

Parent and Child Rights in Special Education

Procedural Safeguards Notice

An Explanation of Procedural Safeguards Available Under Provisions of the Individuals with Disabilities Education Act (IDEA) and the Colorado Rules for the Administration of the Exceptional Children's Educational Act (ECEA)

STATE COMPLAINT PROCEDURES

DIFFERENCE BETWEEN DUE PROCESS HEARING COMPLAINT AND STATE COMPLAINT PROCEDURES

The regulations for Part B of IDEA set forth separate procedures for State complaints and for due process complaints. As explained below, any individual or organization may file a signed, written State complaint alleging a violation of any Part B requirement by an administrative unit or the Colorado Department of Education (CDE). Only you or an administrative unit may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of a child with a disability, or the provision of a free appropriate public education (FAPE) to the child. Generally, CDE's State Complaints Officer must resolve a State complaint within a 60-calendar-day timeline, unless the timeline is properly extended. In contrast, an impartial hearing officer must resolve a due process complaint (if not resolved through a resolution meeting or through mediation) and issue a written decision within 45-calendar-days after the end of the resolution period, as described in this document under the heading "Resolution Process." At the request of one of the parties, the impartial hearing officer may grant a specific extension of the due process complaint timeline. The State complaint, the due process complaint, resolution meetings and due process hearing procedures are described more fully, below.

ADOPTION OF STATE COMPLAINT PROCEDURES

34 CFR §300.151

General

The Colorado Department of Education must have written procedures for:

1. Resolving any complaint, including a complaint filed by an organization or individual from another State;
2. The filing of a complaint with the Colorado Department of Education;
3. Widely disseminating the State complaint procedures to parents and other interested individuals, including parent training and information centers, protection and advocacy

agencies, independent living centers, and other appropriate entities.

Remedies for denial of appropriate services

In resolving a State complaint in which the Colorado Department of Education has found a failure to provide appropriate services, the Colorado Department of Education must address:

1. The failure to provide appropriate services, including corrective action appropriate to address the needs of the child; **and**
2. Appropriate future provision of services for all children with disabilities.

MINIMUM STATE COMPLAINT PROCEDURES

34 CFR §300.152

Time limit; minimum procedures

The Colorado Department of Education must include in its State complaint procedures a time limit of 60 calendar days after a complaint is filed to:

1. Carry out an independent on-site investigation, if the Colorado Department of Education determines that an investigation is necessary;
2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
3. Provide the administrative unit with the opportunity to respond to the complaint, including, at a minimum: (a) at the option of the agency, a proposal to resolve the complaint; **and** (b) an opportunity for a parent who has filed a complaint and the agency to agree voluntarily to engage in mediation;
4. Review all relevant information and make an independent determination as to whether the administrative unit is violating a requirement of Part B of the IDEA; **and**
5. Issue a written decision to the complainant that addresses each allegation in the complaint and contains: (a) findings of fact and conclusions; **and** (b) the reasons for the Colorado Department of Education's final decision.

Time extension; final decision; implementation

The Colorado Department of Education's procedures described above also must:

1. Permit an extension of the 60 calendar-day time limit only if: (a) exceptional circumstances exist with respect to a particular State complaint; **or** (b) the parent and the administrative unit involved voluntarily agree to extend the time to resolve the matter through mediation or alternative means of dispute resolution, as agreed to by the parties.
2. Include procedures for effective implementation of the Colorado Department of Education's final decision, if needed, including: (a) technical assistance activities; (b) negotiations; **and** (c) corrective actions to achieve compliance.

State complaints and due process hearings

If a written State complaint is received that is also the subject of a due process hearing as described below under the heading Filing a Due Process Complaint, or the State complaint contains multiple issues of which one or more are part of such a hearing, the State must set aside the State complaint, or any part of the State complaint that is being addressed in the

due process hearing until the hearing is over. Any issue in the State complaint that is not a part of the due process hearing must be resolved using the time limit and procedures described above.

If an issue raised in a State complaint has previously been decided in a due process hearing involving the same parties (you and the administrative unit), then the due process hearing decision is binding on that issue and the Colorado Department of Education must inform the complainant that the decision is binding.

A complaint alleging an administrative unit's failure to implement a due process hearing decision must be resolved by the Colorado Department of Education.

FILING A COMPLAINT

34 CFR §300.153

An organization or individual may file a signed written State complaint under the procedures described above.

The State complaint must include:

1. A statement that an administrative unit has violated a requirement of Part B of the IDEA or its regulations;
2. The facts on which the statement is based;
3. The signature and contact information for the complainant; and 4. If alleging violations regarding a specific child:
 - (a) The name of the child and address of the residence of the child;
 - (b) The name of the school the child is attending;
 - (c) In the case of a homeless child or youth, available contact information for the child, and the name of the school the child is attending;
 - (d) A description of the nature of the problem of the child, including facts relating to the problem; **and**
 - (e) A proposed resolution of the problem to the extent known and available to the party filing the complaint at the time the complaint is filed.

The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received as described under the heading **Adoption of State Complaint Procedures**.

The party filing the State complaint must forward a copy of the complaint to the administrative unit serving the child at the same time the party files the complaint with the Colorado Department of Education.

You may obtain additional information regarding CDE's State Complaint procedures by calling CDE's Exceptional Student Leadership Unit at (303)866-6694.