

Q&A: Filing an Administrative Complaint

When to File a Formal Complaint

If you believe your (or your child's) educational rights¹ have been violated by a school, you can file a formal administrative complaint through the appropriate agency. For purposes of this handout, "school" includes most K-12 schools, schools within the Division of Youth Services, residential schools, and colleges/universities. Anyone can file a complaint and you don't necessarily need a lawyer. To learn more about the educational rights of students with disabilities, review Disability Law Colorado's topic-specific fact sheets at <https://disabilitylawco.org/resources/fact-sheets>.

If you haven't already, it may be helpful to formally request *in writing* exactly what you would like from your (or your child's) school and try to resolve your concerns with the school first. If they have repeatedly denied your request, are unwilling to offer a satisfactory resolution, or you have already tried mediation and it was unsuccessful, you may want to consider filing a formal administrative complaint.²

If you are already working with an education advocate or attorney, you should check-in with them about your legal options and strategy before filing a complaint.

Jurisdiction and Deadlines

There are several agencies you can file a complaint with relating to educational rights, but that agency will only consider investigating your complaint if they have jurisdiction over your legal issue. In some cases, you can file a complaint with more than one agency. Each agency has different complaint procedures and different deadlines. For a comparison of the different complaint processes based on which agency has jurisdiction over which laws, see [Dispute Resolution for K-12 Students with Disabilities](#) or [Dispute Resolution in College](#).

If you miss a deadline, you may lose your ability to file a complaint.

Elements of a Complaint: The Basics

The easiest way to file an administrative complaint is to use the online complaint form (if available for that process) that can be found at each of the links in the tables in these handouts: [Dispute Resolution for K-12 Students with Disabilities](#) or [Dispute Resolution in College](#). The online complaint form usually has blanks for all the basic information you need to include, such as your name, address, date, information about your child and their disability, information about the entity you believe has violated you or your child's rights, etc. However, you can also write a letter if you make sure that you include everything listed on the online complaint form and you send it to the agency in a way they allow. For example,

¹ This handout and accompanying resources are for disability-related complaints and not inclusive of rights related to other protected classes, such as gender, race, or national origin.

² This handout includes tips for filing administrative complaints only. You may also have a claim you could file in court as a lawsuit, but that is outside the scope of this handout. If you are considering filing a lawsuit, you should consult with an attorney regarding your individual circumstances and case.

state complaints with the Colorado Department of Education can only be mailed or hand-delivered, but complaints with the Office for Civil Rights can be submitted by email. You should review the requirements for the complaint process you choose to make sure you provide all required information.

Elements of a Complaint: The Facts

Informing the agency about the facts of your case ***the most important aspect of your complaint***. You can think of your complaint as telling a story – the investigator will need all the details! There are several parts that may be included, including the alleged violation of your or your child’s rights, failed efforts to resolve the issue, and your proposed solution for the school to fix the problem.

**** First, describe the violation! ****

Describe how your (or your child’s) rights are being violated and the harm that has resulted. For example, if your child is being denied a specific seating arrangement so that she can adequately hear the teacher, describe what it is about your child’s disability that necessitates an accommodation (has hearing loss which prevents her from hearing the teacher) and how your child has been harmed due to the school’s refusal to accommodate (she has to teach herself the material taught in class and her grades are suffering). The standard that will generally be used, at least in the state complaint or OCR complaint processes, to determine whether an investigation will be opened is: *if the facts as alleged are true, there would be a violation of one of the laws the agency enforces.*³ Thus, it is important to include all relevant facts to show that the school has violated your (or your child’s) rights.

TIPS!

- ⇒ **Create a timeline**
- ⇒ **Tell a story**
- ⇒ **Review meeting notes, emails, and documents**
- ⇒ **Be specific! Include dates, names of staff, etc.**

**** Next, detail your efforts to resolve the issue! ****

Look over any emails, meeting notes, documents, or correspondence you have from your (or you child’s) school. Outline each of your attempts to ask the school to accommodate you (or your child) as well as the school’s response. Include dates and names of staff you communicated with. It can help to create a timeline to keep track of when the problem started and the school’s denial of your requests.

**** Finally, explain your proposed solution! ****

Explain how you would like this issue to be resolved and what kind of accommodations, policy changes, training, compensatory services, or other additional services you believe you (or your child) is entitled to that would allow equal access to education at school. The accommodation or change you are seeking must be connected to your (or you child’s)

³ Note that not all agencies have an obligation to review every complaint that is filed. For example, the U.S. Department of Justice (DOJ) has jurisdiction to investigate both public and private K-12 schools, but they are not obligated to respond to every complaint. Thus, you could file a complaint with the DOJ and not receive any further communication from them beyond confirmation from an online complaint portal system.

disability. For example, you could ask that your daughter sit in the front row of each class to ensure that she hears the teacher (connected to her hearing loss disability).

Note that even if the government agency investigates your complaint and finds that the school has violated your (or your child's) rights, they do not have to adopt or recommend your specific request. They may allow another course of action that is still meant to ensure that your child receives the education they deserve under the law.

Elements of a Complaint: The Law

Although you don't have to be an attorney or an expert to file a complaint, once you have identified which federal agency has jurisdiction over the issue you are writing your complaint about, it will be helpful to have a basic understanding of the law. You do not need to explain the law in your complaint but understanding your (or child's) rights can help you decide which facts about your case are the most important to include.

Disability Law Colorado has many education-related fact sheets and handouts on our website that you can review at <https://disabilitylawco.org/resources/fact-sheets>. These resources will give you a general overview of the laws that protect students with disabilities and outline many of their rights. Some other places to find resources include:

- [The U.S. Department of Education's Office for Civil Rights](#)
- [The U.S. Department of Education's Office of Special Education Programs](#)
- [The Colorado Department of Education](#)

Tips to Consider:

- Filing a complaint and waiting for the investigation and decision can be a slow process that takes several months. If you need a fast or immediate resolution, other strategies might be a better fit for your situation.
- Double check that you have **followed all instructions** to file a complaint with the specific government agency. If you miss a step or forget to submit part of the complaint materials, your complaint may be overlooked.
- **Keep track of deadlines!** There are few exceptions that allow you to file a complaint or appeal outside of the given timelines.
- Don't use legalese or words or terms that you don't understand in your complaint. The facts of your specific case are the most important part.
- Gather and review all the relevant documents, emails, notes, IEPs or 504 plans, doctor's notes, and medical records that you have relating to your case. If your complaint is investigated, you may need these documents, and it will be more efficient if you submit everything with your complaint.
- Filing a complaint with one of the government agencies listed in this handout is **free**. There are **no filing fees**.
- Filing an administrative complaint should be a **straightforward process**, and you should feel comfortable asking questions of the investigator along the way. If you do not

hear from someone for a long period of time, reach back out to ask about the status of your complaint.

- **Important!** You or your child may not be retaliated against for filing a complaint. If you file a complaint and believe that your child is being treated poorly by the school because of it, please reach out to Disability Law Colorado, an education advocate, or staff at the government agency where you filed the complaint. More information about retaliation can be found here: [Retaliation Q&A](#).

Understanding the Process

Although the process and procedure for complaint filing and investigation differ slightly depending on the agency you file your complaint with, all formal complaints **must** be in writing – either online or submitted by mail. It is important to carefully read the instructions for each government agency’s complaint process so that you don’t miss a step or deadline. For example, the Office for Civil Rights will not even look at your complaint if you don’t submit the required consent form within twenty days of filing your complaint.

This is the general process you can expect most kinds of complaints will follow:

1. **Complaint Filed:** Some processes require you to provide a copy of your complaint to the school, but some don't. You should pay careful attention to the instructions provided by the agency to ensure you comply with their requirements. The agency you filed with may send a letter or email confirming receipt of complaint depending on their process.
2. **Response:** In some processes, the school will have an opportunity to respond to your complaint in writing. You will receive a copy of their response if this is a required part of the process. In other processes, they do not submit a written response.
3. **Reply:** In the state complaint process, you will be given an opportunity to reply to the school’s response. You can also ask for this opportunity in other processes, but it will be up to the investigating agency to determine whether to allow it.
4. **Investigation:** The agency will decide if they are going to begin an investigation into your complaint. If they do not investigate, you may receive a letter stating their reasoning (though this is not required in all processes). If they are going to investigate, you should receive a letter explaining that and next steps.
5. **Additional Information:** During the investigation phase, the agency may request additional documents from you and/or the school. An investigator may interview you and/or your child. Answer any questions truthfully and if you do not know the answer to a question, it's okay to tell them you do not know or do not remember.
6. **Decision:** The agency will send you a letter outlining their decision. The decision may include policy changes or recommended services that the school, college, or university must provide, or it may determine that there was no legal violation.
7. **Appeal:** In some circumstances, you or the school may appeal a decision. If you can appeal, the decision or letter that the government agency sends will give instructions and a deadline that you must follow if you want to appeal.

If you aren't sure where to start or have questions about the complaint processes, you can reach out to the entity where you are considering filing a complaint and they should provide technical assistance regarding their process. You can also contact Disability Law Colorado at (303) 722-0300 or submit an [Intake Packet](#).

*** DISCLAIMER: This is not intended as legal advice, but rather for informational purposes only. Always consult a lawyer if you have questions about your legal rights. ***

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