

## **Special Education Fact Sheet**

### **HOW TO FILE A COMPLAINT ABOUT A PUBLIC SCHOOL WITH THE STATE DEPARTMENT OF EDUCATION**

#### **What Types Of Complaints Can Be Filed With The State Department Of Education?**

You may file a complaint with the State Department of Education when you believe a school has violated federal or state education laws or regulations. Violations might include irregularities in your child's educational evaluation, the determination of eligibility for special education services, the development or implementation of the Individualized Education Program (IEP), conduct of the IEP meetings, or other school matters. Other types of concerns that may be raised include complaints about safety, abuse, neglect, or harassment, health services, student transportation, and provision of meals.

#### **I am a Parent. Can I file a Complaint?**

Any individual or organization may file a State complaint alleging a violation by a school district, the State Department of Education, or any other public agency.

If you intend to make a complaint with the State, this fact sheet will provide you with adequate information. However, if you feel that you need individualized guidance, you may want to consider seeking the aid of a parent advocate or an attorney. A parent advocate or attorney can help guide you through the complaint process and will work to help resolve the problem on your behalf.

#### **Where Can I Find Out What the Rules Are in New York City?**

A directory of Chancellor's Regulations currently in effect under the New York City Department of Education is available at <http://schools.nyc.gov/RulesPolicies/ChancellorsRegulations/default.htm>.

Grievances that do not concern violations of laws and regulations might be better addressed through a Committee on Special Education (CSE) meeting, mediation, or an impartial hearing; these provide alternative avenues through which parents may formally address concerns about their child's education.

## **What Information Do I Need to Include in the Complaint?**

The complaint must include:

- ❖ a statement that a school district or public agency has violated a law or regulation related to students with disabilities;
- ❖ the facts on which the statement is based;
- ❖ your signature and contact information;
- ❖ if alleging violations with respect to your child specifically, include:
  - the name and address of the residence of the child;
  - the name of the school the child is attending;
  - the concerns that led you to file the complaint, including the facts relating to the problem; and
  - any potential resolutions to the problem that you wish to propose.

## **How Long Do I Have To File A Complaint?**

Generally, a complaint must be received by the New York State Department of Education within one year of the incident to which it refers. This limitation does not apply if the alleged violation is ongoing. If you are requesting compensatory services, the complaint must be received within three years of the occurrence of the violation. Compensatory services may be a remedy if your child's educational needs cannot be met by available public, educational resources.

## **How Will The Department Of Education Respond, And How Long Will It Take?**

If the State Department of Education determines that an investigation is necessary, it will carry out an independent, on-site investigation. You and the school district will have the opportunity to submit additional information. After reviewing the relevant information, the State Department of Education will issue a written decision that addresses each allegation by providing findings of fact, conclusions, and the reasons for the decision.

If the entire complaint, or any portion of it, is being addressed in a due process hearing, NYSED is required to set aside the complaint until the conclusion of the hearing. Any issues in the complaint that are not part of a due process hearing must be investigated and resolved by NYSED. If an issue raised in a State complaint has already been decided in a due process hearing involving the same parties, the hearing decision on that issue is binding. This means that you must follow the order of the hearing decision; NYSED cannot resolve the complaint. However, a complaint alleging that a school district failed to implement a due process hearing decision will be resolved by NYSED.

The State Department of Education generally must resolve a complaint within 60 days. However, an extension time is permitted if exceptional circumstances exist, or if the parent and the school district agree to extend the time to resolve the matter.

## **Where Can I Obtain the Complaint Form?**

The form used for filing a written complaint with the New York State Department of Education is attached to this sheet. It is also available at:

<http://www.vesid.nysed.gov/specialed/publications/policy/samplecomplaint.htm>

## **Where Do I Send the Completed Form?**

Send the original State complaint form to:

NYSED  
Office of Vocational and Educational Services for Individuals with  
Disabilities (VESID)  
Room 1624, One Commerce Plaza  
Albany, NY 12234  
Attention: State Complaints.

Additionally, send a copy of the complaint form to the Board of Education of your child's school district. You should also retain a copy of the form for your records.

### **TIPS**

- **Keep a notebook**
  - **Record all phone conversations and in-person conferences and meetings**
  - **Keep all the papers you received from the DOE**
  - **Keep letters and envelopes**
  - **If documents are not dated, note the date you received the document on the back of the document or envelope**
- **Send all communications by certified mail or hand deliver them, asking the receiver to initial and date your copy**
- **Always**
  - **Keep a copy of everything you give to the DOE**
  - **take the name of the DOE person you're dealing with**
    - **If you can, get title, office, and detailed contact information**
    - **write it all down for future use**

**\*DUE TO THE GENERAL NATURE OF THE INFORMATION PRESENTED, THIS FACT SHEET SHOULD NOT BE REGARDED AS LEGAL ADVICE.**

**November 2009**