

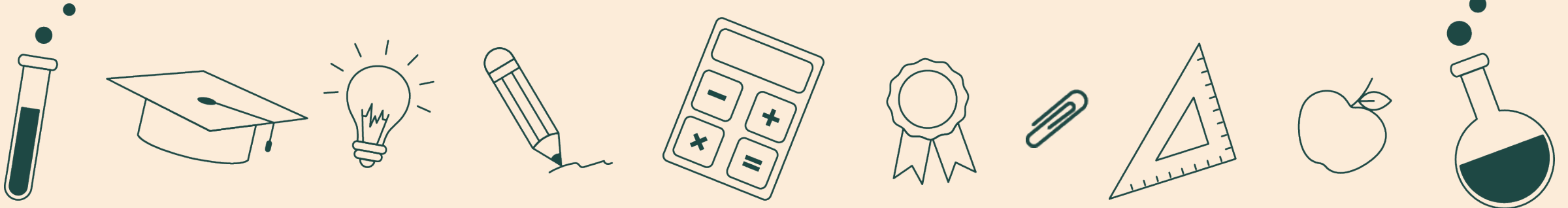
# Student Civil Rights



State Charter Schools Commission of Georgia

Cerrone C. Lockett, Esq.

General Counsel



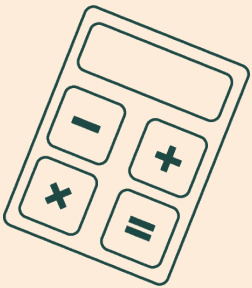
# Overview

- I. Primary Civil Rights Statutes
- II. Additional Statutes
- III. Notice Requirements
- IV. Legal Obligations
- VI. Enforcement



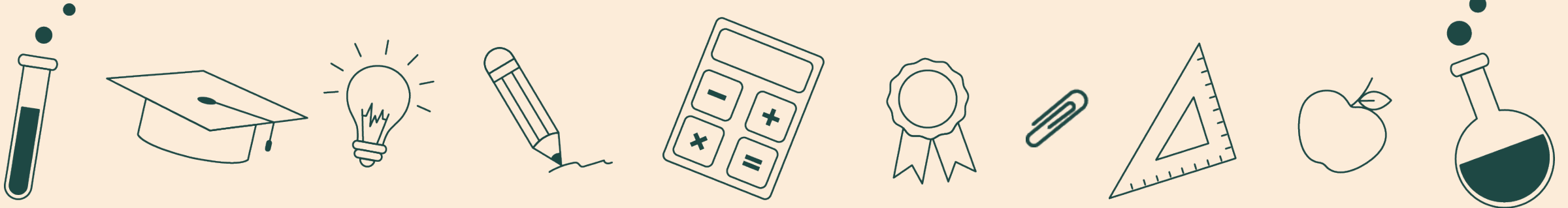
# Broad Flexibility

Despite having broad flexibility from most state education laws and rules, charter schools are subject to all federal, state, and local rules, regulations, court orders, and statutes relating to civil rights.





# Anti-Discrimination Legislation



# Primary Civil Rights Statutes

- Title VI of the Civil Rights Act of 1964 prohibits discrimination because of race, color, and national origin.
- Title IX of the Education Amendments of 1972 prohibits discrimination based on sex.
- Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 prohibit discrimination on the basis of disability.



# Additional Statutes

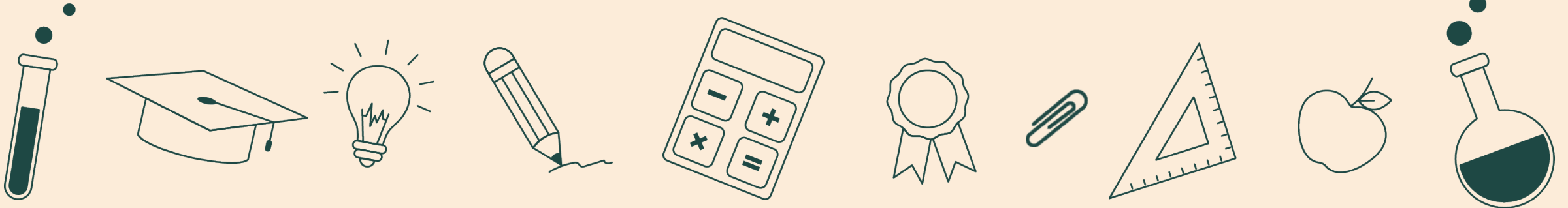
The Age Discrimination Act of 1975 prohibits age discrimination.

The Boy Scouts of America Equal Access Act prohibits discrimination against the Boy Scouts of America or similar patriotic groups with respect to use of public facilities after school hours.

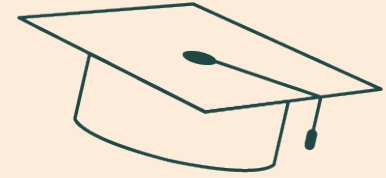




# Notice Requirements



# Title VI



Public elementary and secondary schools must make information regarding the applicable prohibitions against discrimination available to interested persons in a manner that a responsible Department of Education official would find necessary to inform people of the protections provided under these laws.





# Section 504

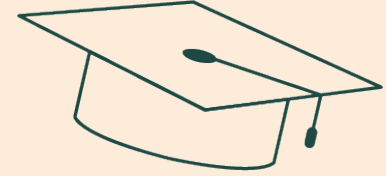


The regulation implementing Section 504 requires schools employing 15 or more persons to implement appropriate, continuing steps to notify students and others that the school does not discriminate based on disability. The notification must state:

- that the school does not discriminate in admission, treatment, or access to its programs or activities;
- that the school does not discriminate in employment in its programs or activities; and,
- identify the employee designated to coordinate compliance with the Section 504 regulation (Section 504 Coordinator).



# Title II



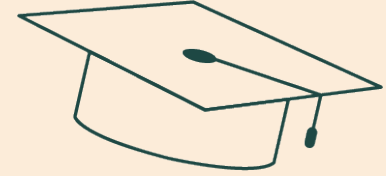
Public entities must make available to applicants, participants, beneficiaries, and other interested persons information regarding Title II and its applicability to the school's services, programs, or activities. The information must be available in a manner the school finds necessary to apprise interested persons of Title II's protections.

Public entities that employ 50 or more persons must:

- Designate an employee to coordinate compliance efforts, including complaint investigations.
- Provide the name, office address, and telephone number of the coordinator(s) to interested persons.
- Adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging Title II violations.



# Title IX



- Designate at least one employee to coordinate compliance efforts. The employee **MUST** be referred to as **“Title IX Coordinator.”** The name/title, office address, email address, and telephone number for the Title IX Coordinator must be prominently displayed.
- Notify identified stakeholders that the school does not, and Title IX prohibits it from, discriminating based on sex in its programs or activities, including admission and employment and that Title IX inquiries may be referred to the Title IX Coordinator, the Assistant Secretary for the U.S. Department of Education, or both.
- Adopt and publish grievance procedures that provide for the prompt and equitable resolution of students and employee Title IX complaints. The grievance process must comply with applicable Title IX regulations and explain how to report or file a complaint of sex discrimination, how to file a formal complaint of sexual harassment, and how the school will respond.

**The notice of non-discrimination and Title IX Coordinator contact information must be prominently displayed on the school’s website and in any handbook disseminated to identified stakeholders.**



# The Age Act



- **Designate at least one employee** to coordinate compliance efforts, including investigation of any complaints of non-compliance. The notification must identify the coordinator by name or title, address, and telephone number:
- **Adopt and publish grievance procedures** providing for prompt and equitable resolution of complaints alleging any action prohibited by the Age Act.



# Sample Combined Notice

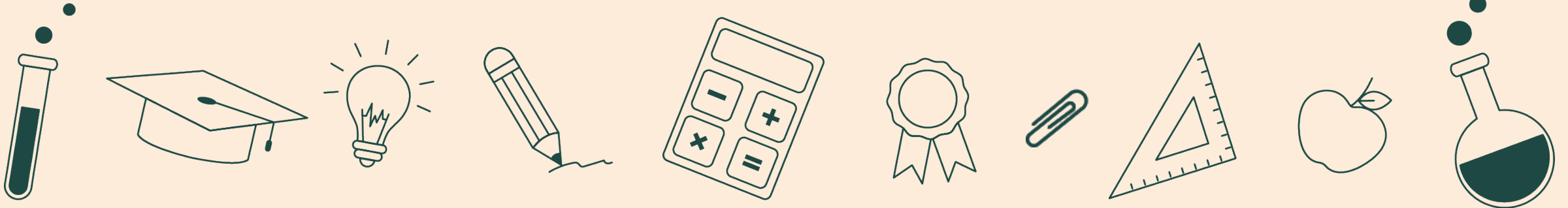
The Perfect Charter School does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following person has been designated to handle inquiries regarding the non-discrimination policies:

- Name and/or Title
  - Address
  - Telephone No.
- 
- Name and/or Title
  - Address
  - Email Address (**Title IX**)
  - Telephone No.





# Discrimination Framework

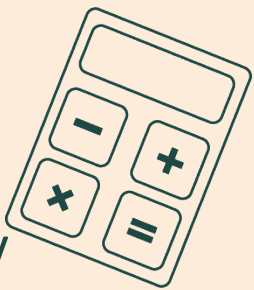


# Types of Allegations

**Different Treatment:** Treating a student differently than a similarly situated student outside of the student's protected class.

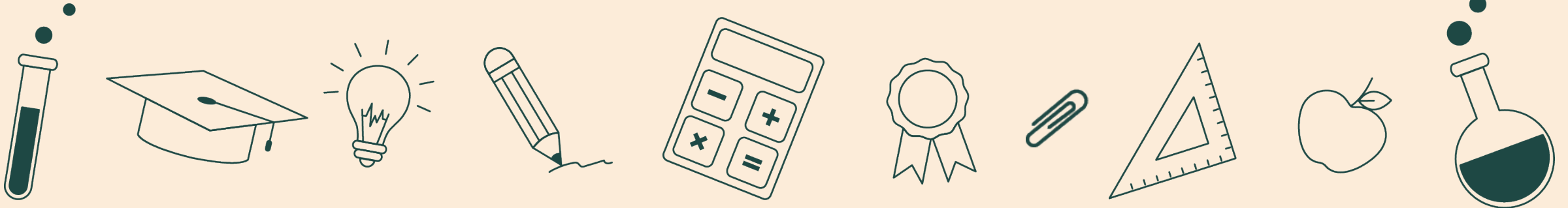
**Disparate Impact:** The application of rule not intended to discriminate has a negative impact on a protected class of people.

**Harassment:** Failure to adequately respond to notice of unwelcome conduct based on a student's protected class that is sufficiently serious to deny or limit a student's ability to participate in or benefit from the programs and activities (hostile environment)





# Title VI





# Coverage

**Title VI prohibits discrimination based on race, color, or national origin.**

Including ethnicity or ethnic characteristics including membership in a religion that may be perceived to exhibit such characteristics (Ex. Hindu, Jewish, Muslim, and Sikh), shared ancestry, country of origin or world region, limited English proficiency, and English learner status.



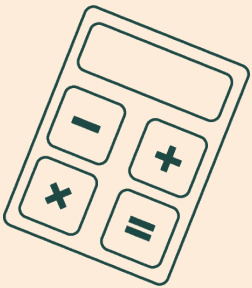
# Discipline

1. A policy that explicitly provides that students of one race be disciplined differently from students of another race, or that only students of a particular race be subject to disciplinary action. *Intentional Discrimination*
2. Similarly situated students of different races are disciplined differently for the same offense. *Different Treatment*
3. A discipline policy that is neutral, but the school administers the policy in a discriminatory manner or when a school permits the ad hoc and discriminatory discipline of students in areas that its policy does not fully address. *Disparate Impact*



# Enrollment

School districts may not prohibit or discourage (or maintain policies that have the effect of prohibiting or discouraging) children from enrolling in schools because they or their parents/guardians are not U.S. citizens or are undocumented.



# Harassment

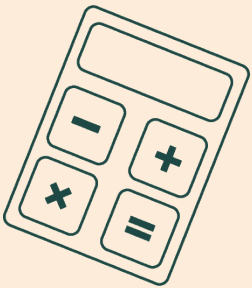
Racial and national origin harassment is unwelcome conduct based on a student's actual or perceived race or national origin, including slurs, taunts, stereotypes, or name-calling, as well as racially motivated physical threats, attacks, or other hateful conduct

Harassers can be students, school staff, or school visitors.



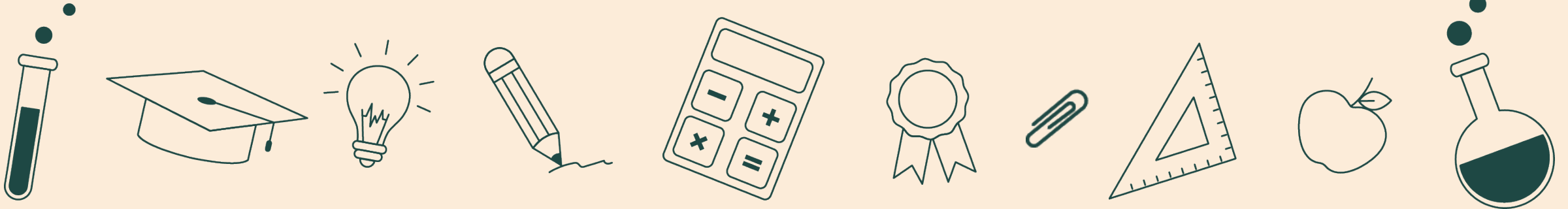
# Response to Harassment

1. Know or reasonably should have known of possible racial harassment.
2. Respond to racial or national origin harassment that is sufficiently serious to deny or limit a student's ability to participate in or benefit from the programs and activities (hostile environment).
3. Take immediate and appropriate steps to investigate or otherwise determine what occurred.
4. If an investigation reveals that the harassment created a hostile environment, take prompt and effective steps reasonably calculated to end the harassment, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.





# Title IX



# Coverage



“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”  
20 U.S.C. § 1681.



# 2020 Notable Amendments



- Update to notice requirements
- Updated definitions, including a definition for “sexual harassment.”
- Detailed requirements for grievance processes

\* NOTE: President Biden’s Executive Order, dated March 2021.





# Sexual Harassment



Conduct based on sex that satisfies one or more of the following:

- An employee of the [school] conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- Unwelcome conduct, determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity;
- Sexual assault, dating violence, domestic violence, or stalking as defined in federal statutes.



# Response



- A response is required when a school has actual knowledge of sexual harassment in its programs or activities, regardless of whether a formal or informal complaint is made.
- The response must treat the complainant and responding student equitably.

# Grievance Process



- The school must investigate allegations in any formal complaint and send written notice to both parties upon receipt of a formal complaint.
- Burden of gathering evidence is on the school, not the parties.
- School must send the parties and their advisors an investigative report that summarizes



# Athletics

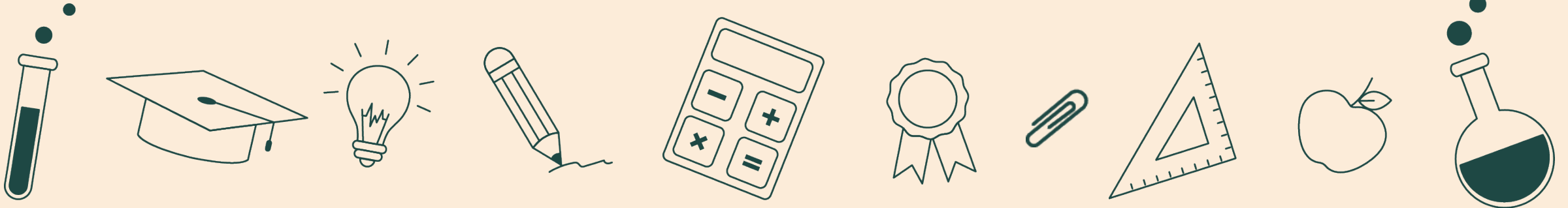


No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, club, or intramural athletics offered, and no recipient shall provide any such athletics separately on such basis, with some exceptions.





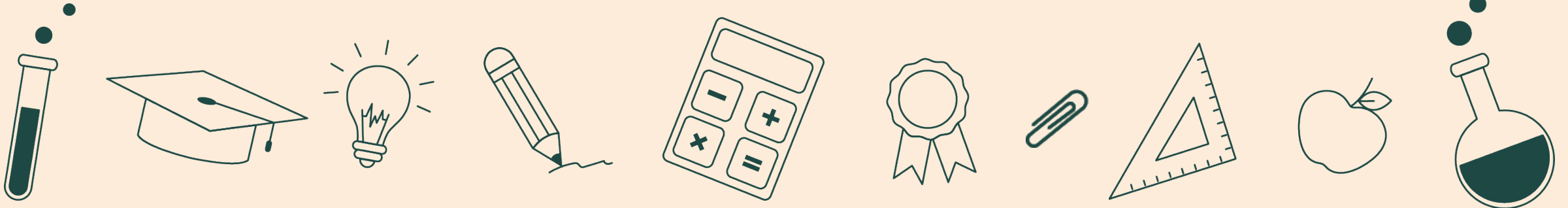
# Section 504 and Title II of the ADA





# Section 504

- Free Appropriate Public Education (FAPE)
- Different Treatment
- Harassment
- Accessibility



# Free Appropriate Public Education

Section 504 defines FAPE as the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of individuals with disabilities as adequately as the needs of individuals without disabilities. These services must be provided at no cost.

Under Section 504, compliance with a student's IEP under IDEA will satisfy Section 504 FAPE requirements.



# Child Find Obligations

Section 504 requires LEAs to annually undertake to identify and locate every qualified individual with a disability residing in the school's jurisdiction who is not receiving a public education; and to take appropriate steps to notify individuals with disabilities and their parents or guardians of the school's Section 504 obligations.





# What is a disability?

IDEA	Section 504
<ul style="list-style-type: none"><li>• Autism spectrum disorder</li><li>• Deafblind</li><li>• Deaf/hard of hearing</li><li>• Emotional and behavioral disorder</li><li>• Intellectual disability (mild, moderate, severe, profound)</li><li>• Orthopedic impairment</li><li>• Other health impairment</li><li>• Significant developmental delay</li><li>• Specific learning disability</li><li>• Speech-language impairment</li><li>• Traumatic brain injury</li><li>• Visual impairment</li></ul>	<p>An individual who has:</p> <ul style="list-style-type: none"><li>• a physical or mental impairment</li><li>• which substantially limits</li><li>• one or more major life activities.</li></ul>



# Bullying

- Disability harassment is unwelcome conduct based on a student's actual or perceived disability. Harassers can be students, school staff, or even someone visiting the school, such as a student or employee from another school.
- Harassment can occur in the form of slurs, taunts, stereotypes, or name-calling, as well as disability-motivated physical threats, attacks, or other hateful conduct.
- Harassment on *any basis* can result in the denial of FAPE.



# Section 504/Title II: Different Treatment

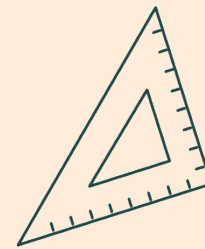
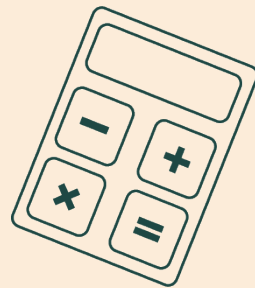
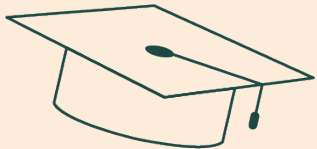


1. Schools may not exclude individuals with disabilities from participation in, deny them the benefits of, or otherwise subject individuals with disabilities to discrimination.
2. Individuals with disabilities must have equal access to the school's programs, services, and activities under Section 504.
3. Individuals with disabilities must be afforded an opportunity to participate in or benefit from aids, benefits, or services that is equal to the opportunity afforded others.
4. Individuals with disabilities must be provided with aids, benefits, or services that provide an equal opportunity to achieve the same result or the same level of achievement as others.
5. An individual with a disability, or a class of individuals with disabilities, may be provided a different or separate aid, benefit, or service only if doing so is necessary to ensure that the aid, benefit, or service is as effective as that provided to others.



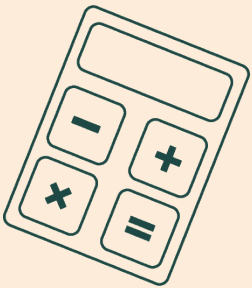


# Accessibility



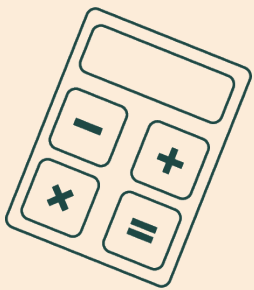
# Accessible Facilities

School districts are required to ensure that students and others with disabilities, including parents, are not denied access to programs or activities because of inaccessible facilities, including academic buildings, walkways, restrooms, athletic facilities, and parking spaces. Physical accessibility requirements depend on the date a building (or facility) was initially built (constructed) or altered.



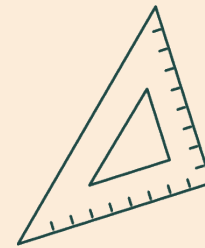
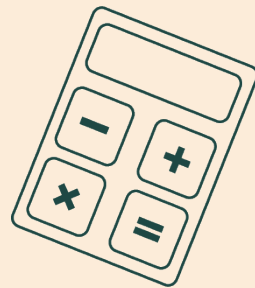
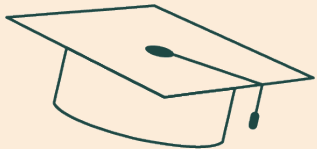
# Website Accessibility

Title II requires public entities to take steps to ensure that communications with people with disabilities are as effective as communications with others, subject to the fundamental alteration and undue burden defenses.



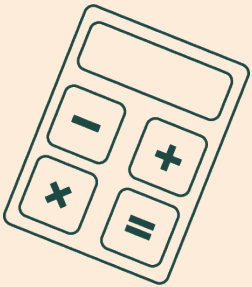


# Retaliation



# Retaliation

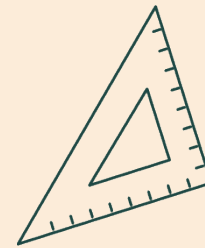
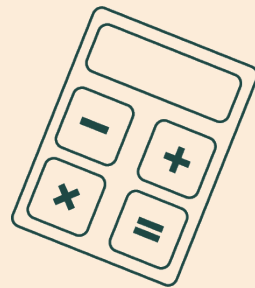
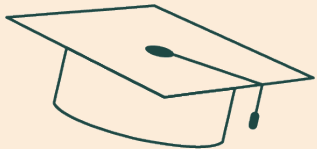
A school may not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the laws OCR enforces, or because he or she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing in connection with a complaint.





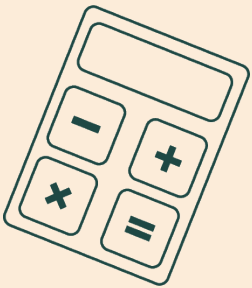


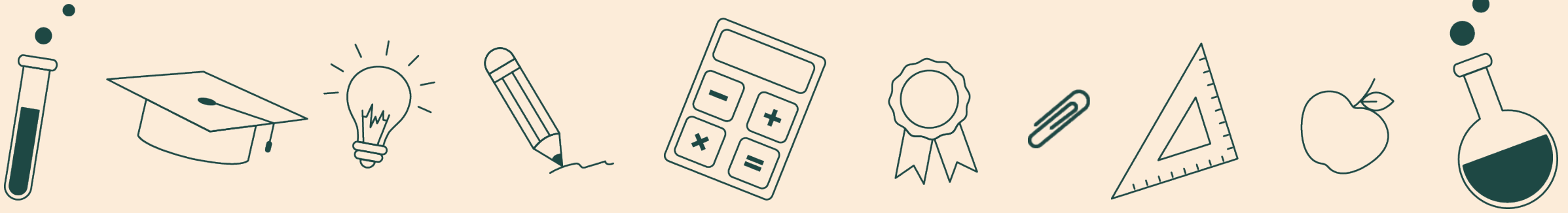
# Enforcement



# OCR Case Processing

- Case Processing Manual
- Filing a Complaint
- Types of Resolution:
  - Rapid Resolution Process
  - Section 302
  - Section 303
- Resolution Agreements





# Contact Us

**Website:** [scsc.georgia.gov](http://scsc.georgia.gov)

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