



ARIZONA DEPARTMENT OF
EDUCATION

State Complaint Procedures

Dispute Resolution

Policies and Procedures



Information – Federal and State Special Education Requirements

To request information regarding federal and state special education requirements, please contact:

Arizona Department of Education / Exceptional Student Services / Dispute Resolution Unit

1535 West Jefferson Street, Bin #62 Phoenix, Arizona 85007

Phone: 602-542-3084 Fax: 602-364-0641

Email: ESSDRinbox@azed.gov

File a complaint online at: [State Complaint webpage](#)

[Dispute Resolution website](#)

Such requests for information may include:

- Explanations and clarifications
- Copies of special education laws and regulations
- Referrals to other, more appropriate, persons or processes

It is recommended that anyone who has a question or concern about the education of a child with a disability first contact the administration of the public education agency (PEA) (such as the school district or charter school) where the child attends school. It is usually best to first contact the person in charge of special education.

When the Arizona Department of Education / Exceptional Student Services / Dispute Resolution Unit (ADE/ESS/DR) is contacted about concerns with a child's special education program, the ADE/ESS/DR staff will provide specific information related to dispute resolution to the caller, if requested. Additionally, ADE/ESS/DR staff will inform the caller of the procedural safeguard protections under the Individuals with Disabilities Education Act (IDEA). There are three formal dispute resolution options: mediation, state complaint, and due process hearing. The purpose of this document is to specifically describe the State Complaint System.

State Complaint System Relating to the Education of Children with Disabilities - Procedures

Individuals, including parents, or organizations may file a signed, written State Complaint (complaint) with the ADE/ESS/DR if they believe a public agency responsible for providing education to children with disabilities is not in compliance with Part B of IDEA law or regulations or the corresponding provisions of the Arizona Revised Statutes and/or the Arizona Administrative Code that implement Part B of IDEA.

The complaint procedures outlined in this document are available for resolving any complaint that meets the required criteria that follow. ADE/ESS/DR provides a [model form](#) in both English and Spanish with the required content to assist parents and other parties to file a complaint. The use of the model form is **not** required to file a complaint.

The complaint must be filed with the ADE/ESS/DR by mail, fax, or email using the contact options above or by using the online model State Complaint form.

The complaint:

- Must be in writing and signed (anonymous complaints will not be processed).
- Must include a statement that the public agency has violated a requirement of Part B of IDEA law or regulations, and/or the corresponding provisions of Arizona Revised Statutes and/or the Arizona Administrative Code that implement Part B of IDEA. (The complaint does not have to identify the specific law or regulation involved.) ADE/ESS/DR does not have the authority to investigate allegations through these complaint procedures that do not pertain to these federal or state special education requirements.
- Must include the facts upon which the allegation is based. (Being as specific as possible will clearly identify the believed violation for ADE/ESS/DR.)
- Must allege a violation that occurred not more than **one (1) year** prior to the date that the complaint is received.
- Must include contact information. Such information could include a daytime telephone number where the complainant can be reached, email address, and/or a mailing address.

If alleging violations with respect to a specific student, the complaint must also include:

- The name and address of the residence of the student;
- The name of the school the student is attending;
- 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)), provide 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 student, 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.

If a complaint is filed outside of regular ADE/ESS/DR business hours, it will be considered received on the next business day.

“When an SEA receives a complaint that is not signed or does not include contact information, or any other information required in 34 CFR §300.153(b), the SEA may choose to dismiss the complaint. 71 FR 46606 (August 14, 2006). In general, a State complaint may not be dismissed for not including a proposed resolution of the problem unless an SEA can clearly demonstrate that the resolution is known to the complaining party at the time the complaint is filed. In general, an SEA should adopt proper notice procedures for such situations. For example, an SEA could provide notice indicating that the complaint will be dismissed for not meeting the content requirements or that the complaint will not be resolved and the time limit not commence until the missing content is provided.”¹

In the event a complaint is missing required components, per 34 CFR §300.153(b), ADE/ESS/DR will attempt to obtain the missing information from the complainant with the exception of the lack of a description of the nature of the problem of the student, including facts relating to the problem [34 CFR §300.153(b)(4)(iv)]. If the complaint is not accepted as a State Complaint, the individual/organization filing the complaint will be informed of the specific content not included in the filed complaint and/or the required procedures not followed. Upon receipt of all required information, the complaint will be considered received and will be reviewed for sufficiency. If the complaint is determined sufficient, the 60 calendar day investigative timeline will begin.

The party filing the complaint *must* forward a copy of the complaint to the PEA or public agency serving the student who is the subject of the complaint at the same time the party files the complaint with the ADE/ESS/DR.

If the complainant is unable to put the complaint in written form, and/or if the home language is other than English or Spanish, please call Dispute Resolution at 602-542-3084 for assistance.

The complaint will be date stamped with the date ADE/ESS/DR received the complaint and will be reviewed to determine if it meets the required components of a complaint. Only complaints that follow the filing procedures listed above will be accepted as a complaint. A complaint is deemed received when all required components are provided.

The investigation will be concluded, and the written decision issued within 60 calendar days of the date the complaint was received by ADE/ESS/DR. The investigative process will be conducted as follows:

1. A Letter of Acknowledgment will be sent to the complainant after a determination by the ADE/ESS/DR that the complaint meets the required components of a complaint. This letter will inform the complainant of:
 - ✓ the reference number that has been assigned to the complaint to facilitate tracking and monitoring of the complaint
 - ✓ the name of the complaint investigator
 - ✓ an outline of the general procedures that will be followed

¹ OSEP Memo and Q&A on Dispute Resolution (July 23, 2013)

- ✓ the PEA has ten (10) days from receiving the framed issues from the assigned investigator to submit any additional information
 - ✓ within 60 calendar days of the date the complainant's allegations were identified as a complaint, this office will issue a report including findings of fact and determinations of compliance or non-compliance with IDEA Part B
 - ✓ If a state administrative complaint is received, that is also the subject of a due process hearing under 34 C.F.R. § 300.507 and §§ 300.530 through 300.532 or contains multiple issues of which one or more is part of that hearing, the Director of Dispute Resolution will set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. In this situation, all parties will be notified in writing.
 - ✓ If an issue raised in a state administrative complaint has previously been decided in a due process hearing involving the same parties, the due process hearing decision is binding, and all parties will be notified that the issue will not be investigated.
 - ✓ If the complainant submits additional complaint issues during the investigation, a copy of the amendment will be sent to your office. If an amended complaint is received in our office after 30 calendar days from the date the original allegations were identified as a complaint, the Director of Dispute Resolution may allow the issues to be investigated as part of the original complaint or may treat the additional issues as a new complaint.
 - ✓ The Director of Dispute Resolution may extend the complaint findings due date if:
 - Exceptional circumstances exist with respect to a particular complaint, or
 - The complainant and public agency agree to extend the time to engage in mediation or other alternative forms of dispute resolution.
2. The Letter of Acknowledgment, along with a copy of the complaint, will be sent to the PEA or public agency that is the subject of the complaint. ADE will accept a complaint if the complainant, either individual or organization, fails to provide a copy of the complaint to the PEA or public agency.
 3. A complaint investigator will attempt to contact the complainant within a reasonable time following receipt of the complaint that alleges violations of Part B of IDEA and/or the corresponding provisions of state special education law and/or regulations implementing Part B of IDEA. The assigned investigator will verify that the allegations and facts are stated as the complainant intended.
 4. If the complainant presents additional allegations of violations of Part B of the IDEA and/or the corresponding provisions of state special education law and/or regulations implementing Part B of IDEA during the interview that were not on the face of the complaint, the complaint investigator gather the additional facts of the alleged additional violation(s). The assigned investigator will verify the additional allegations and facts are stated as the complainant intended.
 5. If needed, ADE/ESS/DR will assist the complainant in clearly identifying the stated allegations on the face of the complaint. For those issues that do not fall under the authority of ADE/ESS/DR to investigate through the complaint process, ADE/ESS/DR will direct the complainant to the most appropriate avenue to pursue resolution.
 6. The complainant has the opportunity to submit additional information, either orally or in writing, to support the allegations. The investigator will identify and provide the issue(s) in writing to the complainant and the public agency.
 7. ADE/ESS/DR has the discretion to determine whether any additional information provided by a complainant is in support of the allegations in the filed complaint, is a new complaint, or is an amendment related to the existing complaint. Generally, if the additional information is on the same or related incident, it would be an amendment to the filed complaint. However, if the information submitted by the complainant is on a different or unrelated incident, generally, the new information may be treated as a separate complaint. ADE/ESS/DR will notify the complainant and the public agency if the additional information goes beyond the existing complaint and will be investigated as an amended or new complaint and the applicable procedures. Any additional information or clarifications will be provided to the named public agency.
 8. The named public agency has the opportunity to respond to the complaint, including, at a minimum, at the discretion of the public agency, a proposal to resolve the complaint. In addition, in order to make an independent determination as to whether the public agency is violating a requirement of Part B of IDEA and/or the corresponding provisions of state special education law and/or regulations implementing Part B of IDEA, ADE/ESS/DR will request

relevant information/documentation from the public agency needed to assist ADE/ESS/DR in reaching a determination.

9. Parties to the complaint are encouraged to resolve the complaint informally. For complainant parents, ADE/ESS/DR provides an opportunity for the parent and the public agency to voluntarily engage in State mediation and/or Facilitated IEP sessions as options to reach mutual resolution of a complaint.
10. If informal resolution is successful, the complainant is asked to notify ADE/ESS/DR in writing that the complaint is withdrawn, and the complaint investigator will send a letter to all parties indicating that the complaint is considered withdrawn. Either party will have **five (5) business days** to notify ADE/ESS/DR if that was not their intent, and that they wish the investigation to continue.
 - Although not defined in IDEA and its implementing regulations, the Office of Special Education Program's (OSEP) longstanding practice of requiring States to address an "area of concern" means an IDEA policy, procedure, practice, or other requirement that raises one or more potential implementation or compliance issues, if confirmed true. When a State is made aware of an area of concern regarding the implementation of IDEA, the State must conduct its due diligence in a timely manner to address the area of concern and reach a conclusion in a reasonable amount of time. Consequently, despite the withdrawal, ADE/ESS/DR remains obligated under its general supervisory responsibilities to address any identified area of concern when applicable despite the withdrawal or as a result of an investigation that reveals noncompliance.
11. ADE/ESS/DR will review all relevant information and, if ADE/ESS/DR determines that an on-site investigation is necessary to make an independent determination as to whether the public agency is violating a requirement of Part B of IDEA and/or the corresponding provisions of state special education law and/or regulations implementing Part B of IDEA, ADE/ESS/DR will carry out an on-site investigation.
12. ADE/ESS/DR will prepare an Investigative Report upon the completion of the investigation. The Investigation Report will include findings of fact, a statement of applicable law, conclusions of compliance or noncompliance, and the reasons for the ADE/ESS/DR decision.
13. The investigation will be completed within 60 calendar days of the filing of the complaint with ADE/ESS/DR and the Investigative Report issued. ADE/ESS/DR will issue a copy of the Investigative Report to the complainant, the named public agency, including, for a PEA, the superintendent/charter holder of the PEA, and the PEA special education director or coordinator. In cases where the complainant is not the parent of the student(s) identified in the complaint or the student has reached the age of majority, on a case-by-case basis, written permission must be obtained prior to providing a copy of the investigative report to the complainant.
14. Appeal. Under Arizona's Uniform Administrative Hearing Procedures Act, A.R.S. §41-1092 et seq., the ADE Investigative Report is an appealable agency action. A party to the complaint may obtain a hearing on the Investigative Report before the Arizona Office of Administrative Hearings by filing a notice of appeal or request for a hearing with ADE/ESS/DR within thirty days of receiving the Investigative Report.
15. If requested by a party to the appeal, the Office of Administrative Hearings will hold an informal settlement conference. The administrative law judge's decision on the appeal will be provided to the ADE Superintendent of Public Instruction, who may review the decision and accept, reject, or modify it.
16. With regard to a party who has the right to request a due process hearing, a parent or PEA, the party who disagrees with the Investigative Report also has a right to initiate a due process hearing, provided that the subject of the complaint involves an issue about which a due process hearing can be filed and the two-year statute of limitations for due process hearings has not expired.

The **60calendar day** timeline may be extended by the Director of Dispute Resolution or a designee only if:

- Exceptional circumstances exist with respect to a particular complaint or
- The parties agree to extend the time to engage in mediation or the alternative means of dispute resolution of IEP Facilitation.

If an extension is required, ADE/ESS/DR will send a letter to all parties that details the exceptional circumstance(s) and the date by which the Investigation Report will be issued.

Corrective Action Procedures

Where ADE determines the named public agency has violated Part B of IDEA or the corresponding provisions of the Arizona Revised Statutes and/or the Arizona Administrative Code that implement Part B of IDEA, ADE's procedures for effective implementation of the Investigation Report will include, if needed, technical assistance activities; negotiations; and corrective actions to achieve compliance.

An order of corrective action will require the public agency to correct the noncompliance as soon as possible and will include a timeline that, in no case will be later than one year after the identification of noncompliance set forth in the Investigation Report. In resolving a complaint in which ADE has found a failure to provide appropriate services, ADE will include a corrective action(s) appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and the appropriate future provision of services for all children with disabilities. The public agency will be required to provide documentation to ADE/ESS/DR to verify the implementation of the corrective action in accordance with the order.

Once all corrective action documentation has been received, reviewed, and accepted by ADE/ESS/DR, a Letter of Completion will be sent to the chief administrator, the special education director or coordinator of the public agency and the complainant of the public agency's completion of the ordered corrective action.

In accordance with IDEA, 34 C.F.R. §300.600, and AAC R7-2-401(M), if the public agency fails to comply with the order of corrective action in the Investigation Report, ADE will notify the chief administrator of the public agency by Letter of Enforcement of the failure to comply with the order of corrective action, detailing the corrective action(s) that was not completed and/or documented as required in the order. A copy of the Letter of Enforcement will be sent to the special education director or coordinator of the public agency and the complainant. ADE will take enforcement action, as appropriate, to address this failure. The enforcement action may include, but is not limited to: advise the public agency of, and/or mandate, access to available sources of technical assistance in the areas of noncompliance; order a corrective action plan or improvement plan; if applicable, report violations to a sponsoring entity for charter schools and seek remedies through the appropriate board; conditions on funding, including redirection of federal funds to ensure the child, or children with disabilities, receives a Free Appropriate Public Education; and/or interruption of IDEA funds, including withholding funds, in whole or in part.

State Complaints and Children in Private Schools – Enrolled by Their Parents

Allegations that a public education agency has failed to meet the requirements regarding children in private schools (found at 34 C.F.R. §§300.132–300.135 and §§300.137 –300.144 in Part B of IDEA) may be addressed through the state complaint procedures outlined above.