

# **Alameda Unified School District**

## **PARENT HANDBOOK**

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### **Section**



### **of the**

## **Rehabilitation Act of 1973**

**Alameda Unified School District  
Student Support Services Department  
2060 Challenger Drive, Alameda, CA 94501**

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Revised August 2022

Dear Parent,

Alameda Unified School District is committed to upholding our community's core values of equity and excellence for every student by providing inclusive and safe conditions for learning that challenge and support every student to be culturally competent and prepared for college, career, and community participation.

### **AUSD'S GUIDING PRINCIPLES**

- We believe there is value in diversity, and that by providing equitable educational opportunities for all students, everyone can succeed.
- We believe that education should be student-centered and focused on the whole child.
- We believe that social, emotional, and mental well-being are crucial to the success of students.
- We believe that inequities exist within our current educational system and that it is our responsibility to diminish them.
- We believe that students deserve the opportunity to explore and pursue their interests and that it is the responsibility of employees to support them in this.
- We believe that clear and transparent communication with stakeholders is vital to the success of students.
- We believe that staff and administration should work alongside stakeholders to ensure that students are being given the services they need and are being challenged appropriately.

Section 504 of the Rehabilitation Act of 1973 States:

***“No otherwise qualified individual with a disability....., shall, solely by reason of her or his own disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...”***

This handbook has been developed to inform you of your rights and the school's responsibilities related to Section 504 of the Rehabilitation Act of 1973. We hope you find this information useful.

By working together, we can help our students reach their maximum potential.

Sincerely,

*Jodi McCarthy*

AUSD District Section 504 Coordinator  
Student Support Service Department  
Email: [jmccarthy@alamedaunified.org](mailto:jmccarthy@alamedaunified.org)

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## What is Section 504 of the Rehabilitation Act of 1973?

Section 504 is civil rights legislation that prohibits discrimination against persons with a disability in any program receiving federal financial assistance. This legislation defines a person with a disability as anyone who:

- has a mental or physical impairment which substantially limits one or more major life activity (es). The major life activities include *but are not limited to*: bending, breathing, caring for one's self, communicating, eating, hearing, learning, lifting, operation of major body functions (including but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions), performing manual tasks, reading, speaking, sleeping, seeing, standing, thinking, walking, and working;
- has a record of such impairment; or
- is regarded as having such an impairment.

## Alameda Unified School District and Section 504

The Alameda Unified School District recognizes its responsibility to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any individual with a disability will knowingly be permitted in any of the programs and practices in the school system.

The school district has specific responsibilities under Section 504 of the Rehabilitation Act of 1973, that include the responsibility to identify, evaluate, and if the student is determined to be eligible under Section 504, to afford access to a free appropriate public education.

If a parent or guardian disagrees with a decision regarding the identification, evaluation, or placement made by the professional staff of the site 504 Team, he/she has a right to file a complaint. The various methods for filing a complaint are discussed on pages 7-15 of this handbook.



## Referral Process

Students who are experiencing difficulties in school are sometimes referred for evaluation and assessment for possible special education placement or considerations. As a parent, you can initiate the referral process if you feel your son or daughter's progress in school is substantially limited by an impairment. First discuss your concern with the teacher(s) or school counselor for further consideration and review.

Some students do not meet the requirements for special education certification; however, they do have a disability that is substantially affecting a major life activity at school. A referral to determine student eligibility for services can be made by a parent, school administrator, counselor, teacher, and other professionals knowledgeable about your child. Older students may refer themselves.

If you make a referral for a 504 eligibility meeting for your son or daughter, the 504 Team at school will accept the referral and begin the process to determine eligibility.

The 504 Team generally consists of the following participants:

1. parents
2. site 504 coordinator
3. teacher (s)
4. counselor
5. administrator
6. nurse
7. Specialized Academic Instructor (SAI) when appropriate
8. other professional knowledgeable about your child

If the student is an English learner, the 504 Team will include a teacher or another person knowledgeable about second language acquisition. The 504 Team may also need to include the school psychologist, nurse, or other professionals with specialized knowledge of assessment instruments.



## **Inappropriate Referrals/Uses of Section 504**

Section 504 is an anti-discrimination, civil rights statute that requires the needs of students with disabilities to be met as adequately as the needs of the non-disabled are met. Section 504 provides access and removes obstacles; assuring access to educational services, programs, and activities that is equal to that given to students who do not have disabilities, and assures that qualified individuals with a disability are provided aids, benefits, and services that are effective as that provided to others.

Section 504 does not create a plan from which the child receives educational advantage over their peers. A 504 plan is designed to put kids on an equal footing with their peers, so that they compete on a level playing field. It provides reasonable accommodations to children with disabilities who qualify for accommodations.

A physical or mental impairment does not automatically qualify a student for 504 accommodations, unless the severity or educational impact of the disability is such that it results in a substantial of one or more major life activities.

A student is not "substantially limited" simply because the student is not reaching his/her potential. In considering substantial limitations, students must be measured against their same age, non-disabled peers in the general education setting.

### **Inappropriate uses include:**

- A parent/guardian and/or doctor presents the school with a disability diagnosis and a Section 504 Service Plan is written without first determining if the disability causes substantial limitation of a major life activity.
- A student is placed on a Section 504 Service Plan in response to challenges the student may encounter (but is not currently encountering) in the future, or in the next grade span.
- A student is placed on a Section 504 Service Plan for the sole purpose of getting additional time on college qualifying examinations (e.g., ACT, SAT).
- A student is placed on a Section 504 Service Plan because the student has a record of impairment or is regarded as being impaired, but the student does not actually have a disability that substantially limits a major life activity.
- A student fails to qualify for special education and related services under the IDEA, but is automatically provided with a Section 504 Service Plan.
- A student is automatically placed on a Section 504 Service Plan when the student no longer qualifies for special education services under the IDEA without first qualifying based on Section 504 criteria.
- A student is placed on a Section 504 Service Plan as an alternative way to receive special education and related services.
- A student is placed on a Section 504 Service Plan with accommodations that over-support and hinder a student from being independent. Accommodations must be related to the disability and the student's current needs.

## Referral Process

The 504 Coordinator processes referrals using the following guidelines:

- **Parent Notification:** Provide written notification of referral to parents; invite parents to the 504 eligibility meeting.
- **Evaluation:** Request and receive parental consent to conduct an evaluation of the student, using a variety of data that may be both formal and informal. No provision is made for independent evaluation at District expense. However, if the District is unable to perform an evaluation necessary to obtain relevant information about a student, the District must arrange for the evaluation to be conducted at no cost to the parents/guardians.
- **Decision/Recommendations:** Determine if the student meets the requirements for Section 504 eligibility.
- **Plan Development:** If the student is eligible, develop a 504 Plan with accommodations, aids, and services.
- **Placement/Implementation:** Provide parents and service providers with a copy of the student's 504 Plan.
- **Parent Notification:** Inform parent/ guardian of 504 Team decision if they were not able to attend the meeting and of their due process rights and procedures.
- **Review:** 504 Plans will be reviewed every two years or sooner (if needed) and whenever there is a significant change in placement. The 504 Plan may be revised as the 504 Team deems appropriate. When a student with a 504 Plan transfers to another school within Alameda Unified, the receiving school will review the 504 Plan and make revisions if necessary. This includes the beginning of the school year and students transitioning between elementary to middle or middle to high school.

Each school has a designated site 504 coordinator who attends and coordinates the 504 meetings. At middle and high school this is typically their counselor. At elementary school this is typically the administrator. If you have questions about this process, contact the 504 coordinator at your child's school.

## Facilities Modification Needs

There are some overlapping requirements under Section 504 and the Americans with Disabilities Amendment Act (ADA) passed in 2008 with respect to access to buildings and the program/activities conducted in certain locations which may not afford equal access or use by persons with certain disabilities.

Your concerns in this area should be directed to the school administrator. Site level staff is generally aware of the student's current needs. They will make recommendations to the site administrator if the student will be enrolling in a school where facilities may need to be modified or classes may need to be relocated.

## Summary of Parental Rights Afforded by Section 504 of the Rehabilitation Act of 1973.

The following section summarizes the student and parental rights granted by federal law. The intent of the law is to keep you fully informed regarding decisions about your student and to inform you of your rights should you disagree with any of these decisions. The full procedural safeguards can be found on the Alameda Unified School District website, or can be requested by emailing Jodi McCarthy at [jmccarthy@alamedaunified.org](mailto:jmccarthy@alamedaunified.org)

Parents have the following rights under Section 504:

1. Right for your child to take part in and receive benefits from public education programs without discrimination because of his/her handicapping condition.
2. Right to have an evaluation that draws on information from a variety of sources.
3. Right to be informed of any proposed actions related to eligibility and the plan for services.
4. Right to examine all relevant records.
5. Right to review accommodations every two years and an evaluation prior to any significant change in program or service.
6. Right to have your child receive educational modifications and support services if found eligible under Section 504 of the Rehabilitation Act.
7. Right to have your child given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district.
8. Right to file a grievance with the school district over an alleged violation of Section 504 regulations.
9. Right to be represented by counsel in an impartial hearing process.
10. Right to appeal the impartial hearing officer's decision.

There are four possible avenues for filing complaints:

1. **AUSD Uniform Complaint Procedures:** For complaints of discrimination, harassment, intimidation, retaliation, or bullying based on actual or perceived mental or physical disability, gender, gender identity, gender expression, sexual orientation, national origin, nationality, race or ethnicity, ancestry, religion, age or color (page 10).
2. **504 Complaint Form:** Any complaint alleging disagreement with decisions or actions taken or not taken in regards to a student's Section 504 evaluation or plan (page 9).
3. **Due Process Hearing Request:** for complaints regarding the identification, evaluation, or educational placement under Section 504 (page 11).
4. **Complaints to the Office for Civil Rights:** for any allegations of discrimination (refer to page 15).



## **Additional Facts for Parents Regarding Section 504**

Alameda Unified encourages your involvement in your student's success and academic achievement. Your involvement in the 504 Plan will be encouraged by the 504 Team as you do have a right to make suggestions and present information regarding accommodations, aids and services.

No final determination of whether the student will or will not be identified as a disabled student within the meaning of Section 504 will be made without first inviting the parent/guardian of the student to participate in a Section 504 Service Plan team meeting concerning such determination. The parent/guardian will receive reasonable notice of all Section 504 Service Plan team meetings

For students who are determined, through the evaluation process, to be eligible under Section 504, the Section 504 Service Plan team shall develop a Section 504 Service Plan

Districts are obligated (under Sec. 504 and the ADA) to provide 504 plans (and other accommodations) that are reasonable, not optimal. *M.R. v. Ridley Sch. Dist.*, 680 F.3d 260 (3d Cir. 2012); see also *T.F. v. Fox Chapel Area Sch. Dist.*, 589 F. App'x 594 (3d Cir. 2014); *S. v. W. Chester Area Sch. Dist.*, 353 F. Supp. 3d 369 (E.D. Pa. 2019).

""Although a public entity must make 'reasonable accommodations,' it does not have to provide a disabled individual with every accommodation he requests or the accommodation of his choice."" *Doe v. U.S. Sec'y of Transp.*, 73 IDELR ¶ 152 (S.D.N.Y. 2018) (quoting *McElwee v. Cnty. of Orange*, 700 F.3d 635, 641 (2d Cir. 2012)).

A school district under Sec. 504 is "not required to grant the specific accommodations requested by Parents or otherwise make substantial modifications to the programs that were used for all other students." *M.R. v. Ridley Sch. Dist.*, 680 F.3d 260, 282 (3d Cir. 2012);

The parent/guardian must consent to the student's Section 504 Service Plan prior to the implementation of the plan; however, they do not need to consent to future changes in services in order for those changes to take place. Students who are eligible under Section 504 do not have a right to stay put in cases when a dispute arises.



## Working Together

The most effective help for students requires the full cooperation of teachers and parents working closely with other professionals to determine:

- The best education plan for your son or daughter
- The most appropriate curriculum and placement for your son or daughter
- Accommodations that may support performance, for example:
  - ❖ Positive Behavioral Supports (PBIS)
  - ❖ Shorter assignments or extended time to complete them
  - ❖ A special space to work
  - ❖ A “study buddy”
  - ❖ Participation in the school’s tutoring program, if available
  - ❖ Home/school progress reports-Parent Portal
  - ❖ Adaptations in test taking
  - ❖ Aids in organization and study skills



## Home-School Connection

Positive communication between home and school is essential. Parents can help shape their child’s behavior by their interest and support of homework and special assignments.

- Help your son or daughter set a consistent time and place for homework and reading.
- Provide good lighting, paper, pencils, erasers, and other necessary equipment.
- Children and adolescents differ in their needs. Some require complete quiet; others do better with background music.
- Make expectations clear.
- Help determine total length of study time at home (ask teacher).
- Divide homework and projects into parts and allow time for breaks.
- Help your son or daughter establish routines and consistent procedures.
- Keep the school nurse informed of any medication or changes in medication that might affect your son or daughter at school.



## Filing Section 504 Complaint

### Initiating a Complaint Regarding Identification, Evaluation and Placement Issues;

If you believe that the school or any of the school's staff did not correctly follow the regulations of Section 504 of the Rehabilitation Act of 1973 when making the determination about identification, evaluation, and educational placement of your son or daughter, (for services), or Americans with Disabilities Act of 1990 (for access to facilities) you may bring forward a complaint in one of two ways:

1. Follow the school's grievance plan:
  - Fill out a Section 504 complaint form (See page 9).
  - Submit the completed form to either the site administrator or site 504 Coordinator who will in turn investigate the complaint.
2. File a complaint with the Office for Civil Rights (See the *How to File a Complaint with the Office for Civil Rights* on page 15).

It should be understood that you can file a complaint with the Office for Civil Rights **without** going through the school's grievance procedures. However, the school's grievance procedures are meant to provide you with a prompt and equitable resolution of a complaint.

### Required Information for Complaint Form

Individuals who have complaints about district facilities or Section 504 services may register such complaints with the site administrator using the Section 504 Complaint Form on page 9.

Be sure to include the following information on the form:

1. Name (s) of the person (s) making the complaint.
2. Whether the person (s) making the complaint has discussed the problem with the site administrator.
3. A summary of the complaint and suggested solution.

### Complaint Levels *(see procedural safeguards for more information)*

Level 1: In writing, the parent/guardian may request a meeting with the Section 504 Service Plan team in an attempt to resolve the disagreement. This meeting shall be held within fifteen (15) school days after receiving the parent/guardian's request. This time frame may be extended by mutual agreement of the parties.

Level 2: If disagreement continues, the parent/guardian may request, in writing, a meeting with the District Section 504 Administrator for Alameda Unified School District. This meeting shall be held within a reasonable period of time after receiving the parent/guardian's request.

Level 3: If a parent/guardian disagrees with the identification, evaluation, or educational placement of a student with a disability under Section 504, he/she may request to initiate due process procedures by requesting a hearing.

At any point in this process, the complainant may forward the complaint to the Office for Civil Rights, U.S. Department of Education, 50 United Nations Plaza, Mail Box 1200, Room 1545, San Francisco, CA 94102. Fax: 415-486-5570. Email: ocr.sanfrancisco@ed.gov

**Unresolved complaints:**

*Please note* - If you disagree with the school's determination regarding the identification, evaluation, and educational placement of your son/daughter or provision of a free appropriate public education (FAPE), please refer to How to Request a Due Process Hearing (page 11). You may forward your complaint at any point to AUSD Student Support Services at the following address:

Alameda Unified School District  
Section 504 Coordinator, Jodi McCarthy  
2060 Challenger Drive  
Alameda, CA 94501  
Email: [jmccarthy@alamedaunified.org](mailto:jmccarthy@alamedaunified.org)

**This complaint will not be transmitted to a state or federal agency for investigation.** District personnel will investigate your complaint. You will receive a written response from the district indicating that the complaint has been resolved or what will be done (and by whom) in order to resolve the noncompliance problem (s).

If you wish to appeal the decision of the District's 504 Office, you may file a complaint with the Office for Civil Rights at any time before or during the grievance procedures.

## Alameda Unified Section 504 Complaint Form

*For complaints alleging disagreement with decisions or actions taken or not taken in regards to a student's Section 504 evaluation or plan.*

Parent/Guardian Name (please print): \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Student's Name: \_\_\_\_\_ DOB & ID#: \_\_\_\_\_

School of Attendance: \_\_\_\_\_ Grade: \_\_\_\_\_

\_\_\_\_\_  
Signature of Complainant \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Signature of Person Receiving Complaint \_\_\_\_\_ Date \_\_\_\_\_

**Specific Complaint** *(please attach additional pages if needed):*

**Action Requested:**

## Uniform Complaint Procedure

### Complaints Regarding Discriminatory Treatment

AUSD utilizes the Uniform Complaint Procedure (UCP) to investigate and resolve complaints related to the following:

- **Unlawful** discrimination, harassment, intimidation, retaliation, or bullying based on actual or perceived mental or physical disability, gender, gender identity, gender expression, sexual orientation, national origin, nationality, race or ethnicity, ancestry, religion, age or color;

Complaints of discriminatory treatment include (but are not limited) to the following: harassment of a student with a disability by others; denial of an opportunity to participate in a program or activity because of disability; other forms of different treatment because of disability; inaccessibility of the District's programs or activities.

If your complaint pertains to discriminatory treatment of your son or daughter based on their disability, you may file a complaint under the District's Uniform Complaint Procedure. You may obtain a copy of the Uniform Complaint Form from the district web site under "Complaint Procedures and Forms" or directly from Meira Nalamothu, Administrative Assistant for Educational Services by emailing her at [mnalamothu@alamedaunified.org](mailto:mnalamothu@alamedaunified.org) or calling (510) 337-7063.

For complaints regarding Free Appropriate Public Education (FAPE), please refer to page 4 Parental Rights.



## **How to Request a Due Process Hearing with the School District**

In addition to the Complaint Procedure required by Section 504, the US Department of Education provides administrative guidance for regulating Due Process Hearings under Section 504. It is important that you understand your right to request a hearing regarding the identification, evaluation, educational placement or provision of free appropriate public education (FAPE) of your student.

If a parent/guardian disagrees with the identification, evaluation, or educational placement of a student with a disability under Section 504, he/she may request to initiate due process procedures by requesting a hearing. The parent/guardian shall set forth in writing his/her request for a hearing and include all of the following:

- A statement requesting a hearing
- The specific nature of the decision(s) made by the District's Section 504 Service Plan team with which the parent/guardian disagrees;
- The specific relief the parent/guardian seeks; and
- Any other information the parent/guardian believes will assist in understanding the request.

Parent requests for a due process hearing must be made in writing and within 60 calendar days from date of the District's written notice of proposed or refused action. Parents may utilize District Form "Notice of Request for Impartial Section 504 Due Process Hearing", but are not required to do so as long as the written request provides all relevant information indicated above.

If the school proposes to change your students' placement and you file a request for a hearing, the school is obligated to maintain your students' placement until administrative proceedings are completed.

### **Due Process Hearing: Participants' Rights**

Either party to the hearing, may request the hearing officer grant a continuance. The continuance may be granted upon a showing of good cause or by agreement of the parties.

Any party to the hearing shall be afforded the following rights:

- At their own expense, the right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of students who have a disability within the meaning of Section 504.
- Receipt of notice from the other party or parties, at least ten (10) calendar days prior to the hearing that they will utilize the services of an attorney, except for good cause shown.
- The right to prohibit the introduction of evidence at the hearing that has not been disclosed to the other party or parties at least five (5) calendar days prior to hearing except for good cause shown.
- The right to present evidence, written and oral.
- The right to produce outside expert testimony.
- The right to a written or electronic verbatim record of the hearing prepared at the expense of the individual requesting such record.

The parties shall abide by the decision of the Section 504 hearing officer unless the decision is appealed to a court of competent jurisdiction and the decision is stayed, revised or reversed by the court.

## Notice of Request for Impartial Section 504 Hearing Form

### Important information you need to know before requesting a Section 504 Due Process Hearing:

- An impartial hearing officer presides over the due process hearing.
- The law encourages mediation at all stages of the hearing process as a preferred method of resolving disputes. Therefore, a mediation conference can be scheduled whenever there is a hearing request. Mediation is strictly voluntary on the part of all parties.
- Attorneys or advocates may represent parties during the mediation or hearing.
- Upon receipt of notice of a request for a Section 504 Due Process Hearing, the District will send complainant a copy of the Procedural Safeguards.

If you wish to file a request for a Section 504 Due Process Hearing, complete a copy of the Notice of Request for Impartial Section 504 Due Process Hearing Form (*NOTE: The required information must be provided for request to be processed*) and mail or email to:

Alameda Unified School District  
Attention: Jodi McCarthy  
2060 Challenger Drive  
Alameda, CA 94501  
Telephone: (510) 337-7094  
E-mail: [jmccarthy@alamedaunified.org](mailto:jmccarthy@alamedaunified.org)

You must deliver your request for a Section 504 Due Process Hearing to the Alameda Unified School District at the above location in order to have properly served the District and initiate the hearing procedures.





## **AUSD Notice of Request for Impartial Section 504 Due Process Hearing**

**PARENT INFORMATION:**

NAME, First and Last (Required)

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ADDRESS (Required)

---

HOME PHONE

(     )

WORK PHONE

(     )

FAX

(     )

**PARTIES TO BE NAMED:**

DISTRICT OF RESIDENCE (Required)

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ADDITIONAL PARTIES

(Required)

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(Any other school district, including school of attendance, or public agency that is responsible for providing services that should be a party in the mediation and hearing.)

**REQUESTING PARTY** (Circle) (Required)

• PARENT	• PARENT REPRESENTATIVE
• SCHOOL DISTRICT	• SCHOOL DISTRICT REPRESENTATIVE
• OTHER AGENCY	

If the requesting party is not the parent, please complete the following:

NAME

---

ADDRESS

---



---

ORGANIZATION

(     )

PHONE

(     )

FAX

(     )

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***Notice of Request for Impartial Section 504 Due Process Hearing (cont.)***

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**BRIEF SUMMARY OF REASON FOR REQUEST** (Describe the nature of the problem including all facts relating to the problem.) (Required)

**PROPOSED RESOLUTION OF PROBLEM STATED ABOVE** (Required)

## How to File a Formal Complaint with the Office for Civil Rights

At any time you may file a complaint with the Office for Civil Rights (OCR) in San Francisco at the address shown below. Forms are available on their website.

Office for Civil Rights, U.S. Department of Education  
50 United Nations Plaza, Mail Box 1200, Room 1545  
San Francisco, CA 94102  
Fax: 415-486-5570  
Email: [ocr.sanfrancisco@ed.gov](mailto:ocr.sanfrancisco@ed.gov)

Except in extraordinary circumstances, OCR does not review the result of individual placement or other educational decisions so long as the school district complies with the procedural requirements of Section 504 relating to identification and location of students with disabilities, evaluation of such students, and due process. Accordingly, OCR generally will not evaluate the content of a Section 504 plan or of an individualized education program (IEP); rather, any disagreement can be resolved through a due process hearing. The hearing would be conducted under Section 504 or the IDEA, whichever is applicable.

OCR will examine procedures by which school districts identify and evaluate students with disabilities and the procedural safeguards which those school districts provide students. OCR will also examine incidents in which students with disabilities are allegedly subjected to treatment which is different from the treatment to which similarly situated students without disabilities are subjected. Such incidents may involve the unwarranted exclusion of disabled students from educational programs and services.

### Required Information

A complaint should include the following information:

- your name and address (a telephone number where you may be reached during business hours is helpful, but not required)
- a general description of the person (s) or class of persons injured by the alleged discriminatory act (s) (names of the injured person (s) are not required)
- the name and location of the institution that committed the alleged discriminatory act (s)
- a description of the alleged discriminatory act (s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination

NOTE: A recipient may not retaliate against any person who has made a complaint, testified, assisted, or participated in any manner in an investigation or proceeding.