

the basics

OF THE U.S. DEPARTMENT OF EDUCATION OCR COMPLAINT PROCESS

What is OCR? The Office for Civil Rights at the U.S. Department of Education enforces Title IX. Title IX bans sex discrimination in schools that get federal funds. This includes discrimination based on pregnancy and related conditions. OCR also enforces civil rights laws that ban discrimination based on race, color, national origin, disability, and age. OCR handles complaints on behalf of people or groups. They investigate colleges that get federal financial aid to make sure the school complies with civil rights laws. OCR also provides training and guidance to schools to help them understand their legal duty to stop and fix discrimination in their programs and activities.

Who can file a complaint with OCR?

Anyone who thinks a school has discriminated against someone on the basis of sex can file an OCR complaint. You don't have to be a victim of the discrimination. Your parents may file on your behalf. You may file on behalf of a friend. Or a professor may file on behalf of a student.

Don't Delay! You must file a complaint within 180 days of the date of the discrimination at issue. In other words, you have less than six months to file an OCR complaint. If you are filing your complaint outside of this time frame, you can ask to waive the 180-day limit. If you ask for a waiver, you must explain why you did not file the complaint within the deadline. Waivers are not often granted, so it's important to file your complaint as soon as you can. However, if your complaint deadline has passed, it is still worth trying to get a waiver.

- If the discrimination is ongoing, you only need to file within 180 days of the *most recent* offensive act. The complaint can include earlier incidents, too. An example of ongoing discrimination is if the school has an official policy that violates Title IX.
- If you used your school's internal grievance procedure and it took longer than 180 days, you will have a strong case for a waiver from OCR.



Confidentiality. OCR will not reveal your identity without your consent, unless it is necessary to complete an investigation, or unless federal law requires it.¹ OCR may ask for some personal info, like student records, to investigate your complaint. You have the right *not* share this info. However, if OCR can't investigate your complaint without this info, they may close your complaint.

By law, you are protected against retaliation. Title IX gives you a right to speak out against sex discrimination. Making a report to a school official or filing an OCR complaint are both protected actions under Title IX. It is against the law to retaliate against someone for exercising their Title IX rights. Anyone who speaks up about discrimination is protected from retaliation, even if they only witnessed discrimination but were not the victim.

- **Retaliation** is any bad action taken against you for asserting your rights. For example, if your professor docks your grade in class because you filed a complaint, that is retaliation.

What about filing a lawsuit? You do not need to file an OCR complaint before you file a lawsuit under Title IX. However, OCR is not likely to proceed with your complaint if you have a lawsuit pending or resolved in court. You should think carefully about whether to file an OCR complaint before filing a lawsuit. If you are thinking about filing a lawsuit, talk to a lawyer.

- Note: there are different time limits for filing an OCR complaint and a federal lawsuit. Filing a complaint with OCR will not stop the clock from running on your time to file a lawsuit, or vice versa.

Other Considerations. OCR may dismiss your complaint if you have a pending or resolved complaint with another federal, state, or local civil rights agency. OCR dismisses these cases if they think the other agency will reach a similar conclusion using similar legal standards.

- Your state may have other laws that apply to your situation. Sometimes state laws hold schools to a higher standard than Title IX. If this is the case for your state, it may make sense to pursue your complaint with a state civil rights agency.

The process takes time. Although OCR tries to investigate complaints quickly, the process will usually take some time. We've included in this toolkit information that will help you raise—and hopefully solve—the issue with your university. This is usually the quickest way to stop the discrimination and ensure that you have the opportunities you deserve. But even if an OCR resolution comes too late to help you, it can spur change in your university's policies and practices so others do not have to go through what you did.

¹ 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 and disclosure of personal information submitted to all federal agencies, including OCR. Requests for information under these laws are reviewed on a case-by-case basis. However, OCR is generally not required to release documents during the case resolution and investigation process or enforcement proceedings. The Privacy Act and FOIA also generally do not require OCR to release “pre-decisional documents” or documents that would reasonably be expected to result in an unwarranted invasion of privacy of an individual.



information

YOU WILL NEED TO FILE AN OCR COMPLAINT

If your college has discriminated against you or someone you know based on sex or pregnancy status, you can file a Title IX complaint with the Office for Civil Rights (OCR). Just enter your complaint at <https://ocrcas.ed.gov>. You will need the following info to complete the form:

1. Contact info for you—first and last name, address, phone number, and email.
2. If someone besides you was the victim—name, address, phone number of the victim, and relationship to you.
3. Info about the college/university—name of the institution, address, and the department that engaged in the discrimination.
4. A description of the discrimination that occurred—
 - OCR will give a list of check boxes. You may select more than one. For your complaint to be filed under Title IX, you must check the box next to “sex.” (OCR also enforces civil rights laws that ban discrimination based on race, color, national origin, disability, and age.)
 - Be sure to say you were denied an opportunity due to pregnancy or a pregnancy-related condition.
 - If you have been retaliated against because you filed a complaint or asserted your rights, check the “retaliation” box and the “sex” box.

- If you have been discriminated against because of your race, color, national origin, disability, or age, check those boxes, too.

5. The complaint form asks you to describe the discrimination that occurred:
 - Name(s) of the person(s) who engaged in the discrimination (professors, administrators, etc.)
 - What happened—be as specific and detailed as possible.
 - Explain how the discrimination affected your life and education. Have your grades dropped? Did you miss an opportunity that will be important to your career? This info will make your complaint stronger.
 - Witnesses (if any)—anyone who saw the incident or incidents, or who spoke to you about it (example: someone who saw you in the bathroom crying afterwards).
 - Why you believe the discrimination was based on your pregnancy or parenting status.
6. Dates—you must list the **most recent** date of discrimination.
 - If the violation is ongoing, explain that (*for example, there is a discriminatory policy or practice still in place*).
7. If the most recent date of discrimination is more than 180 days ago, you will need to explain why you waited to file your complaint.
8. Note if you have tried to resolve the complaint through your school’s internal complaint process, appeal or due process hearing. Provide the date filed, and current status of the complaint.
 - If possible, attach any records from the school’s process.
9. Note if you have made this complaint to a local or state civil rights agency or another Federal agency. Specify the name of the agency or court, the date the complaint was filed, the case or reference number, and the result or findings made by that agency.





- *OCR may refuse to investigate your complaint if they think the other entity will reach a similar resolution under similar legal standards.*
- *OCR may also dismiss your complaint if it has already been investigated by a different court or agency and the resolution meets OCR standards.*

10. Who else OCR can contact if they can't reach you—contact's name, phone number, and relationship to you.

11. What would you like the school or program to do? That is, what remedy are you seeking?

- *For example, you might ask your school to adopt an official policy excusing all medical absences for pregnant students. You might want the chance to make up a test you missed for pregnancy-related reasons.*
- *You may also ask your school to pay you back for any costs you incurred because of the discrimination. You should keep receipts or invoices for expenses you want to be paid back.*

12. You must provide your original signature by mail. You can do this by printing and mailing a “[consent form](#),” which is linked at the bottom of the online complaint form.



what to expect

AFTER YOU FILE AN OCR COMPLAINT

1. Acknowledgment

- OCR will tell you when they get the complaint. Your complaint will be sent to the OCR regional office that handles complaints in the state where the school is located.
- Remember: you still must print, sign, and mail the consent form to [the OCR Office](#) that handles complaints for the state where the school is located. This consent form is at the end of the electronic application. OCR will close your complaint if it has not received the signed consent form 20 calendar days after you submitted the complaint.
- Be sure to check your mail, email, and voice mail. If OCR contacts you with questions, be sure to respond promptly. If you do not respond within 20 days after OCR contacts you with any questions, OCR can dismiss your complaint.

2. Investigation

- If OCR decides to investigate the complaint, it will tell you and your school.
- If OCR investigates your complaint, its role is to resolve your complaint as a neutral fact-finder. It will collect and analyze relevant evidence from you, your school, and possibly others. An OCR staff member will likely interview you, school officials, and any witnesses. At the end of the

process, OCR will decide whether your school violated Title IX. They will send a “Letter of Findings” to you and your school.

3. Resolution

- There are a few ways to resolve your complaint before the investigation ends. One option is the “Early Complaint Resolution” (ECR) process.
 - This process only happens if both you and your school agree. If both you and your school choose to start the ECR process, OCR sets up settlement talks between you and your school.
 - OCR does not sign, approve, or monitor any agreement that comes out of the ECR process.
- OCR may also try to negotiate a resolution agreement directly with the school before or after they finish an investigation.
 - If your school says they want to resolve the complaint early, OCR may try to negotiate a resolution agreement with the school before it finishes the investigation.
 - If OCR finishes the investigation and finds that your school violated Title IX, it will try to negotiate a “Voluntary Resolution Agreement” with your school. This agreement describes specific things your school must do to address its Title IX problems.
 - In either case, OCR will monitor the agreement to ensure compliance. OCR will reopen the investigation if the school breaks the agreement.
- Note: if OCR negotiates a resolution agreement, you probably won’t be consulted. But you have the right to check in and ask OCR questions. You will be told once a resolution is reached.
 - This is why you should state in your initial complaint what you want to see in any resolution.
 - If you did not include this info in your complaint or it changed during the investigation, you can still tell OCR what you

would like to see in a resolution. Just send an email saying you'd like to update your complaint. By sending an email, you have a record of what you asked for.

- Usually, voluntary resolution agreements require a school to tell OCR about the progress it is making to follow the law. This info will most likely not be shared with you. So you may need to follow up with your school or OCR for updates on your school's progress.

4. Sanctions

- Sometimes OCR finds that a school did not comply with Title IX, and the school does not want to work out an agreement with OCR. In these cases, OCR will send the school a Letter of Impending Enforcement Action.
- OCR has the power to suspend, end, or withhold federal funds to the school. This action requires OCR to present its case to a judge. OCR must wait until your school exhausts all appeals before it can officially suspend or cut off funding.
- OCR may also refer a case to the U.S. Department of Justice for legal action. The Department of Justice may sue to force the school to follow the law.

5. Appeal and lawsuit

- **Right to Appeal**—If OCR dismisses your complaint, you can appeal within 60 days of the decision. You may also appeal a case closure letter or letter of findings within the same time frame. The appeal gives you with a chance to tell OCR about any info that might change its decision. In your appeal, you must explain 1) why you think OCR did not have all the relevant facts, looked at the facts incorrectly, or used the wrong legal standard. You must also explain 2) how the relevant facts, analysis or legal standard would change OCR's decision in the case. If you do not include this explanation, OCR may deny your appeal.
- **Right to File a Lawsuit**—If you are not happy with the resolution between OCR and your school or if you have finished the appeals process on your complaint, you may file a lawsuit in federal court. Before filing, make sure you **have not run out of time based on state law**. You can also file a lawsuit without having filed an OCR complaint at all. We recommend you speak with a lawyer before filing a lawsuit.

