

WEBINAR MATERIALS

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OCR's Jurisdiction and  
Complaint Process

*Presenter*

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**ABOUT THE PRESENTER:**

Elizabeth Greczek is an attorney for the Office for Civil Rights, U.S. Department of Education. Elizabeth works primarily on policy issues concerning compliance with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act.

Before coming to the Department, Elizabeth worked for the National Disability Rights Network providing training and technical assistance on special education issues to the Protection and Advocacy agency network. Before that, Elizabeth worked at the District of Columbia P&A advocating on behalf of students and parents in special education issues. At the P&A Elizabeth was co-counsel in the class action Petties case, regarding, among other issues, special education transportation for the District of Columbia public schools.

Prior to working at the P&A, Elizabeth handled special education cases at the private law firm of Feldesman, Tucker, Leifer, Fidell, LLP and the Patrick J. Hoover law firm. Elizabeth earned her B.S. in Political Science from James Madison University and her J.D. from Cleveland-Marshall College of Law.

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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## OCR's Mission

Ensure equal access to education and promote educational excellence through vigorous enforcement of civil rights

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## 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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**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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**How OCR accomplishes its mission**

- Complaints
- Compliance reviews
- Technical assistance
- Policy Guidance

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**OCR's Jurisdiction**

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### 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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### 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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### Filing a Complaint with OCR

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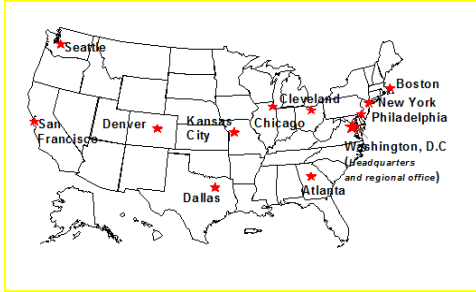
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**OCR Across the Country-**  
12 Enforcement Offices across the country. Headquarters Office in Washington D.C. (An Enforcement Office is also located in D.C.)-  
[www.ed.gov/ocr](http://www.ed.gov/ocr)



10

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### 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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### 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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**Complaint evaluation**

Page 13

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**What happens initially when OCR receives a complaint?**

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graph TD; A[Complaint is received in an OCR office] --> B[Complaint is assigned to a case team and acknowledged to the complainant]; B --> C[Case team evaluates the complaint];
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14

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**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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### 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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### Complaint resolution tools

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### 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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### **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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### **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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### **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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### **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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### **Voluntary resolution agreements reached during an investigation**

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### **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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**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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**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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**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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### 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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### Administrative closure of a complaint

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### 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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**Investigation and  
Investigative Determinations**

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**What to expect during an OCR  
investigation**

- Data Requests
- Interviews, where appropriate
- On-site visit(s), where appropriate

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**OCR investigative determination**

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

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### 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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### 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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### 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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## Right to Appeal

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

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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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**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>

39

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