



ARIZONA DEPARTMENT OF
EDUCATION

Due Process Procedures

Dispute Resolution

Policies and Procedures

Rev July 2025



Due Process Complaint Filing Procedures

A party seeking to initiate a due process hearing must provide a due process complaint notice to the other party and forward a copy to the State Educational Agency (the Arizona Department of Education), which may be done via United States mail, fax, email, or [online](#). Upon receipt of the request for a due process hearing, the Arizona Department of Education (ADE) will assign a case number and forward the copy of the due process complaint and any supporting documentation to the Arizona Office of Administrative Hearings (OAH). OAH will provide ADE with the name of the appointed Administrative Law Judge (ALJ). The parties are then notified by ADE by way of a "Notice of Hearing" that outlines how the process works, the name of the ALJ, and other pertinent information. From that point on, all questions and correspondence are between the parties and the assigned ALJ.

The Public Education Agency (PEA) must inform the parent of any free or low-cost legal services and other relevant services available in the geographic area if requested by the parent, or if a due process complaint is filed. The public agency/PEA must also provide a Procedural Safeguards Notice (PSN) to the parent once a due process complaint is filed.

Due Process Complaint Notice

Statute of Limitations

There is a **two-year statute of limitations** on requests for a due process hearing. That is, the alleged action for which the party is filing for due process must have occurred not more than two years before the date the filing party knew or should have known about the alleged action that forms the basis of the due process complaint. There are exceptions when a parent's delay in filing a request was due to specific misrepresentations by the PEA that it had resolved the problem forming the basis of the due process complaint or where the PEA withheld information that was required to be provided to the parent under IDEA Part B.

Content of Due Process Complaint

The party requesting the due process hearing must file the due process complaint with the other party and forward a copy of the due process complaint to ADE. The party filing the due process complaint may submit the complaint to ADE using the online portal, may print and use the model form found on the [Arizona Department of Education's Dispute Resolution web page](#), or may submit it to ADE in the form of a letter or other format which can be sent via United States mail, email, or fax. (The party filing a due process complaint is not required to use the model form.)

Arizona Department of Education / Dispute Resolution
1535 West Jefferson Street, Bin #24 Phoenix, Arizona 85007
Phone: 602-542-3084 Fax: 602-364-0641
Email: [DR Inbox](#)
[Online English form](#)
[Online Spanish form](#)

A due process complaint must contain specific content set forth in federal law. The required content of a due process complaint is outlined below:

Content:

At a minimum, a due process complaint must include the following:

1. The name of the child
2. The address of the child's residence
3. The name of the school the child is attending
4. In the case of a homeless child or youth, available contact information for the child and the name of the school the child is attending
5. A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem
6. A proposed resolution of the problem to the extent known and available to the complaining party at the time.

Sufficiency:

The due process complaint will be regarded as sufficient (i.e., that it meets the content requirements above) unless the party receiving the due process complaint files a written notice within 15-calendar-days of receiving the complaint to both the ALJ and the other party that the party believes the due process complaint does not meet the mandatory content. Within five calendar days of receipt of the notice, the ALJ must make a determination on the face of the due process complaint whether the due process complaint meets the mandatory content set forth in the law and must immediately notify both parties in writing of the determination regarding sufficiency.

Due Process Complaint Amendment

Once filed, the due process complaint notice can only be amended if the other party consents in writing to the amendment and is given an opportunity to resolve the due process complaint through a resolution session or by an order of the ALJ, except that an ALJ may only grant an amendment no later than five days before the hearing. The timelines for the resolution meeting and period and the hearing timelines start again when the amended complaint is filed.

Response to a Due Process Complaint

IDEA requires that the party against whom a due process complaint has been filed must, within 10-calendar days of receiving the complaint, send a response that specifically addresses each issue raised in the complaint.

Except, if the PEA is the non-filing party and it has not already sent a prior written notice to the parent concerning the subject matter of the due process complaint, the response must include the following:

1. An explanation of why the agency proposed or refused to take the action in the due process complaint
2. A description of other options considered by the child's Individualized Education Program (IEP) team and the reasons why those options were rejected
3. A description of each evaluation procedure, assessment, record, or report used as the basis for the proposed or refused action and
4. A description of other factors relevant to the proposed or refused action.

Filing this response does not prevent the PEA from also challenging the sufficiency of the due process complaint notice. A challenge to the sufficiency of the due process complaint does not extend the timeline for filing a response.

Resolution Process (the expedited resolution session/period is described below)

Resolution Session

A resolution session is only required if the parent is the complaining party.

Before the initiation of the due process hearing, and within 15 calendar days of receiving the due process complaint notice, the PEA must convene a meeting with the parent and the relevant member or members of the IEP team who have specific knowledge of the facts identified in the complaint. The purpose of this meeting, also called a resolution session, is for the parent to discuss the complaint and the facts that form the basis of the complaint, so that the PEA has the opportunity to resolve the dispute that is the basis of the complaint without the need for a hearing. This meeting must occur unless waived in writing by both parties or unless both parties agree to mediation instead. The resolution period is 30 calendar days from the date the complaint is filed.

The resolution meeting must include a representative of the PEA who has decision-making authority on behalf of the agency but may not include the PEA's attorney unless the parent is accompanied by an attorney. The parent and the PEA determine the relevant members of the IEP team to attend the meeting.

Resolution Period

If the PEA has not resolved the due process complaint to the parent's satisfaction within the resolution period (30-calendar-days from receipt of the due process complaint), then the due process hearing may occur. The 45-calendar-day timeline for issuing a final decision begins:

- at the expiration of the 30-calendar-day resolution period, or
- the day after the parties agree in writing to waive the resolution meeting, or
- the day after the resolution meeting or mediation starts but before the end of the 30-calendar-day period, the parties agree in writing that they are unable to resolve the dispute.

If both parties agreed to use the mediation process instead of the resolution meeting, but the matter is not yet resolved, both parties, at the end of the 30-calendar-day resolution period, may agree in writing to continue the mediation until an agreement is reached.¹ However, if either party withdraws from the mediation process, then the 45-calendar day timeline for the due process hearing starts the next day. If, after making reasonable, documented efforts, the PEA is not able to obtain the parent's participation in the resolution meeting, the PEA, at the end of the 30-calendar-day resolution period, may request the ALJ dismiss the due process complaint. Documentation of such efforts must include a record of the PEA's attempts to arrange a mutually agreed upon time and place for the meeting, such as:

- Detailed records of telephone calls made or attempted and the results of those calls,
- Copies of correspondence sent to the parent and any responses received, and
- Detailed records of visits made to the parent's home or place of employment and the results of those visits.

If the PEA fails to hold the resolution meeting within 15-calendar-days of the PEA's receipt of the due process complaint or fails to participate in the resolution meeting, the parent can ask the ALJ to order that the 45-calendar-day due process hearing timeline begin.

¹ Mediation Agreements are Enforceable. If the parties reach agreement through mediation, the written, signed mediation agreement is enforceable in any State court of competent jurisdiction or in a district court of the United States.

Resolution Agreement

If the parties resolve the issues raised in the complaint during the resolution period, they must execute a legally binding agreement, signed by both parties and enforceable in a state court of competent jurisdiction or in a federal district court. Either party may void the agreement within three business days of its execution.

Due Process Hearing

Pre-Hearing Conference

If the parties have waived the resolution session or, if after 30 days, the issues raised in the complaint have not been resolved to the complainant's satisfaction, the hearing process will commence. The ALJ must conduct a pre-hearing conference, either telephonically, virtually, or at a location that is reasonably convenient to the parent and the child involved, to:

- determine if the complaint is a legitimate due process complaint,
- ensure that all matters are clearly defined,
- establish the proceedings that will be used for the hearing,
- determine who will represent and/or advise each party, and
- set the time and dates for the hearing. [A.A.C. R7-2- 405(H)(1)]

General Rights of the Parties

Parties have the right to

- Be accompanied and advised by a lawyer and person(s) with special knowledge or training regarding the problems of children with disabilities,
- Present evidence and confront, cross-examine, and require the attendance of witnesses,
- Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing,
- Produce outside expert witnesses,
- Obtain a written or, at the parent's option, electronic, word-for-word record of the hearing, and
- Obtain written or, at the parent's option, electronic findings of fact and decisions.

Disclosure of Information

The parties to a due process hearing must disclose all evaluations completed by that date and recommendations that it intends to use at the hearing within five business days prior to the hearing or face the possibility of not being allowed to introduce that evidence in the hearing by the ALJ without the consent of the other party.

Parental Rights at Hearings

The parent must be given the right to

- Have the child who is the subject of the hearing present,
- Open the hearing to the public, and
- Have the record of the hearing, the findings of fact(s), and decisions provided at no cost.

Placement During Hearing

Except as provided in an expedited hearing, once a due process complaint is received by the other party, including during the resolution period and while waiting for the decision of any ALJ or court proceeding, unless the parent and the State Education Agency/Local Education Agency/Public Education Agency agree otherwise, the child must remain in his or her current educational placement. If the due process complaint involves an application for initial admission to public school, the child, with parental consent, must be placed in the public school until the completion of all such proceedings.

Burden of Proof

On November 14, 2005, the United States Supreme Court issued its decision in *Schaffer v. Weast*, holding that “The burden of proof in an administrative hearing challenging an IEP is properly placed upon the party seeking relief. In this case, that party is [the student], as represented by his parents. But the rule applies with equal effect to school districts: If they seek to challenge an IEP, they will in turn bear the burden of persuasion before an ALJ.” Accordingly, in Arizona, the burden of proof in due process hearings is on the party who filed the due process complaint.

Hearing Decisions

Not later than 45-calendar-days after the expiration or adjustment of the 30-calendar-day period for resolution, a final hearing decision must be made, and a copy of the decision mailed to each of the parties. The ALJ may grant specific extensions of time beyond the 45-calendar-day time period at the request of either party for good cause shown. Each hearing must be conducted at a time and place that is reasonably convenient to the parent and the child.

The ALJ’s decision on whether the child received a free appropriate public education (FAPE) must be based on substantive grounds. In matters alleging a procedural violation, the ALJ may find that the child did not receive FAPE only if the procedural inadequacies

- impeded the child’s right to FAPE
- significantly impeded the parent’s opportunity to participate in the decision-making process regarding the provision of a FAPE to the child or
- caused a deprivation of educational benefit.

A decision made in a due process hearing (including an expedited due process hearing) is final, except that any party involved in the hearing (parent or public agency) may appeal the decision by bringing a civil action, as described below.

Expedited Due Process Hearing

The parent of a child with a disability may file a request for an expedited due process hearing if the parent disagrees with any decision regarding placement made under the special education discipline provisions or with the manifestation determination. A PEA may request an expedited due process hearing if it believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

An expedited due process hearing must be conducted within 20 school days of the date the hearing request was received by the public agency, and the ALJ has 10 school days after the hearing to issue a decision. No extension of these timelines is allowed.

Resolution Process – Expedited Due Process Hearing

A resolution session is only required when the parent files the due process complaint. Unless the parent and the PEA agree in writing to waive the meeting or agree to use the mediation process instead, a resolution meeting must occur within seven (7) calendar days of the PEA's receipt of the due process complaint. Unlike non-expedited due process hearings, in an expedited due process hearing the resolution period is part of, and not separate from, the expedited due process hearing timeline. The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15-calendar-days of the PEA's receipt of the due process complaint.

Placement During an Expedited Hearing

The student remains in the Interim Alternative Educational Setting (IAES) pending the ALJ's decision or until the disciplinary period expires, whichever occurs first, unless the parties agree otherwise.

No Sufficiency, Response or Amendment Processes- Expedited Due Process Hearing

Due to the shortened timelines that apply to conducting an expedited due process hearing, the sufficiency, the amendment, and the response provisions do not apply to expedited due process complaints. 34 C.F.R. §300.532(c)(1).

Appeal

Any party who does not agree with the findings and decision in the due process hearing (including a hearing relating to disciplinary procedures) has the right to bring a civil action with respect to the matter that was the subject of the due process hearing. The action may be brought in a State court of competent jurisdiction (a State court that has authority to hear this type of case) or in a district court of the United States without regard to the amount in controversy. In Arizona, the party bringing the action has the right to appeal (file a civil action) within 35-calendar-days after the receipt of the hearing decision. [A.A.C. R7-2- 405(H)(8)]

Contact Information

You may mail, email, or fax the copy of your due process complaint filed with the party public agency to ADE using the contact information below.

Arizona Department of Education, Dispute Resolution Unit

1535 West Jefferson Street, Bin #24

Phoenix, Arizona 85007

Phone: 602-542-3084

Fax: 602-364-0641

Email: [DR Inbox](#)

[Web: Due Process](#)

Glossary

Due Process Hearing: A fair and impartial administrative hearing conducted by the State Education Agency by an impartial hearing officer through the Arizona Office of Administrative Hearings (OAH).

[A.A.C. R7-2-405(A)(1)]

Expedited Due Process Hearing: A due process hearing involving discipline procedures as set forth in the IDEA.

Administrative Law Judge (ALJ): Under 34 C.F.R. § 300.511(c)(1)(ii)-(iv), a hearing officer also must: (1) possess knowledge of, and the ability to understand, the provisions of the IDEA, Federal and State regulations pertaining to the IDEA, and legal interpretations of the IDEA by Federal and State courts; (2) possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and (3) possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

Mediation: An informal, problem-solving process for parents and public agencies to resolve their differences involving any matter under IDEA Part B, concerning special education through the intervention of a qualified and neutral person knowledgeable in laws and regulations relating to the provision of special education and related services and trained in effective mediation techniques.

Parent: Any of the following may be considered the "Parent":

- Biological or adoptive parent of a child
- Foster parent
- Guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child (but not the State if the child is a ward of the State)
- Individual acting in the place of a biological or adoptive parent (including grandparent, stepparent, or other relative) and with whom the child lives
- Individual who is legally responsible for the child's welfare
- Surrogate parent who has been appointed in accordance with federal regulation.

Public Agency: The State Education Agency and Public Education Agencies.

Public Education Agency (PEA): A school district, charter school, accommodation school, state-supported institution, or other political subdivision of the State of Arizona that is responsible for providing education to children with disabilities.

Resolution Session: A meeting held by the public education agency (PEA) with the parent and relevant members of the IEP team after a parent files a request for a due process hearing. (Note: for expedited due process, the resolution session timeline is not separate, but runs concurrently with the due process hearing timeline.)

State Education Agency (SEA): The Arizona Department of Education.

Acronyms

AAC: Arizona Administrative Code

ALJ: Administrative Law Judge

ARS: Arizona Revised Statutes

ADE: Arizona Department of Education

CFR: Code of Federal Regulations

ADE/DR: Arizona Department of Education/Dispute Resolution

IDEA: Individuals with Disabilities Education Act

OAH: Office of Administrative Hearings

PEA: Public Education Agency

SEA: State Educational Agency



ARIZONA DEPARTMENT OF
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Mediation Procedures

Dispute Resolution

Guidelines for your Mediation Session

Rev July 2025



What is Mediation?

Mediation is a confidential problem-solving process that relies on a third party, a Mediator, to facilitate effective communication while working toward a mutually agreeable solution. Mediation is voluntary and available to parents and public agencies to resolve disputes under IDEA Part B.

Parent: Any of the following may be considered the “Parent”:

- Biological or adoptive parent of a child
- Foster parent, unless prohibited by State law, regulations, or contractual obligations with a State or local entity
- Guardian generally authorized to act as the child’s parent or authorized to make educational decisions for the child (but not the State if the child is a ward of the State)
- Individual acting in the place of a biological or adoptive parent (including grandparent, stepparent, or other relative) and with whom the child lives
- Individual who is legally responsible for the child’s welfare
- Surrogate parent who has been appointed in accordance with federal regulation.

Matters for Mediation

Mediation is available to parties to disputes involving any matter under IDEA Part B, including matters before or after a due process hearing has been requested. Additionally, state-coordinated mediation is ONLY authorized to mediate issues regarding special education. As a special education dispute resolution process, mediation is not available for allegations of civil rights violations of discrimination, retaliation, harassment, or those relating to Section 504 plans, employment matters, school policy matters, or anything not specifically related to special education under IDEA Part B.

Who Are the Mediators?

Mediators are trained and experienced professionals provided to parents and public agencies at no expense.

Mediators are impartial/neutral. Mediators are not authorized to give legal advice, represent, or advocate for either party. Their role is to assist the parties in coming to an acceptable resolution that meets the needs of the parties involved. Mediators are selected on a random or rotational basis.

Confidentiality of Mediation Discussions

Under IDEA, 34 CFR § 300.506(b)(8), discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under 34 CFR Part 300. This requirement is automatic and may not be altered or modified by parties to a mediation conducted under 34 CFR §300.506.

Further, this confidentiality requirement applies regardless of whether the parties resolve the dispute through the mediation process. If the parties resolve a dispute through the mediation process, they must execute a legally binding agreement that also includes a statement that all discussions that occurred during the mediation process will remain confidential. 34 CFR § 300.506(b)(6)(i).

Mediation Agreements are Enforceable

If the parties reach agreement through mediation, the written, signed mediation agreement is enforceable in any State court of competent jurisdiction or in a district court of the United States.

Who Attends the Mediation Session?

The Mediator, the parents and a representative of the public agency with the authority to commit necessary resources and fulfill all terms of the agreement reached must always attend the mediation session. Both the parents and the public agency may want to have additional individuals present, such as support staff or the youth with disabilities; therefore, the Mediator will ask the parties who will be in attendance prior to the session so everyone knows in advance who will be participating in the mediation session. Since mediation is a voluntary process on the part of both parties and a party's objection to a person the other party wishes to bring could result in withdrawing from the mediation process, any disagreement between the parties regarding participants will be addressed by the Mediator.

How Long Does Mediation Take?

Since every dispute is different, and some are more complex than others, there is no set time for completing mediation. The session may last up to eight hours, and it is recommended that participants set aside the entire day.

Where Is Mediation Held?

Sessions are held at a location convenient to both parties. The Mediator will encourage the parties to work together to determine a convenient location for a mediation session that is agreeable to both parties.

How Should I Prepare for Mediation?

Prior to mediation, you may want to gather and organize relevant documents to refer to during the session. The Mediator may want to talk to each of the parties in advance of the mediation to briefly discuss the dispute and the resolution priorities. Recognize that the position you have taken and what you have tried before mediation did not resolve your concerns; consider different, realistic options that would be acceptable to reach an agreement.

What Should I Expect at the Mediation Session?

Introduction and Explanation

The Mediator may have held a pre-mediation call with each party to briefly discuss the dispute and the mediation process. In all instances the mediation session will begin with a review of the “Mediation Overview” document, which includes ground rules, the process, and confidentiality requirements. Since the confidentiality of discussions that occur during the mediation process is not only required by IDEA but is critical to the success of mediation, the Mediator will describe common practices to ensure confidentiality and address any questions or concerns.

Joint Sessions and Separate Caucuses

The Mediator will give each party the opportunity to discuss the concerns that should be addressed to reach an agreement. These discussions may occur in a joint session with all parties or in a separate, private caucus with the Mediator. The Mediator will ask questions, help to clarify the issues, and use other techniques to ensure that there is a shared understanding of the concerns that need to be addressed in an agreement. Information discussed during separate caucuses will only be shared with the other party with consent. There may be several caucuses and joint sessions for the purpose of exploring options for agreement.

Recesses

The Mediator or either party may call a recess. This can be a good time to reflect on the discussion and consider next steps.

Conclusion of the Session

When an agreement is reached, the Mediator may assist the parties in expressing the settlement terms. The Mediator may then document the terms in an agreement for both parties. If attorneys are present, their customary settlement agreement may be used; however, if there are any additional terms not previously agreed upon, these terms must also be agreed to by both parties. If an agreement is not reached, the parties will sign a document to confirm that settlement efforts were unsuccessful.

Evaluation

At the conclusion of the mediation the Mediator will provide the parties with an opportunity to provide feedback regarding the mediation process. The parties are encouraged to complete the evaluation and provide constructive feedback so that the mediation process can be improved. All information will be confidential. To request mediation, use this link to the [Dispute Resolution mediation webpage](#). Requests can be made online, via USPS mail, fax, or email.

Arizona Department of Education / Exceptional Student Services / Dispute Resolution Unit

1535 West Jefferson Street, Bin #24 Phoenix, Arizona 85007

Phone: 602-542-3084 Fax: 602-364-0641

Email: ESSDRinbox@azed.gov

[Dispute Resolution website](#)



ARIZONA DEPARTMENT OF
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Information – Federal and State Special Education Requirements

To request information regarding federal and state special education requirements, please contact:

Arizona Department of Education / Exceptional Student Services / Dispute Resolution Unit

1535 West Jefferson Street, Bin #24

Phoenix, Arizona 85007

Phone: 602-542-3084 Fax: 602-364-0641

Email Dispute Resolution: ESSDRinbox@azed.gov

File a complaint online at: [State Complaint webpage](#)

[Dispute Resolution website](#)

Such requests for information may include:

- Explanations and clarifications
- Copies of special education laws and regulations
- Referrals to other, more appropriate, persons or processes

It is recommended that anyone who has a question or concern about the education of a child with a disability first contact the administration of the public education agency (PEA) (such as the school district or charter school) where the child attends school. It is usually best to first contact the person in charge of special education.

When the Arizona Department of Education / Exceptional Student Services / Dispute Resolution Unit (ADE/ESS) is contacted about concerns with a child's special education program, the ADE/ESS staff will provide specific information related to dispute resolution to the caller, if requested. Additionally, ADE/ESS staff will inform the caller of the procedural safeguard protections under the Individuals with Disabilities Education Act (IDEA). There are three formal dispute resolution options: mediation, state complaint, and due process hearing. The purpose of this document is to specifically describe the State Complaint System.

State Complaint System Relating to the Education of Children with Disabilities - Procedures

Individuals, including parents, or organizations may file a signed, written State Complaint (complaint) with the ADE/ESS if they believe a public agency responsible for providing education to children with disabilities is not in compliance with Part B of IDEA law or regulations or the corresponding provisions of the Arizona Revised Statutes and/or the Arizona Administrative Code that implement Part B of IDEA.

The complaint procedures outlined in this document are available for resolving any complaint that meets the required criteria that follow. ADE/ESS provides a [model form](#) in both English and Spanish with the required content to assist parents and other parties to file a complaint. The use of the model form is **not** required to file a complaint.

The complaint must be filed with the ADE/ESS by mail, fax, or email using the contact options above or by using the online model State Complaint form.

The complaint:

- Must be in writing and signed (anonymous complaints will not be processed).
- Must include a statement that the public agency has violated a requirement of Part B of IDEA law or regulations, and/or the corresponding provisions of Arizona Revised Statutes and/or the Arizona Administrative Code that implement Part B of IDEA. (The complaint does not have to identify the specific law or regulation involved.) ADE/ESS does not have the authority to investigate allegations through these complaint procedures that do not pertain to these federal or state special education requirements.
- Must include the facts upon which the allegation is based. (Being as specific as possible will clearly identify the believed violation for ADE/ESS).
- Must allege a violation that occurred not more than **one (1) year** prior to the date that the complaint is received.
- Must include contact information. Such information could include a daytime telephone number where the complainant can be reached, email address, and/or a mailing address.

If alleging violations with respect to a specific student, the complaint must also include:

- The name and address of the residence of the student;
- The name of the school the student is attending;
- In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), provide available contact information for the child, and the name of the school the child is attending;
- A description of the nature of the problem of the student, including facts relating to the problem; and
- A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

If a complaint is filed outside of regular ADE/ESS business hours, it will be considered received on the next business day.

“When an SEA receives a complaint that is not signed or does not include contact information, or any other information required in 34 CFR §300.153(b), the SEA may choose to dismiss the complaint. 71 FR 46606 (August 14, 2006). In general, a State complaint may not be dismissed for not including a proposed resolution of the problem unless an SEA can clearly demonstrate that the resolution is known to the complaining party at the time the complaint is filed. In general, an SEA should adopt proper notice procedures for such situations. For example, an SEA could provide notice indicating that the complaint will be dismissed for not meeting the content requirements or that the complaint will not be resolved and the time limit not commence until the missing content is provided.”¹

In the event a complaint is missing required components, per 34 CFR §300.153(b), ADE/ESS/DR will attempt to obtain the missing information from the complainant with the exception of the lack of a description of the nature of the problem of the student, including facts relating to the problem [34 CFR §300.153(b)(4)(iv)]. If the complaint is not accepted as a State Complaint, the individual/organization filing the complaint will be informed of the specific content not included in the filed complaint and/or the required procedures not followed. Upon receipt of all required information, the complaint will be considered received and will be reviewed for sufficiency. If the complaint is determined sufficient, the 60-calendar day investigative timeline will begin.

¹ OSEP Memo and Q&A on Dispute Resolution (July 23, 2013)

The party filing the complaint *must* forward a copy of the complaint to the PEA or public agency serving the student who is the subject of the complaint at the same time the party files the complaint with the ADE/ESS.

If the complainant is unable to put the complaint in written form, and/or if the home language is other than English or Spanish, please call Dispute Resolution at 602-542-3084 for assistance.

The complaint will be date stamped with the date ADE/ESS received the complaint and will be reviewed to determine if it meets the required components of a complaint. Only complaints that follow the filing procedures listed above will be accepted as a complaint. A complaint is deemed received when all required components are provided.

The investigation will be concluded, and the written decision issued within 60 calendar days of the date the complaint was received by ADE/ESS. The investigative process will be conducted as follows:

1. A Letter of Acknowledgment will be sent to the complainant after a determination by the ADE/ESS that the complaint meets the required components of a complaint. This letter will inform the complainant of:
 - ✓ the reference number that has been assigned to the complaint to facilitate tracking and monitoring of the complaint
 - ✓ the name of the complaint investigator
 - ✓ an outline of the general procedures that will be followed
 - ✓ the PEA has ten (10) days from receiving the framed issues from the assigned investigator to submit any additional information
 - ✓ within 60 calendar days of the date the complainant's allegations were identified as a complaint, this office will issue a report including findings of fact and determinations of compliance or non-compliance with IDEA Part B
 - ✓ If a state administrative complaint is received that is also the subject of a due process hearing under 34 C.F.R. § 300.507 and §§ 300.530 through 300.532 or contains multiple issues of which one or more is part of that hearing, the Director of Dispute Resolution will set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. In this situation, all parties will be notified in writing.

- ✓ If an issue raised in a state administrative complaint has previously been decided in a due process hearing involving the same parties, the due process hearing decision is binding, and all parties will be notified that the issue will not be investigated.
 - ✓ If the complainant submits additional complaint issues during the investigation, a copy of the amendment will be sent to the PEA or public agency that is the subject of the complaint. If an amended complaint is received after 30 calendar days from the date the original allegations were identified as a complaint, the Director of Dispute Resolution may allow the issues to be investigated as part of the original complaint or may treat the additional issues as a new complaint.
 - ✓ The Director of Dispute Resolution may extend the complaint findings due date if:
 - Exceptional circumstances exist with respect to a particular complaint, or
 - The complainant and public agency agree to extend the time to engage in mediation or other alternative forms of dispute resolution.
2. The Letter of Acknowledgment, along with a copy of the complaint, will be sent to the PEA or public agency that is the subject of the complaint. ADE will accept a complaint if the complainant, either individual or organization, fails to provide a copy of the complaint to the PEA or public agency.
 3. A complaint investigator will attempt to contact the complainant within a reasonable time following receipt of the complaint that alleges violations of Part B of IDEA and/or the corresponding provisions of state special education law and/or regulations implementing Part B of IDEA. The assigned investigator will verify that the allegations and facts are stated as the complainant intended.
 4. If the complainant presents additional allegations of violations of Part B of the IDEA and/or the corresponding provisions of state special education law and/or regulations implementing Part B of IDEA that were not on the face of the complaint, the complaint investigator will gather the additional facts of the alleged additional violation(s). The assigned investigator will verify the additional allegations and facts are stated as the complainant intended.
 5. If needed, ADE/ESS will assist the complainant in clearly identifying the stated allegations on the face of the complaint. For those issues that do not fall under the authority of ADE/ESS to

- investigate through the complaint process, ADE/ESS will direct the complainant to the most appropriate avenue to pursue resolution.
6. The complainant has the opportunity to submit additional information, either orally or in writing, to support the allegations. The investigator will identify and provide the issue(s) in writing to the complainant and the public agency.
 7. ADE/ESS has the discretion to determine whether any additional information provided by a complainant is in support of the allegations in the filed complaint, is a new complaint, or is an amendment related to the existing complaint. Generally, if the additional information is on the same or related incident, it would be an amendment to the filed complaint. However, if the information submitted by the complainant is on a different or unrelated incident, generally, the new information may be treated as a separate complaint. ADE/ESS will notify the complainant and the public agency if the additional information goes beyond the existing complaint and will be investigated as an amended or new complaint and the applicable procedures. Any additional information or clarifications will be provided to the named public agency.
 8. The named public agency has the opportunity to respond to the complaint, including, at a minimum, at the discretion of the public agency, a proposal to resolve the complaint. In addition, in order to make an independent determination as to whether the public agency is violating a requirement of Part B of IDEA and/or the corresponding provisions of state special education law and/or regulations implementing Part B of IDEA, ADE/ESS will request relevant information/ documentation from the public agency needed to assist ADE/ESS in reaching a determination.
 9. Parties to the complaint are encouraged to resolve the complaint informally. For complainant parents, ADE/ESS provides an opportunity for the parent and the public agency to voluntarily engage in State mediation and/or Facilitated IEP sessions as options to reach mutual resolution of a complaint.
 10. If informal resolution is successful, the complainant is asked to notify ADE/ESS in writing that the complaint is withdrawn, and the complaint investigator will send a letter to all parties indicating that the complaint is considered withdrawn. Either party will have **five (5) business days** to notify ADE/ESS if that was not their intent, and that they wish the investigation to continue.

- Although not defined in IDEA and its implementing regulations, the Office of Special Education Program's (OSEP) longstanding practice of requiring States to address an "area of concern" means an IDEA policy, procedure, practice, or other requirement that raises one or more potential implementation or compliance issues, if confirmed true. When a State is made aware of an area of concern regarding the implementation of IDEA, the State must conduct its due diligence in a timely manner to address the area of concern and reach a conclusion in a reasonable amount of time. Consequently, despite the withdrawal, ADE/ESS remains obligated under its general supervisory responsibilities to address any identified area of concern when applicable despite the withdrawal or as a result of an investigation that reveals noncompliance.
11. ADE/ESS will review all relevant information and, if ADE/ESS determines that an on-site investigation is necessary to make an independent determination as to whether the public agency is violating a requirement of Part B of IDEA and/or the corresponding provisions of state special education law and/or regulations implementing Part B of IDEA, ADE/ESS will carry out an on-site investigation.
 12. ADE/ESS will prepare an Investigative Report upon the completion of the investigation. The Investigative Report will include findings of fact, a statement of applicable law, conclusions of compliance or noncompliance, and the reasons for the ADE/ESS decision.
 13. The investigation will be completed within 60 calendar days of the filing of the complaint with ADE/ESS and the Investigative Report issued. ADE/ESS will issue a copy of the Investigative Report to the complainant, the named public agency, including, for a PEA, the superintendent/charter holder of the PEA, and the PEA special education director or coordinator. In cases where the complainant is not the parent of the student(s) identified in the complaint or the student has reached the age of majority, on a case-by-case basis, written permission must be obtained prior to providing a copy of the investigative report to the complainant.
 14. The IDEA empowers the SEA with general supervisory authority (Section 300.149) and the creation of a complaint procedure (Section 300.151-153), in which there is no provision that allows for an appeal of SEA's findings during the complaint process. Section 300.152(a) allows for the filing of a due process complaint on the same issues but does not have a mandatory procedure to appeal an SEA finding. The U.S. Department of Education has explained, "[i]f after the SEA's final decision is issued, a party who has the right to request a due process hearing and who disagrees with the SEA's decision may initiate a due process hearing, provided that the

subject of the State complaint involves an issue about which a due process hearing can be filed and the two-year statute of limitations for due process hearings (or other time limit imposed by State law) has not expired.” [34 C.F.R. Part 300, Analysis of Comments and Changes, Subpart B – State Eligibility, *Federal Register*, Vol.71, No. 156, p. 46607 (August 2006)]

15. As the IDEA provides a federal mechanism for addressing disagreements with a SEA’s state complaint decision, any state appeal process is superseded.

The **60-calendar day** timeline may be extended by the Director of Dispute Resolution or a designee only if:

- Exceptional circumstances exist with respect to a particular complaint or
- The parties agree to extend the time to engage in mediation or the alternative means of dispute resolution of IEP Facilitation.

If an extension is required, ADE/ESS will send a letter to all parties that details the exceptional circumstance(s) and the date by which the Investigation Report will be issued.

Corrective Action Procedures

Where ADE determines the named public agency has violated Part B of IDEA or the corresponding provisions of the Arizona Revised Statutes and/or the Arizona Administrative Code that implement Part B of IDEA, ADE’s procedures for effective implementation of the Investigation Report will include, if needed, technical assistance activities; negotiations; and corrective actions to achieve compliance.

An order of corrective action will require the public agency to correct the noncompliance as soon as possible and will include a timeline that, in no case will be later than one year after the identification of noncompliance set forth in the Investigation Report. In resolving a complaint in which ADE has found a failure to provide appropriate services, ADE will include a corrective action(s) appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and the appropriate future provision of services for all children with disabilities. The public agency will be required to provide documentation to ADE/ESS to verify the implementation of the corrective action in accordance with the order.

Once all corrective action documentation has been received, reviewed, and accepted by ADE/ESS, a Letter of Completion will be sent to the chief administrator, the special education director or coordinator of the public agency and the complainant of the public agency's completion of the ordered corrective action.

In accordance with IDEA, 34 C.F.R. §300.600, and AAC R7-2-401(M), if the public agency fails to comply with the order of corrective action in the Investigation Report, ADE/ESS will notify the chief administrator of the public agency by Letter of Enforcement of the failure to comply with the order of corrective action, detailing the corrective action(s) that was not completed and/or documented as required in the order. A copy of the Letter of Enforcement will be sent to the special education director or coordinator of the public agency and the complainant. ADE/ESS will take enforcement action, as appropriate, to address this failure. The enforcement action may include, but is not limited to: advise the public agency of, and/or mandate, access to available sources of technical assistance in the areas of noncompliance; order a corrective action plan or improvement plan; if applicable, report violations to a sponsoring entity for charter schools and seek remedies through the appropriate board; conditions on funding, including redirection of federal funds to ensure the child, or children with disabilities, receives a Free Appropriate Public Education; and/or interruption of IDEA funds, including withholding funds, in whole or in part.

State Complaints and Children in Private Schools – Enrolled by Their Parents

Allegations that a public education agency has failed to meet the requirements regarding children in private schools (found at 34 C.F.R. §§300.132–300.135 and §§300.137 –300.144 in Part B of IDEA) may be addressed through the state complaint procedures outlined above.