

ARKANSAS DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION AND RELATED SERVICES  
12.00 STATE COMPLAINT PROCEDURES  
July 2008

12.01 FILING A COMPLAINT

An organization or an individual, including those from another state, may file a written, signed complaint with the Arkansas Department of Education, or the complaint may be made in person by recorded deposition or statement. Such complaint may be communicated directly or indirectly via other state or federal agencies. A complaint must include -

- 12.01.1 A statement that a public agency has violated a requirement of Part B of IDEA or its implementing federal regulations, or a requirement of these State regulations; and
- 12.01.2 The specific facts on which the statement is based.
- 12.01.3 The signature and contact information for the complainant; and
- 12.01.4 If alleging violations with respect to a specific child -
  - 12.01.4.1 The name and address of the residence of the child;
  - 12.01.4.2 The name of the school the child is attending;
  - 12.01.4.3 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, and the name of the school the child is attending;
    - A. A description of the nature of the problem of the child, including facts relating to the problem; and
    - B. A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
- 12.01.5 The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with 34 CFR 300.151.

12.01.6 The party filing the complaint must forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files the complaint with the SEA.

## 12.02 PRELIMINARY ACTION

12.02.1 Complaints received pursuant to § 12.01 of these regulations shall be referred to the Arkansas Department of Education, Special Education Unit for subsequent investigation and resolution within sixty (60) calendar days after receipt of the complaint, except that an extension of the time line may be granted if it is determined by the Associate Director that exceptional circumstances exist with respect to a particular complaint or the parent (or individual or organization, if mediation or other alternative means of dispute resolution is available to the individual or organization under State procedures) and the public agency involved agree to extend the time to engage in mediation pursuant to 34 CFR 300.152(a)(3)(ii), or to engage in other alternative means of dispute resolution, if available in the State.

12.02.2 Within ten (10) business days of receipt of a written complaint, the Associate Director shall have designated a team to conduct an investigation of the allegations. The complainant and the party under investigation shall be notified in writing of the designated team members and the general investigation process.

## 12.03 TEAM COMPOSITION

12.03.1 Each investigative team shall include -

12.03.1.1 At least two (2) but no more than five (5) persons;  
and

12.03.1.2 Any person whom the Associate Director deems necessary to expedite the investigation and resolve the issues of the complaint.

## 12.04 TIME LINE

The investigation shall be completed and a written report issued of the findings, decisions, and corrective actions, if any, within sixty (60) calendar days of receipt of the complaint, unless an extension of the time line is granted by the Associate Director. Should an extension of the time line be necessary, the parties to the

investigation shall be notified in writing of the reasons for the time line extension and a projected date for issuance of the report.

## 12.05 FACT-FINDING ACTIVITIES

12.05.1 The complaint investigation team may use any of a variety of fact-finding activities in the course of a complaint investigation, including, but not limited to -

12.05.1.1 Independent on-site data collection, if the SEA determines that an investigation is necessary;

12.05.1.2 Off-site data collection;

12.05.1.3 Interviews; and/or

12.05.1.4 Personal observation.

12.05.2 The complainant shall be provided an opportunity to submit additional information, either orally or in writing, concerning the allegations in the complaint;

12.05.3 Provide the public agency with the opportunity to respond to the complaint, including, at a minimum

12.05.3.1 At the discretion of the public agency, a proposal to resolve the complaint; and

12.05.3.2 An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation consistent with 34 CFR 300.506.

## 12.06 COMPLAINT INVESTIGATION REPORT

12.06.1 At the close of a complaint investigation, the relevant information will be reviewed by the investigative team, and the team will make an independent determination regarding the allegation(s) against the agency as to whether the public agency is violating a requirement of Part B of the Act or of 34 CFR 300.151-300.153.

12.06.2 The results of the investigation shall be included in a written report, which shall include -

- 12.06.2.1 A summary of the substance of the allegation(s) in the complaint;
- 12.06.2.2 The name of the individual, group, or agency that filed the complaint;
- 12.06.2.3 A summary of the investigative activities conducted by the team;
- 12.06.2.4 Findings of fact;
- 12.06.2.5 The conclusions reached by the team regarding the allegation(s) made by the complainant;
- 12.06.2.6 The reasons for the SEA's final decision(s);
- 12.06.2.7 Remedies for denial of appropriate services in the form of any necessary corrective action(s) to achieve compliance to be taken by the agency against whom the complaint was filed (including, as appropriate, the awarding of monetary reimbursement and appropriate future provision of services for all children with disabilities), and/or technical assistance activities and negotiations; and
- 12.06.2.8 The documentation from the agency needed to establish that the corrective actions ordered in the report, if any, have been initiated.

12.06.3 A copy of the written report that addresses each allegation in the complaint, findings of fact, and conclusions shall be forwarded to the complainant and the party under investigation within sixty (60) calendar days of receipt of the complaint by the Associate Director, or by the terms of the time line extension if one was granted.

## 12.07 COMPLAINT SET-ASIDE

- 12.07.1 Complaints filed under this section, and due process hearings under 34 CFR 300.507 and 300.530 - 300.532 and §10.00 of these regulations -
  - 12.07.1.1 If a written complaint is received that is also the subject of a due process hearing under 34 CFR 300.507 or 300.530 - 300.532 and §10.00 of these regulations, or contains multiple issues, of which

one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing, until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time line and procedures set out in these regulations.

- 12.07.1.2 If an issue is raised in a complaint filed under this part that has previously been decided in a due process hearing involving the same parties -
  - A. The due process hearing decision is binding on that issue; and
  - B. The SEA must inform the complainant to that effect.
  
- 12.07.1.3 A complaint alleging a public agency's failure to implement a due process hearing decision must be resolved by the SEA.