



OSSE POLICY

Date Issued: 03/04/13

Complaint Procedures for Elementary and Secondary Education Act Programs and Grants

I. AUTHORITY AND PURPOSE

The Office of the State Superintendent of Education (OSSE) was established by the Public Education Reform Amendment Act of 2007 (PERRA) to “serve as the state education agency and perform the functions of the state education agency for the District of Columbia.”¹ As the District’s State education agency (SEA), OSSE is responsible for administration of most U.S. Department of Education (ED) programs funded by the Elementary and Secondary Education Act of 1965, as amended by No Child Left Behind (ESEA).² To fulfill this role, PERRA empowered OSSE to “[d]evelop and adopt policies that come within the functions of state educational agencies under federal law.”³ It is pursuant to this authority that OSSE adopts this policy, which seeks to implement SEA functions that arise from ESEA.

Grant administration rules promulgated by ED require that OSSE adopt procedures for: reviewing and approving/denying subgrant applications;⁴ monitoring and enforcing subgrantee compliance with programmatic and fiscal requirements of a subgrant;⁵ collecting data and records necessary for compliance with federal grant reporting requirements;⁶ and developing and implementing state-level complaint procedures.⁷ The limited purpose of this policy is to fulfill the latter SEA function of receiving and deciding state-level complaints related to ESEA programs.

II. APPLICABILITY/AFFECTED PROGRAMS

The complaint procedure described in this policy applies to complaints arising from and related to the following ESEA programs as they are administered in the District of Columbia:

- 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
- Title II, Part A: Improving Teacher Quality
- Title II, Part B: Mathematics and Science Partnerships
- Title III, Part A: English Language Acquisition, Language Enhancement, and Academic Achievement Act
- Title IV, Part B: 21st Century Community Learning Centers
- Title V, Part B: Public Charter School Programs
- Title V, Part D: Fund for the Improvement of Education (Teacher Incentive Fund)
- Title VI, Part A: Grants for State Assessments
- Title VIII: Impact Aid
- Competitive, state-administered U.S. Department of Education grants



WHICH PROGRAMS ARE NOT COVERED BY THIS POLICY?

Title I, Part A of ESEA specifically requires that SEAs and LEAs coordinate Title I-A funds with other federal educational programs,⁸ such as the McKinney Vento Homeless Assistance Act of 1987⁹ and the Individuals with Disabilities Education Act¹⁰ (IDEA). However, both McKinney-Vento and IDEA have implementing statutes other than ESEA, which mandate complaint resolution procedures. Since the limited purpose of this policy is to implement complaint procedures mandated by ESEA, these coordinated programs are not covered by this policy.

For information on filing a complaint or appealing an LEA decision regarding the provision of educational services to homeless students and parents under McKinney-Vento, please refer to the policies of OSSE's Homeless Children and Youth Program in the Division of Elementary and Secondary Education at <http://osse.dc.gov/service/education-homeless-children-and-youth-program>.

For information on filing a complaint regarding the provision of specialized education services to disabled students under IDEA, please refer to the policies of OSSE's Division of Specialized Education at <http://osse.dc.gov/publication/state-complaints-policy-and-procedure>.

III. TYPES OF COMPLAINTS

Following are descriptions of the types of complaints that may be filed regarding ESEA programs, as well as a breakdown of the persons and entities that are authorized by law to file each type. An overview of this information can be found in Table III-A.

1. **Program Administration Complaint**

The Elementary and Secondary Education Act of 1965 (ESEA) established several different funding programs. The non-fiscal, programmatic requirements for each funding program are found, first, in the language of ESEA itself. For some funding programs, the U.S. Department of Education (ED) has also promulgated program-specific rules. Finally, the Education Department's General Administrative Regulations (EDGAR) establish general programmatic requirements that are applicable to all of ED's funding programs. These bodies of law form the parameters to which OSSE, as the State educational agency overseeing the use of federal funds, and OSSE's subgrantees, as recipients of federal financial assistance, must conform. Table III-B provides examples of some of the programmatic requirements of funding programs under ESEA.

A *Program Administration Complaint* alleges that the SEA, LEA, or another recipient of federal financial assistance violated one of the programmatic requirements established by federal statute or federal regulation during the administration of an affected program. These complaints may be filed by any aggrieved person or entity, including parents, teachers, school officials, LEA officials, organizations, and members of the public.

2. **Subgrant Administration Complaint**

OSSE, as the State education agency, is responsible for grant-making activities.¹¹ The State Superintendent, as the chief school officer, is responsible for representing OSSE and the District of Columbia in all matters before the U.S. Department of Education (ED).¹² As a result, OSSE administers all of ED's State-administered grant programs.¹³

Grant administration is governed by the Education Department's General Administrative Regulations

(EDGAR).¹⁴ These rules establish how ED awards grants to SEAs, how SEAs make subgrants to eligible applicants, and the requirements that apply after a grant award has been made. At particular decision-making points in the grant making and administration process, EDGAR mandates that the SEA develop and implement a complaint/review process. A *Subgrant Administration Complaint* alleges that during the administration of a grant under an affected program, the SEA took one of the following actions in violation of federal statute or regulation:

- a. Disapproved a subgrant application;¹⁵

DOES THIS POLICY COVER ALL REJECTIONS OF GRANT APPLICATIONS?

No. Grant applications that are not accepted for filing by OSSE due to failure to comply with the technical requirements of the Request for Applications (RFA) are not subject to approval or denial. This is because grant applications that are not accepted for filing never reach the substantive evaluation stage and are not evaluated by the peer review process. As a result, applications that are not accepted for filing for failure to comply with the technical requirements of the RFA are not “disapproved” and are not subject to the complaint procedures described in this policy. Examples of technical failures that prevent filing of a grant application include: late applications; incomplete applications; and applications that do not conform to formatting requirements.

- b. Failed to provide funds in amounts in accordance with the requirements of statutes and regulations;¹⁶
- c. Temporarily withheld payment of grant funds under an approved subgrant award;
- d. Disallowed all of part of the cost of an activity under an approved subgrant award;
- e. Withheld further program awards;¹⁷
- f. Terminated or suspended further assistance under an approved subgrant award; or
- g. Ordered, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds.¹⁸

A *Subgrant Administration Complaint* may only be filed by an OSSE subgrantee regarding one of the above actions taken by OSSE on the subgrantee’s own grant award.

3. ***Equitable Services Complaint***

Both Title I, Part A of ESEA and the General Provisions applicable to other ESEA titles contain a requirement that recipients of financial assistance targeted to public school students and their teachers also provide equitable services to students enrolled in private elementary and secondary schools in areas served by recipient of funds. The adequacy of services and participation by private school students and their teachers is governed by the following principles:

- a. Timely and meaningful consultation between recipient of federal financial assistance and private school officials to identify private school students’ needs, services to be provided, and methods for service delivery;
- b. Services provided to children attending private school, their teachers, and other educational

personnel shall be equitable in comparison to services and other benefits provided for public school children, teachers, and other educational personnel;

- c. Expenditures on educational services and other benefits for children attending private school, their teachers, and other educational personnel shall be equal to the expenditures for participating public school children, taking into account the number of and educational needs of the children to be served; and
- d. Educational services and other benefits provided on an equitable basis to private school students shall be secular, neutral, and nonideological.¹⁹

However, in the District of Columbia, the requirement to provide equitable services is not applicable to all recipients of federal financial assistance. With the District of Columbia School Reform Act of 1995²⁰ (SRA), Congress established the public charter school system for the District. Seeking to encourage educational innovation, the SRA provides public charter schools with a good deal of autonomy. Despite this autonomy, the SRA requires charter schools to comply with all provisions of ESEA that are not specifically waived by the SRA.²¹ The purpose for these exemptions is to prevent duplicative requirements addressed in both the ESEA and SRA, or to eliminate compliance with ESEA requirements that would conflict with the congressional scheme designed for DC public charter schools in the SRA. This means that laws or policies enacted by OSSE to implement the ESEA are applicable to charter schools receiving ESEA funds, unless a law or policy addresses a requirement of ESEA that has been specifically exempted from applicability to charter schools.

Charter schools in the District of Columbia are exempted from Sections 1112(c) and 1120 of ESEA, which require an LEA to provide equitable Title I, Part A services to children attending private school in the area served by the LEA.²² Charter schools have been exempted from this requirement because District charter schools are not defined by geographic jurisdictions. Instead, District charter schools enroll students from across the District of Columbia. This means that the only LEA in the District that has a geographic jurisdiction, and the related requirement to provide students attending private schools in its jurisdiction, is the District of Columbia Public Schools (DCPS).

An *Equitable Services Complaint* alleges that the SEA, DCPS, or another recipient of federal financial assistance under an affected program subject to equitable services violated equitable services requirements.²³ Such complaints may be filed by private school officials or by the parents of students attending private schools.

4. ***ESEA Accountability Classification Complaint***

School accountability under the No Child Left Behind amendments to the Elementary and Secondary Education Act of 1965 (ESEA) is based on whether or not a school makes Adequate Yearly Progress²⁴ (AYP), which is based primarily on the results of academic assessments that each State receiving Title I funds is required to implement.²⁵ To comply with this requirement, the District adopted as its academic assessment tool the DC Comprehensive Assessment System (DC CAS). In past years, schools were classified as needing improvement after failing to make AYP for two consecutive years. Persistent failure to improve student achievement on the DC CAS by a school identified for improvement resulted in heightened classification of the school as needing corrective action or restructuring.²⁶

On September 23, 2011, the Education Secretary announced his intention to offer State education

agencies (SEAs) flexibility from certain ESEA provisions pursuant to his authority under Section 9401 of ESEA, including AYP.²⁷ On July 19, 2012, ED approved the District's application for flexibility, which established a new District-wide accountability system that is not based solely on students' performance on the DC CAS during a single year, but includes student growth from year-to-year as well as other indicators. Additionally, school classification under flexibility is not limited to pass/fail whereby schools are either in need of improvement or not. Rather, the new District-wide accountability system classifies schools on a range from Focus to Priority to Developing to Rising to Reward.

While ED granted flexibility to the District on how it will measure and classify schools, the requirement that local educational agencies be offered an opportunity to review and present evidence to the SEA prior to classification is still in effect. An *ESEA Accountability Classification Complaint* alleges that the classification of a particular school proposed by the SEA is erroneous due to statistical or other substantive reasons. Such a complaint may only be filed by the principal of the school proposed for classification.

WHICH DC CAS COMPLAINTS ARE NOT COVERED BY THIS POLICY?

*Please note that an ESEA Accountability Classification Complaint may **not** be filed to contest either the results of an individual student's DC CAS examination or to complain about or report violations of DC CAS Test Security policies. For information about DC CAS complaints not covered by this policy, please see OSSE's Accountability and Assessment section of the Elementary and Secondary Division at <http://osse.dc.gov/service/assessment>.*

IV. WHEN TO FILE A COMPLAINT

Following are the deadlines for filing particular types of ESEA complaints. Complaints that are filed after the relevant filing deadline will be denied as not timely.

1. A **Program Administration Complaint** shall be filed within ninety (90) days of the date on which the alleged violation of federal statute or regulation occurred.
2. A **Subgrant Administration Complaint** shall be filed within thirty (30) days of the date on which the SEA took the action being contested, either to disapprove a grant application, temporarily withhold payments, disallow a cost, withhold further program awards, terminate/suspend an award, or order repayment of misspent or misapplied funds in accordance with a final audit.
3. An **Equitable Services Complaint** shall be filed within ninety (90) days of the date on which the alleged violation of the equitable services requirement occurred.
4. An **ESEA Accountability Classification Complaint** shall be filed within thirty (30) days of the date of the SEA notice to the school of the proposed ESEA Accountability Classification.

V. WHERE TO FILE A COMPLAINT

The Elementary and Secondary Education Act (ESEA) requires that the SEA implement a general complaint resolution process. However, for some types of complaints covered by this policy, the implementing statute or regulation specifically requires a "hearing." OSSE has entered into an agreement with the Office of

Administrative Hearings (OAH) to adjudicate all types of complaints for which a formal hearing is required. These “OAH-Adjudicated” complaints, which must be filed with OAH, include *Subgrant Administration Complaints* and *Equitable Services Complaints*.

Complaints that are not subject to a mandated hearing requirement will be resolved by OSSE. These “OSSE-Adjudicated” complaints, which must be filed with OSSE, include *Program Administration Complaints* and *ESEA Accountability Classification Complaints*.

Complaints shall be filed as follows:

1. **OSSE-Adjudicated Complaints** (Program Administration and ESEA Accountability Classification) shall be hand-delivered or sent via first class mail to OSSE at:

Office of the State Superintendent of Education
c/o Assistant Superintendent of Elementary and Secondary Education
810 First Street, NE, 5th Floor
Washington, DC 20002

2. **OAH-Adjudicated Complaints** (Subgrant Administration and Equitable Services) shall be filed with the Office of Administrative Hearings in accordance with OAH’s rules, which can be found on OAH’s website at <http://oah.dc.gov/>.

VI. FORMAT OF OAH-ADJUDICATED COMPLAINTS

OAH-Adjudicated complaints (Subgrant Administration and Equitable Services complaints) shall comply with the formatting requirements established for the Office of Administrative Hearings in Title 1, Chapter 28 of the District of Columbia Municipal Regulations, entitled “OFFICE OF ADMINISTRATIVE HEARINGS RULES OF PRACTICE AND PROCEDURE.”²⁸

VII. FORMAT OF OSSE-ADJUDICATED COMPLAINTS

OSSE-Adjudicated complaints (Program Administration and ESEA Accountability Classification complaints) must meet all general formatting requirements **and** all specific formatting requirements applicable to each type of complaint as described in this section of the policy. OSSE-Adjudicated complaints that do not conform to the formatting requirements of this section shall not be accepted by OSSE and shall be returned to the complainant.

WHAT ARE **NOT CONSIDERED COMPLAINTS?**

Objections that do not conform to these basic requirements, such as objections made informally, in-person, by telephone, and anonymously shall not be deemed to be an official “complaint” and are not subject to the procedures described in this policy.

- A. **General Formatting Requirements**—All OSSE-Adjudicated complaints filed pursuant to this policy shall meet the following requirements:

1. Complaints shall be in writing.

2. Complaints filed by an organization shall identify a single person to act as the complainant’s representative for the purposes of resolving the complaint.
3. Complaints shall include the address of the complainant and the entity against whom the complaint is being filed.
4. Complaints shall be signed and attested to by the complainant or its representative.

WHAT ATTESTATION IS REQUIRED (SECTION VII.A.4)?

I hereby swear or affirm under penalty of making a false statement pursuant to D.C. Official Code § 22-2405 that the statements and facts contained herein are true to the best of my knowledge and belief.

5. Complaints shall include a statement of the facts upon which the complaint is based.
 6. Complaints shall include a statement of the relief/SEA action being requested by the complainant.
 7. Complaints shall be accompanied by all supporting documentary evidence.
- B. Formatting Requirements Applicable to Particular Types of Complaints**—In addition to conforming to the general formatting requirements described in Section VII.A of this policy, OSSE-Adjudicated complaints shall meet the following formatting requirements applicable to the particular type of complaint being filed:
1. A **Program Administration Complaint** shall contain the following:
 - a. Identification of the entity alleged to have violated a requirement of a federal statute or regulation that applies to an affected program; and
 - b. Citation of the particular federal statute or regulation alleged to have been violated.
 2. An **ESEA Accountability Classification Complaint** shall contain the following:
 - a. Identification of the school proposed for classification and the classification proposed by the SEA; and
 - b. Statement that either the principal or a majority of the parents of students enrolled in the school believe the proposed classification is erroneous.

VIII. RESOLUTION OF OAH-ADJUDICATED COMPLAINTS

The Office of Administrative Hearings shall adjudicate Subgrant Administration and Equitable Services complaints in accordance with Title 1, Chapter 28 of the District of Columbia Municipal Regulations, entitled “OFFICE OF ADMINISTRATIVE HEARINGS RULES OF PRACTICE AND PROCEDURE.”²⁹ The decision issued by OAH to resolve an OAH-Adjudicated complaint shall be deemed the Final Agency Decision.

IX. RESOLUTION OF OSSE-ADJUDICATED COMPLAINTS

OSSE shall adjudicate Program Administration and ESEA Accountability Classification Complaints in accordance with Section IX of this policy. An overview of the timelines associated with resolution of an OSSE-Adjudicated complaint can be found in Table IX-A.

A. Calculating Deadlines

1. The day of the act or event that triggers a deadline shall not be included when calculating the deadline.
2. The last day of a deadline shall be included when calculating the deadline, unless the last day falls on an OSSE non-working day.
3. Where the last day of a deadline falls on an OSSE non-working day, the last day for the deadline shall be the next date on which OSSE is open for business.

B. Service of Process

1. For complaints against the SEA, additional service of process is not required because the SEA (OSSE) will receive notice of the complaint upon filing.
2. For complaints against an LEA, a school, or other recipient of federal financial assistance, the subject of the complaint will have no knowledge of the complaint until they are served by the person filing the complaint. For that reason, copies of Program Administration and Equitable Services complaints alleging violations by an entity other than the SEA must be served upon the entity against whom the complaint was filed, called the "Respondent."
3. Service of process may be accomplished by sending an exact copy of the document to the other party, or their representative, at their official place of business or residence via hand delivery or first class mail within two (2) days of the date on which the complaint was filed with OSSE.
4. Proof of service may be requested by OSSE if service is contested by the other party.

C. Representation

1. Any party may be represented by counsel by submitting a Notice of Appearance.
2. A Notice of Appearance that includes the attorney's name, address, and email address shall be filed with OSSE using the same process for filing an OSSE-Adjudicated Complaint pursuant to Section V.I of this policy.
3. The Notice of Appearance shall be served on the other party using the process described in Section IX.B.3 of this policy within two (2) days after the Notice is filed with OSSE.

D. Continuances/Extensions

1. Extensions and continuances of deadlines established by this policy shall only be granted if exceptional circumstances exist.
2. A party seeking a continuance or extension of a deadline shall file a request with OSSE using the same

process for filing an OSSE-Adjudicated Complaint pursuant to Section V.I of this policy. The request shall describe the exceptional circumstances and how those circumstances warrant a continuance or extension.

3. OSSE may, at its discretion, extend or continue a deadline based on exceptional circumstances of the SEA *sua sponte*. OSSE shall issue a notice to both parties describing the exceptional circumstances and how those circumstances warrant a continuance or extension.

E. **Answer**

1. When a complaint is filed against an entity other than the SEA, the respondent may file an answer to the complaint along with any supporting documentary evidence within ten (10) days of the date on which OSSE sent notice to the respondent that a state-level complaint was filed against the respondent.
2. Answers shall be filed with OSSE using the same procedures described for complaints in Section V.I of this policy.
3. The respondent shall serve the answer on the complainant using the same process described in Section IX.B.3 of this policy within two (2) days after filing with OSSE.
4. For any complaint in which an answer is not timely filed, OSSE will resolve the complaint based on the documentary evidence submitted by the person who filed the complaint and the results of OSSE's investigation, if deemed necessary.

F. **Investigation**

1. Upon receipt of a complaint and answer, or upon expiration of the time to file an answer if no answer is received, OSSE will review the information provided and determine, at its discretion, whether on-site investigation or monitoring is necessary to permit OSSE to resolve the complaint.
2. If deemed necessary, OSSE shall notify the complainant of the date and time for the on-site investigation or monitoring in the Letter of Acknowledgment (See Section IX.G of this policy). Such on-site investigation or monitoring shall be completed within 30 days of the date of the Letter of Acknowledgement.
3. Failure to comply with an OSSE investigation of a complaint filed pursuant to this policy will result in enforcement action, up to and including resolution of the complaint based solely on the evidence provided in the complaint, withholding of funds, and withholding of further awards.

G. **Letter of Acknowledgement**

1. OSSE shall issue a Letter of Acknowledgment to the complainant and respondent within ten (10) days of receipt of the answer, or within ten (10) days after the answer was due if an answer was not received by OSSE.
2. A Letter of Acknowledgement shall include the following information:

- a. Date the complaint was received by OSSE;
- b. Date the answer was received by OSSE, if any;
- c. Determination of whether OSSE will conduct an on-site investigation or monitoring;
- d. Name and contact information of the assigned complaint investigator, if applicable;
- e. Date and time of on-site investigation or monitoring, if applicable;
- f. Timeframes for resolution of the complaint.

H. **Letter of Findings**

1. Within ten (10) days after completion of the investigation, or within ten (10) days after the date of the Letter of Acknowledgement if an investigation is deemed by OSSE to be unnecessary, OSSE shall issue a Letter of Findings to the complainant and respondent.
2. A Letter of Findings shall include:
 - a. A description of the conduct alleged to have violated federal statute or regulation;
 - b. A citation to the federal statute or regulation determined to have been violated;
 - c. OSSE's findings as to whether the complaint's allegations are supported by credible evidence;
 - d. Instructions for filing a response to the Letter of Findings; and
 - e. Instructions for developing and filing a corrective action plan to address the findings, if applicable; and
 - f. Timelines for implementing corrective action and resolving the complaint, if applicable.
3. If OSSE determines that the complaint is not supported by credible evidence, the Letter of Findings shall contain language stating that the Letter of Findings shall serve as the Final Agency Decision and shall contain all required elements for a Final Agency Decision pursuant to Section IX.J.3 of this policy.
4. Either party may file a written response to the Letter of Findings using the same procedures for filing a complaint in Section V.I of this policy within five (5) days of the date on which the Letter of Findings was issued by OSSE.
5. Responses shall be served on the other party within two (2) days of filing with OSSE using the procedures described in Section IX.B.3 of this policy.

I. **Corrective Action Plan**

1. If OSSE finds that a complaint is supported by credible evidence, the respondent shall file a corrective action plan to address the findings within ten (10) days of the date on which the Letter of Findings was issued.
2. Corrective Action plans shall be developed to cover a 30-day period.
3. A corrective action plan submitted in response to a Letter of Findings shall be subject to OSSE approval. OSSE shall provide notice to the respondent if the corrective action plan is disapproved. Such notice

shall be accompanied by a written explanation of the deficiencies and specific instructions for amending the corrective action plan to obtain OSSE approval.

4. If a corrective action plan is disapproved by OSSE, the respondent shall file an amended corrective action plan within five (5) days of the date on which OSSE provided notice of the disapproval to the respondent.
5. Within five (5) days after the end of the approved corrective action plan period, the respondent shall file a report that describes the implementation of the corrective action plan, any results, and a statement of whether or not the respondent believes that the findings have been addressed.
6. Corrective action plans, amended corrective action plans, and reports required by this section of the policy shall be filed with OSSE using the same procedures for filing a complaint in Section V.I of this policy and served on the complainant using the same procedures for filing a complaint in Section IX.B.3 of this policy.

J. **Decision**

1. OSSE shall consider all reliable, probative, and non-duplicative evidence, all documents filed, and the results of OSSE's investigation, if conducted.
2. OSSE shall issue a Final Agency Decision within sixty (60) days of the date on which the Letter of Findings was issued, unless the Letter of Findings serves as the Final Agency Decision pursuant to Section IX.H.3 of this policy, in which case the Letter of Findings and Final Agency Decision shall be issued on the same day.
3. The Final Agency Decision shall be in writing and shall include the following elements:
 - a. Findings of fact upon which the decision is based;
 - b. Conclusions of law;
 - c. Relief ordered; and
 - d. Instructions on how to appeal the Final Agency Decision.

X. **APPEAL TO THE U.S. DEPARTMENT OF EDUCATION**

The State education agency for the District of Columbia, OSSE, is required to include in its complaint procedures notice of any right to request review of a Final Agency Decision by the Secretary of the U.S. Department of Education that is granted to the parties by the implementing statutes and regulations applicable to the type of ESEA complaint for which a decision was rendered.

WHICH COMPLAINTS ARE NOT APPEALABLE TO THE SECRETARY?

*ESEA School Classification Appeals are not appealable to the Secretary because the implementing statute does not establish the right to an appeal, while the implementing statutes and regulations for the other types of complaints do mandate an appeals process.*³⁰

1. Both the complainant and the respondent have the right to request that the Secretary review, at the Secretary's discretion, a Final Agency Decision issued for one of the following types of ESEA complaints:
 - a. Program Administration Complaint;
 - b. Subgrant Administration Complaint; or
 - c. Equitable Services Complaint.
2. Requests for the Secretary to Review a Final Agency Decision shall be in writing and shall include a complete statement of the reasons underlying the request for review and shall be accompanied by a copy of the Final Agency Decision.
3. Requests for the Secretary to Review a Final Agency Decision shall be filed via first class mail at:

U.S. Secretary of Education
Office of the General Counsel
400 Maryland Avenue, SW
Washington, DC 20202
4. Following are the deadlines for filing a Request for Review depending on the type of ESEA complaint:
 - a. A Request to Review a Final Agency Decision regarding a **Program Administration Complaint** shall be filed within twenty (20) days after the date of the Final Agency Decision.
 - b. A Request to Review a Final Agency Decision regarding a **Subgrant Administration Complaint** shall be filed within twenty (20) days after the date of the Final Agency Decision.³¹
 - c. A Request to Review a Final Agency Decision regarding an **Equitable Services Complaint** shall be filed within thirty (30) days after the date of the Final Agency Decision.³²

XI. COMPLAINT REPORTING, RECORDKEEPING & NOTICE

1. All Local educational agencies (LEAs) are required to disseminate, free of charge, adequate information about these complaint procedures to parents of students and to appropriate school officials and representatives.³³
2. OSSE shall maintain complete records of the resolution of each complaint that is properly filed pursuant to this policy for three (3) years from the date on which the complaint is resolved, including any appeals.³⁴
3. Any LEA that has been the subject of multiple complaints, supported by credible evidence, regarding the implementation of the public school choice or supplemental services requirements (a type of Program Administration Complaint), shall be subject to heightened monitoring by OSSE.³⁵

XII. DEFINITIONS

Unless otherwise defined herein, the terms used in this policy shall have the definitions ascribed to them by the

Education Department's General Administrative Regulations³⁶ or in the authorizing statute of an affected program.

"Adjudicate" means the same as that term is defined by the District of Columbia Administrative Procedure Act, as codified at D.C. Official Code § 5-502.

"Complainant" means the party filing a complaint.

"Findings of fact" means a concise statement of the conclusions upon each contested issue of fact that is supported by reliable, probative, and substantial evidence.

"Non-working day" means a day on which the Office of the State Superintendent of Education is open for business, and which does not include Saturdays, Sundays, Federal holidays, District of Columbia government holidays, and emergency closing days.

"OAH-Adjudicated Complaints" means a Subgrant Administration or an Equitable Services Complaint, which are adjudicated by the Office of Administrative Hearings on OSSE's behalf pursuant to an agreement between OSSE and OAH.

"Office of Administrative Hearings" or *"OAH"* means the District of Columbia Government agency established by the Office of Administrative Hearings Establishment Act of 2001, effective Mar. 6, 2002 (D.C. Law 14-76, 48 D.C. Reg. 11442, as codified at D.C. Official Code § 2-1831.02).

"Office of the State Superintendent of Education" or *"OSSE"* means the District of Columbia Government agency established by the Public Education Reform Amendment Act of 2007, effective Jun. 12, 2007 (D.C. Law 17-9, 54 D.C. Reg. 4102, as codified at D.C. Official Code § 38-2601).

"OSSE-Adjudicated Complaints" means a Program Administration or ESEA Accountability Classification Complaint, which are adjudicated by OSSE.

"Party" or *"Parties"* means either the complainant or the respondent individually, or the complainant and respondent collectively.

"Respondent" means the party against whom a complaint was filed.

¹ D.C. Law 17-9, 54 D.C. Reg. 4102 (June 12, 2007), as codified at D.C. Code § 38-2601.01. The majority of ESEA programs are state-administered. However, several ESEA programs are directly granted by ED to local educational agencies, community-based organizations, or other state agencies. OSSE does not directly administer or oversee such direct grants.

² Pub. L. 89-10, 79 stat. 27 (Apr. 11, 1965), as amended by Pub. L. 107-110, 115 Stat. 1989 (Jan. 8, 2002).

³ D.C. Official Code § 38-2602(b)(12).

⁴ 34 C.F.R. §§ 76.400, .401, .700; 34 C.F.R. § 80.37.

⁵ 34 C.F.R. § 76-700; 34 C.F.R. §§ 80.20-.40.

⁶ 34 C.F.R. § 76.722, .730, .731; 34 C.F.R. § 80.42.

⁷ 34 C.F.R. § 76.401, .770, .783; 34 C.F.R. § 80.43(b); 34 C.F.R. § 299.10.

⁸ 20 U.S.C. §§ 6311(a)(1), 6312(a)(1).

⁹ Pub. L. 100-77, title VII, 101 Stat. 525 (Jul. 22 1987), as codified at 42 U.S.C. § 11431 *et seq.*

¹⁰ Pub. L. 91-230, 84 Stat. 191 (Apr. 13, 1970), as codified at 20 U.S.C. § 1400 *et seq.*

¹¹ D.C. Official Code § 38-2601.01.

¹² D.C. Official Code § 38-2601(c).

¹³ ESEA establishes several grant programs that are not administered by the State, such as the Carol M. White Physical Education Program under Title V, Part D, Subpart 10, which provides funds directly to LEAs and community-based organizations to initiate, improve, or expand K-12 physical education programs. 20 U.S.C. § 7216b(a)(1). These are direct grant programs, which are directly awarded by the Secretary of the U.S. Department of Education to an educational entity, are not subject to OSSE oversight, and are not included in the list of affected programs in Section II of this policy.

¹⁴ 34 C.F.R. parts 74-99.

¹⁵ 34 C.F.R. § 76.401(d)(3).

¹⁶ 34 C.F.R. § 76.401(c).

¹⁷ 34 C.F.R. §§ 76.783, 80.43.

¹⁸ 34 C.F.R. § 76.783(a).

¹⁹ 20 U.S.C. § 7881.

²⁰ Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996), as codified at D.C. Code § 38-18001.01 *et seq.*

²¹ D.C. Official Code § 38-1802.10(a)(5).

²² D.C. Official Code §§ 38-1802.10(a)(6)(B), (G).

²³ 20 U.S.C. § 7881.

²⁴ 20 U.S.C. § 6311(b)(2)(B).

²⁵ 20 U.S.C. § 6311(b)(3).

²⁶ 20 U.S.C. § 6316(b)(1)(A).

²⁷ 20 U.S.C. § 7861.

²⁸ 1 DCMR § 2800 *et seq.*

²⁹ *Supra*, note 27

³⁰ 34 C.F.R. §§ 76.401(d)(5), 299.11(c); 20 U.S.C. § 7833(b). But see 20 U.S.C. § 6316(b)(2).

³¹ 34 C.F.R. §§ 76.401(d)(5), 76.783(b).

³² 20 U.S.C. § 7883(b).

³³ 34 C.F.R. § 299.11(d).

³⁴ 34 C.F.R. § 80.42(b).

³⁵ 34 C.F.R. § 200.48(d)(3)(ii)(A).

³⁶ 34 C.F.R. Parts 74-99.