



How to File A Complaint

with the Office for Civil Rights at the
U.S. Department of Education

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INTRODUCTION

America's public schools have a legal responsibility to protect every student's right to learn in an environment free from unlawful discrimination. Institutions, programs, or activities that receive funds from the Department of Education are required by law to operate in a nondiscriminatory manner. This includes most everything a school does: admissions, recruitment, financial aid, academic programs, student services, counseling and guidance, discipline, classroom assignments, grading, and so on.

When schools fail to meet their responsibilities under federal civil rights laws, the U.S. Department of Education's Office for Civil Rights (OCR) is tasked with remedying such failures. Often, the process of remedying civil rights violations begins with filing a complaint with OCR.

An OCR complaint is not a lawsuit and doesn't require hiring a lawyer. OCR is also not a lawyer for the individual who files a complaint. Filing a complaint with OCR still entitles the filer to seek relief in court or with any other appropriate federal, state, or local agency. *However, OCR will close the complaint if that occurs.*

A complaint may be filed with any of OCR's 12 regional offices nationwide in the appropriate jurisdiction for the complaint. Office locations are listed on the OCR [website](#).¹

1. <https://www2.ed.gov/about/offices/list/ocr/addresses.html>

APPLICABLE LAWS

OCR enforces the following six federal anti-discrimination laws:

- **Title VI of the Civil Rights Act of 1964**, which prohibits discrimination on the basis of race, color or national origin. This includes discrimination based on a person's limited English proficiency or English learner status; and actual or perceived shared ancestry or ethnic characteristics, including membership in a religion that may be perceived to exhibit such characteristics (such as Hindu, Jewish, Muslim, and Sikh individuals);
- **Title IX of the Education Amendments of 1972**, which prohibits discrimination on the basis of sex. This includes discrimination based on pregnancy, parental status, and sex stereotypes (such as treating persons differently because they do not conform to sex-role expectations or because of their sexual or gender orientation).
- **Section 504 of the Rehabilitation Act of 1973**, which prohibits discrimination on the basis of disability.
- **Age Discrimination Act of 1975**, which prohibits discrimination on the basis of age;
- **Title II of the Americans with Disabilities Act of 1990**, which prohibits discrimination on the basis of disability. Title II prohibits discrimination on the basis of disability by public entities, *whether or not they* receive federal financial assistance.
- **Boy Scouts of America Equal Access Act**, which prohibits discrimination against any youth group officially affiliated with a group or organization [listed in title 36 of the United States Code \(as a patriotic society\)](#)² that wants to conduct a meeting at a school that receives funds from the Department of Education.

2. <http://uscode.house.gov/view.xhtml?path=/prelim@title36/subtitle2/partB&edition=prelim>

WHO CAN FILE

Anyone may file a complaint with OCR. The person or organization filing the complaint doesn't need to be the victim of the alleged discrimination but can file a complaint on behalf of another person or group, such as parents filing on behalf of their children.

TIMELINESS

A complaint must ordinarily be filed within *180 days of the last act of discrimination*. A filer can request a waiver of the deadline requirement and will be asked to show good cause as to why they did not file within the 180-day period. It's a good idea to file as soon as possible after the most recent discriminatory action.

INSTITUTIONAL GRIEVANCE PROCEDURES

Prior to filing a complaint with OCR against an institution, a filer may want to find out if there is a grievance process at the school and attempt to resolve the complaint through that process. However, a complainant is not legally required to use the institutional grievance process before filing a complaint with OCR.

If a complainant uses an institutional grievance process *and also* chooses to file the complaint with OCR, the complaint must be filed with OCR *within 60 days after completion of the institutional grievance process*.

HOW TO FILE

The easiest way to file is through OCR's [electronic complaint form](#).³

Retaliation Against Filers: A recipient of federal financial assistance may not retaliate against any person who has filed a complaint, testified, assisted, or participated in any manner in an OCR matter, or interfere with any right or privilege protected by the laws enforced by OCR.

If there is reason to believe retaliation has occurred for any of the reasons listed above, a separate complaint needs to be filed for that retaliatory incident.

EVALUATION

OCR evaluates complaints to determine whether they merit further processing. If so, OCR determines whether it has the legal authority to investigate and whether the complaint is timely.

Also, OCR will determine whether the complaint contains enough information about the alleged discrimination to investigate. If OCR needs more information in order to clarify the complaint, it will contact the complainant; and the complainant has *14 calendar days to respond* to OCR's request for information unless the complainant requests additional time.

WHY OCR MAY DISMISS A COMPLAINT

Some of the reasons OCR might dismiss a complaint filed with its office:

- No legal authority to investigate the complaint;
- Failure to state a violation of one of the laws OCR enforces;

3. <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>

- The complaint is not timely (within 180 calendar days of the date of the alleged discrimination) and a waiver of the timeliness requirement was not granted;
- The complaint is speculative, conclusory, incoherent, or lacks sufficient detail to suggest discrimination, and the complainant does not provide additional information requested by OCR;
- The allegations raised by the complaint have been resolved;
- The complaint has been investigated by another government agency or through internal grievance procedures, including due process proceedings, and there was a comparable resolution process or OCR anticipates that there will be a comparable resolution process. In this case, OCR advises the filer that he or she may re-file within 60 days of the completion of the other entity's action;
- *The same or similar allegations based on the same operative facts have been filed by the complainant against the same recipient in state or Federal court.* OCR will advise the complainant that he or she may re-file within 60 days of the termination of the court proceeding if there has been no decision on the merits of the case or settlement of the court complaint.

INVESTIGATION

OCR uses a variety of fact-finding techniques in its investigation of a complaint. These include reviewing documentary evidence submitted by both parties; conducting interviews with the filer, relevant personnel, and other witnesses; and/or site visits (significantly limited during the COVID-19 pandemic). At the conclusion of its investigation, OCR will determine on each allegation whether:

- *There is insufficient evidence* to support a conclusion that the recipient failed to comply with the law, or
- *There is a preponderance of the evidence to support* a conclusion that the recipient failed to comply with the law.

OCR's determination will be explained in a *Letter of Findings* sent to the complainant and educational institution. Letters of Findings contain fact-specific investigative findings and resolution of individual cases. Letters of Findings are not formal statements of OCR policy, and shouldn't be relied upon, cited, or construed as such.

RESOLUTION AFTER “NON-COMPLIANCE”

If OCR determines that a “recipient” (any educational institution that receives federal funds) failed to comply with a civil rights law that OCR enforces, OCR will contact the recipient and attempt to secure its willingness to negotiate a voluntary resolution agreement. If the recipient agrees to resolve the complaint, it will negotiate and sign a written resolution agreement that describes the specific actions it will take to address the area(s) of noncompliance identified by OCR. OCR will then monitor the recipient's implementation of the agreement to ensure that the actions agreed to by the recipient are being implemented.

If the recipient does not agree to correct its noncompliance with civil rights law through a final resolution agreement, OCR may initiate proceedings to suspend, terminate, or refuse to grant or continue federal financial assistance to the recipient. OCR might also refer the case to the Department of Justice for further investigation or litigation on behalf of the government.

RESOLUTION AFTER INVESTIGATION

A complaint may be resolved before the conclusion of an investigation if the recipient expresses an interest in resolving the complaint and OCR agrees to do so. The provisions of the resolution agreement must be tied to the allegations and the evidence obtained during the investigation. OCR will monitor compliance with the resolution agreement before the conclusion of an investigation.

After the recipient signs the resolution agreement, OCR will issue a Resolution Letter, which addresses all allegations in the case that have been resolved.

APPEALS

OCR allows filers to appeal certain determinations and dismissals:

- Investigatory determinations of insufficient evidence to support a violation;
- Dismissals of allegations pursuant to certain sections of its Case Processing Manual (see “Why Might OCR Dismiss a Complaint,” above).

These are typically identified in the letter OCR sends to the filer at the conclusion of the case.

A filer has the right to appeal OCR’s determination within *60 calendar days of the date indicated on the letter unless OCR grants a waiver*.

In the appeal, the filer must explain why he or she believes the factual information was incomplete or inaccurate, the legal analysis was incorrect, or the appropriate legal standard was not applied. He or she must also explain how correction of any errors would change the outcome of the case. Otherwise, OCR may dismiss the appeal.

After the conclusion of the appeal review, OCR will issue a written decision to the filer.

RIGHT TO A SEPARATE LEGAL ACTION/LAWSUIT

At any time before, during, and after resolution of the complaint, the filer has the right to file suit in federal court regardless of OCR’s findings. OCR does not represent the filer in the case processing, so if he or she wishes to file a separate court action, he or she must do so through a separate attorney.

CONTACT INFORMATION FOR OCR

U.S. Department of Education

Office for Civil Rights

Lyndon Baines Johnson Department of Education Bldg

400 Maryland Avenue, SW

Washington, DC 20202-1100

OCR@ed.gov

fax (202) 453-6012

tel (800) 421-3481

- » [Begin the complaint process online.](#)⁴
- » For a [fillable complaint form.](#)⁵
- » Electronic appeals form [here.](#)⁶
- » Fillable PDF appeals form [here.](#)⁷

4. <https://ocras.ed.gov/content/ocr-complaint-assessment-system>

5. <https://www2.ed.gov/about/offices/list/ocr/complaintform.pdf>

6. <https://ocras.ed.gov/content/ocr-electronic-appeals-form>

7. <https://www2.ed.gov/about/offices/list/ocr/docs/appeals-form.pdf>