

FACILITATED RESOLUTION BETWEEN THE PARTIES (FRBP) WITH THE OFFICE FOR CIVIL RIGHTS (OCR): FREQUENTLY ASKED QUESTIONS

What is FRBP?

FRBP facilitates the resolution of OCR complaints by providing an opportunity for the parties involved to voluntarily resolve the complaint allegation(s). FRBP is a form of mediation or alternative dispute resolution.

Who is present at an FRBP?

FRBP is typically attended by the complainant (*i.e.*, the person who filed the complaint with OCR) and one or more representatives of the recipient (*i.e.*, the school, district, college, university, etc.). Complainants may bring an advocate or attorney to FRBP, although having one is not required. Likewise, recipients may bring an attorney to FRBP. At a minimum, both sides should include individuals who have the authority to sign a formal agreement.

FRBP is also attended by an OCR staff member who will facilitate the process and essentially act as a mediator ("Facilitator"). The Facilitator will not be the staff member or one of the staff members assigned to the investigation of that complaint. The Facilitator's role is to:

- serve as an impartial, confidential facilitator between the parties;
- inform the parties of FRBP procedures;
- establish a constructive tone, and encourage the parties to work expeditiously and in good faith toward a mutually acceptable resolution;
- review the allegations with the parties;
- assist the parties in understanding the pertinent legal standards and possible remedies;
- facilitate a discussion between the parties regarding possible actions that the parties may consider in working toward a resolution; and
- assist the parties in drafting any resolution agreement.

Parties should notify the Facilitator who, if anyone other than themselves, they plan to bring to FRBP. An "Agreement to Participate in FRBP" must be reviewed and signed, verbally agreed to, or agreed to by email by the complainant and recipient. In circumstances where verbal agreement is obtained, the Facilitator will send a letter or email to the parties that confirms the agreement. Participants should participate in the discussions in good faith, consider offers or suggestions with an open mind, and work constructively toward a mutually acceptable resolution.

When will FRBP take place?

FRBP process typically ends within two to four weeks of the parties agreeing to participate. FRBP will occur on a date and at a time that are agreed upon by the complainant, recipient, and Facilitator. The Facilitator will work with both parties to schedule FRBP. A small number of FRBPs take place over multiple sessions.

How long will FRBP last?

The length of FRBP varies based on numerous factors, include the number and complexity of issues to be resolved, the number of individuals present, the amount of forethought by the parties, and the cooperativeness of the parties. Most FRBPs last from two hours to eight hours.

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Where will FRBP take place?

FRBP will take place at a location that is agreed upon by the complainant, recipient, and facilitator. For example, FRBP may take place at OCR's office, a school, or a school district central office, or via video conference.

What are the benefits of FRBP?

The benefits of FRBP include:

- repairing relationships between the parties that may be damaged or broken;
- promoting and improving communication between the parties, including by providing a neutral and confidential setting in which the parties can openly discuss their views on the underlying dispute and its solution;
- helping the parties and OCR reach a resolution in a more timely, efficient, and cost-effective manner than if the allegation(s) goes through a full investigation;
- giving the parties more control over the case process and outcomes (in contrast, resolution agreements are only between OCR and recipients);
- possibly resolving issues more quickly and efficiently compared to the time and resources of a full investigation; and
- resolving issues important to both parties, beyond just the underlying legal dispute.

Do participating parties have to pay for FRBP?

Neither the complainant nor the recipient will pay for FRBP.

How should parties prepare for FRBP?

Prior to the FRBP, participants should:

- notify the Facilitator if they need interpretation, translation, or disability-related accommodations; and
- consider and write down their goals and ideas for solutions to bring to FRBP.

What should parties bring to FRBP?

Parties should bring a drink, snack, pen, and paper to FRBP.

What will happen during FRBP?

Agenda for FRBPs vary based on the issue(s), Facilitator, parties' preferences, and other factors. An example of an FRBP agenda is as follows:

- All parties present introduce themselves.
- The Facilitator explains the purpose of FRBP, his or her role, the issue(s) at hand, the process for the day and moving forward, the expectations and ground rules for the parties, including confidentiality.
- The Facilitator obtains verbal confirmation from the parties that they agree to adhere to the ground rules.
- The complainant is given an opportunity to provide a brief explanation of what, from his or her perspective, brought the parties to the point where he or she felt a complaint to OCR was necessary.
- The recipient's representative is given an opportunity to respond and present his or her perspective.
- The parties and Facilitator may then all remain in the same room, or the Facilitator may separate the parties into different rooms.
- The Facilitator goes back-and-forth between the parties as they work to reach an agreement.

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Is FRBP confidential?

A "Confidentiality Agreement" must be reviewed and signed, verbally agreed to, or agreed to by email by the Facilitator and parties. Any notes taken during FRBP by the Facilitator and any records or other documents offered by the parties to the facilitator during FRBP will be kept in a separate file and will not be shared with the staff members assigned to investigate the complaint allegation(s).

What will happen with the investigation of the allegation(s) during the FRBP process?

During the FRBP process, OCR will suspend its investigation for up to 30 calendar days to facilitate FRBP.

What will happen if no agreement is reached during FRBP?

If FRBP is unsuccessful, OCR will proceed with the investigation in accordance with applicable law and OCR's case processing procedures.

What happens if an agreement is reached during FRBP?

At the conclusion of successful FRBP, the Facilitator will obtain a copy of either: (1) a statement signed by the complainant that the allegations have been resolved; or (2) a copy of the agreement that was signed by the parties.

Additionally, the Facilitator will send the parties closure letters that specify the allegation(s) that have been resolved, and that other outstanding allegations, if any, will be resolved through the investigation and resolution process. A copy of the signed statement from the complainant or the agreement between the parties will be attached to the closure letters.

OCR does not sign, approve, endorse, or monitor any agreement reached between the parties.

What if the agreement is violated?

OCR does not monitor or enforce FRBP agreements but will inform the parties that if a breach occurs, the complainant has the right to file a new complaint with OCR.

To be considered timely, a new complaint must be filed either within 180 calendar days of the date of the original alleged discrimination, or within 60 calendar days of the date that the complainant is on notice that a breach occurred, whichever date is later.

If a new complaint is filed, OCR will not address the alleged breach of the agreement. Instead, OCR may address the underlying alleged discrimination.