

Special Education State Complaints

Resolving Disputes Through Informal and Formal Processes

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Michigan Alliance for Families

Information
Education
Support

www.michiganallianceforfamilies.org

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Acronyms and Symbols

- MDE-OSE – Michigan Department of Education-Office of Special Education
- IDEA – Individuals with Disabilities Education Act
- MARSE – Michigan Administrative Rules for Special Education
- IEP – Individualized Education Program
- FAPE – Free Appropriate Public Education
- MDR – Manifestation Determination Review
- ALJ – Administrative Law Judge
- R – Rule (MARSE)
- § - Section (IDEA)



Overview

Governance and Guidance

- Federal regulations and state rules about resolving disputes and complaints through informal and formal processes

Options For Resolving Special Education Disputes

State Complaint Process and Procedures

- Process, Procedures and Timelines
- What, Who, Why, When, Where, How



Governance and Guidance

Individuals with Disabilities Education Act (IDEA)

- 34 CFR §300.506 (Mediation)
- 34 CFR §300.153 (Filing a state complaint)
- 34 CFR §300.610-627 (Confidentiality of Information)

Michigan Administrative Rules for Special Education (MARSE)

- R340.1850 – R 340.1855 (State complaints)

Michigan Department of Education-Office of Special Education (MDE-OSE)

- Special Education State Complaints: Procedures and Model Forms (6.8.2021)
- Special Education Dispute Resolution Options (6.7.2021)



Options For Resolving Special Education Disputes

1. Informal Meetings, Review and Revise IEP
2. Facilitated IEP
3. Mediation
4. State Complaint
5. Due Process Complaint/Hearing



Informal Complaint Resolution

Federal regulations and state rules encourage informal resolution of disputes

- ✓ Parents and school/district staff meet and talk to try and resolve the issue
- ✓ Review, revise, amend the IEP
- ✓ Written agreements between district and parent
- ✓ Mediation services (no cost to parent or district)

Benefits of Informal Resolution

- ✓ Parents and school/district have control of the process and outcomes
- ✓ Disagreements can be resolved more quickly
- ✓ Preserve positive, collaborative relationship between school and parent
- ✓ Less costly (time, resources and money)



Meeting Facilitation

- Neutral Facilitator
- Any special education meeting (IEP, Manifestation Determination Review, etc.)
- Voluntary process - parent and school must agree to participate
- Facilitator coordinates discussion
- No cost to parent or school district

When to use Facilitation

- Participants uneasy about a meeting
- Parent, school relations strained
- Participants need to focus on student issues



Role of the Facilitator



A Facilitator will:

- Create an agenda based on input from the parties
- Stay neutral
- Facilitate the meeting process, if asked to.
- Keep meeting centered on student needs
- Help negotiate disagreements
- Keep meeting on track and on time
- Makes sure everyone adheres to ground rules

A Facilitator will not:

- Be a part of the team
- Give legal advice
- Advocate for a position
- Make decisions



Mediation

- Safe, neutral environment to resolve a specific dispute
- Does not delay a parent's right to file a state complaint
- Voluntary process-parties must agree to mediation
- Trained, neutral mediator guides parties through the mediation process, assisting in negotiation to resolve differences
- Conversations are confidential, can't be used in other court proceedings
- Agreement is a legally enforceable document
- No cost to parent or school district



When to use Mediation

Mediation can be used for...

- Any dispute (eligibility for programs/services, Transition issues)
- Communication, relationship issues
- Working towards resolving disagreements any time during the state complaint process



Role of the Mediator

A Mediator will

- Remain neutral
- Conduct the mediation
- Ensure all participants have equal opportunity to express their thoughts
- Make sure everyone abides by the rules for appropriate conduct
- Help parties remain on topic
- Guide participants towards creating an agreement
- Take notes
- Record the agreement

A Mediator will not

- Make decisions
- Give legal advice
- Take sides



Special Education Mediation Services (SEMS)
Requesting **FREE** Services

 Call 833-KIDS-1ST (833-453-7178)
Mikids1st.org (fill out Request for Services form)

 Intake Process

 SEMS contacts parties, arranges schedules, and processes paperwork


 Parties Meet




What is a state Complaint?

A state complaint is a written, signed statement that alleges a public agency violated...

- ✓ State or federal special education rules or regulations related to special education programs and services (MARSE or IDEA)
- ✓ An Intermediate School District (ISD) plan
- ✓ Michigan Revised School Code (as related to special education),
- ✓ Decision made by an Administrative Law Judge
- ✓ State application for federal funds





Common issues addressed in a state complaint

Related to the IEP

- ✓ Parent not invited to an IEP meeting
- ✓ IEP not being implemented
- ✓ Goals and objectives are not measurable
- ✓ Services (amount, description, etc.) are not clear

Related to Evaluation

- ✓ District did not respond to parent's request to evaluate
- ✓ Evaluation was not completed within the timeline required

Related to discipline-student suspended/expelled

- ✓ No services provided
- ✓ No Manifestation Determination Review (MDR) was done


Related to Free Appropriate Public Education (FAPE)

- ✓ Programs/services not appropriate

Related to Records

- ✓ District didn't allow parent to see child's records-access to records

Issues previously decided in a due process complaint involving the same parties, cannot be investigated through a state complaint



Where to get additional information about...

Issue	Addressed by
Individual staff issues School Policies	<ul style="list-style-type: none"> ✓ School/District Administrator ✓ School Board
Discrimination Section 504 Plans	<ul style="list-style-type: none"> ✓ Office of Civil Rights (OCR)
Confidentiality Student records	<ul style="list-style-type: none"> ✓ Student Privacy Office- US Department of Education ✓ Family Educational Rights and Privacy Act (FERPA)
Abuse Neglect	<ul style="list-style-type: none"> ✓ Local law enforcement agency ✓ Department of Health and Human Service (DHHS) – Child Protective Services

Who can file a state complaint - Complainant

Anyone can file a state complaint. It does not have to be the child's parent and the person does not have to live in Michigan.

Some examples are

- ✓ Parent/guardian/foster parent/surrogate parent assigned by the school
- ✓ Child's relative
- ✓ School personnel
- ✓ Doctor, therapist, CMH supports coordinator, case worker

The person who files the state complaint is the **complainant**.

Complaints filed by someone who is not the parent

- ✓ Written, signed, and dated release of information submitted to the OSE
- ✓ Allows communication between the OSE, nonparent complainant and parent



Who can file a state complaint – Respondent

The public agency that the state complaint is filed against is the **respondent**.

Public agency includes:

- ✓ School district
- ✓ Charter school/Public School Academy (PSA)
- ✓ Intermediate School District (ISD)
- ✓ Regional Educational Service Agency (RESA)
- ✓ Michigan Department of Education (MDE)
- ✓ Other state agencies providing education to students with disabilities



Why file a state complaint?

Individual Complaint



Complainant believes the school/district violated a special education rule or regulation for an individual child and they want a remedy (corrective action) for the child.

Systemic Complaint



Complainant believes the school/district violated a special education rule or regulation for a group of students **OR** a district wide policy or a procedure violates a special education rule or regulation **AND** they want a school, district, ISD, etc. remedy.



What information is required to file a state complaint?

State complaint requirements

- ✓ Statement that a public agency has violated the IDEA, MARSE, Michigan Revised School Code, related to special education programs and services, or failed to implement an IEP, an ALJ decision, an ISD plan, or the state application for federal funds under IDEA
- ✓ Facts on which the statement is based
- ✓ Allegation that the violation did not occur more than one year before the date the complaint is received
- ✓ Signature and contact information of complainant



State complaint - specific student

State complaints about a specific student must also include

- ✓ Child's name and address
- ✓ Name of the school the child is attending
 - ✓ If child is homeless, available contact information
- ✓ Description of the nature of the problem, including facts related to the problem
- ✓ To the extent possible, a suggested solution to the problem

The Office of Special Education (OSE) has a **State Complaint Model Form**.

- ✓ Not required to use Model Form
- ✓ Ensure all required information is submitted



State complaint dates

- ✓ A state complaint must be **received** by the Office of Special Education (OSE) within one year of the alleged violation.
- ✓ After the complaint is filed, the OSE has 60 calendar days to complete the investigation and issue a final decision.
- ✓ The IDEA allows an extension for:
 - ✓ Exceptional circumstances
 - ✓ Mediation or other informal resolution process



Where to submit the state complaint

The OSE does not accept anonymous or verbal state complaints.

A written, signed state complaint submitted to the OSE by mail, fax, email, or hand delivery.

Michigan Department of Education
Office of Special Education – State Complaints
608 West Allegan Street
Lansing, Michigan 48909
Fax: 517-241-7141
Email: mde-miccomplaints@michigan.gov

Assistance must be offered with filling out the state complaint if allegation is made verbally to school district



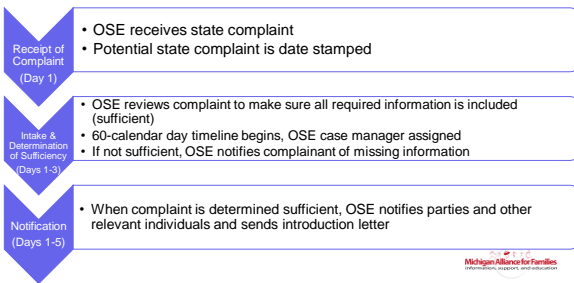
How does the State Complaint Process work?

State complaint investigation procedures – Things to know

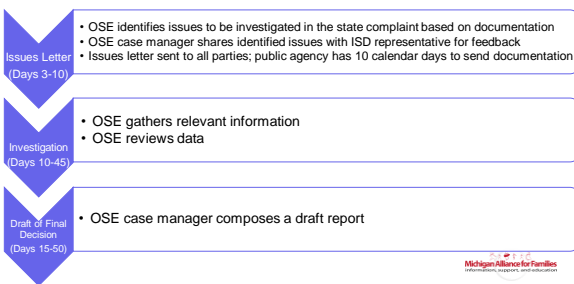
- ✓ The OSE investigator assigned to the complaint is the case manager.
- ✓ The OSE conducts the investigation with support from the ISD when a state complaint is filed against one of their school districts.
- ✓ The OSE case manager and ISD representative will gather relevant information used to determine facts of the case.
- ✓ The OSE will conduct the investigation without support from the ISD when a state complaint is filed against an ISD, or when the OSE determines there is a conflict of interest involving a school district.



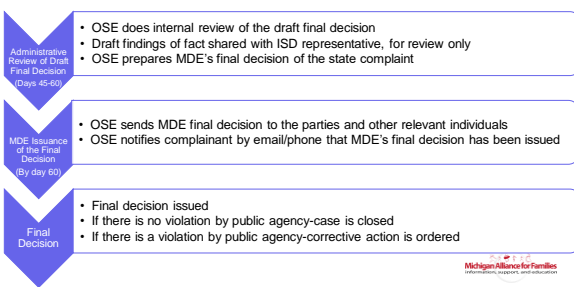
State Complaint Procedures Timeline (Steps 1-3)



State Complaint Procedures Timeline (Steps 4-6)



State Complaint Procedures Timeline (Steps 7-8) and Final Decision



Options available after filing a state complaint

Resolving the issue through mediation

- ✓ Following mediation, the state complaint (all of it or a portion of it) may be withdrawn through a specified agreement or in a separate request from the complainant

Withdrawal

- ✓ Complainant can withdraw a state complaint at any time during the 60-calendar day investigation for any reason
- ✓ Complainant submits a written request to the OSE (mail, email, fax, or hand delivery)

Dismissal

- ✓ A state complaint is dismissed by the OSE (all of it or a portion of it) when issues raised in the complaint are resolved through a due process complaint final order issued by an ALJ.



Disagreement with a state complaint final decision

- A final decision issued by the Michigan Department of Education (MDE) is final.
- The MDE ensures that a comprehensive state complaint investigation is completed within the 60-calendar day timeline required by the IDEA.
- No administrative appeal or reconsideration requests are permitted in Michigan.



Corrective Action

Corrective Action

The OSE will order corrective action when a violation is identified

Specific to the violation

Intended to ensure future compliance for all students with disabilities within the public agency and to correct the non-compliance for an individual student

School/District/ISD level

Reviewing, and if necessary, revising procedures

Providing staff training

Informing the board of education when persistent non-compliance occurs

Student level

Conducting an evaluation

Convening an IEP meeting

Developing a behavior intervention plan

Awarding compensatory education



Proof of Compliance

Identified noncompliance corrected as soon as possible, no later than 1 year from the date the final decision is issued

The OSE and ISD monitor/verify progress of completion of corrective action before closing out the state complaint

Verification of completed corrective action includes

- Review of documentation submitted
- Random selection of special education files and/or
- Staff interviews

Student-level corrective action

- Must be completed within 30 school days
- Includes plan for providing compensatory services
- Compensatory services provided as soon as possible, no later than 1 year after final decision is issued



Additional Resources

Michigan Department of Education- Office of Special Education
(MDE-OSE) Information Line

888.320.8384 or email mde-ose@michigan.gov

Family Matters (resource page with one page fact sheets developed by the OSE for families)

[MDE - Family Matters](https://www.michigan.gov/mde/0,4615,7-140-6598_88187_81739-425428--,00.html) (https://www.michigan.gov/mde/0,4615,7-140-6598_88187_81739-425428--,00.html)

Special Education Mediation Service (SEMS)

[Special Education Mediation Services – Working Together for Student Achievement](https://www.mikids1st.org/)

(<https://www.mikids1st.org/>)

833.543.7178 or email info@mikids1st.org

SEMS Online Request for Services Form

[Request Services – Special Education Mediation Services](https://www.mikids1st.org/request-services/) (<https://www.mikids1st.org/request-services/>)

Disability Rights Michigan

[Disability Rights Michigan \(DRM\)](https://www.drmmich.org/) (<https://www.drmmich.org/>)

800.288.5923 or use the DRM Online Request Form-

[Online Request Form-Disability Rights Michigan](https://www.drmmich.org/contact/) (<https://www.drmmich.org/contact/>)



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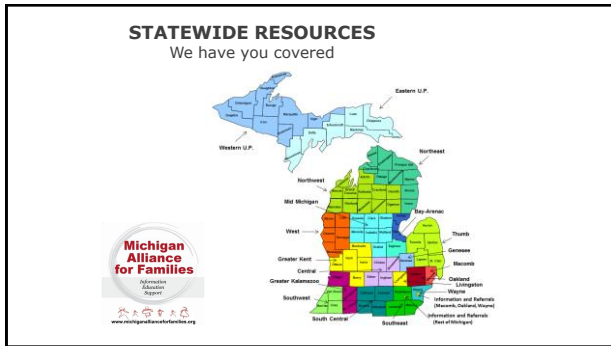
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Title IX states: "No person in the U.S. shall, on the basis of sex be excluded from participation in, or denied the benefits of, or be subject to discrimination under any educational program or activity receiving federal aid."

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For inquiries and complaints regarding Title IX, contact:
Elizabeth Collins, Office of Career and Technical Education,
Michigan Department of Education, Harshbarger Building,
608 West Allegan, P.O. Box 30008, Lansing, MI 48909


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