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March 25, 2021

The Honorable Rosa DeLauro  
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Subcommittee on Labor, Health and  
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Related Agencies  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Patty Murray  
**Chair**  
Subcommittee on Labor, Health and  
Human Services, Education, and  
Related Agencies  
U.S. Senate  
Washington, DC 20510

The Honorable Tom Cole  
**Ranking Member**  
Subcommittee on Labor, Health and  
Human Services, Education and  
Related Agencies  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Roy Blunt  
**Ranking Member**  
Subcommittee on Labor, Health and  
Human Services, Education, and  
Related Agencies  
U.S. Senate  
Washington, DC 20510

*Double the Funding for the Department of Education's Office for Civil Rights*

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 220 national organizations to promote and protect the civil and human rights of all persons in the United States, and the 79 undersigned organizations, we urge you to double the funding for the U.S. Department of Education's ("the department") Office for Civil Rights (OCR) to \$260 million. The Leadership Conference appreciated the \$130 million appropriated by Congress for FY21; however, this vital office, central to the function of the department as a whole, has been sorely underfunded for far too long. As our nation continues to face the COVID-19 pandemic, which has disproportionately harmed students of color, students with disabilities, LGBTQ students, pregnant and parenting students, and other marginalized students, and as the country grapples with a long overdue reckoning with racism and white supremacy, it is even more urgent that OCR has the resources it needs to prevent and respond to discrimination.

OCR has a unique responsibility to enforce core nondiscrimination statutes in schools. These statutes, including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the Age Discrimination Act of 1975, prohibit discrimination in schools on the bases of race, color, national origin (including language status), sex (including sexual orientation, gender identity, and pregnancy or parenting status), disability, and age. Congress passed these laws in response to the widespread denial of equal protection and equal opportunity by states, districts, and schools. Although considerable

progress has been made in the decades since these laws were passed, they continue to serve a vital function in the face of ongoing discrimination.

OCR's enforcement, policy, technical assistance, and data responsibilities have considerable impact on whether or not students' access to equal educational opportunities are meaningful and whether the rights of marginalized students to receive the supports and opportunities they deserve to achieve their dreams are actualized. These responsibilities are central to the work of the Department of Education. When the department was established in 1980, there were only 41 million students in public schools and only 12 million students enrolled in institutions of higher education. Today, there are 51 million K12 students and 20 million students enrolled in higher ed, representing a significant increase in the number of students the department must serve. The Office for Civil Rights has been woefully underfunded for many years, especially when staffing is compared to the number of complaints. Although OCR received almost five times as many complaints in 2016 as the office received in 1980, the number of staff was cut in half over that same time period.<sup>1</sup> Furthermore, we have seen a 187 percent increase in the number of complaints that OCR received between 2008 and 2019.<sup>2</sup> And recent events, including the integration of virtual learning into the academic experience, as well as the national reckoning with violent policing and the impacts of racism on students, demonstrate that the issues facing OCR are more complex than ever. Students, families, communities, and Congress will not receive vigorous enforcement of civil rights laws as long as the office is denied the resources needed to fulfill its congressional mandate.<sup>3</sup> Congress must provide robust funding for OCR to ensure that the office as well as the Department of Education can carry out its most essential duties, including through:

#### **Accurate, Timely, and Accessible Data from the Civil Rights Data Collection (CRDC)**

OCR is responsible for collecting and reporting the data needed to identify where students do – and do not – have equal opportunity in education. The CRDC plays an important role in ensuring OCR takes its civil rights responsibilities seriously and provides schools with the tools they need to address disparities. Disaggregated data reported in the CRDC by race, ethnicity, native language, socioeconomic status, English learner status, disability status, disability type, and sex (including sexual orientation and gender identity) help us to know about students' experiences in schools and whether all students have equal access to education. Effective data collection and dissemination are necessary for evaluation and review of all other programs and activities. OCR must be sufficiently funded to conduct universal annual data collection and to ensure the safety and accuracy of that data. Insufficient funding for OCR has limited the scope, frequency, and public accessibility of the CRDC, hampering the ability of the department to fulfill its legal obligations and undermining our shared interest in the best education for every child.

#### **Clear Guidance, Regulation, and Technical Assistance to Facilitate Compliance**

Regulation and guidance are critical tools that help to prevent unlawful discrimination from occurring in the first place – the primary goal of the department, education system, advocates, and families. The

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<sup>1</sup> See: <https://www2.ed.gov/about/reports/annual/ocr/report-to-president-and-secretary-of-education-2013-14.pdf> and <https://www2.ed.gov/about/reports/annual/ocr/report-to-president-and-secretary-of-education-2016.pdf>.

<sup>2</sup> See: <https://www2.ed.gov/about/overview/budget/budget19/justifications/z-ocr.pdf>.

<sup>3</sup> OCR's mission is to ensure equal access to education and to promote educational excellence through vigorous enforcement of civil rights in our nation's schools. See: <https://www2.ed.gov/about/offices/list/ocr/index.html>

department is charged with issuing clarifying civil rights policy guidance and regulations to implement the laws under its jurisdiction and to provide other technical assistance to support schools, districts, and states in meeting their obligations to students and families. This policy work must be informed by extensive engagement and collaboration with stakeholders, especially marginalized students, families, and those who advocate with and for them, as well as research and evidence-based practices. OCR must have the necessary resources to provide substantial training and technical assistance to ensure that laws are implemented effectively and students are served equitably. In recent years, we have seen a failure to provide the support necessary to protect students from discrimination, and even policy actions that actively undermine legal protections. The previous administration's attacks on students' civil rights in schools included the rescission of guidance such as those that explained schools' responsibilities to transgender students and survivors of sexual violence under Title IX, explained schools' responsibilities to students of color in the context of school discipline under Title VI, and supported K12 and higher education institutions' pursuit of diversity under Title VI. That administration also scaled back systemic investigations of discrimination, promulgated a Title IX regulation limiting schools' obligation to address sexual harassment and expanding the scope of religious exemptions, and changed the Case Processing Manual to limit families' access to justice. Children and families deserve both words and actions by the department that respond to their concerns, protect their rights, and follow the law.

### **Thorough and Expedient Responses to Complaints of Discrimination and Compliance Reviews**

OCR has an obligation to ensure justice, thoroughly and expeditiously, for students who report discrimination on the bases of race, color, national origin, sex (including sexual orientation, gender identity, and pregnancy or parenting status), disability, and age through the department's complaint process. Similarly, OCR must also pursue proactive compliance reviews to ensure federally funded programs are not discriminating even in instances where complaints have not yet been filed. The communities with and for whom we work deserve to have OCR firmly uphold the laws that protect them from discrimination, and all taxpayers deserve the reassurance that federal funds are not being used to discriminate. In recent years, we have seen the previous administration work to dismantle critical protections for some of our most marginalized students – sending the signal that they would not be protected or have their rights enforced. Insufficient funding has been presented for years as the justification for either thorough but protracted or expedient but shallow responses to complaints. OCR needs robust funding and sufficient staff to ensure that students and their families are supported by a department that will not tolerate discrimination and that will work to ensure access to justice for students and their families. Incomplete justice or justice delayed are both justice denied.

As Congress continues to respond to the massive upheaval and disruption to the lives of families and communities across the country, it is vitally important that those who were most marginalized before this current public health crisis and who are bearing the brunt of the crisis itself are at the center of any and all responses – especially with regard to education. Without a doubt, COVID-19 will have lasting effects for many decades to come. There is an opportunity and a responsibility to minimize the harm to the next generation. As we face an opportunity to make decisions that set our students up for success, not just during the pandemic, but for generations to come, we urge you to double the size of the Office for Civil Rights to ensure that the Department of Education is able to fulfill its responsibility to protect the civil

rights of all students. Please let us know if we can answer any questions or provide any additional information by contacting Arielle Atherley, policy analyst, at [Atherley@civilrights.org](mailto:Atherley@civilrights.org).

Sincerely,

The Leadership Conference on Civil and Human Rights  
Alabama Appleseed Center for Law and Justice  
American Association of Colleges for Teacher Education  
American Atheists  
American Federation of Teachers  
American-Arab Anti-Discrimination Committee (ADC)  
Anti-Defamation League  
Appleseed Foundation  
Asian Americans Advancing Justice | AAJC  
Association on Higher Education And Disability (AHEAD)  
ATIXA - Association of Title IX Administrators  
Augustus F. Hawkins Foundation  
Autistic Self Advocacy Network  
Bazelon Center for Mental Health Law  
Center for Law and Social Policy (CLASP)  
Center for Pan Asian Community Services, Inc.  
Center for Popular Democracy  
Clearinghouse on Women's Issues  
Coalition of Labor Union Women  
Council of Parent Attorneys and Advocates  
Disability Rights Advocates  
Education Law Center - PA  
Educators for Excellence  
Feminist Majority Foundation  
Georgia Rising  
Girls Inc.  
Girls Inc. of Long Island  
Girls on the Run International  
GIRLSwSTEAM  
GLSEN  
GO-HIGH CORP  
Hispanic Federation  
IDRA (Intercultural Development Research Association)  
Impact Fund  
Japanese American Citizens League  
Juvenile Law Center  
Kansas Appleseed Center for Law and Justice  
KIPP

LatinoJustice PRLDEF  
Learning for Justice  
Massachusetts Appleseed Center for Law and Justice  
Matthew Shepard Foundation  
Michigan Alliance for Special Education  
NAACP CO-MT-WY State-Area Conference  
NAACP Legal Defense and Educational Fund, Inc. (LDF)  
National Action Network  
National Alliance for Partnerships in Equity (NAPE)  
National Association of Councils on Developmental Disabilities  
National Black Justice Coalition  
National Center for Learning Disabilities  
National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE)  
National Center for Youth Law  
National Council of Asian Pacific Americans (NCAPA)  
National Council on Independent Living  
National Disability Rights Network (NDRN)  
National Indian Education Association  
National Organization for Women  
National PTA  
National Urban League  
National Women's Law Center  
New York Appleseed  
Nollie Jenkins Family Center  
Ohio Hispanic Coalition  
PFLAG National  
Poverty & Race Research Action Council  
Public Justice  
Southeast Asia Resource Action Center (SEARAC)  
SPLC Action Fund  
Teach For America  
Teach Plus  
Texas Appleseed  
Texas Progressive Action Network  
The Advocacy Institute  
The Arc of the United States  
The Education Trust  
The Expectations Project  
The Friends of Goody Bassett, PAC  
TNTP  
UnidosUS  
Urban League of Greater Pittsburgh