



The Protection and Advocacy System for South Carolina

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FACT SHEET

FILING A COMPLAINT WITH THE SOUTH CAROLINA DEPARTMENT OF EDUCATION

Under IDEA (Individuals with Disabilities Education Act), parents and school districts are to work out a plan for a student's education at IEP (Individual Educational Program) meetings. If there is disagreement about the child's educational plan or how it is carried out, parents have three options available to them.

(1) The impartial **due process hearing** system. This involves an outside hearing officer who decides the dispute after holding a hearing where parents and the school district offer evidence and witnesses.

(2) The **mediation process** where parents and the school district meet with a trained mediator who helps the parents and the district reach their own agreement. Mediation is available only if the district agrees to it.

(3) The **written complaint** system operated by the South Carolina Department of Education (SCDE). This fact sheet describes the written complaint system.

"Complaint," means a written statement to the SCDE detailing a specific violation of IDEA, the laws of South Carolina, or State Board of Education regulations related to special education.

Basically, a parent sends a written complaint to the SCDE telling **what the problem is** and **what action the parent feels is needed**. The parent should include any **facts** he or she believes the SCDE should know about. The **name and address of the child** as well as the **name of the child's school** must also be included in the complaint (unless the complaint is not about a specific child). The parent must **sign the complaint** and **include contact information** where the parent may be reached about the complaint. A copy of the SCDE Complaint Form and instructions are available on the SCDE website at:

<https://ed.sc.gov/districts-schools/special-education-services/parent-resources/dispute-resolution-information/state-complaint/scde-complaint-form/>

If you have any questions about the form you may contact the IDEA Complaint Investigation office by calling 803-734-8224 or by email to: specialedservicesoa@ed.sc.gov

A parent should include with the complaint any **evidence** that documents or proves the problem or the result. Examples of evidence a parent may include are copies of the following documents:

- IEP(s)
- IEP Meeting Minutes (Meeting minutes are a summary of what was talked about at an IEP meeting; some districts have other names for these summaries such as "Committee Conference Summaries")
- Academic Records (like Report Cards and Progress Reports)
- Disciplinary Records (like Discipline Reports or Referrals)
- Other School Records (like psycho-educational evaluations or other test results, attendance records, or any other school documentation)
 - Statements or evaluations from the child's physician, counselor, or any other private provider

After completing the form, you must **send it to the SCDE and to the school district at the same time**. We suggest that you **include a statement on your complaint form that you are sending a copy of the complaint to the school district at the same time you are sending it to the SCDE**. In that statement you should also include the school district office and address where you are sending the copy of your complaint.

When sending the complaint to the school district, we recommend addressing it to the Director of Special Education. Call your child's school district to obtain the Director's name and address. You may also look up this information on-line at the South Carolina Department of Education's website. The direct link to "Directors of Programs for Students with Disabilities" is at: <https://ed.sc.gov/districts-schools/special-education-services/parent-resources/special-education-district-director-coordinator-listing/>

In addition, to ensure compliance with the requirement that a copy must be sent to the SCDE and the school district at the same time, we recommend that you **use the same method to send it to both the SCDE and the school district**. For example, if you send the complaint by certified mail to the SCDE, also send it to the school district via certified mail. If you fax the complaint to the SCDE, fax it to the school district too.

Methods you may use to send the complaint include fax, "regular mail" or certified mail, return receipt requested. Although all of these methods are acceptable, **we recommend that you send the complaint by certified mail, return receipt requested**. We recommend this method because you can get a postcard back or get on line tracking to prove the complaint was delivered and the date it was delivered. Ask your post office for details. **Keep a copy of the complaint and all enclosures for your files**. Complaints can raise issues about (1) an individual child's special education or (2) the special education system in a district. **The complaint procedure can be used to solve disagreements with local school districts over any special education matter including:**

- Identification (The district has a duty to identify students who may need special education)
- Evaluation (including the 60-day deadline for completing evaluations)
- Educational placement (type of classroom where a student is taught)
- Provision of a free appropriate public education (proper goals for each student and types of services that are provided)

The SCDE will consider complaints only about violations that occurred within one year before the date SCDE receives the complaint.

A parent should be aware that if she or he files a complaint with the SCDE and requests a due process hearing regarding the same problem, the problem must be resolved through due process; the SCDE will not be allowed to resolve the issue through the complaint process. However, if the due process hearing ultimately does not give any decision about the problem, the SCDE may then resolve it.

If a parent files a due process hearing request and a complaint about different problems, the SCDE may resolve the problem in the parent's complaint and the due process hearing would resolve the other problems.

What happens after sending a complaint? Once the parent sends the complaint to the SCDE and the school district, the school district gets an opportunity to respond to the complaint. Then, before making a decision, the SCDE can give the parent an opportunity to submit additional information if it is needed or the SCDE may make a visit to the school or district to investigate the situation. After reviewing all of the information about the problem, the SCDE will make a decision about whether the school district did anything wrong. The **decision will be in writing** and it will **tell the school district what it needs to do to correct any wrongdoing on its part.** **The SCDE must issue a written decision within 60 days from the time the complaint was filed** (unless the SCDE determines that exceptional circumstances exist).

It should be noted that after a parent has sent the complaint to the SCDE and the school district, the parent and the school district will have the opportunity to go to mediation **if both sides agree to do so. Mediation will not take place unless both sides agree.** If the parent and school district agree to go to mediation, the 60 day deadline for the SCDE to make a decision will be put "on hold" during the mediation process. If the problem is not resolved through mediation, the complaint process will continue and the 60 day deadline will start back up where it left off.

Parents should be aware that there is also a complaint process available through the U.S. Department of Education for parents who believe their child has been discriminated against by the school district because of a disability. Please see P&A's fact sheet titled "Filing an Education Complaint under Section 504 of the Rehabilitation Act of 1973" for more information on this type of complaint. This procedure is mainly for use when the district has violated the procedural rights of a student.

Legal Note: The federal regulations about written complaints are found at 34 Code of Federal Regulations 300.151-153.

If you need additional information, call P&A at:

Toll-Free statewide:

1-866-275-7273 (Voice) 1-866-235-4525 (TTY)

In Columbia area:

1-803-782-0639 (Voice)

You may also view fact sheets and articles on disability issues at our web site:

www.pandasc.org

This publication provides legal information, but is not intended to be legal advice. The information was based on the law at the time it was written. As the law may change please contact P&A for updates.

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