

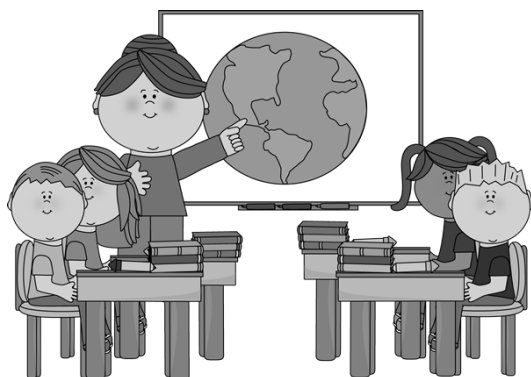
When a school violates Special Education Rules, filing an administrative complaint may be the next step.

Administrative Complaint

When parents believe that the school district has failed to follow the requirements of the Individuals with Disabilities Education Act (IDEA) or the Vermont Special Education Rules, they may file a written complaint with the Vermont Agency of Education (AOE).

An administrative complaint is a federally mandated option available to address disagreements involving the special education process.

Anyone who feels that a school district is not following special education law or regulations may file an administrative complaint. You do not need to be the student's parent or have any particular relationship to the school. Your complaint must include a statement that a violation of the IDEA or Vermont's special education regulations has occurred. An administrative complaint can also be filed to address violations which have occurred under Section 504.



FAQ

When does filing make sense?

You have the right to file an administrative complaint regarding your child's identification, evaluation, special education services or educational placement. In addition, you may file a complaint when you believe the school has failed to follow federal or state special education regulations.

For example, special education rules require the school to provide the services listed on your child's Individualized Education Program (IEP). If the school fails to provide these services, it is not following federal and state special education regulations. This can mean that the school is failing to provide your child with a Free, Appropriate, Public Education (FAPE).

An administrative complaint can be a good option if the school seems to be ignoring the proper procedures of the special education process, or if there is a problem that affects many children in the same way.

Examples of not following the special education process (also known as a procedural violation) include making changes to the Individualized Education Program outside of the IEP team process, refusing to provide records to parents within the proper timeframe or refusing to conduct evaluations every three years.

On the other hand, administrative complaint may not be the best option if you want to resolve a complaint about your child's eligibility for special education or 504 services, or about the specific ways that services are being delivered to your child. In short, administrative complaint is more appropriate for procedural violations than for disagreements over what appropriate services are.

An example of a disagreement over services is, for instance, when a parent believes that the student requires a 1:1 paraprofessional and the school does not agree. Another example is when the school will provide only one hour of speech therapy weekly and the parent believes that more is appropriate.



An administrative complaint may also be filed to enforce a due process decision. You may also file one against the AOE itself if you feel that it is not complying with special education law. In this case, the Agency of Education will need to identify an independent investigator to review the complaint.

How do I file an administrative complaint?

The Agency of Education provides a form that you can use, which can be downloaded from its website.

You may choose to write a letter addressed to the Secretary of Education, rather than use the administrative complaint form. However, it can be helpful to use the form because it clearly states the required information.

If you use the form it is important to respond to all the asterisked (*) sections. When you submit the form you must also give a copy of it to the special education coordinator or superintendent for your child's supervisory union or school district.

Be sure to describe your complaint completely and accurately and include any issue that you want to have addressed in the administrative complaint investigation. Include whatever facts and documentation you believe will support your claim.

Examples of documentation may include:

- your child's IEPs
- evaluations
- progress reports
- e-mail communications between you and the school

Whenever possible, include the Special Education Rule that you believe was violated.

- For example, if the IEP was changed without your knowledge, you would cite Rule 2363.6.
- If, for example, the student did not receive services called for in the IEP, you would describe the problem and cite Rule 2363.7.

You may contact the Agency of Education, Vermont Family Network, or other advocacy organizations for assistance.

IMPORTANT NOTES

Only the issue(s) raised in the complaint will be addressed during the investigation. Any additional or new possible violations must be raised in a separate complaint.

Remember to sign the complaint and include your contact information, along with the student's name and address and the name of the school. You have only one year from when the problem occurred to file an administrative complaint.

Provide facts to support your complaint and include a description of how issues created by the possible violations could be resolved. This can include a request for additional services to make up for the services that should have been provided to your child but were not.

If you want to talk to the investigator or submit more information contact him or her early in the process.

The Agency of Education may order the school district to reimburse any expenses you incurred resulting from the problem.

What will happen after I file a complaint?

When the AOE receives a complaint, it will first determine whether your complaint raises an issue that is a violation of special education regulations. If the agency decides not to investigate your complaint, it will notify you in writing and may refer you to other resources. You can always request mediation or file a due process complaint.

If the Agency of Education does decide to investigate your complaint, the Secretary of Education will assign a complaint investigator. The investigation must be completed within 60 days of receiving your complaint, unless the Secretary grants an extension. The 60 day timeline may be extended for special circumstances or if you and the school agree to resolve the disagreement through mediation or other means.

The investigator will review the information you and the school provide. He or she has the authority to decide how your complaint will be investigated. The investigator may look at a student's educational records or other records, meet with witnesses, visit the school, and/or hold a hearing. The complaint may be investigated by document review, meeting, onsite investigation, phone conversation, or any combination of those methods. The school district has ample opportunity to respond to the complaint.

The investigator may give you an opportunity to present additional information about the complaint verbally or in writing. It is also possible that the investigator may choose to look only at the information you provided in the original complaint. That is one reason it is so vital to include supporting documentation with your complaint.



What will happen after the investigation is completed?

The Secretary of Education will make a decision regarding your complaint within the 60 day timeline based on the investigator's findings and recommendations. You will receive the decision report in writing. If the Secretary finds that the school failed to follow federal or state special education rules, the report will describe how the school must correct the problem. This is often referred to as "corrective action" the school must take.



We are happy to hear that our materials are appreciated and used by others. To order copies of this fact sheet, or to learn more about VFN's materials and services, please contact us at:

1 800-800-4005

Published
March 2021

While the Secretary's decision is final, parents do have the right to file a due process complaint about the same issue(s) if they disagree with the outcome. If the Secretary does rule in your favor but you do not feel that the corrective actions are adequate, you can file a due process complaint and include the Secretary's decision as evidence.

Can I file an administrative complaint and a due process complaint at the same time?

If a written complaint received is also the subject of a due process hearing, the investigation will not look at any part of the complaint that is being addressed in the due process hearing until the hearing is over. However, any issue in the complaint that is not a part of the due process action will be resolved using the regular time limits and procedures.

If your complaint is regarding an infant or toddler

File the complaint with the Coordinator, Children's Integrated Services, Early Intervention at:
DCF 2 North,
Child Development Division
103 South Main Street,
Waterbury, Vermont 05671

Resources

[Center for Appropriate Dispute Resolution in Special Education \(CADRE\)](#)

Encouraging the use of mediation and other collaborative strategies to resolve disagreements about special education and early intervention programs.

541-359-4210

[Vermont Agency of Education](#)

Special Education Technical Assistance
802-828-1256

[Vermont Legal Aid: Disability Law Project](#)

The project provides counsel and advice, brief service, and full representation to eligible clients and their family members.

800-889-2047

[Wrightslaw](#)

An online resource for special education issues.

877-529-4332