



## New York State Education Department Revised Sample State Complaint Form

If a parent, individual or organization believes that a school district or public agency has violated a requirement of Part B of the Individuals with Disabilities Education Act (IDEA) or State law/regulation related to the education of students with disabilities, they may submit a written, signed State complaint to the New York State Education Department (NYSED). Attached is a revised New York State (NYS) Sample Complaint Form that may be used to submit a complaint. Use of this form is recommended, but not required. If using your own format to submit a State complaint, you must provide the required information, as appropriate, as indicated on the sample form. Upon receipt of a written complaint by an individual or agency, NYSED must determine if the alleged violation occurred and issue a written decision of its findings.

NYSED encourages parents and school districts to use mediation to resolve complaints regarding the education of a student with a disability.

### **Parent, Individual or Organization (Complainant) Submitting the State Complaint**

- Requests for a State complaint must be made in writing.
- A State complaint must be signed by the complainant (faxed or e-mail signatures will not be accepted).
- The State complaint must include:
  - a statement that a school district or public agency has violated a requirement of Part B of IDEA or State law/regulation related to students with disabilities;
  - the facts on which the statement is based;
  - contact information of the person filing the complaint;
  - if alleging violations with respect to a specific child, include:
    - the name and address of the residence of the child;
    - the name of the school the child is attending;
    - in the case of a homeless child or youth, available contact information for the child and the name of the school the child is attending;
    - a description of the nature of the problem of the child (the concerns that led you to file the complaint), including the facts relating to the problem; and
    - a proposed resolution of the problem to the extent known and available at the time the person is filing the complaint.
- The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received by NYSED.

- The individual filing the complaint must forward a copy of the complaint to the school district or other public agency serving the child at the time the person files the complaint with NYSED.

### **State Complaint Procedures**

- The school district or public agency must give the procedural safeguards notice to the parent upon receipt of the first State complaint in a school year.
- The parent, individual or organization filing the complaint has the opportunity to submit additional information, either orally or in writing, about the allegations in the State complaint.
- The school district or public agency has the opportunity to respond to the State complaint, including, at a minimum: (a) at the discretion of the school district or public agency, a proposal to resolve the complaint and (b) an opportunity for the school district or public agency and the parent who filed the complaint to voluntarily engage in mediation.
- Within 60 calendar days after a complaint is filed (received), NYSED will issue a written decision to the complainant that addresses each allegation in the complaint and contains findings of fact and conclusions and the reasons for the final decision. NYSED will include, if needed, procedures for effective implementation of its final decision, including technical assistance, negotiations and corrective actions to achieve compliance.
- NYSED can grant an extension of the 60-calendar-day time limit only if exceptional circumstances exist with respect to a particular State complaint or the parent, individual or organization and school district or other public agency involved voluntarily agree to extend the time to resolve the matter through mediation.
- NYSED is required to set aside the complaint or any part of a State complaint that is being addressed in a due process hearing until the conclusion of the hearing. Any issue in the complaint that is not part of a due process hearing must be investigated and resolved. If an issue raised in a State complaint has previously been decided in a due process hearing involving the same parties, then the due process hearing decision is binding on that issue and NYSED will inform the complainant that the decision is binding. A complaint alleging a school district's or other public agency's failure to implement a due process hearing decision will be resolved by NYSED.
- NYSED will review all relevant information and make an independent determination as to whether the school district or other public agency is violating a requirement of Part B of IDEA or State law/regulation and must, if it determines it to be necessary, carry out an independent on-site investigation.

**Instructions: Complete, sign and make two copies of the original State complaint form.**

- Send the original State complaint form to NYSED, Office Special Education, 89 Washington Avenue, Room 309, Albany, NY 12234, Attention: State Complaints.
- Send one copy of the State complaint form to the school district serving the child at the same time that the complaint is filed with NYSED.
- Retain a copy of the State complaint form for your records.

A question and answer document clarifying the procedures used by NYSED in the investigation and resolution of State complaints which allege that a school district or public agency has violated federal and New York State law or regulation relating to students with disabilities is available at <http://www.p12.nysed.gov/specialed/quality/complaintqa.htm>.

## Sample New York State Complaint Form

The following sample form may be used to file a State Complaint. Use of this sample form is not mandated, however the asterisked (\*) information on the sample form is required under section 300.153(b) of the Code of Federal Regulations and section 200.5(l)(1) of the Regulations of the Commissioner of Education to file a State Complaint. State Complaints should be mailed to: The Office of Special Education, New York State Education Department, 89 Washington Avenue, Room 309, Albany, New York 12234.

### Complaint Contact Information (Complainant)

Name of Person/Organization filing the complaint:		Date:
Relationship to the Student--Check One: <input type="checkbox"/> Parent or Person in Parental Relationship <input type="checkbox"/> Surrogate Parent <input type="checkbox"/> Parent's Attorney <input type="checkbox"/> School District/State Agency Representative <input type="checkbox"/> Other _____		
*Contact Information for Complainant:		
Mailing Address:	Telephone: Day: _____ Work: _____	
What is the best time to contact you (the complainant) and at what phone number? _____		

### Student Information (if you are alleging a violation with respect to a specific student)

*Child's Name:	Date of Birth:
*Address of Child's Residence (if any):	
*Name of the School the Child Attends:	
Name of the School District of Residence (if different from the school the child attends):	
Address of the School the Child Attends:	
*Additional Contact Information for Homeless Child or Youth (if available):	
Parent's Name:	
Parent's Address:	
This form <u>must</u> be signed or it cannot be processed and will be returned to you for signature. <ul style="list-style-type: none"> <li>The New York State Education Department will only accept formal complaints with <b>ORIGINAL signature</b>. State Complaints that are faxed or emailed will <u>not</u> be accepted.</li> <li>*A <b>copy of the State Complaint must be sent</b> by the complainant to the school district or public agency against whom the complaint is filed at the same time it is sent to New York State Education Department.</li> </ul>	

**\*Complainant Signature:** \_\_\_\_\_

Have you sent a copy of this complaint to the superintendent of the school district or public agency that you are alleging violated special education law or regulation?  Yes  No

## Complaint Information

If you have more than one complaint issue, please complete a separate page for each alleged violation of law or regulation relating to the education of students with disabilities.

### **\*Allegation Information**

Provide a statement of how you believe the school district or public agency has violated Part B of IDEA or a State law or regulation relating to the education of students with disabilities. You do not need to know specifically what law or regulation might have been violated. Attach additional pages if necessary. (The complaint must allege a violation that occurred not more than one year prior to the date that the State complaint is received.)

### **\*What are the facts upon which the above allegation statement is based?**

### **If you are alleging a violation with respect to a specific student:**

\*1. Describe the nature of the problem of the child (how the alleged violation affected the student) and include facts relating to the problem to support this allegation.

\*2. Describe a proposed resolution of the problem (what you believe should occur to correct the problem or how the district could resolve the alleged violation) to the extent known and available at this time. Attach additional pages if necessary.

**This issue is currently/or has been addressed in a due process impartial hearing.**

Yes  No