



How to File a Complaint Under Section 504 of the Rehabilitation Act of 1973 for Students in Public Schools

Section 504 of the Rehabilitation Act of 1973 (Section 504) is a federal law that makes it illegal for any government or program/activity that gets federal money to discriminate against someone because of a disability. The law covers public schools because they receive federal funding. This means public schools cannot discriminate against students with disabilities. This law covers all types of disabilities, including physical and mental disabilities. Section 504 can also apply to students who have Individualized Education Programs (IEPs). This fact sheet has information about how to make a complaint to the U.S. Department of Education, if you believe a school has violated educational rights of a student with a disability. This also provides a brief summary of processes that may occur after a complaint is filed.

Under Section 504, it can be discrimination if schools:

- Do not provide accommodations to children with disabilities that help them be a part of regular school activities. Some examples of accommodations include ramps, behavioral intervention planning, sign language interpreter, note takers, assistive technology or extra time taking tests.
- Improperly exclude children with disabilities from participating in educational services. Some examples of educational services include classes, field trips and school-sponsored clubs.

Parents who think a public school has discriminated against their child may file a written complaint with the Office for Civil Rights (OCR) of the U.S. Department of Education. After reviewing the complaint:

- OCR may ask for more details about the complaint; or
- OCR may use the Rapid Resolution Process (RRP) to try to promptly resolve the complaint if the school has fixed the problem, is trying to fix the problem, or agrees to fix the problem; or
- OCR may offer the parties the option of mediation to try to address the problem if mediation was requested in the complaint or OCR thinks the matter is appropriate for mediation; or

- OCR may investigate further; or
- If the school wants to resolve the complaint after the investigation has started, OCR may try to negotiate an agreement with the school; or
- If a school does not cooperate with OCR, OCR can terminate the school's federal funding or send the case to the Department of Justice; or
- OCR may dismiss the complaint (examples of reasons for dismissal: the complaint is not filed on time or a waiver is not granted for late filing, the complaint does not allege a problem under Section 504, or the complaint lacks sufficient detail.).

The Mediation Process

Mediation is a complaint resolution process that OCR offers in appropriate matters as way to try to resolve a complaint. You can request mediation when filing your complaint or OCR may suggest mediation after reviewing your complaint. If mediation is offered, both you and the school district have to agree to try mediation for it to go forward. Mediation is a confidential process.

If mediation occurs, OCR will:

- serve as an impartial, confidential mediator between the parties;
- inform the parties of mediation procedures;
- encourage the parties to work in good faith toward resolving the problem together;
- review the complaint allegations with the parties and assist the parties in understanding legal standards and possible remedies;
- help the parties talk about the problem and possible ways the problem can be addressed; and
- if the parties come to an agreement then OCR can offer to help put the agreement in writing.

The OCR staff assigned to conduct the mediation will be different from the OCR staff that reviews or investigates the complaint if the matter is investigated.

If an agreement is reached during mediation, OCR will send the parties closure letters. OCR does not sign, approve, endorse, or monitor any mediation agreement reached between the parties. However, if the school district does not comply with the agreement, the complainant can file a new complaint. The new complaint must be filed either within 180 calendar days of the date of the original allegation(s) of discrimination, or within 60 calendar days of the date that the complainant knows the school district didn't comply with the agreement, whichever date is later.

If an agreement is not reached, OCR will immediately resume its review of the complaint or investigation.

Filing a 504 complaint

There are several ways to file a 504 complaint with OCR.

You may file your complaint online at <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>. When filing online, you must also mail in a signed consent form. The website provides instructions on how to complete this step.

You may also mail, e-mail, or fax your complaint to OCR. If you want to mail, e-mail, or fax your complaint, provide the information below:

- State your name, address, telephone number, and e-mail address.
- State the name and address of the person who was discriminated against.
- State the name and address of the school and school district.
- Describe the alleged discrimination (for example: state your child was denied access to a program or state your child was denied an accommodation). Make the description clear. State what occurred, when it occurred, and that it happened because of your child's disability. Provide the names of people involved, including any person suspected of discrimination and anyone who might have witnessed the discrimination.
- If the complaint is beyond the 180-day deadline, request a waiver and provide an explanation of the delay in filing.
- State whether you have tried to resolve the complaint through an internal grievance procedure with the school.¹
- State whether the complaint has been filed with another civil rights agency or court.
- If you want to request mediation, state this request in your complaint.
- Sign the complaint. A parent or guardian normally signs the complaint for a child under 18. If the student is 18 or older, then he or she may sign the complaint. If an advocate is assisting you, the advocate may sign the complaint.

¹ You do not have to file an internal grievance to file a complaint with OCR. OCR will not handle complaints that are also involved in a formal grievance procedure with the school. If you do follow a formal grievance procedure and OCR closed your complaint for this reason, you can still re-file a complaint with OCR, but it must be re-filed within 60 days after the formal grievance process is complete. Generally, OCR will not conduct an investigation, but review the grievance decision and determine if the resolution process was acceptable to OCR.

- Review and sign a consent form (you can find this form at the OCR website above with the “Discrimination Complaint Form”) or you can send in your complaint to OCR and OCR will send a consent form to you with a letter acknowledging the complaint. This form has instructions on it.

The deadline for filing a complaint is within 180 calendar days from the date your child is denied participation or denied a needed accommodation. It is important to file the complaint on time or OCR may dismiss it. (It is possible the deadline may be extended if there is a continuing violation and/or a pattern or practice of discrimination.) If the 180-day deadline has passed, the person making the complaint should explain the reason for delay in filing and request a waiver. OCR will determine whether a waiver will be granted. More information about how OCR handles complaints, including a link to the Case Processing Manual, can be found at: <https://www2.ed.gov/about/offices/list/ocr/complaints-how.html>

For more information from OCR on how to file a discrimination complaint, see: <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>

Two sample letters are attached to this fact sheet. The first letter is about denial of access to a school program. The second letter is about denial of accommodations. The address to which to mail your complaint is on the sample letters. You may also email your complaint directly to OCR at OCR.DC@ed.gov. If you wish to fax your complaint, the fax number is (202) 453-6021.

Instead of writing your own letter, you may want to use the “Discrimination Complaint Form” available from OCR. You may obtain a copy from their website: <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>. You may also call OCR’s Washington DC Division Office by telephone at (202) 453-6020 or (800) 877-8339 (TTY) and ask that they send you a copy of this form.

Keep some form of documentation that the complaint was sent, such as a fax receipt, email delivery receipt or a copy of the sent email, certified mail receipt, etc., as well as a copy of the complaint, for your records.

What to say in your complaint

You can submit a complaint about anything related to your child’s disability and school services (for example: the school not providing agreed upon accommodations). However, if the school has violated procedural rights (like not notifying you of meetings or not identifying your child’s disability) please emphasize this in your complaint. Also, let OCR know if the school is treating your child differently from children who do not have a disability. OCR typically does not investigate decisions that form the basis of the 504 plan, such as placement decisions, accommodations decisions, or other educational decisions if the school district followed the procedural requirements of Section 504. Except in extraordinary circumstances, OCR does not review the result of individual placement or other educational decisions as long as the school district complies with the procedural requirements of Section 504.

The OCR website has helpful "Questions and Answers on OCR's Complaint Process" at <http://www2.ed.gov/about/offices/list/ocr/qa-complaints.html> and "Frequently Asked Questions About Section 504 and the Education of Children with Disabilities" at: <http://www2.ed.gov/about/offices/list/ocr/504faq.html>

Retaliation prohibited

No one should take any action against you or your child because you (1) are trying to get his or her rights enforced under Section 504 or (2) have filed an OCR complaint. You may file a complaint if there has been any retaliation by the school district or any individual.

More information

You can find more information about OCR on their website:

<http://www.ed.gov/about/offices/list/ocr/index.html>. The regional OCR office for South Carolina is located in Washington DC; you may contact them at (202) 453-6020 (voice) or (800) 877-8339 (TTY) or email at OCR.DC@ed.gov. You may also contact the OCR National Headquarters of the Office for Civil Rights at 1 (800) 421-3481 (voice) or (800) 877-8339 (TTY) or email at OCR@ed.gov.

Notes

- Students who are in special education with an IEP, may use the US Department of Education 504 complaint process described in this fact sheet. However, students in special education can also use the complaint procedures of the SC Department of Education's Office of Special Education Services (OSES). See Disability Rights South Carolina fact sheet: Filing a Complaint with the South Carolina Department of Education. Their complaint form is on line at: <https://ed.sc.gov/districts-schools/special-education-services/parent-resources/dispute-resolution-information/state-complaint/scde-complaint-form/>. It is only for special education issues and cannot be used for 504 plans.
- College students with disabilities are also protected by Section 504 of the Rehabilitation Act of 1973 if their school receives federal funding. If these students have disputes about classroom or campus accommodations they can also submit a 504 complaint with OCR, U.S. Department of Education using the procedures in this fact sheet.

Sources for the information in this fact sheet:

Section 504 of the Rehabilitation Act of 1973, 29 USC § 794

OCR website: <http://www.ed.gov/about/offices/list/ocr/index.html>

Sample Letter

(About school not allowing access to a program)

September 4, 2020

Office for Civil Rights,
District of Columbia Office
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202-1475

To Whom It May Concern:

I am a parent of a four-year-old child, Lisa Marie House, who has Down syndrome.

I tried to enroll my child in her school district's early childhood development program. This program is offered to four-year-old children in my school district who are not ready for school. My daughter is not ready for school, but I was told I could not enroll my child in this program. The school said the program was not appropriate for a child with Down syndrome. Therefore, I believe the school is discriminating against my daughter based upon her disability in violation of Section 504 of the Rehabilitation Act of 1973. The school [has/has not] offered any internal grievance procedure. [If there has been some other internal procedure, describe it what the outcome was]. I [have/have not] filed this complaint with any other government agency or court.

I live in Anywhere, South Carolina. My daughter attends Anywhere Elementary School in Anywhere County School District. You can contact me at (803) 555-1111. Other persons you may wish to contact are Mr. John Jones, Superintendent of Education for Anywhere School District, and Ms. Jane James, who is the Special Services Coordinator for Anywhere School District. Both of these individuals can be reached at 147 Anywhere Lane, Anywhere, South Carolina 29222, or by calling (803) 555-9999.

I am requesting mediation of my complaint. (only state this if you want to request mediation)

Thank you for your assistance in this matter.

Sincerely,

Betty Jo House
123 Somewhere Lane

Anywhere, SC 29222
(803) 555-1111
BJHouse@xyz.net

Sample Letter

(About school not giving an accommodation)

September 4, 2020

Office for Civil Rights,
District of Columbia Office
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202-1475

To Whom It May Concern:

I am a parent of an eight-year-old child, Samuel Smith, who is diagnosed with ADHD. Because of this condition, he has problems focusing and often is unable to complete tests on time. I informed my son's school in late September 2012 that he has ADHD.

I asked the school to give him the accommodation of having extra time to complete his tests. The school refuses to allow my son to have this extra time. Therefore, I believe the school is discriminating against my son based upon his disability in violation of Section 504 of the Rehabilitation Act of 1973.

The school [has/has not] offered any internal grievance procedure. [If there has been some other internal procedure, describe it what the outcome was]. I [have/have not] filed this complaint with any other government agency or court.

I live in Anywhere, South Carolina. My son attends Anywhere Elementary School in Anywhere County School District. You can contact me at (803) 555-3333. Other persons you may wish to contact are Mr. John Jones, Superintendent of Education for Anywhere School District, and Ms. Jane James, who is the Special Services Coordinator for Anywhere School District. Both of these individuals can be reached at 147 Anywhere Lane, Anywhere, South Carolina 29222, or by calling (803) 555-9999.

I am requesting mediation of my complaint. (only state this if you want to request mediation)

Thank you for your assistance in this matter.

Sincerely,


Sarah Smith
456 Someplace Drive
Anywhere, SC 29222
(803) 555-3333
SSmith6@xyz.net


This publication provides legal information, but it is not intended to be legal advice. As the law may change, please contact Disability Rights SC for updates. Please let us know if you would like this information in an alternative format.

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Disability Rights South Carolina

 1-866-275-7273

 1-866-232-4525

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 info@disabilityrightssc.org