

# The Virginian-Pilot

## Opinion columnists

**Column: Schools are failing to stop discrimination. Here's why.**



Secretary of Education Miguel Cardona visits with students at Victory Elementary in Portsmouth on Jan. 4, 2023. (Billy Schuerman / The Virginian-Pilot)



By **Kimberly Jenkins Robinson** | Guest Columnist

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Last month marked 60 years since our nation passed the landmark Civil Rights Act of 1964, legislation intended to end discrimination in schools and other institutions that receive federal funding. Yet, discrimination continues and may even be increasing.

The U.S. Department of Education received a record 19,201 complaints last year from the public about discrimination in K-12 schools and colleges related to race, color or national origin, the categories covered by Title VI of the Civil Rights Act. The law is failing to protect the nation's youth because enforcement has been undermined and shortchanged.

Title VI has served as a powerful enforcement tool in our schools. Title VI and its regulations, which apply to any institution receiving federal funding, prohibit both intentional discrimination and policies and practices that have the effect of discriminating. The law incentivized school districts to end Massive Resistance to *Brown v. Board of Education* and to begin desegregation in earnest to preserve their federal funding under the newly enacted Elementary and Secondary Education Act in 1965.

Although early Title VI efforts focused on school desegregation, the law is widely applicable. Title VI applies to every aspect of school operations of any school — public or private — that receives federal funds, including admissions, academic programming, co-curricular activities and discipline. It also prohibits harassment based on race, color or national origin.

Though the country's schools have made progress over the past six decades despite recent increases in school district racial isolation, courts have undermined enforcement of Title VI in recent years, leaving the law's goals unrealized. The U.S. Supreme Court greatly weakened the law's enforcement power when, in *Alexander v. Sandoval*, it decided that private actors could not sue to enforce the law when districts discriminate — unless the discrimination is intentional.

Today, intentional discrimination is very difficult to prove, particularly given the Supreme Court's high standard for making allegations stick in court. Although the Office for Civil Rights (OCR) in the U.S. Department of Education still leads the enforcement of Title VI, including the disparate impact regulations, with support from the U.S. Department of Justice, OCR needs more resources to keep up with the high volume of complaints.

In our schools today, disparities in such critical educational resources such as funding, racial isolation in schools, experienced and high-quality teachers, functional facilities, rigorous courses and discipline continue to track lines of race, color and national origin in ways that disadvantage many students of color. These disparities not only harm these students, but also hurt our democracy, our economy and our society.

Title VI can only effectively prevent and remedy discrimination when policymakers, district leaders and educators take consistent and comprehensive action to eradicate discrimination from our schools. Starting at the top, Congress should empower the Education Department to effectively enforce the law by approving its request for additional funding to hire much-needed staff to investigate complaints. Private actors also need the ability to go to court to enforce Title VI, a remedy that only Congress can provide after *Alexander v. Sandoval*.

States, districts and schools must review their policies and practices regularly to eliminate those that have the effect of discriminating. Families and community members also should report discrimination to the Office of Civil Rights. The person reporting discrimination does not have to have experienced discrimination or have a relationship with someone who did.

It's within our grasp to make equal educational opportunity a reality. Building an inclusive and just society as well as a strong economy and democracy depends on the combined success of federal, state and local efforts in partnership with students, parents and communities.

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