



State Complaints and Due Process Complaints

There are different approaches for resolving special education questions or concerns. Reviewing the considerations for [Special Education Problem Solving](#) may be helpful in deciding how to start the process and can provide an overview of approaches to resolve concerns. [Good communication](#) may help avoid or resolve disputes, but more formal options like State Complaints and Due Process Complaints are also available.

State Complaints

A state complaint is a formal dispute resolution option that can be filed by anyone, on behalf of children, students, and young adults with disabilities 0-26 years of age. State complaints must be filed with the Michigan Department of Education Office of Special Education (MDE OSE). A state complaint alleges that a district, intermediate school district, or the state violated one or more regulations under the federal *Individuals with Disabilities Education Act* (IDEA) or the *Michigan Administrative Rules for Special Education* (MARSE). The OSE conducts an investigation and MDE issues a decision within 60 calendar days after the complaint is filed. There is no appeal process or process for reconsideration of the final decision. If the investigation identified noncompliance, the OSE will assign corrective action as necessary. Identified noncompliance must be corrected as soon as possible but in no case greater than one year.

Due Process Complaints

A due process complaint can be filed by either a parent or a district, intermediate school district, or the State. Due process complaints are limited to issues of identification, evaluation, placement, or the provision of a free appropriate public education (FAPE) and are filed with the MDE OSE.

A due process complaint is a request for a due process hearing. Prior to the hearing, the school district must schedule a resolution meeting for the parties to attempt to reach an agreement without going to a hearing. If the parties reach an agreement, they sign a legally binding agreement.

When the parties go to a hearing, an administrative law judge (ALJ) reviews evidence, hears witness testimony, hears arguments from both parties about the complaint, and provides a written final decision and order. Decisions made by an ALJ are legally binding but can be appealed in court.

Once an issue is decided in a due process complaint, the issue cannot be investigated again through a state complaint if it involves the same parties.

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Family Matters fact sheets are intended to enhance public understanding of Michigan's special education system and are not a substitute for official laws and regulations.



State Complaint and Due Process Complaint Comparison

Appendix B of [Special Education Dispute Resolution Options](#) includes a set of questions with the different answers for State Complaints and Due Process Complaints. Below is a select set of the questions.

Question	State Complaint	Due Process Complaint
What is the difference between a state complaint and a due process complaint?	The state complaint process involves an objective review by the OSE, with support from the ISD representative, when applicable, of a set of facts regarding issues of alleged violations.	A due process hearing is a formal administrative hearing with an impartial ALJ who is not an employee of the OSE or any school district or educational program.
How is the complaint handled after it is filed?	The OSE will conduct an investigation, including reviewing documents and working with the ISD to contact the parent, the district, and other relevant persons to schedule investigatory interviews. The investigation may also include the use of targeted questionnaires and an onsite visit to the district, if needed, to conduct a thorough fact-finding process.	An administrative law judge hears the case. The parties may enter and object to written evidence and request a record of the proceedings.
I heard if I file a complaint my child will stay in their current placement.	Students do not automatically “stay put” in their current placement during a state complaint investigation. The OSE may order “stay put” when necessary.	When an allegation involves placement or discipline, the student must “stay put” in the current placement pending the results of the hearing unless the parties agree otherwise.
What if I disagree with the final decision?	There is no appeal process or process for reconsideration of a final decision.	Either party may appeal the final decision to state or federal court.

Resources



- Michigan Department of Education (MDE):
 - » [Special Education Dispute Resolution Options](#)
 - » [Special Education Due Process Complaints and Flowchart](#)
 - » [Special Education Due Process Complaint Procedures](#)
 - » [Special Education Due Process Complaint Filed by District](#)
 - » [Special Education State Complaints: Procedures and Model Forms](#)
- Special Education Mediation Services (SEMS)
 - » [Facilitated Communication, Mediation, State Complaints, Due Process, and More](#)