



Case Investigation and Resolution Manual

Office of Civil Rights

Tennessee Department of Education | Updated August 2024



Table of Contents

Definitions	3
Introduction	3
Overview of the Complaint Investigation and Resolution Process	3
Part I. The Complaint	4
Section 101. Filing a Complaint	4
Section 102. Acknowledgement and Decision Whether to Investigate	5
Section 103. Recipient Response	10
Part II. Investigation, Resolution, and Issuance of Letters of Findings	10
Section 201. Investigation	10
Section 202. Agreement Reached During Investigation	11
Section 203. Investigative Summary and Findings	11
Section 204. Delay in Investigation	12
Section 205. Request for Reconsideration.....	12
Section 206. Guidelines for Resolution Agreements.....	13
Section 207. Monitoring of Post-Investigation Resolution Agreement.....	14
Section 208. Conclusion of Monitoring	15
Part III. Initiating Enforcement Action	15
Part IV. Compliance Reviews.....	15
Part V. Recipient Response Guide.....	16

Definitions

Complainant: An individual who has filed an allegation or report of harassment or discrimination with the Tennessee Department of Education's office for civil rights (TOCR).

Complaint: A report or notice of discrimination or harassment under filed with TOCR.

Investigative Summary and Findings: A written report issued at the conclusion of an investigation explaining TOCR's findings about whether allegations of noncompliance are substantiated.

Notice of the Investigation: A letter provided to the Recipient sharing notice of a Complaint and the allegations which will be investigated by TOCR.

Recipient: An institution or agency such as a school district, school, charter school, or organization that receives federal funds.

Resolution Agreement: An agreement between TOCR and the Recipient in which a Recipient acknowledges their noncompliance with federal civil rights laws and outlines a plan to reach full compliance.

Tennessee Department of Education Office for Civil Rights (TOCR): A division within the Tennessee Department of Education office of general counsel (OGC).

Introduction

TOCR is responsible for ensuring equal access to education by enforcing compliance with civil rights laws that prohibit discrimination. TOCR is tasked with ensuring educational institutions receiving federal funds comply with Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. TOCR is also responsible for ensuring compliance with State Board of Education Rule 05-01-21 as it relates to its obligations under 34 C.F.R. 76.770 and its responsibilities as a pass-through entity under 2 C.F.R. 200.332.

This manual outlines the procedures TOCR follows in order to carry out a prompt and thorough investigation and resolution of Complaints of non-compliance.

Overview of the Complaint Investigation and Resolution Process

The following is a simple overview of TOCR's investigation and resolution process. Please refer to the referenced pages below for further information and instructions.

Resolution Agreements

Prior to the conclusion of an investigation, TOCR may execute a Resolution Agreement with a Recipient. This may occur if the Recipient expresses an interest in resolving the allegation(s) and TOCR determines that it is appropriate to resolve them because TOCR's investigation has identified concerns that can be addressed through a Resolution Agreement. Also, if at the end of an investigation, TOCR concludes a Recipient was noncompliant with civil rights laws, TOCR may execute a Resolution Agreement with the Recipient to address and correct areas of noncompliance. More information about Resolution Agreements can be found in [Section 206](#). The TOCR will monitor executed Resolution Agreements until the requirements of the agreement have been fulfilled. More information about the monitoring process can be found in [Section 207](#).

Requests for Reconsideration

Following the issuance of the Investigative Summary and Findings, either party may request that the OGC review the investigation and issue a written response. More information about requests for reconsideration can be found in [Section 205](#).

Part I. The Complaint

Section 101. Filing a Complaint

TOCR has created a Complaint Form to facilitate the submission of Complaints and ensure all necessary information is included. Use of this form is encouraged, but not required.

An individual who opts not to use the Complaint Form should submit a document including the following information:

- Name and contact information (name, address, email, and phone number) of the Complainant (the person filing the Complaint);
- Name of the person(s) or group injured by the alleged discrimination or violation and applicable contact information (if available);
- Information describing the Complainant's relation to the injured party/parties;
- Name of the person(s) and institution or agency (school district, school, charter school, or organization) alleged to have discriminated and applicable contact information;
- A detailed explanation of what happened, including the date(s) of the discriminatory act(s), **and** the type of discrimination alleged (e.g., race, national origin, sex, gender, etc.);
- Information about any other means used to address the circumstances at issue (e.g., agency intervention, any simultaneous filings with another government agency such as the U.S. Department of Education, internal grievance procedure, lawsuits, etc.); and,
- Sign and date the Complaint.

TOCR will base its investigation on the Complaint. Incomplete or inaccurate information may delay or prevent early intervention. The following does not qualify as a Complaint for the purposes of a TOCR investigation:

- Oral allegations not reduced to writing;
- Anonymous calls or correspondence;
- Courtesy copies of correspondence;
- Complaints sent to another person or entity; or
- Simple inquiries that seek advice or information.

Complaint Forms may be obtained on the [TOCR webpage](#) on the Tennessee Department of Education website or by contacting TOCR. Complaints may be filed by mail or email to:

Tennessee Department of Education Office for Civil Rights
Office of General Counsel
9th floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243
Telephone: (615) 289-1887
Email: Shaundraya.Hersey@tn.gov

If the Complainant files the Complaint on behalf of a minor, and the Complainant is not the parent or guardian of the minor, the Complainant should seek and receive written permission from the parent or guardian of that minor *prior* to filing the Complaint, so TOCR may speak with the minor regarding the allegations. Copies of written parental permission should be sent to TOCR with the Complaint.

Complaints filed with TOCR can also be filed with the [United States Department of Education Office for Civil Rights \(OCR\)](#). Please contact OCR regarding their process at:

U.S. Department of Education Office for Civil Rights
61 Forsyth Street S.W., Suite 19T10
Atlanta, GA 30303-8927
Telephone: (404) 974 9406
Facsimile:(404) 974-9471
Email: OCR.Atlanta@ed.gov

Section 102. Acknowledgement and Decision Whether to Investigate

Within 15 calendar days of receipt of a Complaint, TOCR will assign the Complaint a case identification (ID) number and send an acknowledgement letter to the Complainant stating whether TOCR has authority to initiate an investigation. If TOCR decides to pursue an investigation, a notice of the investigation letter and a copy of the Complaint will also be sent to the Recipient within 15 calendar days of receipt of the Complaint. If additional information is needed to determine whether TOCR has authority to initiate an investigation, TOCR will contact the Complainant to obtain further information or clarification. In the event TOCR needs to conduct follow-up with the Complainant to obtain additional details regarding the Complaint, TOCR will send the acknowledgement letter to the Complainant and the

notice of the investigation letter and a copy of the Complaint to the Recipient within 15 calendar days of receiving the additional information.

The Notice of the Investigation sent to the Recipient will include a detailed list of the allegations, an explanation of TOCR's jurisdiction to investigate, and a request for information and any other documentation or evidence TOCR determines is necessary to conduct their investigation. The Complainant will also receive a copy of the Notice of the Investigation sent to the Recipient.

Jurisdiction

TOCR is only authorized to investigate complaints when the office has *subject matter jurisdiction* and *personal jurisdiction*.

Subject Matter Jurisdiction

Pursuant to Tenn. Code Ann. § 4-4-123 and State Board Rule 0520-01-21-.03, TOCR only has jurisdiction – or authority – over certain *subject matter* areas. An allegation over which TOCR lacks subject matter jurisdiction is not subject to further processing and will be dismissed pursuant to the procedures outlined in this manual. If unable to assist, TOCR will refer the Complainant to another agency that has the authority to investigate and intervene, if applicable.

Discrimination Based on Race (Title VI of the Civil Rights Law of 1964)

Title VI of the Civil Rights Act of 1964 (Title VI) prohibits discrimination based on race, color, or national origin in all programs or activities that receive federal financial assistance. Under Title VI, discrimination includes disparate impact (disproportional *effect*), disparate treatment (intentional, different treatment), and hostile environment discrimination.

TOCR only investigates elementary or secondary educational institutions or agencies that receive federal funding. Complaints involving alleged violations of Title VI at colleges, universities, and other postsecondary institutions will be referred to the [Tennessee Higher Education Commission](#).

Title VI applies to discrimination in employment in elementary or secondary educational institutions or agencies that receive federal funding only if employment is the *primary purpose* of the federal funds received. If the funding has a purpose other than employment, the funding's primary beneficiaries must be impacted by the discriminatory employment practices to qualify for Title VI's anti-discriminatory protection. Complaints involving alleged violations of Title VI at colleges, universities, and other postsecondary institutions will be referred to the [Tennessee Higher Education Commission](#).

As applied to schools, the primary purpose of funding is education, not employment. Therefore, it is necessary to show the discrimination's impact on students (the funding's intended beneficiaries) before TOCR would be able to investigate employment discrimination.

If a Complainant cannot show a direct impact on students, TOCR will refer the Complainant to the [Tennessee Human Rights Commission \(THRC\)](#) or the [Equal Employment Opportunity Commission \(EEOC\)](#).

Discrimination Based on Sex (Title IX of the Education Amendments of 1972)

Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination based on sex in educational programs or activities that receive federal funding. Title IX covers sexual harassment, gender-based harassment, pregnancy discrimination, and athletics. Title IX also covers employment discrimination on the basis of sex in educational programs or activities that receive federal funding.

TOCR only investigates allegations of sex discrimination in elementary or secondary educational institutions or agencies that receives federal funding. Complaints involving alleged violations of Title IX at colleges, universities, and other postsecondary institutions will be referred to the [Tennessee Higher Education Commission](#).

Discrimination Based on Disability: Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973

Title II of the Americans with Disabilities Act (ADA) prohibits disability discrimination in the benefits of services, programs, or activities of a public entity.

TOCR only investigates allegations from schools directly operated by the Tennessee Department of Education (TDOE). TOCR will refer all other ADA complaints to [OCR](#). Complaints involving alleged violations of the ADA at colleges, universities, and other postsecondary institutions will also be referred to the [Tennessee Higher Education Commission](#).

Section 504 of the Rehabilitation Act of 1973 (Section 504) prohibits discrimination based on disability in all programs or activities that receive federal financial assistance, including employment complaints. TDOE's division of special education and intervention programs will offer technical assistance and answer general inquiries about Section 504. However, TOCR will refer all complaints and requests for further intervention regarding Section 504 to [OCR](#). The special education dispute resolution division of the OGC will retain and resolve any portion of a complaint regarding the Individuals with Disabilities Education Act (IDEA). Complaints involving alleged violations of Section 504 at colleges, universities, and other postsecondary institutions will be referred to the [Tennessee Higher Education Commission](#).

Discrimination Based on Age: The Age Discrimination in Employment Act and the Age Discrimination Act of 1975

The Age Discrimination Act of 1975 prohibits discrimination based on age in all programs and activities that receive federal financial assistance. However, the Age Discrimination Act does not prohibit:

- An age distinction contained in a federal, state, or local statute or ordinance adopted by a legislative body that:
 - Provides any benefits or assistance to persons based on age;
 - Establishes criteria for participation in age-related terms; or

- Describes intended beneficiaries or target groups in age-related terms; or
- Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except any program or activity receiving federal financial for employment under the Job Training Partnership Act. (29 U.S.C. 1501 *et. seq.*)

The Age Discrimination in Employment Act prohibits employment discrimination based on age.

TOCR will only provide general assistance regarding age discrimination. Complainants alleging age discrimination in programs and services will be referred to OCR. Complainants of age discrimination in employment will be referred to the EEOC and THRC.

Retaliation

Retaliation is any adverse action against an individual for filing a Complaint or participating in an investigation. Most of the laws cited above contain provisions prohibiting retaliation. TOCR will investigate any retaliation by students or adults based on efforts to claim or enforce any rights protected by Title IV and Title IX. Other retaliation claims will be referred to OCR, the EEOC, or THRC, as appropriate.

Personal Jurisdiction

In addition to subject matter jurisdiction, TOCR must also have jurisdiction over the school or educational institution alleged to have discriminated. An allegation against a school or educational institution over which TOCR lacks personal jurisdiction is not subject to further processing and will be dismissed pursuant to the procedures outlined in this manual.

Under Title II, Title VI, Title IX, Section 504, and the Age Discrimination Act, and pursuant to Tenn. Code Ann. § 4-4-123 and State Board Rule 0520-01-21-.01, *et seq.*, TOCR has jurisdiction to investigate allegations against schools and primary or secondary educational institutions that receive federal financial assistance from the U.S. Department of Education.

Timeliness Requirement

Pursuant to State Board Rule 0520-01-21-.04, TOCR will only investigate allegations that have been filed within 180 calendar days of the most recent discriminatory act. If the Complaint alleges discrimination of an ongoing or continuous nature, TOCR will include older events in its investigation as long as the most recent event on the ongoing discrimination occurred within 180 calendar days of submitting the Complaint. TOCR may grant waivers of timeliness in specific circumstances outlined in State Board Rule 0520-01-21-.04(2)(c), including:

1. The Complainant could not reasonably be expected to have known the act was discriminatory within the 180-calendar day period and the Complaint was filed within 60 calendar days after the Complainant could have become aware of the alleged discrimination. Lack of previous awareness of TOCR's Complaint process or the civil rights laws and regulations enforced by TOCR shall not be a basis for a waiver;

2. The Complainant was unable to file a Complaint because of incapacitating illness or other incapacitating circumstances during the 180-calendar day period that rendered the Complainant physically or mentally incapable of filing a Complaint or obtaining assistance so that a Complaint could be filed on their behalf, the Complainant provides to TOCR documentation demonstrating such lack of capacity, and the Complaint allegation was filed within 60 calendar days after the incapacitation ended;
3. The Complainant filed a Complaint alleging the same or similar allegation based on the same operative facts within the 180-calendar day period in federal or state court and filed a Complaint with TOCR within 60 calendar days after there had been no decision on the merits or settlement of the Complaint allegations. Dismissal with prejudice shall be considered a decision on the merits;
4. The Complainant filed a Complaint alleging the same or similar allegation based on the same operative facts within the 180-calendar day period with another federal, state or local agency, and filed a Complaint with TOCR within 60 calendar days after the other agency completed its investigation; or
5. The Complainant filed, within the 180-calendar day period, an internal grievance with the Recipient alleging the same discriminatory conduct that is the subject of the TOCR Complaint, and the Complaint is filed no later than 60 calendar days after the internal grievance is concluded.

Simultaneous Complaints

TOCR may dismiss an allegation of a Complaint, or, if appropriate, the Complaint in its entirety, when the same or a similar allegation, based on the same operative facts, has been filed either by the Complainant or someone other than the Complainant:

1. With the institution or agency (school district or organization);
2. With another local, state, or federal department or agency; or
3. With a state or federal court.

A TOCR Complaint may be re-filed within 60 days following termination of a Complaint filed with the institution or agency (LEA or organization) or with another local, state, or federal department or agency.

A TOCR Complaint may be re-filed within 60 days following termination of the court proceeding if there has been no decision on the merits or settlement of the Complaint allegations. A dismissal with prejudice (meaning the claim cannot be refiled again in the same court) is considered a decision on the merits.

Coherency Requirement and the Request for Information

If the type of discrimination alleged to have occurred or the described circumstances are unclear, TOCR may contact the Complainant to request further information or clarification before TOCR decides whether or not to investigate the claim. TOCR may dismiss any allegations of a Complaint that lack coherency, or, if appropriate, the Complaint in its entirety.

Section 103. Recipient Response

If TOCR decides to investigate, the Recipient has 15 calendar days from the date of the Notice of the Investigation to respond to the allegation(s). The Recipient's response date will be listed in the Notice of the Investigation. If additional time is needed to prepare the response, the Recipient may request an extension of the 15-day timeline by contacting TOCR. TOCR may grant an extension of the 15-day timeline in select circumstances and when there is a legitimate excuse for the delay.

The Recipient's response should include the information requested by TOCR and any relevant documentation and witness information the Recipient believes will aid TOCR in properly investigating and resolving the allegations. TOCR will determine within 15 calendar days of receipt whether additional information will be requested of the Complainant or Recipient and will notify Complainant and Recipient of that request. Parties will have 15 calendar days to respond to any requests for additional information. Failure of the Complainant or Recipient to provide necessary documentation, grant necessary interviews, or respond to specified questions could result in a dismissal of the Complaint or a finding of noncompliance by the Recipient, respectively.

Part II. Investigation, Resolution, and Issuance of Letters of Findings

TOCR will ensure that investigations are legally sufficient and dispositive of the allegations raised in the Complaint. TOCR will keep the parties informed of the progress in investigating a Complaint and will communicate with the parties regularly regarding the status of any Complaint. TOCR will provide a response to the parties' substantive letters and emails in a timely manner.

Section 201. Investigation

In the Notice of the Investigation, TOCR will provide a description of all documents and information requested for its investigation. The Recipient is required to submit its response by the date indicated in the letter.

TOCR may interview the Complainant, the minor identified in the Complaint (if applicable), witnesses, the Recipient, and the Recipient's representatives, but will do so separately, in order to encourage all parties to speak freely and without fear of retaliation. (TOCR will obtain written consent from either a parent or guardian prior to interviewing minors or individuals adjudicated legally incompetent and will invite the parent/guardian to be present during the interview.) All parties may provide TOCR with additional relevant documentation during an interview. After conducting interviews and reviewing all information provided by parties and witnesses, TOCR may choose to interview other witnesses.

TOCR's Authority to View Confidential Information

In order to ensure the full and proper investigation of civil rights allegations, the regulations implementing Title VI and Title IX require that a Recipient of federal financial assistance make available

all information that may be pertinent to reach a compliance determination. See 34 C.F.R. § 100.6(c) and 34 C.F.R. § 99.31(a)(3)(iii). TOCR also has right of access to a Recipient's facilities during the Recipient's regular business hours and to information maintained by the Recipient that is necessary to determine the compliance status of the issues under investigation. This includes access to both oral information from a Recipient's employees and non-written information, such as electronic storage media, microfilming, retrieval systems, and photocopies maintained by the Recipient. TOCR, not the Recipient, decides what information is relevant to a determination of compliance.

As provided by federal regulations, TOCR may also view and receive information that would otherwise be held confidential by a Recipient [See 34 C.F.R. §§99.31 and 99.35, which exempts LEAs from obtaining prior written consent for before disclosing information protected by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g to state agencies.] TOCR will preserve the confidentiality of student records protected by FERPA.

Complaints pertaining to parties other than students may be public records under the Tennessee Public Records Act. (See Tenn. Code Ann. § 10-7-503.) Even so, TOCR will not reveal the name, or any other identifying information, about a Complainant to anyone other than the Recipient or its representatives, unless such information is formally requested to be disclosed under the Tennessee Public Records Act.

Pursuant to State Board Rule 0520-01-21-.04(6), failure of a Recipient to provide necessary documentation, grant necessary interviews, or respond to specified questions, may result in a finding of noncompliance against the Recipient.

Section 202. Agreement Reached During Investigation

Allegation(s) under investigation may be resolved prior to the conclusion of an investigation if the Recipient expresses an interest in resolving the allegation(s) **and** TOCR determines it is appropriate to resolve the allegation(s) because TOCR's investigation has identified concerns that can be addressed through a Resolution Agreement. A Recipient must ask TOCR to resolve the allegation(s) with a Resolution Agreement before TOCR completes its investigation. As part of its early resolution of a Complaint, a Recipient may admit that it has either acted as alleged by the Complainant or as the investigation has indicated thus far. Such an admission need not be made in writing, but any oral admission will be noted in the agreement and case file. The provisions of the Resolution Agreement will be aligned with the investigation and will be consistent with applicable statutes and regulations. TOCR will monitor any Resolution Agreement reached before the conclusion of the investigation. (See Section 206 of this manual for additional information on Resolution Agreements.)

Section 203. Investigative Summary and Findings

At the conclusion of an investigation, TOCR will determine that there is either sufficient or insufficient evidence to support a conclusion of noncompliance. TOCR will issue an Investigative Summary and Findings in writing to communicate this determination.

In its Investigative Summary and Findings, TOCR will include:

1. A statement of the issues raised by the Complainant;
2. A statement of TOCR's jurisdiction over the Complaint;
3. TOCR's determination of sufficient or insufficient evidence to conclude noncompliance; and
4. A clear explanation of the pertinent legal standard and factual analysis, referencing the evidence relied upon in making the determination.

If the evidence supports a conclusion of noncompliance, TOCR will negotiate a Resolution Agreement with the Recipient after issuing its Investigative Summary and Findings.

Section 204. Delay in Investigation

If for reasons beyond the control of TOCR, the investigation goes beyond 60 days, all parties will be notified in writing of such delay. An indication of the anticipated date of closure will also be provided. If the delay is the result of noncompliance or interference by the Complainant, Recipient, or any other party besides TOCR, an early resolution may be entered.

Section 205. Request for Reconsideration

Review by OGC

The Complainant and Recipient may send a written request for reconsideration, also referred to as an "appeal," to TDOE's OGC within 15 calendar days of the date of the Investigative Summary and Findings. There is no form required for this appeal, but it must be submitted in writing. The request for reconsideration should be as specific as possible and should highlight factual or legal concerns that could change the disposition of the case. General dissatisfaction with the Investigative Summary and Findings is not sufficient.

Contacting TOCR neither tolls the 15-day timeline nor is a prerequisite for filing a request for reconsideration with the OGC.

Each party is expected to submit any request for reconsideration within 15 calendar days of the Investigative Summary and Findings. However, the OGC may, grant a waiver of the 15-day timeframe where:

1. the requesting party was unable to submit the request for reconsideration within the 15-calendar day timeframe due to illness or other incapacitating circumstances and the request was filed within 15 calendar days after the period of illness or incapacitation ended; or
2. unique circumstances generated by agency action have adversely affected the requesting party.

In its review, the OGC will examine the documentation obtained throughout TOCR's investigation. If deemed prudent by the OGC, the OGC may, in limited circumstances, request and include in the review additional responses or submissions from the Complainant and/or the Recipient. It may also be necessary to reinterview certain witnesses if records do not reflect clear responses to the alleged violations of law. The OGC will not, however, consider issues or concerns that were not raised during the

initial investigation. The Investigative Summary and Findings issued by the OGC constitutes TDOE's decision on the case.

A written request for reconsideration by OGC should be submitted to:

Office of General Counsel
Tennessee Department of Education
9th floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243
Telephone: (615) 741-2921
Email: Christy.Ballard@tn.gov

Review by OCR

All TOCR investigations are subject to review by OCR. Either party has a right to contact OCR and request a review after the initial or second Investigative Summary and Findings.

Please contact OCR regarding their process at:

U.S. Department of Education Office for Civil Rights
Telephone: (404) 974 9406
61 Forsyth Street S.W., Suite 19T10
Atlanta, GA 30303-8927
Telephone: (404) 974 9406
Facsimile: (404) 974-9471
Email: OCR.Atlanta@ed.gov

Section 206. Guidelines for Resolution Agreements

If TOCR determines that the evidence supports a conclusion that the Recipient failed to comply with applicable regulations, TOCR shall negotiate a Resolution Agreement with the Recipient after issuing its Investigative Summary and Findings. The Resolution Agreement must state the Recipient's willingness to correct the inappropriate behavior and its agreement to future compliance.

Any Resolution Agreement entered between TOCR and a Recipient shall include a corrective action plan which provides:

1. The purpose of the plan;
2. Specific acts or steps the Recipient will take to resolve compliance issues, if applicable;
3. Dates for implementing each act or step and anticipated completion; and
4. Dates for submission of reports and documentation verifying implementation.

In addition, each Resolution Agreement must be approved by the Recipient's board or staff attorney and signed by a person with authority to bind the Recipient and be approved by the TOCR director or a person specifically designated as acting on his/her behalf.

A proposed Resolution Agreement should be submitted to TOCR for approval within 30 calendar days of receipt of TOCR's Investigative Summary and Findings (if neither party submitted a request for reconsideration) or within 15 calendar days of the OGC's response to the request for reconsideration, if applicable.

The proposed agreement will be reviewed by TOCR, and an approved agreement (with any required changes) will be returned to the Recipient. From the date the approved agreement is shared with the Recipient, the Recipient will have a period of up to 15 calendar days within which to sign the approved agreement. The 15-calendar-day negotiation period will not be extended. If the Recipient declines to submit a Resolution Agreement, TOCR will create one and mandate the Recipient's implementation.

While many agreements may be fully implemented within a short period of time, some agreements will involve more complex terms that require additional time to complete. The duration of Resolution Agreement implementation and monitoring rarely exceeds two years after its issuance. However, construction of, or major modification to, a Recipient's facilities; actions required by a legislative body; or the collection and analysis of data lasting more than one school year are examples of circumstances requiring monitoring exceeding two years.

A copy of the final Resolution Agreement will be sent to the Complainant after the Resolution Agreement has been signed by all parties.

Section 207. Monitoring of Post-Investigation Resolution Agreement

TOCR will conduct its monitoring activities consistent with the following principles and procedures.

Verification of Recipient's Implementation

TOCR will collect information to determine whether the commitments made by the Recipient have been implemented consistent with the terms of the Resolution Agreement. If verification of remedial actions cannot be accomplished by careful review of reports, documentation, and other information submitted by the Recipient, a site visit will be conducted to verify actions taken by the Recipient.

Responding to Monitoring Reports

TOCR will periodically require the Recipient to submit written reports and documentation that provides evidence of Recipient's continued compliance with the Resolution Agreement. TOCR will acknowledge receipt, evaluate, and issue a decision as promptly as possible.

Changed Circumstances Affecting Agreements

Mootness or Change in Controlling Law or Policy

TOCR may permit modification or termination of the Resolution Agreement if it learns that circumstances have arisen that either fully resolve or render moot some or all of the compliance concerns that were addressed by the Resolution Agreement. TOCR will also modify the Resolution Agreement in response to changes in controlling case law, statutes, regulations, or agency policy.

New Compliance Issues

Compliance issues identified for the first time during monitoring may be addressed by either providing technical assistance or initiating a new investigation. If related to the current compliance issues, the newly identified issues may be incorporated into the Resolution Agreement.

Implementation Deficiencies

TOCR will promptly provide written notice to the Recipient of any deficiencies in implementation and will request immediate and appropriate action to address those deficiencies. When necessary, TOCR shall require additions to the Resolution Agreement to address the failure of the Recipient to fully implement commitments in the original agreement.

Approval of Modifications

Modification of any Resolution Agreement provision will be granted on a case-by-case basis. The Complainant will be notified, in writing, of significant modifications to the Resolution Agreement.

Section 208. Conclusion of Monitoring

TOCR will conclude the monitoring of a case when it determines the Recipient has fully implemented the terms of the Resolution Agreement. The Recipient and Complainant will be promptly notified, in writing, of the conclusion of monitoring.

Part III. Initiating Enforcement Action

If TOCR is unable to negotiate or is forced to terminate a Resolution Agreement, TOCR will initiate enforcement action. TOCR will: (1) initiate administrative proceedings to suspend or terminate state financial assistance made available through TDOE to the Recipient; (2) refer the case to OCR for enforcement of the Resolution Agreement, and/or (3) refer the case to the United States Department of Justice for judicial proceedings to enforce any rights of the United States.

Part IV. Compliance Reviews

If during an investigation, TOCR identifies concerns unrelated to the issues raised in the Complaint, TOCR may initiate a compliance review. In a compliance review, TOCR will follow the same procedural process outlined herein, with notice of the new, unrelated concerns effectively serving as the Complaint.

Part V. Recipient Response Guide

The Recipient should provide a detailed and thorough response including all requested information and any additional information considered relevant by the Recipient to resolve the allegations of the Complaint. TOCR accepts hard copy and electronic submissions for responses. Electronic submissions are preferred and can be sent to TOCR through a secure email or uploaded through a secure portal provided by TOCR.

With its response, the Recipient must include an exhibit list describing the evidence provided. Each exhibit listed should include the following:

- Exhibit number
- Brief title for the exhibit
- Brief statement explaining how the exhibit is responsive to TOCR's request for information or relevant to the investigation.

A sample exhibit list is included below:

- Exhibit # 01 – LEA Policies
 - Copies of relevant non-discrimination policies and grievance procedures.
- Exhibit # 02 – Response to Allegations
 - Written response to Complainant's allegations.
- Exhibit #03 – Investigation File
 - Copies of incident reports, investigation notes, written statements from staff and administrators, and summaries of disciplinary actions taken.
- Exhibit# 04 – Student Discipline Records
 - Spreadsheet of all discipline referrals from the school for the past three years.
- Exhibit # 05 – Communication with Complainant
 - Copies of emails and summaries of phone calls with Complainant.
- Exhibit # 06 – Incident Videos
 - Copies of videos capturing the Jan. 1, 2000, incident involving Student 1 and Student 2.

Each page within an exhibit should be numbered. Any response statements prepared by LEA staff should include the name of the preparer, the preparer's title, and the date the statement was prepared.

Permission is granted to use and copy these materials for non-commercial educational purposes with attribution credit to the "Tennessee Department of Education". If you wish to use these materials for reasons other than non-commercial educational purposes, please contact the office of general counsel at (615) 741-2921 or Joanna Collins (Joanna.Collins@tn.gov).



[Click here to access the **Copyright/Trademark Permissions Request Form**](#)