

What is a complaint?

A complaint is a concern (allegation) that an education agency has violated special education law. Individuals are encouraged to direct their concerns to the local education agency where the alleged violation occurred. If the concerns are not initially resolved at the local level, a formal complaint may be filed with the New Jersey Department of Education for an independent review of the alleged violation(s).

How can I file a complaint?

An individual or organization may file a complaint with the New Jersey Department of Education's Office of Special Education Programs (OSEP) by using the form provided in the document entitled, *Parental Rights in Special Education (PRISE)*, by downloading the form from the department's website (information below) or by submitting a letter with the necessary elements. A formal complaint must be in writing and must be signed.

A complaint must include:

- A statement that the education agency has violated the requirements of State and/or Federal statute and/or regulation for the provision of special education and related services;
- The facts on which the statement is based; and
- The time period when the alleged violation occurred.

The complainant must submit the complaint no later than *one year* after the alleged violation occurred.

How is a complaint resolved?

1. The most desirable method to resolve a complaint is for the complainant and the education agency to work together to come to an understanding of mutual concerns and come to an agreement in the best interest of the student with a disability, prior to filing a formal complaint.
2. If a formal complaint is filed with the OSEP, a ten-day period is allowed for the parties to resolve the issues in the complaint before an investigation begins. This ten-day period is referred to as an opportunity for Early Resolution. A signed resolution statement is submitted to the OSEP to show that the matter is resolved. *Mediation is also available at no cost to the parties.*
3. During the investigation period, if one is necessary, the OSEP conducts interviews and reviews documentation submitted by the parties to determine whether the education agency was compliant or noncompliant. The scope of an investigation is limited to whether the education agency followed the correct procedures, involved the required persons and made a determination in a timely manner with procedural safeguards.
4. Unless a complaint is resolved early, a report will be issued, which shall include factual findings, conclusions and corrective action, if necessary.

How long does it take to make a determination on a complaint?

Federal/State law and regulations require that a determination be made on a complaint within 60 calendar days of receipt of the written, signed complaint, unless an extension of the timeline has been obtained, as permitted by regulation. For this reason, the parties are asked to work cooperatively to resolve the issues raised in the complaint and/or to submit necessary documentation promptly.

What happens if there are areas of noncompliance?

If the education agency is found to be noncompliant, a corrective action plan in accordance with the directive(s) in the report shall be developed by the education agency and submitted to the OSEP.

If a parent has already filed a request for a complaint investigation, can he/she still request a due process hearing?

Yes. However, if a complaint is also the subject of a due process hearing, the OSEP shall set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. If an issue is raised in a complaint that has been previously decided in a due process hearing involving the same parties, the hearing decision is binding.

What the complaint system is not able to do:

The OSEP does not investigate complaints regarding alleged violations of Section 504 of the Rehabilitation Act of 1973 or other allegations of violations of civil rights. These matters are addressed directly to the Office for Civil Rights in the U.S. Department of Education at (646) 428-3900. Also, the OSEP cannot address personnel issues or general education matters. Local boards are responsible for the operations of their schools, including the supervision of personnel and the administration of programs.

What if, after the report is issued, a party thinks there is a mistake in the report?

If a party believes that the report includes a mistake that is material to the determination, the party may inform the OSEP and the other party, in writing, within 15 days of the date of the report. The letter shall identify the asserted error and include any documentation in support of the claim. *Note, however, that where a party has failed to submit relevant documentation to the record despite the opportunity to do so, the OSEP will not review the claim of error.* The OSEP will determine the appropriate steps to consider the claim of error after receipt of the letter and documentation.

Where is a complaint filed?

New Jersey Department of Education
Office of Special Education Programs
P.O. Box 500
Trenton, NJ 08625
PHONE (609) 292-7602
FAX: (609) 984-8422

A complaint form may be obtained from the website at:

<http://www.state.nj.us/education> by clicking on “Special Education” in the center menu on the home page.

**COMPLAINT
RESOLUTION
PROCEDURES
FOR
SPECIAL
EDUCATION**

**NEW JERSEY DEPARTMENT
OF EDUCATION
OFFICE OF SPECIAL
EDUCATION PROGRAMS**



