

FREQUENTLY ASKED QUESTIONS ABOUT SPECIAL EDUCATION FORMAL IDEA STATE COMPLAINTS

1. What is a formal IDEA state complaint?

A complaint is a statement that a Local Education Agency (LEA), which means a school district or a charter school, has violated a requirement of Part B of the IDEA and/or the Utah State Board of Education Special Education Rules (USBE SER).

2. Who can file a formal IDEA state complaint?

Any individual or organization who believes that an LEA has violated the IDEA and/or the USBE SER. This includes a parent/parents or any other concerned individual or organization.

3. How do I file a formal IDEA state complaint?

It is preferred that you file your state complaint using the State Complaint form, however, any written request that includes all the required information shall initiate the formal IDEA state complaint process. You can obtain a form by calling or writing to the LEA responsible for the alleged violation or the Utah State Office of Education (USOE) Special Education Services section (801-538-7898). The form is also available on the USOE Special Education Services website at <http://www.schools.utah.gov/sars/DOCS/law/statecomplaint.aspx>.

4. Where do I send my formal IDEA state complaint?

Your state complaint must be sent to the district Superintendent or charter school Director of the LEA responsible for the alleged violation **and** to the USOE Special Education Director. The form may be sent by mail, fax or hand-delivery. *The USOE Special Education Director does not accept state complaints by email.*

The mailing address is PO Box 144200, 250 East 500 South, Salt Lake City, UT 84118-4200; the physical address is 250 East, 5600 South, Salt Lake City, UT; the fax number is 801-538-7991.

When received by the USOE, a written confirmation will be sent within 2 business days.

5. What is the time limit for filing a formal IDEA state complaint?

A state complaint must allege a violation that occurred not more than one (1) year prior to the date that the complaint is received by the LEA, unless a longer period is reasonable because the violation is continuing or you are requesting

compensatory services for a violation that occurred not more than two (2) years prior to the date the complaint is received by the LEA.

6. What is the formal IDEA state complaint timeline?

The timeline for the resolution of a state complaint is 60 days.

The LEA responsible for the alleged violation will resolve the complaint within 30 days unless exceptional circumstances exist (e.g., delay by a complainant to provide necessary information.) An extension of time shall not exceed ten (10) calendar days.

If you decide to appeal the decision to the USOE Special Education Director, the USOE will have the remainder of the 60-day timeline to issue a final decision.

7. What happens after I file a formal IDEA state complaint?

The LEA will resolve the complaint by:

- a. carrying out an independent on-site investigation, if it determines such an investigation is necessary;
- b. giving you the opportunity to submit additional information either orally or in writing, about the allegation(s) in the complaint;
- c. review all relevant information and make a determination as to whether the LEA is violating a requirement of Part B of the IDEA and/or USBE SER;
- d. issue a written decision to you, with a copy sent to the state director of special education that addresses each allegation in the complaint and contains findings of fact and conclusions, and the reasons for the LEA's final decision(s);
- e. permit an extension of the time limit if exceptional circumstances exist or you and the LEA agree to engage in mediation or another dispute resolution process available in the state;
- f. determine procedures for the effective implementation of the LEA's final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve IDEA and USBE SER compliance; and,
- g. inform you in writing of your right to appeal the decision for review to the USOE within 10 days of receipt of the decision and the procedures for doing so.

8. What is timeline for appealing the LEA decision of a formal IDEA state complaint?

After receipt of the written decision from the LEA, you have 10 days to appeal the decision to the USOE Special Education Director for independent state review.

9. What happens after the USOE Special Education Director receives my appeal to the LEA's decision?

The USOE follows the same procedure as outlined in #8 above to resolve the complaint appeal. The USOE will investigate and issue a final, written decision within 60 days of receipt of the original complaint.

10. What happens if the USOE finds there is a violation of the IDEA and/or the USBE SER?

The USOE will issue a written corrective action plan addressing how the LEA shall remediate any denial of services, including, as appropriate, the awarding of monetary reimbursement, and also addressing appropriate future services for all students with disabilities.

11. May I submit a formal IDEA state complaint regarding an issue that has previously been decided by a Due Process Hearing?

If an allegation is raised in a complaint filed under a previous due process hearing decision, then the due process hearing is binding on that issue. A complaint alleging an LEA's failure to implement a due process decision, however, must be submitted directly to the USOE Special Education Director and resolved by the USOE.

12. Where may I find more information about formal IDEA state complaints?

You may find more information about state complaints in the USBE SER available online at <http://www.schools.utah.gov/sars/Laws,-State-Rules-and-Policies/Rules-and-Regulations.aspx> and in the Procedural Safeguards Notice provided by LEAs or online at <http://www.schools.utah.gov/sars/Laws,-State-Rules-and-Policies/Procedural.aspx>. Both documents are also available from the USOE by calling 801-538-7898.

Information is also available from the Utah Parent Center at 801-272-1051 and the Disability Law Center at 1-800-662-9080.