

STUDENTS' CIVIL RIGHTS ENFORCEMENT INITIATIVE

The Students' Civil Rights Act

ADVOCATE'S TOOLKIT

**PART 2:
TRAINING, STATE ATTORNEYS
GENERAL, & DATA COLLECTION**

Part 2: Training, State Attorneys General, & Data Collection

About the Guidance & Requirements for Training Section

The *Guidance & Requirements for Training* section can be added to the core bill to detail how the state agency handling education civil rights claims should publish materials to help schools understand their obligations under the new law. This section also outlines the steps that educational institutions in the state must take to train teachers, administrators, and other school employees on how to protect students' civil rights and follow the law.

DRAFTING CONSIDERATIONS

From subsections (d) through (g), the training requirements mostly apply to elementary and secondary institutions. If your community decides to require post-secondary institutions (colleges and universities) to develop training for their employees, you can add "post-secondary institutions" to each section and make sure the fill-ins include any agencies or offices that oversee post-secondary education in your state.

TIPS FOR COMPLETING THE FILL-INS:

When completing the fill-ins throughout this section, be thoughtful about which "other relevant state entities" should be required to provide training for their school employees. Since the core bill requires private schools to follow the nondiscrimination provision, you'll want to name whatever state agency oversees the work of private schools for this fill-in, if any. We recommend doing the same for whatever state agencies oversee charter schools and post-secondary education.

About the Role of the State Attorney General's Office Section

The *Role of the State Attorney General's Office* section gives the State Attorney General a direct role in supporting the state civil rights agency. The goal of this section is to ensure there is open and consistent communication between the State Attorney General's Office and the state civil rights agency. It also helps to ensure the State Attorney General remains aware of trends in discrimination at schools, in case the office decides to open an investigation into specific school districts for systemic discrimination (or "pattern or practice" discrimination). A State Attorney General's power to investigate systemic discrimination complements the state civil rights agency's ability to receive complaints from individuals to address their specific harms and strengthens its power to eliminate systemic discrimination.

DRAFTING CONSIDERATIONS

You may want to consider giving the State Attorney General's office the power to **subpoena** documents and information and to make employees of educational institutions available for interviews during investigations. This optional language is provided in subsection (e).

WHAT IS A SUBPOENA?

In the case of education civil rights investigations, a subpoena is a written legal order that would require a school or district to share documents or other evidence with the State Attorney General's office.

Refusing to comply with a subpoena may result in serious legal consequences and penalties. The power to compel availability for interviews would also mean a school or district employee (or the educational institution overall) could face legal or other consequences if they did not make the time to speak with attorneys and investigators at the State Attorney General's office. These powers would help the State Attorney General's office gain the information it needs to complete an investigation if a school or district has been ignoring previous orders to provide specific documents or other evidence.

However, keep in mind the politics that may be at play in your state if you decide to give the State Attorney General's office the power to subpoena in your bill draft. Particularly in states where the Attorney General is elected or directly appointed by the state governor, the Attorney General may have a political leaning or agenda that may not be as protective of students' civil rights, putting the subpoena power at risk for abuse. For example, if the State Attorney General that is elected does not think trans students should have access to the bathrooms that align with their identified gender, the office may target schools and districts with trans-inclusive bathroom policies for investigation and use the subpoena power to access information to which it wouldn't normally have access. Weigh the pros and cons of legally granting the State Attorney General's office the power to subpoena schools with your community before including that language in your bill draft.

About the Data Collection, Reporting, & Evaluation Section

The Data Collection, Reporting, & Evaluation section requires that both the state civil rights agency and other education agencies in the state have to collect and report data and to evaluate progress on addressing discrimination in schools. Data is a key tool in understanding what's going on in schools and figuring out how to address school-wide problems. In seeing certain trends from data, school administrators can use that information to try to pinpoint the underlying causes of inequalities for certain students and to ensure they are not caused by discrimination.

Changing policies also requires constant evaluation. This section ensures that districts and other local educational agencies in the state take the time to make sure the changes in policies that they've made are actually solving the problems they were created to solve. If it becomes clear that the updated policies or practices are not decreasing incidents of discrimination or preventing them altogether, the law requires school administrators to continue to update policies and practices until they do.

DRAFTING CONSIDERATIONS

Subsection (e)(1) of the data section provides optional language that allows the state civil rights agency to refer some on-site civil rights compliance reviews to the State Attorney General's office. This means that, instead of officers from the state civil rights agency showing up at a school to see if they are following the law, attorneys or investigators from the State Attorney General's office may show up. See the "Drafting Considerations" above in the *Role of the State Attorney General's Office* section of the toolkit on considering your political landscape when deciding to broaden the State Attorney General's powers.

STRATEGY TIP:

Those who will oppose this education civil rights law may push back against subsection (i) in this section. Subsection (i) requires schools and districts to “disaggregate” and “cross-tabulate” data based on all the protected classes. Some may argue that this requirement would take up too much of a school’s or district’s time and resources and should not be included in the law. Yet, when data is disaggregated and cross-tabulated by protected classes, it better shows how students with intersectional identities experience discrimination.

For example, normally disaggregated data may show rates of discrimination for all boys in a school or all girls. It can show rates of discrimination for students of each race. But when data is disaggregated and cross-tabulated, you can see rates for specific groups of students, like Black girls or Hispanic boys with disabilities. Data this detailed can help administrators pinpoint the sources of discrimination in their schools and make changes to ensure schools are safe and welcoming for all students.

If you find that opponents to this education civil rights law are not willing to support it because of the disaggregation and cross-tabulation requirements on local and state educational agencies, you or the lawmaker who introduces the bill might want to consider using the requirement as a bargaining chip in negotiations. Rather than require disaggregation and cross-tabulation for data on all the protected classes listed in the core bill, you can limit the disaggregation and cross-tabulation requirement to a few protected classes (at minimum, race, sex, and disability).

Alternatively, you can delete the provision as it applies to local and state educational agencies (making sure to keep in the requirement for the state civil rights agency) and use this concession in your negotiations to get any opponents to keep in other important provisions in your draft that they were trying to take out. These strategies may help you get more support for the bill, while still keeping in some ways for detailed data to be reported.

Building a Robust Students’ Civil Rights Act

To keep the core bill from getting too long and cumbersome, the training, State Attorney General role, and data bill sections were drafted as separate documents. However, each of those elements are critical to ensuring schools understand how to follow the nondiscrimination provision in the core bill and how to make necessary changes when discrimination happens. They also make sure the state civil rights agency is able to hold schools and districts accountable to making the changes they are required to make after discrimination has taken place within them. A truly robust “Students’ Civil Rights Act” would include each of these three sections to help the state create a strong infrastructure for enforcing students’ rights. Share these considerations with your community and try to incorporate each of these sections if your state does not already have similar laws passed.