

**West Virginia Department of Education
Office of Federal Programs
Title I**

Procedures for the Investigation and Resolution of Complaints

Applicability

An individual or other eligible entity may submit a complaint to the West Virginia Department of Education (WVDE) under these procedures with regard to any of the following ESEA programs:

- Title I, Part A: Improving Basic Programs Operated by local educational agencies
- Title I Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk

Purpose

This document addresses the requirements of 20 USC §7844 and 20 USC §7883 for resolving complaints applicable to the federal programs identified above. A complaint may be submitted by any individual, group of individuals or organization, in-state or out-of-state, who alleges that a federal or state law, rule, or regulation has been violated by a local educational agency (LEA) or the WVDE. All complaints will be directed to, and reviewed by the Executive Director of the WVDE Office of Federal Programs. The procedures set forth below will be used by the WVDE to investigate and resolve any complaint by an individual or organization.

Definitions

“Complaint” shall be defined as a signed, written statement by an individual, group of individuals or organization which alleges that a local educational agency or the state educational agency has violated a requirement of federal law that applies to *No Child Left Behind Act of 2001* (P.L. 107-110). The statement of complaint must identify the alleged violations of the law and include pertinent facts upon which the allegation is based. The complaint must allege a violation that occurred not more than 90 working days prior to the date that the complaint is received, unless a longer period is reasonable because the violation is considered systemic or ongoing. Written complaint statements must contain original signatures. Complaints that have been received via facsimile or email will not be accepted, as the document does not provide an original signature. If a complaint is filed on behalf of a student by an individual who is not the parent or legal guardian of the student, WVDE shall provide the complainant an opportunity to obtain parent/guardian release of information. Upon receipt of a signed, parental consent for release of information, the non-parent complainant will be entitled to a copy of the letter of findings upon the conclusion of the complaint investigation.

“Complainant” shall be defined as public agencies, teachers, administrators, parents, or other individuals and organizations. West Virginia Department of Education will not accept nor investigate allegations or violations from anonymous sources.

Timelines

West Virginia Department of Education, Office of Federal Programs shall investigate and resolve any written complaint within **sixty (60) business days from the date the complaint is received** unless “exceptional circumstances” justify an extension of the time limit. For the purposes of these procedures, the term “exceptional circumstances” means circumstances related to school closings, the volume of information/documentation submitted for review, the complexity of the issues, or the need for legal consultation. The amount of time to be granted for an exceptional circumstance shall be determined on an individual case basis. The district and complainant will be notified in writing of the time of the extension and the basis for the WVDE decision. Timelines shall not be extended for refusal or failure by the public agency to cooperate with the complaint investigation.

Procedures for Complaints Filed Regarding the Local Educational Agency

Should the SEA receive a complaint regarding a school and/or district issue, the complainant will first be asked if this complaint has been addressed at the LEA level. If not, the complainant will be referred to the respective school principal and LEA Title I director. The LEA will investigate and respond to the complaint in accordance with district policy and/or procedures. Therefore, complaints that originated at the local level shall not be filed with the West Virginia Department of Education until every effort has been made to resolve the issue through local complaint procedures. In the event that the complaint is not resolved at the local level, the complainant

shall submit a written complaint to the state educational agency in accordance with the information found in the definition section of this document.

Procedures for Complaints Filed at the State Educational Agency Level

A. Registration of Complaints - Persons filing written complaints shall register such complaints with the Executive Director of the WVDE Office of Federal Programs. The written documentation shall be mailed to the following address:

Executive Director
West Virginia Department of Education
Office of Federal Programs
Building 6 Room 330
1900 Kanawha Boulevard East
Charleston, WV 25305-0330

B. Receipt of a Complaint - Upon receipt of a complaint, West Virginia Department of Education shall issue a letter of acknowledgement within **ten (10) business days** to the complainant that contains the following information:

- The date that WVDE received the complaint;
- The identity of the assigned complaint investigator(s);
- A verification of the complaint to be investigated;
- A request for additional information from the complainant and/or the LEA for the purposes of verifying the allegations. – In the event that the information is not submitted as requested, WVDE will conduct an investigation and issue the “Letter of Findings” based on the information at hand. Any information submitted to WVDE is subject to disclosure as part of the public record in accordance with WVBE Policy 1230: Freedom of Information Requests.
- A statement of the procedures in which WVDE may investigate the complaint;
- The WVDE’s commitment to issue a resolution in the form of a “Letter of Findings”.

If the complaint involves a local educational agency, a copy of the acknowledgement letter and the written complaint will be issued to the district superintendent.

C. Assignment of an investigator - A complaints investigator will be assigned by the Executive Director of the Office of Federal Programs.

D. Investigation - The West Virginia Department of Education, Office of Federal Programs shall investigate and resolve any written complaint within **sixty (60) business days** from the date the complaint is received unless “exceptional circumstances” justify an extension of the time limit. Complainant(s) will be notified, in writing, if exceptional circumstances exist requiring an extension of the sixty (60) day time period. (See Timeline section of this document.)The complaint investigator retains authority for determining how the allegations will be investigated. On site investigation may be announced or unannounced visits. The investigator may use, but is not limited to, the following investigative options:

- Review of submitted written documentation to determine whether the LEA has complied with the federal program in question;
- Request copies of existing documents;
- Request written responses to additional questions posed to the complainant in writing;
- Conduct telephone or person to person interviews with school officials, employees, student(s), the complainant or other relevant persons;
- Conduct an on-site investigation to gather additional information;
- Conduct an on site visit for the purpose of providing the LEA and the complainant an opportunity to present additional information;
- Investigate using only one or a combination of any of the above options.

E. Review of Information and Determination of Compliance or Non-Compliance - WVDE shall review the information at the conclusion of the final investigative procedures to determine if the public agency and/or individual(s) have violated federal law(s) with regard to any of the following ESEA programs:

- Title I, Part A: Improving Basic Programs Operated by local educational agencies;
- Title I Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk;

F. Issuance of “Letter of Findings” – Once determination is made, consistent with federal and/or state laws and/or procedures and policies, the complainant investigator shall issue a “Letter of Findings” to the named LEA, and a copy to the parent and complainant who has submitted the required confidentiality release. The “Letter of Findings” shall include the following information:

- A statement of the allegation(s) investigated;
- A statement of additional allegation(s) determined during the course of investigation;
- Investigative procedures, findings of fact, and applicable federal and state laws;
- Conclusions for each of the investigated issues;
- Statement indicating the corrective action(s) which must be undertaken by the local educational agency to correct each identified violation of federal and/or state law and the timelines for implementing the corrective action(s); **or**
- A statement, supported with justification, that WVDE does not sustain the complaint.

G. Implementation of Corrective Actions – WVDE shall require the local educational agency to submit documentation verifying the implementation of the corrective action(s) within **thirty (30) business days** following the date of issuance of the “Letter of Findings”. Timelines for completing corrective actions will only be extended in circumstances related to building/renovating classrooms, physical relocation of classes, reassignment/reorganization of personnel, employment of additional personnel or unforeseen circumstances (e.g. natural disasters). A request for an extension of timelines shall be made within **ten (10) business days** of the issuance of the “Letter of Findings”.

H. Review of Corrective Action Documentation – Within **ten (10) business days of receipt of the documentation**, WVDE shall approve appropriate actions, negotiate and approve a request for extension because portions of the corrective action have not been implemented for reasons stated in section G, and/or disapprove inadequate actions. If the documentation is approved, WVDE shall provide the local educational agency confirmation that the documentation is acceptable and the case is closed. If the documentation is disapproved, the local educational agency shall complete additional actions required by WVDE on or before the date specified in a written notice. Documentation of the implementation of further actions shall be submitted to WVDE by the date specified. WVDE reserves the right to conduct announced or unannounced visits to confirm compliance. Once the additional documentation is approved, WVDE shall provide the local educational agency confirmation that the documentation is acceptable and the case is closed.

I. Complaint Closure – WVDE shall issue a “Letter of Closure” to the complainant and the local educational agency upon acceptance of the local educational agency’s documentation of the implementation of corrective action.

Appeal of Resolution of Complaints Relating to Participation of Private School Children

For complaints filed as an alleged violation of 20 USC §7883, (participation by private school children and teachers) the resolution may be appealed by an interested party to the Secretary of Education (U.S. Department of Education) in accordance with 20 USC §7883 and any applicable procedures of the U.S. Department of Education.