

Resolving Disputes with Parents Series

Part 2 - Filing a State Complaint

State complaints are an important procedural safeguard in IDEA, because they give individuals and organizations a mechanism through which they can address special education conflicts and resolve disputes. The complaint resolution process tends to be less intimidating than a due process hearing and represents an alternative to it.

Interestingly, the IDEA statute does not include State complaint procedures. Rather, it is the final Part B regulations that require each state to adopt written procedures for resolving any complaint that meets the definition of a “State complaint” under the Part B regulations. You'll find IDEA's requirements in §§300.660 through 300.662 of its regulations.

The U.S. Department of Education explains the importance of each state having effective complaint procedures as follows:

We believe that the broad scope of the State complaint procedures, as permitted by the regulations, is critical to each State’s exercise of its general supervision responsibilities....the State complaint procedures, which are directly under the control of the SEA, provide the parent and the school district with mechanisms that allow them to resolve differences without having to resort to a more costly and cumbersome due process complaint, which by its nature, is litigious. (71 Fed. Reg. 46601, 46606)

The summary below is a summary of the state complaint process as a dispute resolution option.

The State Complaint Process, Summarized

A state complaint is very much what it sounds like: a letter written to a official state agency to report a violation or problem. Within special education, it's one of several procedural safeguards available under IDEA to resolve disputes between parents of children with disabilities and the school systems responsible for educating those children.

To whom does a person write? Why would a person write? What must he or she include in the complaint? What happens then?

The answers to these questions are the heart and soul of the state complaint process--and they are largely determined by the requirements of IDEA. States must follow IDEA's regulations when they develop and implement the complaint process in the state.

While many details exist in the process and are important to know, a quick summary of state complaint as a dispute resolution option would include these major points:

- Any individual or organization may file a complaint alleging that the State or other participating agency has violated a requirement of the IDEA.

- An individual wishing to file a complaint must do so by writing directly to his or her SEA. In some states, the SEA provides for the filing of a complaint with a public agency and retains the right to have the SEA review the public agency's decision on the complaint.
- Complaints must be written and signed and must contain a statement that a public agency has violated a requirement of Part B of IDEA or its implementing regulations and the facts upon which the statement is based.
- The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received--unless a longer period is reasonable because the violation is continuing or the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the complaint was received.
- The SEA is obligated to resolve such a complaint within 60 calendar days from the date of receipt, unless exceptional circumstances exist with respect to the complaint.
- The complainant (the individual or organization filing the complaint) must be given the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.
- The SEA must conduct an on-site investigation, if it determines such an investigation to be necessary.
- The SEA must review all relevant information and make an independent determination as to whether the school system has violated or is violating a requirement of the law.
- The SEA must then issue a written decision that addresses each of the allegations in the complaint and contains the findings of fact and conclusions, as well as the reasons for the SEA's final decision.

Your State's Complaint Procedures

As was mentioned above, working from IDEA's requirements, states develop and implement their own complaint policies. Therefore, it's helpful to know what state complaint policies exist in your state. You can find out by contacting the Director of Special Education at your SEA and requesting information about these procedures. Additional clarification may also be available about how mediation, the due process procedure, and the State complaint process operate as distinct and separate remedies.

You may also want to seek advice from the PTI center or the Protection and Advocacy (P&A) Agency in your State.