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160-4-7-.17 COMPLAINT PROCESS.

Code: IDDF (17)

(1) GENERAL.

- (a) An organization or individual, including an organization or individual from another state, may file a signed, written complaint regarding allegations of substance. The complaint shall include a statement that the local school system (LSS) has violated a requirements of the Individuals With Disabilities Education Act (IDEA) and the facts on which the statement is based. [refer to 34 CFR 300.660; 300.662(a)(b)]
- (b) The complaint must allege a violation that occurred not more than one year prior to the date the complaint is received unless a longer period is reasonable because the violation is continuing or because the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the complaint is received. [refer to 34 CFR 300.662(b)(c)]
- (c) The complaint shall be reviewed and investigated as necessary and appropriate action taken within 60 calendar days of its receipt by the department. [refer to 34 CFR 300.661(a)]
- (d) If a written complaint is received that is also the subject of an impartial due process hearing or contains multiple issues, some of which are a part of an impartial due process hearing, the portions of the complaint that are not a part of that hearing shall be resolved, following the time limits and procedures described below. The portions of the complaint which are also the subject of an impartial due process hearing shall be set aside pending the conclusion of the hearing. [refer to 34 CFR 300.661(c)(1)]
- (e) If a written complaint is received which contains issues previously decided in an impartial due process hearing involving the same parties, the hearing decision is binding and the complainant shall be so informed by the department. However, a complaint alleging a LSS's/SOP's failure to implement an impartial due process hearing decision shall be resolved, following the time limit and procedures described below. [refer to 34 CFR 300.661(c)(2)(3)]
- (f) Through activities of the Georgia Department of Education, LSSs/SOPs, and the Georgia Learning Resources System, the state complaint procedures will be widely distributed to parents/guardians/surrogates and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities. [refer to 34 CFR 300.660(a)(2)]

(2) PROCEDURES. The complaint procedure is as follows.

(a) Complaints from any organization or individual shall be signed and addressed in writing to:

Director, Division for Exceptional Students
Georgia Department of Education
1870 Twin Towers East
Atlanta, Georgia 30334-5040

(b) The complaint shall include a statement that the state or LSS/SOP has violated a requirement of Part B of IDEA and the facts on which the statement is based. [refer to 34 CFR 300.662(b)(1)]

(c) The Division for Exceptional Students (DES) shall address the issue with to the LSS/SOP in writing and request a response within 10 business days from the public agency directly involved.

(d) Copies of the letter shall be sent to appropriate department personnel and the person(s) or group that filed the complaint.

(e) The LSS/SOP involved shall respond directly in writing and shall describe any explanation and/or actions relevant to the allegations.

(f) The DES shall review the public agency's response and a decision may then be made that no further action is required. If, however, the issue is not fully resolved, staff members from the DES shall be assigned, if necessary, to make an on-site visit to clarify the issue. [refer to 34 CFR 300.661(a)(2)]

(g) The on-site complaint team shall gather information to determine whether there has been a violation of state rules and/or Part B of the IDEA. The on-site review may include examination of records, interviews and classroom visits.

(h) The DES shall give the complainant the opportunity to submit additional information, either orally or in writing, regarding the allegations in the complaint. [refer to 34 CFR 300.661(a)(3)]

(i) The DES shall review all relevant information and make an independent determination as to whether the LSS/SOP is violating a requirement of Part B of the IDEA. [refer to 34 CFR 300.661(a)(2,3)]

(j) The DES shall issue a written decision to the public agency and the complainant that addresses each allegation in the complaint and includes findings of fact and conclusions and the reasons for the final decision. [refer to 34 CFR 300.661(a)(4)]

(k) The DES shall send to all appropriate parties the steps necessary to resolve the complaint, including technical assistance activities, negotiations, and corrective actions to achieve compliance.

This letter of notification shall include specific requirements and time lines that shall be met in order to continue to receive VI-B federal funds or state special education funds. [refer to 34 CFR 300.661(b)(2)].17-3

(l) If the complaint findings indicate a failure to provide appropriate services, the complaint resolution process will address how the LSS is to remediate the denial of those services, including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the student and to the future provision of services for all students with disabilities.

[refer to 34 CFR 300.660(b)(1,2)]

(m) An extension of the 60 calendar-day time limit for resolution may be made by the

department only when exceptional circumstances exist with respect to a particular complaint. [refer to 34 CFR 300.661(b)(1)]

(3) COMPLAINTS - PRIVATE SCHOOLS. Complaints that a LSS or SOP has failed to meet the requirements of CFR sections 300.451-462 regarding private schools may be filed under the complaint procedures outlined above. [refer to 34 CFR 300.457(c)]

(4) This rule shall become effective July 1, 2000.
Authority O.C.G.A. § 20-2-152, 20-2-240, 20-2-1160.
Adopted: August 10, 2000 Effective: July 1, 2000