

COMPLAINT PROCEDURES

34 CFR § 300.151 Adoption of State complaint procedures.

(a) General. Each SEA shall adopt written procedures for—

(1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements of § 300.153 by—

(i) Providing for the filing of a complaint with the SEA; and

(ii) At the SEA's discretion, providing 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; and

(2) Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities, the State's procedures under §§ 300.151–300.153.

(b) Remedies for denial of appropriate services. In resolving a complaint in which the SEA has found a failure to provide appropriate services, an SEA, pursuant to its general supervisory authority under Part B of the Act, must address –

(1) The failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and

(2) Appropriate future provision of services for all children with disabilities.

(Authority: 20 U.S.C. 1221e – 3)

The Oklahoma State Department of Education (OSDE) has available a formal complaint management system for filing and resolving specific complaints regarding alleged violations of the requirements under Part B of the Individuals with Disabilities Education Act (IDEA). Local educational agencies (LEAs) must also have procedures for filing and for resolution of complaints. Complainants who file with the LEA have the right to request an OSDE review of the LEA's decision.

Parents and other interested individuals must be informed by the OSDE and LEAs about the complaint procedures, due process complaint hearings, mediation, and other forms of assistance to ensure compliance and to resolve disputes.

If it is found through a complaint that the LEA failed to provide appropriate services to a child with a disability, the resolution addresses both how to remediate the denial of services (which can include an award of compensatory services, monetary reimbursement, or other corrective action appropriate to the needs of the child) and how to provide appropriate services for children with disabilities.

34 CFR § 300.152 Minimum State complaint procedures.

(a) Time limit; minimum procedures. Each SEA shall include in its complaint procedures a time limit of 60 days after a complaint is filed under § 300.153 to—

(1) Carry out an independent on-site investigation, if the SEA determines that an investigation is necessary;

- (2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
- (3) Provide the public agency with the opportunity to respond to the complaint, including, at a minimum – (1) At the discretion of the public agency, a proposal to resolve the complaint; and
- (II) An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation consistent with § 300.506;
- (4) Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this part; and
- (5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains—
- (i) Findings of fact and conclusions; and
- (ii) The reasons for the SEA’s final decision.
- (b) Time extension; final decision; implementation. The SEA’s procedures described in paragraph (a) of this section also must—
- (1) Permit an extension of the time limit under paragraph (a) of this section only if –
- (i) exceptional circumstances exist with respect to a particular complaint; or
- (ii) 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 pursuant to paragraph (a)(3)(ii) of the section, or to engage in other alternative means of dispute resolution, if available in the State; and
- (2) Include procedures for effective implementation of the SEA’s final decision, if needed, including—
- (i) Technical assistance activities;
- (ii) Negotiations; and
- (iii) Corrective actions to achieve compliance.
- (c) Complaints filed under this section, and due process hearings under §§ 300.507 and 300.530–300.532. (1) If a written complaint is received that is also the subject of a due process hearing under § 300.507 or §§ 300.530–300.532, 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 in paragraphs (a) and (b) of this section.
- (2) If an issue is raised in a complaint filed under this section has previously been decided in a due process hearing involving the same parties—
- (i) The due process hearing decision is binding on that issue; and
- (ii) The SEA must inform the complainant to that effect.
- (3) A complaint alleging a public agency’s failure to implement a due process hearing decision must be resolved by the SEA.

(Authority: 20 U.S.C. 1221e – 3)

The OSDE and LEAs must utilize the following complaint procedures:

Complaint letter is received, complaint is logged in; when sufficiency of complaint is determined, the complaint is assigned to a complaint investigator.

- The Oklahoma State Department of Education (OSDE), Special Education Services (SES), will dismiss a complaint without an investigation if:
 - a. It includes no allegations of the Individuals with Disabilities Education Act (IDEA) violations;
 - b. It includes no timely allegations of IDEA violations; or
 - c. It includes no facts to support the IDEA violations.
- If it is determined that any issues are not supported by sufficient facts, the OSDE-SES will inform the complainant that insufficient facts have been provided and that it will investigate only the allegations that include supporting facts. If the complainant desires the OSDE-SES to investigate the unsupported allegations, a new complaint that includes the sufficient facts to support the allegations may be filed.
- The parent or other person filing the complaint must forward a copy of the complaint to the public agency at the same time the complaint is filed with the OSDE-SES.
- A complaint investigation must be completed within 60 days of OSDE-SES determining the sufficiency of the complaint request. An extension may be granted when exceptional circumstances warrant a delay.
- The local educational agency (LEA) is issued a form letter which includes the date the LEA should respond to the OSDE-SES (15 school days from the date complaint is received).
- The complainant is issued a form letter which includes the date the complainant should submit additional information to the OSDE-SES (25 days from the date the complaint is received).
- The complaint investigator contacts the complainant and the LEA by telephone. Informing each one that he/she will be conducting the complaint investigation and is the contact person for matters regarding the complaint.

Responsibilities of the complaint investigator:

- Develop a Complaint Investigation Plan;
- Clarify issues to be investigated;
- Determine the applicable legal standard(s);
- Conduct an on-site investigation if necessary;
- Conduct interviews;
- Analyze the LEA's response and the complainant's submission of information; and
- Make complaint determinations.
- A complaint report is written to the complainant with a copy provided to the LEA. The written decision includes each allegation(s), findings of fact, conclusions and reasons for the final decision; and, if required corrective action(s).
- Corrective Action Plans are monitored by the OSDE-SES until all requirements are completed.
- The complainant and the LEA receive a form letter stating that the required corrective action(s) have been completed and the complaint is closed.

- The complaint can only be cancelled by the receipt of written notification from the complainant.
- If the complaint is specific to an individual child and the complainant is not the child's parent, the procedures for confidentiality will be implemented. The child's parents will be contacted and notified in writing of the complaint. If the parent agrees for the OSDE-SES to continue the complaint procedures, the OSDE-SES will implement the procedures. If the parent determines a complaint is not warranted and does not provide permission to continue the procedures, the OSDE-SES will obtain written verification of this decision from the child's parent and notify the complainant that the alleged complaint has been resolved.
- There is no appeal from the findings and decisions in an administrative complaint investigation. However, parents and school districts still have the right to request a due process hearing over any matter related to the identification, evaluation, or educational placement of a student or the provision of Free and Appropriate Education (FAPE) to the student. The complainant may also file a request for a due process hearing regarding issues that have been addressed in a state complaint.
- The complaint process does allow parties the opportunity to request that specific errors in a letter of findings be corrected. The party has to notify the OSDE-SES in writing within 10 days. The request must contain:
 - a. The page on which the errors appears;
 - b. An explanation of why the specific finding or conclusion is an error;
 - c. A statement of how the error affects the conclusions in the report; and
 - d. Any documentation that supports the contention that an error was made.
- The party submitting a request for correction must simultaneously send the request to the other party subject to the complaint.
- If the OSDE-SES determines that an error occurred and that correcting the error changes the result of a decision, it will issue an amended report.

Formal complaints received by either the OSDE or LEAs will be acknowledged in writing. Copies of this written acknowledgement will be mailed to the involved parties.

Telephone calls and/or other contacts must be made to determine the circumstances and facts pertaining to the complaint. The parties involved may be requested to submit documentation, such as copies of student records or other written verification of actions. Through these inquiries, the context and nature of the complaint will be more clearly defined.

The complainant will be given the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.

Activities to assist resolution of the complaint may include technical assistance, consultation, mediation conferences, negotiations, corrective actions, or other recommended interventions. In many instances, early resolution of the complaint may be accomplished through the voluntary participation and agreement of the parties in IEP meetings and/or mediation conferences, negotiations, or other remedies.

If further information or review is deemed necessary by the OSDE, an on-site investigation may be conducted. The on-site investigation might include activities such as reviewing records, observation of program implementation, and conducting interviews with staff and/or parent(s).

After facts are gathered, the OSDE or LEA will report the findings in writing. The findings of fact and conclusions will address whether the complaint of alleged violations under Part B of the IDEA is substantiated, and the written decision will include instructions for correcting any substantiated violations.

Investigation and resolution of complaints filed with the OSDE or the LEA must be completed within 60 calendar days from receipt of the formal written complaint. Extensions of timelines may be granted only if exceptional circumstances exist regarding a specific complaint, or the parent and the LEA agree to extend the time to engage in mediation.

When a due process complaint hearing request and a complaint have been filed simultaneously on the same issues, or a complaint has previously been decided in a due process complaint hearing, the OSDE must hold in abeyance the complaint investigation pertaining to the issues of the current or previous due process complaint hearing. The due process complaint hearing decision must prevail over complaint investigation of the issue.

34 CFR § 300.153 Filing a complaint.

(a) An organization or individual may file a signed written complaint under the procedures described in §§ 300.151 through 300.152.

(b) The complaint must include—

(1) A statement that a public agency has violated a requirement of Part B of the Act or of this part;

(2) The facts on which the statement is based;

(3) The signature and contact information for the complainant; and

(4) If alleging violations with respect to a specific child—

(i) The name and address of the residence of the child;

(ii) The name of the school the child is attending;

(iii) In the case of a homeless child or youth (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;

(iv) A description of the nature of the problem of the child, including facts relating to the problem; and

(v) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

(c) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with § 300.151.

(d) 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.

(Authority: 20 U.S.C. 1221e – 3)

Complaints must be written and include: (a) a statement that the LEA or other responsible public agency has violated a requirement under Part B of the IDEA; (b) the facts on which the statement is based; and (c) the signature of the person(s) filing the complaint. Complaints pertaining to a specific child with a disability must include the child's name, date of birth, and current educational status.

Complaints must allege that a violation occurred not more than one year prior to the date the complaint is received by the LEA or the OSDE.

Complaints filed with LEAs should be addressed to the superintendent or administrator of the LEA.

Complaints filed at the State level or requests for review of local level decisions should be addressed to: Complaints, Special Education Services, Oklahoma State Department of Education, 2500 North Lincoln Boulevard, Room 412, Oklahoma City, Oklahoma 73105-4599. Copies of complaints filed with the OSDE should also be mailed at the same time to the LEA administrator.