



Arizona Department of Education

Exceptional Student Services

Memorandum

To: Special Education Directors

From: Dispute Resolution Unit

Date: June 29, 2021

Re: Change to Offer of Early Resolution in Response to a State Complaint

The Arizona Department of Education/Exceptional Student Services (ADE/ESS) receives ongoing support from various national technical assistance centers related to the state's general supervision responsibilities, including State Complaints. The State Complaint system falls under the State's general supervisory authority and is a process through which members of the community can alert the state education agency (SEA) of potential noncompliance with the Individuals with Disabilities Education Act (IDEA) in the public schools. The SEA is only authorized to investigate those allegations pertinent to **special education procedure** as referenced in the IDEA, its implementing regulations, the Arizona Revised Statutes (A.R.S.), and Title 7 of the Arizona Administrative Code (A.A.C.).

ESS/Dispute Resolution (ESS/DR) was recently made aware that other states have been found out of compliance by the United States Department of Education/Office of Special Education Programs (OSEP) for allowing public education agencies (PEAs) to make an offer of early resolution (OER) without an acknowledgment of noncompliance. (OSEP's position is outlined in its [Letter to Lipsitt, 116 LRP 6074](#), September 2015.) Previously, PEAs in Arizona have been afforded the opportunity to submit an OER without acknowledging noncompliance.

Following this recent technical assistance, ESS/DR will be implementing a change to Arizona's OER procedure effective July 1, 2021. PEAs will still be able to make an OER, but in doing so, they must acknowledge that they were noncompliant regarding the allegation(s) made by the complainant. Additionally, any allegations pertinent to special education procedures in which a PEA is not submitting an OER and acknowledging noncompliance are still subject to investigation by ESS/DR. For questions about this change, please contact Jeff Studer, Director of Dispute Resolution, at Jeffrey.Studer@azed.gov.



Kathy Hoffman, Superintendent of Public Instruction

1535 West Jefferson Street • Phoenix, Arizona 85007

www.azed.gov • (602) 542-5460 • www.azed.gov/specialeducation