

State Complaint Process for Special Education



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 early resolution?

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.

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 & Support (OFPS) 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.

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 at <https://wvde.us/special-education/policies-and-compliance/monitoring-and-compliance/>.

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 OFPS;
- » 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 & Support
Building 6, Suite 700
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330

How is a complaint investigated?

The OFPS 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 OFPS 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 investigation.

What happens after a state complaint is received?

The OFPS 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.

What results may I expect?

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

