
Protecting the Tools of Civil Rights Enforcement

Enforcing our nation’s civil rights laws is a central and vital function of the U.S. government. On February 24, 2017, President Trump signed Executive Order 13777, “Enforcing the Regulatory Reform Agenda,” which is designed to start a process for eliminating the tools federal agencies use to implement and enforce federal civil rights laws and protect people from discrimination. This is a threat to all children from preschool through higher education. Until August 21, 2017, everyone has the opportunity to weigh in with the U.S. Department of Education and Secretary Betsy DeVos and show support for protecting students’ rights.

Background

Federal agencies are responsible for guiding the implementation of, and enforcing compliance with, federal laws. One way they inform entities of their responsibilities under the law is through the development of regulations (rules) and non-regulatory guidance. The “regulatory” or “rulemaking” process is the means by which departments develop, revise, and finalize the regulations and guidance that will direct a law’s implementation.

The Office for Civil Rights (OCR) in the U.S. Department of Education is responsible for ensuring equal access to education and promoting educational excellence through vigorous enforcement of civil rights. Congress charged OCR with enforcing laws that prohibit discrimination in programs or activities that receive federal financial assistance from the department. The department does not have the authority to make new education- or civil rights-related laws or amend existing laws.

- **Regulations** have the force of law. Because of the consequences of failing to comply with the law, the Department of Education must undergo a “notice and comment” rulemaking process when issuing a regulation, which gives people and organizations an opportunity to weigh in on what the regulation should be.
- **Non-regulatory guidance** (which may be referred to simply as “guidance” or may appear as an “FAQ” or “dear colleague letter”) importantly states a department’s interpretation of or policy surrounding a requirement in the law, and further explains requirements in regulation.

An Opportunity to be Heard

The department has posted a public notice in the Federal Register seeking public input about what regulations and guidance to repeal, replace, and modify. Every person and organization has the opportunity to respond to this public notice and express their support for our civil rights laws and the tools the government uses to enforce those laws. All comments submitted on or before the August 21 deadline will be included in the public record.

Public comments submitted through the Federal Register are part of the official record and must be reviewed by the department. When the department is weighing what to do and whether to undermine these laws or not, they will look to the comments as a measure of public opinion.

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How to Submit a Comment

Everyone can submit a comment during public comment periods either as an individual, on behalf of an organization, or as a group of organizations. The more voices that are heard the better, so be sure to connect with other members of your community and spread the word!

1. Visit: <https://www.federalregister.gov/documents/2017/06/22/2017-13157/evaluation-of-existing-regulations>
2. Click on the green “SUBMIT A FORMAL COMMENT” button and the comment form will open. You can type a comment directly into the box or just write “see attached comment” and upload a Word or PDF document (such as a signed letter on organizational letterhead) after pressing the button.
4. You will then be asked to add information about yourself.
5. Check the preview to see how your comments will appear once submitted, and then check the box: “I read and understand the statement above.”
6. Finally, hit “SUBMIT COMMENT” on the bottom of the form.
7. You’re done! Your comments will appear on <https://www.federalregister.gov/> alongside all of the other comments received.