



# COLORADO DEPARTMENT OF EDUCATION

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## Colorado Department of Education Management Policies and Procedures

Adopted: October 1, 2007

### **STATE-LEVEL COMPLAINTS**

#### **PROCEDURE FOR RESOLVING STATE COMPLAINTS ABOUT PROGRAMS FUNDED UNDER PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT ADMINISTERED BY THE COLORADO DEPARTMENT OF EDUCATION (CDE)**

##### **In General**

The general complaint procedures and requirements established in the IDEA Part B regulations at 34 CFR §§ 300.151 through 153 for State complaints (Complaint) shall apply.

##### **Specific Complaint Procedures**

1. A Complaint is a signed, written document alleging that there has been a violation of IDEA.
2. A Complaint may be filed by an organization or individual alleging that an IDEA Part B program participant has violated a requirement of Part B of the IDEA or its implementing regulations at 34 CFR Part 300 (hereafter referred to as "IDEA").
3. Content of the Complaint.

The Complaint must contain the following information:

- a. A statement that the IDEA Part B program participant has violated a requirement of Part B of the IDEA and an identification of the portion of the statute, law, rule or regulation alleged to have been violated, if known by the complainant;
- b. The background information and facts on which the statement is based that identify persons, actions, and/or omissions on which serve as the basis for the Complaint;
- c. If alleging violations with respect to a specific child, the name and the residential address of the child;
- d. The name of the school that the child is attending;

- e. A proposed resolution of the problem to the extent known and available to the complainant at the time the Complaint is filed;
  - f. The Complaint must allege that the violation(s) set forth in the Complaint occurred not more than one (1) year prior to the date that the Complaint is filed with CDE; and
  - g. The signature and contact information (minimally, address and phone number) for the complainant.
4. The written Complaint must be filed with and addressed to the IDEA Part B State Complaints Officer, Colorado Department of Education, 201 East Colfax, Denver, Colorado 80203. Hereafter, the IDEA Part B State Complaints Officer is referred to as the "Complaints Officer." The Complaint shall be considered filed with CDE when it is received in the office of the Complaints Officer. The complainant also must file a copy of the Complaint, including any attachments, with the special education director of IDEA Part B program participant serving the child at the same time that the complainant files the Complaint with CDE.
  5. A Complaint, once filed, will not be accepted for investigation if CDE does not have jurisdiction of the Complaint, or if the Complaint does not set forth sufficient grounds on which to grant relief.
  6. The Complaints Officer shall decide to accept or reject a Complaint for investigation within ten (10) days of the date on which it is filed. If rejected, the complainant will be notified within ten (10) days following the decision.
  7. If the Complaints Officer finds that exceptional circumstances exist with respect to a particular Complaint, the Complaints Officer may extend, for a reasonable period of time, any of the timelines set forth in this Complaint procedure. Any extension of a timeline shall be documented in a written order issued by the Complaints Officer prior to the expiration of the timeline and mailed to the parties.

## **INVESTIGATION**

8. Within ten (10) days after accepting the Complaint, the Complaints Officer shall:
  - a. notify the complainant of receipt and acceptance of the Complaint;
  - b. notify, by certified mail, return receipt requested, the respondent(s) against whom the Complaint is being made and send a copy of the Complaint with the notice;
  - c. initiate an investigation to investigate the allegations of the Complaint.
9. Within fifteen (15) days of receiving notice of the filing of a Complaint, the respondent may answer the Complaint and provide information which it deems necessary or useful for the Complaints Officer to consider in conducting a thorough investigation. The respondent shall provide a copy of its written response, mailed concurrently and complete with any attachments sent to the Complaints Officer, to the complainant unless doing so would violate relevant laws regarding confidentiality. In cases where the complainant desires to file a written reply to the response, the complainant shall, within 10 days of receiving the response, provide a complete copy of the reply including attachments by mail to the Complaints Officer and the respondent.
10. The investigation of the Complaint may include, but is not limited to, an onsite investigation, a request for additional information from the complainant or the respondent, and requests to review records in the possession of either party.

11. Any time after a Complaint is filed and before the Complaint is resolved, the Complaints Officer may order a respondent to undertake immediate action in an extraordinary situation when it is imperative to do so in order to protect the rights, health or safety of any student under IDEA as administered by CDE.
12. Any time after a Complaint is filed and before the Complaint is resolved, the Complaints Officer may refer the parties to mediation and secure a mediator to facilitate the session. The mediation session shall take place within a time frame established by the Complaints Officer.

## **RESOLUTION**

13. CDE, through the Complaints Officer, shall have sixty (60) calendar days from the date of receipt of the Complaint, to resolve the Complaint. The Complaints Officer shall issue a written decision and the reasons for the final decision unless the issues have been previously resolved.
14. Based upon a finding that an IDEA Part B program participant has failed substantially to comply with the IDEA, the Complaints Officer will, as part of the resolution of the Complaint, notify the IDEA Part B program participant of those actions necessary for the IDEA Part B program participant to come into compliance with applicable law and regulations, which actions may include technical assistance activities, negotiations and corrective actions, including requiring the IDEA Part B program participant to develop and submit a corrective action plan. Additionally, the Complaints Officer has the authority to award an appropriate remedy for a denial of appropriate services including compensatory educational services or monetary reimbursement. The decision of the Complaints Officer shall constitute the final action of CDE and both parties shall be notified of such action by certified mail, return receipt requested.
15. The Complaints Officer is not authorized to award attorneys' fees.