



Procedures for Resolving Complaints under the Individuals with Disabilities Education Act

A. DEFINITION OF STATE COMPLAINT

State complaints can be filed by any individual or organization alleging any violation of the IDEA, including an alleged failure to comply with a previous due process hearing decision. State complaint procedures are outlined in IDEA regulations requiring, in part, a complaint must allege a violation that occurred no more than one year (365 days) prior to the date the complaint has been received. (See IDEA regulations 34 CFR§300.150 through 300.153).

The filing party must provide a written complaint that includes the name and contact information of the complainant, the name, address, and attending school of child (if applicable), description and facts of the alleged problem to the extent known and available to the complainant at the time, and a proposed resolution. The party filing the complaint must forward a copy of the complaint to the district at the same time the party files the complaint with the Dispute Resolution office. IDEA allows sixty (60) days to resolve the complaint with mediation, investigation and final report, or a pre-investigation corrective action plan (CAP).

The DRC determines whether the complainant's submission meets the IDEA requirements for a complaint. If the complaint is ruled insufficient, the complainant will be notified in writing. The DRC will determine if an onsite investigation is necessary and will assign a complaint investigator to engage in neutral fact-finding if the complaint is accepted. If investigated, a written decision will be provided to the complainant and the district addressing each allegation, findings of fact, conclusions, and any corrective actions ordered.

B. FILING A STATE COMPLAINT

The state complaint will be accepted if received by mail, fax, hand delivery, or scanned and attached to an email with the complainant's signature included. Reasonable accommodations will be provided to individuals who need assistance in filing complaints. A state complaint filed by a parent/adult student or public agency must be signed and must include all of the information indicated on the *Form for Filing a State Complaint* (located in the Document section of this chapter). The DRC will develop allegations of violation of IDEA for investigation from the submitted complaint.

C. METHODS OF RESOLVING STATE COMPLAINTS

Mediation will be offered in a case regarding an individual student. If mediation is not accepted by the parties or fails to resolve the allegation(s) that gave rise to the complaint, then resolution of a state complaint may be achieved through one or more of the following processes:

1. **Verification of resolution:** Upon receipt of the allegations determined by the complaint investigator and the DRC, the district may submit information to document that one or more of the allegations of the complaint have been resolved. The Dispute Resolution office may also receive similar information from other sources.
2. **Corrective action plan (CAP):** The district may propose a CAP to address the allegations in the complaint. The DRC may accept, reject, or negotiate the proposed CAP, or require other corrective actions or timelines to ensure the district will achieve compliance for each allegation stated in the complaint. If this process is not successful, an investigation will be conducted on unresolved allegations.
3. **Investigation:** The SDE will appoint a complaint investigator to the case who will conduct a fact finding investigation which may include interviews and reviews of files, correspondence, and other information. An onsite investigation may occur as part of the investigation. The complaint investigator will submit his or her findings of fact, conclusions, and, in coordination with the SDE, identify appropriate corrective actions, if required.

D. STATE COMPLAINT PROCEDURES

Upon receipt of a written state administration complaint, the DRC will ensure the following procedures are followed:

1. Verify proper filing procedures were followed and determine if the complaint meets established criteria, including sufficient allegations of violation of IDEA (as developed by the DRC from the submitted complaint) and facts within five (5) business days. The complainant will be notified if a submission is insufficient to process as a complaint. The complainant will be given the opportunity to submit additional information about the allegations, whereas upon receipt of the additional information, the sixty (60) day timeline for completion will start.
2. The district (specifically the superintendent, the special education director, and the school board chair) will be notified by the DRC that the complaint has been received and what, if any, allegations have been accepted for investigation within ten (10) business days of receiving the complaint. The school district is given an opportunity to respond to the complaint and may initiate within fourteen (14) days of receipt of the complaint a

corrective action proposal (CAP) to resolve all or some of the allegations in the complaint, subject to DRC approval. At the complaint investigator's discretion, the timeline for a CAP may be extended, or the complaint investigation may progress until a CAP has been accepted by the Dispute Resolution office. The complaint investigator is responsible for managing the timelines of the investigation and may submit a final report at any point within the 60-day timeline.

3. Mediation can be requested by either party at any time and must be offered for complaints regarding an individual student. While parties are generally encouraged to resolve complaints collaboratively, choosing not to participate in mediation will not be considered relevant in an investigation. If parties opt for mediation, it will not delay the timelines required for resolving a complaint unless all parties agree.
4. Provide the parent/adult student a copy of the Procedural Safeguards Notice.
5. Complainants will be given an opportunity to provide additional information about the allegations, either orally or in writing.
6. All or any part of the written complaint will be set aside by the hearing officer, if the allegation is being addressed in a pending due process hearing or a hearing decision which has already been rendered. Any issue not a part of a due process action will be resolved following the state complaint procedures and timelines.
7. The Dispute Resolution office will investigate a complaint alleging that a final hearing officer decision is not being implemented by a public agency.
8. A final report of the investigation will be issued to the district superintendent, board chairperson, special education director, and complainant, that shall include but is not limited to the findings of fact, conclusions, and corrective action(s) for each allegation within sixty (60) calendar days of receipt of a sufficient complaint (see D.1). This time period may be extended, but only under exceptional circumstances, which shall be documented by the DRC, or if the complainant and public agency agree to extend the time to engage in mediation or other alternative dispute resolution procedures.
9. If a violation of the IDEA is verified by the complaint investigator, the report shall include corrective actions addressing, as appropriate:
 - a. how to remedy any denial of FAPE, which may include the award of compensatory services, monetary reimbursement or other corrective action as appropriate to the needs of the student;
 - b. the future provision of services to be considered by an IEP team for the student with a disability, when appropriate; and
 - c. the provisions of technical assistance, documentation of compliance, or written assurances, if needed.
10. The SDE will ensure the district takes corrective action if it is determined that the district was out of compliance through technical assistance activities, negotiations, and/or corrective actions no later than one year after the identification of non-compliance. A complaint investigation final report cannot amend a student's IEP.

The Dispute Resolution office ensures noncompliance has been corrected and verifies through review of documentation or interviews, or both, the corrective actions were implemented no

later than one year (365 days) after the determination of noncompliance. If necessary, the SDE must use appropriate enforcement mechanisms such as the provision of technical assistance, conditions on funding, a corrective action, an improvement plan, and/or withholding funds, in whole or in part.

For Questions Contact

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