

# Iowa Department of Education

## Complaint Resolution Process for NCLB Programs

### Introduction

Among the new requirements of the Federal No Child Left Behind Act of 2001 is one that provides for “written procedures for the receipt and resolution of complaints alleging violations of law in administration” of the following programs:

- Title I, Part A (Improving Basic Programs Operated by Districts)
- Title I, Part C (Migrant Education)
- Title I, Part D (Neglected, Delinquent, At-Risk Children and Youth)
- Title II (Professional Development Program)
- Title III, Part A, Subpart 2 (School Technology Resources)
- Title VI (Innovative Education Program Strategies)
- Title VII, Part C (Emergency Immigrant Education)

### Contents of a Complaint

A complaint must be in the form of an affidavit. That is, the parent/guardian's signature must be notarized or the parent/guardian must use substantially the following form:

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

The complaint must include all of the following:

1. A statement that an identified Iowa school district or the Iowa Department of Education (herein called “IDE”) has violated a requirement of federal law applicable to one of the above-named programs.
2. A statement identifying the sections(s) of federal law that is alleged to have been violated.
3. The facts on which the complaint is based.

4. Details of any discussions, meetings, or correspondence involving the parties regarding attempts to resolve the matter raised in the complaint.
5. Contact information regarding the individual who filed the complaint, which at a minimum must include the person's mailing address and daytime phone number.

### Procedure for Filing a Complaint against a School District

1. A complaint as defined above must be filed with the IDE within ninety (90) days of an adverse decision of the school district (administration or school board). For purposes of this process "filed" means mailed with a *postmark* within the 90 day period to the Division Administrator, ECESE, Iowa Department of Education, 2<sup>nd</sup> Floor – Grimes State Office Building, 400 East 14<sup>th</sup> Street, Des Moines, IA 50319-0146 or faxed within the 90 day period to the Division Administrator, ECESE, at 515/281-7700.
2. Within ten (10) days of receipt of a complaint, the Division Administrator shall notify the superintendent of the school district named in the complaint that a complaint has been filed. A copy of the complaint shall be provided to the school district with a directive to respond in writing to the complaint within twenty (20) days of notification. The district's written response shall be signed by the superintendent or his/her designee. The original shall be provided to the Division Administrator with a copy sent to the individual who filed the complaint.
3. After receiving the district's response, the Division Administrator shall determine whether further information is required, and may seek additional information from either party.
4. Unless, *in the sole discretion of the Division Administrator*, the Division Administrator determines that a hearing is necessary, the matter will be considered fully submitted to the Division Administrator in writing. If the Division Administrator determines that a hearing is necessary, the procedures in 218--- IAC 6.12 shall apply.
5. Once the Division Administrator is satisfied that s/he has sufficient information to prepare a final report and decision, the Division Administrator shall issue a written decision to the parties. The decision may consist of one of the following options:
  - a. Dismissal of the complaint for failure to state a complaint that meets the requirements of this process and the No Child Left Behind Act.
  - b. A finding on the merits of the complaint that the district did not violate any provision of pertinent federal law.

- c. A finding on the merits of the complaint that the district did violate a provision of pertinent federal law, and a specific resolution of the complaint to be undertaken by the district.

The decision of the Division Administrator is *not* a final decision of the IDE, and therefore, is not subject to a petition for judicial review pursuant to Iowa Code chapter 17A. Nothing herein shall be construed to render this complaint process a “contested case” proceeding under that chapter.

6. Absent the existence of exceptional circumstances or the agreement of both parties to an extension, the decision of the Division Administrator shall be issued no later than ninety (90) days of the receipt by the Division Administrator.
7. When, in the sole discretion of the Division Administrator, s/he determines that public interest requires the same, the Division Administrator may utilize the provisions of any of the following administrative rules:  
281—IAC 6.7 (Disqualification)  
281—IAC 6.10 (Consolidation – Severance)  
281—IAC 6.19 (Default)
8. All time periods listed herein mean calendar days.
9. Either party may appeal the decision of the Division Administrator to the United States Secretary of Education.

### [Procedure for Filing a Complaint against the Iowa Department of Education](#)

1. A complaint as defined above alleging that the IDE has violated a requirement of federal law applicable to one of the above-named programs must be filed with the IDE within ninety (90) days of an adverse decision of an employee or agent of the IDE.
2. All procedures for filing such complaint as apply to a complaint against a school district apply here, except that if the adverse decision is from the Administrator of the Early Childhood, Elementary and Secondary Education Division of the IDE, the complaint shall be filed with the Director of the IDE.

## School District Requirement

All Iowa school districts shall provide a copy of this process, free of charge, to interested residents and parents of students both upon the request of the resident or parent and when the district has been working with the resident or parent to resolve a complaint. This process allows an individual to file a complaint alleging violations of law in administration of the following programs only:

- Title I, Part A (Improving Basic Programs Operated by Districts)
- Title I, Part C (Migrant Education)
- Title I, Part D (Neglected, Delinquent, At-Risk Children and Youth)
- Title II (Professional Development Program)
- Title III, Part A, Subpart 2 (School Technology Resources)
- Title VI (Innovative Education Program Strategies)
- Title VII, Part C (Emergency Immigrant Education)

There is no parallel complaint process for any program not listed above.

## Complaint Resolution Process for Private School Programs

Improving the consultation process and opening the lines of communication should result in Title I programs that are designed to better meet the needs of the private school participants. Effective and ongoing consultation may deter formal complaints to the state education agency (SEA) by private school officials; however, private school officials have the right to complain to the SEA if they do not believe their eligible children, teachers, or families are receiving equitable services. Updated information about the complaint process may also be found on the Title I, Part A page of the Iowa Department of Education web site.

If the private school official does not believe that the local education agency (LEA) engaged in timely and meaningful consultation, or that the LEA did not give due consideration to the views of the private school official, or disputes the low-income data on private school children, or for another reason does not believe that the private school children are receiving fair and equitable Title I services, the private school official may file a complaint with the SEA. The decision of the SEA may be appealed to the U.S. Secretary of Education.

Under Title I, an LEA is required to provide to eligible private school children, their Title I teachers, and their families Title I services or other benefits that are equitable to those provided to eligible public school children, their Title I teachers, and their families. Private school officials have recourse through the complaint process if they do not believe their eligible children, Title I teachers, or families are receiving equitable services. Aspects of the complaint process that the private school officials should know:

- A private school official has a right to complain to the state education agency (SEA) that the LEA did not engage in a timely and meaningful consultation process or did not give due consideration to the views of the private school officials.
- Any dispute regarding the accuracy of low-income data for private school students also can be the subject of a complaint.
- The SEA is required to have complaint procedures in place as required by Sec. 34 *CFR* 299.10-12. Included in these procedures is a reasonable time by which the SEA must respond in writing to the complaint.
- No later than 30 days following the written response by the SEA, or in the event the SEA fails to resolve the complaint within a reasonable period of time, the private school official may appeal the decision of the SEA to the Secretary of the U.S. Department of Education. Such appeal must be accompanied by a copy of the SEA's written response, if available, and a complete statement of the reasons supporting the appeal.
- The Secretary must complete an investigation of the complaint and resolve the appeal within 120 days after receipt of the appeal.

Please see the previous section, *Complaint Resolution Process for NCLB Programs*, for information regarding this process.