



**Pennsylvania
Department of
Education**

BUREAU OF SPECIAL EDUCATION

**COMPLAINT INFORMATION
PACKET AND FORM**

November 2006

Dear (Parent/Guardian/Complainant):

Thank you for contacting the Bureau of Special Education (BSE) and providing us with the opportunity to assist you in this matter. Please review the enclosed materials carefully. If you have questions, please feel free to contact the ConsultLine at 1-800-879-2301 or BSE at (717) 783-6913.

The complaint process begins when BSE receives a signed, completed complaint. BSE must complete the investigation and issue the Complaint Investigation Report (CIR), within 60 days. If violations of state or federal requirements are found, the Local Education Agency (LEA) meaning Intermediate Unit, School District, Charter School, Regional Office (Philadelphia), APS, Early Intervention Agency, etc. would be directed to correct the non-compliance.

Each complaint is assigned to a Special Education Adviser employed by BSE.

- The Adviser will contact you by phone to clarify the issues of the complaint. You may meet with the Adviser in person at a public location during normal business hours.
- The Adviser will ask you to provide the name(s) of others who may have knowledge of the facts of the complaint and will interview a reasonable number of them prior to the report being issued.
- An Acknowledgment Letter will be mailed to you verifying the issues of the complaint.
- If the issues raised are not within the jurisdiction of BSE, you will receive a letter telling you of this. You will be provided contact information for other agencies that may be of assistance.
- The Adviser will conduct an on-site investigation at the LEA to review relevant records and interview staff.
- You may provide additional information either orally or in writing prior to the final CIR.
- The Adviser will then analyze the facts and develop the written CIR.
- The Adviser will forward the CIR to the Division Chief for review and revision.
- The CIR will be issued after the Division Chief has approved it.

Either party may ask for reconsideration of the CIR's findings if there is information that was not known at the time of the CIR that would change the conclusion or corrective action; or if there is disagreement with the CIR's conclusion or corrective action. BSE must receive the request for reconsideration no later than 10 days after the date of the CIR. Upon receipt, the Division Chief will review the report and make a determination to amend the CIR or dismiss the request for reconsideration.

The parties may resolve the complaint independently. If the parties resolve the issues, the LEA will submit a written confirmation including the complainant's signature. BSE will issue a Resolution Letter to the complainant and the LEA to close the complaint.

The complainant may also choose to withdraw the complaint. The Adviser will contact the complainant and ask for formal notification by letter and BSE will issue confirmation to the complainant via the Withdrawal Letter.

The parties may enter into the mediation process at any time. If the parties are engaged in mediation, or other alternative means of dispute resolution, i.e., IEP facilitation, the time limit for complaint investigation can be extended beyond 60 days.

Regulatory Basis

Complaint Information– According to Federal Regulation (34 CFR §300.153), there are required components for filing a complaint. The following is that regulation.

§300.153 Filing a complaint.

- (a) An organization or individual may file a signed written complaint under the procedures described in §§300.151 through 300.152.
- (b) The complaint must include-
 - (1) A statement that a public agency has violated a requirement of Part B of the Act or of this part;
 - (2) The facts on which the statement is based;
 - (3) The signature and contact information for the complainant; and
 - (4) If alleging violations with respect to a specific child-
 - (i) The name and address of the residence of the child;
 - (ii) The name of the school the child is attending;
 - (iii) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434 a (2)), available contact information for the child, and the name of the school the child is attending;
 - (iv) A description of the nature of the problem of the child, including facts relating to the problem; and
 - (v) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
- (c) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with § 300.151.
- (d) The party filing the complaint must forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files the complaint with the SEA.

Gaskin Settlement Agreement

The Department of Education entered into a Settlement Agreement (SA) with the plaintiffs on September 19, 2005. The pertinent sections of the SA are as follows:

- (A) Whenever a parent or student submits a complaint to the Bureau, PDE will, without exception, investigate the complaint. If PDE determines that the complaint was timely filed and that it has jurisdiction to investigate the complaint (*see* 34 C.F.R. §300.662), then PDE will not resolve the complaint without using its best efforts (i) to interview the parent or student, and (ii), if the complainant identifies persons alleged to have actual knowledge of the facts, to interview a reasonable number of such persons.
- (B) When the complaint resolution process results in a finding by PDE that a school district has violated an individual student’s right to receive supplementary aids and services in a regular education class, or where such a violation has been established after a due process hearing, PDE will investigate during the district’s next compliance monitoring whether the district has corrected the violation, not only for the student who was the subject of the complaint but for similarly situated students.

Third Party Filing – Confidentiality Requirements Notice

If a person other than the parent or guardian files the complaint, the complainant will receive a letter from the Special Education Adviser stating that without parental permission to release confidential information, BSE is unable to respond directly to them regarding the complaint. However, BSE will conduct an investigation, prepare a CIR of findings, and issue the findings directly to the parent and the LEA.

Important Changes to the Federal Regulations (Complaints)

If you have filed a complaint before, you should be aware that there are notable changes in the new federal regulations that apply to the complaint process. The Code of Federal Regulations (CFR) 34 Part B made several important changes to the complaint process:

1. The complainant must sign complaints before BSE can investigate the allegation. We are, therefore, no longer able to receive complaints sent via email.
2. The complainant is required by regulation to forward a copy of the complaint to the LEA.
3. The complaint must propose a resolution to the problem.
4. The public agency has the opportunity to respond by providing a proposal to resolve the complaint.
5. An opportunity is provided for a parent who has filed a complaint and the public agency to voluntarily engage in mediation.
6. The complainant will receive a copy of the Procedural Safeguards Notice from the LEA when a complainant files a complaint for the first time in a school year.