



The Council of Parent Attorneys and Advocates, Inc.
Protecting the Legal and Civil Rights of Students with Disabilities and Their Families

CIVIL RIGHTS GROUPS SUE DEPARTMENT OF EDUCATION OVER PROCESS OF DISMISSING DISCRIMINATION CLAIMS WITHOUT INVESTIGATING

May 31, 2018

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BALTIMORE, MD – The National Federation of the Blind (NFB), Council of Parent Attorneys and Advocates (COPAA), and National Association for the Advancement of Colored People (NAACP) today filed suit against the U.S. Department of Education, Secretary Betsy DeVos and Candice Jackson, Acting Assistant Secretary for Civil Rights, asserting that the Department has changed its complaint handling process to strip students with disabilities and students of color of their rights.

The Office for Civil Rights (OCR) within the U.S. Department of Education (ED) has a legal obligation to investigate complaints of race and disability discrimination. OCR has a Case Processing Manual specifying how its offices respond to complaints. In changes made recently, ED mandates that complaints by anyone who has previously filed a pattern of complaints will be dismissed without investigation. The changes also eliminate the appeals rights of complainants.

Denise Marshall, COPAA Executive Director stated: *‘The changes to the Manual are contrary to OCR’s mission; occurred without any public notice; and, in effect have summarily eliminated substantive rights of the very people OCR purports to serve. With this arbitrary and capricious action OCR has abandoned its basic duty to investigate legitimate complaints of discrimination by students with disabilities and their parents.’*

The plaintiffs argue that, at the very least, before adopting rules that limit the rights of citizens, a federal agency must provide for public notice and seek comment from affected individuals and organizations. ED provided no legal or factual basis to exclude repeat filers without considering the validity of their complaints. Individuals may file more than one complaint when they have been subject to more than one instance of discrimination or when they have been subject to discrimination by different schools. ED’s decision to block multiple complaints punishes the victims, not the perpetrators, of discrimination.

Congress increased funding to OCR for fiscal year 2018 by \$8.5 million, the 3rd straight budget cycle in which there was an increase for this office.

Marshall added: *“While we understand that DOE may want to prevent abuse of the system – they should do so with proper notice and comment; in a manner that does not take away victims’ rights or limit complaints that have merit. What they have done in this instance is akin to using a sledgehammer to open a nut. Instead of examining the substance and taking lawful action to eliminate injustice, they have smashed the system to smithereens, rendering it useless.”*

The complaint asks the court to declare parts of the Case Processing Manual invalid and prohibit the Department from implementing them.

COPAA is an independent, national nonprofit organization of parents, attorneys, advocates, and related professionals who work to protect the civil and legal rights of the 6.5 million American children with disabilities and their families. COPAA's mission is to serve as a national voice for special education rights and is grounded in the belief that every child deserves the right to a quality education that prepares him or her for meaningful employment, higher education and lifelong learning, as well as full participation in his or her community. COPAA is represented in this litigation by Eve Hill and Brooke Lierman of Brown Goldstein & Levy of Baltimore.

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