



Navigating the IDEA State Complaint Process

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Agenda

Today we will discuss...



- Variety of dispute resolution options available
- IDEA State Complaint Process
- Most common issue(s) identified
- Closing discussion



Wisconsin Special Education Dispute Resolution Options



IEP Facilitation

This early conflict resolution option provides a neutral, trained facilitator to help the IEP team with the IEP process. The facilitator helps the IEP team maintain open, respectful, and productive communication and is provided by WSEMS.

Contact: Wisconsin Special Education Mediation System
888-298-3857
diana@wsems.us



Mediation

Mediation is available to resolve issues by providing a free professional mediator. The goal of mediation is to come to a mutual decision, in writing. Discussions during mediation are confidential and enforceable in court.

Contact: Wisconsin Special Education Mediation System
888-298-3857
diana@wsems.us



IDEA State Complaint

Any individual or organization may file a complaint with the DPI if they believe a school district has violated state or federal requirements regarding special education and related services.

Contact: DPI Special Education Team
608-266-1781
dpisped@dpi.wi.gov



Due Process Complaint or Hearing Request

A written request for a hearing related to the identification, evaluation, placement, issues pertaining to the IEP, or the provision of a free and appropriate public education of a child with a disability.

Contact: DPI Special Education Team
608-266-1781
dpisped@dpi.wi.gov



Complaints- Why?

- Part of the general supervisory process required by Federal/State law
- Proactive measure & an opportunity to provide technical assistance
- Ensure continuity of services and proper guidelines are being implemented
- Not a punitive measure



Complaint Data

- For the 2018 Calendar Year (as of February 1, 2019):
 - 98 complaints requested
 - 25 due process hearing requests, 4 decisions
 - 134 mediation requests (July 2017 – June 2018)
- Many states differ in what dispute resolution option is most prevalent



IDEA State Complaint Basics

- Any individual or organization may file a complaint with the department if they believe an LEA has violated State or Federal special education requirements
- Must allege a violation that occurred within one year of the date the department receives the *signed* complaint
- The DPI has 60 days to issue a decision on the issue(s) cited
- There is a [sample form](#), but it is not required



Receiving the Complaint

- District's have the right to receive a copy of the complaint
- If it is *valid under the scope of IDEA*, it is assigned to a complaint investigator.
- Acknowledgment letter is sent to relevant parties
- Special circumstances
 - Complainant is not a parent/legal guardian
 - Student is 18 years or older



Acknowledgement Letter

- Timeline begins with the date the department stamps the complaint
- Identify issues using IDEA terms but they can be more specific during the investigation
- Requests district documentation
- Identify complaint investigator and give contact information
- Offer both parties the ability to present additional information
- Suggests informal resolution



Alternative Options for Resolution

- Complaint investigator will discuss alternative options available to district's and parents such as:
- **Withdrawing the complaint** if the LEA has already initiated corrective measures
- **Mediation**
- **Due Process Hearings**
 - Resolution Meeting



Investigation

- **Review of records** (IEPs, BIPs, disciplinary records, behavior logs, etc.)
- **Interviewing staff, IEP team members, and parents/ legal guardians**
- **Onsite visits**
 - Seclusion and Restraint
- **Credibility determinations**



Issuing A Decision

Review process

➤ Complaint Investigator → Complaint Coordinator → Assistant Director → Director → Assistant Superintendent

Violation vs. No Violation

- Failure to follow federal and state SPED requirements → Violation
- Acting within the scope of IDEA and state requirements → No Violation



Corrections & Closing

Corrections

- Student-specific corrections
- District-wide corrections
- Current Compliance Check
- CAP Approval Letter

Closing the complaint

- Closing Letter & 1 year timeline



Public Posting

- Under federal law we are required to post due process complaints on the website
- In Wisconsin, the department posts [IDEA State Complaints](#)
- Redact information for multiple reasons, mostly for the sake of the students privacy and personal information
- Are generic as possible about specific language (the student, district staff, location)



Common Issues Identified in IDEA Complaints



IEP Implementation

- Anticipated frequency, amount, location, and duration incorrectly recorded
- [Health services, positive behavioral supports, transportation](#), aides
- Often written too generally
 - Not a clear commitment of resources to properly provide services
- [Describing Special Education, Related Services, Supplementary Aids and Services, and Program Modifications for Staff- Bulletin 10.07](#)



Seclusion & Restraint

- Not properly documenting PBIS *before* the use of seclusion/restraint
- Not properly documenting the use of seclusion/restraint in IEP
- Seclusion/restraint is used when behavior was *not* a clear and imminent risk
- No written report prepared up to 2 days after the incident
- Written report not completed accurately
- No parent notification
- [Seclusion and restraint page](#)



Child Find & Evaluation

- The District's responsibility to identify, locate, and evaluate all children suspected of having a disability
- "Reasonably believes the child is a child with a disability..."
- Affirmative duty to train all staff on referral procedures and to explain how to make referrals
- Evaluation is not comprehensive and does not address all areas of concern
- [Evaluation timeline](#)



Prior Written Notice

Written notice is required before you implement anything!

- Not providing the parent's with a copy of the IEP before it is implemented
- Failure to provide written notice or documentation of a request of the parent or something the IEP team considered
- Consider who are the parent(s) under special education law
- Embedded in a number of places on DPI Model forms
- [DPI Forms Guide](#) (e.g. P-1, P-2)



Parent Participation

- Consider who are the parent(s) under special education law
- Affording parents meaningful opportunity to participate in the IEP process
- Mutually agreeable time and place and timeline
- Document three reasonable attempts
- Consider alternate forms of parent participation
- [Information Especially For Parents](#)



Provision of Free, Appropriate Public Education

- There is no FAPE *light* (Endrew F.)
- Shortened school days
- Disciplinary removals
- Bullying and it's effect on provision of FAPE
- [FAPE Bulletin](#)



Turn & Talk

Have you ever participated in an IDEA State Complaint? What was your experience? How would you respond to being notified that an IDEA complaint was filed involving your district/family?



Thank you!

Contact Information

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- [DPI Special Education Team](#), 608-266-1781



ABOUT THE SPEAKERS

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Marge Resan is a School Administration Consultant on the Special Education Team at the Wisconsin Department of Public Instruction. She has been working at the department since 2008. Her work focuses on compliance issues, monitoring, and IDEA complaint investigations. Marge was a special education teacher in the Madison Metropolitan School District for several years where she taught many students with a wide range of abilities in classroom, community, and vocational settings. She holds a law degree from the University of Wisconsin and has worked as an attorney in the areas of disability and elder law.