

Section 504 Complaint against Social Security for discrimination on the basis of disability or for failure to accommodate to disability needs

The Americans with Disabilities Act does not apply to the federal government.¹ However, federal agencies including Social Security are subject to section 504 of the Rehabilitation Act, 29 U.S.C. § 794. Section 504 says that the Social Security Administration cannot discriminate against people because of their disabilities. Section 504 requires the Social Security Administration to make reasonable accommodations to the disability needs of people applying for benefits and people receiving benefits. Section 504 requires Social Security to be accessible to persons who use wheelchairs and walkers or who are blind or deaf. Section 504 also requires Social Security to be accessible to persons with mental or cognitive disabilities. That means that people are not to be denied benefits because of their difficulties in getting through the application, reporting and review procedures due to mental or cognitive disabilities.

If you believe you have been treated unfairly because of your disability, you have a right to file a Section 504 Civil Rights complaint. Unfair treatment may include a failure to give you the extra help you need because of your disability. Here are examples of unfair treatment that may violate Section 504 of the Rehabilitation Act:

- You need help in filling out papers for Social Security but Social Security does not give you help or find someone who can help you.
- There are records Social Security says you must provide but you need help in order to get them and Social Security does not give you the help.
- You need a sign language interpreter for your meeting with Social Security but Social Security will not provide an interpreter.
- You cannot get to the office for your annual review and Social Security will not come to your home or conduct the annual review by telephone.
- You go to the office for help in understanding a notice you received but you are treated rudely or impatiently when you ask for help.
- When you want to appeal but you cannot get into the office, the Social Security person on the phone does not give you his or her name or another way to prove you called. This means that just because you could not get into the Social

¹ However, the Disability Evaluation Division, the state agency which contracts with the Social Security Administration to make initial disability determinations and which reviews selected cases to see if you continue to meet the disability standard, is subject to both the ADA and Section 504.

Security office, you do not have any way of proving you started the appeal process.

- Social Security does not take into consideration your disability limitations when deciding whether or not you were at fault in causing an overpayment and whether the overpayment may be waived.
- It is difficult for you to express yourself or your speech is difficult to understand but Social Security does not take the time to understand what you are trying to say.
- Social Security knows you have difficulty understanding what you need to do to report changes in your earned income, but does not help you meet your reporting requirements.
- You do not show up for a meeting with Social Security and Social Security terminates your benefits for not cooperating even though Social Security knows you have the kind of disability that may interfere with your ability to cooperate. In such a case Social Security would be obligated to investigate to insure your failure to cooperate was for a reason other than your disability.

How to fill out the complaint form:

If you do not have a reliable or steady address, you should use someone else's address. After address write "c/o" or "in care of" and then the other person's name and address.

On the disability question, you can identify by type of disability or by how the disability affects you or both. For instance, you could write in "psychiatric disability" or "psychiatric disability which makes it difficult to be in a place like a waiting room where there are a lot of other people." Or you could write in "spinal cord injury" or "wheelchair user."

On the question, "when did the discrimination happen," that is usually the date (month and year) you were treated unfairly. Unless there is a good reason for filing a late complaint, Social Security will not investigate a complaint that is more than six months old.

On the question "what happened?" explain why you believe you were treated unfairly because of your disability. The discrimination may be because of your particular disability. Or the discrimination may be because Social Security knows you need an accommodation because of your disability but refuses to give it to you. You are not limited by the space under "what happened?" You can attach other pages.

Important: The Section 504 complaint is in addition to regular appeals or a request for waiver. It is important that you file a request for reconsideration or for a hearing within 60 days of receiving a notice.

Mail your Section 504 complaint to Social Security Administration Office of the General Counsel Room, 617 Altmeyer Bldg., 6401 Security Boulevard, Baltimore, MD

21235-0001. Keep a copy of your Complaint and write on your copy the date you put it in the mail. You should follow up if you do not get something in the mail from Social Security within four to six weeks. The telephone number for the office handling the Section 504 complaint is (415) 437-8053. Explain that you filed a Section 504 civil rights complaint against Social Security so you are directed to the right person.

Call Protection & Advocacy at 1-800-776-5746
if you have questions about Social Security
and your Section 504 rights.

SOCIAL SECURITY

Office of the General Counsel

You may use the attached discrimination complaint form or a letter to file a Civil Rights complaint with the Office of the General Counsel for Social Security. If you file a complaint by letter, it must include the same information requested in the form.

Complaints of discrimination usually must be filed within 180 days of the alleged discrimination. If you have waited longer than 180 days, you must explain why. OGC will waive the 180 day requirement in cases where OGC determines there was good cause (extenuating circumstances) for late filing.

Anyone who believes he or she or a class of people have been discriminated against by the Social Security Administration (SSA) may file a complaint, or may have a representative file such a complaint. To file a complaint, please mail a completed and signed discrimination complaint and a signed consent and release to:

Social Security Administration
Office of the General Counsel
Office of General Law
Suite No. 56, P.O. Box 26430
Baltimore, MD 21207

You may also call (410) 965-3166. If you have any questions or wish to discuss this matter, you may also write to us at the above address or call the above number. We will ensure that the individual's or group's civil rights are preserved and work to correct any problems we find within SSA.

General Counsel
of Social Security

Enclosures:
Discrimination Complaint Form
Consent and Release Supplemental Form

PAPERWORK REDUCTION ACT

This information collection meets the requirements of 44 U.S.C. & 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take about an hour to read the instructions, gather the facts, and answer the questions. **SEND OR BRING THE COMPLETED FORM TO YOUR LOCAL SOCIAL SECURITY OFFICE. To find the nearest office, call 1-800-772-1213.** Send only comments on our time estimate above to: SSA, 6401 Security Blvd., Baltimore, MD 21235-6401.

USES OF PERSONAL INFORMATION FOR INVESTIGATIONS

The information collection is authorized by 5 U.S.C. § 301; 29 U.S.C. §791 et. seq.; 42 U.S.C. §§902(a)(5), 1305 note. Those statutes require the agency not to discriminate on the basis of disability and authorize the Commissioner establish policies to prohibit Social Security Administration and SSA employees from discriminating based upon race, color national origin, sex, age, religion, or retaliation in any program or activity conducted by SSA,

There are two federal laws governing personal information given to all Federal agencies, including the Office of the General Counsel (OGC):

- The Privacy Act of 1974, (U.S.C. Sec. 522a); and
- The Freedom of Information Act, (5 U.S.C. Sec. 522).

The Privacy Act protects individuals 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 name, social security number, or other personal identification system.

OGC will use personal information for authorized civil rights activities and other Privacy Act routine uses. Generally, OGC will not release information unless the person who supplied the information submits a written consent, or unless release is required under the Freedom of Information Act or other Federal statute or regulation. However, OGC can refer complaints to other Federal agencies, such as the Department of Justice, the Department of Labor and the Equal Employment Opportunity Commission, without the person's prior consent. This authority is provided under the "routine use" exception of the Privacy Act.

OGC may give/release information to other government agencies, such as the Department of Justice, when an SSA component has violated civil rights laws or regulations.

OGC cannot require a person to give personal information, and OGC will not impose sanctions on a person who refuses to provide personal information. **However, if, as a result of this refusal, OGC cannot investigate the allegations of discrimination, OGC may close the investigation.**

The Freedom of Information Act (FOIA) gives the public the right of access to files and records of the Federal government. With some exceptions, SSA must honor FOIA requests, though our policy is to do so without releasing a person's name or other personal information (as opposed to identification). SSA is generally not required to release documents if the release would interfere with SSA'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 unnecessary invasion of an individual's privacy.

Social Security Administration Discrimination Complaint

Person Allegedly Discriminated Against

Name _____
(First) (MI) (Last)

Social Security Number _____ — _____

Address (include City, State, Zip Code)

Daytime phone number where you can be reached (____) _____

1.a. Which of the following best describes the basis for the discrimination? *(You may check more than one reason.)*

_____ DISABILITY

_____ RACE

_____ COLOR

_____ NATIONAL ORIGIN

_____ AGE

_____ SEX

_____ RELIGION

_____ RETALIATION

1.b. For each reason you checked above, please specify the particular disability, race, sex, etc.

2. Describe the act(s) of discrimination. *(Clearly explain what happened and why. Be sure to include how other persons were treated differently from you or the person discriminated against. You may use extra paper if necessary.)*

3. If you believe there was retaliation against you for filing or participating in a prior discrimination complaint, please explain the basis for the retaliation below.

4.a. When did the current alleged discrimination take place?

Earliest Date

Most Recent Date

Month/Day/Year

Month/Day/Year

4.b. Have you waited more than 180 days since the most recent date of the alleged discrimination to file this complaint? If so, please explain why. *(You may use additional paper if necessary.)*

5.a. Have you filed a complaint about the same incident(s) with the Office of the General Counsel (OGC) before?

Yes _____ No _____

5.b. If yes, when: _____
Month/Day/Year

5.c. What is the status of that prior complaint?

6.a. Have you filed a complaint about any prior incident with OGC before?

_____ Yes _____ No

6.b. If yes, when: _____
Month/Day/Year

6.c. What is the status of that prior complaint?

7. Please list the names, addresses and phone numbers of any witnesses to the alleged incident(s), including Social Security employees:

Name	Address	Phone Number
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

8.a. Have you tried to resolve this complaint with the Social Security office where the alleged discrimination took place?

_____ Yes _____ No

8.b. If not, why not?

8.c. If yes, what happened?

8.d. Name and title of the manager/supervisor who handled the complaint:

Name _____

Title _____

9.a. Have you made a complaint about this anywhere else?

_____ Yes _____ No

9.b. If yes, name of organization.

10. Are you filing this complaint because your benefits were ceased?

11. Identify Person Filing the Complaint: *(Complete if not provided previously)*

Name _____

Address _____

Daytime phone number where you can be reached (____) _____

12. Dated Signature of Person Filing the Complaint: *(Please sign and date the complaint below. We **cannot** accept a complaint for investigation if it has not been signed.)*

Signature _____

Date _____
Month/Day/Year

Social Security Administration

Discrimination Complaint - Consent and Release

Please complete and sign this consent and release and return the consent and release to the address on the cover page.

I have read the notice about the need for and uses of personal information to investigate this discrimination complaint.

Consent: (check one)

I authorize OGC to reveal my identity to conduct the investigation of my complaint.

I do not authorize OGC to reveal my identity to conduct the investigation of my complaint.

Release: (check one)

I authorize the release of material and information about me to OGC to conduct the investigation of my complaint. (If you want OGC to restrict the release of this information in any way, please explain below in the comment section.) I further understand that OGC may also disclose this information as required by other Federal statutes, regulations and Privacy Act routine uses.

I do not authorize the release of material and information about me to OGC to conduct the investigation of my complaint. (If you want OGC to restrict the release of this information in any way, please explain below in the comment section.) I further understand that OGC may also disclose this information as required by other Federal statutes, regulations and Privacy Act routine uses.

Comments:

Signature: _____

Date: _____

(Please keep a copy of this for your records.)