

How is a complaint investigated?

The OFP 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 OFP 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 OFP will complete its investigation within 60 days of receipt of the complaint, with extensions permitted only if exceptional circumstances exist, or if the district and parent agree to extend to engage in mediation or in other alternative means of dispute resolution. The parents and the district will receive a written report of the final results of the investigation.

This letter or findings (LOF) 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 OFP. If violations have occurred, the county district or public agency must submit documentation to the OFP 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.



West Virginia Board of Education 2017-2018

Thomas W. Campbell, President
David G. Perry, Vice President
Frank S. Vitale, Financial Officer
Miller L. Hall, Parliamentarian

Jeffrey D. Flanagan, Member
F. Scott Rotruck, Member
Debra K. Sullivan, Member
Joseph A. Wallace, J.D., Member
James S. Wilson, D.D.S., Member

Paul L. Hill, Ex Officio
Chancellor

West Virginia Higher Education Policy Commission

Sarah Armstrong Tucker, Ex Officio
Chancellor

West Virginia Council for Community and Technical College Education

Steven L. Paine, Ex Officio
State Superintendent of Schools
West Virginia Department of Education



West Virginia DEPARTMENT OF
EDUCATION

State Complaint Process *for Special Education*

July 2017

West Virginia Department of Education

Foreword

Federal regulations and West Virginia laws enable you to play an important role in the special education process. The decisions you make should be based on sound knowledge and a clear understanding of the rights and responsibilities set forth in the law. The West Virginia Department of Education, Office of Federal Programs (OFP) encourages parents and districts to work together to resolve disputes before calling upon the formal dispute resolution processes identified in the law. However, when informal procedures fail to resolve the issue(s), the state complaint procedures provide parents, organizations and other individuals an important means of ensuring the educational needs of children with exceptionalities are met and any findings of noncompliance are corrected in a timely manner. This brochure provides an overview of the state complaint process identified in the federal regulations to Part B of the Individuals with Disabilities Education Improvement (IDEA) and Policy 2419: Regulations for the Education of Students with Exceptionalities.



Steven L. Paine, Ed.D.
State Superintendent of Schools

INTRODUCTION

Trust and open communications 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 individual or organization, including one from another state, may file a state complaint. This includes parents of eligible students, students 18 years or older, organizations, groups, or school district employees. 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, did not give due consideration to the views of the private school official or did not provide equitable services as described in a student's service plan. A state complaint form is available on the OFP Website at <http://wvde.state.wv.us/ofp>.

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 Federal Programs for assistance at: 1-800-642-8541 or 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?

A complaint must:

- allege a violation that occurred not more than one year prior to the date the complaint is received in the OFP;
- 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;

- contain the facts on which the allegation is based including the following information when alleging violations to a specific child:
 - the name 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.); and
 - proposed resolution(s) to the issues.
- be forwarded to the county school district. Failure to do so may affect the timeline for the investigation.

The complaint may include:

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

A form for filing a state complaint is available, but not required.

Where should I send my state complaint?

West Virginia Department of Education
Office of Federal Programs
Building 6
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330

What happens after a state complaint is received?

The OFP 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.