

State Complaints, Step by Step

- The state complaint procedures can be used to resolve any complaint that meets the requirements of § 300.153, including matters concerning the identification, evaluation, educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child. [34 C.F.R. Part 300, Analysis of Comments and Changes, Subpart B – State Eligibility, *Federal Register*, Vol.71, No. 156, p. 46601 (August 2006)]
- The state complaint system is a process through which members of the community can alert the State Education Agency (SEA) of potential noncompliance with the IDEA in the public schools. Although anyone can file a complaint, most complaints are filed by parents. Unlike mediation or a due process hearing, the state complaint system is not part of a parent's procedural safeguards and is not intended as individual dispute resolution, although that is sometimes the result. Accordingly, although a written state administrative complaint is filed by an individual complainant, the investigation is the SEA's investigation, meaning the state determines the wording of the issues and the manner in which the investigation is conducted.
- Complaint investigators are not attorneys, and the investigative process is not a formal legal proceeding. It is an administrative inquiry to answer the question of whether a violation of the Individuals with Disabilities Education Act (IDEA) regulations occurred. The process is intended to be informal, inexpensive, timely, and helpful, because the State and Districts/Charters share an interest in complying with federal requirements.
- The investigator gives each party the opportunity to provide information and allows time for the school to respond to the allegations. A formal, written response to the allegations is not required.
- If necessary, the SEA may need to interview appropriate individuals to determine whether the school followed procedures and applied standards that are consistent with state standards, including the requirements of Part B of the IDEA, and whether the determination made by the public agency is consistent with those standards and supported by the data. [34 C.F.R. Part 300, Analysis of Comments and Changes, Subpart B – State Eligibility, *Federal Register*, Vol.71, No. 156, p. 46601 (August 2006)]
- The determination of compliance is based entirely on the information that is submitted.
- At the end of the investigation, the SEA issues an official report. The Investigation Report is an independent determination as to whether the District/Charter has violated a requirement of Part B of the IDEA. This written decision addresses each allegation in the complaint and includes findings of fact, conclusions of law, and the reasons for the state's final decision. [34 C.F.R. § 300.152(a)(5)]
- The Investigation Report addresses each allegation in the complaint. If noncompliance is uncovered during the investigation that relates to an allegation in the complaint, the State orders corrective action and works with the District/Charter to correct the matter.
- The state must ensure that any noncompliance that is found is corrected within one year. [34 C.F.R. § 300.600(e)]
- If, in the course of its complaint resolution, the SEA uncovers other violations not alleged in the complaint, the state has a duty to enforce the obligations under the IDEA, but there is no requirement that the SEA's decision address or make specific findings with respect to these other violations that were not alleged in the complaint. [See 34 CFR §300.661(a)(4) and *Letter to Anonymous*, 103 LRP 49610 (OSEP 2003)] [34 CFR §300.661 was revised and updated in August 2006 and is now incorporated in 34 CFR §300.152]

- If noncompliance is uncovered during the investigation that does not relate to an allegation in the complaint, the state has broad discretion under its general supervision authority to determine the appropriate method to address and correct the noncompliance. [See 34 C.F.R. Part 300, Analysis of Comments and Changes, Subpart B – State Eligibility, *Federal Register*, Vol.71, No. 156, p. 46601 and 46603 (August 2006)]
- Although Congress did not specifically detail a state complaint process in the IDEA statute, the state complaint process is fully supported by the Act and necessary for the proper implementation of the Act. A strong state complaint system provides parents and other individuals an opportunity to resolve disputes early without having to file a due process complaint. [34 C.F.R. Part 300, Analysis of Comments and Changes, Subpart B – State Eligibility, *Federal Register*, Vol.71, No. 156, p. 46600 (August 2006)]
- The state complaint procedures were a part of the initial Part B regulations in 1977. These regulations were moved to Part 76 of the Education Department General Administrative Regulations (EDGAR) in the early 1980s and were returned to the Part B IDEA regulations in 1992. Although the state complaint procedures have changed in some respects in the years since 1977, the basic right of any individual or organization to file a complaint with the SEA that alleges any violation of procedural requirements has remained the same. [34 C.F.R. Part 300, Analysis of Comments and Changes, Subpart B – State Eligibility, *Federal Register*, Vol.71, No. 156, p. 46600 (August 2006)]
- The broad scope of the state complaint procedures, as permitted in the regulations, is critical to each state's exercise of its general supervision responsibilities. The complaint procedures provide parents, organizations, and other individuals with an important means of ensuring that the educational needs of children with disabilities are met, and they also provide the SEA with a powerful tool to identify and correct noncompliance with Part B of the IDEA. [34 C.F.R. Part 300, Analysis of Comments and Changes, Subpart B – State Eligibility, *Federal Register*, Vol.71, No. 156, p. 46601 (August 2006)]
- The state complaint procedures are a very important tool in a state's exercise of its general supervision responsibilities, which include both systemic and child-specific issues. [34 C.F.R. Part 300, Analysis of Comments and Changes, Subpart E–Procedural Safeguards, *Federal Register*, Vol.71, No. 156, p. 46694 (August 2006)]
- The SEA, in resolving a complaint challenging the appropriateness of a child's education program or services or the provision of a FAPE, should not only determine whether the public agency has followed the required procedures to reach that determination, but also whether the public agency reached a decision that is consistent with the requirements in Part B of the IDEA in light of the individual child's abilities and needs. [34 C.F.R. Part 300, Analysis of Comments and Changes, Subpart B – State Eligibility, *Federal Register*, Vol.71, No. 156, p. 46601 (August 2006)]

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