

Written Complaint and Appeal Procedures

For Title I Part A, Or Section 100.2(ee) of Commissioner's Regulations Regarding Academic Intervention Services

As required by Title IX, General Provisions of the Elementary and Secondary Education Act (ESEA), the New York State Education Department (NYSED) has adopted the following procedures for receiving and resolving complaints and for reviewing appeals from decisions of local educational agencies (LEAs). Complaints concerning violations of ESEA Title I, Part A or of the General Education Provisions Act; or of Section 100.2(ee) Academic Intervention Services of the Regulations of the Commissioner are covered by these procedures.

LEAs must disseminate free of charge, adequate information about the State Complaint and Appeal Procedures to parents of students, and appropriate private school officials or representatives. [General Provisions Regulations, 34 CFR Sections 299.10-299.12]

Procedures for Filing Complaints/Appeals with a LEA:

Who may submit a complaint?

Any public or nonpublic school parent or teacher, other interested person, or agency may file a complaint.

What must a complaint contain?

All complaints must:

- be written;
- be signed by the person or agency representative filing the complaint;
- specify the requirement of law or regulation being violated and the related issue, problem, and/or the concern;
- contain information/evidence supporting the complaint; and
- state the nature of the corrective action desired.

What must an appeal from a LEA's response contain?

An appeal must contain:

- a copy of the original signed complaint
- a copy of the LEA's response to the original complaint or a statement that the LEA failed to respond in 30 business days.

In New York City or rest of State outside of New York City, a copy of the LEA and the Department of Education's response to the original complaint or a statement that the Department of Education failed to respond within 30 business days; and a statement identifying those parts of the LEA's response which the party wishes to appeal.

Where should a complaint/appeal to the LEA be sent?

Complaints/appeals regarding the LEA's administration and implementation of its ESEA Title I Grant or Academic Intervention Services for students identified under Commissioner's Regulations Part 100

should be sent first to the School Superintendent of the LEA against whom the complaint is made. The LEA has a 30 business day period in which to resolve a complaint.

In New York City, Title I complaints should be sent first to the District Superintendent. If the local community school district fails to resolve the complaint within 30 business days, or fails to resolve the issue to the satisfaction of the complainant, the complaint should be sent to the New York City Department of Education, Office of State/Federal Education Policy and School Improvement, 52 Chambers Street, Room 213, New York, NY 10007. The New York City Department of Education has a 30 business day period in which to resolve the complaint.

For rest of State outside of New York City, Title I complaints should be first sent to the Superintendent of the LEA. If the local LEA fails to resolve the complaint within 30 business days, or fails to resolve the issue to the satisfaction of the complainant, the complaint should be sent to the Title I School and Community Services Office, Room 320 EB, New York State Education Department, 89 Washington Avenue, Albany, NY 12234.

Where should a complaint /appeal regarding a nonpublic school be sent?

Complaints/appeals from nonpublic school officials regarding the LEAs administration and implementation of ESEA Title I Grant should be sent to the New York State Education Department (NYSED). The NYSED has a 60-business day period in which to resolve a nonpublic school complaint.

No later than 30 days following the written response by the NYSED, or in the event the NYSED fails to resolve the complaint within a reasonable period of time, the nonpublic school official may appeal NYSED's decision to the secretary of the U.S. Department of Education. A copy of the NYSED's written response, if available, and a complete statement of the reasons supporting the appeal must accompany such appeal.

Procedures for Filing Complaints/Appeals with the New York State Education Department

The State Education Department will review complaints when the complaint pertains to:

- the State's administration of the ESEA Title I Basic Grant
- an appeal from the decision of an LEA regarding an action by the LEA.

Complaints that do not meet any of the above criteria, including complaints concerning the LEA's administration of its Title I Program, will be referred for possible resolution to the LEA against whom the complaint is made.

What timelines pertain to the State Education Department's review of complaints/appeals from an LEA action?

Within 60 business days of the receipt of the complaint/appeal, Department staff will complete an on-site review (if necessary) and/or records examination and will notify all parties of its findings. An extension of the 60-day complaint resolution period is permitted under CFR Part 299.11 (b), for exceptional circumstances.

Where shall complaints or appeals to the State Education Department be sent?

Complaints/appeals regarding Title I for New York City local school districts/schools should be sent to:

New York State Education Department
Title I School & Community Services Office
55 Hanson Place, Room 578
Brooklyn, NY 11217

Complaints/appeals regarding Title I for LEAs outside of New York City local school districts/schools should be sent to:

New York State Education Department
Title I School & Community Services Office
Room 320 EB
89 Washington Avenue
Albany, NY 12234

How long does a public or nonpublic teacher, parent, or agency have to file an appeal from a decision of a LEA or the New York City Department of Education?

An appeal must be requested and postmarked within 20 business days of receipt of the LEA's response to the original complaint.

Who shall conduct the review of complaints or appeals?

The Title I representative in the State Education Department office who is assigned as the program manager for the LEA against which the complaint is made and other Department staff as may be appropriate shall conduct the review of complaints or appeals.

What shall the State Education Department's response to the complaint contain?

The Department's response shall contain:

- the names of persons interviewed;
- the records or other evidence examined;
- relevant dates/times/locations/events;
- summary of findings; and
- nature of corrective action to be taken including applicable timelines.

How will State Education Department staff monitor the timely and appropriate implementation of the corrective actions called for in the complaint/appeal resolution?

Failure of the LEA to take corrective action within the time period stipulated in the complaint resolution shall be cause to withhold all, or a portion of, the ESEA Title I allocation to the LEA.

Does the State Education Department maintain a record of all complaints/appeals?

Yes. Copies of correspondence, related documents, investigative reports, and summary reports involved in the complaint/appeal resolution will be maintained by the State Education Department for five years. Records will be made available to interested parties in accordance with the provisions of the New York State Freedom of Information Law (Public Officers Law Sections 84-89).

What shall constitute exceptional circumstances for extending the 60-day limit for State Education Department review of complaints and appeals for relief from an LEA action?

The State Education Department has determined that exceptional circumstances may include, but need not be limited to, such occurrences as:

- illness of involved parties;
- cancellation of scheduled on-site reviews due to unscheduled school closings;
- the need for extended review activities beyond those specified in the written notification; and/or

- any other mutual agreement to changes in review scope or activity.

When exceptional circumstances are identified, the revised date for the completion of the complaint review will be provided in writing to all parties involved in the complaint or appeal. All parties to the complaint have the right to initiate a request for an extension beyond the 60 business day complaint resolution period based on exceptional circumstances. All such requests must be presented to the State Education Department.

Procedures for Adjudicating Appeals from the Decision of the State Education Department

May a person/agency dissatisfied with the State Education Department's complaint resolution file an appeal?

Yes, parties dissatisfied with the State Education Department's complaint resolution may file an appeal directly with the United States Department of Education at:

United States Department of Education
Compensatory Education Programs
400 Maryland Avenue, S.W.
Room 3W230, FOB #6
Washington, D.C. 20202-6132