

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES
SUBCHAPTER 17. FEDERAL PROGRAMS COMPLAINT PROCEDURES

210:10-17-1. Complaint procedures [AMENDED]

(a) **Purpose.** Federal programs-regulations (34CFR Part 299, Subpart F S299.10-12) pertaining to programs under the reauthorized Elementary Secondary Education Act [34 C.F.R. Part 299, Subpart F] require the State Education Agency (SEA) to adopt written procedures, consistent with state law, for: pertaining to programs under Titles I through VII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. Ch. 70] for the purpose of:

- ~~(1) Receiving and resolving any complaint from an organization or individual that the SEA or an agency or consortium of agencies is violating a Federal statute or regulations that apply to a covered program listed in subsection (b) of this section.~~
- ~~(2) Reviewing an appeal from a decision of an agency or consortium of agencies with respect to a complaint; and~~
- ~~(3) Conducting an independent on-site investigation of a complaint if the SEA determines that an on-site investigation is necessary.~~
- (1) Receiving and resolving any complaint from an organization or individual that the SEA or an agency or consortium of agencies is violating a Federal statute or regulations that apply to a covered program listed in subsection (b) of this section.
- (2) Reviewing an appeal from a decision of an agency or consortium of agencies with respect to a complaint; and
- (3) Conducting an independent on-site investigation of a complaint if the SEA determines that an on-site investigation is necessary.

(b) **Covered programs.** ~~Programs covered by this section are the following: References to the federal programs in this subsection are made to Titles I through VII of the Elementary and Secondary Education Act of 1965. [20 U.S.C. Ch. 70]. The following programs are covered by this Section:~~

- ~~(1) Part A of Title I (Improving Basic Programs Operated by Local Education Agencies);~~
- ~~(2) Subpart I of Part B of Title I (Reading First)~~
- ~~(3) Subpart 3 of Part B of Title I (Even Start Family Literacy Programs);~~
- ~~(4) Part C of Title I (Migrant Education);~~
- ~~(5) Part D of Title I (Neglected and Delinquent);~~
- ~~(6) Part F of Title I (Comprehensive School Reform)~~
- ~~(7) Part A of Title II (Teacher and Principal Training and Recruiting fund);~~
- ~~(8) Part B of Title II (Math and Science Partnerships);~~
- ~~(9) Part D of Title II (Enhancing Education Through Technology);~~
- ~~(10) Part A of Title III (English Language Acquisition, Language Enhancement and Academic Achievement);~~
- ~~(11) Part A of Title IV (Safe and Drug-Free Schools and Communities);~~
- ~~(12) Part B of Title IV (21st Century Community Learning Centers);~~
- ~~(13) Part A of Title V (Innovative Programs);~~
- ~~(14) Subpart I of Part B of Title VI (Small, Rural School Achievement Program);~~
- ~~(15) Subpart 2 of Part B of title VI (Rural and Low Income School Program);~~
- (1) Part A of Title I (Improving Basic Programs Operated by Local Education Agencies);
- (2) Part B of Title I (State Assessment Grants);

- (3) Part C of Title I (Education of Migratory Children);
- (4) Part D of Title I (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk);
- (5) Title II (Preparing, Training, and Recruiting High-Quality Teachers, Principals, and Other School Leaders);
- (6) Title III (Language Instruction for English Learners and Immigrant Students);
- (7) Part A of Title IV (Student Support and Academic Enrichment Grants);
- (8) Part B of Title IV (21st Century Community Learning Centers);
- (9) Part B of Title V (Rural Education Initiative);
- (10) Title VI (Indian, Native Hawaiian, and Alaska Native Education);
- (11) Title VII (Impact Aid); and
- (12) Part F, section 7881 of Title VIII (Participation by Private School Children and Teachers).

~~(c) Complaint procedures at the local education agency (LEA) level.~~

- ~~(1) All complaints concerning an LEA should be filed with the appropriate LEA or with the General Counsel of the State Department of Education. Within thirty (30) days of receipt of a complaint, the applicant agency shall conduct an investigation of the allegation and resolve the complaint. Subsequent to the investigation and resolution, a written decision shall be filed with the General Counsel of the State Department of Education and the complainant.~~
- ~~(2) A complaint may be filed by parents, teachers, or other concerned individuals or by an organization in relationship to the program. An LEA is required to review all complaints made concerning a covered program if:~~
 - ~~(A) the complaint is in written form and alleges that federal program requirements have been violated;~~
 - ~~(B) the complaint is signed;~~
 - ~~(C) the complaint includes the facts on which the statement is based and the specific program requirement alleged to have been violated; and~~
 - ~~(D) the complaint includes information supporting the allegation along with the allegation.~~

(c) Computing Time. Days shall be counted on the basis of calendar days, and the last day of the period so computed shall be included, unless it falls on a Saturday, Sunday, legal holiday, or other day the Oklahoma State Department of Education does not remain open for public business until the regularly scheduled closing time, in which event the period runs until the end of the next day that the Oklahoma State Department of Education is open for public business.

~~(d) Complaint procedures at the SEA level.~~

- ~~(1) Within thirty (30) days of receipt of a decision, the SEA shall review the investigation and decision and make the LEA aware if further steps are to be taken by the LEA or the SEA. A complainant who is dissatisfied with the decision of the LEA may file an appeal with the SEA. A request for an appeal must be submitted in writing to the General Counsel of the State Department of Education within thirty (30) days of resolution of the complaint by the LEA.~~
- ~~(2) Upon receipt of an appeal, the SEA will request from the LEA a copy of the original complaint and evidence found during the investigation by the LEA. Upon receipt of evidence supplied by the complainant and the LEA, the SEA will either make a~~

disposition from submitted documentation or conduct an independent, on-site investigation of the complaint if deemed warranted.

(3) Resolution of the complaint shall be made by the SEA within forty-five (45) days of receipt of an appeal. A request for an extension of this time limit may be submitted by either the LEA or complainant. An extension of this time limit will be made only if exceptional circumstances exist with respect to a particular complaint.

(4) Within ten (10) days of completion of the appeal review process by the SEA, a written decision will be provided to the person, persons, or organization making the complaint and to the LEA to which the complaint was filed.

(5) A complaint against an LEA made directly to the SEA without previously being filed with the appropriate LEA will be reviewed by the SEA to determine if an investigation is warranted by the SEA because of the seriousness of the complaint or if the complaint shall be returned to the complainant to be filed with the appropriate LEA. The forwarding of a complaint filed with the SEA requires the LEA to conduct an investigation and produce a decision within thirty (30) days of receipt of the complaint by the LEA.

(6) A direct complaint which the SEA determines must be investigated by the SEA will be resolved within forty-five (45) days of the receipt of the complaint by the SEA. A written decision will be provided to the person, persons, or organization making the complaint and to the LEA upon which the complaint was filed.

(7) The complainant has the right to request the Secretary of the United States Department of Education to review, at the Secretary's discretion, the final decision made by the SEA.

(8) Complaints against the SEA must be filed with the General Counsel of the State Department of Education. Complaints must:

(A) be submitted in written form and specify the federal program requirements alleged to have been violated;

(B) be signed;

(C) include the facts on which the statement is based and the specific program requirement alleged to have been violated; and

(D) include information supporting the allegation along with the allegation.

(9) The SEA will investigate and resolve the complaint and issue a written decision to the LEA and to the complainant within forty-five (45) days of receipt of the complaint.

(10) The complainant has the right to request the Secretary of the United States Department of Education to review, at the Secretary's discretion, the final decision made by the SEA.

(d) **Complaints.** A complaint in the form of a written, signed statement may be filed by an individual, an organization demonstrating a cognizable interest, a state agency, or a federal agency alleging that a Local Educational Agency (LEA), a state agency, a consortium of agencies, the State Department of Education, or the State Board of Education has violated a federal statute or regulation relevant to a federal program covered under this Section. Any complaint, including appeals from an LEA, a state agency, or a consortium of agencies must be filed within thirty (30) days of the action or inaction giving rise to the complaint.

(1) Complaints shall be submitted to:

Oklahoma State Department of Education

Office of Legal Services

2500 North Lincoln Boulevard

Oklahoma City, Oklahoma 73105

(2) A complaint must include the following or face dismissal:

(A) A statement that the LEA, state agency, consortium of agencies, the State Department of Education, or the State Board of Education has violated a requirement of a federal statute or regulation applicable to a covered program under (b) of this Section;

(B) The facts on which the statement is based, the specific requirement allegedly violated, and the relevant statute or regulation; and

(C) Relevant documentary or other evidence supporting the allegation.

(3) Every LEA is required to disseminate adequate information about its complaint procedures to parents of students and appropriate non-public school officials or representatives free of charge.

(4) Any complaint against an LEA, consortium of agencies, or state agency other than the State Board of Education must be filed with the subject entity for processing through any applicable complaint resolution processes. The State Department of Education may waive this requirement and accept a complaint against an LEA, state agency, or consortium of agencies in the first instance if it is determined that:

(A) Delay in resolving the complaint may result in serious and immediate harm;

(B) The allegations and supporting information, together with readily available data maintained by the State Department of Education, provide sufficient evidence to show probable success on the merits; or

(C) There is evidence that the LEA, state agency, or consortium of agencies is aware of the alleged violation and has failed to take reasonable action.

(e) Investigations; determinations. The Oklahoma State Department of Education shall conduct any investigative efforts it deems necessary to effectively address a complaint. Such efforts may include the appointment of an investigative team to conduct an on-site visit, review records, or conduct interviews. The Oklahoma State Department of Education may conduct informal fact-finding hearings or mediations to clarify the issues.

(1) Within forty-five (45) days of receiving of a procedurally proper complaint, the State Department of Education shall issue to complainant and to the LEA, state agency, or consortium of agencies a preliminary report containing:

(A) A summary of the substance of the allegations in the complaint and the name of the individual, organization, or agency making the complaint;

(B) A summary of the State Department of Education's investigative activities, if any;

(C) A summary of the findings concerning each alleged violation or implied violation; and

(D) A statement of the corrective actions, if any, needed to resolve the findings, including a recommendation for an independent audit if deemed appropriate.

(2) The complainant and the LEA, state agency, or consortium of agencies may submit written responses or additional evidence within thirty (30) days of the date of the preliminary report.

(A) The response period of this paragraph may be waived by the parties.

(B) Failure to timely respond to the preliminary report pursuant to this paragraph shall be considered as acceptance of the report.

(3) Within ten (10) days following the preliminary report response period provided in (2) of this subsection, the State Department of Education shall issue to the complainant and to the LEA or state agency a final report.

(A) The final report may affirm and adopt the findings of the preliminary report, or it may make substitute findings.

(B) Parties are permitted to file written exceptions before the State Board of Education within (10) days of the issuance of the final report.

(C) Any exceptions, along with the final report will be placed before the State Board of Education for adoption, rejection, or modification.

(4) The Oklahoma State Department of Education may, in exceptional circumstances, grant extensions of any time limit in this section on its own initiative or on the request of a party.

(5) The complainant may request the Secretary of the U. S. Department of Education to review the final adopted report, at the Secretary's discretion. A request for review must be filed with the Secretary, with a copy to the State Department of Education, within thirty (30) days of adoption. On request, the State Department of Education will promptly provide the complainant with a copy of the preliminary report, and final report, and all pertinent exhibits thereto.

(6) Nothing in this section shall prohibit informal disposition by stipulation, mediation, settlement, consent order, or default.

(f) Complaints by non-public schools participating in title programs

(1) Notwithstanding (d)(4) of this Section, a non-public school official may directly file a complaint in the first instance with the State Department of Education asserting that an LEA did not engage in consultation that was meaningful and timely, did not give due consideration to the view of the private school office, or did not make a decision that treats the private school or its students equitably as required by law. [20 U.S.C. §6320(b)(1)(6)(A)]

(A) A complaint under this subsection must be in writing and signed by the complainant; and

(B) A copy of the complaint must be simultaneously served on the LEA.

(2) Notwithstanding the timing provided for in (e) of this Section, within forty-five (45) days of receiving a complaint regarding non-public school participation in federal Title programs, the State Department of Education shall issue a written resolution.

(3) The timelines contained in this subsection shall be permitted an additional three (3) days to account for mail processing.

(4) The complainant may request the Secretary of the U. S. Department of Education to review the final adopted report, at the Secretary's discretion. A request for review must be filed with the Secretary, with a copy to the State Department of Education, within thirty (30) days of adoption. On request, the State Department of Education will promptly provide the complainant with a copy of the preliminary report, and final report, and all pertinent exhibits thereto.

(g) Complaints against the State Department of Education or State Board of Education

(1) Within ten (10) days of receiving a complaint pursuant to (d) of this Section, the State Superintendent of Public Instruction shall appoint a hearing officer to adjudicate the complaint.

(A) The hearing officer shall remain impartial and shall have power to maintain order to rule upon all questions arising during the course of the complaint resolution process; to hold conferences for the settlement, clarification, or simplification of issues; and to regulate and guide the course of the complaint resolution process.

(B) The hearing officer shall conduct the complaint resolution process in such a manner as to preserve privileges and protect privacy rights, consistent with the Family Educational Rights and Privacy Act [20 U.S.C. § 1232g] and any other relevant federal or state law or regulation.

(C) The hearing officer shall promptly issue a briefing schedule setting time limits for the submission of briefs, affidavits, declarations, exhibits, or other documents by the parties.

(D) Travel and other expenses incurred by the hearing officer shall be reimbursed from appropriate federal program funds at the rate allowed for employees of the State of Oklahoma. At the option of the Oklahoma State Department of Education, a pre-negotiated per diem may be paid in lieu of expenses to persons who are not employed by the State of Oklahoma.

(2) All testimony, whether written or oral, shall be given under oath.

(3) Upon the request of any party, the hearing officer shall set a hearing on the merits within sixty (60) days of the request.

(A) Any hearing shall be stenographically recorded by a certified court reporter empowered to administer oaths with the expenses paid by the State Department of Education.

(B) Every party shall have the right to appear in person or by counsel.

(4) Within ninety (90) days of the receipt of the complaint, or sixty (60) days after holding a requested hearing, the hearing officer shall issue a written decision which shall include findings of fact and conclusions of law, separately stated, addressing every issue raised in the complaint. Copies of the decision shall be provided to the complainant and the State Department of Education.

(5) Parties are permitted to file written exceptions to the findings of fact and conclusions of law before the State Board of Education within (10) days of its issuance. Any exceptions, along with the final report will be placed before the State Board of Education for adoption, rejection, or modification.