

Congress of the United States

Washington, DC 20515

August 10, 2026

The Honorable Kimberly M. Richey
Assistant Secretary for Civil Rights
U.S. Department of Education
400 Maryland Avenue SW
Washington, DC 20202

Dear Assistant Secretary Richey:

We write to express our serious concern regarding the U.S. Department of Education's recent decision to rescind the Title VI disparate impact regulation, eliminating a longstanding civil rights enforcement tool used by the Office for Civil Rights (OCR)¹ to investigate policies that disproportionately discriminate against students on the basis of race, color, or national origin. We are also troubled by the Department's decision to finalize this rule² without providing the public an opportunity for notice and comment, despite the significant implications for the enforcement of federal civil rights protections in our nation's schools.

For decades, disparate impact analysis has enabled OCR to investigate facially neutral policies that produce unjustified discriminatory outcomes, even when there is no direct evidence of discriminatory intent. Although Title VI prohibits intentional discrimination, the Department's implementing regulations have long recognized that practices with an unjustified discriminatory effect may unlawfully deny students equal educational opportunity. By rescinding these regulations, the Department has fundamentally altered the framework through which OCR investigates and remedies systemic discrimination.

The Department has stated that OCR investigators will no longer rely on statistical disparities to support findings of discrimination and instead will be required to establish intentional discrimination through other evidence. This represents a significant departure from longstanding enforcement practice and raises serious questions about OCR's ability to address systemic inequities that often manifest through patterns and practices rather than explicit discriminatory intent. Because discriminatory intent is rarely overt, requiring complainants to meet this heightened evidentiary burden may substantially reduce the Department's ability to identify and remedy violations of Title VI.

The Department's decision is particularly concerning given the persistent disparities documented in schools nationwide. According to the Department's own Civil Rights Data Collection, Black students are suspended, expelled, and referred to law enforcement at substantially higher rates than their White peers despite representing a smaller share of total student enrollment.³ Research has consistently found that these disparities cannot be fully explained by differences in student behavior and instead reflect the cumulative effects of implicit bias, unequal disciplinary practices, and systemic barriers that disproportionately affect students of color.⁴ Students with disabilities, Native American students, English learners, and other historically

¹<https://www.ed.gov/about/news/press-release/us-department-of-education-removes-disparate-impact-title-vi-regulations>

² <https://www.federalregister.gov/documents/2026/07/23/2026-14892/rescinding-guidelines-for-eliminating-discrimination-and-denial-of-services-on-the-basis-of-race>

³<https://ocrdata.ed.gov/>

⁴<https://www.gao.gov/products/gao-18-258>

marginalized student populations also continue to experience disproportionate rates of exclusionary discipline and unequal access to educational opportunities.

Furthermore, we are troubled by the Department's decision to issue this final rule without first soliciting public input through notice-and-comment rulemaking. Given the significance of this policy change and its potential impact on students, families, educators, school districts, and civil rights organizations, the Department should explain the legal and procedural basis for bypassing the traditional rulemaking process.

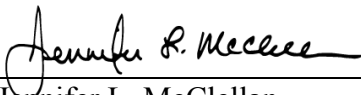
To better understand the Department's actions and the future of federal civil rights enforcement, we request responses to the following questions:

1. Please provide the legal analysis and supporting memorandum relied upon by the Department in rescinding the Title VI disparate impact regulation.
2. What legal authority did the Department rely upon to conclude that notice-and-comment rulemaking was unnecessary?
3. Did the Department conduct any analysis regarding the anticipated impact of this rescission on students protected under Title VI? If so, please provide those analyses.
4. How will OCR investigate complaints alleging racial discrimination now that disparate impact analysis has been removed from the Department's regulations?
5. What evidentiary standards will OCR apply when determining whether intentional discrimination has occurred?
6. Have OCR investigators received revised guidance or training concerning the investigation of Title VI complaints? If so, please provide all guidance, memoranda, and training materials.
7. Does the Department anticipate issuing additional guidance to schools, colleges, or OCR staff regarding enforcement of Title VI following this rescission? If so, when will that guidance be released?

Congress has a responsibility to ensure that federal civil rights laws are faithfully implemented and that every student has equal access to educational opportunity. We remain deeply concerned that this action may significantly weaken the federal government's ability to identify and remedy systemic discrimination in schools.

Thank you for your prompt attention to this important matter. We look forward to your timely response.

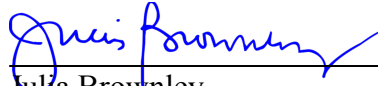
Sincerely,



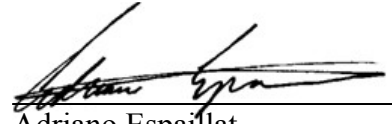
Jennifer L. McClellan
Member of Congress



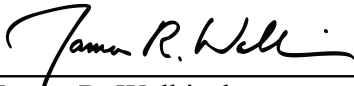
Rashida Tlaib
Member of Congress



Julia Brownley
Member of Congress



Adriano Espaillat
Member of Congress



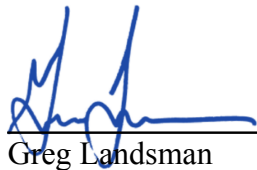
James R. Walkinshaw
Member of Congress



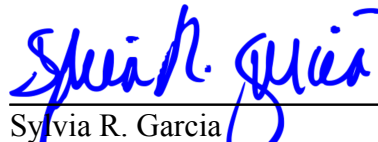
Eleanor Holmes Norton
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