



U.S. Department of Education  
Office of Inspector General

# The Office for Civil Rights' Complaint Dismissal Process

May 11, 2021  
ED-OIG/A19T0002

## NOTICE

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. The appropriate Department of Education officials will determine what corrective actions should be taken.

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**UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF INSPECTOR GENERAL**

Audit Services

May 11, 2021

TO: Suzanne B. Goldberg  
Acting Assistant Secretary  
Office for Civil Rights

FROM: Bryon S. Gordon /s/  
Assistant Inspector General for Audit

SUBJECT: Final Audit Report, "The Office for Civil Rights' Complaint Dismissal Process," Control  
Number ED-OIG-A19T0002

Attached is the subject final audit report that consolidates the results of our review of the Office for Civil Rights' Complaint Dismissal Process. We have provided an electronic copy to your audit liaison officer. We received your comments in response to our draft report.

U.S. Department of Education policy requires that you develop a final corrective action plan within 30 days of the issuance of this report. The corrective action plan should set forth the specific action items and targeted completion dates necessary to implement final corrective actions on the findings and recommendations contained in this final audit report. Corrective actions that your office proposes and implements will be monitored and tracked through the Department's Audit Accountability and Resolution Tracking System.

In accordance with the Inspector General Act of 1978, as amended, the Office of Inspector General is required to report to Congress twice a year on the audits that remain unresolved after 6 months from the date of issuance.

We appreciate your cooperation during this review. If you have any questions, please contact Michele Weaver-Dugan at 202-245-6941 or [michele.weaver-dugan@ed.gov](mailto:michele.weaver-dugan@ed.gov).

Attachment

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## Results in Brief

### What We Did

The objective of our audit was to determine whether the Office for Civil Rights (OCR) dismissed discrimination complaints in accordance with applicable policies and procedures. Specifically, we determined whether (1) complaints initially dismissed as a result of the March 2018 revision to OCR's Case Processing Manual (CPM) have been reopened and reviewed and (2) the revised complaint dismissal process was conducted as provided in OCR's November 2018 revision to the CPM.

### What We Found

We were unable to determine whether complaints that were dismissed because of the March 2018 CPM revisions have been reopened and reviewed. We found that OCR needs to improve its tracking related to the reopening of complaints previously dismissed under Section 108(t) of the March 2018 CPM.<sup>1</sup> Specifically, we found that while OCR has worked to reopen complaints dismissed under Section 108(t), it does not have a process in place that clearly links the original complaints dismissed under 108(t) with the directed investigations that have been opened to address those complaints. By not designing an effective control to link complaints previously dismissed under Section 108(t) to directed investigations or other related actions, it is more difficult to readily determine and OCR has less assurance with regard to whether complaints are now being reopened and investigated as stated or being handled in another appropriate manner.

We found no indication that complaints were not being dismissed in accordance with revisions made to the November 2018 CPM. Specifically, we did not find any indication that complaints were still being dismissed under 108(t) or any other similar provision since the change in policy. We also found that complaints dismissed because of the March 2018 CPM revisions were generally dismissed in accordance with policy. However, we did find that some complaints dismissed under Section 108(t) did not always meet the criteria for dismissal, some complaints that did meet the criteria for a dismissal under Section 108(t) were not always dismissed, and case files did not always contain required documentation. In addition, we found that several of the complaints

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<sup>1</sup> Dismissal code "t" was added to Section 108 of the March 2018 revision to the CPM and allowed for complaints to be dismissed if they represented a continuation of a pattern of complaints previously filed with OCR by an individual or group against multiple recipients, or they were filed for the first time against multiple recipients that, viewed as a whole, placed an unreasonable burden on OCR's resources. This dismissal code was removed from the November 2018 revision to the CPM.

dismissed were already in an active resolution phase and/or an investigation had been completed.

By dismissing complaints that do not meet the criteria for dismissal, OCR may not be effectively investigating and resolving complaints to ensure that recipients of Federal funds comply with the civil rights laws and regulations enforced by OCR and may be inadvertently allowing discriminatory practices to continue. Inconsistently applying criteria can create confusion and weaken controls created by written policy to ensure complaint processing is appropriately handled. By not retaining complete case files, documentation is not readily available for review and there is less assurance that complainants or recipients have been informed of the status of complaints as required. Dismissing complaints where investigations have been completed and/or are in resolution wastes time and effort spent by OCR staff investigating and working with those recipients and identified issues that were in the process of being resolved may be left unresolved and the recipient may remain in noncompliance.

### **What We Recommend**

We made several recommendations to improve OCR's complaint dismissal process. We recommend that OCR establish a process that clearly links all complaints that had been previously dismissed under 108(t) to directed investigations or other related actions and ensure all previously dismissed complaints under 108(t) have been reopened as stated or otherwise appropriately resolved.

Further, we recommend that OCR clearly define new policies prior to implementation and provide adequate and documented training. In addition, we recommend that OCR ensure that updates to policies are adequately documented and communicated, to include interim changes that have not yet been incorporated into an upcoming CPM revision. Further, we recommend that OCR maintain all information and records as required by the Case Management System/Document Management System requirements document, to include acknowledgement and dismissal letters. Lastly, we recommend that OCR clarify policy with regard to the circumstances under which dismissal of complaints where investigations have been completed and/or are in resolution would be deemed appropriate, considering resources expended and willingness of recipients to voluntarily resolve issues identified by OCR.

We provided a draft of this report to OCR for comment. We summarize OCR's comments at the end of each finding and provide the full text of the comments at the end of the report.

OCR did not explicitly agree or disagree with the findings. OCR disagreed with recommendation 2.4. OCR noted that it continues to have concern that OIG has not fully credited OCR with opening hundreds of directed investigations and establishing a

specific team to address them in a relative short period of time, and OCR reiterated its position that it made a reasonable decision related to its tracking of the resolution of dismissed Section 108(t) complaints opened as directed investigations. OCR also stated that it had concerns with a statement in the report pertaining to complaints dismissed that were in Section 302 or Section 303 negotiations and did not agree with the corresponding recommendation (2.4).

We made minor changes to recommendation 2.4 to address situations such as those noted by OCR in its comments that would present a reasonable justification for dismissal of complaints that fall under Sections 302 or 303. However, we did not make substantive changes to the findings or recommendations. OCR's proposed actions for the other recommendations included in the report, if implemented as described, are responsive to our recommendations.

# Introduction

## Background

The mission of the Office for Civil Rights (OCR) is to ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights. OCR enforces several Federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, sex, disability, or age in programs or activities that receive Federal financial assistance from the U.S. Department of Education (Department). Although OCR provides guidance to stakeholders to prevent civil rights violations and performs proactive compliance reviews that target specific issues of discrimination, most of its work is driven by public complaints. The person or organization filing the complaint does not need to be a victim of the alleged discrimination but may file a complaint on behalf of another person or group.

Most of OCR's activities are conducted by its 12 enforcement offices throughout the country. Three Enforcement Directors in the office of the Assistant Secretary oversee their work. Management and staff in OCR's headquarters office in Washington, D.C. provide additional administrative support, coordination, policy development, and overall leadership.

OCR's primary procedures for handling discrimination complaints are prescribed in its Case Processing Manual (CPM). The CPM outlines the procedures for promptly and effectively investigating and resolving complaints, compliance reviews, and directed investigations to ensure compliance with the civil rights laws and regulations enforced by OCR. Upon receipt of a complaint, OCR evaluates the written information to determine whether it is subject to further processing and, if so, OCR determines whether it can investigate the complaint. OCR makes this determination with respect to each allegation in the complaint.<sup>2</sup> The CPM further outlines the conditions under which OCR may dismiss an allegation, or, if appropriate, a complaint in its entirety. A complaint allegation can be dismissed during the evaluation stage of case processing or after the allegations have been opened for investigation.

In March 2018, OCR revised its CPM to include an entirely new provision under which an allegation or complaint could be dismissed. Specifically, under Section 108(t), OCR could dismiss an allegation, or a complaint in its entirety, that is a continuation of a pattern of complaints previously filed with OCR by an individual or group against multiple recipients or a complaint(s) is filed for the first time against multiple recipients that, viewed as a whole, places an unreasonable burden on OCR's resources. In such cases,

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<sup>2</sup> Complaints can include multiple allegations of discrimination.



OCR could consider conducting a compliance review or providing technical assistance concerning the issues raised by the complaint.

In November 2018, OCR revised its CPM again, reversing some of the changes made in the March 2018 version, to include eliminating Section 108(t). In conjunction with the issuance of its November 2018 revised CPM, OCR indicated publicly that it planned to open complaints previously dismissed under Section 108(t) as directed investigations.<sup>3</sup>

Between March and November 2018, the Department dismissed 711 complaints involving 826 allegations under Section 108(t).

We previously conducted an audit of OCR's resolution of discrimination complaints<sup>4</sup> and found that OCR generally resolved complaints in a timely and efficient manner and in accordance with applicable policies and procedures. This previous work included a review of the dismissal process. As a result, our current audit focused only on any substantive changes made to the dismissal process since that time, which consisted of the changes noted above related to Section 108(t).<sup>5</sup>

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<sup>3</sup> A directed investigation is an OCR-initiated process that may include offering technical assistance to the recipient and/or conducting an expedited investigation that may result in a resolution agreement to ensure recipients come into compliance with applicable requirements.

<sup>4</sup> *The Resolution of Discrimination Complaints by the Department's Office for Civil Rights* (ED-OIG/A19N0002), December 10, 2015.

<sup>5</sup> The November 2018 version of the CPM was superseded by a revision dated August 26, 2020. We noted no significant changes in the updated version of the CPM relevant to the scope of our audit.

## **Finding 1. Improvements Are Needed in OCRs Tracking of Reopened Complaints**

We were unable to determine whether complaints that were dismissed because of the March 2018 CPM revisions have been reopened. We found that OCR needs to improve its tracking related to the reopening of the 711 complaints previously dismissed under Section 108(t).<sup>6</sup> Specifically, we found that while OCR has worked to reopen complaints dismissed under Section 108(t), it does not have a process in place that clearly links the original complaints dismissed under 108(t) with the directed investigations that have been opened to address those complaints. Therefore, we could not confirm with certainty that these complaints have been reopened.

In conjunction with the implementation of the November 2018 revisions to the CPM, OCR stated it would conduct investigations of complaints that were previously dismissed under Section 108(t). We found that OCR started opening directed investigations in December 2018 by sending notification letters to the applicable recipients and original complainants. These letters stated that the directed investigations would be treated as investigations, meaning they would follow the normal procedures for investigating complaints as documented in the CPM.

In June 2019, OCR created a National Web Access team (Team) to process the directed investigations related to web accessibility, which accounted for about 84 percent of all allegations dismissed under Section 108(t). The Team consists of two managers, contractor support staff specializing in web and technology accessibility, and one staff member from each regional office. OCR noted that complaints that were dismissed under Section 108(t) that are not related to web accessibility have been assigned back to the regions where the complaints were originally assigned to open as directed investigations.

### **Weaknesses in Dismissed Complaint Tracking**

OCR noted that it tracks the web accessibility directed investigations using a spreadsheet that is updated weekly. However, we noted that OCR's web accessibility tracking spreadsheet does not identify the initially dismissed complaint(s) to which the directed investigation is connected. In addition, we found that OCR is not specifically tracking non-web accessibility related complaints dismissed under Section 108(t).

Further, we noted that the directed investigation case files maintained in OCR's Case Management System have different docket numbers than the originally dismissed

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<sup>6</sup> See Finding 2 for additional information regarding complaints dismissed under Section 108(t).

complaints and do not include a direct link to the previously dismissed complaints they are addressing. According to OCR Information Technology staff, the originally dismissed complaints would appear as “closed” in the Case Management System and the directed investigations would be assigned new docket numbers. The only way to possibly link the directed investigations and the dismissed complaints would be by Recipient Name and State. An OCR official confirmed that there is no other way to try to match previously dismissed complaints to associated directed investigations and added that this would be a “roundabout” way.

We found weaknesses when trying to link the dismissed complaints and directed investigations together in the Case Management System using Recipient Name and State. Our attempt at linking via this method identified possible directed investigation matches for 694 of the 711 dismissed complaints. However, we noted that there were 978 allegations associated with the matched directed investigations—152 more allegations than were associated with the 711 dismissed complaints. We also attempted to match the dismissed complaints to directed investigations using Recipient Name, State, and Issue Code (allegation). This process indicated a possible match for 677 of the 711 dismissed complaints, along with 724 of the 826 allegations. During attempts to resolve possible anomalies whereby more than one dismissed complaint was linked to the same directed investigation, we manually reviewed the related case records in the Case Management System and determined that allegations in some of the complaints had no correlation at all to the associated directed investigation allegations. Because of the time associated with the manual review of case files, we could not readily determine the extent to which these types of discrepancies occurred. Further, because of the discrepancies noted within and between the attempted automated matching efforts, the reliability of the results of any automated matching process were deemed questionable without further manual review of each potential match. As a result, we cannot conclude with certainty whether dismissed complaints have been reopened and reviewed.

Principle 10 of Government Accountability Office (GAO) Standards of Internal Control, September 2014, states that management should design control activities to achieve objectives and respond to risks. Control activities are the policies, procedures, techniques, and mechanisms that enforce management’s directives to achieve the entity’s objectives and address related risks. Management designs control activities so that all transactions are completely and accurately recorded. Transactions are also to be promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. This applies to the entire process or life cycle of a transaction or event from its initiation and authorization through its final classification in summary records. Further, management is responsible for clearly documenting internal

control and all transactions and other significant events in a manner that allows the documentation to be readily available for examination.

According to an OCR official, OCR did not consider whether there should be a direct link in OCR's Case Management System to allow for easy reconciliation and tracking of complaints that had previously been dismissed under Section 108(t). It also did not consider adding a reference to the original complaint on its tracking spreadsheet. The OCR official acknowledged that the lack of an easily identifiable link between the original 108(t) complaint and the reopened directed investigations or other related actions was likely an issue. According to the OCR official, the Department's discussion was always on the process of opening directed investigations and how quickly it could be done, with no consideration given to a link to trace original complaints to the corresponding directed investigation.

Regarding complaints that we could not match to an open directed investigation, OCR staff stated there were other ways in which these complaints were handled, to include one that was not being further pursued as the recipient no longer received Federal funds and therefore OCR lacked jurisdiction, and some that were in the process of being resolved through another complaint submitted by the same or a different complainant.

By not designing an effective control to link complaints previously dismissed under Section 108(t) to directed investigations or other related actions, it is more difficult to readily determine and OCR has less assurance with regard to whether complaints are now being reopened and investigated as stated or being handled in another appropriate manner and OCR may be inadvertently allowing discriminatory practices to continue.

### **OCR Concerns With Preliminary Findings and OIG Response**

In written comments provided in response to the preliminary findings presented at our exit conference, OCR stated that it had several significant concerns with the preliminary findings and draft recommendations. Specifically, OCR stated that the statement of facts greatly overstates a perceived problem in OCR's complaint tracking efforts. OCR also wanted information about the efforts made by the National Web Access team in addressing directed investigations incorporated into the finding.

Regarding its complaint tracking efforts, OCR stated that it made a reasonable decision to use its general OCR case management systems for tracking the resolution of the dismissed Section 108(t) complaints opened as directed investigations, so that it could move expeditiously and not make additional expenditures to "update" its system. OCR stated that by using its current systems, it could track, and within a short period of time, confirm that every dismissed Section 108(t) complaint had been handled appropriately. OCR stated that it gave OIG complete access to its tracking system and offered technical assistance, and OIG could have confirmed the same thing that OCR was able to confirm

expeditiously. Further, OCR stated that although OIG had access to OCR's case management systems where these data are stored, OIG never requested that OCR provide this "linking" documentation.

Along with its written comments, OCR provided a spreadsheet that lists the 710 complaints<sup>7</sup> that were dismissed pursuant to former Section 108(t) of OCR's March 2018 CPM, the corresponding docket numbers for the dismissed complaints that were opened as directed investigations, and summaries of how 6 dismissed complaints that were not opened as directed investigations were processed. OCR stated that the data set forth in the spreadsheet confirmed that all the complaints that were dismissed pursuant to Section 108(t) have been processed appropriately, either as directed investigations or through other appropriate resolution processes. Thus, OCR believed the problems OIG cited in its draft statement of facts regarding difficulties in the tracking system seem to be inappropriate and present an incomplete if not inaccurate picture of the ability of the OCR complaint tracking efforts.

We stand by our conclusions. Our finding notes a control weakness regarding OCR's process to track reopened complaints. That weakness hindered our ability to clearly identify links between dismissed complaints and associated directed investigations or other actions. The related finding does not make a definitive conclusion regarding whether these dismissed complaints were handled appropriately, simply that we could not determine whether the complaints had in fact been reopened due to the noted control weakness and related data reliability issues.

Contrary to the assertions made in OCR's response, we made every reasonable effort to confirm that all the complaints dismissed under Section 108(t) were reopened as directed investigations, which included several discussions with OCR's Information Technology Specialist and the OCR official identified as having knowledge of methods that we could use to determine if all the complaints dismissed under Section 108(t) had been reopened as directed investigations. We attempted to follow the only methodology they identified for doing so, modified the methodology on our own to try to obtain more reliable results, performed limited manual review of case records, and followed up with the OCR official noting the problems that we continued to have with matching and the weaknesses we were noting. At no time was there any additional assistance offered or any other data provided to show that OCR could in fact match the

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<sup>7</sup> According to OCR, one complaint on the list had been incorrectly coded as a 108(t) dismissal rather than a 108(f) (lack of jurisdiction) dismissal. The dismissal coding for the complaint was corrected. However, according to our initial review, this complaint was dismissed under Section 108(t) and should have been included in OCR's tracking of Section 108(t) complaints.

dismissed complaints to directed investigations, had such a list been as readily available or easily producible as OCR states. The only additional data we were provided included a listing of opened directed investigations and the spreadsheet used for tracking web accessibility directed investigations—neither of which included a link to the related dismissed complaints. We performed a limited review of the spreadsheet that was provided after our exit conference and determined that the information was not completely reliable.

We performed an automated reconciliation between the complaints and directed investigations matched by OCR to identify instances where there appeared to be differences in issue codes (allegations) in the Case Management System. We found 14 complaints and directed investigations that did not appear to have matching issue codes and subsequently performed a manual review of those. In 11 of the cases we reviewed we found the allegations did not match. In three of these cases, we found that the directed investigations had a different complaint referenced in the Case Management System than what was noted on the spreadsheet. In addition, OCR identified six complaints that were not reopened as directed investigations, noting that the complaints were refiled or reopened. However, there were no new case numbers provided to verify this information, only the dismissed complaint numbers for which there was no updated information in the Case Management System. Because of these discrepancies, along with the weaknesses we noted previously regarding the automated matching process, our conclusions and related recommendations remain the same.

Lastly, while OCR claims that its focus was on moving expeditiously to reopen complaints and not incur additional expenditures to “update” its system, we found little evidence to support that there was a need to update the system to allow for a linkage between the docket number for the original dismissed complaint and the corresponding directed investigation. In fact, during the audit we found that OCR was already beginning to include, in some cases, the docket number for some of the complaints dismissed under Section 108(t) in an existing data field in the corresponding directed investigation case file in OCR’s Case Management System. It appears that OCR could have used this field to easily connect and track the two data sets without any additional expense to OCR. It could have also simply added a column to the spreadsheet it uses to track web accessibility directed investigations, which would not have created any additional time or expense.

OCR also stated that while the preliminary findings make brief reference to OCR’s creation of a National Web Access team to process cases related to website accessibility, the preliminary findings were silent as to the scope and depth of the Team’s work, and the significant positive outcomes that the Team achieves, especially as compared to

OCR's previous approach to the investigation and resolution of these cases. OCR noted that the fair and balanced reporting of OIG's findings should provide more information concerning this critical component of OCR's efforts to significantly improve its processing of web accessibility issues through the complaint resolution process. Further, OCR stated that it opened hundreds of directed investigations and established a team to address them in a relatively short period of time; this significant accomplishment gets no real mention in OIG's preliminary findings, which focus mainly on OCR's recordkeeping weaknesses.

Regarding OCR's statement that the finding should provide more information about the National Web Access team, we acknowledge that the creation of the Team is a positive step forward and have presented related information in our report that we believe is appropriate to the scope of our audit. We find that OCR's comments lack context regarding what prompted the creation of the Team and the reason why it was placed in a position of having to open hundreds of directed investigations in a relatively short period of time.

## **Recommendations**

We recommend that the Acting Assistant Secretary for Civil Rights—

- 1.1 Establish a process that clearly links all complaints that had been previously dismissed under 108(t) to directed investigations or other related actions.
- 1.2 Ensure all previously dismissed complaints under 108(t) have been reopened as stated or otherwise appropriately resolved.

## **Office for Civil Rights Comments**

OCR did not explicitly agree or disagree with the finding and recommendations. OCR noted that it continues to have the concern it expressed in its response to the preliminary findings of OIG, that OIG has not fully credited OCR with opening hundreds of directed investigations and establishing a specific team to address them in a relative short period of time. Regarding OIG's concern about OCR not "having a clear link by which to track complaints previously dismissed under Section 108(t) to directed investigations or other related actions," OCR reiterated its position that it made a reasonable decision to use its Case Management System for tracking the resolution of dismissed Section 108(t) complaints opened as directed investigations. It noted that while a special "linkage" may have made it easier or more convenient to confirm the correspondence between dismissed Section 108(t) complaints and the directed investigations—particularly for someone outside of OCR—it was not necessary for OCR staff, who are fully capable of establishing the linkage by using the Case Management System processes at hand.

OCR stated that it has taken actions regarding both recommendations. Regarding recommendation 1.1, OCR noted that it has established in its Case Management System a "Next Step" that indicates for each complaint dismissed pursuant to Section 108(t) the corresponding directed investigation, and for each directed investigation the underlying complaint dismissed pursuant to Section 108(t). Regarding recommendation 1.2, OCR stated that it has conducted a complete review of all of the complaints that were dismissed under Section 108(t) and has determined that all have been reopened as stated or otherwise appropriately resolved.

## **OIG Response**

OCR's actions, if implemented as described, are responsive to our recommendations. OCR's noted action related to recommendation 1.1 is what we were referring to in the related finding. Specifically, we noted in our response to OCR's concerns with our preliminary findings that during the course of the audit we found that OCR was already beginning to include, in some cases, the docket number for some of the complaints dismissed under Section 108(t) in an existing data field in the corresponding directed investigation case file in OCR's Case Management System, and that OCR could have used this field to easily connect and track the two data sets without any additional expense to OCR. The "Next Step" field that OCR has stated it is now using is the existing data field that we were referring to.

Regarding OCR's concern that OIG has not fully credited OCR with opening hundreds of directed investigations and establishing a specific team to address them in a relative short period of time, we would note that OCR began receiving web accessibility complaints that were later dismissed under Section 108(t) as early as February 2016.



The majority of complaints later dismissed under Section 108(t) were received by OCR during the 2017 calendar year. The number of web accessibility complaints continued to increase into early 2018 and many regional offices expressed concerns with their ability to handle these complaints and that they were becoming overwhelmed by the volume. However, OCR's response was not to implement processes to better address these types of complaints, such as creating a team like the Web Access team. Rather its response was to create a new dismissal code that allowed these complaints to be dismissed, which subsequently prompted a related lawsuit. As such, while we acknowledge OCR's reopening of hundreds of complaints in a relatively short period of time, it was an effort that resulted from its decision to change policy rather than address the underlying issues. We do acknowledge that the creation of the Web Access team is a positive step forward and present related information in our report within the appropriate context as described above and in accordance with the scope of our objective.

## Finding 2. OCR’s Dismissal of Complaints Under Section 108(t) Was Generally in Accordance with Policy

We found no indication that complaints were not being dismissed in accordance with revisions made to the November 2018 CPM. Specifically, we did not find any indication that complaints were still being dismissed under 108(t) or any other similar provision since the change in policy. We also found that complaints dismissed because of the March 2018 CPM revisions were generally dismissed in accordance with policy. However, we found that some complaints dismissed under Section 108(t) did not always meet the criteria for dismissal, some complaints that did meet the criteria for a dismissal under Section 108(t) were not always dismissed, and case files did not always contain required documentation. In addition, we found that several of the complaints dismissed were already in an active resolution phase and/or an investigation had been completed.

Between March and November 2018, the Department dismissed 711 complaints involving 826 allegations under Section 108(t). We found that 669 of the complaints dismissed under Section 108(t) (94.1 percent) were submitted by one complainant (see Table 1). Of the 826 allegations dismissed under Section 108(t), 695 (84.1 percent) were attributed to web accessibility issues (see Table 2).

**Table 1. Number of Complaints by Complainant**

Complainant	Total Number of Complaints	% of Total Complaints
1	669	94.1
2	29	4.1
3	11	1.6
4	1	0.1
5	1	0.1
Total	711	-

**Table 2. Types and Numbers of Allegations**

Allegation Type	Total Number of Allegations	Percentage of Total Allegations
Web Accessibility	695	84.1
Effective Communication	87	10.5
Housing	24	2.9
Different Treatment/Exclusion/ Denial of Benefits	15	1.8
Other <sup>a</sup>	4	0.5
Title IX/Athletics	1	0.1
-	826	-

<sup>a</sup> Includes Resource Equity and Comparability Services, Modifications of Policies and Procedures, Existing Facilities, and Accessibility allegations.

### Complaints Incorrectly Dismissed

We found that complaints dismissed under Section 108(t) did not always meet the criteria for dismissal as defined in the CPM. Under Section 108(t), OCR could dismiss a complaint that is a continuation of a pattern of complaints previously filed with OCR by an individual or group against multiple recipients or a complaint(s) is filed for the first time against multiple recipients that, viewed as a whole, places an unreasonable burden on OCR's resources. We found that two complaints dismissed under Section 108(t) did not fit either of the cited criteria for Section 108(t) dismissal eligibility. Complainants 4 and 5, listed in Table 1 above, had no pattern of complaints previously filed with OCR and neither complaint included multiple recipients.

An OCR official acknowledged that these complaints should not have been dismissed under Section 108(t) and that there was confusion about the types of allegations and complaints that could be dismissed under Section 108(t). We noted that in the case file for one of these complainants, staff questioned whether a single complaint could be dismissed under Section 108(t). However, there was no explanation as to why it was ultimately dismissed. An OCR official stated that after Section 108(t) was implemented OCR never established a formal definition for what constituted a pattern of complaints. While OCR staff received training from Headquarters following implementation of the

March 2018 guidance, OCR did not maintain training documentation. As such, we were unable to determine what specific guidance was provided to staff for dismissing complaints under Section 108(t). We found that the complaint submitted by Complainant 4 was reopened as a directed investigation in February 2020. An OCR official noted that the complaint submitted by Complainant 5 still should have been dismissed, just under a different code.

### **Complaints Should Have Been Dismissed**

We found that six complaints, including seven allegations, submitted during October and November 2018, met the eligibility criteria for dismissal under Section 108(t). These six complaints were all submitted by the same complainant and related to the same types of allegations—web accessibility and effective communication—that were previously dismissed under similar complaints filed by the same complainant in March 2018 under Section 108(t). All these complaints were submitted and had cases opened prior to the November 2018 revision of the CPM.

We found this likely occurred because of an informal policy change. According to one Regional Director, staff were verbally instructed in May 2018 to no longer use Section 108(t) to dismiss complaints due to a lawsuit that was filed related to OCR's use of Section 108(t). The Chief Attorney of another regional office noted that they were informed as early as March 2018 to no longer use 108(t) to dismiss complaints, soon after the region finished dismissing a batch of complaints under that code. One Regional Director could not recall when they were told to stop using the code. We found that most of the other regional offices recalled being instructed in October or November 2018 to no longer use Section 108(t) because of the upcoming issuance of the November 2018 CPM and the related changes that would be incorporated. An OCR official confirmed the OCR management orally instructed regions to no longer use Section 108(t) to dismiss complaints but could not recall when this instruction was provided.

### **Case Files Missing Documentation**

We found that complaint acknowledgment and dismissal letters were not always maintained according to policy. We found that acknowledgement letters for 76 out of the 711 Section 108(t) complaints (11 percent) were not included in case files in the Document Management System. We were also unable to locate dismissal letters to complainants for 77 out of the 711 complaints (11 percent) that were dismissed under Section 108(t).

According to the CPM, Section 104, OCR will promptly acknowledge in writing receipt of the complaint. Per Section 108, when an allegation(s) is dismissed during the evaluation stage, OCR will issue a letter to the complainant explaining the reason for the decision.

When a complaint allegation is dismissed after the complaint allegation has been opened for investigation, OCR will issue a letter to the complainant and the recipient explaining the reason for the decision. The OCR Case Management System/Document Management System requirements document, dated September 2013, states that documents should be loaded into the Document Management System within 5 working days of when they are created or received, which includes both acknowledgement and dismissal letters.

Regarding the missing acknowledgement letters, one Regional Director stated that starting in fiscal year 2019, the regional office became fully digital with the case files and all the cases opened after that point had the acknowledgement email uploaded to the Document Management System. For cases opened earlier, the Regional Director noted that staff were not expected to upload the hardcopy acknowledgement letters into the Document Management System until the following fiscal year. For these cases, the acknowledgement emails were printed and saved in hardcopy files. The region is currently in the process of having these hardcopy files digitized. Another Regional Director stated that the office was creating hard copy files for cases at the time in addition to uploading documents to electronic case files and may have put the emails in the paper files. The Regional Director noted that the acknowledgement letters were not uploaded to case files because the office had limited administrative assistance when the office received these cases.

Regarding the missing dismissal letters, we found that regional offices issued dismissal letters that covered multiple complaints. One regional office issued two dismissal letters that covered multiple complaints. However, regional office staff only included copies of the letters in one of the case files in the Document Management System. No reference to this letter was placed in the other applicable case files. In the first letter, the regional office notified the complainant that 65 of her complaints that were in the investigation phase were being dismissed under Section 108(t). In the second letter, the regional office notified the same complainant that seven additional complaints in the evaluation phase were being dismissed under Section 108(t). The Regional Director stated that offices were not required to upload the letter into each individual case file. She stated that this decision came from headquarters in response to another complainant with multiple dismissed complaints, sparing the regions from unnecessary duplication of work. Instead of storing the letters in the individual case files, the Regional Director noted that the letters are stored on a network drive. A second regional office issued one dismissal letter covering multiple complaints but included the letter in only one case file in the Document Management System. The Regional Director noted that during the time that they were sending out the dismissal letters the regional office had limited administrative assistance which was the likely reason the letter was not uploaded into every associated case file.

## **Inefficiencies Related to Dismissal Activities**

We identified inefficiencies in the process related to complaints dismissed under Section 108(t). We noted that several of the complaints dismissed were already in an active resolution phase and/or an investigation had been completed. In many instances, recipients were proactive in attempting to resolve complaint allegations before the complaints were dismissed and expressed interest in pursuing resolution agreements, responded to data requests, submitted monthly status reports, and scheduled conference calls with OCR staff to discuss corrective actions.

We found that 44 of the complaints (6.2 percent) dismissed under Section 108(t) were in negotiation under Section 302 of the CPM. Section 302 allows that allegations under investigation may be resolved at any time when, prior to the point when the Regional Office issues a final determination, the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified issues that can be addressed through a resolution agreement. We noted that OCR staff had expended a substantive amount of time on these complaint investigations, having conducted evaluations of recipients' websites, completed checklists of website contents, and saved website screenshots in the Document Management System case files prior to dismissing complaints. We found that three additional complaints dismissed under Section 108(t) were in negotiations under Section 303 of the CPM, meaning that an investigation of the complaint had actually been completed, a noncompliance determination was made, and negotiations regarding a resolution agreement were underway.

According to an OCR official, headquarters directed regional offices to not continue negotiations for complaints that could be dismissed under Section 108(t). The OCR official added that dismissing complaints in negotiation meant that staff would not have to focus on monitoring efforts which is generally very time consuming and requires a lot of resources. In addition, the OCR official stated that OCR considered its resources at the time of the March 2018 CPM revision and while other decisions could have been made, OCR ultimately decided to move forward with dismissing complaints in negotiations that would otherwise have met the Section 108(t) criteria and directed regional offices to proceed accordingly. He noted that the stage that an investigation was in was irrelevant. We noted that the November 2018 version of the CPM, as well as the August 2020 updated version, still allows for dismissals of complaints falling under Section 302 or those falling under Section 303 for which a final determination letter has not yet been approved.

By dismissing complaints that do not meet the criteria for dismissal, OCR may not be effectively investigating and resolving all complaints to ensure that recipients of Federal funds comply with the civil rights laws and regulations enforced by OCR and may be

inadvertently allowing discriminatory practices to continue. Further, Section 108(l) of the November 2018 CPM<sup>8</sup> allows a complaint to be dismissed if the complaint filed by the complainant or someone other than the complainant against the same recipient raises the same or similar allegation(s) based on the same operative facts that was previously dismissed or closed by OCR. The improper dismissal of one complaint could set up a situation that would allow OCR to continue to dismiss discrimination complaints subsequently submitted against the same recipient, which could allow the recipient to continue discriminatory practices without recourse.

Inconsistently applying criteria can create confusion and weaken controls created by written policy to ensure complaint processing is appropriately handled. By not retaining complete case files, documentation is not readily available for review and there is no assurance that complainants or recipients have been informed of the status of complaints as required. Dismissing complaints where investigations have been completed and/or are in resolution wastes time and effort spent by OCR staff investigating and working with those recipients, and identified issues that were in the process of being resolved may be left unresolved and the recipient may remain in noncompliance. In cases that have since been reopened as directed investigations, OCR is now duplicating effort to address the complaints.

### **OCR Concerns With Preliminary Findings and OIG Response**

In written comments provided in response to the preliminary findings presented at our exit conference, OCR expressed concerns with the effect noted by OIG because of these findings. OCR noted its objection to the implication that these two errors are indicative of a general dereliction on the part of OCR regarding discharging its core mission—the investigation and resolution of complaints to ensure compliance with Federal civil rights laws. Further, regarding complaints that were inefficiently dismissed, OCR stated that as the preliminary findings note, monitoring of resolution agreements requires the expenditure of considerable time and resources. OCR stated that the decision to dismiss complaints that were in resolution negotiations was taken considering these important resource considerations.

As OCR notes, its core mission is the investigation and resolution of complaints to ensure compliance with Federal civil rights laws. As noted above, if even one complaint is improperly dismissed, applicable students could face continued discriminatory practices and subsequent complaints containing the same or similar allegations may also be inadvertently dismissed.

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<sup>8</sup> Section 108(m) in the August 2020 CPM

Further, regarding complaints being inefficiently dismissed, as OCR reaffirms, it made the decision to dismiss these complaints due to the considerable time and resources associated with monitoring resolution agreements. We would note that monitoring recipients' adherence to resolution agreements falls under the scope of OCR's responsibilities, and reiterate that identified issues that were in the process of being resolved could have been left unresolved and the recipients could have remained in noncompliance if these complaints had not subsequently been reopened.

## **Recommendations**

We recommend that the Acting Assistant Secretary for Civil Rights—

- 2.1 Clearly define new policies before implementation and provide adequate and documented training.
- 2.2 Ensure that updates to CPM policy are adequately documented and communicated, to include interim changes that have not yet been incorporated into an upcoming CPM revision.
- 2.3 Maintain all information and records as required by the Case Management System/Document Management System requirements document, to include acknowledgement and dismissal letters.
- 2.4 Clarify policy with regard to the circumstances under which dismissal of complaints that fall under Sections 302 and 303 of the CPM would be deemed appropriate, considering resources expended and willingness of recipients to voluntarily resolve issues identified by OCR.

## **Office for Civil Rights Comments**

OCR did not explicitly agree or disagree with the finding. OCR agreed with three of the four recommendations. OCR noted that it had concerns with a statement in the report pertaining to complaints dismissed that were in Section 302 or Section 303 negotiations and did not agree with the corresponding recommendation (2.4). Specifically, OCR stated that the statement and recommendation would have significant implications for OCR's case processing beyond the dismissal of complaints pursuant to Section 108(t). OCR provided an example in which it noted that OCR would have to attempt to continue negotiation of a resolution agreement in circumstances where a complainant has also filed a Federal or State court action with the same allegations based on the same operative facts. OCR noted that under these circumstances, a complainant has not lost the opportunity to exercise his or her rights, and further expenditure of resources by OCR is therefore unnecessary. OCR requested that OIG reconsider the related recommendation and modify or not include it in the final report.



## **OIG Response**

In making recommendation 2.4 for OCR to reconsider its dismissal policy, we did not intend to recommend the revised policy that should be adopted (for example, a policy of no dismissals). We have modified the recommendation to better reflect that the intent is for OCR to clarify its dismissal policy regarding the circumstances under which dismissal of these cases would be considered appropriate, such as the example of intervening litigation noted in OCR's comment, particularly considering the resources already devoted to investigation of a complaint, the late stage of an investigation, or the willingness of a recipient to resolve the complaint. We would note that the related statement in the report addressed situations, such as what we noted with Section 108(t), where complaints in Section 302 or Section 303 status were being dismissed and there was no opportunity for a complainant to further exercise their rights. As OCR acknowledged in its response to the preliminary findings, these complaints were dismissed due to OCR's own time and resource limitations; not due to additional circumstances arising during resolution in which another venue or jurisdiction would address a complainant's discrimination allegations.

OCR's proposed actions for recommendations 2.1, 2.2, and 2.3, if implemented as described, are responsive to our recommendations.

## Appendix A. Scope and Methodology

To answer our objective, we gained an understanding of OCR’s process for reopening and reviewing complaints dismissed under Section 108(t) and its process for dismissing complaints due to revisions to the CPM in March and November 2018. We reviewed applicable laws, Department policies and procedures, and the GAO “Standards of Internal Control in the Federal Government.” In addition, we conducted interviews of OCR officials and staff responsible for reopening and reviewing complaints dismissed under Section 108(t) and dismissing complaints due to the revisions to the CPM in March and November 2018. We also reviewed prior Office of Inspector General (OIG), GAO, and other Federal agencies’ audit reports related to our audit objective.

### Reopening and Reviewing Dismissed Complaints

We met with OCR officials and the National Web Access team to discuss the process for reopening and reviewing complaints dismissed under Section 108(t). We obtained OCR reports for tracking directed investigations related to web accessibility complaints dismissed under 108(t). We identified all complaints dismissed by OCR under Section 108(t) between March 2018 and November 2018. We also identified any complaints dismissed under code 108(k)<sup>9</sup> noted as being dismissed as a result of a previous 108(t) dismissal. We identified all directed investigations opened by OCR from November 2018 through January 2020. We compared the complaints dismissed under Section 108(t) to the opened directed investigations by Recipient Name and State and also by Issue Code. We reviewed data and case documentation maintained in OCR’s Case Management System and Document Management System in order to compare the allegations in the complaints dismissed under Section 108(t) to the allegations in identified opened directed investigations with matching Recipient Name and State to determine if there was a directed investigation that corresponded with each dismissed complaint.

### Review of Complaint Dismissal Process

We conducted interviews with OCR management in Washington D.C. and with Regional Directors and staff responsible for dismissing complaints under Section 108(t). We identified complaints and related allegations dismissed under Section 108(t) between March 2018 and August 2019 and assessed whether the complaints fit the criteria

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<sup>9</sup> Code 108(k) was used to dismiss complaints that were filed by the complainant or someone other than the complainant against the same recipient and raised the same or similar allegations based on the same operative facts that were previously dismissed under various codes in Section 108, to include 108(t).

defined in the March 2018 CPM. To determine whether there were complaints that should have been dismissed under Section 108(t) but were not, we identified any additional complaints submitted by the five complainants that had complaints previously dismissed under Section 108(t), determined whether these additional complaints met the applicable 108(t) dismissal criteria, and determined the status of these complaints prior to the November 2018 revision to the CPM. To assess the completeness of case files, we identified documentation required to be maintained according to the CPM and OCR Case Management System/Document Management System requirements document, and reviewed data and case documentation maintained in OCR's Case Management System and Document Management System. To determine the efficiency of the complaint dismissal process we reviewed data and case documentation maintained in OCR's Case Management System to determine the status of complaints at the time of dismissal for the 711 complaints dismissed under Section 108(t).

To determine whether OCR was following applicable revisions to its dismissal procedures in the November 2018 CPM, we searched OCR's Case Management System for the use of the 108(t) code subsequent to the November 19th revision through August 2019. We also identified complaints dismissed under code 108(l)<sup>10</sup> to determine whether any complaints dismissed under this code were tied to a 108(t) complaint that was subsequently being reopened and therefore should not have been dismissed under 108(l). We also determined whether there were any dismissal codes in use that were not listed in the CPM.

### **Use of Computer-Processed Data**

We relied on computer-processed data from OCR's Case Management System to identify complaints dismissed under Section 108(t) and to identify directed investigations related to those complaints. We tested the completeness of the Case Management System data file provided to us by OCR by running several queries within OCR's active Case Management System database and reconciling the queries to data in the Case Management System data file provided for our analysis. We considered the file complete as a result of the reconciliation. We verified the completeness and accuracy of the data by comparing Case Management System records to information found in OCR's Document Management System. We noted issues with the linkages between complaints dismissed under Section 108(t) and opened directed investigations which limited our

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<sup>10</sup> Code 108(l) was used to dismiss complaints that were filed by the complainant or someone other than the complainant against the same recipient and raises the same or similar allegations based on the same operative facts that were previously dismissed or closed by OCR.

ability to reconcile that all complaints dismissed under Section 108(t) were reopened as directed investigations. However, despite these limitations, we believe the evidence obtained provides a reasonable basis for our findings and conclusions based on the audit objective. Specifically, the limitations noted did not impact our ability to assess whether OCR dismissed discrimination complaints in accordance with applicable policies and procedures.

We conducted fieldwork at Department offices in Washington, D.C. from March 2019 through July 2020. We provided our audit results to OCR officials during an exit conference conducted on July 27, 2020.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## Appendix B. Acronyms and Abbreviations

CPM	Case Processing Manual
Department	U.S. Department of Education
GAO	Government Accountability Office
IT	information technology
OCR	Office for Civil Rights
OIG	Office of Inspector General

## Office for Civil Rights Comments



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS  
ASSISTANT SECRETARY

**TO:** Michelle Weaver-Dugan  
Regional Inspector General for Audit, Internal Operations/Philadelphia Audit Team  
Office of the Inspector General

**FROM:** Suzanne B. Goldberg  
Acting Assistant Secretary  
Office for Civil Rights

**RE:** Office for Civil Rights' Response to OIG  
**ED-OIG-A19T0002**

**DATE:** February 26, 2021

Dear Ms. Weaver-Dugan:

I am pleased to share these responses to OIG's report. As I have joined OCR only recently, I want to take this opportunity to introduce myself and express my appreciation for your team's careful inquiries and analysis. I would also appreciate the chance to speak with you in the upcoming weeks both about the issues here and to hear more generally about your work. In the meantime, please don't hesitate to be in touch with questions about OCR's response.

Yours truly,

A handwritten signature in black ink, appearing to read "Suzanne B. Goldberg".

Suzanne Goldberg

cc.

Randolph Wills, Deputy Assistant Secretary for Enforcement, Office for Civil Rights  
Philip Rosenfelt, Deputy General Counsel, Office of the General Counsel, U.S Department of Education  
Kala Suprenant, Office of the General Counsel, U.S Department of Education

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U.S. Department of Education  
Office of Inspector General  
ED-OIG/A19T0002

**Statement in Response to the Findings in the Draft Report of the Office of the Inspector  
General with regard to the Audit of OCR's Complaint Dismissal Process**

**ED-OIG-A19T0002**

OCR appreciates the work of the OIG on this matter and looks forward to addressing a number of OIG's recommendations concerning steps OCR should take to strengthen the completeness and accuracy of data and documentation maintained in its Case Management and Document Management Systems. OCR has committed to implementing refinements and improvements to both systems over the years and, with new leadership, is currently reviewing the systems to determine what additional enhancements are needed to strengthen their operation. Your work and your report have been and will be a significant aid in deciding on what improvements would be effective and most helpful.

**FINDING 1**

OCR hopes OIG will provide further explanation about the following statements in FINDING 1:

By not having a clear link by which to track complaints previously dismissed under Section 108(t) to directed investigations or other related actions, there is less assurance that these complaints are not being reopened and investigated as stated or being handled in another appropriate manner.

With regard to OCR's statement that the finding should provide more information about the National Web Access team, we acknowledge that the creation of the Team is a positive step forward and have presented related information in our report that we believe is appropriate to the scope of our audit. We find that OCR's comments lack context regarding what prompted the creation of the Team and the reason why it was placed in a position of having to open hundreds of directed investigations in a relatively short period of time.

OCR continues to have the concern it expressed in its response to the preliminary findings of OIG that OIG has not fully credited OCR with opening hundreds of directed investigations and establishing a specific team to address them in a relative short period of time. For example, several factors led to the creation of the National Web Access Team. First, there was a change in leadership in OCR, as Kenneth Marcus was confirmed as OCR's assistant secretary in June 2018. Upon taking office he was informed of the prior leadership's March 2018 revision of the CPM and, in particular, of new section 108(t), which resulted in the dismissal of hundreds of complaints filed by several complainants. In addition, he was apprised of litigation regarding these dismissals that was filed against the Department of Education by the National Federation of

the Blind and the Council of Parent Attorneys and Advocates.<sup>1</sup> At that time, the then new Assistant Secretary wanted to make improvements, and in light of these circumstances, the Assistant Secretary directed the Deputy Assistant Secretary for Enforcement to open all of the complaints closed pursuant to section 108(t) as directed investigations; this significant task of opening hundreds of directed investigations was accomplished expeditiously within a matter of a few months. In addition, in order to ensure consistency in OCR’s resolution of the directed investigations, OCR leadership created a dedicated team of investigators and information technology experts.

Regarding OIG’s concern about OCR not “having a clear link by which to track complaints previously dismissed under Section 108(t) to directed investigations or other related actions,” as noted in previous discussions, OCR reiterates its position that it made a reasonable decision to use its Case Management System (CMS) for tracking the resolution of dismissed Section 108(t) complaints opened as directed investigations. CMS is an internal system that is designed to meet OCR’s needs as they relate to the evaluation, investigation, and resolution of cases. While a special “linkage” may have made it easier or more convenient to confirm the correspondence between dismissed Section 108(t) complaints and the directed investigations—particularly for someone outside of OCR—it was not necessary for OCR staff, who are fully capable of establishing the linkage by using the CMS processes at hand.

Nevertheless, OCR wishes to inform OIG that it has taken actions with regard to both of the recommendations concerning FINDING 1 in OIG’s draft report:

- 1.1 Establish a process that more clearly links all complaints that had been previously dismissed under 108(t) to directed investigations or other related actions.
- 1.2 Ensure all previously dismissed complaints under 108(t) have actually been reopened or otherwise appropriately resolved.

With regard to recommendation 1.1, OCR has established in CMS a ‘Next Step’ that indicates for each complaint dismissed pursuant to Section 108(t) the corresponding directed investigation, and for each directed investigation the underlying complaint dismissed pursuant to Section 108(t). For example, if one looks up in CMS the docket numbers on the left below, the following statement will be found in the Next Steps section for that case:

<u><b>Docket #</b></u>	<u><b>Next Step</b></u>
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<i>10171104</i>	<i>This complaint was dismissed pursuant to section 108(t) of the CPM and has been opened under a directed investigation docket # 10195941.</i>
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<sup>1</sup> Contrary to OIG’s assertion that it “lacked context regarding what prompted creation of the Team,” the Department’s Office of the General Counsel informed OIG of the litigation during the course of OIG’s audit.



10195941      *This directed investigation was opened to address a complaint, docket #10171104, previously dismissed under 108(t) of the CPM.*

With regard to recommendation 1.2, OCR has conducted a complete review of all of the complaints that were dismissed under Section 108(t) and has determined that all have been reopened as stated or otherwise appropriately resolved.

## **FINDING 2**

OCR remains concerned about the following statement in FINDING 2:

Dismissing complaints where investigations have been completed and/or are in resolution wastes time and effort spent by OCR staff investigating and working with those recipients, and identified issues that were in the process of being resolved may be left unresolved and the recipient may remain in noncompliance.

OIG's statement and its corresponding recommendation 2.4 (*Reconsider policy regarding dismissal of complaints that fall under Sections 302 and 303 of the CPM in light of resources expended and willingness of recipients to voluntarily resolve issues identified by OCR.*) have significant implications for OCR's case processing beyond the dismissal of complaints pursuant to Section 108(t). It would mean, for example, that OCR would have to attempt to continue negotiation a resolution agreement in circumstances where a complainant has also filed a federal or state court action with the same allegations based on the same operative facts. Under these circumstances, a complainant has not lost the opportunity to exercise his or her rights, and further expenditure of resources by OCR is therefore unnecessary. Accordingly, after due consideration of OIG recommendation 2.4, OCR respectfully disagrees with the recommendation to take action regarding its long-standing policy of dismissing, under certain circumstances, complaints that are in negotiation pursuant to Section 302 and/or Section 303 of the CPM, and respectfully requests that OIG reconsider this recommendation and modify or not include it in the final report.

OCR agrees to implement OIG recommendation 2.1, in that it will clearly define new policies before implementation and provide adequate and documented training.

OCR agrees to implement OIG recommendation 2.2, in that it will ensure that updates to CPM policy are adequately documented and communicated, to include interim changes that have not yet been incorporated into an upcoming CPM provision.

With regard to OIG recommendation 2.3, please be advised that OCR is currently taking action to ensure that it is maintaining all information and records as required by the Case Management System/Document Management System requirements document, to include acknowledgment and dismissal letters.

OCR appreciates the opportunity to comment on the draft report and would be glad to discuss it further if that would be helpful. Please let us know if you have any questions or need further information about our comments.