

Special Education State Complaints

Under the Individuals with Disabilities Education Act (IDEA)

Questions and Answers



COLORADO
Department of Education

What is a state complaint?

A state complaint is a written, signed statement alleging that a public agency (i.e., school district, board of cooperative educational services (BOCES), State Operated Program, or the Colorado Department of Education (CDE)) is not following the Individuals with Disabilities Education Act (IDEA), the Exceptional Children's Educational Act (ECEA), or the Protection of Individuals from Restraint and Seclusion Act (PPRA).

If the state complaint is accepted by the CDE for investigation, a state complaints officer (SCO) will investigate the allegations (problems/concerns) and issue a written decision. The [State-Level Complaint Procedures](#) outline the process for submission, investigation, and resolution of state complaints.

Who can file a state complaint?

Any individual or organization can file a state complaint.

How do I file a state complaint?

Filing parties may submit a complaint using the CDE [state complaint form](#). Use of the state complaint form is **not** required. However, parties who choose not to use the CDE state complaint form should ensure that their complaint contains all the required information identified on page 1 of the state complaint form.

The filing party must submit a written complaint by mail or hand-delivery to both the CDE and the special education director of the involved school district, BOCES, or State Operated Program. The CDE does not currently accept state complaints by e-mail.

What information must be included in a state complaint?

- Name, address, and phone number of the person filing the complaint;
- Name and address of the child involved and the name of the school the child attends, if the violations are related to a specific student;
- One or more allegations (problems/concerns) that the school is not following the IDEA, ECEA, and/or PPRA;
- Facts and/or a description of the events that support each problem/concern;
- Proposed resolution of the problem or the relief sought to the extent known and available to the person filing the complaint; and
- Signature of the person filing the complaint.

What issues can be addressed?

A state complaint can address any alleged violations of the IDEA, ECEA, and PPRA that occurred within one year of the filing date. The CDE considers the filing date to be the day the state complaint was received by the CDE, not the day the state complaint was postmarked.

The CDE cannot investigate alleged violations of Section 504 of the Rehabilitation Act of 1973 or allegations concerning abuse, retaliation, different treatment, or a hostile environment based on a disability. To file a complaint for these concerns, contact the U.S. Department of Education Office for Civil Rights at 303-844-5695 or OCR.Denver@ed.gov.

How does the state complaint process work?

After a state complaint is received by the CDE, an SCO will determine whether the complaint is accepted. Only state complaints that satisfy the requirements of the [State-Level Complaint Procedures](#) and contain the required content of the state complaint form will be accepted for investigation.

Once a state complaint is accepted, the SCO will investigate the alleged violations (problems/concerns). The investigation typically includes the opportunity for both parties to provide additional information in writing and through interviews conducted by the SCO. The SCO may also request information and documentation from the parties to better understand the concerns. A written decision must be issued within 60 calendar days of the date a properly filed complaint was received by the CDE.

Who decides the outcome?

At the conclusion of the investigation, the SCO issues a written decision identifying whether any violations of the IDEA, ECEA, and/or PPRA occurred. If the SCO determines that there were violations, corrective remedies may be ordered. If the SCO determines that there were no violations, no remedies are ordered.

Which remedies are not available?

If the CDE concludes that the IDEA has been violated, any remedy ordered to address the violation must be consistent with IDEA and the authority of the CDE. This means that the CDE does not have the authority to issue some commonly requested remedies. For example, the CDE does not have authority over a school district's personnel decisions and cannot fire staff. Similarly, the CDE does not have the authority to enroll a student in a different school, change a student's class schedule, or retain a student's grade level.

What does it cost?

Filing a state complaint is free. However, parties are responsible for any costs (such as mailing or printing costs) or any attorney fees incurred if they have their own attorney participate in the state complaint process.

Do I need an attorney?

Parties are not required to have an attorney represent them during the state complaint process. The SCO, and not the person filing the complaint, is responsible for investigating the problems/concerns by collecting and evaluating the information and documentation needed to decide the outcome. However, parties may choose—



at their own expense—to hire an attorney to assist with the state complaint process. If you have questions about the state complaint process you may contact the [CDE dispute resolution team](#).

Where can I receive legal advice or advocacy?

The CDE cannot provide legal advice or offer an opinion as to whether a school district, BOCES, or State Operated Program is not following federal or state law. However, the CDE dispute resolution team can answer questions about the state complaint process in general (such as how to file a complaint). If you need legal advice or advocacy, you may contact [AdvocacyDenver](#), [Disability Law Colorado](#), [PEAK Parent Center](#), or [Show & Tell](#).

If public agency files a due process complaint concerning the same issues on which a parent had received a state complaint decision in their favor, the parent may contact [Transformative Justice Project of Colorado](#) to have an attorney appointed to represent them in the due process hearing. The Transformative Justice Project of Colorado shall maintain a list of qualified attorneys and assign them on a rotational basis. Representation will be provided at no cost to a qualifying parent.

What if I need an interpreter?

If you need an interpreter, please contact the CDE Dispute Resolution Supervisor at 303-866-6876. An interpreter will be provided at no cost.

Is there an appeal process?

The written decision by the CDE is final and cannot be appealed. However, a party who disagrees with the written decision—and who has the right to request a due process hearing—may file a [due process complaint](#) if the disagreement concerns the identification, evaluation, or educational placement of a child with a disability or the provision of a free appropriate public education (FAPE).

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