

Information about filing a complaint with the U.S. Department of Justice, Civil Rights Division and the U.S. Department of Education, Office for Civil Rights

Overall Mission

- Civil Rights Division
 - Investigations
 - Out-of-court settlements
 - Litigation in federal courts
 - Collaboration with OCR and other agencies

- Office for Civil Rights
 - Complaint resolution
 - Compliance reviews
 - Policy guidance
 - Technical assistance
 - Inter-agency coordination

- Common Goals
 - Ensure that educational institutions meet their obligations to prevent and redress harassment and other discrimination in schools in accordance with federal civil rights law
 - Support schools' efforts to promote respect, tolerance, and appreciation of diversity
 - Increase safety
 - Help students stay in school
 - Collaborate with other agencies, schools, and state and local officials to prevent harassment

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Civil Rights Division's Enforcement Authority

- Federal laws enforced by the Civil Rights Division's Educational Opportunities Section prohibit discrimination, including harassment, in education programs and activities based on:
 - Race, color, or national origin
 - Sex
 - Religion
 - Disability

- Examples
 - Race, National Origin, and Religion
 - Race & National Origin Harassment
 - Asian-American students are hit and called names if they attempt to use certain hallways in their high school. They are forced to walk around the building to get to their classrooms. When they report the problem to the school, they are simply told to avoid the hallways where the harassment occurred.

 - Religious Discrimination
 - A Muslim student wears her hijab to school. School officials inform her that she cannot wear a hijab because of the "no hats" policy, but the school district has allowed other exceptions for secular purposes. When the student refuses to remove her hijab, she is suspended.

 - English Language Learners (ELL)
 - A principal states that he does not understand the need for ELL services. He takes steps to push ELL students out of school, including failing to provide sufficient services for ELL students.

 - Sex and Gender Discrimination
 - A high school student is called names and otherwise harassed because of his failure to conform to conventional male stereotypes. School officials do not take sufficient actions to end the harassment.

 - Disability Discrimination
 - Students with disabilities are sexually harassed by other students on a school bus. District officials are notified of the harassment, but fail to take action to stop it, and the problem persists.

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Complaint Process Overview

- We do not have a complaint form
- We do not investigate all complaints
- We do not have a time limit to file

Who may file a complaint with the Civil Rights Division?

- Anyone with information about possible unlawful discrimination in schools, colleges or universities, including:
 - Students
 - Parents
 - Community Members
 - Organizations
 - Interested Individuals

How do I submit a complaint to the Civil Rights Division?

- The Educational Opportunities Section accepts complaints of potential violations:
 - By e-mail to education@usdoj.gov
 - By telephone at (202) 514-4092 or 1-877-292-3804 (toll-free)
 - By facsimile at (202) 514-8337
 - By letter to the following address:
 - **U.S. Department of Justice Civil Rights Division**
950 Pennsylvania Avenue, N.W.
Educational Opportunities Section, PHB
Washington, D.C. 20530

What information should the complaint include?

We look for the following information:

- Contact Information
 - Your full name
 - Address
 - Telephone number
 - E-mail address
 - Name of the individual(s) discriminated against or harassed (if known)
- Description of the Incident
 - A description, of the incident and/or context of the harassment or discrimination, including:
 - who was involved,
 - when and where the incident occurred,
 - the name and location of the school,
 - whether notice of the incident was given to the school, and what the school's response was, if any; and
- Other Information
 - Other information that you believe can support your complaint, including copies of relevant documents

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The Complaint Process

- **We will review your complaint**
 - Our plan of action may include:
 - Contacting you for additional information;
 - Opening an investigation;
 - Referring your complaint to another federal agency.

- We cannot open every complaint for investigation or litigation. If we cannot investigate your complaint, we will notify you that it will not be investigated.

- **If your complaint is opened for investigation**
 - An attorney or staff member will contact you to obtain additional information.
 - If we believe the complaint raises an issue of general public importance, we may attempt to negotiate a formal settlement of the matter, or we may file a lawsuit in federal court.
 - Any such action would be taken on behalf of the United States.
 - If we decide your complaint is appropriate for referral to another federal agency, we will notify you of this decision.

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Overview of the Office for Civil Rights (OCR)'s Jurisdiction

- **What laws does OCR enforce?**
 - Federal laws enforced by OCR prohibit discrimination, including harassment, in education programs and activities based on:
 - Race, color, or national origin
 - Sex
 - Age
 - Disability
 - Discrimination against certain patriotic youth groups that wish to meet at public schools

- Examples of prohibited discrimination under Title VI may include...
 - Disciplining students differently on the basis of race, color or national origin
 - Assigning a student to an educational program or class on the basis of the student's race
 - Providing inadequate educational resources to limited English proficient students
 - Harassment on the basis of race, color, or national origin

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The same race and national origin discrimination examples provided by Civil Rights Division are also covered under OCR's jurisdiction

- Race & National Origin Harassment:
 - Unwelcome conduct based on race, color, or national origin
 - Examples may include:
 - Racial slurs
 - Taunts and insults
 - Jokes
 - Demeaning or stereotyping comments
 - Cartoons or pictures
 - Threatening words and acts

- Examples of prohibited discrimination under both Section 504 and Title II may include:
 - Failure to provide a free appropriate public education to an elementary or secondary student with a disability
 - Failure to provide appropriate academic adjustments to a qualified college student with a disability
 - Denying the benefits of a program or activity because a school's facilities are inaccessible
 - The same disability discrimination examples provided by Civil Rights Division are also covered under OCR's jurisdiction

- Examples of prohibited discrimination under Title IX may include:
 - Discrimination on the basis of sex in providing opportunities to participate in interscholastic or intercollegiate athletics
 - Sexual harassment or gender-based harassment
 - Discrimination on the basis of sex in academic counseling and advice
 - The same examples of sex discrimination provided by Civil Rights Division are also covered under OCR's jurisdiction

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Who can File a Discrimination Complaint with OCR?

- *Anyone* who believes that an educational institution has discriminated against someone on the basis of race, color, national origin, sex, disability or age, or has violated the Boy Scouts of America Equal Access Act.
- Any person or organization may file a complaint on behalf of another person or group.

What information should I include in my complaint?

- **Name, address** and, if possible, a telephone number;
- **Information about the person(s) or class of persons injured** by the alleged discriminatory act(s) (names of the injured person(s) are not required);
- The **name and location of the institution** that committed the alleged discriminatory act(s); and
- A **description of the alleged discriminatory act(s)** in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, color, national origin, sex, disability, age or the *Boy Scouts of America Equal Access Act*).

How do I file a complaint?

- E-mail: Complainants may file a complaint using the following e-mail address: ocr@ed.gov.
- Online: Complainants may file a complaint with OCR using OCR's electronic complaint form at the following website: <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>.
- By mail or facsimile to the designated OCR enforcement office for your region. The contact information for OCR's twelve offices is listed at the following website: <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>

When should I file a complaint?

- A complaint must generally be filed within 180 calendar days of the date of the alleged discrimination, unless the time for filing is extended by OCR for good cause shown under certain circumstances.

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OCR: The Complaint Process

- **What happens after OCR receives my complaint?**
 - We will review your complaint and inform you of our plan of action, which may include:
 - Contacting you for additional information or copies of relevant documents;
 - Investigating your complaint; or
 - Referring your complaint to another federal agency with responsibility for the types of issues you have raised.
- If your complaint is opened for investigation, an attorney or investigator will be assigned and will contact you to obtain additional information
- OCR staff will keep you updated about its investigation and the opportunity to resolve the complaint through early complaint resolution (ECR)
- OCR investigates complaints in a timely manner
- At the conclusion of the investigation, OCR will provide you with its written findings

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Differences between Civil Rights Division and OCR Enforcement

- OCR and the Civil Rights Division have authority to look at many of the same complaints.
 - However, there are some differences between OCR and the Civil Rights Division, including the types of complaints that they can investigate.
 - Here are the three main differences:
 - *Religious Discrimination*
 - *Disability Discrimination*
 - *Enforcement Tools*
1. Differences between the Civil Rights Division and OCR: Religious Discrimination
 - The Civil Rights Division enforces Title IV, which prohibits discrimination and harassment based on religion
 - OCR enforces Title VI, which prohibits discrimination and harassment against students who are members of a religious group based on:
 - the group's shared ancestry or ethnic characteristics or
 - citizenship or residency in a country whose residents share a dominant religion or a distinct religious identity.
 2. Differences between the Civil Rights Division and OCR: Disability Discrimination
 - Both agencies enforce the ADA, and have authority to investigate complaints of disability discrimination against public educational institutions and educational institutions that receive federal financial assistance. However, the Civil Rights Division also has authority to investigate disability discrimination allegations in private elementary and secondary schools that do not receive federal financial assistance.
 - OCR also enforces two federal statutes that prohibit disability discrimination (the ADA and Section 504 of the Rehabilitation Act).
 3. Differences between the Civil Rights Division and OCR: Enforcement Tools
 - While both agencies work to ensure equal access to educational opportunities through the vigorous enforcement of civil rights laws, the enforcement mechanisms differ.
 - OCR engages in complaint resolution, compliance reviews, directed investigations, enforcement actions, and technical assistance.
 - The Civil Rights Division engages in selective investigation of complaints, out-of-court settlements, and litigation in federal court.

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Should I file a discrimination complaint with OCR or the Civil Rights Division?

- There are some areas, as we discussed, where OCR and the Civil Rights Division have different enforcement authority, while there are other areas where either agencies may investigate a complaint.

- Here are some factors to consider in deciding where to file:
 - Type of discrimination (e.g. religion, disability)
 - Type of education institution (e.g. public or private)
 - When discrimination occurred
 - Desired resolution and timeframe