

OFFICE FOR CIVIL RIGHTS
DEPARTMENT OF HEALTH AND HUMAN SERVICES
REGION II
NEW YORK, NEW YORK 10278

NOTICE TO COMPLAINANTS ABOUT INVESTIGATORY USES OF
PERSONAL INFORMATION

As a complainant, you should be aware of the circumstances under which the Office for Civil Rights (OCR) releases information from a complaint file.

AS A POLICY, THE OFFICE FOR CIVIL RIGHTS does not reveal the names or other identifying information about an individual unless it is necessary for the completion of an investigation or for enforcement activities against an institution that violates civil rights laws, or unless required to do so under the Freedom of Information Act (FOIA). In general, OCR does not reveal to an institution under investigation the identity of the person who filed the complaint, unless the person first gives OCR written consent to do so. However, if a complaint is filed against a Hill-Burton facility, OCR is required to send a copy of the complaint to that institution.

There are two Federal laws governing personal information submitted to all Federal agencies including the Office for Civil Rights (OCR): The Privacy Act of 1974, (5 U.S.C. 522a) and the Freedom of Information Act, (5 U.S.C. 522).

This brief description will acquaint you with these laws.

1. THE PRIVACY ACT protects complainants from misuse of personal information held by the Federal government. The law applies to records that are kept and that can be located by the complainant's name, social security number, or other personal identification system.

Personal information will be used only for authorized civil rights compliance and enforcement activities. Generally, OCR will not release the information to any other agency or individual unless the person who supplied the information submits a written consent, or unless release is required under the Freedom of Information Act (FOIA). However, OCR does have the authority to refer complaints to other Federal agencies such as the Department of Justice, the Department of Labor, and the Equal Employment Opportunity Commission (EEOC) without the complainant's prior consent. This authority is provided under the "routine use" exception of the Privacy Act.

Information submitted to OCR may also be given to other government agencies, usually the Department of Justice, for enforcement proceedings against an institution that violates civil rights laws or regulations. OCR may have to reveal personal information about a complainant to individuals participating in that phase of the enforcement process.

A complainant cannot be required to give personal information to OCR, and no sanctions will be imposed on persons who deny our request. However, if OCR fails to obtain information needed to investigate allegations of discrimination, it may have to close the investigation.

A complainant may ask for and review all the personal material in his or her file kept for investigatory uses by OCR (except as necessary to maintain confidentiality of witnesses and other sources). If the person finds any errors in the file, he or she may notify the Office and request corrections. If OCR refuses the request, the complainant may appeal OCR's decision to the Assistant Secretary for Management and Budget, Department of Health and Human Services.

2. THE FREEDOM OF INFORMATION ACT (FOIA) gives the public the right of access to files and records of the Federal government. With some exceptions, the Department of Health and Human Services must honor FOIA requests, though our policy is to do so without releasing a complainant's name or other personal identification. The Department is generally not required to release documents if the release would interfere

with the Department's ability to complete its work as, for example, during an investigation or enforcement proceeding. Also any Federal agency may refuse a request for files or records if the release would be an unwarranted invasion of an individual's privacy.

If you have any questions about this Notice, please contact OCR or the Public Affairs Office of the Department of Health and Human Services.