and came under fire during his campaign for calling a middle-school gender and sexuality alliance group “leftist political indoctrination.”

In response to the Southlake investigations, Republican members of Congress, including ranking members of the House and Senate Education Committees, sent a letter to the department echoing concerns expressed by local leaders that the department “will use this complaint to launch a politically motivated investigation of a thriving district whose parents disagree with this administration’s policies.”

For Ms. Lhamon, the complaint volume reflects the range of debates in school communities about what and how civil rights apply, and for whom. The office’s mission as a neutral fact-finder will not waver, she said.

“I am honored that more people are turning to us,” she said.

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