



DRAFT

Special Education State Complaints: Procedures and Model Forms

Michigan Department of Education

Office of Special Education

April 2021



Table of Contents

Introduction	4
Definition of State Complaints	4
Filing a State Complaint.....	5
State Complaint Requirements	5
Assistance With Filing a State Complaint	6
State Complaint Model Form	6
Submitting a State Complaint.....	6
State Complaint Timelines.....	7
Extension for Exceptional Circumstance	7
Extension for Mediation	7
Abeyance	8
Options Available After Filing A State Complaint.....	8
Resolution Through Mediation.....	8
Withdrawal	8
Dismissal	8
State Complaint Investigation Procedures.....	9
Step 1: Receipt of State Complaint (Day 1)	9
Step 2: Intake and Sufficiency (Days 1-3)	9
Step 3: Notification (Days 1-5).....	10
Step 4: Issues Letter (Days 3-10)	10
Step 5: Investigation (Days 10-45).....	11
Step 6: Draft of the Final Decision (Days 15-50)	11
Step 7: OSE Administrative Review of the Final Decision (Days 45-60).....	11
Step 8: MDE Issuance of the Final Decision (By Day 60)	11
Disagreement With a State Complaint Final Decision	12
Corrective Action	12
Examples of Corrective Action	12

Proof of Compliance 13

Procedural Safeguards Notice 13

Additional Resources 13

 MDE OSE Information Line 13

 Family Matters..... 13

 Michigan Alliance for Families..... 13

 Special Education Mediation Services..... 14

 Disability Rights Michigan..... 14

Appendix A: Glossary 15

Appendix B: State Complaint Model Form..... 17

Appendix C: Consent for Release of Information Model Form..... 20

Special Education State Complaints: Procedures and Model Forms

Introduction

There are several dispute resolution options available to address disagreements regarding the education of children with disabilities. The *Individuals with Disabilities Education Act* (IDEA) requires the state educational agency (SEA) to adopt written procedures for the investigation and resolution of any formal written complaint alleging a public agency has violated a requirement of the IDEA. This document specifies the procedures used by the Michigan Department of Education (MDE) Office of Special Education (OSE) in the investigation and resolution of special education state complaints, which will be referred to as state complaints for the remainder of this document. The OSE ensures state complaint procedures are available to stakeholders on the [OSE website](#) and via distribution upon request.

For information about other dispute resolution options, refer to the OSE Dispute Resolution Options guidance document, [OSE Due Process Complaint Procedures](#), and the Center for Appropriate Dispute Resolution (CADRE) [Quick Guide to Special Education Dispute Resolution Processes for Parents of Children and Youth](#).

Definition of State Complaints

A state complaint may be filed on behalf of an individual student, a group of students, or regarding a district-wide or systemic concern. A state complaint is a written, signed statement which alleges a public agency has violated one or more of the following requirements:

- The IDEA.
- The *Michigan Administrative Rules for Special Education* (MARSE).
- The Michigan Revised School Code, as it pertains to special education programs and services.
- An intermediate school district (ISD) plan.
- An individualized education program (IEP) team report, administrative law judge (ALJ) decision, or court decision regarding special education programs or services.
- The state application for federal funds under the IDEA. R 340.1701a(c).

Filing a State Complaint

A parent may file a state complaint if it is believed a public agency, such as a local school district, ISD, or any other entity providing education to students with disabilities, violated the IDEA, the MARSE, or any laws which are included in the MARSE definition of a complaint. Other individuals and organizations can also file a complaint. The person filing the complaint, referred to as the “complainant,” does not have to live in Michigan.

The parties may choose to first pursue a solution to the issues through collaborative dispute resolution options such as an informal meeting, a facilitated IEP Team meeting, or mediation. These dispute resolution options could result in a mutually agreeable resolution to a disagreement and could eliminate the need to file a state complaint. Attempts to resolve disputes through alternative dispute resolution options are encouraged, but not required, before filing a state complaint. Collaborative dispute resolution may also occur after a state complaint has been filed. For additional information regarding facilitated IEP Team meetings and mediation, please refer to the Additional Resources section of this document below.

State Complaint Requirements

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

- Signature and contact information for the complainant.
- Allegations a violation occurred not more than one year before the date the complaint is received.
- A statement that a public agency has violated the MARSE; the Michigan Revised School Code as it pertains to special education programs and services; the IDEA; an ISD plan, IEP Team report, ALJ decision, or court decision regarding special education programs or services; or the state application for federal funds under the IDEA.
- Facts on which the statement is based.

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, including facts relating to the problem.

To the extent known and available, a complaint about a specific student must also include a suggested solution to the problem.

The complainant must forward a copy of the complaint to the public agency serving the student at the same time the party files the complaint with the OSE. When the complainant neglects or is unable to forward a copy of the complaint to the public agency, the OSE will provide a copy.

Assistance With Filing a State Complaint

Individuals who need assistance filing a state complaint may contact the ISD; local school district, including public school academies; or parent support organizations, such as the Michigan Alliance for Families, for assistance.

State Complaint Model Form

A state complaint model form is provided at the end of this document. The model form contains the components required for the OSE to investigate a state complaint.

A complainant is not required to use the model form. However, if the form is not used, all the required components must be included in the state complaint request. If the complaint does not contain all the required information, the OSE will consider the complaint insufficient. The complaint will not be considered filed until all required components are received by the OSE.

Submitting a State Complaint

The OSE does not accept anonymous or verbal complaints. A written, signed complaint must be submitted to the OSE by mail, electronic submission, or hand-delivery.

Submit a complaint to:

Michigan Department of Education
Office of Special Education – State Complaints
608 West Allegan
P.O. Box 30008
Lansing, MI 48909
Fax: 517-241-7141
Email: MDE-MIComplaints@michigan.gov

State Complaint Timelines

A state complaint is deemed received on the day a complaint is delivered to the OSE, excluding weekends, federal and state holidays, and days the OSE office is closed. In the case of a complaint received electronically (fax, email), when the last page of the complaint is received after 5:00 p.m., the complaint will be deemed received on the next day the OSE office is open.

A complaint is considered filed when the OSE has received a copy of the complaint containing all required information. MDE must issue a final decision within 60 calendar days of the complaint being filed.

Extension for Exceptional Circumstance

The 60-calendar-day timeline for a complaint may be extended for exceptional circumstances. The IDEA allowable timeline exceptions are determined by the OSE. The following do not meet the criteria for an exceptional circumstance: state staff shortages or heavy caseloads, school vacations and breaks, and the use of mediation or alternative dispute resolution without agreement from the parent and public agency.

For more information about the availability of an exceptional circumstance extension, the complainant or public agency should contact the OSE case manager. When an exceptional circumstance exists, the OSE will notify both parties of the need to extend the timeline and the new date the final decision will be issued.

Extension for Mediation

The parent and public agency may agree to participate in mediation at any time during a state complaint investigation without stopping the 60-calendar-day timeline. However,

the parent and public agency may agree to make a written request, to the OSE, for an extension of the 60-calendar-day timeline in order to engage in state-approved mediation through [Special Education Mediation Services \(SEMS\)](#). Timeline extensions for the purpose of mediation are optional. Without an agreement and request for an extension, the OSE will resolve the complaint by issuing a final decision within the 60-calendar-day timeline.

Abeyance

When a state complaint and due process complaint address the same issues, alleging violations which occurred during the same period of time, the state complaint, or portions of the state complaint duplicated in the due process complaint, shall be held in abeyance, or suspended, pending the subsequent ALJ orders or completion of the due process complaint. Any issues in the state complaint which are not duplicated in the due process complaint shall be investigated by the OSE, and a decision issued within the 60-calendar-day timeline.

Options Available After Filing A State Complaint

Resolution Through Mediation

The parent filing a complaint and the public agency that is the subject of the complaint may resolve some or all of the issues using mediation conducted by a neutral, third-party mediator. A nonparent complainant may request and/or engage in mediation with parent participation. A state complaint, or a portion of a complaint, is only withdrawn if specified in a mediation agreement or in a separate request from the complainant to withdraw the complaint.

Withdrawal

A complainant may choose to stop the complaint process and withdraw at any time. To withdraw a complaint, the complainant must make a written request to the OSE.

Dismissal

A state complaint is dismissed, in whole or in part, when the issues of the complaint are resolved in a due process complaint.

State Complaint Investigation Procedures

The OSE investigator assigned to the complaint is the case manager. The OSE will conduct an investigation with support from the ISD. The OSE case manager and ISD representative will investigate the allegations in the complaint by gathering relevant information through various means to determine the facts of the case.

The OSE will conduct an investigation without support from the ISD when the OSE determines there is a conflict of interest or the complaint is filed against the ISD. For complaints without an ISD representative, a second OSE complaint investigator will collaborate with the case manager.

MDE will issue a final decision within the 60-calendar-day timeline.

Step 1: Receipt of State Complaint (Day 1)

1. The OSE receives the potential state complaint via mail, electronic submission, or hand-delivery.
2. When the last page of a fax or electronic submission comes through after 5:00 p.m., the complaint will be deemed to be received on the next business day.
3. The OSE will date-stamp the potential state complaint with the date received.

Step 2: Intake and Sufficiency (Days 1-3)

1. The OSE will review the state complaint request to ensure all required components are included.
 - a. When all required components are included, the OSE will consider the complaint filed on the date the sufficient state complaint was received.
 - b. When all required components are not included, the complaint will be considered insufficient and will not be filed.
2. The 60-calendar-day timeline begins on the date the complaint is filed.
3. The OSE will assign a case manager when the complaint is filed.
4. When the state complaint does not meet the sufficiency criteria and therefore is not filed, the OSE will notify all relevant parties by letter. The letter states the complaint will not be investigated and explains why the complaint request is not sufficient. When a state complaint is determined to be insufficient due to missing information, the complaint may be resubmitted with the missing information, if applicable. The original complaint documents will be returned to the complainant with the insufficiency letter.

Step 3: Notification (Days 1-5)

1. The OSE will notify the public agency that is the subject of the complaint, and any associated ISD, of the receipt of the complaint and established timelines by sending an introduction letter. When the complaint is against a local district, the ISD may assist the complainant and the local district in resolving the issues of the complaint.
 - a. The introduction letter will include the date the complaint was filed, the date the final report is due, and contact information for the OSE case manager who will be conducting the state complaint investigation. The complainant will also receive Procedural Safeguards, Part 8 of the MARSE, and the State Complaints: Procedures and Model Forms as enclosures.
 - b. For nonparent complainants, consent for release of information signed by a parent, as defined by the IDEA, is required in order to receive any communication following the introduction letter. A model Consent for Release of Information form can be found in the model forms section of this document.
 - c. Documentation submitted with the complaint request is shared with the district in order to allow the district an opportunity to respond to the allegations.

Step 4: Issues Letter (Days 3-10)

1. The OSE will identify the issues to be investigated in the complaint based upon a review of the state complaint request and all supporting documentation. The OSE will contact the complainant when issues are not clear and understandable.
2. The OSE case manager will share the identified issues with the ISD representative to obtain feedback. Statements in the state complaint request which may require further clarification will be discussed with the complainant and the ISD, as warranted.
3. The issues letter will be sent to all relevant parties, will define the issues to be investigated, and will request specific documents from the district.
4. The district has 10 calendar days after the issues letter is sent to provide all requested documentation.

Step 5: Investigation (Days 10-45)

1. The OSE will gather relevant information through various means including, but not limited to, questionnaires, records, and interviews. The OSE does not share additional documents submitted, after the filing of the original state complaint, with either party.
2. The OSE, in collaboration with the ISD representative, will provide an opportunity for the complainant/parent to be interviewed, or respond to a questionnaire, and will request interviews or additional information from district staff, as needed. Interviews with nonparent complainants will only occur when consent for the release of information, signed by a parent, is provided. When conducting interviews, questions will be designed to obtain additional information related to the identified issues.
3. The OSE will review the data, consider all information received, and determine whether additional information is needed.
4. An on-site investigation may be scheduled when the OSE deems it necessary.

Step 6: Draft of the Final Decision (Days 15-50)

1. The OSE case manager will compose the report containing the introduction, issues, investigatory process, applicable federal or state regulations, the relevant time period for the investigation, findings of fact, conclusions, decisions, and, when applicable, corrective action.

Step 7: OSE Administrative Review of the Final Decision (Days 45-60)

1. The OSE will undertake an internal review of all reports, including a review by the supervisor of the OSE Program Accountability Unit.
2. The findings of fact will be shared with the ISD representative for review to ensure accuracy and clarity of the facts.
3. The OSE case manager and ISD representative will discuss conclusions, decisions, and when applicable, corrective action.
4. Revisions to the draft report will be made, as necessary.

Step 8: MDE Issuance of the Final Decision (By Day 60)

1. The OSE will distribute the final decision to all relevant recipients.

2. The OSE will notify the complainant by email that the MDE final decision has been issued. When an email is not available, the OSE will notify the complainant by phone.

Disagreement With a State Complaint Final Decision

There is no administrative appeal or reconsideration process of a state complaint final decision. If the issue is still in dispute, the parent or public agency may, if they have not already done so, use mediation under 34 CFR §300.506 or file a due process complaint to request a due process hearing in accordance with 34 CFR §§300.507–300.508, subject to any applicable exceptions.

Corrective Action

Corrective action will be ordered when the OSE identifies noncompliance and determines a violation. Corrective action can be issued at either the student level, the district level, or both and is intended to correct the noncompliance for an individual student and to ensure future compliance for all students with disabilities.

Examples of Corrective Action

Student-level corrective action may include but is not limited to:

- Conducting an evaluation or functional behavior assessment.
- Convening an IEP Team meeting.
- Developing a behavior intervention plan.
- Awarding [compensatory education](#).

District-level [corrective action](#) may include but is not limited to:

- Reviewing and, if necessary, revising procedures.
- Providing staff training.
- Conducting file reviews for subgroups of students.
- Informing or presenting to the board of education when persistent noncompliance occurs.

Proof of Compliance

The IDEA requires identified noncompliance be corrected as soon as possible, but in no case greater than one year from the final decision. The OSE and the ISD will monitor and verify progress on the completion of ongoing corrective action activities prior to closeout. Technical assistance by the ISD and/or the OSE will be provided, as appropriate.

Procedural Safeguards Notice

The [Procedural Safeguards Notice](#), which informs parents about the rights and protections available for their child with a disability under the IDEA, contains information about dispute resolution options. Parents must be provided the procedural safeguards notice once per school year, and upon an initial referral or request for an evaluation, when filing a state complaint, in accordance with discipline procedures, and upon request by a parent. The Procedural Safeguards Notice is available on the OSE website in a variety of languages. The Family Matters [Procedural Safeguards fact sheet](#) provides a parent friendly overview of key information from the procedural safeguards document.

Additional Resources

MDE OSE Information Line

The MDE OSE information line is answered Monday through Friday. The information line is available to all stakeholders, and OSE staff provide information and answer questions related to special education. Contact the MDE OSE information line by phone at 888-320-8384 or email mde-ose@michigan.gov.

Family Matters

[Family Matters](#) is a resource page developed by the OSE specifically for parents and families. The Family Matters website provides information through a series of fact sheets specific to special education topics, written in parent-friendly language.

Michigan Alliance for Families

[Michigan Alliance for Families](#) is an IDEA grant-funded initiative which provides parent mentors, information and resources, support, and education for families who have children and young adults (birth to 26 years of age) who receive (or may be eligible to

receive) special education services. Contact Michigan Alliance for Families by phone at 800-552-4821, email info@michiganallianceforfamilies.org, or use the [Michigan Alliance online contact form](#).

Special Education Mediation Services

[Special Education Mediation Services \(SEMS\)](#) helps students by fostering cooperation and effective teamwork among those who plan their education. SEMS provides free mediation and/or meeting facilitation by a neutral, third-party mediator or facilitator. The use of a facilitator or mediator is voluntary, must be agreed to by both parties, and can be requested by a parent or school district. SEMS is an IDEA grant-funded initiative which uses trained, independent facilitators and mediators who are not employees of the MDE, an ISD, or a school district. The overall goal is to help students, parents, and educators make decisions that improve educational outcomes. Contact SEMS by phone at 833-543-7178, email info@MiKids1st.org, or use the [SEMS online request for services form](#).

Disability Rights Michigan

[Disability Rights Michigan \(DRM\)](#) is the independent, private, nonprofit, nonpartisan protection and advocacy organization authorized by federal and state law to advocate and protect the legal rights of people with disabilities in Michigan. Contact DRM by phone at 800-288-5923 or use the [DRM online request form](#).

Appendix A: Glossary

Administrative Law Judge (ALJ)—The individual who conducts due process hearings.

Allegation—A statement describing how a district or program has violated the *Michigan Administrative Rules for Special Education (MARSE)*, Michigan Law, intermediate school district plan for the delivery of special education, or the *Individuals with Disabilities Education Act (IDEA)*.

Compensatory Education—A remedy under the *Individuals with Disabilities Education Act (IDEA)*, compensatory education is awarded to a student after a finding of noncompliance which resulted in a denial of a free appropriate public education (FAPE).

Complainant—The person or organization filing the complaint.

Free appropriate public education (FAPE)—Special education and related services provided at public expense in conformity with an individualized education program (IEP).

Individuals with Disabilities Education Act (IDEA)—Federal regulations to ensure children with disabilities receive a free appropriate public education (FAPE).

Individualized education program (IEP)—A written statement for a child with a disability which identifies the special education and related services required for the student to progress in the general curriculum, make progress on annual goals, and to participate with nondisabled peers.

Intermediate school district (ISD)—May also be called an educational service agency (ESA), a regional educational service agency (RESA), or a regional educational service district (RESD). ISDs have general supervision authority to ensure the provision of a FAPE for all eligible students with disabilities within the local school districts, including public school academies, within the ISD's boundaries.

Michigan Administrative Rules for Special Education (MARSE)—State rules for special education.

Michigan Department of Education (MDE)—State educational agency (SEA) which oversees public school districts in Michigan.

Mediation—A voluntary process where a neutral third-party mediator assists the parent and district to reach a mutually acceptable resolution to a dispute.

Procedural Safeguards Notice—A notice document that identifies parent and student rights as they relate to the *Individuals with Disabilities Education Act* (IDEA) or the *Michigan Administrative Rules for Special Education* (MARSE).

Office of Special Education (OSE)—The office within the state educational agency that provides the general supervision, administration, and funding of special education programs and services for eligible children and youth with disabilities from birth through age 25, in accordance with federal and state law.

OSE Case Manager—The person(s) assigned by the Office of Special Education to conduct the state complaint investigation.

Parent—As defined by the *Individuals with Disabilities Education Act* (IDEA), parent means a biological or adoptive parent, a foster parent, a guardian generally authorized to act as the child’s parent or authorized to make educational decisions, an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relatives) with whom the child lives, an individual who is legally responsible for the child’s welfare, or an appointed surrogate parent.

Public Agency—The state educational agencies, local educational agencies, educational service agencies, nonprofit public charter schools, and any other political subdivisions of the State that are responsible for providing education to children with disabilities.

R—Rule in the *Michigan Administrative Rules for Special Education* (MARSE).

Special Education Mediation Services (SEMS)—An *Individuals with Disabilities Education Act* (IDEA) grant-funded initiative which provides free mediation and individualized education program (IEP) facilitation services to families and districts in Michigan.

Systemic—A district-wide system problem which may affect many students in a district.

Appendix B: State Complaint Model Form

Parents, other individuals, and organizations may file a state complaint when they believe a public agency has violated one or more of the state rules or federal regulations pertaining to special education. The use of this form is optional; however, all required information must be provided for a complaint to be filed.

Person filing the complaint:

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Email: _____

Telephone: _____

Complainant's relationship to student:

____ Parent ____ Attorney ____ Advocate ____ Self

____ Other: _____

Student Information: (Required for allegations regarding a specific student.)

Name of Student: _____

Date of Birth (optional): _____

Home Address: _____

(Include only if different from above. If homeless, include contact information.)

Name of School Student is Attending: _____

The Public Agency the Complaint is Filed Against:

Name of Public Agency: _____

To file a state complaint, the written complaint must include the alleged violation(s) with supporting facts and a proposed resolution, to the extent known and available to the complainant. Additional pages may be attached if needed.

Statement of Alleged Violation:

Describe the problem or issue(s). If alleging a violation with respect to a specific student, include a description about the nature of the problem.

Statement of Facts:

Provide facts to support the alleged violation(s). Describe the events, dates, and documents which support your allegations.

Proposed Resolution:

To the extent known, describe a proposal or suggestion to resolve the allegation(s).

Mediation: Release of Contact Information to SEMS

A parent, public agency, or non-parent complainant with parent participation can request mediation by a neutral, third-party mediator from Special Education Mediation Services (SEMS). Mediation services are provided at no cost to the parties. The mediator will assist the parent and district to reach a mutually acceptable resolution to the dispute. SEMS is an *Individuals with Disabilities Education Act* (IDEA) grant-funded initiative which uses trained, independent mediators. The mediators are not employed by the Office of Special Education (OSE), a school district, or an intermediate school district (ISD). Mediation may proceed at the same time as the complaint investigation process, is completely voluntary, and is confidential.

____ Yes, I am interested in mediation and authorize the OSE to forward my name and contact information to SEMS. I understand SEMS will contact me directly.

____ No, I am not interested in mediation. I understand SEMS will not contact me, however, at any point, I can contact the district, the ISD, or SEMS to request mediation. Visit the [SEMS website](#) or call 833-543-7178 for more information.

Submit Form to Request a State Complaint

This state complaint request must be signed and mailed, hand-delivered, or electronically (fax, email) submitted to the OSE.

The signature below confirms a copy of this state complaint request, including accompanying attachments, was forwarded to the public agency.

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) and is not the complainant, this state complaint investigation request must include a signed consent for the release of information before any information will be shared with the complainant.

Michigan Department of Education
Office of Special Education – State Complaints
608 West Allegan
P.O. Box 30008
Lansing, MI 48909
Fax: 517-241-7141
Email: MDE-MIComplaints@michigan.gov



Appendix C: Consent for Release of Information Model Form

Student Information

Student Name: _____ Date of Birth: _____

Parent/Guardian Information

Name: _____ Relationship: _____

Phone Number: _____ Email Address: _____

Complainant Information

Agency Name (if applicable): _____

Complainant Name: _____

Consent for Release

Regarding the state complaint filed on behalf of the aforementioned student, I give permission for the following:

1. The Michigan Department of Education may send complaint communications to the complainant including, but not limited to, the issues letter and final decision report.
2. The Michigan Department of Education may communicate with the complainant via verbal or written communication.
3. The complainant may provide the Michigan Department of Education with student education records or any other records relevant to the complaint.

Copies of Correspondence

If you wish to receive copies of all letters and reports sent to the complainant regarding the state complaint, please provide a current address.

Parent Name: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

By signing this form, I am permitting the Michigan Department of Education and complainant to communicate in any of the manners listed above. I understand this release is valid until the closeout of the complaint. I have the right to withdraw my consent at any time.

Parent Signature

Date