

Instruction

SUBJECT: PROCEDURES FOR FILING TITLE I COMPLAINTS/APEALS

As required by Title IX, General Provisions of the Elementary and Secondary Education Act (ESEA), the New York State Education Department (NYSED) has adopted the following procedures for receiving and resolving complaints and for reviewing appeals from decisions of Local Education Agencies (LEA/District). Complaints concerning violations of ESEA Title I, Parts A, C, and D, or of the General Education Provisions Act; or of Section 100.2(ee) Academic Intervention Services of the Regulations of the Commissioner are covered by these procedures.

Districts must disseminate free of charge, adequate information about the State Complaint and Appeal Procedures to parents of students, and appropriate private school officials or representatives. (General Provisions Regulations, 34 CFR Sections 299.10-299.12)

Filing Complaints/Appeals with the Local School District Complaints

Any public or nonpublic school parent or teacher, other interested person, or agency may file a complaint.

All complaints must:

- 1) Be written;
- 2) Be signed by the person or agency representative filing the complaint;
- 3) Specify the requirement of law or regulation being violated and the related issue, problem, and/or the concern;
- 4) Contain information/evidence supporting the complaint; and
- 5) State the nature of the corrective action desired.

Complaints/appeals regarding the District's administration and implementation of its ESEA Title I Grant or Academic Intervention Services for students identified under Commissioner's Regulations Part 100 should be sent first to the School Superintendent of the District against whom the complaint is made. The District has a thirty (30) business day period in which to resolve a complaint.

Appeals

An appeal must contain:

- 1) A copy of the original signed complaint;

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- 2) A copy of the local School District's response to the original complaint or a statement that the School District failed to respond in thirty (30) business days; and
- 3) A statement identifying those parts of the local School District's response which the party wishes to appeal.

Filing Complaints/Appeals with the New York State Education Department

The State Education Department will review complaints when the complaint pertains to:

- 1) The State's administration of the ESEA Title I Basic Grant, Migrant Education, or Neglected or Delinquent Program; or
- 2) An appeal from the decision of a local School District regarding an action by the LEA.

Note: Complaints which do not meet any of the above criteria, including complaints concerning the LEA's administration of its Title I Program, will be referred for possible resolution to the local School District against whom the complaint is made.

An appeal must be requested and postmarked within twenty (20) business days of receipt of the LEA's response to the original complaint.

Within sixty (60) business days of the receipt of the complaint/appeal, the Department staff will complete an on-site review (if necessary) and/or records examination and will notify all parties of its findings. An extension of the 60-day complaint resolution period is permitted under CPR Part 299.11(b), for exceptional circumstances.

Complaints/appeals should be sent to:

New York State Education Department
Title I School & Community Services Office
Room 365 EBA
89 Washington Avenue
Albany, NY 12234

The Title I representative in the NYSED office who is assigned as the program manager for the District against which the complaint is made and such other Department staff as may be appropriate shall conduct the review of complaints or appeals.

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The Department's response shall contain:

- 1) The names of persons interviewed;
- 2) The records or other evidence examined;
- 3) Relevant dates/times/locations/ events;
- 4) Summary of findings; and
- 5) Nature of corrective action to be taken including applicable timelines.

Failure of the local School District to take corrective action within the time period stipulated in the complaint resolution shall be cause to withhold all, or a portion of, the ESEA Title I allocation to the District.

Copies of correspondence, related documents, investigative reports, and summary reports involved in the complaint/appeal resolution will be maintained at the New York State Education Department for five years. Records will be made available to interested parties in accordance with the provisions of the New York State Freedom of Information Law (Public Officers Law Sections 84-89).

Extension of 60-Day Limit

The Department has determined that exceptional circumstances may include, but need not be 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 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.

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All parties to the complaint have the right to initiate a request for an extension beyond the sixty (60) business day complaint resolution period based on exceptional circumstances. All such requests must be presented to the State Education Department.

Procedures for Adjudicating Appeals from the Decision of the State Education Agency

Parties dissatisfied with the State Education Department's complaint resolution may file an appeal directly with the United States Department of Education at:

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