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PARENT INFORMATION CENTER OF DELAWARE

STATE SPECIAL EDUCATION COMPLAINTS

AT A GLANCE

While most disagreements between parents and schools about special education services can be resolved informally, in some cases it may be necessary for parents to take more formal action. This can include requesting a due process hearing, or filing a complaint with the Delaware Department of Education stating that the school district has violated federal special education law (the Individuals with Disabilities Education Act, or IDEA) and/or Delaware's special education regulations.

This fact sheet describes the procedures for state special education complaints.

WHO CAN FILE A STATE SPECIAL EDUCATION COMPLAINT?

Any individual (including a parent) or organization may file a complaint.

WHAT KINDS OF ISSUES CAN BE ADDRESSED IN A STATE SPECIAL EDUCATION COMPLAINT?

An individual or organization can file a complaint stating that a school district (or other public agency) has violated a requirement of the IDEA or Delaware special education regulations.

Examples of issues that could be raised in a complaint are:

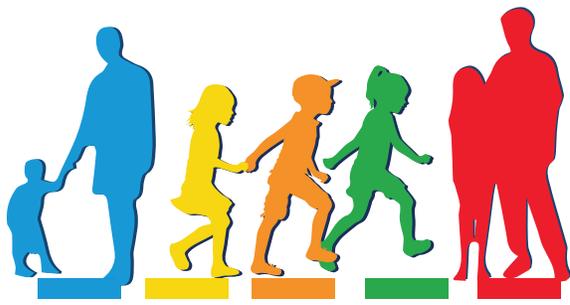
- The school district did not complete an initial evaluation within the required timeline (45 school days or 90 calendar days from receipt of signed consent, whichever comes first)
- The school district is not providing services as required by the child's IEP
- The school district has not complied with the requirements related to discipline of children with disabilities
- The school district has not provided prior written notice when required by the IDEA and Delaware's special education regulations

WHERE DOES ONE FILE A STATE SPECIAL EDUCATION COMPLAINT?

A complaint must be sent to the following address:

Director of Exceptional Children and Early Childhood Group
Department of Education
John G. Townsend Building
401 Federal Street
Suite 2
Dover, Delaware 19901





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WHAT MUST BE INCLUDED IN A COMPLAINT?

A complaint must be written and signed, and include all of the following information:

- A statement that the school district, charter school, or other public agency has violated a requirement of the IDEA or Delaware special education regulations;
- The facts on which the statement is based, including when the incident(s) occurred;
- Contact Information for the person filing the complaint;
- If the complaint is about a specific student, the student's name and address;
- The name of the school the student is attending;
- A description of the nature of the problem of the student, including facts relating to the problem;
- A proposed resolution of the problem to the extent known and available to the person filing the complaint at the time they filed the complaint;
- A description of any attempts made to resolve the issue(s) before they filed the complaint.

HOW LONG DO I HAVE TO FILE A COMPLAINT?

The complaint must allege a violation that occurred not more than one year before the date the Department receives the complaint.



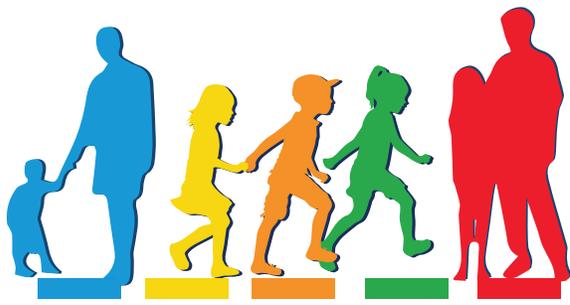
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WHAT MUST THE DELAWARE DEPARTMENT OF EDUCATION DO WHEN IT RECEIVES A SPECIAL EDUCATION COMPLAINT?

Within 60 calendar days after receiving a signed, written complaint, the Delaware Department of Education must do all of the following:

- Provide the school district, charter school, or other public agency with the opportunity to respond to the complaint, including the chance to make a proposal to resolve the complaint, and an opportunity for the person filing the complaint and school district to agree to engage in mediation;
- Review all relevant information and make an independent determination as to whether the school district, charter school, or other public agency is violating Part B of the IDEA or corresponding Delaware law; and
- Issue a written decision that addresses each allegation in the complaint and includes findings of fact and conclusions, and the reasons for its final decision.

CAN THE DEPARTMENT EXTEND THE 60 DAY TIMELINE FOR ISSUING A DECISION UNDER CERTAIN CIRCUMSTANCES?

The Department may extend the 60 day timeline if there are exceptional circumstances regarding this specific complaint, or the parents and school district agree to extend the time for mediation or other alternative means of dispute resolution.



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