

How is a complaint investigated?

The OAA will:

- notify the county school district of the allegations in the complaint;
- request from the district information, records or documentation needed for the investigation; and
- notify the complainant in writing and provide an opportunity to submit additional information either orally or in writing.

The OAA may:

- request answers to written questions;
- conduct telephone or in-person interviews with people involved, including the person filing the complaint; and/or
- conduct an on-site fact finding investigation.

What results may I expect?

The parents and the district will receive a report of the final results of the investigation. This letter will constitute the resolution of the complaint.

Possible findings include:

- the county school district is not following the laws or regulations and must correct the violation within a specific time, and/or
- the school district has met its responsibilities under federal or state laws or regulations and no corrective actions are necessary.

In the event the school district or the parent disagrees with the findings, either party may request mediation or a due process hearing regarding the complaint issues with the OAA.

If violations have occurred, the county school district or public agency must submit documentation to the OAA to verify that the required corrective activities have been implemented. The case is closed if the documentation is acceptable.

If specified corrective activities are not implemented, the WVDE may recommend the use of the following enforcement sanctions alone or in combination:

- withhold all funds until the deficiencies are corrected;
- withhold any administrative funds, maintained by the WVDE, used for the salary of the special education director;
- redirect funds (e.g., target funds for specific activities);
- remove the ability to apply for any discretionary funds;
- cease funding for all subsequent years;
- request an audit of the agency's financial records;
- direct the administration of the agency's special education programs; and/or
- fine the agency on a daily and/or monthly basis until the deficiencies are corrected.

The OAA hopes this brochure has been useful to you in understanding the special education complaint process and in resolving your concerns.

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Dr. Steven L. Paine
State Superintendent of Schools
West Virginia Department of Education

West Virginia Department of Education

State Complaint Process



for Special Education
July 2007

Office of Assessment and
Accountability
(OAA)

FOREWORD

Federal laws and West Virginia regulations enable you to play an important role in the special education process. The decisions you make should be based on knowledge and understanding of the rights and responsibilities set forth in law. By sharing what you know and by helping to make decisions, you will make an important contribution to special education services in West Virginia.



Dr. Steven L. Paine
State Superintendent of Schools

INTRODUCTION

Trust and open communication with your county school district are essential for a positive, long term partnership in the education of students with exceptionalities. If misunderstandings and/or problems arise, there are several ways to solve them.

First, you may want to discuss your concerns with the school personnel directly involved. If the problem is not resolved and you believe that special education regulations are not being followed, you may request mediation or file a formal state complaint. This brochure describes the special education state complaint process.

What is a state complaint?

A state complaint is a charge that special education laws or regulations are not being followed by a county school district or public agency. A complaint also may address a district's failure to implement a due process hearing decision.

Who may file a state complaint?

Any interested person may file a state complaint. This includes parents of eligible students, students 18 years or older, organizations, groups, school district employees or any individual residing in or outside the state. In addition, private school officials have the right to submit a complaint that the district did not engage in consultation that was meaningful and timely or did not give due consideration to the views of the private school official. A state complaint form is available on the OAA Web site at <http://wvdestate.wv.us/oaa>.

What steps should you take before filing a state complaint?

1. Reasonable efforts should be made to resolve your concerns at the school or county level such as:
 - scheduling a conference with school personnel to discuss your concerns and/or
 - making an appointment with the county director of special education and/or the county superintendent of schools.
2. Call the WVDE, Office of Assessment and Accountability for assistance at:
304-558-7805
3. Contact an agency or organization that provides information to parents of students with exceptionalities.

What must be included in a state complaint?

The complaint **must**:

- allege a violation that occurred not more than one year prior to the date that the complaint is received in the OAA;
- be written and contain the original signature and contact information of the complainant (e.g., facsimiles/e-mails will not be accepted);
- specify the law or regulation that you believe has been violated; and



- contain the facts on which the complaint is based including the following information when alleging violations to a specific child:

- ⇒ the names of the student and his/her school;
- ⇒ the address of the residence of the child;
- ⇒ the name of the county school district or public agency;
- ⇒ specific information regarding the alleged violation (e.g., dates and sequences of events, persons contacted and/or involved, meetings held, etc.);
- ⇒ proposed resolution(s) to the issues, and
- ⇒ be forwarded to the county school district.

The complaint **may** include:

- ⇒ a description of the efforts made to solve the problem informally and/or
- ⇒ copies of relevant documents, notices, etc.

Where should I send my state complaint?

Coordinator, Compliance Management
Office of Assessment and Accountability
West Virginia Department of Education
Building 6, Room 330
1900 Kanawha Boulevard, East
Charleston, WV 25305-0330

What happens after a state complaint is received?

The OAA will:

- review the complaint for sufficiency;
- notify the complainant and the county school district that the complaint has been received;
- provide a copy of the complaint letter to the district if not forwarded by the complainant; and
- provide an opportunity for the county school district and complainant to engage in early resolution.