

Instruction

SUBJECT: NEW YORK STATE ESSA-FUNDED PROGRAMS COMPLAINT PROCEDURES

Complaints concerning violations of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA), Title I, Parts A, C, and D; Title II, Part A; Title III, Part A; Title IV, Parts A and B; and Title V, Part B, are covered by the procedures below.

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 must also be signed by his or her guardian, unless the statute or rule under which the complaint or appeal is filed prohibits this requirement.

The District will disseminate adequate information about these complaint procedures to parents of students and appropriate private school officials or representatives.

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

Complaints or appeals regarding the administration and implementation of any of the programs listed above should first be addressed at the local level. Complaints must first be sent to the Superintendent or his or 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 District 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 the New York State Education Department (NYSED).

Complaints or 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 or 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 fail to resolve the complaint within 30 business days or fail 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 which includes the following:

- 1) A statement that the state, District, 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.

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- 3) Documentation of attempts to resolve the issue with appropriate personnel at the local level where the child, subject to the complaint, attends. Appropriate personnel may include the child's teacher, building principal, Pupil Personnel Director, METS Director, Director of the Facility, the Superintendent, and/or local Board.
- 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. Alternatively, complaints 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 acknowledgment, via mail or email with confirmation, to the complainant that contains the following:

- 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. This may include, but is 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 regulation related to the administration of the covered programs was violated.

The complaint coordinator may 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.

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SUBJECT: NEW YORK STATE ESSA-FUNDED PROGRAMS COMPLAINT PROCEDURES (Cont'd.)**Step 4: Resolution of Complaint**

Within 60 state agency workdays 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. NYSED has determined that exceptional circumstances may include, but are not limited to, such occurrences as:

- 1) Illness of involved parties;
- 2) Cancellation of scheduled on-site reviews due to unscheduled school closings;
- 3) The need for extended review activities beyond those specified in the original written notification; and/or
- 4) 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 these requests must be presented to NYSED.

Step 5: Appeal of Resolution to the 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. 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