

# Complaints

1. **Complaints**. A complaint refers to claims that a violation of the law has occurred or is about to occur. Complaints may be specific or nonspecific, written or oral, within or outside EBSA's jurisdiction. Complaints may come from numerous sources, such as individuals, news media, and other enforcement agencies.
2. **Complaints from Individuals**. EBSA's Benefits Advisors generally handle inquiries and complaints from members of the public following procedures established by the Office of Outreach, Education and Assistance. When appropriate, Benefit Advisors may refer a participant complaint to the enforcement unit as an investigative lead for possible case opening. When a case is opened based upon a participant complaint, the assigned Investigator/Auditor will notify the participant of the complaint disposition. EBSA Investigator/Auditor should notify the participant quarterly on the progress of the investigation, and document final notification of the outcome in the case file.
3. **Nonspecific Complaints**. EBSA generally will not investigate if the information is indefinite, general, grounded in rumor or conjecture, or alleges activity that does not constitute a violation of law, or the complaint is "nonspecific". However, if EBSA receives multiple complaints relating to the same person, entity, or subject matter over a period of time, the cumulative effect of such complaints may form the basis for conducting an investigation.
4. **Confidentiality of Complaints**. If the complainant requests confidentiality, the complainant is a "Confidential Source". The complainant may be described in terms of his/her degree of reliability, such as "who has furnished accurate information in the past" or "of unknown reliability" in a memorandum for the case file. The complainant's name will only appear in the original written complaint or an original memorandum relating to an oral complaint, and kept in a secure location. EBSA cannot guarantee confidentiality to complainants, particularly when the complaint concerns a benefit dispute. The most that EBSA should state is that EBSA will attempt to keep their identity confidential unless required to disclose by law. Similar protection will be afforded to government agencies that request it, making reference to "Confidential Source A, a U.S. government agency" or "Source D, a municipal agency," etc.
5. **Identification of Source**. Law enforcement agencies are not designated as confidential information sources except in instances when the agency involved, or its employee, specifically requests anonymity as a condition precedent to the release of such information. Such instances usually occur when the information involves "raw, unevaluated" matters and a possible source of embarrassment to the contributor.
6. **Information from Other Agencies**. Some agencies, such as the FBI, may release information only upon the condition it is not released to other agencies without prior permission of the contributing agency. The IRS, by law, is compelled to consider tax return information to be confidential (IRC section 6103). Any information obtained from the IRS, as authorized by

IRC section 6103, must be kept confidential and not released outside EBSA or the Solicitor's Office without the Commissioner of Internal Revenue's permission. IRC section 7213 provides severe penalties, including criminal sanctions, for unauthorized disclosure. Information obtained from the IRS should not be discussed with anyone, even within the Department, other than on a need-to-know basis (see sections on Relationship with IRS and Release of Information).

7. **Anonymity of Complainant.** Even if a complainant does not request confidential informant treatment, it is EBSA policy not to disclose the complainant's identity during the course of an investigation unless the law requires such disclosure. This does not apply to an individual who is requesting help from EBSA in obtaining an individual benefit.
  
8. **Documenting Oral Complaints.** When appropriate, Benefit Advisors document complaints in accordance with the procedures established by the Office of Outreach, Education and Assistance. In other situations, the nature of the complaint will determine if a written memorialization should be prepared. If the individual receiving the complaint determines that further action will be required, an RI will be prepared. If the matter is of interest to the NO, another RO, or a DO, copies are furnished to each interested office.
  
9. **Complaints of Violations of Other Laws.** ROs or DOs who receive information pertaining to potential violations of laws enforced by other agencies, federal or state, will refer such matters to the appropriate agency. ROs should only refer complaints to other agencies that do not involve potential plan violations. If a potential plan violation, as well as some other violation, is involved, and the RD is uncertain how to proceed, contact OE for appropriate action. ROs or DOs should refer matters directly to PBGC, copying OE.
  
10. **Complaints Concerning Subjects outside a RO Jurisdiction.** RO/DO should forward complaints concerning an individual or organization from another RO/DO's geographic jurisdiction to the appropriate office. The referring RO/DO should first confirm with the recipient RO/DO that a referral is appropriate.