

NOTICE OF COMPLAINANT/INTERVIEWEE RIGHTS AND PROTECTIONS

Complainants and interviewees that cooperate in an investigation, proceeding, or hearing conducted by United States Department of Education, Office for Civil Rights (OCR) are afforded certain rights and protections. This brief description provides an overview of these rights and protections.

- A Recipient may not force its employees to be represented by the institution's counsel nor may it intimidate, threaten, coerce, or discriminate against any employee who refuses to reveal to the Recipient the content of an interview. An employee does, however, have the right to representation during an interview with OCR. The representative may be the Recipient's counsel, the employee's private counsel, or anyone else the interviewee authorizes to be present.
- The interviewee's right to representation does not include a general right to have other persons present during the interview. Besides the OCR investigator and/or attorney, the person being interviewed, and any needed interpreters, the only other person present during any interview should be the interviewee's personally designated representative.
- If the interviewee, other than an upper level manager, identifies the Recipient's counsel, supervisor, or manager for the Recipient as a personal representative; the interviewee should be informed that such a person may have a conflict of interest between that person's responsibilities to the Recipient, and the person's responsibilities as a personal representative.
- If the representative with responsibilities to the Recipient appears to interfere with OCR's ability to interview the interviewee or obtain requested information; the representative will be asked to leave. If the interviewee insists that the designated representative is present, and OCR has no other reason to believe that the presence of the identified representative will interfere with the gathering of information, OCR will proceed with the interview.
- The laws and regulations which govern OCR's compliance and enforcement authority provide that neither Recipient nor other persons shall intimidate, threaten, coerce or discriminate against any individual because he/she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted under OCR's jurisdiction.
- Information obtained from the Complainant or other individuals may be exempt from disclosure to the general public under the Freedom of Information Act (FOIA) or the Privacy Act of 1974 (Privacy Act) if release of such information could constitute an unwarranted invasion of personal privacy.