COMPLAINT PROCEDURES

Change to Existing Requirement: Complaint Process for Participation of Private School Children – Time Limit

The timeframe that a State Educational Agency (SEA) has for responding to a complaint from parents, teachers, or other individuals concerning violations of Elementary and Secondary Education Act of 1965 (ESEA) section 8501 regarding the participation by private school children and teachers is 45 days. In addition, the Secretary must investigate and resolve an appeal of an SEA's resolution of a complaint within 90 days.

(ESEA section 8503.)

Introduction

ESEA, as amended by the Every Student Succeeds Act (ESSA) requires State Educational Agencies (SEAs) to adopt written procedures for "receiving and resolving any complaint alleging violations of the law in administration of programs." In accordance with this legislative requirement, the Pennsylvania Department of Education (PDE) Division of Federal Programs has adopted the following procedures after presenting them to the Committee of Practitioners.

Definition

A "complaint" is a written, signed statement filed by an individual or an organization. It must include:

a. A statement that PDE or a local educational agency (LEA) has violated a requirement of federal statute or regulations which apply to programs under the ESEA, as amended by the ESSA.
b. The facts on which the statement is based.
c. Information on any discussions, meetings or correspondence with PDE or the LEA regarding the complaint.

Complaint Resolution Procedures

1) **Referral** — complaints against LEAs or appeals from LEA decisions regarding complaints will be referred to the Regional Coordinator (RC) for the LEA against which the complaint has been filed.
2) **Notice to LEA** — the Regional Coordinator will notify the LEA's superintendent or chief administrative officer that a complaint or appeal has been received, will provide a copy, and will direct the LEA to respond. For complaints addressing questions and concerns from private school officials and LEAs regarding the provision of equitable services under Titles I

and VIII the RCs will notify the ombudsman as required under ESSA (ESEA sections 1117(b)(1) and 8501(b)(1).).

3) **Investigation** — after receiving the LEA's response, the Regional Coordinator / Ombudsman will determine whether further investigation is necessary. If necessary, the Regional Coordinator / Ombudsman may carry out an independent investigation on-site at the LEA.
4) **Opportunity to Present Evidence** — the Regional Coordinator / Ombudsman may, in his or her discretion, provide for the complainant, the complainant's representative, or both, and the LEA to present evidence. Such presentation may include the opportunity for each side to question parties to the dispute and any of their witnesses.
5) **Report and Recommended Resolution** — once the Regional Coordinator / Ombudsman has finished any investigation and taking of evidence, he or she will prepare a final report with a recommendation for resolving the complaint or appeal. The final report will give the name of the party bringing the complaint or appeal, the nature of the complaint or appeal, a summary of the investigation, the recommended resolution, and the reasons for the recommendation. The RC / Ombudsman will issue the report to all parties to the complaint or appeal. The recommended resolution will become effective upon issuance of the final report.
6) **Follow-up** — the Regional Coordinator will insure that the resolution of the complaint or appeal is implemented.
7) **Time Limit** — the period between PDE's receipt of a complaint or appeal and its resolution shall not exceed forty-five (45) calendar days.
8) **Extension of Time Limit** — the Chief of the Division of Federal Programs may extend the 45 day time limit if exceptional circumstances exist with respect to a particular complaint or appeal.
9) **Right to Appeal** — either party may appeal the final resolution to the United States Secretary of Education.

Procedures for Resolving Complaints against PDE

1) **Referral** — complaints against PDE will be referred to the Chief of the Division of Federal Programs.
2) **Acknowledgment** — the Division Chief will acknowledge receipt of the complaint in writing.
3) **Investigation** — the Division Chief will investigate the complaint.
4) **Opportunity to Present Evidence** — the Division Chief may, in his or her discretion, provide for the complainant and/or the complainant's representative to present evidence. Such a presentation may include the opportunity for each side to question parties to the dispute and any of their witnesses.
5) **Report and Recommended Resolution** — once the Division Chief has finished any investigation and taking of evidence, he or she will prepare a final report with a recommendation for resolving the complaint. The final report will give the name of the party bringing the complaint, the nature of the complaint, a summary of the investigation, the recommended resolution, and the reasons for the recommendation. The Division Chief will issue the report to the complainant and the complainant's representative, if any.
6) **Appeal to Secretary of Education** — in appropriate cases, the complainant may appeal from the recommended resolution to the Secretary of Education of the commonwealth. In all other cases, the recommended resolution will become effective upon issuance of the final report.
7) **Follow-up** — the Division Chief will insure that the resolution of the complaint is implemented.

8) **Time Limit** — the period between PDE's receipt of a complaint and its resolution shall not exceed forty-five (45) calendar days.
9) **Extension of Time Limit —** the Division Chief may extend the time limit if exceptional circumstances exist with respect to a particular complaint.
10) **Right to Appeal** — if the PDE's resolution is not satisfactory; either party may appeal the final resolution to the United States Secretary of Education.

Local Complaint Procedures

1) **Adoption of Procedures** — each LEA must adopt written procedures for resolving complaints filed with them.

2) **Appeal to PDE** — the LEA's procedures must provide the complainant or the complainant's representative with the right to appeal the LEA's resolution of the complaint to PDE.

Filing a Complaint

Complaints should be addressed as follows:

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