

NYS ESSA-Funded Programs Complaint Procedures

<http://www.nysed.gov/essa/new-york-state-essa-funded-programs-complaint-procedures>

Purpose

Below is the process for resolving complaints submitted to the New York State Education Department's (NYSED) Office of ESSA-Funded Programs alleging that a local educational agency (LEA), grantee or NYSED has violated a law, rule, or regulation in the administration of any "covered Federal program" under the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA) identified below.

These procedures offer parents and other stakeholders a process to file complaints and allow for the timely resolution of such complaints. Complaints filed against a local entity such as a school district, charter school, or grantee will be reviewed by NYSED's Office of ESSA-Funded Programs. Complaints filed against NYSED will be reviewed by NYSED's legal counsel.

A complainant may include any of the following: parents, public agencies, and other individuals or organizations. If the complainant is a minor, the complaint or appeal shall also be signed by his or her guardian, unless the statute or rule under which the complaint or appeal is filed prohibits this requirement. Complaints regarding equitable services for non-public schools should follow the procedures detailed at <http://www.p12.nysed.gov/nonpub/Ombudsman.html>.

Each LEA in New York State is required to disseminate, free of charge, adequate information about these complaint procedures to parents of students, and appropriate private school officials or representatives.

Authorization

The procedures contained in this document meet the requirements of ESSA Section 8304(a)(3)(C) and 34 CFR Part 299, Subpart F - Complaint Procedures.

Covered Federal Programs

The ESEA programs for which an individual or entity may submit a complaint to NYSED include:

Title I, Part A: Grants to Local Educational Agencies

Title I, Part C: Education of Migratory Children

Title I, Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk

Title II, Part A: Supporting Effective Instruction

Title III, Part A: Language Instruction for English Learners and Immigrant Students

Title IV, Part A: Student Support and Academic Enhancement Grants

Title IV, Part B: 21st Century Community Learning Centers

Title V, Part B: Rural Education Initiative

Step 1: Attempt to Resolve the Complaint at the Local Level

Complaints/appeals regarding the administration and implementation of any of the programs listed above should first be addressed at the local level.

- For all LEAs located outside of New York City, complaints must be sent first to the Superintendent of the LEA or his/her designee. For complaints related to Title I, Part D programming provided at a neglected and/or delinquent facility, the complaint should also be sent to the Director of the Facility. 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 may then be sent to NYSED.
- In New York City, 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. If the New York City Department of Education, Office of State/Federal Education Policy and School Improvement fails to resolve the complaint within 30 business days or fails to resolve the issue to the satisfaction of the complainant, the complaint may then be sent to NYSED.
- Complaints/appeals regarding a regional Migrant Education Tutorial and Support Services (METS) Program Center's administration and implementation of services for migrant eligible students should be sent first to the Director of the regional METS Program Center. Complaints/appeals regarding student eligibility for the NYS Migrant Education Program, should be sent first to the Director of the Identification and Recruitment (ID&R) Statewide Program

Center. METS Program Centers and ID&R contact information is available at <https://www.nysmigrant.org/mets>. If the METS Program Centers and the ID&R Program Center fails to resolve the complaint within 30 business days or fails to resolve the issue to the satisfaction of the complainant, the complaint may then be sent to NYSED.

Step 2: Submission of Complaint to NYSED

To initiate a complaint with NYSED, a complainant must submit a written, signed complaint including the following:

1. A statement that the State, LEA, neglected and/or delinquent facility, or METS Program Center has violated a requirement of a federal statute or regulation that applies to any applicable program listed above.
2. The facts on which the statement is based, including sufficient information as to when, where and the nature of activity that is perceived to be in violation of law and/or regulation.
3. Documentation of attempts to resolve the issue with appropriate personnel at the local level where the child, subject to the complaint, attends (e.g. school building, school district, neglected and/or delinquent facility, METS Program Center, or grantee administrators). Appropriate personnel could include the child's teacher, building principal, pupil personnel director, METS Director, Director of the Facility, the superintendent and/or local board of education.
4. The complainant's recommendation for resolving the complaint.

Complaints may be emailed to CONAPPTA@nysed.gov with "COMPLAINT" in the subject line of the email. Alternately, a complaint may be mailed to NYSED at the following address:

New York State Education Department
Office of ESSA Funded Programs
Attention: Complaint Coordinator
89 Washington Avenue, Room 320EB
Albany, New York 12234

Step 3: Review of Complaint

Once a complaint is received, the complaint coordinator will issue a Letter of Acknowledgement, via mail or email with confirmation, to the complainant that contains the following information:

1. The date that NYSED received the complaint;

2. The name and contact information of the assigned complaint coordinator;
3. How the complainant may provide additional information; and
4. A Statement of the ways in which the complaint coordinator may investigate the complaint.

The complaint coordinator retains authority for determining the manner in which the allegations will be investigated, which may include, but are not limited to, a review of written documentation, interviews, and/or on-site investigations.

During the investigative process, the complaint coordinator may contact the entity in question (“the alleged”) to inform them of the complainant’s allegations and request documentation necessary to determine whether a law, rule or regulations related to the administration of the covered programs was violated.

The complaint coordinator may, if necessary, request additional information from either party. Unless the complaint coordinator grants an extension, based on extenuating circumstances, the documentation from the alleged must be received within the stated timelines in the Letter of Allegations.

Step 4: Resolution of Complaint

Within 60 State agency work days of receiving the complaint, a Letter of Resolution will be sent via mail or email with confirmation to the alleged with a copy to the complainant. The letter will specify whether the allegation is sustained by the complaint coordinator and if any corrective action is required. If corrective action is required, the Letter of Resolution will specify the actions needed, timeline for implementation and the acceptable documentation for resolution. If the complaint coordinator finds an additional violation, which was not cited in the original Letter of Allegations, the complaint coordinator will add this violation to the Letter of Resolution.

In the case of exceptional circumstances, an extension of the 60-day complaint resolution period may be required. 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 original 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.

Step 5: Appeal of Resolution to U.S. Department of Education

Both parties have the right to appeal the complaint coordinator's Letter of Resolution to the United States Secretary of Education within 30 days of receiving the letter. Such appeals should be submitted to:

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