



Spring 2025 CLE Workshop · March 26 – 28, 2025

Higher Education Discrimination Law

Best Practices When Working with OCR

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Agenda

- Historical Best Practices for Responding to an OCR Complaint
- A Shifting Landscape – Recent OCR Developments
- Preparing for the Unknown

Background

- U.S. Department of Education (USED) was established by the Department of Education Organization Act of 1979.
- The Act was signed into law on October 17, 1970 by President Jimmy Carter.
- The USED began operations on May 4, 1980.
- The Act provides that the USED shall include certain offices, including the Office for Civil Rights to be administered by the Assistant Secretary for Civil Rights.

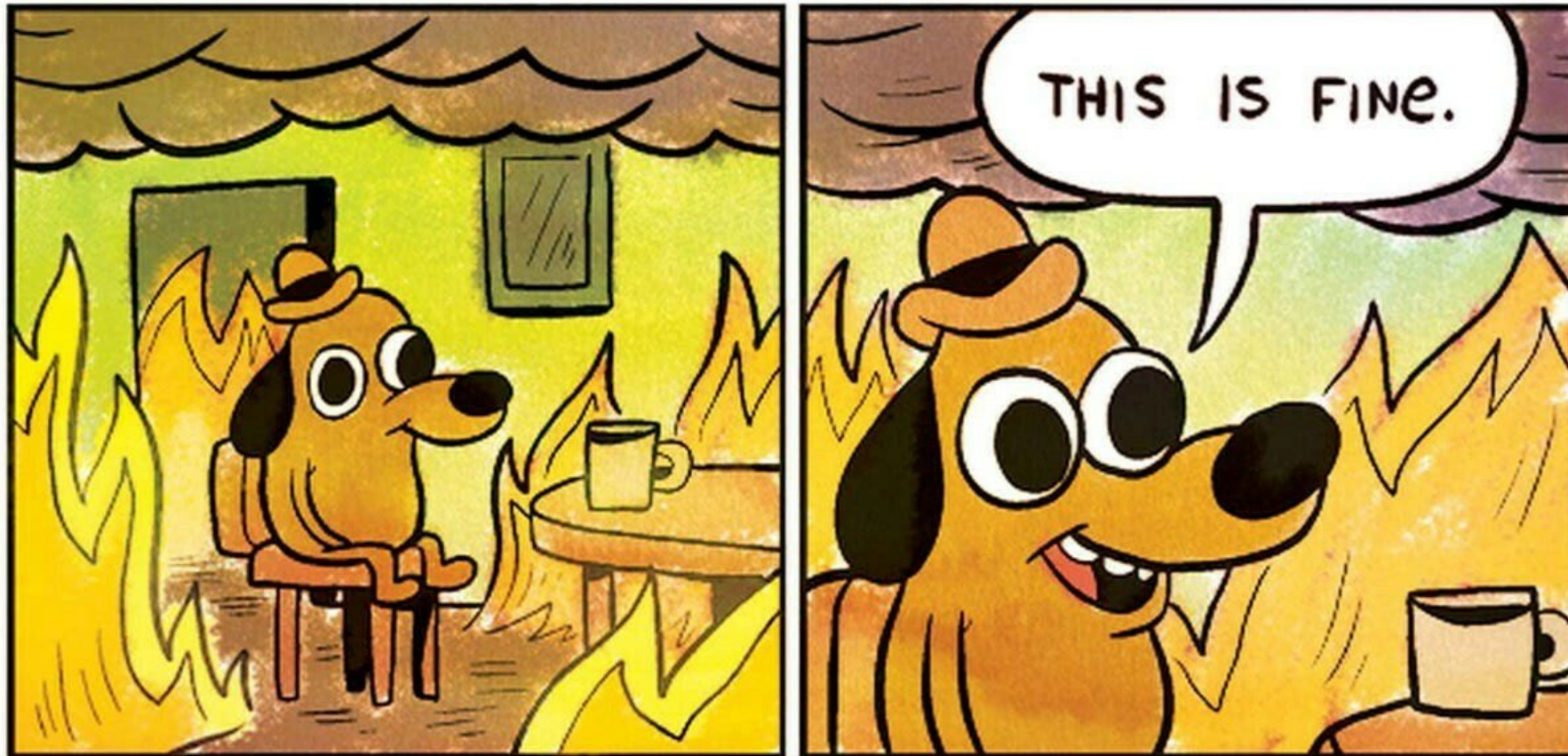
The (Typical) OCR Process

- Evaluation (typically does not involve the institution)
- Notice of Allegations
- Request for data and narrative response
- Interviews (on-campus visits much more after COVID)
- Negotiation of resolution agreement
- Issuance of letter of findings and final agreement
- Monitoring

Best Practices for Responding to an OCR/Agency Complaint

- Understand the Nature of the Complaint
- Acknowledge Receipt and Negotiate Scope
- Collect and Analyze Relevant Evidence
- Interviews
- Consider Resolution
- Complete Monitoring Efforts

Best Practices v. Reality



Gunshow, by KC Green

Timeline: Recent OCR Developments

- Jan 21, 2025 – “Ending Illegal Discrimination and Restoring Merit-Based Opportunity” EO
- Jan 29 – “Additional Measures to Combat Anti-Semitism” EO
- Feb 4 – OCR DCL confirms the Administration considers the 2020 Title IX Regs to be in effect
- Feb 14 – OCR DCL about Title VI of the Civil Rights Act
- Feb 19 – New OCR Case Processing Manual

Timeline: Recent OCR Developments

- **Mar 1, 2025** – OCR issues an FAQ to clarify and expand on the February 14 DCL
- **Mar 3** – Newly-confirmed Secretary of Education Linda McMahon outlines the USED's "Final Mission" to "send education back to the states"
- **Mar 3** – Joint Task Force to Combat Antisemitism notifies Columbia University it would conduct comprehensive review of federal contracts and grants in light of investigations under Title IV
- **Mar 7** – Joint Task Force letter to Columbia University informing them that the Gov was pausing or terminating ~\$400M in federal grants and contracts
- **Mar 10** – OCR Letter to 60 IHE under investigation for alleged "relating to antisemitic harassment and discrimination" and referencing the Joint Task Force's actions against Columbia.

Timeline: Recent OCR Developments

March 11, 2025

- USED announces significant layoffs including OCR staff
- Regional offices in NY, Cleveland, SF, Boston, Philadelphia, Dallas & Chicago closed.
- Reports suggest that the following regional offices will remain: Atlanta, Denver, Kansas City, Seattle, and Washington, DC



Demonstrators outside the Department of Education in Washington protest layoffs at the agency. Jason Andrew for ProPublica








Timeline: Recent OCR Developments

- **Mar 13, 2025** – Letter from Joint Task Force (USED, HHS, GSA) outlining immediate next steps Columbia must take (by March 20) as a precondition for formal negotiations regarding Columbia's continued financial relationship with the U.S. government.
- **Mar 14** – OCR announces it has opened an investigation: into 45 universities under Title VI obligations to end the use of racial preferences and stereotypes in education programs and activities.

Timeline: Recent OCR Developments

- **Mar 19, 2025** - OCR issues letter of the outcome of the directed investigation into the Maine Dept of Education which OCR initiated on Feb 21, 2025
- **Mar 20** - EO “Improving Education Outcomes by Empowering Parents, States, and Communities” which, in part, directs the Secretary of Education to take all necessary steps to facilitate the closure of the USED
- **Mar 21** - Columbia issues a memo responding to many of the demands made in the March 13 from Joint Task Force (USED, HHS, GSA)
- **Mar 25** - UPenn President addresses \$175M federal funding freeze in connection with Feb 2025 OCR Title IX investigation

Other Civil Rights Enforcement Mechanisms

-  General Education & Civil Rights Enforcement
 - ED (OCR)
 - DOJ (Civil Rights Division)
 -  STEM Research & Higher Ed Funding
 - NSF (Office of Equity & Civil Rights)
 - DOE (Office of Civil Rights)
 - NASA (Office of Diversity & Equal Opportunity)
 -  Health & Medical Training Programs
 - HHS (OCR)
-  Agriculture & Nutrition Programs
 - USDA (Office of the Assistant Secretary for Civil Rights)
 -  Workforce Training & Apprenticeships
 - DOL (Civil Rights Center)
 -  Transportation & Environmental Education
 - DOT (Departmental Office of Civil Rights)
 - EPA (External Civil Rights Compliance Office)
 -  Tribal and Community Education
 - Department of the Interior (Office for Civil Rights)

Where We Go From Here?

- Monitor Developments
- Resources: EOs, Public Announcements, OCR's Website, Firm & Industry Alerts (e.g., NACUA, EducationCounsel), Peer Institutions
- Consult with Counsel and Leadership
- Document Compliance Efforts
- Collaborate and Share Best Practices



Questions?

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