



School Discipline and Student Civil Rights: The Role of the Illinois Attorney General's Civil Rights Bureau

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Agenda



- Overview of Illinois Attorney General's Office (OAG) and Civil Rights Bureau (CRB)
- Basics of Illinois Human Rights Act (IHRA) and Illinois Civil Rights Act of 2003 (ICRA)
- Non-Regulatory Guidance on Student Civil Rights Issues
- OAG Investigations
- Amicus Briefs

Illinois Attorney General's Office



- The Attorney General is the legal officer of the State, and represents and defends the State in all legal proceedings.
- Enforcement authority includes consumer protection and civil laws on behalf of the People of Illinois.
 - Civil and Equal Rights Enforcement Act, 15 ILCS 210: OAG investigates “all violations of the laws relating to civil rights . . . and shall, whenever such violations are established, undertake necessary enforcement measures.”



CIVIL RIGHTS BUREAU

**Mission: to
protect the
civil rights of
everyone in
Illinois**

The Civil Rights Bureau has statutory authority to investigate and address:

- Patterns and practices of discrimination in housing, employment, financial matters, and public accommodations (Illinois Human Rights Act)
- Patterns and practices of unconstitutional or unlawful policing (SAFE-T Act)
- Violations of the Illinois Trust Act and VOICES Act by law enforcement
- Civil hate crimes complaints
- University reporting required by the Preventing Sexual Violence in Higher Education Act



CIVIL RIGHTS BUREAU (CRB)

- CRB investigates possible patterns and practices of unlawful discrimination. Issues may be identified through constituent complaints or relationships with local, state and federal agencies, as well as with civil rights and community groups.
- CRB enforces civil rights laws through systemic investigations, strengthening of civil rights laws, and outreach and public education.

Illinois Human Rights Act (IHRA)



- **Prohibits:**
 - discrimination and harassment in employment, housing, public accommodations, and by financial institutions;
 - retaliation for opposing unlawful discrimination, complaining about discrimination or participating in an investigation.
- **Protected classes include:**

race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, gender identity, pregnancy, or unfavorable discharge from military service.
- **Statute grants OAG authority to investigate, issue subpoenas, and bring lawsuits to address patterns & practices of discrimination.**

775 ILCS 5/101 *et. seq.*

Schools and the IHRA



- **Discrimination in Public Accommodations (Article 5)**
 - Par (11) covers public and private non-sectarian schools (“a non-sectarian nursery, day care center, elementary, secondary, undergraduate, or postgraduate school, or other place of education”)
- **Article 5 IHRA Jurisdiction for Non-Sectarian Schools**
 - As of January 1, 2023, Section 5-102.2 prohibits non-sectarian schools from engaging in unlawful discrimination by:
 - ✦ (1) failing to enroll an individual;
 - ✦ (2) denying or refusing a student full and equal enjoyment of school facilities, goods, or services; or
 - ✦ (3) severe or pervasive harassment of a student when the school fails to take corrective action to stop the severe or pervasive harassment.
- **Article 5A**
 - Specific prohibitions on sexual harassment in public and private schools, including policy requirements

Illinois Civil Rights Act of 2003



- The Illinois Civil Rights Act of 2003 (“ICRA”) prohibits any unit of local government from adopting policies whose criteria or methods of administration impose a disparate impact on individuals because of their race, color, national origin, or gender.
- ICRA has been interpreted to apply to public school district policies and practices administered using criteria that have a discriminatory impact on students based on their race.

Non-Regulatory Guidance on Student Civil Rights Issues



- Non-regulatory guidance and resources can:
 - help school districts fulfill civil rights obligations &
 - inform parents, students, educators and school administrators.



OAG Non-Regulatory Guidance and Resources on Student Civil Rights Issues

- Joint [OAG-ISBE guidance](#) to school districts on civil rights laws related to **school discipline** (Dec 2021)
- [Letter to public officials](#) on civil rights obligations to protect everyone's rights, including **LGBTQ+ Illinoisans**, to safely access public spaces (including schools) from AG Raoul, Governor Pritzker, and IDHR Director Bennett (Dec 2022)
- Joint [OAG-IDHR guidance](#) on protections against discrimination based on **pregnancy**, including **reproductive decision-making**, in Illinois – in spaces including schools and other public accommodations (Mar 2023)

OAG-ISBE Guidance on School Discipline



- Resource to help public K-12 school districts meet their legal obligations when administering school discipline policies
- Punitive and exclusionary discipline policies may disproportionately impact Black students, students with disabilities, and LGBTQ students.
 - The School Code requires an annual review of discipline policies in coordination with a parent-teacher advisory committee.
 - The guidance urges school boards to review disparities in data and eliminate policies that may potentially result in discriminatory disparate impact.
- **Examples:**
 - Discipline based on hair and dress codes
 - Seclusion and restraint
- Highlights resources on evidence-based practices to help schools address behavioral challenges

OAG-ISBE Guidance on School Discipline



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**OAG
Investigation
of School
Ticketing
Practices**

- April 2022 [ProPublica/Chicago Tribune investigation](#)
 - Allegations of Illinois schools referring students to police departments to be ticketed and fined for minor behavioral infractions and truancy
- OAG investigation
 - Collaboration by Civil Rights Bureau, Disability Rights Bureau, and Special Litigation Bureau attorneys
 - Examining discipline & ticketing practices in D211 and their impact by race and disability

OAG Amicus Briefs



- Illinois files amicus briefs and joins other state AGs in multistate advocacy efforts to affirm and protect student civil rights.
- In 2022 Illinois joined multistate amicus briefs:
 - Challenging Indiana law banning transgender female students from participating in girls school sports (14 state AGs)
 - Supporting equity and diversity efforts in Boston Public Schools' race-neutral admissions plan (15 state AGs)
 - Opposing an Indiana school district's efforts to bar a transgender male student from using the boys' restroom (22 state AGs)
 - Opposing Florida's "Don't Say Gay" law which prevents classroom discussion of sexual orientation or gender identity (16 state AGs)



Contact Information

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Questions/Comments

