

National Archives and Records Administration
REQUEST FOR DISPOSITION AUTHORITY

Records Schedule Number: DAA-0468-2023-0001

Status: APPROVED
Date Approved: 05/09/2024
Last Modified: 07/09/2024

General Information

Agency or Establishment	Department of Health and Human Services
Record/Scheduling Group	0468 - General Records of the Department of Health and Human Services
Records Schedule Applies To	Agency Subdivision
Major Subdivision	Office of the Secretary
Minor Subdivision	Office for Civil Rights
Schedule Subject	Official Enforcement Case Files of the Office for Civil Rights
Additional Schedule Information	<p>The Office for Civil Rights (OCR) of the U.S. Department of Health and Human Services (HHS) promotes and ensures that people have equal access to and opportunity to participate in and receive services in all HHS-funded programs without facing unlawful discrimination and that the privacy of their health information is protected while ensuring access to care.</p> <p>The civil rights statutes enforced by OCR include Title VI of the Civil Rights Act of 1964 (Title VI), Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (Title II), Titles VI and XVI of the Public Health Service Act (Hill-Burton Act), the Multi-Ethnic Placement Act (MEPA) as amended by the Interethnic Adoption Provisions of the Small Business Job Protection Act of 1996 (IEP), the Age Discrimination Act of 1975 (Age Act), Title IX of the Education Amendments of 1972 (Title IX), provisions of the Omnibus Budget Reconciliation Act of 1981 relating to nondiscrimination in block grant programs, the Church Amendments, Section 245 of the Public Health Service Act and the Weldon Amendment (which prohibits discrimination against those who decline to participate in abortions or sterilization procedures), Section 1553 of the Affordable Care Act (ACA) (which prohibits discrimination against those who decline to participate in assisted suicide procedures), and Section 1557 of the ACA (which extends the application of existing federal civil rights laws prohibiting discrimination on the basis of race, color, national origin, sex, disability, or age to any health program or activity</p>

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receiving federal financial assistance; any program or activity administered by an executive agency; or any entity established under Title I of the ACA), the Patient Safety and Quality Improvement Act of 2005, and the HIPAA Privacy, Security, and Breach Notification Rules. In addition, OCR is responsible for coordinating government-wide compliance with the Age Act. OCR also coordinates Department-wide implementation of the Section 504 regulation adopted in 1988 that prohibits discrimination on the basis of disability in programs and activities conducted by the Department. OCR assesses compliance with non-discrimination, privacy, and security laws and regulations by processing and resolving complaints, ensuring compliance with civil rights laws and regulations, conducting preventive compliance reviews, monitoring corrective action plans, and engaging in public education and technical assistance activities as additional means of achieving compliance with non-discrimination, privacy, and security requirements. This schedule applies to:

- OCR enforcement case files that are stored in the Program Information Management System (PIMS) and any successor system that performs a similar function,
- Outreach Case Files and Administrative Files that are in PIMS and any successor system that performs a similar function,
- OCR paper enforcement case files that were created prior to the 2003 launch of PIMS, and
- OCR enforcement case files that were maintained in paper format and only partially entered into PIMS.

Is There a Classified Version of This Schedule?	No
Is consultation and coordination with Tribal Governments required?	No - the records covered by this schedule do not implicate Tribal interests

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Item Count

Total number of disposition items: 6

Number of Temporary disposition items: 5

Number of Permanent disposition items: 1

Number of Items with Disposition Not Approved: 0

Number of Inactive disposition items: 0

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Outline of Records Schedule Items for DAA-0468-2023-0001

Item #	Title	Disposition
0001	OCR Enforcement Case Files : OCR High Impact Enforcement Case Files	Permanent
0002	OCR Enforcement Case Files : OCR Routine Enforcement Case Files	Temporary
0003	OCR Enforcement Case Files : OCR Enforcement Case Files for Cases Not Resulting in Full Investigation or Enforcement	Temporary
0004	OCR Enforcement Case Files : Outreach Case Files	Temporary
0005	OCR Enforcement Case Files : PIMS Operational Files	Temporary
0006	OCR Enforcement Case Files : Assurance of Compliance Forms	Temporary

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Group Title	OCR Enforcement Case Files
Group Description	<p>The scope of OCR’s case files includes but is not limited to:</p> <ul style="list-style-type: none"> • complaints filed by persons and groups and/or their representatives regarding discrimination in health and human services by covered entities funded by HHS • complaints filed by persons, groups, and/or their representatives regarding health information privacy rights or violations of the HIPAA Privacy or Security Rules • compliance reviews conducted by OCR • Breach Notifications required by HIPAA covered entities and their business associates to provide notification following a breach of protected health information • the Audit Program which assesses HIPAA and/or Security Rule compliance efforts by a range of covered entities. <p>The OCR case files contain the findings, recommendations, working files, drafts, and background materials used for OCR’s investigations and reviews.</p>
	<p>The Program Information Management System (PIMS) is an electronic case management, workflow, and document system that was launched in 2003 and houses OCR’s enforcement case files, outreach case files, and administrative files. The system encompasses a variety of records having to do with complaints, reviews, and correspondence. The complaint files and log include complaint allegations, information gathered during the complaint investigation, findings and results of the investigation, outreach records, and correspondence relating to enforcement case investigations, as well as status information for all complaints. OCR receives case information via OCR’s portal, website, email, hard copy, fax, phone calls, and in person.</p>
DAA-0468-2023-0001-0001	STATUS: Active
ITEM GENERAL INFORMATION	
Item Title	OCR High Impact Enforcement Case Files

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Item Description	<p>OCR's High Impact Enforcement Case Files contain the documents and evidence related to its most complex and significant investigations and are of great historical and precedential value. These investigations have the potential to produce strong remedies at the broadest appropriate level and are non-routine. These investigations involve significant regional resources, the interests of a large number of individuals, significant policy interpretation, and/or could ultimately result in an agreement leading to a settlement of a complaint or review. The designation of an investigation as High Impact must be approved by the Regional Manager.</p> <p>OCR's High Impact Enforcement Case Files constitute less than 0.01% of OCR's annual complaint receipts, now nearing close to 60,000 receipts. OCR's High Impact Enforcement Case Files Disposition and Retention Authority ensures there is an adequate record of OCR's enforcement work and consistency in how OCR addresses the factual and legal issues with which it is presented.</p> <p>Examples of such case files are:</p> <ul style="list-style-type: none">o All cases and matters that:<ul style="list-style-type: none">• Raised issues of first impression, e.g., a case involving an ambulance company's refusal to transport an African American individual, based on its assumption she did not have insurance and could not pay for the ride, which resulted in her falling into a coma and dying several days later.• Included novel factual or legal issues, e.g., involved a new type of recipient of Federal Financial Assistance or interprets a new OCR rule, such as Section 1557, the conscience rule, or HIPAA.• Resulted in a precedent-setting decision or agreement, e.g., OCR's first environmental justice discrimination agreement wherein a State health department agreed to take steps to provide basic sanitation services, end exposure to raw sewage, and improve health outcomes for the marginalized Black residents of a county in Alabama.
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- Resulted in a violation Letter of Finding, e.g., a case in which OCR issued a letter of finding that a State Department of Human Services had violated Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act when it denied the complainant's application to become a foster-adopt parent on the basis of her disability even though her treating professionals had determined she was capable of parenting a child, so long as the child was not special needs and did not need to be constantly lifted.
- Resulted in a settlement agreement, e.g., a settlement agreement with the State Court in the largest county in Arizona to provide language services, i.e., meaningful access, to individuals with limited English proficiency involved in its court proceedings and operations, programs, and activities, including its child welfare dependency and neglect proceedings.
- Resulted in an enforcement action, such as going to litigation, an administrative hearing, enforcement of CMPs (civil money penalties), termination of federal funding, etc., e.g., a case in which an Administrative Law Judge ruled in favor of OCR and determined that a large medical center had violated certain HIPAA rules and ordered the medical center to pay to OCR civil money penalties of more than \$4.3 million.
- Resulted in a finding or agreement of significant impact, i.e., a case or matter that has a substantial impact when measured by factors such as scope of the recovery, number of complainants or affected persons, size of the public or private institution, widespread noncompliance, or impact across a particular field or industry.
 - o All cases and matters, which involve allegations of discrimination that are fully investigated by OCR, and
 - o Assurance of Compliance Statement Forms.

Is this item media neutral?	Yes
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Is this item a Big Bucket?	No
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SUPERSEDED AGENCY DISPOSITION AUTHORITIES AND GRS DEVIATIONS

Does this item supersede existing disposition authorities?	No
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Is this item a deviation from the GRS?	No
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DISPOSITION INSTRUCTION

Final Disposition	Permanent
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Cutoff Instructions	Other: Cutoff at the end of the fiscal year in which the case is closed
Are there multiple instructions for this item?	No
Transfer Instruction	Transfer to the National Archives 25 year(s) after cutoff
ADDITIONAL INFORMATION	
Current Records Format	Textual data:17 GB
Approximate first year of records covered by this authority	1980
End year of records covered by this authority	Still being created
Date span of the initial transfer	From: 01/01/1978 To: 12/31/1998
Frequency of transfer	1
Are any of the records covered by this item subject to a FOIA exemption?	No
DAA-0468-2023-0001-0002 STATUS: Active	
ITEM GENERAL INFORMATION	
Item Title	OCR Routine Enforcement Case Files
Item Description	Routine enforcement matters include enforcement activities that result in a full investigation and are routine in nature and limited in scope. These enforcement activities are not high impact, complex, or significant and do not fit within the examples described in 0001, OCR High Impact Enforcement Case Files.
Is this item media neutral?	Yes
Is this item a Big Bucket?	No
SUPERSEDED AGENCY DISPOSITION AUTHORITIES AND GRS DEVIATIONS	
Does this item supersede existing disposition authorities?	Yes
Superseded Items	
Superseded Item	Item Superseded Explanation in Part?
DAA-0468-2015-0002-0001	No
N1-468-92-2/ 1	No
N1-468-92-2/ 2	No
N1-468-97-1/1	No
NC1-235-80-1/ 701-04	No
NC1-235-82-1/ 700-01	No
NC1-235-84-2/ 701-11	No
NC1-235-84-2/ 701-13	No
NC1-235-80-01/401-07	No

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Is this item a deviation from the GRS?	No
DISPOSITION INSTRUCTION	
Final Disposition	Temporary
Cutoff Instructions	Other: Cutoff at the end of the fiscal year in which the case is closed
Retention Period	Other: Destroy 20 years after cutoff, but longer retention for a maximum of 5 additional years is authorized if required for a business use
ADDITIONAL INFORMATION	
Are any of the records covered by this item national security classified?	No
GAO Approval Required	No
DAA-0468-2023-0001-0003	STATUS: Active
ITEM GENERAL INFORMATION	
Item Title	OCR Enforcement Case Files for Cases Not Resulting in Full Investigation or Enforcement
Item Description	<p>OCR Enforcement Case Files document activities not resulting in a full investigation or enforcement, which includes requests for assistance, allegations or complaints by aggrieved persons, and pre-investigation enforcement activities or matters that were incomplete or otherwise did not result in a full investigation, enforcement action, or settlement agreements approved and/or executed by OCR.</p> <p>o Examples of case closure codes that indicate the case file is a temporary record:</p> <ul style="list-style-type: none">• Closed Due to a Court Order Decision about this Subject Matter• Complainant Refuses to Cooperate• Complaint Frivolous• Complaint Not Complete• Complaint Not Timely• Complaint Withdrawn• Death or unavailability of the complainant or injured party or essential witness <p>o Pre-grant clearance review files – with the exception of the Assurance of Compliance Statement Forms, which are covered by DAA-0468-2023-0001-0001, OCR High Impact Enforcement Case Files.</p>

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Is this item media neutral?	Yes
Is this item a Big Bucket?	No
SUPERSEDED AGENCY DISPOSITION AUTHORITIES AND GRS DEVIATIONS	
Does this item supersede existing disposition authorities?	Yes
Superseded Items	
Superseded Item	Item Superseded in Part? Explanation
DAA-0468-2015-0002-0001	No
N1-468-92-2/ Item 1	No
NC1-235-82-1/ Item 700-01	No
NC1-235-80-01/401-07	No
Is this item a deviation from the GRS?	No
DISPOSITION INSTRUCTION	
Final Disposition	Temporary
Cutoff Instructions	Other: Cutoff at end of the fiscal year in which the case is closed
Retention Period	Other: Destroy 3 years after cutoff, but longer retention for a maximum of 3 additional years is authorized if required for a business use
ADDITIONAL INFORMATION	
Are any of the records covered by this item national security classified?	No
GAO Approval Required	No
DAA-0468-2023-0001-0004	STATUS: Active
ITEM GENERAL INFORMATION	
Item Title	Outreach Case Files
Item Description	Outreach cases include, but are not limited to, cases that provide technical assistance to covered entities to help them understand how they can voluntarily comply with the law and cases that help individuals and covered entities understand their rights and obligations under the laws that OCR enforces. The records in the outreach case files include briefings, presentations, conferences, correspondence, and training. The workflow function within the PIMS system documents approval and closure of the outreach case.
Is this item media neutral?	No
Media limitation	Digital only
Is this item a Big Bucket?	No
SUPERSEDED AGENCY DISPOSITION AUTHORITIES AND GRS DEVIATIONS	

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Cutoff Instructions	Other: Cutoff at the end of the fiscal year in which was superseded or became obsolete.
Retention Period	Other: Destroy 3 years after cutoff, but longer retention for a maximum of 3 additional years is authorized if required for a business use.
ADDITIONAL INFORMATION	
Are any of the records covered by this item national security classified?	No
GAO Approval Required	No
DAA-0468-2023-0001-0006 STATUS: Active	
ITEM GENERAL INFORMATION	
Item Title	Assurance of Compliance Forms
Item Description	Since 1967, the Centers for Medicare and Medicaid Services (CMS) requires health care providers, such as hospitals, nursing homes, and home health agencies, to meet certain legal requirements in order to participate in the Medicare Part A program established by Title XVIII of the Social Security Act. As part of the process to be approved to participate in the Medicare Part A program, applicants must submit a signed nondiscrimination Assurance of Compliance (HHS Form 690) agreeing to comply with the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, Section 1557 of the Patient Protection and Affordable Care Act, and federal conscience and nondiscrimination laws. Once approved to participate in the Medicare Part A program, the Medicare provider is obligated to comply with those laws for as long as the provider participates in the program.

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As OCR's authorities have expanded over the past five decades and compliance with all federal civil rights laws enforced by OCR is a condition of receiving HHS funding, HHS, as a whole, has moved in the direction of requiring signed Assurance of Compliance forms for all grantees. In 2022, the Assistant Secretary of Financial Resources Office of Grants Management issued a memorandum to all HHS grants officers formalizing this requirement by specifically requiring all recipients of federal financial assistance from HHS to sign an Assurance of Compliance form. This Assurance of Compliance form remains a binding obligation for as long as the recipient receives HHS funds.

OCR staff conducting civil rights investigations and compliance reviews of providers use the signed Assurance of Compliance forms as evidence in their investigations or reviews and in any enforcement actions that may arise from those investigations or reviews. The U.S. Department of Justice and U.S. Attorney Offices also frequently contact OCR for copies of these forms to use in their civil and criminal investigations. The signed Assurance of Compliance forms are critical evidence that must be preserved permanently so that evidence is available to OCR and other law enforcement agencies when recipients of federal financial assistance from HHS are being investigated or reviewed based on allegations they have violated the nondiscrimination provisions of the above-referenced laws.

Is this item media neutral?	Yes
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Is this item a Big Bucket?	No
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SUPERSEDED AGENCY DISPOSITION AUTHORITIES AND GRS DEVIATIONS

Does this item supersede existing disposition authorities?	Yes
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Superseded Items

Superseded Item	Item Superseded in Part?	Explanation
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NC1-235-80-1/ 701-07	No	
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Is this item a deviation from the GRS?	No
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DISPOSITION INSTRUCTION

Final Disposition	Temporary
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Cutoff Instructions	Other: Cutoff upon change of implementing regulation or repeal of enabling legislation, whichever is appropriate.
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Retention Period	Destroy 3 year(s) after cutoff
ADDITIONAL INFORMATION	
Are any of the records covered by this item national security classified?	No
GAO Approval Required	No

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Signatory Information

Action	User	Date
Approve	Colleen Shogan	05/09/2024