

Nondiscrimination and Civil Rights Laws You Should Know

Disclaimer: This is not legal advice. WEEAC staff members are not lawyers. You should consult with your school district's legal counsel regarding how your district plans to implement the regulations.

There are numerous resources available to help educators understand the complex nondiscrimination laws. One of the first set of resources developed for this is still useful (McCune & Matthews, 1976; McCune & Caruthers, 1991). The following update of this resource highlights the most important nondiscrimination laws, provides links to resources for each, and provides additional information.

Several antidiscrimination laws, case law and some Executive Orders make up most of the antidiscrimination requirements that apply to educational settings.

Federal Antidiscrimination Laws

- **Title IV of the Civil Rights Act of 1964.** Title IV promotes the desegregation of public schools and gives the Attorney General authority to file lawsuits to enforce the act. The Department of Justice relies on that statute to respond to complaints of discrimination based on race, color, sex, national origin, language barrier, religion, or disability (Barry). <https://www.law.cornell.edu/uscode/text/42/chapter-21/subchapter-IV>
- **Title VI of the Civil Rights Act of 1964.** Prohibits discrimination against students on the basis of race or national origin (including the requirement to provide programs for Limited English Proficiency --LEP students). <https://www2.ed.gov/about/offices/list/ocr/docs/hq43e4.html>
- **Title VII of the Civil Rights Act of 1964.** Prohibits discrimination against employees on the basis of race, national origin, color, sex and religion by any employer of 15 or more employees. <https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/statutes/title-vii-civil-rights-act-of-1964>
- **Title IX of the Education Amendments of 1972.** Prohibits discrimination against students and employees on the basis of sex. The rule was revised in 2020 ([Federal Register :: Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance](#)). Comments on the new rule are being solicited between July 12, 2022 and September 12, 2022 at <https://www.federalregister.gov/documents/2022/07/12/2022-13734/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal> A summary of changes proposed in 2022 is provided here from the National Women's Law Center: <https://nwlc.org/resource/the-biden-administrations-proposed-department-of-education-title-ix-rules-explained/#>
- **Equal Pay Act of 1963 .** Prohibits discrimination against employees on the basis of sex (employer must provide equal pay and benefits for members of both sexes doing equivalent types of work). [Equal Pay Act of 1963, as amended | U.S. Department of Labor \(dol.gov\)](#)

- **Section 504 of the Rehabilitation Act of 1973.** Prohibits discrimination against handicapped students and employees.
<https://www2.ed.gov/about/offices/list/ocr/504faq.html>
- **Americans With Disabilities Act of 1990.** Extends and clarifies Section 504 and provides a national mandate to integrate persons with disabilities into the mainstream.
https://www.ada.gov/ada_intro.htm

Executive Orders

- **Executive Order 11246, 1965.** Prohibits discrimination against employees on the basis of race, color, national origin or sex by employers with \$10,000 or more in federal contracts (usually does not apply to districts that receive grants rather than contracts but widely applicable to higher education and some vocational schools; order does not apply unless there is a contract with the federal government). [History of Executive Order 11246 | U.S. Department of Labor \(dol.gov\)](#)
- **Executive Order 11375, 1967.** amended Executive Order 11246 to include sex as a prohibited basis of discrimination and requiring affirmative action for women. [History of the Office of Federal Contract Compliance Programs | U.S. Department of Labor \(dol.gov\)](#)
- **Executive Order 11478, 1969.** covered the federal civilian workforce, including the United States Postal Service and civilian employees of the United States Armed Forces. It prohibited discrimination in employment on the basis of race, color, religion, sex, national origin, handicap, and age. It required all departments and agencies to take affirmative steps to promote employment opportunities for those classes it covered. (<https://www.dol.gov/agencies/oasam/regulatory/executive-orders/11478>)
- **Executive Order 11665, 2014.** amending Executive Order 11246. These measures, which apply to federal contractors and subcontractors, are aimed at promoting equal pay for women by improving transparency of wages and making gender pay disparities easier to identify. It prohibits retaliation by federal contractors against employees or applicants who inquire about, discuss, or disclose details of their own or other employees' or applicants' compensation. The stated goal of the order is to provide workers with greater ability to identify violations of equal pay laws. (<https://www.dol.gov/agencies/ofccp/about/executive-order-11246-history>)
- **Executive Order 13672, 2014.** amending Executive Order 11246, to prohibit federal contractors and subcontractors from discriminating on the basis of sexual orientation or gender identity. This Executive Order prohibits federal contractors from discriminating against lesbian, gay, bisexual, and transgender employees and applicants. <https://www.federalregister.gov/documents/2014/07/23/2014-17522/further-amendments-to-executive-order-11478-equal-employment-opportunity-in-the-federal-government>
- **Executive Order 13988, 2021.** Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation. <https://www.federalregister.gov/documents/2021/01/25/2021-01761/preventing-and-combating-discrimination-on-the-basis-of-gender-identity-or-sexual-orientation>

- **Executive Order 14075, 2022.** Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals.
<https://www.federalregister.gov/documents/2022/06/21/2022-13391/advancing-equality-for-lesbian-gay-bisexual-transgender-queer-and-intersex-individuals>

Case Law

- **Plessy v. Ferguson 1896:** The Supreme Court authorizes segregation, finding Louisiana’s Separate but Equal law constitutional.
<https://www.law.cornell.edu/supremecourt/text/163/537>
- **Mendez v. Westminster 1947:** a California federal circuit court ruled that segregation of school children was unconstitutional. This case involved the segregation of Mexican American school children.
<https://www.archives.gov/education/lessons/mendez-case>
- **Brown v. Board of Education 1954:** The Supreme Court unanimously overturned Plessy v. Ferguson stating that separate schools are “inherently unequal”. It applies to states and Washington D.C schools.
<https://www.archives.gov/milestone-documents/brown-v-boardof->
- **Swann v. Charlotte-Mecklenburg Board of Education 1971:** the Supreme Court unanimously ruled to uphold busing programs to speed up racial integration of public schools in this North Carolina district. <https://www.law.cornell.edu/supremecourt/>
- **Keyes v. School District #1 1973:** This Denver case was the first addressing discrimination against Hispanic and Black students. Segregative intent by the school board involving one part of the district meant they had to prove that the whole system was not affected by segregation. <https://www.law.cornell.edu/supremecourt/text/413/189>
- **Lau v. Nichols 1974:** In this San Francisco case, the Supreme Court ruled that refusing to provide non-English-speaking students with supplemental language courses violated California Education Law and Section 601 of the Civil Rights Act of 1964. The ruling meant that public schools are required to develop plans for increasing the linguistic skills of non-English-speaking students. <https://www2.ed.gov/about/offices/list/ocr/ell/lau.html>
- **Castañeda v. Pickard (1981)** The United States Court of Appeals for Fifth Circuit Court of Appeals formulated a three part test to determine school district compliance with the *Equal Educational Opportunities Act*(1974). The three-part test includes the following criteria:
 - *Theory:* The school must pursue a program based on an educational theory recognized as sound or at least, as a legitimate experimental strategy.
 - *Practice:* The school must actually implement the program with instructional practices, resources and personnel necessary to transfer theory to reality.
 - *Results:* The school must not persist in a program that fails to produce results.The “Castaneda Test” has been applied by courts in Keyes vs. School District #1 and Gomez vs. Illinois. <https://www.idra.org/equity-assistance-center/laws-court-cases/> or https://www.liquisearch.com/casta%C3%B1eda_v_pickard

- **Plyler v. Doe 1982:** “is a U.S. Supreme Court case in which the Court struck down a Texas statute that denied funding to local school districts for the education of children who were not “legally admitted” into the United States, and which authorized local school districts to deny enrollment to such children.” (Cornell Law: https://www.law.cornell.edu/wex/plyler_v_doe_%281982%29)
- **Washington v. Seattle School District No. 1 1982.** In response to the Seattle School Board’s implementation of mandatory busing to racially integrate schools, the statewide “Initiative 350” was passed to end the policy. The Seattle School Board challenged the constitutionality of the initiative on the grounds that it violated the 14th Amendment of the Constitution. The Supreme court found that Initiative 350 was enacted for racially motivated reasons. [WASHINGTON, et al., Appellants v. SEATTLE SCHOOL DISTRICT NO. 1, et al. | Supreme Court | US Law | LII / Legal Information Institute \(cornell.edu\)](https://www.law.cornell.edu/wex/washington_v_seattle_school_district_no_1_et_al_supreme_court_us_law_lii_legal_information_institute_cornell.edu)
- **Gomez v. Illinois 1987** a ruling, that school districts have a responsibility to serve ELL students and cannot allow children to just sit in classrooms where they cannot understand instruction. Specific program models were not mandated (<https://www.colorincolorado.org/article/landmark-court-rulings-regarding-english-language-learners>)
- **Missouri v. Jenkins 1995:** The Court ruled that the KCMO magnet program designed to attract white students from the suburbs and increase teacher salaries exceeds the remedial powers of the district court. (Great Lakes: [A History of In/Equity in US Public Education Policy and Law: Implications for School Boards | Great Lakes Equity Center](https://www.greatlakesequitycenter.org/education-policy-and-law/implications-for-school-boards))
- **Bostock v. Clayton County 2020:** was a U.S. Supreme Court case in Georgia which protected employees against discrimination because of sexual orientation. <https://www.law.cornell.edu/supct/cert/17-1618>

Selected Additional Resources

- Code of Federal Regulations: [eCFR :: Home](https://www.ecfr.gov/)
- Department of Justice Fact Sheets: <https://www.justice.gov/crt/guidance-and-resources>
- Great Lakes EAC: [A History of In/Equity in US Public Education Policy and Law: Implications for School Boards | Great Lakes Equity Center](https://www.greatlakesequitycenter.org/education-policy-and-law/implications-for-school-boards)
- IDRA: <https://www.idra.org/equity-assistance-center/laws-court-cases/>
- IDRA: [The Challenge of Seeing – Shaping the Sixth Generation of Civil Rights and Educational Equity - IDRA](https://www.idra.org/equity-assistance-center/laws-court-cases/the-challenge-of-seeing-shaping-the-sixth-generation-of-civil-rights-and-educational-equity)
- MAEC: <https://maec.org/resource/ocr-guidance/>
- McCune, S.D., & Caruthers, L. (1992). *Power Teaching*. Aurora, CO: Mid-continent Regional Educational Laboratory.
- McCune, S.D. & Matthews, M. (1976). [Identifying discrimination : a review of Federal antidiscrimination laws and selected case examples \(Washington : Dept. of Health, Education, and Welfare, Education Division, Office of Education : for sale by the Supt. of Docs., U.S. Govt. Print. Off., 1976\)](https://www.gpo.gov/records-and-literature/identifying-discrimination)