

Disability Rights Nebraska

Protection and Advocacy for People with Disabilities

This is basic information and does not constitute legal advice.

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 Federal Department of Education Office for Civil Rights (OCR). The OCR can investigate and enforce federal civil rights laws that prohibit discrimination based on disability.

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 date your child was discriminated against. 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 within seven (7) days. The OCR will then contact you within thirty (30) days to let you know if it will investigate your complaint.

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. 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 OCR.
- 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 complaint.

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

You have a right to file a civil action in federal court at any time. If you file a civil action, OCR will stop investigating your complaint.

How do I file a complaint?

The procedures for the complaint can be found at the Department of Education Office for Civil Rights web site at <http://www.ed.gov/about/offices/list/ocr/complaintprocess.html>. The web site 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 two options to complete a complaint form:

- 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
8930 Ward Parkway, Suite 2037
Kansas City, MO 64114-3302
(816) 268-0550 / TDD: (877) 521-2172
Fax: (816) 823-1404

- You may also file your complaint online at <http://www.ed.gov/ocr/complaintprocess.html>. You may be able to access the Internet for free at your local public library.

Your complaint should include the following:

- The school district that is responsible for your child's special education services including the name, address, and school of your child.

- 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.
- 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.
- Describe, specifically, how the ongoing problems are discriminatory and based on your child's disability.
- 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.
- 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:

- Office for Civil Right's Complaint Resolution Procedures. U.S. Department of Education (2006).
- Questions and Answers on Office for Civil Right's Complaint Process. U.S. Department of Education (2006).
- Discrimination Complaint Form. U.S. Department of Education Office for Civil Rights (2006).
- Rule 51 Regulations and Standards for Special Education Programs. Nebraska Department of Education (May 2010).
- Parental Rights in Special Education. Nebraska Department of Education Special Populations Office (August 2005).

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
8930 Ward Parkway, Suite 2037
Kansas City, MO 64114-3302
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Fax: (816) 823-1404

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 the denial of Special Education Services to my child, [insert your child's name]. The [insert the school district's name and address] School District has not provided the services for which they are responsible and in doing so, they have violated my [son's or daughter's] rights based on [his or her] disability.

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 (Mr./Ms.): _____
STREET ADDRESS: _____
CITY AND STATE: _____ ZIP CODE _____
PHONE NUMBER (AREA CODE): Home _____
Work _____
E-mail address _____

In the event this Office is unable to locate you to discuss this complaint, the following person will know where to contact you?

NAME (Mr./Ms.): _____
STREET ADDRESS: _____
CITY AND STATE: _____ ZIP CODE _____
PHONE NUMBER (AREA CODE): Home _____
Work _____
RELATIONSHIP TO YOU _____

2. Who was discriminated against? _____
Yourself?
Someone else? _____

Please circle the appropriate basis of the alleged discrimination.

Race or Color Disability Sex Age National Origin
Boys Scouts Equal Access Act
Retaliation because you filed a complaint or asserted your rights

If someone other than yourself, please provide:

NAME (Mr./Ms.): _____
STREET ADDRESS: _____
CITY AND STATE: _____ ZIP CODE _____
PHONE NUMBER (AREA CODE): Home _____
Work _____

If the injured party is 18 or older, we will need that person's signature before we can proceed with this complaint. If this person is a minor, and you do not have legal authority to file a complaint on the person's behalf, we will need the signature of the child's parent or legal guardian.

- I If this complaint is based upon disability, please identify disability: _____

If the complaint is based on age, please write your age and the age of the injured party.

If you feel that the discrimination was on more than one basis (for instance, disability and sex), this Office will need to know why you believe you or the injured party was treated differently on each basis.

3. Who do you allege discriminated against you or the injured party? Give the name of the institution (OCR's laws cover educational institutions such as school districts, colleges and universities, public libraries and state vocational rehabilitation agencies).

NAME (Mr./Ms.): _____
STREET ADDRESS: _____
CITY AND STATE: _____ ZIP CODE _____
PHONE NUMBER (AREA CODE): _____
ORGANIZATIONAL UNIT: _____

4. Have you filed this complaint with any other Federal, State, or Local Agency or any Federal or State Court or administrative tribunal?

YES NO

If yes, when was the complaint filed and with what agency, court, or administrative tribunal (include the address)? What are the issues of the complaint and what is the current status of the complaint?

If no, do you intend to file with another agency, court, or administrative tribunal?

YES NO

What agency, court, or administrative tribunal (include the address) and when?

EARLY COMPLAINT RESOLUTION PROCESS (ECR)

OCR has an ECR procedure in which OCR attempts to help the complainant and the institution to voluntarily resolve the issues of the complaint without an OCR investigation. OCR does not use ECR if class issues or systemic discrimination are alleged. In addition, both the complainant and the institution must voluntarily want to participate in the ECR process. The complainant, the institution, or OCR may end the ECR process if it appears that an agreement cannot be reached. If this happens, OCR will investigate the complaint. One of the primary benefits of the ECR process is that it may be possible to resolve your complaint quickly, without the need for an investigation. If OCR believes that ECR of your complaint is appropriate, are you interested in having OCR attempt to resolve your complaint through the ECR process?

Yes No

United States Department of Education
Office for Civil Rights

Consent Form for use of Personal Information-Complainant

Complainant's Name (print or type): _

Institution Against Which Complaint Filed: _____

Please sign and date section A or section B:

- A. I understand that in the course of its investigation or for enforcement activities, OCR may find it necessary to reveal my identity (and/or the identity of my minor children on whose behalf the complaint is filed) to persons at the institution under investigation. I hereby give OCR my consent to such release as necessary for OCR's investigation and enforcement activities. I have read about investigatory uses of personal information in the OCR document "Information about OCR's Complaint Resolution Procedure," which explains OCR's use of personal information. I understand that the Privacy Act of 1974, 5 U.S.C. § 552a, and the Freedom of Information Act (FOIA), 5 U.S.C. § 552, govern the use of personal information submitted to all Federal agencies and their individual components, including OCR. I also assure OCR that I will cooperate with OCR's investigation and complaint resolution activities undertaken on my behalf.

SIGNATURE

DATE

- B. I do not give OCR my consent to reveal my identity (and/or the identity of my minor children on whose behalf the complaint is filed) to persons at the institution under investigation. I have read about investigatory uses of personal information in the OCR document "Information about OCR's Complaint Resolution Procedure," which explains OCR's use of personal information. I understand that OCR may have to close this complaint if OCR is unable to proceed with an investigation without releasing my identity (and/or the identity of my minor children on whose behalf the complaint is filed). I understand that the Privacy Act of 1974, 5 U.S.C. § 552a, and the Freedom of Information Act (FOIA), 5 U.S.C. § 552, govern the use of personal information submitted to all Federal agencies and their individual components, including OCR. I assure OCR that I will cooperate with OCR's investigation and complaint resolution activities undertaken on my behalf.

SIGNATURE

DATE