

Parent Information Center of Delaware



Got Kids? Get Involved!

State Complaint

What can I do if I believe my child's school is not complying with special education law (or the IDEA)?

Under the *Individuals with Disabilities Education Act* or *IDEA*, parents have a number of rights or procedural safeguards.

If you believe that your child's school is out of compliance with State special education regulations and federal special law, you have the right to file a **written complaint** with the DE Dept. of Education (DDOE). A complaint includes:

- The name of the person or organization filing the complaint*
- Information about the individual child*
- Description and relevant facts of problem or alleged violation*
- Proposed resolution to the problem*
- Description of attempts made to resolve the issue*
- Statement about the school/district or other public agency with facts about how and when you believe they violated the IDEA (Note: Alleged violations must have occurred within one year of the date of the complaint being received by the DDOE.)*
- Signature(s)*

DE Dept. of Education Responsibilities:

Within 60 days of receiving your complaint, the DDOE will take action.

- You will receive an acknowledgement letter stating that the complaint has been received. You will also be offered information about voluntary mediation that is available to you should you want to try that avenue to resolve the issue.
- The DDOE will start its investigation of your complaint by reviewing the written complaint and gathering relevant documentation about your child (IEP, evaluations, etc.).
- You will be contacted and have the opportunity to share your reasons for filing the complaint. You will be asked to provide additional information or to answer questions.
- The DDOE will also contact individuals at the school named in the complaint and afford them the same opportunity to share information.

For more information visit www.picofdel.org/events or call 302-999-7394

After completing their investigation, the DDOE will determine whether the school district, charter school, or other public agency complied with the applicable special education laws and regulations.

Determination of compliance or non-compliance on each issue is based on the facts and applicable law. The Department will notify the parties in writing of the findings and the basis for such findings.

A letter of finding:

- Summarizes the complaint issues;
- Identifies the parties and investigation process;
- Makes findings of fact based on the information received during the investigation;
- Draws conclusions, based on federal and state law regarding whether the school district, charter school, or other public agency is in compliance with the law; and
- Closes the file if compliance is determined.

If it is determined that the school district, charter school, or other public agency is found in non-compliance, the letter will:

- Specify the corrective action ordered by the DDOE

NOTE: A State Complaint form and information about State Complaint procedures is available from the DE Dept. of Education (302) 735-4210 or <http://www.doe.k12.de.us/> (http://www.doe.k12.de.us/infosuites/students_family/specialed/procsafe.shtml).

Although the form is not required, it is a helpful guide for writing your complaint.

Some examples of why a parent might file a State Complaint include:

- You believe your child's school is not providing a service that was agreed upon in the IEP.*
- You have not received parental notification such as Prior Written Notice when the school proposes to or refuses to initiate or change the identification, evaluation, placement or provision of a free appropriate public education to your child.*
- You are told that the school does not provide a service such as extended school year or speech therapy, etc.*

Before filing a complaint with the DE Dept. of Education, you should review your actions to date to be sure that you have information from meetings, email exchanges or discussions that support your claim of non-compliance. *Carefully review the Delaware Special Education Regulations.* It is also important to try to resolve issues before they reach such a point of contention. Have you clearly expressed your concerns about what you believe the school has or has not done that violates your child's right to a free appropriate public education? Have you offered solutions?

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