

## Questions and Answers about Formal Written Complaints

### 1. What is a complaint?

A complaint is a signed written statement that alleges a school or local educational agency is not following special education law and regulations found in IDEA 2004 and/or Policies Governing Services for Children with Disabilities (*Policies*). This statement is a formal request for the state education agency to investigate the allegation(s) of noncompliance.

Complaints typically involve disagreements about matters relating to the identification, evaluation, and/or placement of children identified as having disabilities under the regulations of IDEA or *Policies*, or the delivery of special education and related services to those children. Complaints may also relate to a failure to honor the rights and procedural safeguards that special education regulations give to parents of children with disabilities. The right to file a formal complaint also extends to parents of children who are not yet identified as eligible for special education but who have been referred for a comprehensive evaluation to determine eligibility.

### 2. Who can file a complaint?

A formal written complaint may be filed by a parent, another person, or an organization who suspects the public agency has violated requirements of the IDEA for a free appropriate public education to a student with a disability. The individual or organization must state the facts on which the claim of noncompliance is based. Anonymous letters will not be investigated under this process.

### 3. How do I file a complaint?

A complaint can be filed by writing a letter or completing the complaint form, signing it and mailing it to the attention of the:

Director, Exceptional Children Division  
Department of Public Instruction  
6356 Mail Service Center  
Raleigh, NC 27699-6356

A copy must be mailed to the school system, charter school, state operated program, or public agency against whom the complaint has been filed.

### 4. Can I fax or email my complaint to you?

Yes, a signed letter or complaint form addressed to Director, Exceptional Children Division, may be sent via facsimile or by a PDF file attached to an email.

Fax: 919.807.3755

Email: Consultants for Dispute Resolution

### 5. What do I need to include in my letter?

The complaint must allege a violation that occurred not more than one year prior to the date that the complaint was received by the EC Division and include the following:

1. A statement that a public agency has violated either a requirement of the IDEA and/or a requirement of North Carolina statutes and state regulations regarding special education.
2. A listing of the facts that are the basis for the allegation(s).
3. The signature, address, and telephone number of the complainant.
4. All relevant documentation supporting the allegation(s).

5. If alleging violations with respect to a specific child, include:
  - a. The name and address of the residence of the child;
  - b. The name of the school the child is attending and the LEA;
  - c. In the case of a homeless child, 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 affecting the child, including specific facts relating to the problem; and
  - e. A proposed solution to the problem to the extent known and available to the party at the time the complaint is filed.

**6. What happens when I file?**

When the Exceptional Children Division Director receives a formal written complaint, a consultant will contact the school system, charter school, state operated program, or public agency to notify them that a complaint has been filed. A letter and the complaint are immediately sent to the local Superintendent (or the Director of the charter school) with a request for a detailed written response and supporting documentation that explains the educational agency's position regarding the allegation(s) of noncompliance.

You also will receive a letter informing you of the assignment of a complaint investigator and how you can provide additional documentation or other information. This correspondence is sent via certified mail. The investigator may contact the parent to understand better the concerns expressed in the complaint. All information received is carefully reviewed to clearly establish the important facts and identify the specific special education regulations that apply, using the research and investigative techniques the Division Director regards as appropriate.

If during the course of the investigation you and school officials are able to resolve the issues on your own through mediation or some other means, you may withdraw the complaint by submitting a written request to the Director to stop the investigation. A withdrawal form is included in the letter sent to you when the complaint is received.

**7. How long does the investigation take and when do I find out the results?**

A detailed complaint investigation report is sent by certified mail to the parties involved within 60 calendar days of the receipt of the complaint. Occasionally, the investigation may extend beyond 60 calendar days due to unusual circumstances such as the need for a major on-site investigation or other extremely complex issues. You will be notified in writing in advance of any need to extend the investigation beyond 60 calendar days.

**8. What are the consequences if my complaint results in noncompliance against the school?**

If facts gathered during the investigation support a finding of noncompliance, the complaint investigation report will state appropriate corrective action that the school system, charter school, state operated program, or public agency will be required to take. The type and extent of the required corrective action will be tailored to the specific incident(s) of noncompliance and will be consistent with the requirements of federal or state special education regulations. Failure of the school system, charter school, state operated program, or public agency to comply with required corrective action could result in an interruption of the flow of state and federal funds to the educational agency.

**9. Are there limitations to the state educational agency's authority to investigate all issues in the complaint?**

Yes. The state educational agency's authority to investigate violations of special education regulations comes from the Individuals with Disabilities Education Improvement Act (IDEA 2004) and the State Policies Governing Services for Children with Disabilities. The complaint system for

special education does not address personnel issues or general education matters such as promotion or retention. Any matter that is exclusively under the control of local educational agencies will not be handled in the special education complaint system. Local educational agencies are responsible for the day to day operation of schools, including supervision and evaluation of personnel.

**10. What if I don't agree with the findings?**

The conclusions in the complaint report are final and are not subject to appeal. Parents continue to have the right to pursue their disagreements through mediation or filing for a due process hearing.

**11. Can I request mediation if I have already filed a formal written complaint?**

Most disputes can be resolved by parents and schools through discussions with the teacher, principal, exceptional children director, and/or superintendent. However, there are occasions when these discussions fail. Mediation is a meeting conducted by a trained impartial third party to talk with both parties about their disagreement and assist them in reaching an agreeable settlement. Mediation is voluntary on the part of both parties and can be requested at any time before and after filing a formal written complaint or a due process hearing petition. Mediation can be requested by contacting the local Exceptional Children Program Director or completing the [mediation request form](#).

**12. Can I file a complaint if I have already filed a petition for a due process hearing?**

According to special education regulations when a formal written complaint and a petition for a due process hearing are filed at the same time on the same issues, the complaint investigation must be set aside pending the outcome of the hearing. Once the hearing is decided, the investigation may resume if there are any remaining issues in the complaint that the hearing did not address.