STATE COMPLAINT PROCEDURES

Effective: April 29, 2025

A. Scope

As required by 34 C.F.R. §§ 300.151-153, these procedures apply to written state complaints that allege that a Public Agency violated any special education provisions described in the following laws or regulations:

1. Part B of the Individuals with Disabilities Education Act (IDEA) at 20 U.S.C. § 1400 through § 1482 and the federal regulations implementing IDEA at 34 C.F.R. § 300 et seq.; and
2. Exceptional Children's Educational Act (ECEA) at C.R.S. 22-20-101, et seq., and the state rules implementing ECEA at 1 C.C.R. 301-8.

B. Definitions

As used in these procedures, the following definitions apply:

1. "Administrative Unit" means a school district, board of cooperative services, multi-district administrative unit, a charter school network, a charter school collaborative, or the State Charter School Institute, that is providing educational services to exceptional children and that is responsible for the local administration of the ECEA.

2. "CDE" means the Colorado Department of Education.

3. "Complainant" means any individual, Public Agency, or organization who files a written complaint.

4. "Complaint" means a written, signed statement(s) alleging a violation of any of the provisions of the IDEA or ECEA. If the complainant is unable to put the complaint in writing, due to conditions such as a disability or inability to read or write, the CDE shall assist the Complainant in the filing of the Complaint.

5. "Complaint investigation" means an administrative process used by the CDE to resolve a state complaint and may include, but is not limited to, interviews with both parties and any relevant current or former staff, record review, on-site visits, and written questionnaires.

6. "Day" means calendar day unless otherwise specified.

7. "Parties" means the Complainant who files the state complaint and the Public Agency

responding to the state complaint.

8. "Public Agency" means a school district, board of cooperative educational services (BOCES), State Operated Program, or the CDE.

9. "State Complaints Officer" ("SCO") means the impartial state complaints officer assigned to resolve a Complaint.

10. "State Operated Program" means Department of Corrections, Division of Youth Services, Colorado School for the Deaf and the Blind, and the Colorado Mental Health Institute at Pueblo.

C. Filing a State Complaint

1. In accordance with 34 C.F.R. § 300.153, an organization or individual may file a signed written complaint with the CDE alleging that a Public Agency has violated a requirement of the IDEA or ECEA.

2. The Complaint must contain the following:

   a. Signature and contact information of the person filing the complaint.

   b. If alleging violations with respect to a specific child:

      i. The name and the residential address of the child;

      ii. The name of the school that the child is attending; and

      iii. In the case of a homeless child or youth, available contact information of the child, and the name of the school the child is attending.

   c. One or more allegations (problems/concerns) that the Public Agency is not following the IDEA or ECEA. The alleged violations must have occurred not more than one year prior to the date that the state complaint is filed in accordance with Section C of these procedures. The CDE does not have authority to extend the regulatory one-year statute of limitations.

   d. A description of the nature of the allegation(s) (problems/concerns) and the facts relating to each allegation; and

   e. A proposed resolution of the allegation(s) (problems/concerns) to the extent known and available to the Complainant at the time the state complaint is filed.

3. The Complaint, including any attachments, must be mailed or hand-delivered to the CDE at:

Colorado Department of Education
Dispute Resolution, Room 402
201 E. Colfax Avenue
Denver, Colorado 80203

Complaints received outside of working hours (Monday through Friday, 8 a.m. to 5 p.m.) or on state holidays will be considered received on the following workday.

Note: The CDE does not accept state complaints by e-mail or fax. However, the CDE is creating a permanent option to securely accept state complaints electronically. These state complaint procedures and the CDE's website will be updated to reflect this electronic filing option once it is available.

4. The Complainant must provide a copy of the state complaint, including any attachments, to the Public Agency named in the state complaint at the same time the state complaint is filed with the CDE. Contact information for the special education directors of all Public Agencies is maintained on CDE's website (https://www.cde.state.co.us/cdesped/sped-dir).

5. Only state complaints that satisfy the requirements in Section C of these procedures can be accepted for investigation.

6. Within 10 calendar days of receiving a state complaint, the CDE will notify the parties, in writing, whether the state complaint has been accepted for investigation or rejected.

D. Complaint Investigation and Timelines

1. Response: Within 15 calendar days of receiving the CDE's notification that the state complaint has been accepted for investigation, the Public Agency may submit a Response to the accepted allegations and provide any requested or supporting documentation. If the Public Agency fails to timely respond to an allegation, the CDE may deem the allegation admitted. The Response may be mailed to the CDE or provided directly to the SCO through a secure file exchange. The Public Agency must also provide a complete copy of the Response, including any attachments, to the Complainant unless doing so would violate relevant laws regarding confidentiality.

    a. As part of the Response, or at any time during the investigation, the Public Agency may propose a resolution of the Complaint allegations. The CDE may consider the extent to which the proposed resolution, or any remedial action taken by the Public Agency, resolve any findings of noncompliance and adopt the proposals as appropriate in the final decision.

2. Reply: Within 10 calendar days of delivery of the Response, the Complainant may file a written Reply to the Response, including any attachments, in support of Complainant's position. The Reply may be mailed to the CDE or provided directly to the SCO through a secure file exchange. The Complainant must also provide any written Reply, including any attachments, to the Public Agency.

    NOTE: The Response and Reply must be delivered by 5:00 p.m. on the date due (or the next calendar day following a weekend or state holiday if the due date is on a weekend or state holiday). If the Response or Reply is untimely, the CDE may refuse to consider the late document.

3. Timeline Extensions:

   a. If the CDE finds that exceptional circumstances exist with respect to a particular Complaint, the CDE may unilaterally extend any of the timelines described in these procedures for a reasonable period of time. Any request for an extension of a timeline must be made before the deadline expires. Any extension will be documented in a written order issued by the CDE prior to the expiration of the timeline and provided to the Parties.

   b. Any time during the Complaint investigation, the Parties may agree to resolve the allegations through mediation or another form of alternative dispute resolution. The Parties can request that the CDE assign a mediator at no cost in Complaint Investigations involving alleged violations of the IDEA. Upon agreement of the Parties, the CDE may extend the 60-day Complaint Investigation timeline for mediation or other forms of alternative dispute resolution. Extensions for alternative dispute resolution, including mediation, will be documented in a written order issued by the CDE.

   c. The CDE has 60 calendar days from the date the state complaint is properly filed to issue a final decision, unless this timeline has been extended due to exceptional circumstances or for alternative dispute resolution. If the investigatory timeline is extended, the CDE will notify the Parties by written order of the extension and include the specific date the final decision is due.

E. Resolution

1. The CDE will issue a written Decision which details the findings of fact, conclusions of law, and the reasons for the final decision, unless the allegations have been previously resolved and/or the Complainant has withdrawn the Complaint. If there are findings that the Public Agency has violated the IDEA or ECEA, the CDE will, as part of the resolution of the state complaint, notify the Public Agency of remedial actions that must be completed to bring the Public Agency into compliance with applicable laws and regulations (e.g., technical assistance activities, negotiations and corrective actions). The CDE has authority to award appropriate remedies for the denial of services including compensatory educational services or monetary reimbursement. The CDE is not authorized to award attorneys' fees.

2. The Decision of the CDE is final and is not subject to appeal. If either party disagrees with the Decision, their remedy is to file a Due Process Complaint provided that the aggrieved party has the right to file a Due Process Complaint on the issue with which the party disagrees. See 34 C.F.R. § 300.507(a); Analysis of Comments and Changes to the 2006 Part B Regulations, 71 Fed. Reg. 46607 (August 14, 2006).