

Special Education Complaints



Navigating Conflict Between Families and Schools

Sometimes disagreements occur between families and school districts that require outside help to resolve. This tip sheet provides information for parents on the process of filing a complaint with the Office of Special Education (OSE) of the New Mexico Department of Education (NMPED).

Who:

Parents of students with disabilities (or parents of students *suspected* of having a disability) may file a complaint regarding Special Education eligibility, services, discipline, and more to the NMPED's Office of Special Education. Students must be enrolled in a public school in NM that falls under the jurisdiction of the NMPED. (For help with Bureau of Indian Education schools, visit www.epicsnm.org).

What:

Often called a "state complaint," these are written requests urging the NMPED to look into a school district's handling of a Special Education issue. If the NMPED chooses to conduct an investigation, it must be finalized within 60 calendar days from the date of filing. If the NMPED finds that a school district failed to provide a student with a Free Appropriate Public Education, the investigation report will include a corrective action plan that the school district must follow.

When:

State complaints must be filed within **one calendar year** of when the legal rights violation occurred.

How:

There are several methods available to file a Special Education complaint with the NMPED. You may use the NMPED's online Dispute Resolution Portal to submit your complaint electronically. You may also fill out the form provided by the NMPED on its website (see QR code below). Or, you may choose to simply write and send a letter describing the problem that you are experiencing. This tip sheet gives information that may be useful to consider when using any of these methods.

Submit your written Special Education complaint to:

New Mexico Public Education Department
Office of Special Education/Office of General Counsel
300 Don Gaspar
Santa Fe, NM 87501

Submit by email to:
Dispute.Resolution@ped.nm.gov



Scan here to access the NMPED's complaint webpage, forms, and dispute resolution portal.

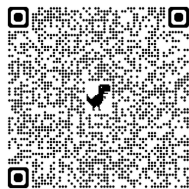
Legal Authority

When filing a complaint, you may want to consider what legal rights the school district may have violated. This may be helpful when describing the facts of your case.

The Individuals with Disabilities in Education Act (IDEA) is the set of federal laws that governs Special Education. You can read the implementing regulations of IDEA here:



The New Mexico Administrative Code provides state regulations that cover Special Education in our state:



The NMPED publishes a condensed version of parent and student rights in Special Education. This publication is called “Procedural Safeguards” and you can access it here:



Information to Include

If you file your complaint using the NMPED’s online portal or form, you will be asked to provide certain information such as the name of the school district, the timeframe in which the issue arose, and how you propose that the conflict be resolved. If you file your complaint by writing a letter, you will need to include the following information:

- Your student’s name, your name, and your relationship to the student, along with your contact information.
- The name of your student’s school and the school district it belongs to.
- Background information about your student and their disability, such as when they were diagnosed (or identified as having a disability) and by whom.
- A timeline of events that explain when the problem started and how it has evolved.
- What legal rights you believe have been violated-- what is happening or not happening that the school should handle differently.
- How you have tried to resolve the problem-- who you have written to or met with, and when you tried to fix the problem before filing the complaint.
- Relief requested-- how do you recommend that the problem can be fixed?

After a Complaint is Filed

After submitting your complaint, you should receive a letter or email confirming that the NMPED received it. This letter should let you know if an investigation will be started. If the NMPED does intend to investigate, the letter should tell you:

- the name of the investigator and their contact information.
- the issues to be investigated.
- deadline by which you may submit any additional information or documents.
- what materials must be submitted by the school district and by when (you should also receive copies of these materials from the school).
- an invitation to participate in Alternative Dispute Resolution (ADR), such as a Facilitated IEP or Mediation.
- the deadline for completion of the investigation.

If the NMPED investigates, you may be contacted by the investigator for a parent interview.

If the NMPED investigates (and you do not participate in ADR), you should receive a copy of the resolution report within 60 days of filing your complaint. If the report includes a corrective action plan for the school district, take note of the NMPED staff assigned to monitor it. In this case, your student may require an IEP meeting to incorporate the items of the corrective action plan into their IEP with detailed plans for implementation.

Alternative Dispute Resolution (ADR)

There are two types of dispute resolution available as an alternative to the NMPED's investigation. These will be offered to you after you file a complaint.

- A **Facilitated IEP** is an IEP meeting led by a facilitator from the NMPED. The facilitator attempts to address the conflict by leading the IEP team through a discussion of the dispute and using the IEP process to resolve it.
- In a **Mediation**, a NMPED mediator attempts to settle the dispute by negotiating a resolution between the two parties. The goal is to produce a written mediation agreement that is legally-binding.

Participating in either type of Alternative Dispute Resolution may pause the 60-day investigation clock, meaning that if ADR is not successful, it may take the NMPED longer to complete an investigation. If ADR is successful, the parent is typically expected to withdraw their complaint. If the complaint is withdrawn, the investigation ends, a resolution report will not be issued, and the school district will not receive a corrective action plan from the NMPED.

Need more help?

Disability Rights New Mexico
3916 Juan Tabo Blvd. NE
Albuquerque, NM 87111

(505) 256-3100
Toll-free: 1-800-432-4682



www.drnrm.org
Email: info@drnm.org

