

SPECIAL EDUCATION STATE COMPLAINT PROCESS

IDEA SPECIAL EDUCATION MEDIATOR TRAINING
NEW YORK STATE EDUCATION DEPARTMENT

VIRTUAL PROGRAM

TUESDAY, SEPTEMBER 8, 2020 – WEDNESDAY, SEPTEMBER 9, 2020
WEDNESDAY, SEPTEMBER 23, 2020 – THURSDAY, SEPTEMBER 24, 2020 (REPEAT)

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The IDEA includes a state complaint process to address various violations of the IDEA. A state complaint is not a precondition to filing a due process complaint. Like a due process complaint, state complaints can address student specific issues but, unlike the due process procedures, state complaints extend to systemic (or non-student specific) issues.

The parties can agree to mediate a state complaint, including systemic issues.

**COMPLAINT – INDIVIDUAL (E.G., PARENT) OR
ORGANIZATION ALLEGES VIOLATION OF
IEP OR SPECIAL EDUCATION LAW**

Note: Allegation must be of a violation that occurred not more than one year prior to the date the state complaint is received.



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Note: The parties may agree to engage in mediation at anytime.

Note: The state may require the school district to submit a written response, possibly including a proposal to resolve the complaint.



***NYSED INVESTIGATES AND DECIDES COMPLAINT
WITHIN 60-CALENDAR DAYS, EXCEPT WHERE
EXCEPTIONAL CIRCUMSTANCES EXIST OR WHEN
THE PARTIES AGREE TO EXTEND TIMELINE IN
ORDER TO ENGAGE IN MEDIATION***

1. Whether allegation is valid.
2. If valid, determining what corrective action is appropriate, if any (e.g., if child specific complaint, directs school district to comply with law/IEP, provides compensatory services, etc.) and systemic relief for all children in the school district, if appropriate.



NO APPEAL PROCESS FOR A STATE COMPLAINT

Note: However, where a complaint involves the rights of an individual student, upon an adverse decision, the complainant or school district may initiate an impartial hearing to address the issues raised in the complaint.

Note: If an issue is the subject of both a state complaint and a due process hearing, the state complaint investigator must set aside the issue for the hearing officer to determine. The hearing decision is binding on the issue and the state complaint investigator must notify the complainant of same.

NOTE: REDISTRIBUTION OF THIS DOCUMENT WITHOUT EXPRESSED, PRIOR WRITTEN PERMISSION FROM ITS AUTHOR IS PROHIBITED.

THIS DOCUMENT IS INTENDED TO PROVIDE WORKSHOP PARTICIPANTS WITH AN OVERVIEW OF THE SPECIAL EDUCATION STATE COMPLAINT PROCESS. IN USING THIS DOCUMENT, THE PRESENTER IS NOT RENDERING LEGAL ADVICE TO THE PARTICIPANTS.