



STATE ADMINISTRATIVE COMPLAINTS

UNDER PART B of IDEA

34 CFR §§300.151 through 300.153



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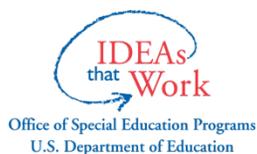
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ABOUT THIS RESOURCE

This publication was developed by CADRE, a project of Direction Service pursuant to Cooperative Agreement CFDA H326X180001 with the Office of Special Education Programs, United States Department of Education, Carmen M. Sánchez, Project Officer. The opinions expressed and materials contained herein do not necessarily reflect the position or policy of the United States Department of Education, and you should not assume endorsement by the Federal Government. This resource is in the public domain. The manual may be reproduced in its entirety or portions thereof for noncommercial use without prior permission. This document may be customized by State Education Agencies to include state-specific information. States are encouraged to distinguish between federal and State regulations.

This manual draws from the OSEP’s [Dispute Resolution Self-Assessment](#), [OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), US Dept. of Education policy documents, comments to the regulations, and relevant case law. This resource is not intended to interpret, modify, replace requirements of federal or State law, or serve as a definitive treatment of the regulations. Application of information presented may be affected by State statutes, regulations, departmental and local policies, and any new guidance not issued at the time of this publication.



WRITTEN STATE COMPLAINTS

Each State is required to establish, implement, and maintain procedural safeguards related to State administrative complaints (also called written State complaints). To assist State Education Agencies (SEAs) in meeting federal requirements under IDEA, and effectively and efficiently administer State complaints, CADRE has created a general manual aligned with the federal regulations. This manual includes hyperlinked citations, responses to some frequently asked questions, coaching questions to prompt reflection about DR system design and how some procedures are, or might be, operationalized, and more. Key features needed for the administration of State administrative complaints include:

- Written State procedures that align with IDEA
- Infrastructure to support the oversight, case management, data collection and reporting, and implementation of the procedural safeguards related to written State complaints
- Trained and impartial complaint investigators that align practices with federal and State law
- Mechanisms to effectively communicate with stakeholders about the State complaint process, as well as to explain how it operates in conjunction with the other IDEA dispute resolution processes
- Means to access the State complaint option, including but not limited to a model form

CADRE has identified five management function areas for effective systems: [Systemwide Oversight, Infrastructure & Organization](#); [Program Access & Delivery](#); [Standards & Professional Development](#); [Public Awareness & Outreach Activities](#); and [Evaluation & Continuous Quality Improvement \(CQI\)](#). For more information, visit CADRE's [System Improvement](#) online resource.

To conduct a crosswalk of your State regulations, policies, and procedures with the federal requirements under IDEA, use OSEP's [Dispute Resolution Self-Assessment](#).

States are strongly encouraged to periodically review their State administrative complaint procedures to ensure that they 1) align with State and federal law; 2) are clear; and 3) help facilitate an efficient and effective written State complaint system. Changes to policy and procedures necessitate public participation [34 CFR §300.165(a)]. States may consider developing an internal operations manual addressing the implementation of the State's policies and procedures.





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WRITTEN STATE COMPLAINTS

Each SEA must adopt written procedures for resolving any State complaint alleging a violation of Part B of the IDEA (for students with disabilities age 3 through 21) filed with the State Education Agency (SEA), including a complaint filed by an organization or individual from another State, that meets the requirements of [§300.153](#) [34 CFR [§300.151\(a\)\(1\)\(i\)](#)]. This includes complaints pertaining to:

- child-specific issues
- systemic issues
- the identification, evaluation, or educational placement of a child with a disability
- FAPE
- any other allegation of a violation of Part B or its implementing regulations by a public agency within the State

It is important to note that States may not direct or require parents to request a due process hearing on these matters instead of using the State complaint process, even if the concern raised by the parent could be an issue in a due process hearing. For information about resolving systemic issues, see pg. 21. For information about resolving complaints about FAPE, see pg. 23.

The IDEA uses the term “complaint” to mean two different processes: 1) a State administrative complaint (or written State complaint), and 2) a due process complaint. Both processes seek to have an authority make a formal determination about the issues identified by the complainant. The State administrative complaint requires the SEA to investigate and rule on the allegations of IDEA violations, whereas a due process complaint requests a decision to be made by a hearing officer after an administrative hearing. For more information about due process, see the *State Administration of Due Process Complaints & Hearings Under Part B of IDEA* manual.

When a State complaint is filed, a SEA is required to issue a written decision within 60 days of the date the complaint was filed, subject to allowable extensions (discussed in this manual on pg. 12). The decision must address each allegation of noncompliance in the complaint, contain findings of fact and conclusions on each allegation, and provide reasons for the SEA’s final decision [34 CFR [§300.152\(a\)\(5\)](#)].

In addition, under [§300.152\(b\)\(2\)](#), the SEA must have procedures for effective implementation of its final decision, when necessary, including technical assistance activities, negotiations, and corrective actions to achieve compliance. Therefore, if necessary to implement the SEA’s final decision, the SEA’s written decision must contain remedies for the denial of appropriate services, including corrective actions that are appropriate to address the needs of the child or group of children involved in the complaint. If appropriate, remedies could include compensatory services or monetary reimbursement, and measures to ensure appropriate future provision of services for all children with disabilities [34 CFR [§300.151\(b\)](#)].

Time Limitation for Filing a State Complaint

The complaint must allege a violation of Part B of the IDEA that occurred not more than one year prior to receiving the complaint in accordance with [§300.151](#) [34 CFR [§300.153\(c\)](#)]. This requirement applies even if the alleged violation is continuing or if the complainant is requesting compensatory services. However, a State may choose to accept and resolve complaints alleging violations that occurred more than one year prior to the SEA’s receipt of the complaint as an additional protection for parents [[71 Federal Register, August 14, 2006](#), pg. 46606]. If the State allows complaints regarding alleged violations that occurred more than one year prior to the filing of the complaint, the State must inform

its stakeholders about the timeline for filing through its State complaint procedures and the procedural safeguards notice.

Coaching Questions

- *Do your State complaint procedures allow for alleged violations to have occurred more than one year prior to the filing of the complaint? If so, how are stakeholders informed about this longer timeline for filing a State complaint?*

Each SEA must provide for the filing of a complaint with the SEA, and, at the SEA's discretion, provide for the filing of a complaint with a public agency and the right to have the SEA review the public agency's decision on the complaint [34 CFR §300.151 (a)(1)(ii)] in order to issue a written decision that contains the findings of fact and the reasons for the SEA's final decision [34 CFR §300.152 (a)(5)]. A State's complaint procedures must specify whether complaints are to be filed with the SEA and with a different public agency.

**SEA provisions
for the filing
of a State
complaint**

FILING A WRITTEN STATE COMPLAINT



An organization or individual may file a signed written complaint under the procedures described in §§[300.151 through 300.152](#) [34 CFR [§300.153\(a\)](#)].

Forms Must Be Made Available

Under §[300.509](#), each SEA must develop model forms to assist parents and other parties in filing a State complaint. However, the SEA or LEA may not require the use of the model forms. Parents and other parties may use the appropriate model form, or another form or document, as long as the form or document used meets the content requirements in §[300.153](#) for filing a State complaint. If the SEA's model form includes content not required by §[300.153](#), the form must identify that content and specify that it is optional [34 CFR [§300.509\(b\)](#)].

Coaching Questions

- *Is your State’s model form easy to understand? How is this determined? Is it 508-compliant?*
 - *Does your State’s model form include content not required by the IDEA? If so, does the form identify that content and make it optional?*
 - *What considerations are made for non-English speakers?*
 - *Do your State complaint procedures allow for alleged violations to have occurred more than one year prior to the filing of the complaint? If so, how are stakeholders informed about this longer timeline for filing a State complaint?*
-

To ensure model forms are easy to understand and accessible, SEA’s should seek input and feedback from various stakeholder groups. Examples of different States’ written State complaint forms can be found in [CADRE’s main library](#).



States should include information in their procedural safeguards notice and State complaint procedures, about where to file the complaint (e.g., when possible, provide an address where the complaint should be sent). States cannot require in-person or hand delivery of complaints, as such requirements could interfere with the right of a complainant to file.

Filing Electronically

There is nothing in the Part B regulations that would prohibit a State from accepting State complaints that are filed electronically. States considering accepting, or choosing to accept, electronic filings of State complaints and digital signatures would need to ensure that there are appropriate safeguards to protect the integrity of the process. States that are considering or have chosen to accept State complaints filed electronically should also consult any relevant State laws governing electronic transactions.

Safeguards should:

- Identify and authenticate a particular person as the source of the consent and indicate such person’s approval of the information contained in the electronic consent [[OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), B-13];
- Be sufficient enough to ensure that a party filing a State complaint electronically understands that the complaint has the same effect as if it were filed in writing; and

- 
- Ensure that the same confidentiality requirements that apply to written State complaints apply to State complaints filed electronically [34 CFR §§[300.611-300.626](#)].

While a State has some discretion in determining when a complaint is considered received, the SEA must ensure that its procedures for the resolution of complaints are timely and uniformly applied. For example, if a State complaint is filed electronically on a day that is not considered a business day (e.g., the weekend), the State could consider the complaint received on the date the complaint is filed or on the next business day [[OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), B-14].

Support for Parents

SEAs often provide technical assistance (e.g., FAQ document, call center, information sheet) on the State complaint process to a variety of stakeholders, including parents. Many SEAs also refer parents to State Parent Training and Information (PTI) Centers and the Community Parent Resource Centers (CPRC) for additional support in writing a State complaint.

States may also wish to consider sharing or linking to [CADRE's parent guides and companion videos](#) on State complaints and other DR options as appropriate.

Coaching Questions

- ***What supports does your State make available to assist parents with understanding the State complaint process?***

Forwarding Copy of the Complaint

The party filing the complaint must forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files the complaint with the SEA [34 CFR §[300.153\(d\)](#)]. States should establish procedures that include actions they will take when a complainant does not provide a copy of the complaint to the LEA or public agency serving the child at the same time the complaint is filed with the SEA, and should explain how failure to provide these copies will affect the initiation of the complaint resolution and/or the time limit for completing the complaint resolution. As an additional protection for parents, OSEP encourages States to adopt procedures that ensure the SEA provides a copy of the complaint to the LEA or public agency serving the child if the complainant does not do so.

Coaching Questions

- ***How does the SEA confirm that the complainant forwarded a copy of the complaint to the LEA or public agency serving the child at the same time the complaint was filed with the SEA? What action does the SEA take if the complainant does not do this?***
- ***Do your State procedures address the implication for the filing date if a copy of the complaint is not forwarded to the public agency and/or the SEA?***



Required Information

The State complaint must include:

- A statement that a public agency has violated a requirement of Part B of the Act;
- The facts on which the statement is based;
- The signature and contact information for the complainant; **and**
- If alleging violations with respect to a specific child:
 - The name and address of the residence of the child;
 - The name of the school the child is attending;
 - In the case of a child or youth experiencing homelessness, within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child and the name of the school the child is attending;
 - A description of the nature of the problem of the child, including facts relating to the problem; and
 - A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed [34 CFR [§300.153\(b\)](#)].

States can only require complainants to provide the information included in [§300.153\(b\)](#) as part of a State complaint. If other information is requested, the State must either label it as “optional” or use other language indicating that the complainant is not required to provide that information.

States should establish procedures for notifying a complainant when a complaint is received that does not include all of the required content [[71 Federal Register, August 14, 2006](#), pg. 46606].

States are not required to issue written decisions in response to anonymous complaints. However, depending upon the nature of the anonymous complaint, States may need to consider this information as part of their general supervisory responsibilities through their monitoring system.

States procedures should not provide for the confidentiality of the complainant [[71 Federal Register, August 14, 2006](#), pg. 46606].

Coaching Questions

- *Some States clarify in their procedures that a submission is not deemed a “complaint” if it is missing required content, therefore the 60-day timeline does not start until or unless a complainant submits the required information. What are your State’s procedures for dismissing a complaint for lack of required information (e.g., missing a signature)?*
- *How does your State inform the parties about 1) the date of receipt of the complaint and timeline, 2) what the issues are to be investigated, 3) the right of the public agency to submit a response, and 4) the right of the complainant to submit additional information?*

States must explain the State administrative complaint system in the notice of procedural safeguards [34 CFR §[300.504\(c\)\(5\)](#)], including:

- The time period in which to file a complaint
- The opportunity for the public agency to resolve the complaint
- The differences between the due process complaint and the State complaint procedures (including complaints filed electronically if the State permits such filing, and how a State determines the date of receipt of an electronic complaint sent after business hours, on holidays, or weekends)

States cannot require in person or hand delivery of State administrative complaints. States that are considering or have chosen to accept State complaints filed electronically should also consult any relevant State laws governing electronic transactions.



MINIMUM STATE COMPLAINT PROCEDURES

Each SEA must adopt written State complaint procedures under §§[300.151 through 300.153](#) to widely disseminate to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities [34 CFR §[300.151\(a\)\(2\)](#)].

60-Day Time Limit

Each SEA must include in its minimum State complaint procedures a time limit of 60 days after the date that the complaint is filed to resolve the complaint unless extended due to exceptional circumstances [34 CFR §[300.152\(b\)\(1\)\(i\)](#)] or unless the complainant and public agency agree to use mediation/dispute resolution and agree to extend the timeline [34 CFR §[152\(b\)\(1\)\(ii\)](#)]. OSEP interprets this requirement to mean that States must ensure that the 60-day time limit for complaint resolution begins on the date that a complaint is received. While a State has some discretion in determining when a complaint is considered received, the SEA must ensure that its procedures allow for the timely resolution of complaints and are uniformly applied, consistent with §[300.152\(a\)](#) and [\(b\)](#). The criteria used to determine when a complaint is considered received must be included in a State's complaint procedures. Likewise, information about filing and timelines for resolving State complaints must also be included in the explanation of State complaint procedures in the procedural safeguards notice to parents in accordance with §[300.504\(c\)\(5\)](#).

OSEP encourages States to maintain a log to track State complaints. The log can be used to ensure that State complaints are resolved in a timely manner. The log could also facilitate the collection of information regarding State complaints that States are required to report under Section 618(a)(3) of the IDEA. While not required by the IDEA, States may choose to establish procedures for reconsideration of State complaint decisions, which would result in a decision on the



reconsideration within 60 days of the date on which the complaint was originally filed. Alternatively, a State may establish procedures for the reconsideration when the reconsideration process would not be completed until later than 60 days after the original filing of the complaint, but only if implementation of any corrective actions required in the SEA's final decision is not delayed pending the reconsideration process.

Coaching Questions

- *How does your State determine when the State complaint is received by both the SEA and the LEA or public agency serving the child?*
- *Prior to issuing a final written decision, what is the State's internal review process, and how does that process impact the 60-day timeline?*

Time Extensions

The regulations specify two allowable reasons for extending the 60-day time limit for complaint resolution. Under §300.152(b)(1), the SEA may extend this time limit only if:

- Exceptional circumstances exist with respect to a particular complaint; or
- The parent (or individual, or organization, if mediation or other alternative means of dispute resolution is available to the individual or organization under State procedures) and the public agency involved *agree to extend the time* to engage in mediation or other alternative means of dispute resolution, if available in the State.

States need to determine case by case whether it is appropriate to extend the 60-day resolution time limit for a particular complaint due to exceptional circumstances. OSEP encourages States to establish procedures for communicating with parties when the State complaint timeline is extended.

The SEA may not treat mediation, in and of itself, as an exceptional circumstance under §300.152(b)(1)(i) that would warrant an extension of the time limit for complaint resolution. Rather, the parties engaged in mediation or other alternative means of dispute resolution, if available in the State, must agree to extend the time limit. If the parties involved agree to engage in mediation once the State complaint is filed but do not agree to the extension of the complaint resolution time limit and the mediation is not successful in resolving the dispute, the State must ensure that the complaint is resolved within 60 days after the complaint was filed, as specified in §300.152(a).

OSEP has found that the following do *not* constitute exceptional circumstances that would warrant an extension of the 60-day time limit:

- State staff shortages or heavy caseloads;
- School vacations and breaks;
- The use of mediation or alternative dispute resolution without agreement by the parent (or individual or organization under State procedures) and the public agency to extend the 60-day time limit [[OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), B-21].



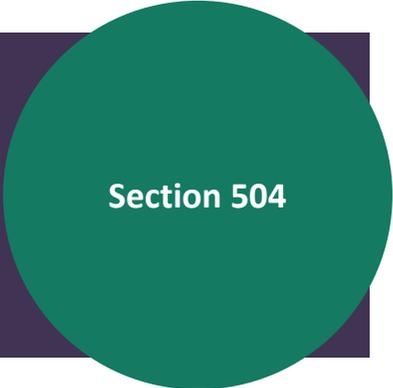
Filings that Do Not Include the Required Components of a Complaint

Upon receipt of the State complaint filing, the SEA reviews the submission for required components, specifically:

- Does the letter include facts, which if true, would be a violation of IDEA/State legal requirements addressing the provision of special education?
- Does the complaint allege violations of legal requirements that occurred within the last year?
- Is/was there a due process hearing complaint that has been filed involving the same parties and issues?
- Does the letter clearly state what the complainant seeks as proposed resolution of the problem to the extent known and available to the party at the time of the filing?

Note: A SEA may not dismiss a systemic complaint based on a lack of a proposed resolution of a problem [[OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), B-16].

There is no requirement for a SEA to investigate allegations of noncompliance of Section 504.



Section 504

Coaching Questions

- *How does your State respond to a complaint received that is not complete or is inappropriate for an IDEA complaint investigation (e.g., 504 issues; claims of unprofessional conduct)? Is information provided to the complainant about what will be needed for a resubmission or where a complaint would be more appropriately filed (e.g., Office of Civil Rights; State's professional certification office)?*
 - *What measures does your State have in place that allow for the public agency to respond to the complaint and submit documentation in a timely manner?*
 - *Does your State share the public agency's response with the complainant? If so, what information and documentation gets shared, through what mechanism(s), and at what point in the investigation?*
-

Public Agency's Opportunity to Respond to the Complaint

The public agency must be allowed the opportunity to respond to the complaint, including, at a minimum and at the discretion of the public agency, a proposal to resolve the complaint.

Important note: If a SEA accepts a proposed resolution by the LEA to a State complaint, the SEA is still required to issue a written decision to the complainant. The SEA's decision must address each allegation in the complaint, including findings of fact, and the reasons for the SEA's final decision [[Letter to Lipsitt, OSEP, September 2015](#)].

Coaching Questions

- *Does your State establish a timeline by which the public agency must submit their response and/or a proposal to resolve the complaint? If so, how is this timeline communicated?*
 - *If a public agency submits a proposal to resolve the complaint and it is accepted by the SEA, what information is shared with the complainant?*
 - *How does your State address in its decision a situation where the public agency has acknowledged violations and taken voluntary corrective actions of all issues in the complaint?*
-

Opportunity for Complainant to Provide Additional Information

The complainant must be provided the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint [34 CFR §300.152(a)(2)]. If the complainant submits information on a different or unrelated incident, generally the new information would be treated as a separate complaint. If the information submitted is on the same incident, generally it would be deemed as an amendment to the original complaint. Ultimately, it is up to the State to make the determination [[71 Federal Register, August 14, 2006](#), pg. 46603].

Coaching Questions

- *Does your State establish a timeline by which a complainant must submit additional information? If so, how is this timeline communicated?*
-

Many States impose a time limit for a public agency to respond to a complaint or for a complainant to provide additional information so that there is sufficient time for the SEA to investigate the complaint within the 60 day time limit. States should ensure that any time limit imposed on this provision still allows adequate time for responding to the complaint and is clearly communicated to the parties.





Mediation

Mediation may help resolve issues that give rise to State complaints under §§[300.151 through 300.153](#). A State's minimum State complaint procedures must provide an opportunity for a parent who has filed a State complaint and the public agency to voluntarily engage in mediation consistent with §[300.506](#) [34 CFR §[300.152\(a\)\(3\)\(ii\)](#)]. Additionally, SEAs may offer mediation to nonparent or organizational complainants. The 60-day timeline for resolving a State complaint may be extended if the parties involved in a mediation agree to an extension. This extension is not automatic and must be agreed to by all of parties [[OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), B-21].

If a State complaint is not withdrawn as a result of mediation, even if the issues have been resolved, the SEA must issue a written decision on the complaint.

Coaching Questions

- *How are mediation and potentially other alternative dispute resolution opportunities for resolving a complaint communicated to a parent who has filed a complaint and the public agency?*
- *How is the SEA informed if an extension to the 60-day timeline will be needed for parties to continue with mediation?*
- *When a complaint is resolved through mediation or other alternative dispute resolution opportunity, how does your State determine if a complainant intends to withdraw the complaint?*

While the IDEA does not require that mediation under §[300.506](#) be made available to parties other than parents, there is nothing in the IDEA or its implementing regulations that would prevent States from offering voluntary mediation, or other alternative means of dispute resolution, if available in the State, to parties other than parents [[71 Federal Register, August 14, 2006](#), pg. 46603-46604]. A SEA may not require, but may request, that mediation under §[300.506](#) or other forms of alternative dispute resolution made available in the State take place before its complaint resolution.

It is important to note that States may not require their LEAs to use Part B funds to pay the costs of mediation [[71 Federal Register, August 14, 2006](#)], pg. 46624]. In addition, the IDEA does not allow States that choose to make mediation available to parties other than parents or offer mediation on matters not addressed in the IDEA to use IDEA funds for those activities. [[OSEP Memo and Q&A on Dispute Resolution \(July 23, 2013\)](#), A-16].

INVESTIGATION SCOPE AND APPROACH

Under 34 CFR §[300.152](#), once a State complaint is properly filed, it is solely the SEA's duty to investigate the complaint, gather evidence, and make an independent determination as to whether a public agency violated the IDEA [34 CFR §[300.152\(a\)\(4\)](#)]. The SEA must independently review and weigh the evidence, generally by reviewing student and school records, data and other relevant information, and come to a determination supported by relevant facts [[Letter to Reilly, OSEP, 2014](#)].

Consider Developing an "Investigation Plan"

Prior to beginning an investigation, consider making a plan for the scope of inquiry. Consider mapping out the following:

- Identify the issues or allegations in neutral language.
- List and research, if necessary, the applicable legal standard(s) to determine a violation of IDEA
- List the information you will need to determine if the legal standards were met.
- Identify how you will gather the required and relevant facts.
 - What documents will be reviewed?
 - Is an onsite visit necessary?
 - What interviews will take place?
 - What questions will be posed to the LEA or public agency serving the child?
 - What questions will be posed to the complainant?

Framing the Issues for Investigation

Some States quote the language in the complaint to list the allegations that will be investigated. A different approach to consider is to restate the allegations in neutral terms to maintain (and to be perceived as maintaining) an objective approach to the investigation. For example, if the complainant lists an issue that, “The school violated the IEP by not providing speech services for the last 3 months,” consider restating the issue to investigate as, “Did the school fully implement the speech services listed in the IEP for the 2019-2020 school year?”

Appropriate IDEA and State Standards

Set out the evidence relied upon to determine whether the appropriate standard was met related to the issue in the complaint. After identifying an allegation that was investigated, present the applicable standard for each complaint allegation (e.g., IDEA statute/regulations; State statute/regulations; court decisions; OSEP Letters/Memos) for each issue. It is important to note that OSEP guidance documents are provided as informal guidance and are not legally binding but may be used to inform the SEA’s determinations. Consider if there are applicable State legal requirements that apply, since Part B of the IDEA requires States to have policies and procedures [see §[300.100](#)], and an alleged violation of such State policy or procedure could be investigated. For example, some States require benchmarks or short-term objectives in every IEP while the IDEA only requires them for students with disabilities who take alternate assessments.

Note: A determination made by the SEA is based on the legal standard, not on what would be considered “best practice.”





On-site Investigations

Although the SEA must investigate the complaint, a SEA is required to conduct an independent on-site investigation only if it determines that such an investigation is necessary [34 CFR §[300.152\(a\)\(1\)](#)]. The standards to be used in determining whether to conduct an on-site investigation are left to each State. If the SEA determines that there is no need to conduct an independent on-site investigation, the SEA must comply with all other applicable requirements in §[300.152\(a\)](#) and [\(b\)](#) in resolving the complaint.

Coaching Questions

- *How does your State determine if an on-site investigation is necessary?*
 - *How does the SEA inform the parties of the investigation plan (e.g., on-site, interviewees, files to be reviewed)?*
 - *How do the procedures or practices during an on-site investigation differ from an investigation done from an office?*
-

ISSUING A WRITTEN DECISION

Within 60-days of the date that the complaint was filed, subject to allowable extensions, a SEA is required to issue a written decision to the complainant that addresses each allegation in the complaint and contains: (1) findings of fact and conclusions; and (2) the reasons for the SEA's final decision [34 CFR §[300.152\(a\)\(5\)](#)].

Write findings of fact, conclusions, and determination of compliance for each allegation. Some States organize the findings of fact in the chronological order of events that occurred. Others address each allegation as it was presented in the written complaint. Regardless of how it is organized, each allegation must be addressed.

Findings of Facts and Conclusions, and Reasons for Determination

Present the relevant facts uncovered as part of the investigation and conclusions drawn from the evidence and apply those facts to the appropriate legal standard. Consider including in the report only the facts identified in the investigation that are pertinent to the determination of compliance. Recitation of all the information collected during the course of the investigation is not necessary.

It is recommended that the conclusion address each issue separately and reference applicable IDEA and State law and/or regulations or judicial decisions. The SEA must determine whether there is sufficient evidence to find that there is or is not a violation of the IDEA. If the investigation does not provide sufficient information to reach a determination, the State has an obligation to continue its investigation until a proper determination can be made. If the evidence is contradictory, then the investigators must address those contradictions and come to a conclusion [See [Manalansan v. Board of Education of Baltimore City, et al. \(United States District Court, Maryland \(2001\)\)](#)].

Coaching Questions

- *Do your final reports include findings of fact and a conclusion of compliance for each allegation accepted in the complaint?*
 - *For each finding of non-compliance, is there a corresponding corrective action?*
-

No “Burden of Proof” and Use of the “Preponderance of Evidence” Standard

It is not consistent with the IDEA for the State to assign the burden of proof to either party when handling a State administrative complaint. It is solely the SEA’s duty to investigate the complaint, gather evidence, and make a determination as to whether a public agency violated the IDEA. It is not the burden of either party to produce evidence to persuade the SEA to make a determination one way or another. Additionally, it is consistent with the IDEA for a State to use the “preponderance of evidence” standard in making the independent determination in a State complaint [[Letter to Reilly, OSEP, 2014](#)].

When there is conflicting evidence, it is important for the State to weigh and discuss the conflicting evidence in its decision. As discussed above, it is incumbent upon the State to reach a determination and a conclusion on each issue.

When the State Identifies Additional Violations

If, through the course of a complaint investigation, the State identifies other violations not initially identified in the complaint, the State has the general supervisory responsibility to address it. If noncompliance is identified that requires corrective action, the SEA must ensure that corrective action is implemented [[Letter to Copenhaver, OSEP, 2008](#)].

Regardless of the specific level of noncompliance, if a State finds noncompliance in an LEA, the State must notify the LEA in writing of the noncompliance and of the requirement that the noncompliance be corrected as soon as possible, but in no case more than one year from the identification. In determining the steps that the public agency must take to correct the noncompliance and document such correction, the State may consider a variety of factors, including whether the noncompliance: 1) was extensive or found in only a small percentage of files; 2) resulted in the denial of a basic right under the IDEA; and 3) represents an isolated incident in the LEA or reflects a long-standing failure to meet the IDEA requirement [[OSEP Memo 09-02](#)]. The options for addressing the noncompliance include documenting that the noncompliance has been corrected or establishing a corrective action plan for the LEA to address the violation. That State has the option to address the additional issue as part of the written decision, or independent of the written decision (e.g., in a different written decision; State’s monitoring process) [[Letter to Copenhaver, OSEP, 2008](#)].

If the public agency immediately (i.e., before the State issues a finding) corrects a noncompliance that was not part of the complaint and provides documentation of such correction, the State may choose not to make a finding [See [Frequently Asked Questions Regarding Identification and Correction of Noncompliance and Reporting on Correction in the State Performance Plan \(SPP\)/Annual Performance Report \(APR\), OSEP, September 3, 2008](#), Question 4]. However, a State must account for all noncompliance, whether collected through the State’s on-site monitoring system, other monitoring processes such as self-assessment or desk review of records, State complaint or due process hearing decisions, data system, or statewide representative sample or 618 data [*Ibid.*, Question 5].



CORRECTION OF NONCOMPLIANCE

The SEA must ensure that a public agency found in noncompliance implements correction in a timely manner. To ensure corrective action and pursuant to its general supervisory responsibilities in §§[300.149](#) and [300.600](#), the SEA must inform the public agency of any findings of noncompliance and the required corrective action, and ensure that the corrective action is completed as soon as possible and within the timeframe specified in the SEA’s written decision, and in no case later than one year of the State’s identification of the noncompliance [34 CFR [§300.600\(e\)](#)].

Under [§300.152\(b\)\(2\)](#), the SEA must have procedures for effective implementation of its final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance. Therefore, if necessary to implement the SEA’s final decision, the SEA’s written decision must contain remedies for the denial of appropriate services, including corrective actions that are appropriate to address the needs of the child or group of children involved in the complaint. If appropriate, remedies could include compensatory services or monetary reimbursement and measures to ensure appropriate future provision of services for all children with disabilities [34 CFR [§300.151\(b\)](#)].

Corrective Actions

SEAs have broad flexibility in determining the appropriate remedy or corrective action necessary to resolve the issue based on the specifics of the particular complaint [[OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), B-10].

Corrective actions need to be directly related to the legal violation. Strategies for drafting a corrective action plan include:

- Be clear and articulate:
 - What needs to be done;
 - When it needs to be completed by—include specific time limit(s); and
 - Who needs to be included in the corrective action(s).
- Identify the documentation that will need to be submitted to the State, with timelines, to verify that the corrective action has been completed.
- Use mandatory language (i.e., shall instead of should or will).
- Identify potential technical assistance resources.
- Consider public agency submitting an implementation plan.

Possible corrective actions include, but are not limited to:

- Training
- Compensatory Education
- Monetary Reimbursement
- Reconvening of the IEP Team

- 
- Measures to Ensure Appropriate Future Provision of Services for All Children with Disabilities
 - Revision of Local Policies, Procedures, and/or Practices

Note: OSEP has offered guidance that a State may order child-specific services that must be provided in order to ensure that a child with a disability receives FAPE. However, OSEP cautioned that “because the IDEA contemplates that the IEP Team, which includes the child’s parent, is best equipped to make informed decisions regarding the specific special education and related services necessary to provide FAPE to the child, a SEA should carefully consider whether ordering the provision of services not previously in the IEP is appropriate and necessary to ensure the provision of FAPE” [[Letter to Deaton, OSEP, May 19, 2015](#)]. One example of an order would be requiring a particular assessment on the child and the reconvening of the IEP team to address it.

Coaching Questions

- *For each finding of non-compliance, is there a corresponding corrective action directly related to the violation?*
- *What is the scope of your State’s corrective actions? For example, are corrective actions limited to the staff responsible for the violation? What criteria would expand a corrective action to a larger population (e.g., an IEP team, a building, a district)?*
- *Is the corrective action designed to bring the public agency into compliance and not require a correction to best practice?*
- *What considerations does your State make for both consistency and variability in the design of corrective actions?*

Implementation of the SEA’s Final Decision

In general, the IDEA requires that all noncompliance is corrected as soon as possible and in no case later than one year after the State’s identification of the noncompliance [34 CFR §[300.600\(e\)](#)]. However, the one-year timeline for the correction of noncompliance is not intended to limit a SEA’s authority or flexibility to determine the appropriate remedy or corrective action necessary to resolve a complaint in which the SEA has found that the public agency has failed to provide appropriate services to a child or group of children with disabilities [[Letter to Zirkel, OSEP, 2016](#)].

In some circumstances providing the remedy ordered in the SEA’s complaint decision could take more than one year to complete (e.g., the SEA orders an action, such as compensatory services, the provision of which will extend beyond one year; the corrective action timeline is extended because the parent or adult student fails to take action that is essential to implementation of the SEA’s decision; the parties mutually agree to extend the timeline for implementation). If the implementation of the State complaint corrective actions requires more than one year to carry out, the SEA must, as is consistent with its general supervisory authority, continue to follow up to ensure implementation of the decision, even after the one-year timeline ends. [[Letter to Zirkel, OSEP, 2016](#)].

Additionally, if a SEA has determined that corrective actions are necessary as a result of an administrative complaint investigation and a due process hearing is subsequently filed on the same issues, the State cannot permit the school district to delay implementation of the corrective actions. Under its IDEA general supervisory responsibility, the State would be obligated to ensure that the corrective actions are completed as soon as possible within the timeframe



specified in the State’s written decision and not later than one year from the State’s identification of the noncompliance [[Letter to Deaton, OSEP, 2015](#)].

RESPONDING TO VARIOUS TYPES OF COMPLAINTS

Systemic Complaints

A State complaint alleging systemic noncompliance could be one that alleges that a public agency has a policy, procedure, or practice applicable to a group of children that is inconsistent with Part B or the Part B regulations. If the complaint names certain children and alleges that the same violations apply to a class, category, or similarly situated children, the SEA must review all relevant information to resolve the complaint but would not need to examine additional children if no violations are identified in the policies, procedures, or practices for the named children [[OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), B-9].

However, if the State identifies violations for any of the named children, the State’s complaint resolution must include measures to ensure correction of the violations for all children affected by the alleged systemic noncompliance described in the complaint. Additionally, the State would need to examine the policies, procedures, and practices that may be causing the violations and the written decision on the complaint must contain procedures for effective implementation of that decision, including corrective actions to achieve compliance [34 CFR §§[300.152\(b\)\(2\)\(iii\)](#), [300.149\(a\)\(2\)\(ii\)](#), and [300.600\(e\)](#)].

Important note: A systemic complaint cannot be dismissed if it did not include a proposed resolution since that requirement only applies to complaints involving a specific child [[OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), B-16].

Coaching Questions

- *How does your State respond to systemic complaints? Do investigations occur onsite?*
 - *Are multiple investigators used? If so, how are efforts coordinated?*
-

Complaints Against the SEA

In resolving a complaint filed against the SEA, the SEA may either appoint its own personnel or may make arrangements with an outside party to resolve the complaint. Regardless of whether the SEA chooses to resolve the complaint on its own or chooses to use an outside party, the SEA must ensure that all of the procedures in §§[300.151 through 300.153](#) are followed. Specifically, an independent on-site investigation must be conducted, if necessary, consistent with §[300.152\(a\)\(1\)](#), and the SEA must take appropriate steps to ensure this occurs.

Additionally, the SEA must ensure that all relevant information is reviewed and that an independent determination is made as to whether the public agency (in this case the SEA) has violated a requirement of Part B or the Part B regulations with respect to the complaint [34 CFR §[300.152\(a\)\(4\)](#)]. The SEA also must ensure that it or an outside party, whichever resolves the complaint, considers all available remedies in the case of a denial of appropriate services consistent with 34 CFR §[300.151\(b\)](#).



Regardless of whether the complaint is resolved by the SEA or by an outside party that the SEA designates to resolve the complaint, the SEA must comply with all corrective actions, including remedies, set out in the final decision [[71 Federal Register, August 14, 2006](#), pg. 46602].

Coaching Questions

- ***What procedures does your State have in place for responding to complaints against itself?***
 - ***How does the SEA address any actual or perceived conflicts of interest?***
 - ***What accountability mechanisms would be put into place to ensure the SEA complies with any corrective actions issued?***
-

Complaints Alleging Failure to Implement Due Process Hearing Decision

Under [§300.152\(c\)\(3\)](#), if a State complaint alleges that a public agency has failed to implement a due process hearing decision, the complaint must be resolved by the SEA [[OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), B-29]. States must have procedures and practices that ensure that all corrective actions that a due process hearing officer specifies in a due process hearing decision are implemented. OSEP holds that it is not sufficient for a State to rely solely on the State administrative complaint process to address situations where a parent alleges that the LEA is not implementing a hearing decision [[Letter to Torlakson, OSEP, February 7, 2011](#)].

Complaints Regarding Eligibility Determination

OSEP's long-standing position is that a SEA may not refuse to resolve a parent's State complaint challenging a public agency's eligibility determination through its complaint resolution procedures [[OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), B-5]. In resolving a State complaint challenging a public agency's eligibility determination, a SEA should determine not only whether the public agency has followed the required Part B procedures to reach its determination, but also whether the public agency has reached a determination consistent with Part B requirements governing the evaluation and eligibility determination in [§§300.304 through 300.311](#), in light of the individual child's abilities and needs. The SEA must determine whether the child was determined eligible based on evidence the child met the definition of "child with a disability" under [§300.8](#) and fell within the age ranges specified at [§§300.101](#) and [300.102](#).

To do so, the SEA may need to review the evaluation data in the child's record or any additional data provided by the parties to the complaint. In addition, the SEA may need to review the explanation included in the public agency's prior written notice to the parents under [§300.503](#) explaining why the agency made the challenged eligibility determination (and/or refused to make an alternative determination requested by the parents or others). If necessary, the SEA may need to interview appropriate individuals to determine: (1) whether the public agency followed procedures and applied standards that are consistent with State standards, including the requirements of Part B; and (2) whether the public agency's eligibility determination is consistent with those standards and supported by the evaluation and other data included in the child's record or the information provided by the parties to the complaint.

The SEA may find that the public agency has complied with Part B requirements if the public agency has followed required procedures, applied required standards, and reached a determination that is reasonably supported by the child-specific data and is consistent with Part B. If the SEA determines that the public agency's eligibility determination is



not supported by the child-specific facts, the SEA can order the public agency, on a case-by-case basis, to reconsider the eligibility determination in light of those facts. In addition, a parent always has the right to challenge the public agency's eligibility determination by filing a due process complaint to request a due process hearing and may also engage in mediation with the public agency to seek to resolve the dispute [[OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), B-6].

Complaints Alleging Denial of FAPE

OSEP's long-standing position is that a SEA may not refuse to resolve a State complaint alleging a denial of FAPE. This responsibility includes resolving a State complaint by a parent, who has unilaterally placed a child in a private school at the parent's own expense, alleging a denial of FAPE [[OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), B-7]. In resolving a State complaint challenging whether a public agency's decision regarding the provision or denial of FAPE to a child is correct, a SEA may need to determine not only whether the public agency has followed the required Part B procedures to reach its determination, but also whether the public agency has properly addressed the individual child's abilities and needs.

Thus, the SEA would need to review any data provided by the parties to the complaint and the child's record, including evaluation data and any explanations included in the public agency's prior written notice to the parents under [§300.503](#) as to why the public agency made its decision regarding the child's educational program or services (and/or refused to make an alternative decision requested by the parents or others). If necessary, the SEA may need to interview appropriate individuals to determine: (1) whether the agency followed procedures and applied standards that are consistent with State standards, including the requirements of Part B; and (2) whether the determination made by the public agency is consistent with those standards and supported by the data on the individual child's abilities and needs [[OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), B-8].

The SEA may find that the public agency has complied with Part B requirements if the evidence clearly demonstrates that the agency has followed required procedures, applied required standards, and reached a determination that is reasonably supported by the child-specific data [[71 Federal Register, August 14, 2006](#), pg. 46601]. If the SEA finds a violation of FAPE for the child, it must address the violation. This includes, as appropriate, ordering an IEP Team to reconvene to develop a program that ensures the provision of FAPE for that child or ordering compensatory services. In addition, a parent alleging a denial of FAPE has the right to challenge the IEP Team's decision by filing a due process complaint to request a due process hearing and may also engage in mediation with the public agency to seek to resolve the dispute.

OTHER CIRCUMSTANCES INVOLVING STATE COMPLAINTS

When the Parent is Not the Complainant

A SEA is required to resolve any complaint that meets the requirements of [§300.153](#) filed by an organization or individual, including one from another State. If a complaint is filed by an organization or individual other than the parent, the SEA must investigate the complaint and issue a decision. However, parental written consent must be obtained before a SEA may provide personally identifiable information about a child to a non-parent complainant as part of the complaint decision [[34 CFR §§99.30](#) and [300.622](#)].

If parental consent is not obtained, any personally identifiable information about the child who is the subject of the complaint must be redacted from the SEA's written decision on the complaint. Because the complaint resolution would likely involve the child's personally identifiable information, it may not be possible for the SEA's decision to be issued to



a non-parent complainant. The SEA must make this determination case by case but should not withhold relevant non-personally identifiable information from the complainant regarding the results of the SEA's complaint resolution.

Moreover, even if the SEA is unable to issue a written decision to the complainant because of its personally identifiable nature, the SEA still must ensure that it resolves the complaint, issues a written decision that addresses each allegation in the complaint, and ensures timely implementation of its written decision, including, if appropriate, corrective actions to achieve compliance and remedies for the denial of appropriate services [34 CFR §§[300.152\(b\)\(2\)](#) and [300.151\(b\)](#)].

Coaching Questions

- ***What are your policies and procedures for protecting personally identifiable information when the complainant is not the parent?***

Making State Complaint Decision Available to the Public

There is no requirement in Part B of the IDEA for a State to make written State complaint decisions available to the public. If a State chooses to do so it must ensure that the confidentiality of any personally identifiable information in the complaint decision is protected from unauthorized disclosure. A SEA also should consult State law for its public records requirements [[OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), B-33].

The determination as to whether a State is obligated to provide the public with copies of complaint investigation reports is governed by State law, as they are State and/or local government documents. Although some States have disclosure laws similar to the Freedom of Information Act (FOIA), the federal law requiring public disclosure of federal documents, the applicable State law in question should be consulted [[Letter to Opuda, OSEP, 1994](#)].

State Complaint is Also Subject of a Due Process Hearing

An issue in a State complaint can also be the subject of a due process complaint requesting a due process hearing, as long as the issue relates to a matter regarding the identification, evaluation, or educational placement of a child with a disability, or the provision of FAPE to the child, as described in §[300.507\(a\)\(1\)](#) or to a disciplinary matter as described in §§[300.530](#) through [300.532](#).

If a due process complaint is filed on an issue that is also the subject of a pending State complaint, the State must set aside any part of the State complaint that is being addressed in the due process hearing until the hearing officer issues a final decision. However, any issue in the State complaint that is not part of the due process action must be resolved using the 60-day time limit and procedures described in §[300.152\(a\)](#) and [\(b\)](#) [34 CFR §[300.152\(c\)\(1\)](#)].

Coaching Questions

- ***How does your State ensure that issues in a pending State complaint are not also the subject of an open due process complaint?***
-



Issue in State Complaint Previously Ruled on at a Due Process Hearing

Under §300.152(c)(2)(i), if a hearing officer has previously ruled on an issue that has now been included in a State administrative complaint submission at a due process hearing involving the same parties, the decision is binding on that issue. If a State complaint involving the same parties is filed on the same issue that was previously decided by the hearing officer, the SEA must inform the complainant that the hearing decision is binding on that issue [34 CFR §300.152(c)(2)(ii)]. However, the SEA must use its State complaint resolution procedures to resolve any issue in the complaint that was not decided in the due process hearing. In determining that it will not resolve an issue in a State complaint because that issue was previously decided in a due process hearing, the SEA must ensure that the legal and factual issues are identical.

Coaching Questions

- *What mechanism(s) are in place to ensure that a hearing officer hasn't previously ruled on an issue in a State complaint involving the same party?*

Reconsideration of a State's Decision

The regulations are silent as to whether a State complaint decision may be appealed. The regulations neither prohibit nor require the establishment of procedures to permit either party to appeal a State complaint decision [[OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), B-32].

A State may choose to establish procedures for reconsideration of complaint decisions that would result in a decision on the reconsideration within 60 days of the date on which the complaint was originally filed. Alternatively, a State may establish procedures for the reconsideration when the reconsideration process would not be completed until later than 60 days after the original filing of the complaint, but only if the public agency's implementation of any corrective action required in the SEA's final decision is not delayed pending the reconsideration process.

The parent or nonparent complainant, if allowed by State procedures, or public agency may use mediation or file a due process complaint to request a due process hearing to resolve disputed issues if they haven't already done so [[OSEP Memo and Q&A on Dispute Resolution \(2013\)](#), B-32].

REPORTING OF DISPUTE RESOLUTION DATA

SEA data managers submit to the Office of Special Education Programs (OSEP) their annual State data via EMAPS showing that the IDEA is being implemented. There are 12 data collections authorized under Section 618 of the IDEA, which includes the State's Part B Dispute Resolution data.

In November, SEAs submit the previous school year's (SY) data, ending on June 30. OSEP reviews the reported data for quality issues and provides feedback. SEAs typically submit their finalized data the following May. It is important to note that only actions initiated during the school year are reported. Actions initiated in a previous reporting year that continued into the current reporting year are not included in the current counts. For more detailed instructions, view [OSEP's EDFacts Initiative](#). In addition to reporting on State complaints (Section A), SEAs report on mediation requests (Section B), due process complaints and hearings (Section C), and expedited due process complaints and hearings (Section D).

Report only the actions initiated during the reporting year (July 1 through June 30). Do NOT include actions initiated in a previous reporting year that continued into the current reporting year.



To be specific, for State complaint activity (Section A), SEAs report:

Variable Reported	Explanation
1. Total number of written, signed complaints filed	The total number of written, signed complaints filed between July 1 and June 30
1.1 Complaints with reports issued	The total number of written, signed complaints (row 1) that were complaints with reports issued as of 60 days following the end of the reporting period; that is, enter how many of the complaints had a written decision from the SEA as of August 29.
1.1 (a) Reports with findings of noncompliance	The total number of reports issued that were reports with findings of noncompliance. Row 1.1 (a) is a subset of row 1.1. <i>NOTE: The difference between the number entered in row 1.1 and the number entered in 1.1 (a) is the number of reports without findings of noncompliance.</i>
1.1 (b) Reports within timelines	The total number of reports issued within timelines (60 days). Row 1.1 (b) is a subset of row 1.1. <i>NOTE: Do NOT include any written decisions issued more than 60 days after the written, signed complaint was filed.</i>
1.1 (c) Reports within extended timelines	The total number of reports issued were reports within extended timelines. Row 1.1 (c) is a subset of row 1.1. <i>NOTE: The difference between the number in row 1.1 and the sum of the numbers entered in rows 1.1 (b) and 1.1 (c) is the number of complaints with reports issued late (not within the 60-day timeline or an extended timeline).</i>
1.2 Complaints pending	The total number of written, signed complaints (row 1) that were complaints pending as of August 29
1.2 (a) Complaints pending a due process hearing	The total number of pending complaints were complaints pending a due process hearing. Row 1.2 (a) is a subset of row 1.2. <i>NOTE: The difference between the number in row 1.1 and the sum of the numbers entered in rows 1.1 (b) and 1.1 (c) is the number of complaints with reports issued late (not within the 60-day timeline or an extended timeline).</i>



1.3 Complaints withdrawn or dismissed

The total number of written, signed complaints (row 1) that were complaints withdrawn or dismissed as of August 29 (60 days following the end of the reporting period). Row 1.3 is a subset of row 1.



APPENDIX A: COACHING QUESTIONS

WRITTEN STATE COMPLAINTS

Time Limitation for Filing a State Complaint

- ❖ Do your State complaint procedures allow for alleged violations to have occurred more than one year prior to the filing of the complaint? If so, how are stakeholders informed about this longer timeline for filing a State complaint?

FILING A WRITTEN STATE COMPLAINT

Forms Must Be Made Available

- ❖ Is your State’s model form easy to understand? How is this determined? Is it 508-compliant?
- ❖ Does your State’s model form include content not required by the IDEA? If so, does the form identify that content and make it optional?
- ❖ What considerations are made for non-English speakers?

Support for Parents

- ❖ What supports does your State make available to assist parents with understanding the State complaint process?

Forwarding Copy of the Complaint

- ❖ How does the SEA confirm that the complainant forwarded a copy of the complaint to the LEA or public agency serving the child at the same time the complaint was filed with the SEA? What action does the SEA take if the complainant does not do this?
- ❖ Do your State procedures address the implication for the filing date if a copy of the complaint is not forwarded to the public agency and/or the SEA?

Required Information

- ❖ Some States clarify in their procedures that a submission is not deemed a “complaint” if it is missing required content, therefore the 60-day timeline does not start until or unless a complainant submits the required information. What are your State’s procedures for dismissing a complaint for lack of required information (e.g., missing a signature)?
- ❖ How does your State inform the parties about the date of receipt of the complaint and timeline, what the issues are to be investigated, the right of the public agency to submit a response, and the right of the complainant to submit additional information?

MINIMUM STATE COMPLAINT PROCEDURES

60-Day Time Limit

- ❖ How does your State determine when the State complaint is received by both the SEA and the LEA or public agency serving the child?
- ❖ Prior to issuing a final written decision, what is the State’s internal review process, and how does that process impact the 60-day timeline?



Filings that Do Not Include the Required Components of a Complaint

- ❖ How does your State respond to a complaint received that is not complete or is inappropriate for an IDEA complaint investigation (e.g., 504 issues; claims of unprofessional conduct)? Is information provided to the complainant about what will be needed for a resubmission or where a complaint would be more appropriately filed (e.g., Office of Civil Rights; State's professional certification office)?
- ❖ What measures does your State have in place that allow for the public agency to respond to the complaint and submit documentation in a timely manner?
- ❖ Does your State share the public agency's response with the complainant? If so, what information and documentation gets shared, through what mechanism(s), and at what point in the investigation?

Public Agency's Opportunity to Respond to the Complaint

- ❖ Does your State establish a timeline by which the public agency must submit their response and/or a proposal to resolve the complaint? If so, how is this timeline communicated?
- ❖ If a public agency submits a proposal to resolve the complaint and it is accepted by the SEA, what information is shared with the complainant?
- ❖ How does your State address in its decision a situation where the public agency has acknowledged violations and taken voluntary corrective actions of all issues in the complaint?

Opportunity for Complainant to Provide Additional Information

- ❖ Does your State establish a timeline by which a complainant must submit additional information? If so, how is this timeline communicated?

Mediation

- ❖ How are mediation and potentially other alternative dispute resolution opportunities for resolving a complaint communicated to a parent who has filed a complaint and the public agency?
- ❖ How is the SEA informed if an extension to the 60-day timeline will be needed for parties to continue mediation?
- ❖ When a complaint is resolved through mediation or other alternative dispute resolution opportunity, how does your State determine if a complainant intends to withdraw the complaint?

INVESTIGATION SCOPE AND APPROACH

Onsite Investigations

- ❖ How does your State determine if an onsite investigation is necessary?
- ❖ How do the procedures or practices during an onsite investigation differ from an investigation done from an office?

ISSUING A WRITTEN DECISION

Findings of Facts and Conclusions, and Reasons for Determination

- ❖ Do your final reports include findings of fact and a conclusion of compliance for each allegation accepted in the complaint?
- ❖ For each finding of non-compliance, is there a corresponding corrective action?



CORRECTION OF NONCOMPLIANCE

Corrective Actions

- ❖ For each finding of non-compliance, is there a corresponding corrective action directly related to the violation?
- ❖ What is the scope of your State's corrective actions? For example, are corrective actions limited to the staff responsible for the violation? What criteria would expand a corrective action to a larger population (e.g., an IEP team, a building, a district)?
- ❖ Is the corrective action designed to bring the public agency into compliance and not require a correction to best practice?
- ❖ What considerations does your State make for both consistency and variability in the design of corrective actions?

RESPONDING TO VARIOUS TYPES OF COMPLAINTS

Systemic Complaints

- ❖ How does your State respond to systemic complaints? Do investigations occur onsite?
- ❖ Are multiple investigators used? If so, how are efforts coordinated?

Complaints Against the SEA

- ❖ What procedures does your State have in place for responding to complaints against itself?
- ❖ What accountability mechanisms would be put into place to ensure the SEA complies with any corrective actions issued?

OTHER CIRCUMSTANCES INVOLVING STATE COMPLAINTS

State Complaint is Also Subject of a Due Process Hearing

- ❖ How does your State ensure that issues in a pending State complaint are not also the subject of an open due process complaint?

Issue in State Complaint Previously Ruled on at a Due Process Hearing

- ❖ What mechanism(s) are in place to ensure that a hearing officer hasn't previously ruled on an issue in a State complaint involving the same party?