

# DISPUTE RESOLUTION: THE CITIZEN COMPLAINT PROCESS

Pamela McPartland

Program Supervisor, Special Education  
Washington Office of Superintendent of Public  
Instruction

Pacific Northwest Institute on Special Education and  
the Law

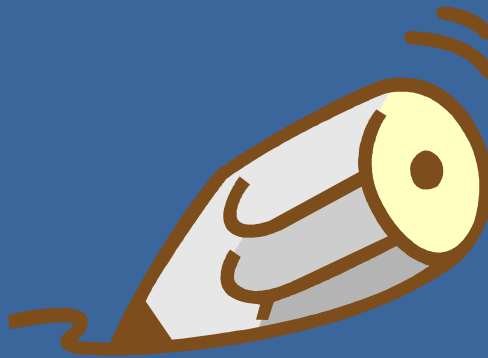
October 7-9, 2013

Yakima, WA



# Filing a Citizen Complaint

Any organization or individual may file a complaint with the State Educational Agency (SEA), regarding violations of Part B of the IDEA.



# Citizen Complaint Content



- A complaint must include:
  - A statement of the violation, facts supporting the statement, and the signature and contact information of the complainant.
  - If specific to a student, include information about the student, the nature of the problem, and a proposed resolution(if known).

# Citizen Complaint Timelines

- The complaint must allege a violation that occurred not more than one year prior to the date the complaint is received.



# Citizen Complaint – State Complaints and Due Process Hearings

- An SEA cannot investigate allegations that have been addressed, or are being addressed, in a due process hearing.
- Any decisions from a due process hearing are binding on the SEA.



# Citizen Complaint –Timeline for a complaint investigation.



- The SEA must issue a written decision 60 days after the complaint is filed.
- The 60-day timeline may only be extended for exceptional circumstances or if the parties agree in writing to extend the timeline to resolve the complaint through mediation or another alternative dispute resolution process.

# Citizen Complaint –The Complaint Decision.

- The written decision must include:
  - Findings of facts
  - Conclusions
  - Reasons for the decision, and
- If the decision includes violations, then the decision must include:
  - Corrective actions to address the needs of the student and, as appropriate, future provision of services for all students.



# Citizen Complaint – Available Remedies



- Remedies can include, but are not limited to:
  - Student specific remedies (such as compensatory services, IEEs and reimbursement for services)
  - Corrective actions at the district level to address the prevention of similar violations in the future.



# Roles in a Citizen Complaint - Complainant



- Filing a complaint:
  - Address the violations that occurred.
  - Provide the facts supporting the violations.
  - Provide a proposed resolution, if available and specific to a student.
  - Sign the complaint.
  - Provide a copy of the complaint to the district.
  - A complainant who is not the parent will not receive any personally identifiable information about the student without the consent of the parent.
- After filing a complaint:
  - Ensure the identified issues are correct. If not, then contact the investigator to clarify.
  - Provide any additional information promptly to the investigator.

# Legal Issues re: Complaints – Opening Complaints

- If a complaint is insufficient, the SEA can determine how to address the insufficiency.
- If a complainant wishes to add new issues, the SEA can either add them to the current complaint, or advise the complainant they can file a new complaint.
- The SEA can not investigate issues that are not violations of the IDEA, such as professional conduct issues.

# Roles in a Citizen Complaint

## - District



- Receiving a complaint:
  - Review the allegations.
  - Identify staff needed to respond.
  - Identify the documents needed, and review them before preparing a response.
- Responding to a complaint:
  - Admit or deny the allegations.
  - Provide documentation to support the response.
  - If admitting to violations, then propose corrective actions.

# Roles in a Citizen Complaint

## – District and Complainant

- Determine if the complaint can be resolved prior to the complaint timeline. If the district and the complainant agree, they can agree in writing to extend the timeline to try to resolve the complaint.
- Promptly respond to requests from the SEA for additional information, interviews, or on-site visits.
- Stick to the facts. Don't escalate the complaint.



# Roles in a Citizen Complaint

## – Complaint Investigator



- Opening and Investigating Complaints:
  - Review the allegations to determine if violations of the IDEA and within one year timeline.
  - Identify the issues in the complaint and the information needed from the district.
  - Review information received from both parties and request additional information if needed.
  - Respond to questions from the district or complainant.
  - If violations, determine how to address remedies for the student, and determine if violations are systemic.
  - Prepare a draft decision for review.

# District Role- Corrective Actions



- After a decision:
  - The US DOE requires that corrective actions be completed as soon as possible but not more than one year after the violation. The decision will contain the specific timelines for each corrective action.
  - Keep track of corrective actions required and due dates. Notify all staff responsible for implementation. Follow up with staff to ensure corrective actions are completed.
  - Provide the SEA with documentation to show compliance with corrective actions
  - If an extension is needed, then communicate the request before the due date.

# Legal Issues re: Complaints – Resolving Issues of FAPE

- The state agency determines if the district followed procedures and applied standards that are consistent with state standards; and, whether the district's determination is consistent with those standards.



# Legal Issues re: Complaints

## – Settlement Agreements

- The state agency may determine that the settlement agreement is binding on the parties and inform the complainant that it will not investigate those issues.
- However, if the allegation indicates a potential systematic problem, then the state agency must resolve those allegations through the complaint process.





# Legal Issues re: Complaints Appeals

- Appeals of complaints is dependent upon state procedures.
- Parents and districts may file a due process request on issues raised in the complaint involving identification, evaluation, placement, or the provision of FAPE to a student.



# Resources

- The following link to CADRE provides information on each state's complaint numbers by year.

<http://www.directionservice.org/cadre/pdf/National%20Part%20OB%20Tables%2004-05%20thru%2009-10%20Summary%2021March%202012.pdf>

- The Office of Special Education Programs issued revised Questions and Answers on IDEA Part B Dispute Resolution Procedures. These procedures contain information on mediation, state complaint procedures and due process hearings.

<http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf>

# Note...



The information contained in this outline contains a summary of applicable federal statutory provisions, and judicial interpretations of state complaint procedures. The presenter is not providing legal advice in the presentation or in the outline. Participants should seek legal advice by a licensed attorney if needed to respond to a specific situation.



**It's QUESTION TIME !!**