

U.S. Department of Education
Office for Civil Rights
OCR's Jurisdiction and Complaint Process
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Outline:

The U.S. Department of Education Office for Civil Rights
OCR's Jurisdiction and Complaint Process

This document provides general information for the purpose of training and technical assistance. This document is not an OCR policy document.

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Outline:

Ensure equal access to education and promote educational excellence through vigorous enforcement of civil rights
OCR's Mission

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Outline:

Civil rights laws enforced by OCR

Title VI of the Civil Rights Act of 1964 (race, color or national origin)

Title IX of the Education Amendments of 1972 (sex)

Section 504 of the Rehabilitation Act of 1973 (disability)

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Outline:

Civil rights laws enforced by OCR

(cont.)

Title II of the Americans with Disabilities Act of 1990 (disability)

Age Discrimination Act of 1975 (age)

Boy Scouts of America Equal Access Act (certain public school facility access, certain youth groups)

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Outline:

How OCR accomplishes its mission

Complaints

Compliance reviews

Technical assistance

Policy Guidance

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Outline:

OCR's Jurisdiction

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Outline:

OCR's Jurisdiction

OCR has jurisdiction over programs and activities that receive financial assistance from the Department of Education. These may include:

state education agencies

elementary and secondary school systems

colleges and universities

state vocational rehabilitation agencies

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Outline:

OCR's Jurisdiction

OCR also has jurisdiction over certain public entities under Title II of the Americans with Disabilities Act of 1990, which prohibits disability discrimination by public entities whether or not they receive federal financial assistance.

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Outline:

Filing a Complaint with OCR

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Outline:

OCR Across the Country-

12 Enforcement Offices across the country. Headquarters Office in Washington D.C. (An Enforcement Office is also located in D.C.)-

www.ed.gov/ocr

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Outline:

Who can file a complaint

and how?

Anyone can file

It must be done in writing

It can be done by e-mail, fax, mail, online or in person

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Outline:

What is NOT considered a complaint?

Oral allegations that are not reduced to writing

Anonymous correspondence

Courtesy copies of correspondence or a complaint filed with others

Inquiries that only seek advice or information

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Outline:

Complaint evaluation

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Outline:

What happens initially when OCR receives a complaint?

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Outline:

OCR evaluates complaints for the following:

Does OCR have jurisdiction over the institution?

Does the allegation allege a violation of one of the laws enforced by OCR?

Is the complaint timely?

Does the allegation contain sufficient detail for OCR to infer that discrimination or retaliation may have occurred?

If we have jurisdiction, the complaint is timely, and sufficient details are provided...

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Outline:

What happens next?

Letters are issued to the parties informing them that OCR is opening an investigation

-Notification letter sent to the complainant

-Notification/Data request letter sent to the recipient

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Outline:

Complaint resolution tools

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Outline:

Can a complaint be resolved before the conclusion of an investigation?

YES!

Through Early Complaint Resolution (ECR)

Through voluntary resolution agreements reached prior to the conclusion of an investigation

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Outline:

Early Complaint Resolution (ECR)

What Is It?

A form of Alternative Dispute Resolution

Provides an early opportunity to voluntarily resolve the issues without an investigation

Allows the complainant and the recipient to voluntarily participate in the resolution of the complaint

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Outline:

What is OCR's role in ECR?

To review the allegations and, as appropriate, assist the parties in understanding the pertinent legal standards and possible remedies

To facilitate a discussion between the parties regarding possible actions that the parties may consider in working toward a resolution

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Outline:

What is OCR's role in ECR? (cont.)

To offer assistance, as appropriate, with regard to reducing the resolution to writing

OCR does not monitor agreements reached by the parties in ECR

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Outline:

If ECR fails . . .

Complaint is returned to the investigative team and investigation resumes

Any notes taken by the facilitator and/or any records or other documents not relevant to OCR's investigation offered by either party to the facilitator during ECR will be kept confidential and in a separate file

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Outline:

Voluntary resolution agreements reached during an investigation

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Outline:

What happens when a recipient wants to resolve the complaint?

At any point before the conclusion of an investigation, a recipient may express to OCR that it is interested in resolving the complaint through a voluntary resolution agreement

Wanting to resolve a complaint does not mean that the recipient admits liability or wrongdoing

OCR determines whether it is appropriate to resolve the case before the investigation is completed

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Outline:

What happens when a recipient wants to resolve the complaint? (cont.)

OCR ensures that the voluntary resolution agreement is aligned with the complaint allegations or the information obtained during the investigation to that point, and consistent with applicable regulations

Complainant approval is not required in this process

OCR will monitor all voluntary resolution agreements until they are fully implemented

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Outline:

Key Features of ECR Agreement

Agreement between the complainant and recipient

Complainant is an active participant in developing and approving the agreement

OCR facilitates the OCR process

OCR is not a party to the agreement

OCR does not monitor ECR agreements

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Outline:

Key Features of Voluntary Resolution Agreement

Recipient expresses interest in resolving complaint before conclusion of investigation

OCR develops the agreement

The complainant does not participate in developing and approving the agreement

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Outline:

Key Features of Voluntary Resolution Agreement (cont)

Agreement aligned with allegations in the complaint or the information obtained during the investigation

Provides remedies that are consistent with applicable regulations

OCR monitors the implementations of the agreement

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Outline:

Administrative closure of a complaint

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Outline:

Examples of why a complaint may be Administratively Closed

The same allegations against the same recipient are pending in another forum with comparable standards and process to OCR or are pending in a state or federal court.

The same issues have been addressed in a recent OCR compliance review

Allegations resolved or moot and no class-wide allegations exist

The complainant withdraws the complaint

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Outline:

Investigation and

Investigative Determinations

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Outline:

What to expect during an OCR investigation

Data Requests

Interviews, where appropriate

On-site visit(s), where appropriate

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Outline:

OCR investigative determination

At the conclusion of the investigation, OCR determines for each allegation whether:

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Outline:

OCR investigative determination

There is sufficient evidence of non-compliance with one or more of the applicable laws enforced by OCR, or

There is insufficient evidence to support a conclusion of non-compliance

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Outline:

What happens if OCR determines there is a compliance problem?

OCR will attempt to negotiate a resolution agreement with the recipient to address the compliance concern(s)

OCR will monitor the resolution agreement. Monitoring closed only when there is full compliance with the statute(s) and regulations at issue in the complaint

If an agreement is not reached, OCR proceeds to enforcement:

an administrative proceeding or

through referral to the Department of Justice for judicial proceedings

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Outline:

What does OCR do when there is insufficient evidence to support the allegations?

Letters will be issued to both parties stating:

The issues raised by the complaint;

OCR's jurisdiction over the complaint; and

A clear explanation of the pertinent legal standards and factual analysis

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Outline:

Right to Appeal

Complainants may appeal findings of insufficient evidence to the U.S. Department of Education

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Outline:

Are there any civil rights protections for persons who have filed complaints?

Yes !

A recipient may not retaliate against any person who has made a complaint under the civil rights laws enforced by OCR.

Retaliation is also prohibited against those who oppose discrimination or participate in an OCR investigation in other ways. EX: persons who testify as witnesses in an OCR proceeding

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Outline:

For more information about OCR and OCR's Case Processing Manual visit:

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

<http://www.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>