



Questions and Answers About Formal Written Complaints

INTRODUCTION

What is the purpose of this document?

This document sets forth questions and answers about special education complaints filed with the Ohio Department of Education (ODE), Office for Exceptional Children (OEC) pursuant to federal regulations 34 C.F.R. §300.151-§300.153.

What does the complaint process do?

The complaint process provides a remedy for a violation of Part B of the Individuals with Disabilities Education Improvement Act (IDEIA). This process allows for the prompt resolution of complaints at no cost to either the complainant or the district and may be considered less adversarial than a due process hearing.

Where do you file a complaint?

Send all complaints to the following address:

The Ohio Department of Education
Office for Exceptional Children
Procedural Safeguards Section
25 South Front Street
Mail Stop 202
Columbus, OH 43215
Toll free: 1-877-644-6338
Local number: (614) 466-2650

*Preschool complaints must be submitted to the Office for Exceptional Children at the address above. The preschool complaints will, however, be investigated by The Office of Early Learning and School Readiness in collaboration with the Office for Exceptional Children.

AUTHORIZATION/REGULATIONS

What is the federal regulation that gives the state authority to have a complaint process?

The authority for the processing of complaints by a state agency is conferred at federal regulations 34 C.F.R. §300.151-§300.153 *Adoption of State Complaint Procedures*.

GENERAL REQUIREMENTS

How do I file a complaint?

A signed written complaint may be filed by any party, including an individual or organization. Signed written complaints may also be filed by an individual or organization from another state. The signed, written complaint must be sent to the Ohio Department of Education, Office for Exceptional Children to the address on the front of these complaint procedures. The OEC will not accept:

- Faxed complaints;
- Complaints sent via email; or
- Anonymous complaints.

Do I have to forward my complaint to the district?

Yes, as per 34 CFR §300.153 (c), a copy of the complaint must be sent, by the complainant, to the superintendent of the school district against whom the complaint is being filed.

Who can file a complaint?

A parent, organization, or third party may file a complaint with the OEC. If a complaint is filed by a third party (other than the parent) please see "What is the Letter of Findings?" sub-letter "C" below.

What does my complaint have to include?

The complaint must include-

- A statement that the public school district has violated a requirement of federal and/or state laws(s) and/or regulations that apply to special education;
- The facts on which the statement is based. A fact is defined as an actual event(s) or occurrence(s) that has taken place. This includes an explanation of the issue and the date that the issue occurred;
- An original signature and contact information for the complainant;
- A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed. Please note that your proposed resolution will be taken into consideration however, the final resolution of the complaint will be determined by the Ohio Department of Education, Office for Exceptional Children.
- If alleging a violation with respect to a specific child-
 - The name or names of the children involved in the complaint;
 - The address of the child;
 - The address of the complainant (if different from the child's address);
 - 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)), available contact information for the child;

- The name of the school the child is attending;
- The complaint must allege a violation that occurred not more than one year prior to the date the complaint is received.
- The party filing the complaint must forward a copy of the complaint to the district serving the child at the same time the party files the complaint with the OEC.

What is sufficiency?

In order for a complaint to be sufficient, the complaint which you file must include the information under the heading "What does my complaint have to include?" If your complaint does not include the necessary information under "What does my complaint have to include?" the OEC may deem your complaint "insufficient", in whole, or in part. The issue of sufficiency will be determined by the Ohio Department of Education, Office for Exceptional Children.

What happens when my complaint is deemed insufficient in whole?

If your complaint is deemed insufficient in whole, the complaint will be closed and an insufficiency letter will be sent to you with an explanation as to why the whole complaint was deemed insufficient. The insufficiency letter will include an explanation of the information that is needed, from you, to make the complaint sufficient. After you receive the insufficient letter, you may include the information that was missing and re-file the complaint. The re-filed complaint must allege a violation that occurred not more than one year prior to the date the re-filed complaint is received by OEC.

What happens when my complaint is deemed insufficient, in part?

Your complaint may be deemed insufficient, in part if it is missing a fact (defined in "What does my complaint have to include?" above) or another element.

What if my complaint is missing a fact?

If the complaint, in whole or in part, is missing a fact the complaint will be deemed insufficient on the issue where the fact does not appear. The part of the complaint which does not include a fact will not be investigated. If the complaint includes other issues which do include facts those issues will be investigated, if it falls within the authority of the OEC. Please note that sufficiency will be determined by the Ohio Department of Education, Office for Exceptional Children.

What if my complaint is missing another element other than a fact?

The OEC will employ a "5 day rule". If the complaint is missing an element other than a fact, the complainant will have 5 calendar days to forward the element in writing to the educational consultant assigned to the complaint. The educational consultant assigned to the complaint will contact the complainant and inform the complainant that an element is missing. The complainant will then have 5 days from the point of contact with the educational consultant to forward the necessary information to the educational

consultant. If the missing element is not forwarded to the educational consultant assigned to the complaint within 5 days the complaint will be closed.

Who determines if the issues in the original complaint will be investigated?

The OEC will determine the issues and whether the issues will be investigated.

Who determines the legal citation?

The OEC will determine which law has been allegedly violated and which legal citation will be used in the investigation.

How do I know that the OEC has received my complaint?

Within five (5) business days of OEC's receipt of the written, signed complaint the person filing the complaint will be sent an acknowledgment letter.

The acknowledgment letter will also be sent to the following parties if different from the person filing the complaint:

- The parent/guardian;
- The student, if the student has reached the age of majority; and
- The superintendent of the school district.

What does the acknowledgement letter include?

The acknowledgment letter will include the following information:

- Notice of the date that the OEC received the complaint;
 - Identification of the assigned educational consultant who will investigate the complaint;
 - Notice of an opportunity for the parties or, as appropriate, a third party complainant to provide additional information;
 - Notice that a *Letter of Findings* will be issued within 60 calendar days of the date OEC receives the complaint unless an extension is granted in which case the letter of findings will be issued on the date named in the extension letter. If the complaint is held in abeyance pending the outcome of a due process hearing the 60 day timeline will commence upon the date that the hearing officer issues his/her decision and OEC determines that the hearing officer's decision does not address all of the complaint issues or upon withdrawal or dismissal of the due process request; and
 - Notice of the opportunity for the parties to engage in mediation of the complaint.
- * If legal counsel represents either party it will be each party's counsel's responsibility to communicate with the educational consultant and request that copies of all correspondence are forwarded to legal counsel.

Can the district offer a proposal to the parent to resolve the complaint prior to the OEC issuing a letter of findings?

Yes, the district may offer the parent a proposal to resolve the complaint prior to the letter of findings being issued (please see "What is a Letter of Findings" below).

Can the parties involved in a complaint mediate the complaint issues using OEC mediators?

Yes, if you wish to mediate the issues which are in your complaint using an OEC mediator please notify the educational consultant assigned to the complaint.

NOTE: The word "party" or "parties" as used in this document and for the purpose of mediation related to a complaint, refer to the parent/guardian, student (if the student has reached the age of majority), the superintendent of the school district and the special education director or coordinator. The word "complainant" is used to denote any person or entity not included in the definition of "party" or "parties".

What happens in a complaint investigation?

- A. The OEC shall conduct an investigation of the complaint which shall include a review of all relevant documentation and may include an on-site investigation.
- B. The Letter of Findings will be issued within 60 calendar days from the date the written and signed complaint was received by OEC. As per 34 CFR §300.152 (b)(1), an extension of time maybe granted by the Ohio Department of Education, Office for Exceptional Children when it can be established that exceptional circumstances warrant a delay, including a mediation or alternative means of dispute resolution. Exceptional circumstances will be determined by the Ohio Department of Education, Office for Exceptional Children on a case-by-case basis.
- C. If the complaint is also the subject of a due process hearing or if the complaint contains multiple issues of which one or more are part of a due process hearing, OEC will hold the complaint or those complaint issues, which are part of the due process hearing, in abeyance until the end of the due process hearing. When the due process hearing officer issues a decision, or the hearing is withdrawn or dismissed, the complaint issues will be reviewed. If there are complaint issues, which were not addressed, in the hearing process, those issues will be investigated within a 60-day timeline beginning on the date the hearing officer issues a final decision or the due process request is withdrawn or dismissed.
- D. Upon completion of the investigation, OEC will determine whether the district complied with the applicable special education laws and regulations. Determination of compliance or noncompliance on each issue shall be based upon the facts and applicable law, regulations or standards. The OEC shall notify the parties, in writing, of the findings and the basis for such findings.

What is a letter of allegations?

- A. The Letter of Allegations identifies the alleged issues found in the complaint letter and will also outline the required documentation the district will need to provide in order to assist OEC in making a determination of compliance or noncompliance. The parent/guardian, third party complainant, and the student, if the student has reached the age of majority, may also provide by the stated due date any relevant documentation. The letter will specify the date by which all documentation must be submitted.
- B. The original Letter of Allegations is sent to the district superintendent with a copy sent to the parent/guardian and the student, if the student has reached the age of majority as well as a third party complainant, if applicable.

What is the letter of findings?

- A. The Letter of Findings restates the alleged issues, summarizes the facts provided by both parties related to the alleged issue and draws a conclusion as to whether or not the district is in compliance or not in compliance regarding the alleged issue. The Letter of Findings will outline the corrective action required by the district to address any out of compliance behavior as well as whether or not the district will engage in any further inquiry activity.
- B. The OEC sends a letter of findings simultaneously to the parent/guardian, the student who has reached the age of majority, and the superintendent of the district.
- C. If a third party complainant filed the complaint, the third party complainant will receive a letter informing them that OEC has concluded their complaint investigation. Personally identifiable information about the student may be released to a third party complainant or other person or entity only with the written consent of the parent or as authorized by IDEIA, the Family Educational Rights and Privacy Act (FERPA), or state law.
- D. The Letter of Findings summarizes the complaint issues and results of OEC's investigation. Per C.F.R. 34 §300.151-§300.153, the Ohio Department of Education, Office for Exceptional Children, issues a written decision that addresses the following:
 - If the district is found in compliance, the complaint file is closed.
 - If the district is found in noncompliance, the letter of findings shall specify the required corrective action(s) to be taken by the district. The complaint file remains open until corrective action is completed. All corrective action is to be completed within one year from the date of the letter of findings except if exceptional circumstances exist that would require a longer period of time. This determination will be made on a case by case basis by OEC.

- E. OEC reviews the district's corrective action for compliance. Once the corrective action is resolved to the satisfaction of the Ohio Department of Education, OEC will close the complaint.
- F. If the district does not comply with the complaint process or the corrective action, sanctions, as appropriate will be implemented by OEC.

