

CHILD COMPLAINT PROCEDURES  
PART B

**CHILD COMPLAINT PROCESS**

Statement of Jurisdiction

The Department of Elementary and Secondary Education, as a grantee under Part B of the Individuals with Disabilities Education Act (IDEA), must maintain procedures for receiving, investigating, and resolving complaints alleging that statutes and/or regulations implementing IDEA have been violated. This process is known as the child complaint process.

The Department of Elementary and Secondary Education disseminates information on this process to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities.

Limitations (34 CFR 300.153(c))

A complaint must allege a violation by a responsible public agency that occurred not more than one (1) year prior to the date that the complaint is received.

Filing a Complaint (34 CFR 300.153)

An organization or individual may file a signed written complaint. The complaint must include:

- A. a statement that a public agency has violated a requirement of Part B of the Act;
- B. the facts on which the statement is based (state facts describing an alleged violation of state and/or federal regulations implementing IDEA);
- C. the signature and contact information for the complainant; and,
- D. if alleging violations with respect to a specific child, the name and address of the residence of the child and the name of the school that the child is attending. If the child is a homeless child or youth, the available contact information for the child and the name of the school the child is attending must be provided;
- E. a description of the nature of the problem of the child, including the facts relating to the problem; and,
- F. a proposed solution of the problem to the extent known and available to the party at the time the complaint is filed.

The party filing the complaint must forward a copy of the complaint to the local education agency (LEA) or public agency serving the child at the same time the party files the complaint with the state education agency (SEA).

If the party fails to provide a description of the nature of the problem of the child, including the facts relating to the problem at the time the complaint is filed, the SEA may, in its discretion, dismiss the complaint and grant the party the opportunity to refile with the required information included.

## Processing of Complaint Record

Upon receipt, the complaint shall be reviewed by the complaint coordinator and necessary staff assigned to investigate it. The complaint shall also be entered into the complaint tracking process.

## Investigation of the Complaint

The process of investigation shall include: staffing the complaint, providing written notice of the complaint to the responsible public agency, written acknowledgment to the complainant, data collection, and onsite visits where appropriate.

- A. Assigned staff will review the complaint to determine the parameters of the investigation. This would include determining whether an onsite visit will be necessary or whether the information may be obtained through the use of a data request and phone interviews.
- B. Upon receipt of a complaint, notice shall be sent to the responsible public agency against which the complaint is filed. The notice shall include a statement of the elements of the complaint, a description of the investigation process, and, if possible, the details of any onsite visits, data requests, or phone interviews that are planned. The responsible public agency shall be invited to respond to the complaint, which could include a proposal to resolve the complaint and an opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation.
- C. Upon receipt of a complaint, a written acknowledgment shall be sent to the complainant and shall include a statement of the elements of the complaint, a description of the investigation process, and an invitation to provide any additional information either orally or in writing, about the allegations in the complaint.
- D. Documentation requests and phone interviews will be the primary methods of data collection in the complaint investigation. The data request should include documents relevant to the complaint and should be forwarded to a designated contact with the responsible public agency. It is the purpose of the data requests and phone interviews to attempt, where possible, to resolve the complaint without an onsite visit.
- E. If the investigation requires an onsite visit, separate notice to the responsible public agency shall be given. This notice may be given by phone, but should preferably be in writing. If the notice is given by phone, then a confirmation in writing should follow-up the phone conversation. The notice shall include a statement of the records to be made available, staff to be interviewed, and any need for access to school or agency facilities.

## Investigation Timelines

The Department of Elementary and Secondary Education shall have, upon receipt of the completed complaint, sixty (60) calendar days to investigate and resolve the complaint. Extension of this time limit may be granted by the Assistant Commissioner of Education, if exceptional circumstances exist with respect to the particular complaint, or the parent (or individual or organization) and the public agency involved agree to extend the time to engage in mediation. If such an extension is given, notice shall be given to the complainant and the responsible public agency under investigation, with documentation of that notice to be maintained within the child complaint file.

## Resolution of the Complaint

Resolution of a child complaint shall be through the issuance of a Decision letter from the Assistant Commissioner of Education, Department of Elementary and Secondary Education. The Decision letter shall include findings of fact and conclusions, and provide reasons for the Decision. These findings would include a review of the investigation results, including any information in an onsite investigation or from a data request. The basis for resolution may be any of the following:

- A. a decision that the responsible public agency is not out of compliance;
- B. a decision that the responsible public agency is out of compliance, but that voluntary corrective action has been taken by the public agency to bring the public agency into compliance; or,
- C. a decision that the responsible public agency is out of compliance, and ordering a corrective action with a timeline for submission to the Department of Elementary and Secondary Education. Corrective actions ordered by the Assistant Commissioner of Education may include, but are not limited to, technical assistance activities, negotiations, or other actions to achieve compliance.

## Final Decision

The findings of the Assistant Commissioner of Education related to the complaint shall constitute a final decision of the Department of Elementary and Secondary Education. No further appeal is available.

## Complaints Filed Under This Section and Due Process Hearings

If a written complaint is received that is also the subject of a due process hearing, or contains multiple issues of which one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures described above.

If an issue raised in a complaint filed under this section has previously been decided in a due process hearing involving the same parties, the due process hearing decision is binding on that issue and the SEA must inform the complainant to that effect.

[http://www.dese.mo.gov/divspeced/stateplan/documents/Regulation\\_VI\\_Prop2010.pdf](http://www.dese.mo.gov/divspeced/stateplan/documents/Regulation_VI_Prop2010.pdf)