



ARIZONA DEPARTMENT OF EDUCATION

Elementary and Secondary Education Act (ESEA) Equitable Services Complaint, Resolution, and Appeal Process

Statutory Requirement:

Pursuant to §§ 1117 and 8501 of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESSA), a private school official has the right to file a written complaint with the State Educational Agency (SEA) Ombudsman asserting that a school district did not engage in consultation that was meaningful and timely, did not give due consideration to the views of the private school, or did not make a decision that treats private school students equitably. The Arizona Department of Education (ADE) has established the following Complaint, Resolution, and Appeal Process for nonprofit private schools, students, teachers, and families (“private schools”). If the private school believes that timely and meaningful consultation has not occurred, and the complainant has discussed their concerns with the Local Educational Agency’s (LEA) point of contact responsible for coordinating the consultation and provision of services between the two entities, the complainant has the right to file a formal written complaint with the ADE.

Complaint Process:

(a) The complaint procedures required by this rule apply to complaints filed with the Arizona Department of Education (ADE) against final decisions of Arizona local education agencies (LEAs) by private schools participating in equitable services under any of the following federal programs:

- (1) Title I, Part A of the Elementary and Secondary Education Act;
- (2) Title I, Part C of the Elementary and Secondary Education Act;
- (3) Title II, Part A of the Elementary and Secondary Education Act;
- (4) Title III, Part A of the Elementary and Secondary Education Act;
- (5) Title IV, Part A of the Elementary and Secondary Education Act;
- (6) Title IV, Part B of the Elementary and Secondary Education Act;
- (7) Title IV, Part F of the Elementary and Secondary Education Act; and

(8) Stronger Connections Grant authorized under the Bipartisan Safer Communities Act.

(b) Private school officials have the right to file a complaint with the ADE if they feel the local education agency did not:

- (1) Engage in timely and meaningful consultation;
- (2) Give consideration to the views of the private school; and/or
- (3) Make a decision that treats private school students equitably.

(c) The complaint process shall be as follows:

(1) The local educational agency and the private school shall discuss the matter during the process of ESEA equitable service consultation.

(2) Either the local educational agency or private school shall ask the ADE's ESEA Private School Ombudsman for help in settling the dispute at the local level.

(3) The local educational agency shall provide the private school with its final decision in writing. If the local educational agency disagrees with the private school, it shall include an explanation of its reasons in the final written decision.

(4) If in disagreement with the local educational agency's final decision, the private school may file a formal written complaint with the ADE. The ADE shall resolve the formal written complaint within 45 days of receiving the complaint. Formal written complaints shall include:

(A) A statement that the local education agency has violated a requirement of the Elementary and Secondary Education Act statute or regulations regarding equitable participation;

(B) The facts on which the statement is based, including any evidence such as meeting minutes, forms, communications, etc.;

(C) The specific Elementary and Secondary Education Act statutory or regulatory requirement(s) allegedly violated, which could be:

- (i) Consultation was not meaningful and timely;
- (ii) The private school's views were not given due consideration; and/or
- (iii) Private school students were not treated equitably to public school students; and

(iv) The signature of the complainant.

(E) Completed complaints should be sent certified to the Arizona Department of Education;

Arizona Department of Education

ATTN: State Ombudsman

1535 W. Jefferson, BIN # 32

Phoenix, AZ 85007

Complaints may also be filed electronically to:

ESEA@azed.gov

(5) The ADE shall conduct a review of the complaint. If necessary, ADE may conduct an on-site review and request additional documentation. Within 45 days of receiving the complaint, the ADE shall issue a written resolution to the complaint. The resolution shall include:

(A) A description of applicable Elementary and Secondary Education Act statutory and regulatory requirements;

(B) A description of the procedural history of the complaint;

(C) Findings of fact supported by citation, including page numbers, to supporting documents under paragraph (viii) of this section;

(D) Analysis and conclusions regarding the requirements;

(E) Corrective actions, if applicable;

(F) A statement of applicable appeal rights;

(G) A statement regarding the ADE's determination about whether the ODE will provide services; and

(H) All documents the ADE relied on in reaching its decision, paginated consecutively.

(6) If the private school does not feel the issue has been resolved through the ADE complaint process or the ADE fails to resolve the complaint within forty-five (45) days, the complainant can appeal.

(d) Appeals must include the following:

(1) Received by U.S. Secretary of Education within thirty (30) calendar days after the ADE's resolution of the complaint;

(2) Appeal must include a copy of the original resolution by the ADE and a complete statement of the reasons for the appeal;

(3) The U.S. Secretary of Education shall investigate and resolve the appeal no later than ninety (90) calendar days after receipt of the appeal;

(4) Appeals of a complaint resolution by the ADE must be sent to the U.S. Department of Education at the following mailing address:

Assistant Secretary of Elementary and Secondary Education

U.S. Department of Education

400 Maryland Avenue SW

Washington, DC 20202

Or sent electronically to OESE@ed.gov and ONPE@ed.gov.

(e) The local education agency shall disseminate, free of charge, adequate information about these complaint procedures to appropriate private school officials or representatives.

Statutory/Other Authority: Elementary and Secondary Education Act (ESEA) Sections 1117(b)(6)(A) & Elementary and Secondary Education Act (ESEA) Sections 8501(c)(6)(A)

Statutes/Other Implemented: 34 CFR 299.13 - 299.17