

INSTRUCTIONS for ACDL's Fillable OCR Complaint Form Regarding Masking Requirements

Many students with disabilities are at higher risk of serious complications from COVID-19 and need school districts to implement masking policies to allow them to return to school safely. The Arizona Center for Disability Law (ACDL) has created a template that families can use to submit a complaint of disability discrimination to the U.S. Department of Education's Office for Civil Rights (OCR). Before you start filling in your fillable OCR Complaint Form, read these instructions and the entire template complaint.

Instructions for using the template:

- ACDL's template form contains areas where you will need to fill in the blanks, delete information that does not apply, and choose "yes or no" in response to statements. When you click on a fillable section, a description of what information belongs in the box will pop up just above the fillable section.
- Where you see a "example" box, ACDL is providing additional instructions or an example to help you fill out that section of the form. You will need to DELETE all "example boxes" and their contents before mailing, emailing, or faxing your final complaint to OCR. In order to delete an example box, click on the border of the box and then press the delete key on your keyboard. Make sure you click the border of the box, and not inside of it.

Deadlines:

- **180-Day Deadline:** OCR states, "[a] complaint must ordinarily be filed within 180 days of the last act of discrimination. If your complaint involves matters that occurred longer ago than this and you are requesting a waiver, you will be asked to show good cause why you did not file your complaint within the 180-day period."
 - This means you must file before the end of the 180-day deadline if the deadline has not passed.
 - If the deadline has passed, file if you have a good reason for missing the deadline and ask for a waiver.
- **Filing a Complaint is Not Required:** You are not required to file a complaint with OCR before filing a lawsuit. If you are interested in filing a lawsuit regarding disability discrimination, there are specific deadlines that apply, and we recommend contacting an attorney as soon as possible. However, in many cases, an OCR complaint will be faster, cheaper, and more effective than a lawsuit in getting your child the reasonable accommodations that they need to attend school safely.

Using ACDL's Template v. OCR's Online Complaint. You are not required to use any specific form to file an OCR complaint. However, your complaint must include certain information so that the agency can investigate your complaint. OCR offers a fillable general OCR complaint form on its website, available at this [link](#). ACDL's template complaint form is for use when a school or district refused to require masking where necessary to enable a student with a disability to fully participate in school. If this is not applicable to your student's situation, consider using OCR's general complaint form instead of this template.

ACDL's template complaint can be changed as needed to fit the student's individualized circumstances. Include any relevant details, such as dates and names of people that you spoke to when trying to get the school to take necessary steps to allow your child to safely return to school.

OCR also investigates complaints of discrimination in schools based on race, color, sex, national origin, and age. If you believe that your child has been discriminated against based on membership in another protected group, you add this to your complaint. However, these other types of discrimination are outside the scope of ACDL's template OCR complaint and have not been included.

Note regarding the Definition of Disability. Applicable law protects "individuals with disabilities," defined as an individual "with a physical or mental impairment that substantially limits one or more major life activities (MLA) or major bodily functions (MBF)." If your student has an Individualized Education Program (IEP) or a 504 Plan, they will likely meet this standard. Additionally, the Equal Employment Opportunity Commission (EEOC) has provided that the following conditions will, at a minimum, substantially limit the following MLAs/MBFs:

- Deafness substantially limits hearing;
- Blindness substantially limits seeing;
- An intellectual disability substantially limits brain function;
- Partially or completely missing limbs or mobility impairments requiring the use of a wheelchair substantially limit musculoskeletal function;
- Autism substantially limits brain function;
- Cancer substantially limits normal cell growth;
- Cerebral palsy substantially limits brain function;
- Diabetes substantially limits endocrine function; epilepsy substantially limits neurological function;
- Human Immunodeficiency Virus (HIV) infection substantially limits immune function;
- Multiple sclerosis substantially limits neurological function;
- Muscular dystrophy substantially limits neurological function; and
- Major depressive disorder, bipolar disorder, post-traumatic stress disorder, obsessive compulsive disorder, and schizophrenia substantially limit brain function.

These examples should be helpful to keep in mind as you consider how your child is impacted by their disabilities. If you have any questions about this definition, or how to use this form, please feel free to contact ACDL.

5025 East Washington Street, Suite 202
Phoenix, Arizona 85034-7437
(602) 274-6287 (Voice) – (602) 274-6779 (Fax)

177 North Church Avenue, Suite 800
Tucson, Arizona 85701-1119
(520) 327-9547 (Voice) – (520) 884-0992 (Fax)

www.azdisabilitylaw.org

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