

Disability Rights Nebraska

Protection and Advocacy for People with Disabilities

How to File a Complaint with the Federal Department of Education Office for Civil Rights

This is an informal guide to provide general information regarding how to file a complaint with the U.S. Department of Education Office for Civil Rights (OCR). The OCR can investigate and enforce federal civil rights laws that prohibit discrimination based on disability.

Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act prohibit discrimination against individuals with disabilities, and both of these laws apply to public schools¹.

You may wish to file a complaint if you feel that the school district has discriminated against your child based on his or her disability.

Do I have to file a complaint by a certain time?

Yes. A complaint must be filed with OCR **within one-hundred and eighty (180) calendar days** of the last date your child was discriminated against². After you file a complaint, the OCR will investigate and make a final decision. If the complaint is found to be justified, the OCR will tell the school district what actions they must follow to correct the situation.

What happens after I file my complaint?

The OCR will let you know that they received your complaint. The OCR will then contact you to let you know if it will investigate your complaint³.

¹ U.S. Department of Education, Office for Civil Rights, "How to File a Discrimination Complaint with the Office for Civil Rights"

² U.S. Department of Education, Office for Civil Rights, Case Processing Manual, sec. 106 (November 2018)

³ U.S. Department of Education, Office for Civil Rights, Case Processing Manual, sec. 104 (November 2018)

What if I already filed a complaint with the Nebraska Department of Education?

- The OCR does not investigate complaints that you already filed with the Nebraska Department of Education and that are currently under investigation. If you have already filed with the Nebraska Department of Education and the process is complete, you have **60 days** to file your complaint with the OCR⁴.
- The OCR will investigate complaints that are different from any complaints you already filed with the Nebraska Department of Education. However, you should make sure that the issue(s) you are now filing are different and point out the differences in your complaint⁵.

What if I do not agree with OCR's final decision?

You have a right to appeal certain OCR determinations that are not made in your favor⁶.

How do I file a complaint?

The procedures for the complaint can be found at the Department of Education Office for Civil Rights website at <http://www.ed.gov/about/offices/list/ocr/complaintprocess.html>. The website includes information about the rights of your child with a disability as well as questions and answers on the OCR's complaint procedures and an electronic complaint form. To request any information about your rights, you can call the Office for Civil Rights Hotline at 1-800-421-3481.

This guide is being provided for general assistance in drafting and filing your complaint. It is not intended to be all inclusive. If you have questions or concerns that are not answered here, please do not hesitate to contact our office.

Remember that a complaint must be filed with the OCR within 180 calendar days of the date of the alleged discrimination. To file a formal complaint with the OCR you have four options to complete a complaint form:

- You can file a complaint online through OCR's electronic complaint form, available at <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>

⁴ U.S. Department of Education, Office for Civil Rights, Case Processing Manual, sec. 107(c) (November 2018)

⁵ U.S. Department of Education, Office for Civil Rights, Case Processing Manual, sec. 108(h) (November 2018)

⁶ U.S. Department of Education, Office for Civil Rights, Case Processing Manual, sec. 307 (November 2018)

You may be able to access the internet for free at your public library.

- You can email the OCR Discrimination Complaint form or a letter that you write and sign to ocr@ed.gov

The Discrimination Complaint Form is available at <https://www2.ed.gov/about/offices/list/ocr/complaintform.pdf>

- You can fax the OCR Discrimination Complaint form or a letter that you write and sign to the fax number 816-268-0559.
- You can use the attached “Discrimination Complaint Form” or request that this form be sent to you by contacting the Kansas City Office (see contact information below). Even if you wish to submit a letter, you should use the form as a guide of what information should be included in the complaint letter and attach the letter to the form. Once you complete the form, address it to:

Office for Civil Rights, Kansas City Office
U.S. Department of Education
One Petticoat Lane
1010 Walnut Street, Suite 320
Kansas City, MO 64106
(816) 268-0550 / TDD: (800) 877-8339
Fax: (816) 268-0559

Your complaint must include the following:

- Your name and contact information.
- The name and contact information of the person who was discriminated against.
- The name and contact information for the school district that is responsible for your child’s special education services including the name, address, and school of your child, if that is the institution that discriminated against your child.
- A statement that the events constitute discrimination against your child based on his or her disability.

- A detailed explanation of the specific facts that give rise to you filing the complaint. When possible, give specific dates and names of persons involved in the events you describe. Include the names of any witnesses.
- A statement of the most recent date of discrimination.
- An explanation that you are requesting a waiver of the 180-day filing requirement if 180 days have passed since the most recent date of discrimination. Explain why you waited to file your complaint.
- An explanation of all attempts you have made to resolve the matter. Give specific dates and names of persons involved. Include what the school's response has been to these attempts, and point out that the problems have continued.
- An explanation of any other complaints you have made about these same allegations with any other federal, state, or local civil rights agency, or any federal state court.
- A copy of your child's Individual Education Program (IEP) documentation. You may also wish to include any copies of other documentation that supports your claim. This may include: correspondence to or from school personnel, Student Assistance Team (SAT) documents, Multi-Disciplinary Team (MDT) evaluation reports, or disciplinary documents or reports. These supporting documents are not required, but may be helpful.
- Your address, phone number, and signature. If you file your complaint online, you will still need to send an original signature by mail. You can print and mail the "Consent Form" found at the OCR website at <http://www.ed.gov/about/offices/list/ocr/edlite-consentform.html>

The OCR will contact you with instructions for sending any additional information it may need for its investigation.

Additional resources:

- How to File a Discrimination Complaint with the Office for Civil Rights - U.S. Department of Education (Updated 2018).

- U.S. Department of Education, Office for Civil Rights, Case Processing Manual (2018)
- Discrimination Complaint Form - U.S. Department of Education, Office for Civil Rights (Updated 2014).

Sample Letter

You may wish to use similar language when sending a complaint to the Federal Department of Education Office for Civil Rights:

Office for Civil Rights, Kansas City Office
U.S. Department of Education
One Petticoat Lane
1010 Walnut Street, Suite 320
Kansas City, MO 64106
(816) 268-0550 / TDD: (800) 877-8339
Fax: (816) 268-0559

Re: [Your child's name] – Formal Complaint to the Federal Department of Education Office for Civil Rights

Dear Office for Civil Rights Enforcement Officer:

This is a formal complaint regarding discrimination against my child, [insert your child's name]. The [insert the school district's name and address] School District has discriminated against my child on the basis of [his or her] disability. The most recent date of this discrimination was [insert the date of the most recent discrimination].

For example, on this date [insert date of discrimination that gives rise to filing of the complaint], this incident occurred [insert discriminatory incident and facts that gives rise to filing of the discrimination complaint. Also include the names of any persons involved]. I have attempted to resolve the matter informally on these dates [insert dates] by [insert your actions; for example, contacting and meeting with the school principal]. The school has responded by [insert what the school told you they would do or not do to resolve the matter]. However, the problems have continued and are ongoing.

I look forward to your response in resolving this matter promptly. You can contact me at home and/or at work [insert your home and/or work phone numbers and addresses].

Sincerely,
[Your signature]

[Your Name]
[Your Address]
[Your City, State, Zip]
[Your Phone Number]

**US DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS (OCR)**

DISCRIMINATION COMPLAINT FORM

1. Name of person filing this complaint:
NAME (Mr./Ms.): _____
STREET ADDRESS: _____
CITY AND STATE: _____ ZIP CODE: _____
PHONE NUMBER (AREA CODE):
Home _____
Work _____
E-mail address _____

2. Name of person discriminated against (if other than person filing). If the person discriminated against is age 18 or older, we will need that person's signature on this complaint form and the consent/release form before we can proceed with this complaint. If the person is a minor, and you do not have the legal authority to file a complaint on the student's behalf, the signature of the child's parent or legal guardian is required.

If someone other than yourself, please provide:
NAME (Mr./Ms.): _____
STREET ADDRESS: _____
CITY AND STATE: _____ ZIP CODE: _____
PHONE NUMBER (AREA CODE):
Home _____
Work _____
E-mail address _____

3. OCR investigates discrimination complaints against institutions and agencies which receive funds from the U.S. Department of Education and against public educational entities and libraries that are subject to the provisions of Title II of the Americans with Disabilities Act. Please identify the institution or agency that engaged in the alleged discrimination. If we cannot accept your complaint, we will attempt to refer it to the appropriate agency and will notify you of that fact.
NAME OF INSTITUTION: _____
STREET ADDRESS: _____
CITY AND STATE: _____ ZIP CODE: _____
PHONE NUMBER (AREA CODE): _____
DEPARTMENT/SCHOOL: _____

4. The regulations OCR enforces prohibit discrimination on the basis of race, color, national origin, sex, disability, age or retaliation. Please indicate the basis of your complaint:

Discrimination based on race (specify)

Discrimination based on color (specify)

Discrimination based on national origin (specify)

Discrimination based on sex (specify)

Discrimination based on disability (specify)

Retaliation because you filed a complaint or asserted your rights (specify)

Violation of the Boy Scouts of America Equal Access Act (specify)

5. Please describe each alleged discriminatory act. For each action, please include the date(s) the discriminatory act occurred, the name(s) of each person(s) involved and, why you believe the discrimination was because of race, disability, age, sex, etc. Also please provide the names of any person(s) who was present and witnessed the act(s) of discrimination.

6. What is the most recent date you were discriminated against?
Date:

7. If this date is more than 180 days ago, you may request a waiver of the filing requirement.

I am requesting a waiver of the 180-day time frame for filing this complaint.

Please explain why you waited until now to file your complaint.

8. Have you attempted to resolve these allegations with the institution through an internal grievance procedure, appeal or due process hearing?

If you answered yes, please describe the allegations in your grievance or hearing, identify the date you filed it, and tell us the status. If possible, please provide us with a copy of your grievance or appeal or due process request and, if completed, the decision in the matter.

9. If the allegations contained in this complaint have been filed with any other federal, state or local civil rights agency, or any federal or state court, please give details and dates. We will determine whether it is appropriate to investigate your complaint based upon the specific allegations of your complaint and the actions taken by the other agency or court.

Agency or
Court: _____
Date filed: _____
Case number or reference: _____
Results of Investigation/Findings by Agency or Court: _____

SIGNATURE

DATE

United States Department of Education
Office for Civil Rights

Consent Form for use of Personal Information-Complainant

Your Name (print or type): _____

Name of School or Other Institution That You Have Filed This Complaint Against:

This form asks whether the Office for Civil Rights (OCR) may share your name and other personal information when OCR decides that doing so will assist in investigating and resolving your complaint.

- For example, to decide whether a school discriminated against a person, OCR often needs to reveal that person's name and other personal information to employees at that school to verify facts or get additional information. When OCR does that, OCR informs the employees that all forms of retaliation against that person and other individuals associated with the person are prohibited. OCR may also reveal the person's name and personal information during interviews with witnesses and consultations with experts.
- If OCR is not allowed to reveal your name or personal information as described above, OCR may decide to close your complaint if OCR determines it is necessary to disclose your name or personal information in order to resolve whether the school discriminated against you.

NOTE: If you file a complaint with OCR, OCR can release certain information about your complaint to the press or general public, including the name of the school or institution; the date your complaint was filed; the type of discrimination included in your complaint; the date your complaint was resolved, dismissed or closed; the basic reasons for OCR's decision; or other related information. Any information OCR releases to the press or general public will not include your name or the name of the person on whose behalf you filed the complaint.

NOTE: OCR requires you to respond to its requests for information. Failure to cooperate with OCR's investigation and resolution activities could result in the closure of your complaint.

Please sign section A or section B (but not both) and return to OCR:

- If you filed the complaint on behalf of yourself, you should sign this form.

- If you filed the complaint on behalf of another specific person, that other person should sign this form.

EXCEPTION: If the complaint was filed on behalf of a specific person who is younger than 18 years old or a legally incompetent adult, this form must be signed by the parent or legal guardian of that person.

- If you filed the complaint on behalf of a class of people, rather than any specific person, you should sign the form.

A. I give OCR my consent to reveal my identity (and that of my minor child/ward on whose behalf the complaint is filed) to others to further OCR's investigation and enforcement activities.

Sign:

Date:

OR

B. I do not give OCR my consent to reveal my identity (and that of my minor child/ward on whose behalf the complaint is filed) to others. I understand that OCR may have to close my complaint.

Sign:

Date: