



Frequently Asked Privacy-Related Questions About Filing a Complaint with OCR

This resource is intended to respond to questions frequently raised to the U.S. Department of Education (Department), Office for Civil Rights (OCR) by individuals who file complaints and/or contact OCR for technical assistance. Some individuals who contact OCR to share information about alleged discrimination they face also express concern that if they file a complaint, circumstances at their school may become worse for them because they fear retaliation.¹ All of the civil rights laws enforced by OCR prohibit retaliation against individuals who submit a complaint of discrimination or participate in the investigation of complaints.² This resource provides helpful details about how information, including the identity of a complainant, will generally be used by OCR when OCR investigates a complaint. The resource does not address requirements regarding schools' use of student information. Additionally, the resource does not address other federal or state laws and regulations related to how schools treat student information, including in the context of civil rights complaints. Schools also might have their own policies on use of student information.

Question 1: Can I file a complaint anonymously?

Answer 1: Yes. Whether or not OCR will be able to evaluate and open an investigation of an anonymous complaint will depend on the context of the allegations within the complaint.³ In general, it may be possible for OCR to evaluate and open for an investigation allegations that are not specific to one or more identified individuals (for example, a teacher files a complaint alleging that their school's policies discriminate against English learners) if the allegations contain sufficient detail (such as who, what, when, where, or how). OCR will dismiss allegations when they lack sufficient detail for OCR to infer that discrimination may have occurred or is occurring.

OCR's [Case Processing Manual](#) indicates that OCR will dismiss allegations when they lack sufficient detail (i.e., who, what, where, when, or how) for OCR to infer that discrimination may have occurred or is occurring.

You can find more information about what OCR considers when evaluating a complaint in OCR's Case Processing Manual.

If a complaint is filed anonymously and includes allegations about discrimination against specific individuals, OCR needs a [consent form](#) signed by the individual who experienced the discrimination or their legal guardian if the individual is younger than 18 years old. Without this signed consent form, OCR may dismiss the complaint if OCR determines that it is necessary to disclose the identity of the specific individuals in order to resolve the allegations.

If a complaint is not about specific individuals, but instead alleges discrimination that affects a class of individuals (e.g., about a school's policies), a consent form is not required.

Question 2: Can someone (e.g., a lawyer or advocacy group) file a complaint on my behalf?

Answer 2: Yes, but if the complaint contains allegations about you, for OCR to evaluate and open the complaint for investigation, you need to provide a signed consent form to the person or group filing on your behalf to submit as part of the complaint. In the complaint, the organization or person who files on your behalf can specify what their relationship is with you—for example, if they represent you as an attorney. The person who files the complaint is generally considered the complainant for OCR’s purposes and is generally the person whom OCR would contact to discuss the complaint. However, if the third party (such as a lawyer, advocacy group, or community organization) is filing a complaint on your behalf challenging a policy of a school that affects a class of students, then you do not need to provide a signed consent form.

Question 3: Will OCR disclose my personally identifiable information externally?

Answer 3: OCR may receive personally identifiable information, including your name, in your complaint and in other records that are part of OCR’s investigation of your complaint. This information is analyzed by authorized OCR personnel and is generally used by OCR only for authorized civil rights compliance and enforcement activities. OCR generally does not disclose such information externally unless: (1) you, or a parent or guardian, have provided consent, and the disclosure is necessary for the completion of an investigation or in enforcement activities against a school or institution that related to allegations of noncompliance with laws that OCR enforces; or (2) required by law (e.g., due to an order of a court). Disclosure will only be made by OCR consistent with the Privacy Act of 1974,⁴ the Family Educational Rights and Privacy Act (FERPA),⁵ and the Freedom of Information Act (FOIA).⁶

You can find more information about the Privacy Act on the U.S. Department of Justice’s [Privacy Act website](#).

You can find more information about FOIA on the U.S. Department of Justice’s [FOIA.gov website](#).

Also, please know that all of the civil rights laws enforced by OCR prohibit schools from retaliating against individuals who submit a complaint of discrimination or participate in the investigation of complaints.

Question 4: After I file a complaint, does OCR represent my interests or those of the school?

Answer 4: OCR is a neutral factfinder. When conducting investigations and resolving complaints, OCR does not represent the complainant or the school that is the subject of OCR’s investigation. Additionally, OCR investigates the school, not any single individual.

For information on the obligations that schools have to protect the privacy of students’ education records under FERPA, please see the U.S. Department of Education’s [Student Privacy website](#).

Question 5: Can I withdraw my complaint?

Answer 5: You can request that OCR withdraw your complaint. If OCR receives a request to withdraw a complaint after OCR has opened an investigation, OCR will determine whether there are systemic issues that warrant continuing the investigation, even if the complaint is withdrawn. If OCR determines that the investigation should be continued, OCR would generally investigate the systemic issues, not the individual allegations concerning you.

More information about how OCR evaluates, opens, investigates, and resolves complaints can be found in OCR's [Case Processing Manual](#).

Question 6: Will my classmates know I filed a complaint?

Answer 6: OCR would not generally disclose that you filed a complaint or disclose your personally identifiable information, such as your name, to your classmates. OCR generally does not disclose the name or other personally identifiable information about an individual unless: (1) you, or a parent or legal guardian, have provided consent, and it is necessary for the completion of an investigation or in enforcement activities against a school or institution related to allegations of noncompliance with laws that OCR enforces (for example, OCR needs to interview a classmate about facts specific to your situation); or (2) required by law (e.g., due to an order of a court). Disclosure will only be made consistent with the Privacy Act, FERPA, and FOIA.

Question 7: Will the school know I filed a complaint against them?

Answer 7: If OCR opens a complaint for investigation, OCR notifies the school that it has opened an investigation and requests information from the school for OCR's investigation. If the complaint includes individual allegations concerning you, OCR may request information from the school relating to you for the investigation. OCR generally would not identify you to anyone outside of OCR during an investigation if the complaint allegations relate to another individual or relate only to systemic issues. Generally, OCR does not provide information about a complaint to a school unless that complaint is either opened for investigation, or OCR seeks to resolve the complaint through mediation or rapid resolution.⁷

Question 8: Who does OCR contact to conduct our investigation?

Answer 8: If OCR opens a complaint for investigation, OCR notifies the school that we have opened an investigation and begins requesting information from the school for OCR's investigation. In addition to requesting information, OCR often conducts interviews with school staff members (e.g., teachers, professors, and counselors), students, and others who may be able to share information relevant to the investigation.

To resolve your complaint, OCR may need to collect and analyze personal information such as student records or employment records. No law requires you to give personal information to OCR, and no sanctions will be imposed on complainants or other persons who do not cooperate

in providing information during the complaint resolution process. However, if OCR is unable to obtain information needed to resolve your complaint, we may have to close your complaint.

Question 9: Are there civil rights protections if people find out I filed a complaint?

Answer 9: In addition to prohibiting discrimination, each of the civil rights laws enforced by OCR prohibits schools from retaliating against individuals who submit a complaint of discrimination or participate in an investigation.

For more information on the prohibitions against retaliation, see OCR's [retaliation](#) website.

If you believe school staff or other representatives have retaliated against you after learning that you filed a complaint (e.g., a school disclosed information about you because you filed a complaint with OCR), you can file an additional complaint about that retaliation with OCR.

Question 10: Will my personally identifiable information be released in a resolution letter? Press release? Public documents?

Answer 10: OCR generally redacts personally identifiable information from any publicly released information about a complaint and would only provide such information to the extent permitted by the Privacy Act and FERPA.

Question 11: Will OCR share my personally identifiable information with other government agencies?

Answer 11: OCR would generally not disclose personally identifiable information to other federal, state, or local government agencies unless: (1) you have provided consent, and it is necessary for the completion of an investigation or in enforcement activities against a school or institution related to allegations of noncompliance with the laws and regulations OCR enforces; or (2) required by law (e.g., due to an order of a court). Disclosure will only be made as consistent with the Privacy Act, FERPA, and FOIA. The information OCR collects is analyzed by authorized personnel within OCR and is generally used by OCR only for authorized civil rights compliance and enforcement activities. In some contexts, where a complaint is filed with OCR, but another agency may have jurisdiction regarding the complaint, OCR may refer the complaint to that agency and notify the complainant.

Question 12: Can someone request information related to my complaint from OCR?

Answer 12: FOIA gives the public a right of access to records of federal agencies.⁸ If a FOIA request related to your complaint is filed, the request will be reviewed and assessed on a case-by-case basis. Generally, OCR is not required to release information, documents, or portions thereof, during the complaint process if the release could reasonably be expected to interfere with OCR's law enforcement activities.

OCR does not release documents, or portions thereof, if their release would or could result in an unwarranted invasion of privacy of an individual. *See* 5 U.S.C. § 552(b)(6) and (7)(C). Disclosure will be made consistent with the Privacy Act, FERPA, and FOIA. OCR will only reveal the name or personally identifiable information about an individual if such disclosure is consistent with the Privacy Act, FERPA, and FOIA.

You can find more information about FOIA on the U.S. Department of Justice's [FOIA.gov](https://www.foia.gov) website.

Question 13: What protections do I have regarding the release of my personally identifiable information in response to a FOIA or other request?

Answer 13: The Privacy Act establishes a code of fair information practices that governs the collection, maintenance, use, and dissemination of information about individuals that is maintained by federal agencies, including OCR.⁹ The Privacy Act is designed to foster a relationship of trust between an individual and an agency, by requiring that the agency's collection, use, and maintenance of records pertaining to individuals be compatible with the purposes for which the record was collected or created, or otherwise be expressly permitted under the Act.¹⁰

You can find more information about the Privacy Act on the U.S. Department of Justice's [Privacy Act website](https://www.privacyact.gov).

Generally, the Privacy Act requires agencies to obtain prior written consent to disclose records and records may be disclosed without prior written consent only under certain conditions, such as if required by FOIA, a law enforcement request under specified conditions, or an order of a court.¹¹

Question 14: Where can I learn more about filing a complaint with OCR?

Answer 14: You can contact the OCR regional enforcement office serving your area, by phone or email, to request technical assistance about the laws OCR enforces and about OCR's complaint process. You can find contact information for local OCR regional offices on OCR's [Contact OCR](https://www.ocr.gov) website.

OCR has 12 enforcement offices across the U.S. covering the states and territories listed below:

- Boston, MA (MA, ME, VT, NH, RI, CT),
- New York, NY (NY, NJ, Puerto Rico, U.S. Virgin Islands),
- Philadelphia, PA (PA, DE, MD, WV, KY),
- Washington, DC (DC, VA, NC, SC),
- Atlanta, GA (GA, TN, AL, FL),
- Dallas, TX (TX, LA, MS),
- Chicago, IL (IL, IN, IA, WI, MN, ND),
- Cleveland, OH (OH, MI),
- Kansas City, MO (MO, SD, NE, KS, OK, AR),

- Denver, CO (CO, WY, UT, AZ, NM),
- San Francisco, CA (CA),
- Seattle, WA (WA, OR, ID, MT, NV, AK, HI, American Samoa, Guam, Northern Mariana Islands).

Anyone who believes that a school has engaged in discrimination may file a complaint with OCR. Information about filing a complaint with OCR, including a link to the online complaint form, is available at [File a Complaint: Discrimination Form](#) on the OCR website.

Endnotes

¹ OCR is responsible for determining whether entities that receive federal financial assistance from the U.S. Department of Education comply with Title VI of the Civil Rights Act of 1964, which prohibits race, color, or national origin discrimination; Title IX of the Education Amendments of 1972, which prohibits sex discrimination; Section 504 of the Rehabilitation Act of 1973, which prohibits disability discrimination; and the Age Discrimination Act of 1975, which prohibits age discrimination. OCR and the U.S. Department of Justice share in the enforcement of Title II of the Americans with Disabilities Act of 1990 in public elementary and secondary education systems and institutions, public institutions of higher education, vocational education (other than schools of medicine, dentistry, nursing, and other health-related schools), and public libraries. Throughout this resource, “school” is used generally to refer to recipients of federal financial assistance and public entities.

² For more information about retaliation, please see OCR’s [Retaliation](#) webpage.

³ OCR’s [Case Processing Manual](#) describes OCR’s procedures for promptly and effectively investigating and resolving complaints, compliance reviews, and directed investigations to ensure compliance with the civil rights laws OCR enforces.

⁴ See 5 U.S.C. 552a(b); U.S. Department of Education, Office for Civil Rights, Complaint Files and Log (18-08-01) (83 FR 12571 (Mar. 22, 2018)).

⁵ 20 U.S.C. § 1232g; 34 CFR Part 99.

⁶ 5 U.S.C. § 552; 34 CFR Part 5.

⁷ OCR’s [Case Processing Manual](#) provides additional information about OCR’s mediation and rapid resolution processes.

⁸ *Supra* Note 7.

⁹ See 5 U.S.C. § 552a.

¹⁰ U.S. Department of Justice, Office of Information Policy, “[OIP Guidance: The Interface Between the FOIA and Privacy Act.](#)” For more information about the interplay between FOIA and the Privacy Act, please see this [resource](#).

¹¹ 5 U.S.C. § 552a(b)(2), (b)(3), (b)(7), and (b)(11).