



# Exceptional Student Services

## State Complaint Procedures

*Dispute Resolution*

### Policies and Procedures

Reviewed July 2022



# State Complaint System Relating to the Education of Children with Disabilities

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 the Dispute Resolution inbox](#)

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

Anyone who has a question or concern about the education of a child with a disability should first contact the administration of the public education agency (PEA) (traditional public school, 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: access to mediation, state complaints, and due process. The purpose of this document is to specifically describe the State Complaint System.

## State Complaint Procedures

Individuals or organizations may file signed, written complaints with the ADE/ESS/DR if they believe an agency responsible for the provision of special education services is not in compliance with state and federal laws or regulations.

The complaint procedures outlined in this section are available for resolving any complaint that meets the required criteria that follow. The complaint letter:

- Must be in writing and signed (anonymous complaints will not be processed). As an alternative, parties may choose to use [the online State Complaint form](#) (available in both English and Spanish).
- Must include a statement that the PEA has violated a requirement of Part B of IDEA, its implementing regulations, Arizona Revised Statutes, and/or the Arizona Administrative Code but does not have to identify the specific law or regulation involved. The Arizona Department of Education Dispute Resolution unit does not have authority to investigate allegations that do not pertain to federal or state special education requirements.
- Must clearly identify the concern or the alleged violation as well as the facts upon which the allegation is based. If needed, ADE/ESS/DR will assist the complainant in clearly identifying the allegations.
- Must include the name of the child or children associated with the specific complaint allegations.
- 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))], must include available contact information for the child and the name of the school the child is attending.
- Must allege a violation that occurred not more than **one (1) year** from the date that the complaint is received.
- Must contain a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
- Should include contact information, including a daytime telephone number where the complainant can be reached, and a mailing address.

The complaint form should be sent to the Director of Dispute Resolution using the contact options found above.

The party filing the complaint **must** forward a copy of the complaint to the public education agency (traditional public school, charter school) serving the child at the same time the party files the complaint with the Arizona Department of Education/Exceptional Student Services/Dispute Resolution.

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 "*Identified as a Complaint*" upon a determination by the ADE/ESS/DR that it meets the required components of a complaint. Only complaints that include all the criteria listed above will be considered a formal complaint.

The investigation will be concluded within 60 calendar days of the date the complaint was identified as a formal complaint. The investigative process will be conducted as follows:

1. A complaint investigator will attempt to contact the complainant within a reasonable time following receipt of the letter that alleges violations of federal or state special education law and/or regulations. The assigned investigator will verify that the allegations and facts are stated as the complainant intended and will give the complainant an opportunity to submit additional information, either orally or in writing, to support the allegations. Any additional information or clarifications will be provided to the PEA agency under investigation.
2. If needed, ADE/ESS/DR will assist the complainant in clearly identifying the allegations. If there is missing information, the complaint investigator will call or send a letter to the complainant to request the missing information or to clarify issues. For those issues that do not fall under the authority of ADE/ESS/DR to investigate, ADE/ESS/DR will, in writing, direct the complainant to the most appropriate avenue to pursue resolution.
3. Within **ten (10) calendar days**, a Letter of Acknowledgment will be sent to the complainant after a determination by the ADE/ESS/DR that the letter 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
  - ✓ timelines for the investigation.
4. The same Letter of Acknowledgment, along with a copy of the complaint, will be sent to the superintendent/charter holder and the special education director/coordinator of the PEA against which the complaint has been filed. The education program specialist assigned to the PEA by ADE/ESS will also receive a copy of the letter and complaint.
5. Parties to the complaint are encouraged to resolve the complaint informally. Early resolution options are available to the PEA and should be directed to the assigned investigator as soon as possible but no later than 30 days from the date of the Acknowledgement Letter. Mediation and Facilitated IEP sessions are available in nearly all circumstances as possibilities for mutual resolution.
6. If attempts to resolve the complaint through mediation or other alternative means of dispute resolution are unsuccessful, the complaint investigation process will continue as stated below. If informal resolution is successful, the complainant is asked to notify ADE/ESS/DR in writing that the complaint is withdrawn. If withdrawal notification is received, 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.
7. An on-site investigation will be made unless a determination of compliance or noncompliance can be made by ADE/ESS/DR through a review of the documentation provided.

8. Any additional complaint issues submitted in writing by the same complainant 30 calendar days or fewer after the beginning of the 60-calendar-day timeline will be investigated along with the original issues. Any additional complaint issues submitted by the same complainant more than 30 calendar days after the beginning of the 60-calendar-day timeline, may, at the discretion of the Director of Dispute Resolution, be included in the original complaint or be logged and handled as a new complaint.
9. The investigator will prepare an Investigation Report upon the completion of the investigation. The Investigation Report will include factual information, a statement of applicable law, findings of compliance or noncompliance, and reasons for the final decision(s) as determined by ADE/ESS/DR. Allegations that are not under the authority of ADE/ESS/DR to investigate (e.g., issues regarding conflicts with staff members or discrimination) will be noted in the Investigation Report and the complainant will be directed to the agency or personnel (e.g., the Office for Civil Rights or district administrative channels) that may more appropriately address these concerns.
10. The investigation will be completed within **60 calendar days** of the filing of a formal complaint. At the conclusion of the investigation, ADE/ESS/DR will issue a copy of the Investigation Report to the complainant, the superintendent/charter holder of the PEA, the special education director or coordinator, and the ADE/ESS/DR education program specialist assigned to assist the PEA.

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

- Exceptional circumstances exist with respect to a particular complaint
- The parties agree to extend the time to engage in mediation or other alternative means of dispute resolution or
- The complainant requests a due process hearing on the same subject as the complaint. However, in accordance with the federal regulations, “any issue in the complaint that is not part of the due process action must be resolved using the time limit and procedures described.” (34 C.F.R. § 300.152(c))

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.

As stated in the federal regulations, the state educational agency (SEA) has the responsibility to “issue a written decision to the complainant that addresses each allegation in the complaint and contains— (i) findings of fact and conclusions; and (ii) the reasons for the SEA’s final decision.” (34 C.F.R. §300.152(a)(5)) Therefore, the Investigation Report is final and not subject to appeal by the complainant.

## **Corrective Action Procedures**

Where noncompliance is found, technical assistance, negotiation, and other types of corrective action will be required within the timelines set forth in the Investigation Report.

**Note:** If applicable, in accordance with the federal regulations, the corrective action will address how the PEA will award the complainant any compensatory services and/or monetary reimbursement for costs that should not have been incurred by the complainant. (34 C.F.R. § 300.151(b)(1))

If the Investigation Report identifies noncompliance, the corrective action prescribed shall:

- Require the immediate provision of services or the immediate cessation of noncompliance, whichever is necessary
- Outline the necessary steps required to prevent the reoccurrence of noncompliance
- Require sufficient documentation to ensure that the noncompliance has been addressed
- Eliminate the past effects of the violation(s)

Documentation of the corrective action submitted will be reviewed by the Compliance Coordinator (CC) and placed in the master complaint file, which is maintained by the ADE/ESS/DR unit. If the corrective action documentation received is incomplete, not completed as specified in the Investigation Report, or if no documentation is received from the PEA by the date specified in the Investigation Report, then the following steps will be taken by the PEA and ADE/ESS/DR:

1. Within **five (5) business days** following the due date specified in the Investigation Report, the CC will attempt to informally communicate with the PEA via phone calls and/or emails for the following purpose(s):

- To inquire why the corrective action is incomplete or has not been submitted and to direct the PEA to immediately submit the completed corrective action documentation,
  - To provide feedback on any concerns with the documentation submitted, to give clarification on the requirements, and to direct the PEA to revise and resubmit the corrective action documentation within a specified timeframe, or
  - If the delay in submitting the documentation is due to extenuating circumstances, and the CC determines, based on those circumstances, that it is reasonable to negotiate a new due date for the corrective action to be submitted, the CC will send a Letter of Understanding, with a copy to the complainant, detailing (a) the CC's concerns and the PEA's explanation, (b) any decisions made to resolve the problem, and (c) a new, negotiated due date.
2. If the concerns are not resolved using the informal procedures described above, the CC will send a Letter of Inquiry to the PEA and provide a copy to the complainant. A Letter of Inquiry may be sent for any of the following reasons:
- The PEA is nonresponsive to the CC's attempts at informal communication.
  - The CC and the PEA are not able to resolve concerns with the content of corrective action documentation submitted or the PEA's failure to submit all required corrective action documentation through informal communication.
  - The CC is not satisfied with the PEA's response to informal inquiries for reasons such as that the PEA does not intend to complete and submit the corrective action, the PEA refuses to make needed changes to corrective action documentation, or the PEA's informal explanation of the circumstances causing the delay in submitting corrective action documentation is unacceptable to the CC.
  - The PEA fails to submit new or revised corrective action documentation within the informally negotiated timeframe or by the new due date set forth in the Letter of Understanding.
  - Other cases arise that are determined to be necessary and appropriate by the CC.
  - The PEA must provide a Letter of Explanation to the CC within 3 business days of receipt of the Letter of Inquiry that fully answers the inquiry and explains the circumstances surrounding the non-submission of or failure to complete the corrective action documentation.
  - If the circumstances are acceptable, then the CC will send a Letter of Understanding, and a copy to the complainant, that details (a) the CC's concerns and the PEA's explanation, (b) any decisions made to resolve the problem, and (c) a new negotiated due date. If the circumstances are unacceptable, or if the PEA does not respond to the Letter of Inquiry as noted above, then the CC will compose a Letter of Enforcement.
3. If the corrective action documentation submitted was not completed as specified in the Investigation Report and following informal communication between the CC and the PEA the revised and resubmitted corrective action documentation is not satisfactory, the CC will inform the PEA via Letter of Clarification, with a copy to the complainant, that the corrective action item in question must be revised. A new due date for the revised corrective action will be assigned in this letter, and technical assistance will be offered.
4. If, after the steps outlined above have been taken, the corrective action documentation received remains incomplete, has not been received by the CC, or the corrective action has not been completed as specified in the Investigation Report, the CC will send a Letter of Enforcement to the chief administrator of the PEA, sending a copy to the special education director or coordinator and the complainant, that details the corrective action items that are incomplete, the corrective action items that were not completed as specified in the Investigation Report, or those items that have not been received.

The Letter of Enforcement will outline which of the following enforcement options will be taken:

- interruption of federal funds
- redirection of federal funds to ensure the child receives a free appropriate public education (FAPE)
- if applicable, report violations to a sponsoring entity for charter schools and seek remedies through the appropriate board

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 PEA, the ADE/ESS/DR education program specialist assigned to assist the PEA, and the complainant.

### **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) may be addressed through the state complaint procedures outlined above.

### **Private Schools and Complaints by School Officials**

A private school official has the right to submit a complaint to the ADE/ESS/DR alleging that the PEA did not engage in consultation that was meaningful and timely or did not give due consideration to the views of the private school official.

If the private school official wishes to submit a complaint, the official must provide to the ADE/ESS/DR the basis of the noncompliance by the PEA with the applicable private school provisions in 34 C.F.R. §§300.132 through 300.135 and §§300.137 through 300.144, and the PEA must forward the appropriate documentation to the State Education Agency (SEA).

If the private school official is dissatisfied with the decision of the SEA, the official may submit a complaint to the U.S. Secretary of Education by providing the information on noncompliance described in 34 C.F.R. §300.136(b)(1) of this section, and the SEA must forward the appropriate documentation to the Secretary. [34 C.F.R. § 300.136; 20 U.S.C. § 1412(a)(10)(A)(v)]