

U.S. Department of Education



Office for Civil Rights (OCR)

OCR's Case Resolution Tools

What to Expect when OCR Comes Knocking

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OCR's Mission

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

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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)
- ✓ 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

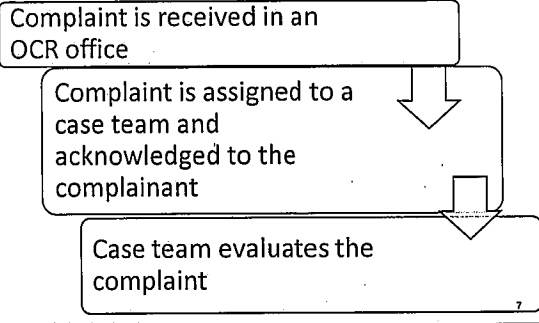
- ✓ Complaints
- ✓ Compliance reviews
- ✓ Technical assistance
- ✓ Policy Guidance

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Complaint evaluation

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What happens initially when OCR receives a complaint?



OCR evaluates complaints for the following:

- ✓ Do we 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....

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

Complaint resolution tools

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

Early Complaint Resolution (ECR)

What Is It?

- ✓ A form of Alternative Dispute Resolution facilitated by OCR
- ✓ 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

What is expected of the parties in ECR?

- ✓ To participate in good faith
- ✓ To consider offers or suggestions with an open mind
- ✓ To work constructively toward a mutually acceptable resolution
- ✓ To implement any agreement in good faith

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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
- ✓ To offer assistance, as appropriate, with regard to drafting and typing/writing the agreement
- ✓ OCR does not monitor agreements reached by the parties in ECR

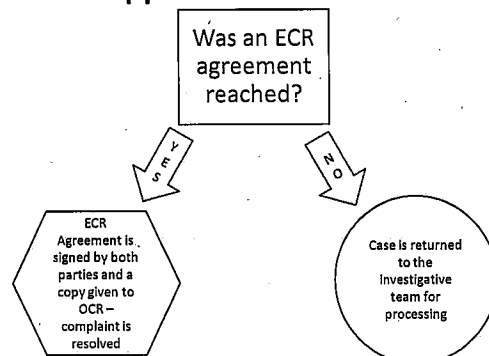
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Benefits of ECR

- ✓ Early and Efficient
- ✓ Economical
- ✓ Educational

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What happens at the end of 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 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
- ✓ 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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Benefits of agreements reached prior to conclusion of investigation

- ✓ Educational
- ✓ Efficient
- ✓ Cost Effective

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What are key features of the two resolution options?

ECR Agreement

- ✓ Agreement reached between the complainant and the recipient
- ✓ Complainant is an active participant in developing and approving the agreement
- ✓ OCR facilitates the ECR process
- ✓ OCR is not a party to the agreement
- ✓ OCR does not monitor ECR agreements

Voluntary Resolution Agreement

- ✓ Recipient expresses an interest in resolving the complaint at any time before the conclusion of an investigation
- ✓ OCR develops the agreement; the complainant does not participate in developing and approving the agreement
- ✓ Agreement is aligned to the allegations in the complaint or the information obtained during the investigation
- ✓ Provides remedies that are consistent with applicable regulations
- ✓ OCR monitors the implementation of the agreement

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 that:
 - ✓ 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)
- ✓ The agreement must be aligned with the issues investigated and be consistent with the applicable regulations
- ✓ OCR will monitor the resolution agreement to ensure that the recipient complies fully with all of its terms and will close the monitoring only when the recipient is in full compliance with the statute(s) and regulations at issue in the complaint
- ✓ If an agreement is not reached, OCR will proceed to enforcement, either through an administrative proceeding or through referral to the Department of Justice for judicial proceedings

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What happens if OCR determines 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
- ✓ Complainants may appeal findings of insufficient evidence
- ✓ If an appeal is filed, the recipient is typically not notified

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Summary of OCR's case resolution tools

- ✓ **ECR** – a form of alternative dispute resolution which enables both parties to quickly and efficiently address the complainant's concerns
- ✓ **Voluntary resolution** – allows the recipient to express an interest in resolving the complaint issues before the conclusion of an investigation through a voluntary resolution agreement approved by OCR, signed by the recipient and monitored by OCR
- ✓ **Completed investigation** – findings issued and a resolution agreement obtained, if necessary

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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>

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