

MARYLAND STATE DEPARTMENT OF EDUCATION

SPECIAL EDUCATION STATE COMPLAINT RESOLUTION PROCEDURES PART B

I. AUTHORITY

- A. 34 CFR §300.151 *et seq.*
- B. COMAR 13A.05.01.15A

II. PURPOSE

- A. The Maryland State Department of Education (MSDE) adopts the following complaint investigation procedures for resolving complaints filed under the Individuals with Disabilities Education Act (IDEA) and corresponding federal and State law and regulations. It is the responsibility of MSDE to resolve all complaints that meet the requirements of 34 CFR §300.153 and are filed with MSDE in accordance with these procedures.
- B. It is the responsibility of MSDE to monitor the completion of corrective actions issued as a result of a complaint investigation, as well as to take steps necessary to ensure compliance with corrective actions, including providing technical assistance and taking additional enforcement actions, as appropriate.

III. COMPLAINT REQUIREMENTS

Any organization or individual, hereafter the “complainant(s)”, including those from outside the State of Maryland, may file a complaint with MSDE. MSDE will also resolve complaints received by other Divisions within MSDE or State or federal government officials provided that the complaint meets the requirements set forth below.

- A. The complainant may use the State Complaint Form, which may be obtained from the MSDE website at marylandpublicschools.org (go to the Division of Early Intervention and Special Education Services page, then the Family Support and Due Process Branch page), or call us at 410-767-7770. While there is no requirement to use this form, the complaint must include all of the information requested on the form, as it meets all of the requirements as set forth below.
- B. The complaint should be addressed to the Assistant State Superintendent, Division of Early Intervention and Special Education Services, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201.

- C. At the same time that the complaint is filed with MSDE a copy must be forwarded to the public agency responsible for the student's educational program. It is recommended that the complaint be sent to the attention of the Director of Special Education or other responsible administrator for the program.
- D. The complaint must be in writing and signed by the individual making the complaint. MSDE will resolve complaints that have been received via facsimile if the complaint is signed and meets the requirements of Section III, paragraphs E through J below.
- E. The complaint must include the following:
 - 1. A statement that a public agency has violated a requirement of IDEA;
 - 2. The facts on which the statement is based (the complainant is encouraged to provide copies of any documentation that supports the allegation(s));
 - 3. The signature and contact information for the complainant;
 - 4. If alleging violations with respect to a specific student, the complainant must include:
 - a. The name and address of the residence of the student;
 - b. The name of the school the student is attending;
 - c. In the case of a homeless student, available contact information for the student and name of the school the student is attending;
 - d. A description of the nature of the problem of the student, including facts relating to the problem; and
 - e. A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
- F. The complaint must allege a violation that occurred not more than one (1) year prior to the date that MSDE receives the complaint.
- G. The statement that a public agency has violated a requirement of IDEA may be related to the identification, evaluation or educational placement of a student, or the provision of a free appropriate public education (FAPE) to the student, as well as any other allegation that a public agency has violated IDEA and corresponding federal or State regulations. This includes the allegation that a public agency has not implemented action required as a result of a due process hearing decision. Settlement agreements, mediation agreements, and agreements that are reached as the result of the resolution meeting are enforceable in a State court of competent jurisdiction or in the district court of the United States, but will not be resolved by MSDE through the complaint process.

- H. If the complaint does not meet the requirements outlined in Section III, paragraphs A through J of these procedures, MSDE shall provide the complainant with written notification that the complaint has been determined to be insufficient and what additional information is needed in order for the complaint to meet the requirements of the regulations and these procedures.
- I. If the complaint is filed on behalf of an individual student and the complainant is not the student's parent, a release that is signed by the parent must be submitted by the complainant in order for MSDE to provide the findings and conclusions. The release must be signed by the parent and state that consent is provided for MSDE to release information about the student to the complainant.

IV. COMPLAINT INVESTIGATION PROCEDURES

- A. Upon receipt of the complaint, MSDE shall forward the complaint, via facsimile, to the designated public agency personnel.
- B. The complainant and the public agency shall be provided with written notification that acknowledges receipt of the complaint, identifies the allegation(s) subject to an investigation, indicates the timeline for resolution, informs the parties of the right to submit additional information relevant to the allegation(s), and identifies the MSDE staff person assigned to resolve the complaint. The written notification will also include a statement that if the public agency offers the remedy to the complainant that is proposed in the letter of complaint, MSDE will consider the matter resolved. MSDE encourages the parties to take steps to resolve the complaint as early as possible, either by agreeing to mediate the disagreement, or by resolving the dispute through less formal methods.
- C. Upon receipt of the first written complaint in a given school year, the public agency against whom the complaint is filed shall forward a copy of the procedural safeguards to the complainant.
- D. The public agency subject to the complaint is encouraged to review the allegation(s) with appropriate school system personnel. If the school system responds to the allegation(s), they must address each alleged violation, provide the facts as determined by the public agency, and if a violation is identified, propose corrective actions or describe actions that have been taken to remediate any loss of services to the individual student. If the violation affected similarly situated students, the public agency shall propose corrective actions to remediate any loss of services to those students.
- E. MSDE will conduct an independent on-site visit if MSDE determines that a site visit is necessary to resolve the complaint.
- F. MSDE shall issue a written decision (Letter of Findings) to the complainant and the public agency, which includes:
 - 1. A statement of the allegation(s) investigated;
 - 2. Findings of fact and a conclusion for each allegation investigated, including a statement of whether or not a violation of State or federal law and/or regulations has occurred, and the reasons for the conclusion;

3. If MSDE determines that a violation of State or federal law and/or regulations occurred, the Letter of Findings shall include the corrective actions the public agency must take to address:
 - a. how to remediate the denial of any services, including as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the student; and
 - b. appropriate future provision of services for all students with disabilities
 4. Timelines for completing corrective actions;
 5. An MSDE contact person for technical assistance in completing the corrective actions; and
 6. A statement informing the parties that they maintain the right to request mediation or file a due process complaint to resolve the matter subject to the complaint if they disagree with the MSDE decision.
- G. The Letter of Findings shall be considered late if not issued within sixty (60) calendar days of the date the complaint is received by MSDE. The timeline may be extended if exceptional circumstances exist with respect to a particular complaint or the complainant and the public agency involved agree to extend the time to engage in mediation or other alternative means of dispute resolution. If an extension is necessary, the complainant and public agency shall be notified, in writing, by MSDE of the need for the extension.
- H. If either party disagrees with the conclusions in the Letter of Findings, the party has the right to submit additional information, *either not considered or not available at the time of the investigation*. This information must be submitted within fifteen (15) calendar days of the date of the Letter of Findings. Pending consideration of the request, the public agency is required to complete any corrective action within the timelines stated in the Letter of Findings.

V. COMPLAINTS OUTSIDE OF MSDE AUTHORITY

- A. If the complaint includes allegations of discrimination based on race, creed, sex, age, color, national origin, marital status or physical or mental handicap or conduct addressed by regulations and laws other than the special education law or regulations, MSDE will notify the parties in writing of the allegations that are not within MSDE's authority to investigate. In that notification, MSDE will provide the complainant with the name and address of the appropriate agency with jurisdiction over those specific allegations, if known.
- B. MSDE does not investigate allegations that an agreement reached through mediation or a resolution meeting has not been implemented. Any such complaint should be filed in a court of competent jurisdiction to be resolved.
- C. If a complaint is received that is also the subject of a due process hearing or contains multiple allegations, of which one or more are part of the hearing, MSDE must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. Any allegation in the complaint that is not part of the due process hearing complaint will be resolved in accordance with MSDE complaint procedures and applicable timelines. MSDE will

notify the parties in writing of the decision to set aside allegations and which allegations, if any, will be resolved through the complaint process.

- D. If an allegation is raised in a complaint filed with MSDE that has previously been decided in a due process hearing involving the same parties, the hearing decision is binding on the parties, and MSDE will inform the complainant and public agency to that effect.

VI. COMPLAINT RESOLUTION

Upon receiving notification that the complaint has been satisfactorily addressed by the public agency through mediation or other means of dispute resolution, or has been withdrawn by the complainant, MSDE will consider the complaint resolved. This includes when a public agency offers to provide the remedy proposed by the individual or organization in the letter of complaint.

VII. VERIFICATION ACTIVITIES/COMPLAINT FOLLOW-UP

When MSDE issues a Letter of Findings that identifies a violation of federal or State law or regulation, MSDE shall require the public agency to submit documentation verifying the completion of the corrective action(s).

- A. Either party may request technical assistance, pursuant to the Letter of Findings. The request for technical assistance must be made in a timely manner as to not delay completion of the corrective actions.
- B. Public agencies may negotiate with MSDE other methods to effectively implement the final decision.
- C. MSDE staff shall review the steps taken and determine if they satisfy the required actions.
 - 1. If the steps taken satisfy the corrective action(s), MSDE will provide written notice of its decision to the parties and close the complaint.
 - 2. If the actions taken by the public agency do not satisfactorily correct the identified problem(s), MSDE will work closely with the public agency to determine why the actions taken did not achieve required results and determine additional strategies to attain the desired results.
 - 3. If the public agency has not made good faith efforts to complete the corrective action(s), MSDE will provide the public agency with written notice of the enforcement sanctions, as specified by these procedures.

VIII. ENFORCEMENT

When a public agency has not completed the corrective action(s) by the date specified in the Letter of Findings or by the date of any extension granted in accordance with Section VII of these procedures, MSDE shall initiate enforcement actions in accordance with COMAR 15A.05.02.07.

IX. PUBLIC AWARENESS EFFORTS

- A. Public agencies must ensure that the complaint procedures are explained to parents, advocates and school personnel, including providing the procedural safeguards.
- B. MSDE shall disseminate the complaint procedures through presentations to advocacy organizations, public agency personnel, and others as requested. MSDE has developed partnerships with advocacy and parent organizations, such as the Maryland Disability Law Center; Parents' Place of Maryland; Maryland Coalition for Inclusive Education; Community Mediation Maryland, and ARC/Maryland, to ensure awareness of these procedures. MSDE will also ensure that these procedures appear on the MSDE website.

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