



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING

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STATE SUPERINTENDENT

November 3, 2014

MEMORANDUM

TO: State Board of Education

FROM: Michael P. Flanagan, Chairman 

SUBJECT: Presentation on Special Education Problem Solving Process:  
Responsibilities and Roles In the Complaint Process

Michigan is required by the federal Individuals with Disabilities Education Act (IDEA) to have procedures for resolving special education state complaints. This presentation will describe the special education state complaint process within the context of an overall problem solving process. The responsibility of the state educational agency for resolving special education state complaints in relation to state and federal law will be clarified. The function of the state complaint procedures within a continuum of problem-solving options will be explained and compared to other problem-solving options. The process of receiving and determining sufficiency of a state complaint will be explained, including specific examples of non-sufficient and exceptional complaint submissions.

Attachments that will be used as part of this presentation include: Attachment A – 'Special Education Problem Solving Process'; Attachment B – 'Comparison of the Special Education Problem Solving Options'; Attachment C – 'MDE, OSE Problem Solving Process Timeline'; Attachment D – Model Special Education State Complaint Form; Attachment E – Sufficiency Form; Attachment F – Sufficiency Letter.

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# Special Education Problem Solving Process

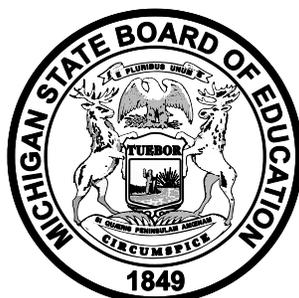
Michigan Department of Education

Office of Special Education

State Complaint Procedures

August 2013





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**Statement of Compliance With Federal Law**

The Michigan Department of Education (MDE) complies with all federal laws and regulations prohibiting discrimination and with all requirements of the U.S. Department of Education.

**Michigan Department of Education  
Office of Special Education**

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## **Statement of Authority**

The *Individuals with Disabilities Education Act* (IDEA) provides federal funds to assist states in educating children and young adults with disabilities. The IDEA requires each participating state to ensure that school districts and other publicly funded educational agencies providing special education programs and services in the state comply with the requirements of the IDEA and its implementing regulations.

Michigan state law requires local school districts and public agencies to provide appropriate special education and related services and requires the Michigan Department of Education (MDE) to enforce all laws governing special education programs. The MDE has adopted rules implementing those requirements. The Office of Special Education (OSE) of the MDE enforces the compliance obligations under the IDEA and Michigan law.

## Table of Contents

|   |           |
|---|-----------|
| <b>Glossary</b> .....   | <b>5</b>  |
| <b>I. Introduction to Special Education Problem Solving</b> .....   | <b>7</b>  |
| <b>II. Collaborative Problem Solving</b> .....  | <b>8</b>  |
| Informal Meeting.....   | 8         |
| Facilitated Meeting .....   | 8         |
| Mediation .....   | 8         |
| How do individuals get more information about special education problem solving? .....  | 9         |
| <b>III. State Complaint</b> .....   | <b>10</b> |
| Filing a State Complaint .....  | 10        |
| What is a state complaint? .....  | 10        |
| Who can file a state complaint? .....   | 10        |
| When can a state complaint be filed?.....   | 10        |
| What must be included in a state complaint? .....   | 10        |
| How is a state complaint filed? .....   | 11        |
| Resolutions of a State Complaint.....   | 11        |
| How much time does the OSE have to resolve a state complaint? .....   | 11        |
| Collaborative Problem Solving Options.....  | 12        |
| Admission of Noncompliance .....  | 13        |
| Dismissal .....   | 13        |
| Withdrawal.....   | 13        |
| Investigation .....   | 13        |
| State Complaint Investigation.....  | 13        |
| What are the steps in a state complaint investigation?.....   | 14        |
| What is expected in a state complaint interview? .....  | 15        |
| How should a complainant prepare for a state complaint interview? .....   | 15        |
| Corrective Action and Proof of Compliance.....  | 15        |
| How do the OSE and the ISD make sure the school district complies<br>with the final decision and corrective action(s)?.....           | 16        |
| How do individuals get more information about the state complaint process? .....  | 16        |
| <b>Appendix A: Request for State Complaint Investigation</b> .....  | <b>17</b> |
| <b>Appendix B: State Complaint and Due Process Complaint Comparison</b> .....   | <b>20</b> |
| <b>Appendix C: Examples of Alleged Violations, Supporting Facts, and Proposed<br/>    Resolutions for Individual Students</b> .....   | <b>21</b> |
| <b>Appendix D: Worksheet for Alleged Violations, Supporting Facts, and Proposed<br/>    Resolutions for Individual Students</b> ..... | <b>22</b> |

## Glossary

**ALJ**—Administrative Law Judge

**Allegation**—A statement describing how a district or program has violated the MARSE, Michigan Law, or the IDEA

**Compensatory Services**—Compensatory services are services provided to make up for services that were not delivered

**Complainant**—The person or organization filing the complaint

**Consideration**—Something that is to be kept in mind when making a decision

**Due Process**—A formal administrative hearing with an impartial administrative law judge who is not an employee of the OSE or any school district or educational program

**FAPE**—A free appropriate public education; one of the key parts of the IDEA

**FERPA**—*Family Educational Rights and Privacy Act*

**IDEA**—*Individuals with Disabilities Education Act*

**IEP**—Individualized Education Program

**IFSP**—Individualized Family Service Plan

**Investigator**—The person(s) assigned by the OSE and the ISD to conduct the investigation related to the allegations

**ISD**—Intermediate School District; may also be called an Educational Service Agency (ESA), a Regional Educational Service Agency (RESA), or a Regional Educational Service District (RESD)

**ISD special education compliance department**—Staff positions may include titles such as planner/monitor or compliance specialist

**LEA**—Local Educational Agency

**MAHS**—Michigan Administrative Hearing System; the MAHS conducts administrative hearings for all state agencies, including the MDE-OSE

**MARSE**—*Michigan Administrative Rules for Special Education*

**MDE**—Michigan Department of Education

**Mediation**—A voluntary process where a neutral third-party mediator assists and facilitates the complainant and district in reaching a mutually acceptable resolution of the dispute

**MSEMP**—Michigan’s Special Education Mediation Program, an OSE funded project that provides mediation and meeting facilitation services

**Procedural Safeguards Notice**—A notice document that identifies parent and student rights as they relate to the IDEA or the MARSE

**OSE**—Office of Special Education

**OSEP**—U.S. Office of Special Education Programs

**PSA**—Public School Academy (charter school)

**R**—Rule

**Reimbursement**—Reimbursement means paying back; the OSE may order reimbursement for services that the parent purchased privately because the school district did not give appropriate services

**SEA**—State educational agency; the MDE is the SEA for Michigan

**§**—Section

**Systemic**—A district-wide system problem that affects all the students in a district

## I. Introduction to Special Education Problem Solving

An organization or individual, such as a parent, may disagree with a public agency, such as a school district, regarding the education of a student with a disability. When there is a dispute between these two parties, there are several special education problem solving options.

The most effective problem solving methods use direct, early, meaningful communication. Anytime a parent has a question or concern about a student's education, the parent is urged to attempt to discuss the issue(s) directly with the school district.

Direct and early communication is part of collaborative problem solving methods, which increase the likelihood that both parties will be satisfied with the final outcome because both parties are involved in the resolution.

There are several agencies and individuals who may assist parents in special education problem solving. Examples include:

- Other parents
- Student's classroom teacher
- Student's special education teacher or service provider
- Building principal
- Special education director
- Superintendent
- Local school board
- Intermediate school district (ISD) special education department

The following are the most common options for special education problem solving:

- Collaborative problem solving:
  - Informal meeting
  - Facilitated meeting
  - Mediation
- State complaint
- Due process

For further information regarding these processes, see the document *Comparison of the Special Education Problem Solving Options* at [www.michigan.gov/ose-eis](http://www.michigan.gov/ose-eis).

## II. Collaborative Problem Solving

If a parent (or other individual/organization) disagrees with a school district (or other public agency) regarding the education of a student with a disability, the parties are urged to try to use a collaborative problem solving method.

### **Informal Meeting**

An informal meeting allows the parent and school district to resolve educational issues without intervention of the Office of Special Education (OSE). The issues addressed in an informal meeting do not have to concern special education requirements addressed in the *Michigan Administrative Rules for Special Education* (MARSE), Michigan Law, or the *Individuals with Disabilities Education Act* (IDEA).

Parents and school district staff do not have to agree on what happened or why but still may agree on steps to address the concern. An informal meeting allows both parties to collaborate more effectively, reach decisions faster, preserve relationships, and avoid costly hearings and complaints. An informal meeting may occur at the local or ISD level.

### **Facilitated Meeting**

A facilitated meeting may be especially helpful for an Individualized Education Program (IEP) team or Individualized Family Service Plan (IFSP) team with complex issues. A facilitator may help ensure that all parties have an opportunity to give input, participate, and develop an appropriate IEP or IFSP.

The use of a facilitator is voluntary and must be agreed to by both parties. A meeting facilitator can be requested at no cost from the Michigan Special Education Mediation Program (MSEMP). The MSEMP is a project of the OSE that uses trained, independent facilitators. The facilitators are not employees of the OSE, a school district, or an ISD. For more information, call MSEMP at (800) 8RESOLVE [(800) 873-7658] or visit <http://msemp.cenmi.org>.

### **Mediation**

Mediation is voluntary, confidential, and must be agreed to by both parties. This process is especially helpful in situations when parties want to resolve their issues but want a third party to assist them and when a written agreement at the end of the process is needed. A mediator works with the parties until there is a signed, written agreement or the process ends without resolution.

Effective agreements identify:

- What action(s) will be taken and when the action(s) will begin
- When the action(s) will be completed
- Who is responsible for making sure the action(s) is taken
- Who is responsible for taking the action(s)

- The time period of the agreement
- A process for review when the actions are completed
- A plan for making changes to the agreement, if needed
- What to do if a participant thinks the terms of the agreement are not being completed
- Statement of confidentiality
- The date of the agreement and the signatures of the participants

A mediator can be requested at no cost from the Michigan Special Education Mediation Program (MSEMP). The MSEMP is a project of the OSE that uses trained, independent mediators. The mediators are not employees of the OSE, a school district, or an ISD. For more information, call MSEMP at (800) 8RESOLVE [(800) 873-7658] or visit <http://msemp.cenmi.org>.

### **How do individuals get more information about special education problem solving?**

The *Procedural Safeguards Notice* contains information about special education problem solving procedures:

[www.michigan.gov/documents/mde/May09-ProceduralSafeguardsNotice\\_278611\\_7.pdf](http://www.michigan.gov/documents/mde/May09-ProceduralSafeguardsNotice_278611_7.pdf)

The *Procedural Safeguards Notice* is available in other languages:

[www.michigan.gov/mde/0,4615,7-140-6530\\_6598\\_36168-188305--,00.html](http://www.michigan.gov/mde/0,4615,7-140-6530_6598_36168-188305--,00.html).

Other options are to contact:

- The local district special education department
- The ISD special education department
- The Michigan Special Education Mediation Program (MSEMP): <http://msemp.cenmi.org> or (800) 8RESOLVE [(800) 873-7658]
- The Michigan Alliance for Families: [www.michiganallianceforfamilies.org](http://www.michiganallianceforfamilies.org) or (800) 552-4821
- The Michigan Department of Education (MDE), Office of Special Education (OSE): [www.michigan.gov/ose-eis](http://www.michigan.gov/ose-eis) or (888) 320-8384

### III. State Complaint

A parent (or other individual/organization) may file a state complaint if he or she believes a school district (or other public agency) violated a requirement of state or federal special education law. The parties may choose to first pursue resolution through a collaborative problem solving method, which could eliminate the need for filing a state complaint. Attempting collaborative problem solving is encouraged but not required before filing a state complaint.

#### **Filing a State Complaint**

##### **What is a state complaint?**

A state complaint is a written, dated, signed statement alleging that a school district or other public agency has violated a requirement of state or federal special education law. A state complaint may be about either an individual student(s) or a district-wide systemic problem.

##### **Who can file a state complaint?**

Any person or organization may file a state complaint. The person filing the complaint does not have to be a parent or live in Michigan. The person or organization filing the complaint is the complainant.

##### **When can a state complaint be filed?**

The state complaint must be filed within one year of the alleged violation. The filing date is the date the complaint is received by the OSE.

##### **What must be included in a state complaint?**

All complaints must be written and signed by the complainant. All complaints must include:

- A statement that a public agency has violated the MARSE (state special education rules), Michigan special education law, or the IDEA (federal special education law)
- Facts on which the statement is based
- Contact information for the complainant

A complaint about a specific student must also include:

- The student's name and address (or other available contact information if the student is homeless)
- 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 possible resolution to the problem

## **How is a state complaint filed?**

A written, signed state complaint is filed on the date it is received by the OSE. The OSE will not accept anonymous or verbal complaints. A complaint may be faxed to (517) 373-8414, or mailed or hand delivered to the following address:

Michigan Department of Education  
Office of Special Education  
608 West Allegan  
P.O. Box 30008  
Lansing, MI 48909

The OSE forwards a copy of the state complaint to the public agency.

A state complaint form is provided at the end of this document (Appendix B). The form, when completed, provides the OSE with the information required by law to investigate the complaint.

A complainant is not required to use this form. If the form is not used, all the information listed in the section above (under the heading "What must be included in a state complaint?") must be included in the complaint. If the complaint does not contain all the required information, the OSE will contact the complainant. The complaint will not be considered filed until all required information is received by the OSE.

State special education rules require a school district to offer to help a complainant to file a state complaint. State rule also requires an ISD to help a complainant write a state complaint if requested.

## **Resolutions of a State Complaint**

### **How much time does the OSE have to resolve a state complaint?**

The OSE must resolve the complaint and issue a final decision within 60 calendar days from the date that the OSE receives the complaint. Federal law allows for the OSE to extend the timeline for exceptional circumstances. The OSE will notify the complainant and the public agency if the timeline is extended and will indicate when the final decision will be issued. The complainant and public agency may also agree to request an extension in order to engage in an informal meeting or mediation.

If a due process complaint is filed about issues that are also in a state complaint, the 60 calendar day timeline is stopped. When the due process hearing ends, the 60 calendar day timeline is resumed for any allegations in the state complaint that were unresolved by the due process hearing.

## **Collaborative Problem Solving Options**

At any time during a state complaint investigation, the complainant and school district (or other public agency accused of the violation) may agree to request an extension of the 60 calendar day timeline in order to engage in an informal meeting or mediation.

A written request for an extension of the timeline must be submitted to the OSE case manager. The request must include a statement of the complainant and school district agreement to extend the timeline and the number of days needed to extend the timeline.

The complainant and school district may resolve all, part, or none of the allegations using an informal meeting or mediation. If an agreement is reached, the complainant must notify the OSE in writing. When the OSE receives this notification, the OSE will dismiss any resolved allegations from the state complaint. If only part of the state complaint allegations are resolved, the OSE may investigate the remaining allegations, depending on the agreement.

Effective agreements will identify:

- What action(s) will be taken and when the action(s) will begin
- When the action(s) will be completed
- Who is responsible for making sure the action(s) is taken
- Who is responsible for taking the action(s)
- The time period of the agreement
- A process for review when the actions are completed
- A plan for making changes to the agreement, if needed
- What to do if a participant thinks the terms of the agreement are not being completed
- Statement of confidentiality
- The date of the agreement and the signatures of the participants

*Informal Meeting*—An informal meeting is a way for the complainant and the school district to directly resolve the issues that prompted the complaint. The complainant and the school district do not have to agree on what happened or why, but still may agree on steps to address the concern. The steps to address the concern are documented in a written agreement that is signed by both parties.

*Mediation*—Mediation is a voluntary confidential process. A trained, impartial, third-party mediator assists the complainant and school district in reaching a mutually acceptable resolution of the dispute. If the complainant and school district agree to try mediation, the OSE will provide the mediator at no cost. The steps to address the concern are documented in a written agreement that is signed by both parties.

## **Admission of Noncompliance**

The public agency may admit noncompliance in writing to address one or more of the allegations in the complaint. The OSE will verify admissions of noncompliance. The OSE will order corrective action and require proof of compliance related to each allegation in the complaint, including those allegations for which the public agency admits noncompliance.

## **Dismissal**

The OSE will dismiss allegations in a state complaint for the following reasons:

- The alleged violation is not governed by any special education law, regulation, or rule.
- The alleged violation was resolved by the complainant and public agency through an informal meeting or mediation, and the parties notified the OSE of the agreement in writing.
- The alleged violation was previously resolved in a due process hearing or state complaint.
- The alleged violation is one year old or older.

If only part of the allegations in a state complaint are dismissed, the OSE will investigate the remaining allegations.

## **Withdrawal**

If at any time a complainant decides to stop the complaint process entirely, the complainant may make a written request to the OSE to withdraw the complaint.

## **Investigation**

When complaint allegations require investigation, the OSE will do so by fact finding, conducting interviews, and reviewing documents. If determined necessary by the OSE, an on-site investigation will be conducted. The OSE will ultimately issue a final decision within the 60 calendar day timeline.

## **State Complaint Investigation**

The OSE will collaborate with the assigned ISD investigator to investigate the allegations in the complaint by fact finding, conducting interviews and reviewing student records, correspondence, and other information. The OSE may conduct an investigation independent of the ISD.

The OSE and the ISD will encourage the complainant and school district (or other public agency accused of the violation) to resolve the complaint during the first days of the state complaint investigation. Prior to the investigation, the school district, at its discretion, may submit a written proposal to the OSE to resolve the complaint. Information regarding other special education problem solving methods

can be found in the previous section under the heading “Resolutions of a State Complaint.”

### **What are the steps in a state complaint investigation?**

1. The OSE and the ISD review the complaint.
2. The OSE and the ISD, together, will call the complainant to clarify the allegations. If the complainant is not available for the clarifying call after reasonable attempts are made by the OSE and the ISD, the investigation will proceed.
3. After the clarifying call, the OSE sends a letter to both parties and the ISD listing the allegations to be investigated.
4. The OSE and the ISD, together, will call the school district for its response to the allegations.
5. The OSE and the ISD investigators conduct fact finding in the form of telephone or personal interviews with the complainant, school district staff, and other people with relevant information. The OSE and the ISD review student files and other relevant documents. The complainant and school district staff may be contacted more than one time during the course of the investigation. The OSE determines if an on-site investigation is necessary.
6. The OSE and the ISD review documents and interviews that were conducted, and determine whether the school district’s actions comply with the MARSE (state special education rules), Michigan special education law, or the IDEA (federal special education law).
7. The OSE issues a final decision to the complainant and the school district, which includes the complaint allegations, governing rule or regulation, findings of fact, conclusions, and an explanation of how the findings of fact and law support the conclusions.
8. The final decision is mailed to the complainant, the parent, the school district, and the ISD. The final decision is considered a public record. The final decision will not include personally identifiable information about the student (e.g., the student’s name or birth date, parent’s name, address, etc.).
9. If the school district is noncompliant, the final decision will include corrective action(s) with a timeline for completion. The school district must implement and complete the corrective action(s) and provide proof(s) of compliance to the OSE.
10. When all required proof(s) of compliance are received and found acceptable by the OSE, the complaint is considered resolved and is closed. The OSE will notify all parties when the complaint is closed.

### **What is expected in a state complaint interview?**

- The OSE and the ISD investigators, together, will conduct a telephone interview with the complainant and ask specific questions about the allegations made in the original written complaint. The interview includes questions about what happened, when the events happened, and who was involved.
- Following the interview with the complainant, the OSE and the ISD investigators conduct a similar telephone interview with the school district.
- Participants may contact the interviewer later if the participant remembers important information not shared during the interview.

### **How should a complainant prepare for a state complaint interview?**

- Schedule the interview when there is time so that the conversation will not be interrupted.
- Re-read the original written complaint and review the allegations to be investigated in the complaint.
- Have information (including documents) ready that will help the investigators understand the issues.
- Have calendars or date books ready to remember when events took place.
- Review the state complaint procedures and have a copy available.
- If a complainant chooses not to be interviewed or submit additional information, the investigation will proceed.

### **Corrective Action and Proof of Compliance**

When the OSE determines noncompliance, it will order a corrective action and require proof of compliance. The purpose of corrective action is to correct the noncompliance. Examples of possible corrective action include:

- Reviewing and, if necessary, revising procedures
- Conducting an evaluation, convening an IEP team meeting, conducting an educational benefit review, providing staff training or submitting an assurance of future compliance
- Providing compensatory services or reimbursing educational expenses

### **How do the OSE and the ISD make sure the school district complies with the final decision and corrective action(s)?**

The OSE and the ISD will monitor implementation of the corrective action and provide technical assistance regarding the corrective action as required.

The OSE does not impose penalties or fines as part of corrective action. However, if a school district (or other public agency accused of the violation) refuses to comply with any corrective action, the OSE may ultimately withhold funds from the school district.

### **How do individuals get more information about the state complaint process?**

The *Procedural Safeguards Notice* contains information about special education problem solving procedures:

[www.michigan.gov/documents/mde/May09-ProceduralSafeguardsNotice\\_278611\\_7.pdf](http://www.michigan.gov/documents/mde/May09-ProceduralSafeguardsNotice_278611_7.pdf)

The *Procedural Safeguards Notice* is available in other languages:

[www.michigan.gov/mde/0,4615,7-140-6530\\_6598\\_36168-188305--,00.html](http://www.michigan.gov/mde/0,4615,7-140-6530_6598_36168-188305--,00.html)

Other options are to contact:

- The ISD special education department
- The Michigan Department of Education (MDE), Office of Special Education (OSE): [www.michigan.gov/ose-eis](http://www.michigan.gov/ose-eis) or (888) 320-8384

## Appendix A: Request for State Complaint Investigation

Parents and other individuals and organizations may file a complaint if they believe a school district or other educational agency has violated one or more requirements of the **MARSE, Michigan special education law, or the IDEA.**

### **Person filing the complaint**

---

Name

---

Address

---

City/State/Zip

---

Telephone

---

Email

Complainant's relationship to student:

Parent     Citizen     Attorney     Advocate     Self

### **The public agency the complaint is against**

---

Name of Public Agency

**The student involved (required if the alleged violation is regarding a specific student)**

---

Name of Student

Date of Birth (optional)

---

Home Address (include if different from above; if homeless, include other contact information)

---

City/State/Zip

---

Name of School Student is Attending

**Number and list each alleged violation separately. Describe the alleged violation and specific facts related to the alleged violation. If possible, include names, dates, and locations. Additional pages may be attached if needed.**

**Proposed resolution (required if the alleged violation is regarding a specific student)**

For each of the above alleged violations, what is the proposed resolution? Attach additional pages if needed.

**This state complaint investigation request must be signed and mailed or faxed to the OSE.**

Michigan Department of Education  
Office of Special Education  
608 West Allegan  
P.O. Box 30008  
Lansing, MI 48909  
Fax (517) 373-8414

---

Signature (required)

Date

If the person filing the complaint is not the student's parent, or if the student has reached the age of majority (18 in Michigan), this state complaint investigation request should include a consent for the release of information to the complainant, signed by the student's parent or the student if age 18 or older, before any information will be shared with the complainant. If authorization for release of information is not provided, then no information will be shared with the complainant subsequent to the issuance of this office's final decision in this matter.

## Release of Contact Information to MSEMP

### **Are you interested in mediation?**

A mediator can be requested at no cost from the Michigan Special Education Mediation Program (MSEMP). The MSEMP is a project of the Office of Special Education (OSE) that uses trained, independent mediators. The mediators are not employees of the OSE, a school district, or an intermediate school district (ISD). Mediation may proceed at the same time as the complaint investigation process.

- I am interested in more information about mediation and authorize the OSE to forward my name, phone number, and/or email address from the complaint to the MSEMP. I understand the MSEMP will contact me directly.

---

Signature (required)

Date

## Appendix B: State Complaint and Due Process Complaint Comparison

| <b>State Complaint</b>   | <b>Due Process Complaint</b>  |
|--|---|
| <ul style="list-style-type: none"> <li>• The state complaint process is a review of the situation by the OSE usually with the assistance of ISD special education staff.</li> <li>• A state complaint must be filed within one year of the events concerning the complaint request.</li> <li>• Anyone may file a state complaint alleging a violation of the MARSE, Michigan special education law, or the IDEA.</li> <li>• The state complaint process is <i>intended to be less adversarial</i> than the more formal due process hearing procedures.</li> <li>• The OSE and the ISD staff will review the paperwork, talk to parents and staff, and ensure the school district's actions comply with the MARSE, Michigan special education law, or the IDEA.</li> <li>• There is no formal testimony by experts or others.</li> <li>• There are no oaths, subpoenas, or other formal due process protections.</li> <li>• Students do not automatically "stay put" in their current placement while the OSE and the ISD is investigating a complaint. The OSE may order "stay put" when necessary.</li> </ul> | <ul style="list-style-type: none"> <li>• A due process hearing is a formal administrative hearing with an impartial administrative law judge who is not an employee of the OSE, any school district, or educational program.</li> <li>• A due process complaint must be filed within two years of the events concerning the hearing request.</li> <li>• A parent may request a due process hearing when there is disagreement with the identification, evaluation, educational placement, or provision of a free appropriate public education to a student who may have a disability.</li> <li>• Parties may provide expert witnesses, subpoena, and cross-examine witnesses.</li> <li>• The parties may enter and object to evidence and have a record of the proceedings.</li> <li>• Testimony is under oath.</li> <li>• The student must "stay put" in the current placement pending the results of the hearing, unless the parties agree otherwise.</li> <li>• The final Decision and Order may be appealed to state or federal court.</li> <li>• The court will look at the hearing record, along with the final Decision and Order.</li> <li>• Parents who are successful in an administrative hearing may ask the court for reimbursement of parents' reasonable attorney fees.</li> </ul> |

Appendix C: Examples of Alleged Violations, Supporting Facts, and Proposed Resolutions for Individual Students

| <b>Alleged Violations</b>  | <b>Supporting Facts</b>   | <b>Proposed Resolutions</b>  |
|--|---|--|
| The school district did not implement my student's IEP/IFSP.   | My student's IEP/IFSP includes 30 minutes per week of speech-language services, and I heard at a parent-teacher conference that he had not seen the speech therapist all year.  | Provide make-up services to my student.  |
| The school district has not provided a FAPE with reading instruction for my student.   | My student is in the 4th grade and is still at a beginning reading level. At the last IEP meeting I asked for more reading instruction and an IEP goal about reading. The district refused.   | Have a new IEP meeting and include a reading goal.   |
| The school district did not complete a special education evaluation within 30 school days.                                     | I asked for a special education evaluation because my 6th grade student has had a difficult transition to middle school. He is failing his classes and has been suspended several times. I signed a consent form when I met with the counselor in October. It is now April and I never received the results of the testing, and my student is still having trouble in school. | Send me a copy of the completed evaluation and have an evaluation eligibility meeting to consider the results. |
| The general education teachers refuse to accommodate my student's disability.  | My 11th grade student has a specific learning disability. Her October IEP says teachers will let her have extra time to complete assignments and she can take tests in the resource room so they can be read to her. Her teachers lower her grades on assignments when she takes extra time to complete them and will not let her go to the resource room to take tests.      | Provide training to the general education teachers and make sure they implement my student's IEP.              |
| The school has suspended my student and did not do a manifestation determination review (MDR). He is not getting any services. | My student has been suspended three times this year for a total of 21 days. I told the principal that my student's behavior is caused by his disability and he should not be suspended. The school has not done an MDR and they did not give my student any services while he was suspended.  | Give my student the services he needs and hold an MDR.   |

Appendix D: Worksheet for Alleged Violations, Supporting Facts,  
and Proposed Resolutions for Individual Students

To file a state complaint about a violation of special education law regarding a specific student, the written complaint must include the alleged violation with supporting facts and a proposed resolution.

This worksheet is an optional tool to help you organize your information. You can also attach the worksheet to the state complaint form (Appendix B) and submit as an additional sheet if needed. You are not required to use this form.

| <b>Alleged Violations</b> | <b>Supporting Facts</b> | <b>Proposed Resolutions</b> |
|---------------------------|-------------------------|-----------------------------|
| 1.                        |                         |                             |
| 2.                        |                         |                             |
| 3.                        |                         |                             |
| 4.                        |                         |                             |
| 5.                        |                         |                             |

## Comparison of the Special Education Problem Solving Options

### WHAT KINDS OF ISSUES CAN BE RESOLVED?

Attachment B

| Informal Meeting | Mediation  | State Complaint   | Due Process Hearing   |
|------------------|--|---|---|
| Any issues       | Any special education issue<br><br>Issues related to communication and relationships | Alleged violations of the IDEA<br><br>Alleged violations of the MARSE<br><br>Alleged violations of the Michigan Law | Provision of a FAPE; issues regarding the identification, evaluation, or placement of a student with a disability<br><br>Some disciplinary issues |

IDEA=Individuals with Disabilities Education Act

FAPE=Free Appropriate Public Education

MARSE=Michigan Administrative Rules for Special Education

### WHO MAY MAKE A REQUEST?

| Informal Meeting                                      | Mediation  | State Complaint   | Due Process Hearing  |
|---|--|---|--|
| This is local problem solving, and there is no filing | Anyone<br><br>Participants must agree to mediation | Anyone<br><br>No matter who files the complaint, the school district is the respondent party in a state complaint | Parent or guardian<br><br>Adult student<br><br>Any public agency |

## Comparison of the Special Education Problem Solving Options

### WHAT ARE THE PREPARATIONS?

| Informal Meeting | Mediation  | State Complaint  | Due Process Hearing   |
|------------------|--|--|---|
|                  | <p>MSEMP staff gathers information</p> <p>Parties determine desired outcomes for mediation and prepare for session</p> | <p>Complaint investigators assigned by the OSE and the ISD</p> <p>School district provides documents and information to the OSE within required timeline</p> <p>Complainant provides additional documents and information to the OSE</p> | <p>Filed with the OSE, and the complaint is referred to the MAHS</p> <p>MAHS appoints ALJ</p> <p>School districts must retain attorney; parents may retain attorney</p> <p>Research, organize, and prepare evidence (documents and witnesses) and legal information</p> |

MSEMP=Michigan Special Education Mediation Program

OSE=Office of Special Education

ISD=Intermediate School District

MAHS=Michigan Administrative Hearing System ALJ=Administrative Law Judge

## Comparison of the Special Education Problem Solving Options

### WHAT ARE THE ROLES OF THE PEOPLE INVOLVED?

| Informal Meeting   | Mediation   | State Complaint   | Due Process Hearing   |
|--|---|---|---|
| <p>Parties try to work out issues quickly and directly</p> | <p>Mediator acts as an impartial negotiator, facilitator of communication</p> <p>Mediator guides process, maintains order of conference</p> <p>Mediator attempts to find areas of agreement; does not impose views or make decisions</p> <p>Mediator assists everyone in understanding the nature of their dispute; encourages future problem solving and reaching mutual agreement</p> | <p>The OSE and the ISD complaint investigators gather factual information about the allegations; determine whether federal law or regulation or a state law or rule has been violated</p> <p>Complaint investigators are objective fact-finders</p> <p>Complaint investigators are employees of the state, employees of an ISD, or under contract with the state or ISD</p> | <p>ALJ makes impartial decision and issues an order</p> <p>ALJ controls hearing; may question witnesses; may rule on objections</p> <p>ALJ decides in favor of one party or the other for each allegation</p> <p>ALJ is a neutral, third party; the ALJ is not an employee of the OSE or any school district; ALJs are employed with the MAHS to conduct special education hearings</p> |

OSE=Office of Special Education

ISD=Intermediate School District

ALJ=Administrative Law Judge

MAHS=Michigan Administrative Hearing System

## Comparison of the Special Education Problem Solving Options

### WHAT IS THE PROCESS?

| Informal Meeting  | Mediation   | State Complaint   | Due Process Hearing   |
|---|---|---|---|
| <p>Discussion between parties can take place any time before or during the process of a state complaint</p> | <p>Mediation can take place at any time before or during the process of a state complaint</p> <p>Process is facilitated in conference style by mediator</p> <p>Discussions are confidential and cannot be used as evidence in legal proceedings</p> <p>Each party may present views and hear opposing views in a joint session, then speak privately with the mediator</p> <p>Parties engage in negotiation and compromise; emphasis on underlying interests and solutions</p> <p>No formal record of proceedings</p> <p>If agreement is reached, mediator will prepare written agreement to be signed by the parties</p> | <p>Emphasis on fact-finding; compliance with state and federal laws</p> <p>Mediation and other resolution options encouraged throughout the resolution process</p> <p>The OSE and the ISD gather information from the complainant and the school district, review documents, and conduct interviews</p> <p>The OSE may conduct on-site interviews, but no formal record like in a hearing</p> <p>The OSE issues final decision to the parties</p> <p>If the school district is found to be fully compliant, the OSE will close the case</p> <p>The OSE orders corrective action if noncompliance is found</p> | <p>Legal hearing conducted by ALJ</p> <p>May have many participants and possibly, observers, if parent requests</p> <p>Resolution session required unless parties are in mediation or waive the resolution session</p> <p>Mediation and other resolution options encouraged early in the process</p> <p>Conducted in litigation style: opening and closing arguments, direct and cross-examination of sworn witnesses, introduction of evidence and exhibits, raising objections</p> <p>Parties attempt to convince ALJ of the merits of their case</p> <p>Emphasis on law and winning the case</p> |

## Comparison of the Special Education Problem Solving Options

### WHAT IS THE PROCESS? *Continued*

| Informal Meeting | Mediation  | State Complaint  | Due Process Hearing  |
|------------------|--|--|--|
|                  | If agreement is not reached, parties can pursue other dispute resolution options | A state complaint may be filed at any time, but must be within one year of the alleged violation | Formal record of proceedings<br><br>A due process complaint may be filed at any time within two years of the alleged violation |

OSE=Office of Special Education

ISD=Intermediate School District

ALJ=Administrative Law Judge

## Comparison of the Special Education Problem Solving Options

### WHAT ARE THE COSTS?

| Informal Meeting  | Mediation  | State Complaint   | Due Process Hearing   |
|---|--|---|---|
| <p><b><u>Time:</u></b> Least amount of time</p> <p><b><u>Money:</u></b> Minimal expenses; may be able to arrange before or after work hours</p> <p><b><u>Emotions:</u></b> Direct resolution may be less emotionally draining</p> | <p><b><u>Time:</u></b> A few hours (or more) for preparation, typically 2-3 hours in one session; varies by participants</p> <p><b><u>Money:</u></b> Expenses of time lost from work, hiring a substitute teacher, child care costs; the cost of mediation is paid by the OSE</p> <p><b><u>Emotions:</u></b> Mediation may be emotionally draining but is less adversarial than a due process hearing and offers opportunities for non-legal issues to be resolved</p> | <p><b><u>Time:</u></b> Requires time to prepare materials and respond to allegations and possibly for an on-site investigation visit</p> <p><b><u>Money:</u></b> Expenses of time lost from work, hiring a substitute teacher, child care costs; parents may have child care costs</p> <p><b><u>Emotions:</u></b> Usually no opportunity for emotional issues to be resolved or for improvement in communication or relationships of the participants</p> | <p><b><u>Time:</u></b> Typically 50 to 100 hours of preparation, 2 or more days for the hearing</p> <p><b><u>Money:</u></b> Parties may be responsible for any or all of the following: time lost from work, witness expenses, expert witness fees, attorney's fees, administrative hearing fees, and transcript fees</p> <p>District may be required to pay parents' attorney fees if parents prevail; parents may, in limited circumstances, be required to pay district attorney fees</p> <p><b><u>Emotions:</u></b> Hearings are emotionally exhausting because they are lengthier and more adversarial; outcome is rarely satisfying to both, sometimes to neither party</p> |

OSE=Office of Special Education

## Comparison of the Special Education Problem Solving Options

### WHAT ARE THE TIMELINES?

| Informal Meeting | Mediation  | State Complaint   | Due Process Hearing   |
|------------------|--|---|---|
|                  | <p>Mediation can usually be scheduled within 15 calendar days of the agreement to mediate</p> <p>Mediation can be scheduled before or concurrent with a due process hearing request or complaint</p> | <p>The OSE must resolve the complaint within 60 calendar days of receiving the complaint unless exceptional circumstances require additional time</p> | <p>The school district must schedule a resolution session within 15 calendar days of receiving the hearing request; the hearing and decision must be completed within 45 calendar days following the 30 calendar day resolution period unless the ALJ agrees to an extension at the request of a party</p> <p>The hearing and decision timeline may be shorter in cases that involve some disciplinary issues</p> |

OSE=Office of Special Education

ALJ=Administrative Law Judge

### WHO MAKES THE FINAL DECISIONS?

| Informal Meeting           | Mediation                  | State Complaint | Due Process Hearing |
|----------------------------|----------------------------|-----------------|---------------------|
| Parent and school district | Parent and school district | The OSE         | ALJ with the MAHS   |

OSE=Office of Special Education

ALJ=Administrative Law Judge

MAHS=Michigan Administrative Hearing System

## Comparison of the Special Education Problem Solving Options

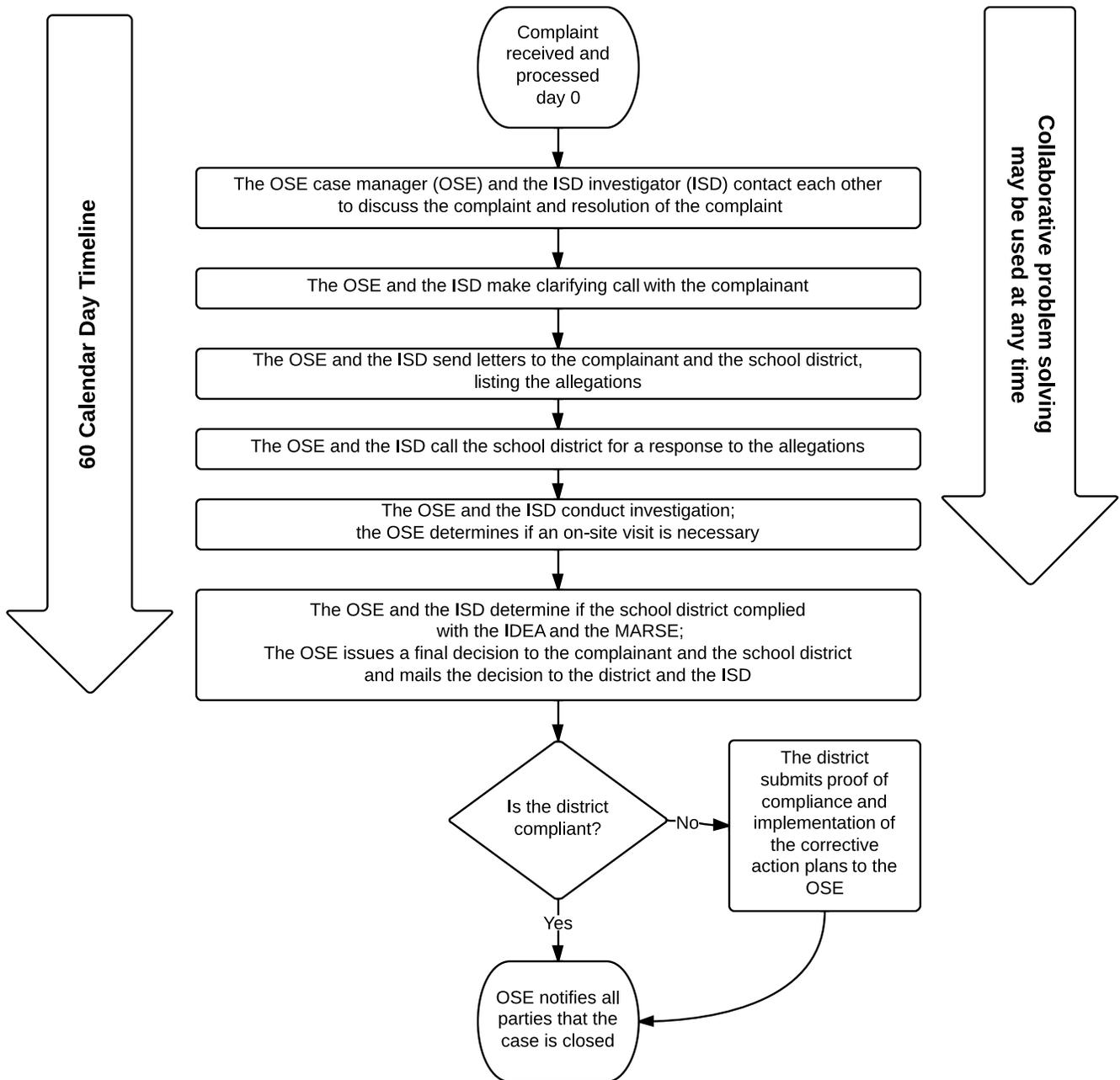
### WHAT IS THE FINAL PRODUCT?

| Informal Meeting         | Mediation   | State Complaint   | Due Process Hearing    |
|--------------------------|---|---|------------------------|
| Agreement may be written | <p>Signature on written agreement which indicates willingness to abide by agreement; parties have a stake in outcome and commitment to its success</p> <p>The agreement is enforceable in any state court of competent jurisdiction or in a district court of the United States</p> | <p>The OSE issues final decision to the parties</p> <p>The OSE issues corrective action for noncompliance</p> | ALJ Decision and Order |

OSE=Office of Special Education

ALJ=Administrative Law Judge

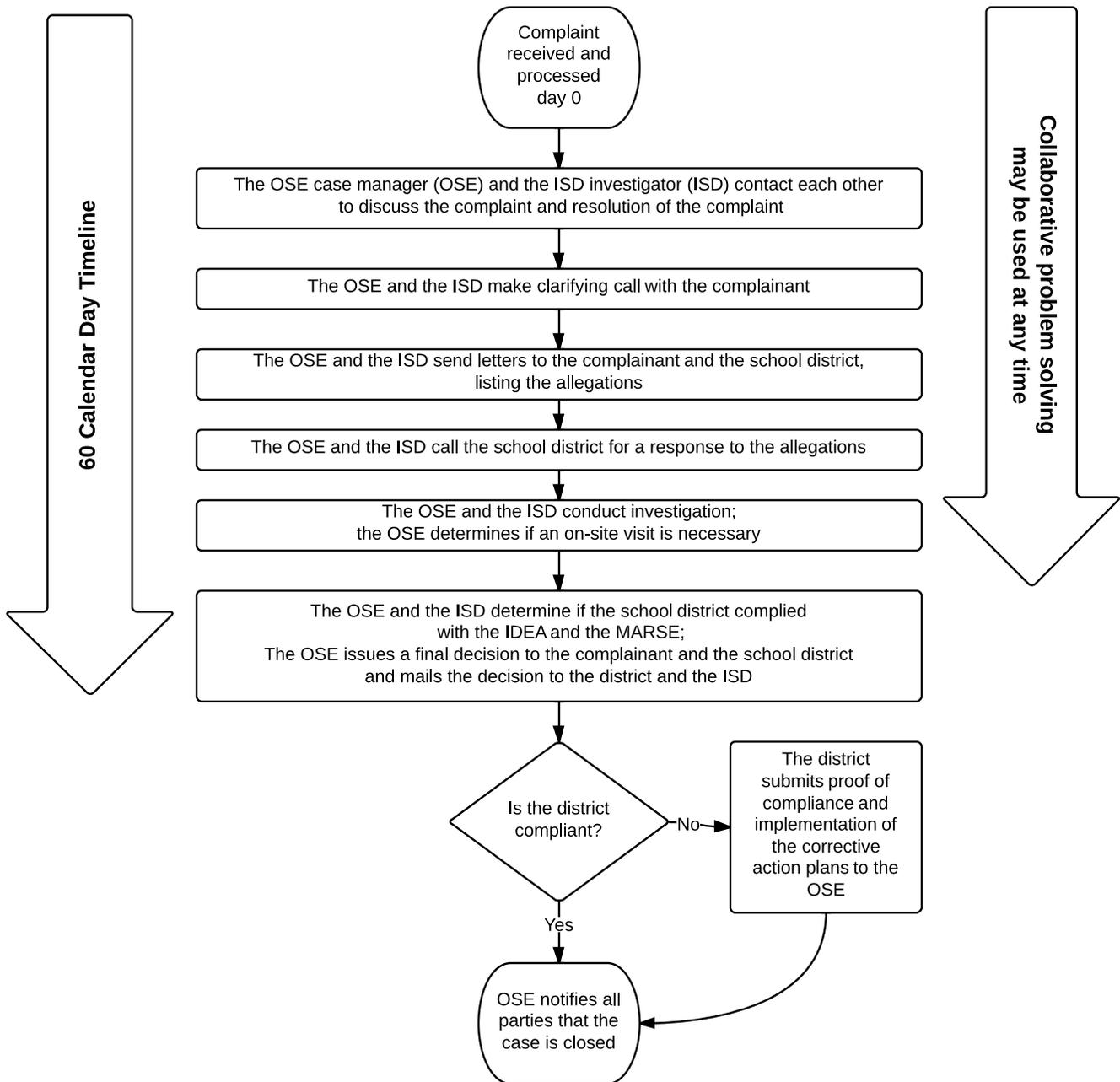
# MDE, OSE Problem Solving Process Timeline



OSE—Office of Special Education  
 ISD—Intermediate School District  
 IDEA—Individuals with Disabilities Education Act  
 MARSE—Michigan Administrative Rules for Special Education



# MDE, OSE Problem Solving Process Timeline



OSE—Office of Special Education  
 ISD—Intermediate School District  
 IDEA—Individuals with Disabilities Education Act  
 MARSE—Michigan Administrative Rules for Special Education





Attachment D  
 Michigan Department of Education  
 Office of Special Education  
 608 West Allegan Street  
 Lansing, Michigan 48909  
 Telephone: (517) 373-2979  
 Toll Free: (888) 320-8384  
 Fax: (517) 373-8414

### Model Special Education State Complaint Form

**PURPOSE:** This model form may be used to submit a state complaint, alleging that a district has violated a requirement of Part B of the *Individuals with Disabilities Education Act* (IDEA) or the *Michigan Administrative Rules for Special Education* (MARSE).

**INSTRUCTIONS:** Complete this form and mail, fax, or hand-deliver it to the Michigan Department of Education (MDE), Office of Special Education (OSE) at the address above. The OSE will forward a copy of the complaint to the district when it is filed. The use of this form is not required; it is provided to assist in filing a state complaint.

**Note: The \* indicates required information. This information must be provided whether you use this form or any other format. Complaints that do not have all required information will NOT be filed and will be returned to the complainant.**

| <b>COMPLAINANT CONTACT INFORMATION</b>  |   |                |        |
|---|---|----------------|--------|
| *Name:  |   |                |        |
| *Address:   | Telephone Number(s):                                    |                |        |
|   | Email address:  |                |        |
| <b>STUDENT INFORMATION (if alleging a violation regarding a specific child)</b> |   |                |        |
| *Name of Student:   | Age:  | Date of Birth: | Grade: |
| *Address of Student (or contact information if student is homeless):            |   |                |        |
| Name of Parent or Guardian (if other than the person filing the complaint):     | Resident District:                                      |                |        |
| <b>SCHOOL INFORMATION</b>   |   |                |        |
| *Name of the School the Student Attends:  | Name of the District(s) the Complaint is Filed Against: |                |        |

**\*ALLEGATION OF NONCOMPLIANCE**

Provide a statement alleging how the district is not in compliance with a requirement of Michigan or Federal special education rules or regulations. You do not have to specify what law, but you must explain why you feel the school has not complied. Example: "The teacher is not following my child's IEP, he is not getting accommodations." You can submit more than one allegation of noncompliance on the same complaint form. (Attach additional pages if necessary.)

**\*FACTS RELATED TO THE ALLEGATION**

Based on the Allegation of Noncompliance, include the facts that are relevant to each allegation. Include all important facts in this description. Example: "My son's IEP says he gets extra time to take tests. On October 24, he was not allowed extra time on his history exam." (Attach additional pages if necessary.)

**\*PROPOSED RESOLUTION**

Briefly explain how you think the issue should be resolved. (Attach additional pages if necessary.)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
\*Signature

\_\_\_\_\_  
Date

## MEDIATION

***The Michigan Department of Education (MDE) encourages parents and districts to resolve disputes through informal dispute resolution processes, including mediation.***

Mediation is a voluntary process. A trained, impartial mediator assists the parties in reaching a mutually acceptable resolution of the dispute between the parties. Mediators are not affiliated with any local school district nor do they represent any of the parties in a complaint. Discussions during mediation are confidential.

The MDE provides mediation services at no cost to the complainant or the district if they use the Michigan Special Education Mediation Program (MSEMP). The MSEMP is funded by an MDE grant.

If you are interested in resolving a complaint through mediation or informal resolution the MDE will, with your consent, forward your name and telephone number to the MSEMP. The MSEMP will contact you to tell you more about mediation and other alternative dispute resolution options. If you choose to participate in mediation the MSEMP will contact the district to determine if the district agrees to participate in mediation. If so, the MSEMP will make the arrangements and schedule the mediation meeting(s).

If you and the district agree to participate in mediation after a state complaint has been filed, the complaint will be set aside until the mediation process is completed. If the issue is resolved through mediation, the complaint will be withdrawn or dismissed. If the issue is not resolved the MDE will proceed with the complaint investigation.

For more information about mediation and informal dispute resolution see the MDE Special Education State Complaint Procedures or contact the Michigan Special Education Mediation Program (MSEMP) at (800) 8RESOLVE or <http://msemp.cenmi.org>.

***Please provide the information below and sign your name if you want the MSEMP to contact you to tell you more about mediation and other informal dispute resolution options.***

I am interested in resolving the complaint against the \_\_\_\_\_ school district/public school academy through mediation or informal resolution.

I give the MDE permission to forward my name and telephone number to the MSEMP.

Name: \_\_\_\_\_ Telephone number: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

.....  
**FOR MDE USE ONLY:** Case # \_\_\_\_\_ Date Filed \_\_\_\_\_ Case Manager \_\_\_\_\_

Case Manager:

|  |
|--|
|  |
|--|

**State Complaint Intake Checklist for Sufficiency**

|  |   |  |   |
|--|---|--|---|
| Case number:   |   | Received date:                         |   |
| Complainant:   |   |  |   |
| Student:   |   |  |   |
| District:  |   |  |   |
| ISD:   |   |  |   |
| Intake consultant:   |   | Sufficiency review date:               |   |
| A statement a public agency has violated a special education requirement of Part B of the IDEA or the MARSE: |   |  | Yes <input type="checkbox"/><br>No <input type="checkbox"/> |
| The facts supporting the statement alleging the violation:   |   |  | Yes <input type="checkbox"/><br>No <input type="checkbox"/> |
| The complainant's signature:   | Yes <input type="checkbox"/><br>No <input type="checkbox"/> | The complainant's contact information: | Yes <input type="checkbox"/><br>No <input type="checkbox"/> |

**For complaints alleging noncompliance regarding a specific student:**

|  |   |                                     |   |
|--|---|-------------------------------------|---|
| Student's name and residence:  | Yes <input type="checkbox"/><br>No <input type="checkbox"/> | Name of school the student attends: | Yes <input type="checkbox"/><br>No <input type="checkbox"/> |
| A description of the nature of the problem of the student including facts relating to the problem.                     |   |                                     | Yes <input type="checkbox"/><br>No <input type="checkbox"/> |
| A proposed resolution of the problem to the extent know and available to the party at the time the complaint is filed: |   |                                     | Yes <input type="checkbox"/><br>No <input type="checkbox"/> |

**In the case of a homeless student:**

|  |   |
|--|---|
| Available contact information for the student and the name of the school the student is attending: | Yes <input type="checkbox"/><br>No <input type="checkbox"/><br>N/A <input type="checkbox"/> |
|--|---|

**Notes:**

|  |
|--|
|  |
|--|



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING

RICK SNYDER  
GOVERNOR

MICHAEL P. FLANAGAN  
STATE SUPERINTENDENT

«generatedate»

«complainantfirstname» «complainantlastname»  
«complainantaddress0»  
«complainantcity», «complainantstate» «complainantzip»

Dear «complainanttitle» «complainantlastname»:

The Office of Special Education (OSE) received your potential complaint against «districtsuperintendentfirmname» on «casereceiveddate». The OSE is unable to accept it as a formal complaint or begin an investigation at this time because it does not contain all the elements required by the Individuals with Disabilities Education Act (IDEA).

The items listed below are required for a complaint, by Section 300.153 of the final regulations implementing IDEA and Rule 340.1851 of the Michigan Administrative Rules for Special Education (MARSE). The items checked were not included in your submission.

**All state complaints must include:**

- \_\_\_\_\_ A statement that a public agency has violated a special education requirement of Part B of the IDEA or the MARSE.
- \_\_\_\_\_ The facts supporting the statement alleging a violation.
- \_\_\_\_\_ The complainant’s signature.
- \_\_\_\_\_ Contact information for the complainant.

**State complaints alleging violations with respect to a specific child must include:**

- \_\_\_\_\_ The name of the student and the address of residence of the student.
- \_\_\_\_\_ The name of the school and school district the child is attending.
- \_\_\_\_\_ A description of the nature of the problem of the child, including facts relating to the problem.
- \_\_\_\_\_ A proposed solution of the problem to the extent known and available to the party at the time the complaint is filed.

**STATE BOARD OF EDUCATION**

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608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909  
www.michigan.gov/mde • (517) 373-3324

«complainanttitle» «complainantlastname»  
«generatedate»  
Page 2

**In 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)):**

\_\_\_\_\_ Available contact information for the child, and the name of the school the child is attending.

If you wish to proceed with your complaint, please resubmit it with the required information, including the items checked above. A copy of the Model State Complaint Form is enclosed to provide assistance in filing the complaint. You do not have to use the form. However, you must include all the information identified on the form.

If you have any questions, please contact me at (517) «casemanagerphone».

Sincerely,

«casemanagerfirstname» «casemanagerlastname», Case Manager  
Program Accountability  
Office of Special Education

«casemanagerinitials»/jam

Enclosures [complainant's copy only]

c: «districtsuperintendentfullname»  
«districtdirectorfullname»