

*Boosting Success for 21<sup>st</sup> Century Learners Webinar Series*

# Civil Rights in the Classroom

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*This webinar for school administrators and teachers will provide an overview of civil rights laws and issues as they pertain to the classroom, discuss their impact on student achievement and school reform, and provide participants with practical tips to apply in the classroom.*

## Disclaimer

*The Mid-Atlantic Equity Center is committed to the sharing of information regarding issues of equity in education. The contents of this practitioner brief were developed under a grant from the U.S. Department of Education. However, these contents do not necessarily represent the policy of the Department of Education, and you should not assume endorsement by the federal government.*

**BOOSTING SUCCESS FOR 21<sup>ST</sup> CENTURY LEARNERS WEBINAR SERIES**

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***Boosting Success for 21<sup>st</sup> Century Learners  
Webinar Series***

**Civil Rights in the Classroom**

**February 13, 2012**

**Presented by Natasha Quiroga, Esq.  
Associate Counsel  
Educational Opportunities Project,  
Lawyers' Committee for Civil Rights Under Law**

# Quiz

Q. What role do you play in education?

- a. I am a teacher *(please text in subject & grade)*
- b. I am a school administrator
- c. I am a paraprofessional
- d. Other *(please text in profession)*

# Learning Objectives

- Learn about the relevant civil rights laws and issues as they pertain to the classroom
- Understand the impact race, ethnicity, gender, special education and discipline have on student achievement and school reform
- Recognize the role that teachers play in ensuring equitable access and opportunity for all students

# Who We Are



**Educational Opportunities Project:**  
Advocating for equal educational opportunities for minority and low-income youth within the nation's public schools through legal and legislative advocacy and community education



Empowering Parents to Be  
Educational Advocates for  
Their Children  
[www.parentalreadiness.org](http://www.parentalreadiness.org)

# Disclaimer

This presentation and document is intended solely to provide general information and does not constitute legal advice or address any specific situation nor does it create an attorney-client relationship with the Lawyers' Committee for Civil Rights Under Law.

# Impact of Civil Rights Laws in Education

- Displayed a commitment to end discrimination in education
- Mandated to bring formerly excluded students into the mainstream of American education
- Designed to help deliver the promise that every student has the right to develop his or her talents to the fullest
- Improved the educational opportunities of millions of students

# The Laws

## Equal Protection Clause

- Prohibits discrimination on the basis of race, color or national origin

## Title VI of the Civil Rights Act of 1964

- Prohibits discrimination on the basis of race, color or national origin

## Title IX of the Education Amendments of 1972

- Prohibits sex discrimination

## Section 504 of the Rehabilitation Act of 1973

- Prohibits discrimination on the basis of disability

## Title II of the Americans with Disabilities Act (ADA) of 1990

- Prohibits disability discrimination

# US Department of Education Office for Civil Rights (OCR)

- OCR enforces federal civil rights laws in schools and universities by responding to specific complaints from parents, students, and civil rights groups
- OCR also reviews data for possible patterns of discrimination
- OCR has conducted 74 compliance reviews in states, school districts, and higher education institutions since March 2010
  - 9 disproportionate discipline against minority students
  - 14 equal access to college-prep curricula, advanced courses, and other advanced-learning opportunities
  - 2 disparities in students' access to charter schools

# Issue 1: Race

## Equal Protection Clause

- Prohibits discrimination on the basis of race, color or national origin

## Title VI of the Civil Rights Act of 1964

- Prohibits discrimination on the basis of race, color or national origin

School districts receiving federal financial assistance may not, on the basis of race, color, or national origin:

- provide services, financial aid, or other benefits that are different or provide them in a different manner
- restrict an individual's enjoyment of an advantage or privilege enjoyed by others
- deny an individual the right to participate in federally assisted programs
- defeat or substantially impair the objectives of federally assisted programs

*\* Includes denying equal access to education because of a student's limited proficiency in English*

# Issue 1: Race

## Equal Protection Clause

- Prohibits discrimination on the basis of race, color or national origin

## Title VI of the Civil Rights Act of 1964

- Prohibits discrimination on the basis of race

In the classroom, this can include:

- Differing responses to student behavior
- Bias in student dress
- Bias in discipline decisions
- Permitting racially insensitive materials or behavior in the class that interferes with minority students' opportunity to learn
- Bias in the perception of the student

# Issue 1: Race – “Different Treatment”

Specific discriminatory actions prohibited under Title VI include:

- Providing services more limited in scope or lower in quality
- Excluding individuals from participation in, denying benefits of, or otherwise subjecting to discrimination because of race, color or national origin
- Racially based conduct consisting of different treatment of students on the basis of race by the school’s employees acting within their official duties
- Existence of a racially hostile environment that is created, encouraged, accepted, tolerated or left uncorrected

# Issue 1: Race – OCR Test

1. Did a school employee treat someone differently in a way that interfered with or limited the ability of a student to participate in or benefit from a school program or activity?
2. Did the different treatment occur under the employee's official duties?
3. Was the different treatment based on race, color, or national origin?
4. Did the context or circumstances of the incident provide a legitimate, non-discriminatory, non-pretextual basis for the different treatment?

- If YES for #1 – 3, No for #4 → Violation

- If NO for # 1-3 → No Violation

- If Yes for # 1-4 → No violation

# Issue 1: Race – “Disparate Impact”

- Even if racial disparities are not the result of explicit racial bias or discrimination, a challenge to these disparities will require a school to establish an educational necessity or justification for these disparities
- Possible challenges:
  - Entrance exams for certain programs
  - Discipline disparities
  - Special education

# Issue 1: Race – “Hostile Environment”

- Severe, Pervasive or Persistent Standard
- Determines whether a racially hostile environment exists
- Factors:
  - Context
  - Nature
  - Scope
  - Frequency
  - Duration
  - Location of racial incidents
  - Identity, number, and relationships of the persons involved (age, grade)

# Issue 1: Race – “Hostile Environment”

The test to establish a violation of Title VI:

1. A racially hostile environment existed
  2. The school had actual or constructive notice of the racially hostile environment
  3. The school failed to respond adequately to redress the racially hostile environment.
- *Alleged harasser does not need to be a school employee because the school has a general duty to provide a nondiscriminatory educational environment*

## Quiz

Q: A student is being verbally harassed by his fellow students and it is tolerated by a school employees, what factors should be considered in determining a hostile environment?

- a. Age of student
- b. Race of student and other students
- c. Impressionability of student and other students
- d. Role of the employee (i.e. teacher, custodian, etc.)
- e. All of the above

## Issue 2: National Origin

### *Plyler v. Doe*

- All students, regardless of ethnicity or immigration status, are entitled to attend public school and participate in its programs
- Schools have no role in enforcing immigration policy and, thus, students should not be treated differently or excluded from opportunities based on immigration status, language, or ethnicity
- Public schools cannot deny admission to a student based on undocumented status, or require students or parents to disclose their immigration status or expose their undocumented status

## Issue 2: English Language Learners

***Lau v. Nichols:*** School districts must take steps to help ELL students overcome language barriers and ensure they can participate meaningfully in the district's educational programs

Equal Educational Opportunities Act requires schools “take appropriate action to overcome language barriers that impede equal participation by its students in its instructional program.”

**To ensure that schools are serving ELLs adequately, districts must:**

- identify students who need assistance
- develop a program based on a sound educational theory
- ensure that necessary staff and resources are in place and used properly so the program has a reasonable chance of success
- periodically evaluate the program and, if necessary, revise it

# Issue 2: English Language Learners

## Violations of Title VI:

- Excluding students from effective participation in school because of their inability to speak and understand the language of instruction
- Mis-assigning national-origin minority students to special education classes because of their lack of English skills
- Designing dead-end track programs for LEP students that are not designed to teach them English
- Not providing school notices to parents whose English is limited in a language they can understand

## Issue 3: Gender

Title IX of the Education  
Amendments of 1972

- Prohibits discrimination on the basis of gender

- “No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance.”
- Enforces protections of lesbian, gay, bisexual, and transgender students
- Ensures equal athletic opportunities for girls

## Issue 3: Gender

Schools cannot, on the basis of sex:

- Treat one person differently from another in determining whether that person satisfies any requirement or condition for providing aid, benefit, or service
- Provide different aid, benefits, or services or in a different manner
- Deny any person such aid, benefit, or service
- Subject any person to separate or different rules of behavior, sanctions, or other treatment
- Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person that discriminates on the basis of sex in providing any aid, benefit or service to students or employees
- Limit any person in the enjoyment of any right, privilege, advantage, or opportunity

## Issue 3: Gender

Discrimination based on gender can include:

- Sexual harassment, sexually hostile environment, and sexual orientation harassment
- Disparate athletic opportunities or excluding females in a male sport when there are no similar opportunities for females in a female sport
- Different treatment in regard to pregnancy
- Different treatment in regard to sex
- Different educational programs

## Issue 3: Gender: Segregation of Students By Sex

- Cannot use a single standard to measure skill or progress in a PE class that has an adverse effect on members of one sex
- Separate programs for members of each sex: separate course, services and facilities must be comparable with some exceptions
- Exemption may be requested by educational institutions controlled by religious organizations whose tenets conflict with requirements of Title IX

## Issue 3: Gender: Access to Classes & Schools

Schools cannot provide or carry out any of its education programs or activities separately on the basis of sex, or require or refuse participation by any of its students on the basis of sex

### *Exceptions:*

- (1) Contact sports in physical education classes
- (2) Ability grouping in physical education classes
- (3) Human sexuality classes
- (4) Choruses

# Issue 3: Gender: Sexual Harassment

Sexual harassment is conduct that:

- Is sexual in nature
- Is unwelcome
- Denies or limits a student's ability to participate in or benefit from a school's education program

## ***Examples:***

- Making sexual propositions or pressuring students for sexual favors
- Touching of a sexual nature
- Writing graffiti of a sexual nature
- Displaying or distributing sexually explicit drawings, pictures, or written materials
- Performing sexual gestures or touching oneself sexually in front of others
- Telling sexual or dirty jokes
- Spreading sexual rumors about other students' sexual activity or performance
- Circulating or showing e-mails or Web sites of a sexual nature

## Issue 3: Gender: Sexual Harassment

Unwelcome Sexual Conduct: If the student did not request or invite the conduct and considered it to be undesirable or offensive

Factors affecting whether a student was capable of welcoming the sexual conduct:

- Age of student
- Nature of conduct
- Other relevant factors

Student's submission to the conduct or failure to complain does not always mean the conduct was welcome

## Issue 3: Gender: Sexual Harassment

- A district can also be held liable for Student-to-Student Harassment
- Steps to deal with sexual harassment:
  - Well-publicized non-discrimination policy
  - Grievance procedures that are available to students and staff
  - Title IX Coordinator
  - Conduct sexual harassment awareness training for all school staff
  - Conduct age-appropriate sexual harassment training for students

# Quiz

Q: Which of the following is an example of sexual harassment covered by Title IX?

- a. Throughout the season, a male member of the high school football team makes unwelcome sexual advances toward a teammate, who is a homosexual male. As a result, the victim quits the football team.
- b. Students heckle another student with comments that are based on the student's sexual orientation but are not sexual in nature (e.g., "gay students are not welcome at this table in the lunch room").
- c. Both
- d. Neither

# Quiz

Q: What is your understanding of special education requirements?

- a. Very High
- b. Somewhat
- c. Not familiar at all

# Takeaways

- Be an advocate for ALL children
- Know and understand civil rights laws
- Assumptions about students are at the core of student success
- Research shows that a teacher's beliefs and expectations in a student's ability is fundamental to his/her success
- Be proactive when you see violations and help colleagues correct their behavior/attitude
- Be cognizant of achievement gap disparities and review your school's data

# Equality in education ... the pursuit continues



Q&A

# Resources

- U.S. Department of Education Office for Civil Rights  
<http://www2.ed.gov/about/offices/list/ocr/index.html>
- Homeless Students Guidance  
<http://www2.ed.gov/programs/homeless/guidance.pdf>
- Lawyers' Committee for Civil Rights Under Law  
Educational Opportunities Project  
<http://www.lawyerscommittee.org/projects/education>
- PREP [www.parentalreadiness.org](http://www.parentalreadiness.org)
- National Opportunity to Learn Campaign  
<http://www.otlcampaign.org/resources?page=1>

# Contact Information

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# Boosting Success for 21st Century Learners: Equitable Practices for High Achievement

**Friday, May 4, 2012**

Special focus on:

- Updated application of Civil Rights Laws
- Cultural validity in assessment
- Developing culturally competent leaders
- Creating a college-going culture
- Effective practices for ELL students
- Culturally responsive pedagogy
- Family, school and community engagement to increase academic achievement
- Access to STEM for all students

**Keynote speaker Dr. A. Wade Boykin;  
Special guest Michelle Shearer, National Teacher of the Year**

**National 4-H Conference Center  
7100 Connecticut Avenue  
Chevy Chase, MD 20815**

**Register Online at**  
[www.maec.org/conference](http://www.maec.org/conference)

# Next Webinar:

## *Boosting Success for 21<sup>st</sup> Century Learners*

### *Webinar Series:*

## **Cultural Validity in Assessment**

**Friday, March 16, 2012**

**1 p.m. – 2:30p.m.**

- *What role does culture and language play in assessment validity?*
- *How can you determine if the assessments you use will best capture student knowledge and growth?*

### **Presenters:**

- Guillermo Solano Flores, Assoc. Professor, Bilingual Education and ESL, Univ. of Colorado Boulder
- Elise Trumbull, Independent Consultant, Oakland, California
- Maria del Rosario Basterra, Deputy Director, The Mid-Atlantic Equity Center.



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