

October 21, 2024

Catherine E. Lhamon
Assistant Secretary, Office for Civil Rights
U.S. Department of Education
400 Maryland Ave SW
Washington, DC 20202

Dear Ms. Lhamon:

The undersigned organizations, who support K-12 student survivors of sexual violence, write to urge immediate action to reform the U.S. Department of Education Office for Civil Rights' (OCR) system for receiving and resolving complaints of sexual violence and sexual harassment. The current process repeatedly fails student survivors because it lacks the speed and transparency to offer meaningful outcomes.

Student survivors rely on OCR for oversight when their institutions fail them. We ask simply that OCR implement its regulations efficiently to provide this needed oversight and enforcement. At the writing of this letter, there are 743 pending cases of sexual violence and sexual harassment in K-12 schools currently under OCR investigation. Nearly 67% of those cases are over one year old, the oldest of which have been pending for a *decade*.¹ In advocating on behalf of student survivors who file OCR complaints against their schools, our organizations have experienced these delays firsthand. We have filed complaints on behalf of students who have waited years before receiving any meaningful updates from OCR on the progress of investigations. Often when OCR does finally reach out years after opening a case, it requests more information from the complainant but has no update to offer. To place this in the context of survivors' actual lives, in some cases, middle school students who experience sexual violence and file an OCR complaint after institutional betrayal may not receive a resolution until they are working adults, long removed from the painful and traumatic facts that led to their complaint.

¹ U.S. Department of Education's Office for Civil Rights. 2024. *Pending Cases Currently Under Investigation at Elementary-Secondary and Post-Secondary Schools*. September 24. Accessed September 26, 2024. <https://ocrcas.ed.gov/open-investigations>.

Perhaps even more alarming than this extensive backlog, is the increasing rate at which OCR has dismissed complaints against K-12 schools in recent years. In the school year 2010-11, 49% of resolutions were dismissals. That number steadily rose to 81% by the school year 2019-20. To make matters worse, OCR dismissed most of those complaints simply because it did not receive a signed consent form.² OCR's own policy of requiring a wet ink signature on the consent form³ has exacerbated this issue, which especially impacts complainants without access to printers and scanners. In some cases, OCR attorneys have reached out to complainants years after a complaint was filed requesting a new consent form, but declining to provide any update on the status of the investigation. Furthermore, when a complaint is dismissed, even for a simple oversight like failing to sign or submit the consent form, complainants no longer have the option to appeal the dismissal.⁴ Institutions are able to flagrantly disobey the Department's regulations for years knowing that any enforcement may take decades, if it ever comes to pass.

Many students turn to OCR after their district and school have failed to provide the adequate support they need following sexual violence only to have OCR do the same. OCR's delays, communication breakdowns, and dismissals add to the trauma and institutional betrayal that student survivors have to endure. OCR can and must do better for these students.

Our organizations urge the following actions from OCR:

- Hire more investigative staff.
- Prioritize resolving the oldest pending cases.
- Commit to providing complainants with scheduled and ongoing material updates on their cases.

² United States Government Accountability Office. 2021. "K-12 Education Students' Experiences with Bullying, Hate Speech, Hate Crimes, and Victimization in Schools." Report to the Chairman, Committee on Education and Labor, House of Representatives.

³ U.S. Department of Education, Office for Civil Rights. 2024. *Questions and Answers on OCR's Complaint Process*. September 20. Accessed September 25, 2024. <https://www.ed.gov/laws-and-policy/civil-rights-laws/civil-rights-faqs/questions-and-answers-on-ocrs-complaint-process>.

⁴ Modan, Naaz. 2023. "OCR changes approach to complaints amid record high volume." *K-12 Dive*. April 14. Accessed September 19, 2024. <https://www.k12dive.com/news/OCR-changes-approach-complaints-record-high-volume/647699/>.

- Implement mediation, case investigation and resolution timelines so that survivors have a clear understanding of when they should expect case decisions.
- Remove barriers to filing sufficient complaints, such as allowing complainants to sign consent forms electronically.
- Give complainants the opportunity to appeal dismissals.

We recognize the tremendous work that this administration has done to restore student survivors' Title IX protections. We applaud the new regulations. But, in order for those regulations to be meaningful, OCR must provide responsive and timely oversight and enforcement of those regulations. There is more work to be done before the close of this administration in a few short months. The time to make these changes is now.

Sincerely,

Victim Rights Law Center, Joined By:

A Child's Voice Child Advocacy Center, Inc.
Appalachian Children's Center, Inc.
C.A. Goldberg, PLLC
Empire Justice Center
Family Violence Appellate Project, CA & WA
Gwinnett Coalition
Latin American Association
Mosaic Georgia, Inc.
National Alliance to End Sexual Violence
Network for Victim Recovery of DC
Partnership Against Domestic Violence
Paulding Child Advocacy Center
Pennsylvania Coalition to Advance Respect
PFLAG Lawrenceville, GA
Right to Be
SafeBAE
Sanford Heisler Sharp McKnight LLP
Stephanie Oneill Snow
Stop Sexual Assault in Schools
YWCA Northeast Indiana