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The Department of Education isn't handling trans student discrimination complaints, report says

Transgender students aren't succeeding in getting the department's OCR to address their complaints.

Casey Quinlan | Jan 16, 2018, 12:05 pm

The U.S. Department of Education's Office for Civil Rights continues to say they are not required to handle cases relating to discrimination against transgender students, [according to](#) a HuffPost report.

HuffPost discovered three cases about transgender students' experiences with school bathrooms or sports teams that Education Department officials specifically said they do not have to handle. One of these cases involved a transgender teenager in Texas who said was not allowed to use a bathroom corresponding with his gender and that he was not allowed to room with male peers on school trips. These three newly reported cases are in addition to two cases about transgender students' access to locker rooms and bathrooms that the Washington Post reported OCR closed in June last year.

Under Trump, OCR has [discussed](#) the scope of the cases it looks at and whether it should focus more on individual complaints rather than looking for systemic problems as the Obama-era OCR did. It dismissed a lot more cases as well, [according to](#) Politico. In the first two months, Acting Assistant Secretary for Civil Rights Candice Jackson began her role, the department closed more than 1,500 complaints of discrimination and dismissed 900 outright.

The department said the complaints involving transgender students do not fall under its jurisdiction, according to the HuffPost. In February of last year, the Department of Education and Department of Justice rescinded guidance on protections for transgender students who use the bathroom appropriate for their gender in a joint letter. The letter stated that there must be "must be due regard for the primary role of states and local school districts in establishing educational policy."

The 2016 Obama administration guidance read:

This guidance further clarifies what we've said repeatedly — that gender identity is protected under Title IX. Educators want to do the right thing for students, and many have reached out to us for guidance on how to follow the law. We must ensure that our young people know that whoever they are or wherever they come from, they have the opportunity to get a great education in an environment free from discrimination, harassment and violence.

The letter made clear that schools should respond promptly to sexual harassment claims

when it involved a trans student's gender. It also stated that transgender students should be able to access bathrooms and locker rooms and belong to sports teams that match their gender identity and that schools must be aware of students' gender and cannot ask students for a medical diagnosis or treatment before complying. States resisted the guidance, with nearly half the states joining two lawsuits that challenged protections for transgender students.

In addition to the department saying these complaints are not under its jurisdiction, the HuffPost report says OCR has received fewer complaints, with the number of complaints filed dropping about 40 percent.

Although schools can still choose not to discriminate against transgender students and to create an inclusive environment, there are consequences to letting them decide on their own. Transgender students are putting their health at risk by not going to campus bathrooms. According to a recent [report](#), "Separation and Stigma: Transgender Youth and School Facilities," which uses data from a 2015 survey of young people and 2016 study of adults, 70 percent of trans students said they have avoided using campus bathrooms and some of the trans students said they drank less and developed urinary tract infections.

Transgender students are already contending with harassment and abuse at school. A 2011 National Center for Transgender Equality [report](#) found that students who "expressed a transgender identity or gender non-conformity" in grades K-12 experienced widespread harassment. Seventy-eight percent of those students experienced harassment, 35 percent experience physical assault and 12 percent experienced sexual violence. Some of the harassment was so severe that 15 percent left a school in K-12 or in their college years. Students who were harassed and abused by teachers had "dramatically worse" health outcomes than students who were not.

Forty-one percent of transgender people attempted suicide in their lifetime compared to 4.6 percent of the U.S. population, [according to](#) a 2014 Williams Institute report. Trans people who have experienced discrimination, violence, or rejection by their community have an elevated prevalence of attempts, according to the report. For example, 50 to 54 percent of those who were harassed or bullied at school attempted suicide.

<https://thinkprogress.org/ed-department-drops-transgender-student-cases-b6a888881963/>