

Guidance on Discrimination in School Discipline

Spotlight on Discriminatory Enforcement

Schools violate the LAD when school officials' enforcement of discipline policies is discriminatory (i.e., when school officials, teachers, security guards, school-based police officers, or other employees or agents discipline students of one protected class differently than another, even if the policy appears neutral on its face).

Such violations may happen when schools **treat students differently** based on race, national origin, gender, disability, or another protected characteristic **for engaging in the same misconduct**.

For example:

If a Black student and an Asian student got into a fight, and the school suspended the Black student for 5 days but only suspended the Asian student for 2 days, even though it was unclear who started the fight and the students' conduct leading up to and during the fight were similar, that may constitute discrimination based on race.

If a classroom teacher does not refer white students to the principal's office for "disruptive," "disrespectful," or "insubordinate" conduct, or other subjective behaviors, but tends to refer Black or Latinx/e students to the principal's office for the same types of conduct, that would constitute discrimination based on race and/or national origin.

LAD violations also occur when schools choose to **overlook policy violations** by students from one protected class, **while strictly enforcing the same policy against students from another protected class**.

For example:

If a school's staff enforces a prohibition on "tight clothing" against girls wearing tight pants, but not against boys wearing tight pants, or enforces a prohibition on exposing undergarments against a girl whose bra strap is showing but not against a boy whose boxer shorts are visible, that may constitute discrimination based on gender.

If a school's staff consistently disciplines Black and Latinx/e girls for violating the school's dress code, but overlooks white girls wearing similar attire, that may constitute discrimination based on race and/or national origin.

If a school's security guards or hall monitors consistently ask Black students for their hall passes or student IDs, while allowing white students to walk through the halls unquestioned, that may constitute discrimination based on race.



For More Information

Read DCR's new [Guidance on Discrimination in School Discipline](#) or access our series of one-pagers.

Guidance on Discrimination in School Discipline

Spotlight on Discriminatory Enforcement (Part 2)

Schools violate the LAD when school officials' enforcement of discipline policies is discriminatory (i.e., when school officials, teachers, security guards, school-based police officers, or other employees or agents discipline students of one protected class differently than another, even if the policy appears neutral on its face).

Such violations may happen when schools' discipline of an individual student is influenced by that student's race, national origin, gender, disability, or other protected characteristic.

In determining whether a schools' discipline of an individual student is influenced by that student's race, national origin, gender, disability, or other protected characteristic, DCR may consider **any evidence suggesting bias on the part of school officials** (whether intentional, implicit, or unconscious), including statistical evidence showing race, national origin, gender, disability, or other relevant disparities in school discipline; statements made during the discipline process; parallel situations involving other students of the same protected class being treated differently than students who are not members of that protected class; and other evidence regarding similar incidents.

For example:

If a teacher who has failed to address students' use of racial slurs towards their classmates of color during class then imposes discipline on a student of color, that could provide evidence that their discipline of the student may have been influenced by race.

If a school that does not conduct HIB investigations into allegations of race or ethnicity-based bullying or harassment then disciplines a student of color for alleged HIB incidents, that could raise an inference that their discipline of the student may have been influenced by race.

It is a violation of the LAD for any authority figure involved in the disciplinary process to use a racial or other bias-based slur towards a student at any point from the moment of the student's alleged misbehavior through to the imposition of discipline.

Not only would such conduct be strong evidence of differential treatment discrimination, but an authority figure's use of a bias-based slur during the disciplinary process would also likely be sufficient to state a separate claim under the LAD for hostile environment harassment.

