



**IDEA Written State Complaints:  
Making the System More Accessible, Responsive and Equitable for  
Students with Disabilities**



September 2023  
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## INTRODUCTION

Parents, legal guardians and advocates<sup>1</sup> of students with disabilities have at their disposal under the Individuals with Disabilities Education Act (IDEA) a number of procedural protections designed to ensure a child is provided a free appropriate public education (FAPE) in the least restrictive environment (LRE). If a parent believes that their local educational agency has failed to carry out its legal obligations under the law, they can seek remedies under IDEA dispute resolution processes.<sup>2</sup>

Parents may utilize a range of dispute resolution mechanisms under IDEA such as filing a written complaint with their state educational agency, requesting mediation, or filing for due process.<sup>3</sup> A written state complaint relies on an investigative process undertaken by the state, while the due process option is an adjudicative one, meaning that parents present their case to an administrative hearing officer. Mediation is a process that involves an independent mediator. Parents' decisions about which option to use may depend on the circumstances of the issue in dispute as well as their own capacity and resources to engage in the dispute resolution process.

Among these options, the state complaint stands out as the option envisioned by Congress when it enacted IDEA as the most powerful and accessible option for parents. The Office of Special Education and Rehabilitative Services (OSERS), part of the U.S. Department of Education (ED), released a lengthy Guidance in 2013 entitled *Dispute Resolutions under Part B of the Individuals with Disabilities Education Act (Part B)* and noted that “[t]hrough its Part B State complaint procedures, each State has a powerful tool to address noncompliance with Part B of IDEA and its implementing regulations in a manner that both supports and protects the interests of children and their parents and facilitates ongoing compliance by the State and its public agencies...”<sup>4,5</sup>

The written state complaint is unique among dispute resolution options in a number of ways. First, while none of IDEA's dispute resolution procedures require a parent to retain a lawyer, the state complaint process is arguably the most accessible and user-friendly option for individuals or organizations who wish to proceed without a lawyer.<sup>6</sup> Second, it allows any interested individual or organization to file a complaint. Third, complaints can also be filed on behalf of many students to address problems that may be systemic and far-reaching in nature.<sup>7</sup> And finally, written state complaints can also be filed against the state department of education itself.

On average, state complaints result in favorable outcomes for complainants in most instances, and in fact, more often than due process filings.<sup>8</sup> Nevertheless, the process does have some limitations. For example, decisions cannot be appealed in many states, nor do they carry the weight of case law.<sup>9</sup> Though possible, complainants are also unlikely to receive monetary awards and have a shorter window to file a state

complaint compared to due process filings (e.g., one year in most states compared to two years for due process filings.<sup>10</sup>)

As parents consider the options available to fix issues that are impacting their student's education, it is helpful to understand how the dispute resolution system works and the potential outcomes among the various options they may be considering. For example, how successful are parents and other interested parties in utilizing the written state complaint process to resolve their issues? And what are parents' experiences in using the written state complaint process, including barriers they may face? As advocates for students with disabilities, we also want to better understand why the state complaint mechanism isn't used more often, despite its overall success rate and the promise of it being an accessible process.

This report attempts to explore these questions by examining the research on written state complaints, the federal guidance, the adequacy of oversight mechanisms for the written state complaint system, each state's track record in resolving issues brought to them through the process, and the results of a nationwide survey of parents and advocates regarding their experiences with the written state complaint process. Based on these insights and findings, we offer a comprehensive set of recommendations about ways to strengthen the written state complaint system to better serve students and their families.

## AN OVERVIEW OF STATE COMPLAINTS UNDER IDEA

The introduction of the written state complaint as a dispute resolution option under IDEA was envisioned as a game changing tool for parents—one that would help ensure that schools would be held accountable for providing a free and appropriate education for their student(s). As the 2006 regulations regarding the revised IDEA stated, "The complaint procedures provide parents, organizations, and other individuals with an important means of ensuring that the educational needs of children with disabilities are met and provide the SEA with a powerful tool to identify and correct noncompliance with Part B of the Act or of part 300."<sup>11</sup>

According to IDEA, written state complaints must include certain details, including:<sup>12</sup>

- a statement that a public agency has not followed a requirement of IDEA
- a description of the violation(s), including facts relating to the violation
- suggestions on how to resolve the problem
- the child's name, address, and the name of the school (if the violation deals with a specific child)
- the signature and contact information for the person filing the complaint.

A complaint that is received without the required content may be dismissed or returned to the complainant to add any required information.

For their part, state departments of education are required to adopt written procedures for resolving complaints<sup>13</sup> including complaints filed by parents as well as those filed by organizations or individuals from another state. An SEA has a time limit of 60 days after a complaint is filed to complete its investigation. At a minimum, a State's written state complaint process must:

- Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.
- Provide the public agency with the opportunity to respond to the complaint and, at the discretion of the public agency, a proposal to resolve the complaint.
- Carry out an independent on-site investigation if the SEA determines that an investigation is necessary.
- Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of IDEA.
- Issue a written decision that addresses each allegation identified in the complaint and contains findings of facts, conclusions and reasons for its final decision.

States are also required to include remedies when the SEA has found the school failed to provide appropriate services and ensure that local educational agencies (LEAs) implement corrective action plans within the required timeframe.<sup>14</sup>

States must also provide information to parents and interested parties about how to file a complaint, including a model form<sup>15</sup> and widely disseminate information about the written state complaint process to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies (P&As), independent living centers, and other appropriate entities.

In order to receive IDEA federal funding, states must, among other obligations, agree that they will provide general oversight of LEAs, including administration of dispute resolution activities, and assure they are meeting their obligations under IDEA.<sup>16</sup> While most of this funding is passed through the SEA to their LEAs, a portion of IDEA funding is made available to state departments of education to support statewide activities and programmatic functions, including monitoring its LEAs and administering its dispute resolution program. In addition, states are required to collect data on their LEAs' dispute resolution activity and, in turn, report that data to the U.S. Department of Education. This data is then made available by ED to the public through its 618 data products.

Federal oversight of the state complaint process is the responsibility of the U.S. Department of Education's Office of Special Education Programs (OSEP), as part of its

IDEA compliance monitoring of state departments of education.<sup>17</sup> This includes annual reporting requirements for a range of areas covered under IDEA including dispute resolution and annual determinations regarding how a state is doing with respect to fulfilling its obligations under IDEA.<sup>18</sup> In addition, OSEP conducts on-site monitoring visits of states on a five-year rotational cycle.<sup>19</sup> However, monitoring can also be triggered in rare circumstances under the designation of an “emerging issue,” in which an issue comes to the attention of the OSEP that warrants further monitoring.

The federal role in overseeing written state complaints will be discussed in more detail in the section “A Deeper Look at the Monitoring of State Complaints.”

In addition to monitoring states, ED provides technical assistance regarding dispute resolution activities to SEAs, LEAs and parents. As one example, it supports the Center for Appropriate Dispute Resolution in Special Education (CADRE) ([www.cadreworks.org](http://www.cadreworks.org)), which has responsibility for training and technical assistance related to the dispute resolution process. CADRE provides a number of different training and technical assistance activities and tools for states and parents including state complaints specifically.

## DATA ON IDEA WRITTEN STATE COMPLAINTS

As mentioned, OSEP collects and publishes data reported to it by states each year on dispute resolution activity. In 2019-20, parents, guardians and interested parties filed 5,297 complaints with state departments of education, or about 7.4 complaints per every 10,000 special education students.<sup>20,21</sup> The number of complaints filed annually has been relatively stable over the past decade, ranging from a low of 7.4 complaints per 10,000 special education students in 2019-20 and 2011-12 to a high of 8.0 complaints in 2015-16.

Looking at this data on a state-by-state basis, there is significant variation among the states, ranging from a high of about 45 complaints filed per 10,000 special education students in Massachusetts to a low of 1 complaint per 10,000 students in West Virginia in 2019-20. The three-year average shows Massachusetts has the highest rate in the nation with more than 39 complaints filed on average annually per 10,000 students, followed by Connecticut and Mississippi. On the other hand, parents in Nevada, Montana and Alabama filed the fewest complaints with fewer than 2 complaints on average filed annually for each 10,000 students.

Table 1a. Complaints filed by state in 2019-20.

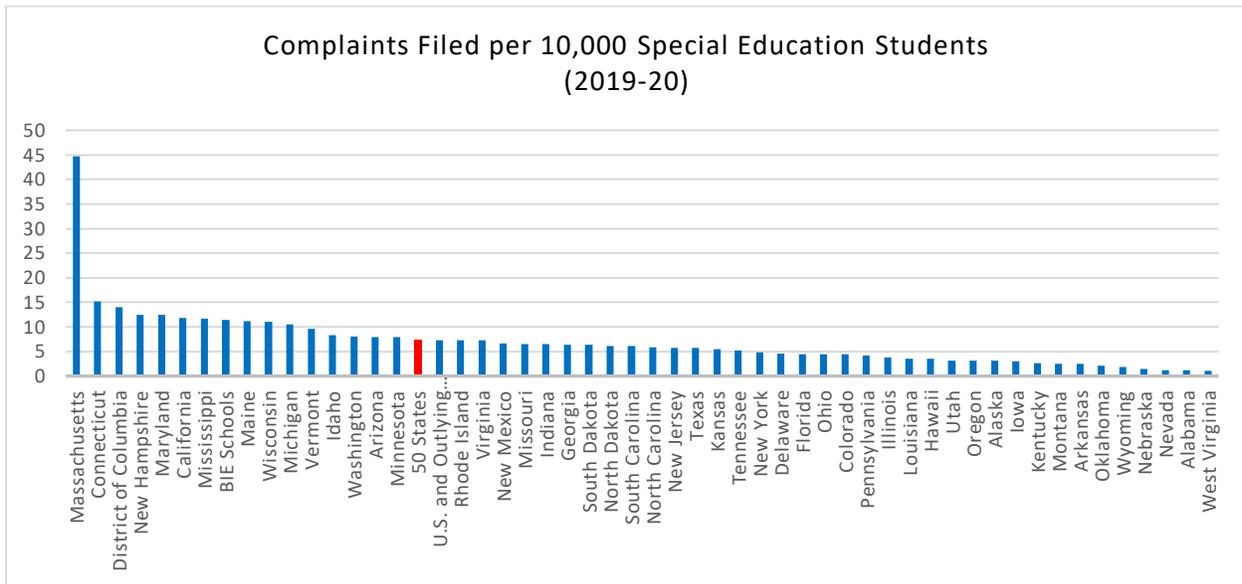
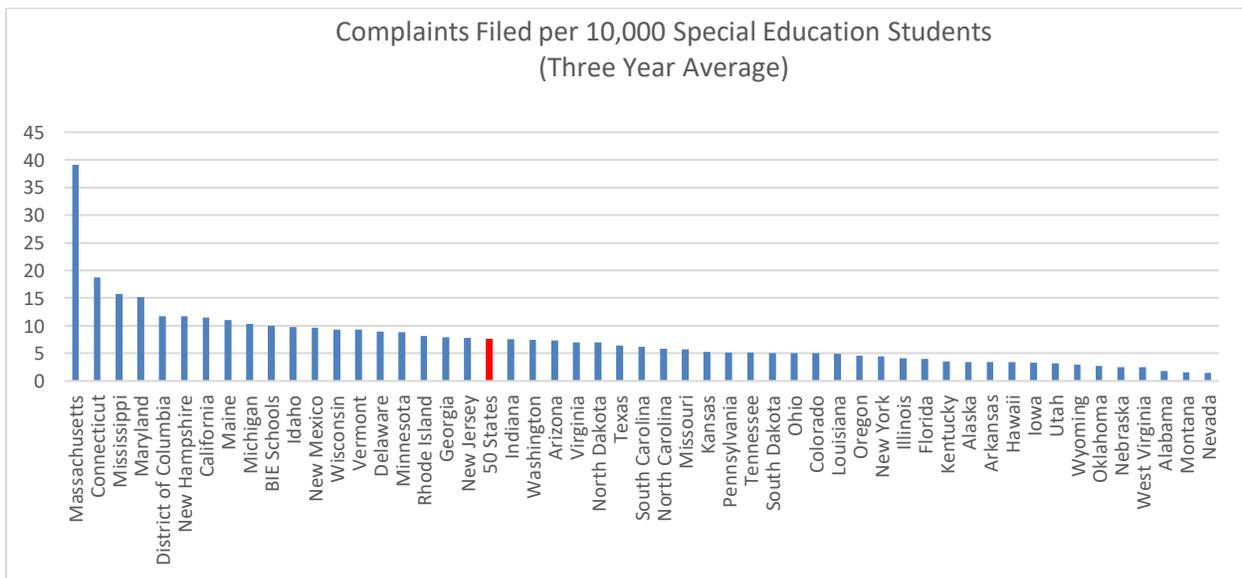


Table 1b. Complaints filed by state over three years (2017/18 – 2019/20).



Source: U.S. Department of Education, Office of Special Education Programs.

To better understand the outcomes of the state complaint system on a state-by-state basis, we created a set of analytics that track complaints along their path from initial filing to the various potential outcomes, using a type of “through-put analysis,” or audit methodology. This analysis allows us to compare the range of outcomes across the states and to identify significant outliers in outcomes among the states.

These metrics include:

- \* the percentage of complaints that were withdrawn or dismissed (Metric 1)
- \* the percentage of complaints that resulted in a report with findings of non-compliance (Metric 2)
- \* the ratio of reports issued that had findings of non-compliance compared to those that did not (Metric 3)
- \* timeliness of investigations (e.g., percentage of reports issued within the required time) (Metric 4).

The analysis draws on data collected by the U.S. Department of Education under authority of Section 618 of IDEA.<sup>22</sup> For purposes of this report, we examined data for the 50 states, the District of Columbia, and the Bureau of Indian Education (“BIE Schools”) for 2019-20 as well as the average of data from the three years including 2017-18, 2018-19, and 2019-20.<sup>23</sup> We conducted the latter analysis to minimize variability effects that may result from the small number of complaints received annually in some states. Given the significant impacts of the pandemic on dispute resolution activity, we did not include recently released data for 2020-21.

### **Metric 1: Complaints Dismissed or Withdrawn**

This metric examines the percentage of complaints that were dismissed or withdrawn after being filed with the state department of education.<sup>24</sup>

*Findings.* Nationally, about 1 in 4 complaints was dismissed or withdrawn prior to any investigation, with 27 percent of complaints withdrawn or dismissed in 2019-20 and 31 percent, or nearly 1 in 3, withdrawn or dismissed on average over the three-year period. In the most recent year analyzed, the states ranged from 0 percent dismissed or withdrawn in Alaska, Nebraska and Wyoming to 70 percent dismissed or withdrawn in North Dakota, followed by Louisiana and West Virginia. Over three years, Alaska, Nebraska and Nevada had the lowest rate of dismissals/withdrawals (each had fewer than 10 percent of complaints dismissed) while North Dakota had approximately 2 in 3 complaints withdrawn or dismissed, followed by Louisiana and New Jersey.

For those states with high rates of dismissals, the results could indicate that they may not be doing enough to help parents understand the complaint process and/or submit the information required for them to properly investigate a complaint. It may also indicate that states are encouraging complainants to settle in another manner.

Table 2a. Complaints dismissed or withdrawn, most recent year.

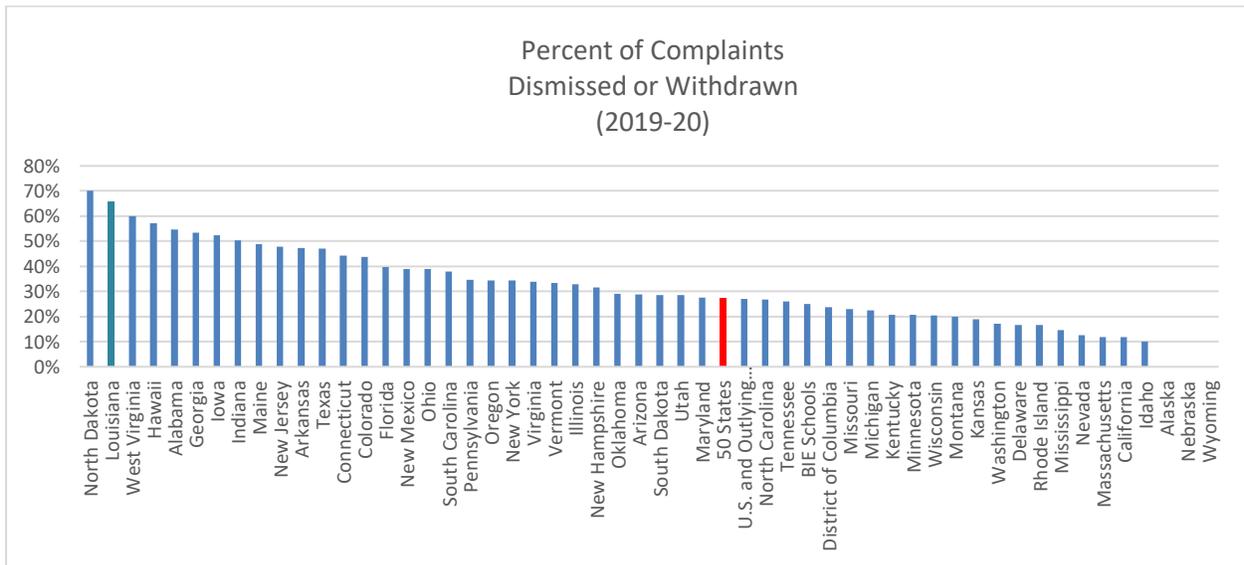
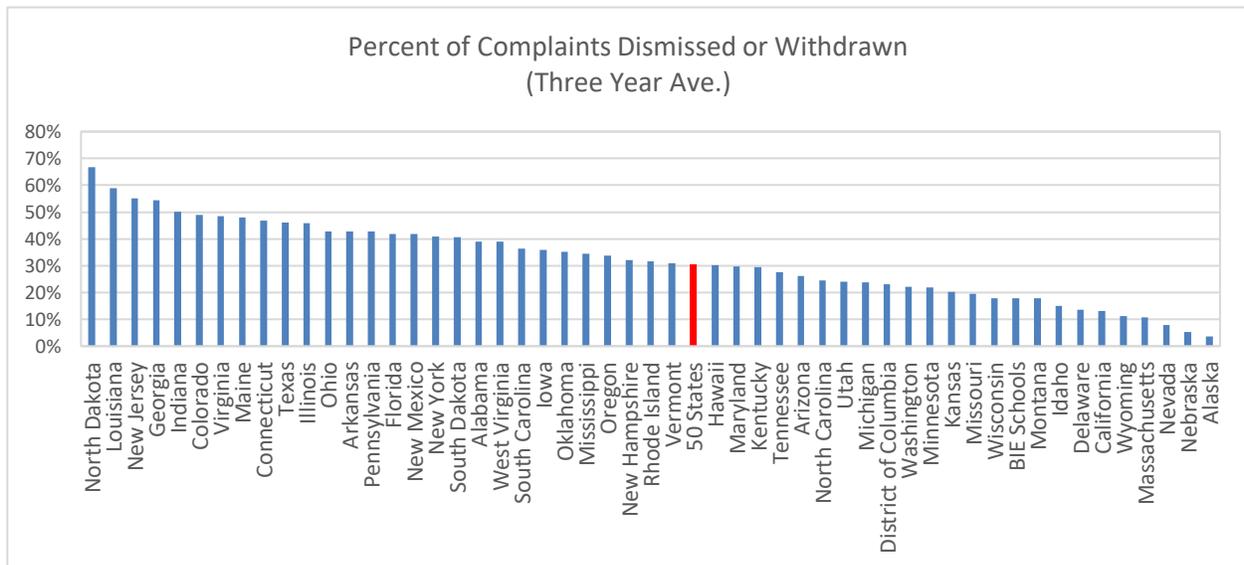


Table 2b. Complaints dismissed or withdrawn over three years (2017/18 – 2019/20).



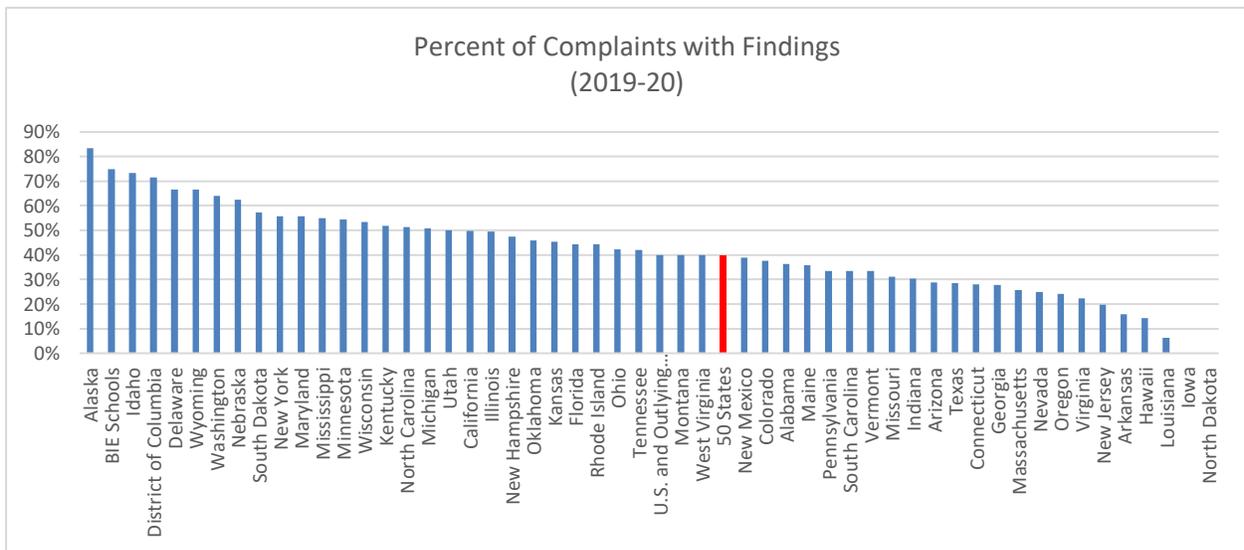
Source: U.S. Department of Education, Office of Special Education Programs.

**Metric 2: Complaints with Findings of Non-Compliance**

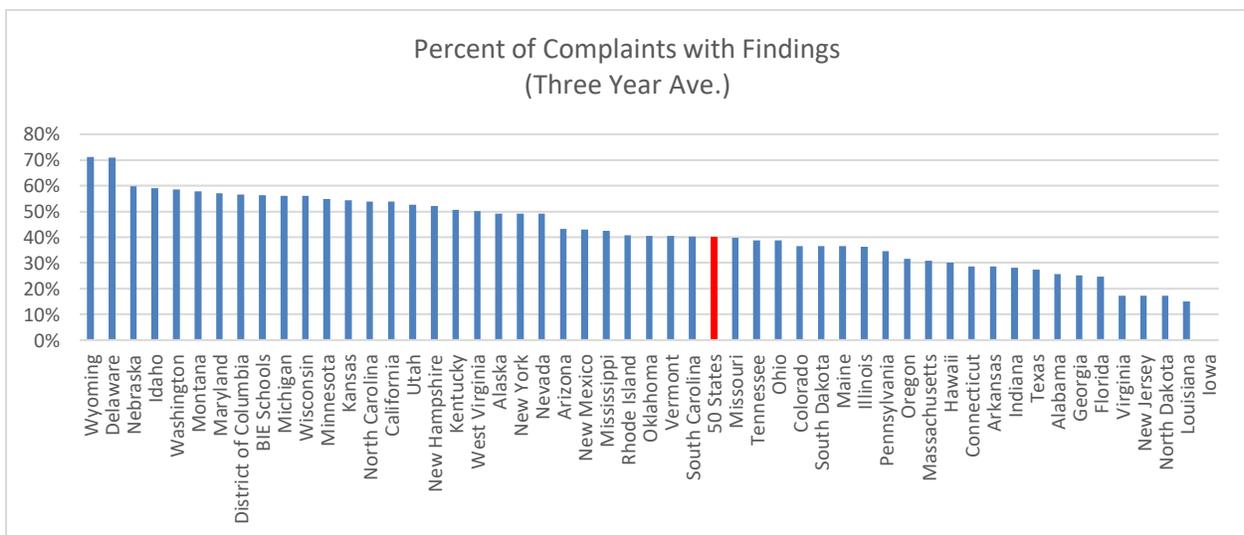
This metric examines the number of complaints in which the state department of education issued findings of non-compliance as a percentage of the overall numbers of complaints filed. This metric may provide insight into how states are investigating complaints and whether staff overseeing complaints are providing sufficient assistance to complainants in filing complaints.

*Findings.* About 40 percent of complaints resulted in findings of noncompliance in 2019-20 and over the most recent three years. The rates varied dramatically among states, from 83 percent in Alaska to 0 percent in North Dakota and Iowa in 2019-20. Over three-years, states with the highest percentage of findings of noncompliance were Wyoming and Delaware at 71 percent followed by Nebraska while Iowa had the lowest percentage with findings (0 percent) followed by Louisiana (15 percent) and North Dakota, New Jersey and Virginia (17 percent each).

*Table 3a. Percent of complaints with findings; most recent year.*



*Table 3b. Percent of complaints with findings over three years (2017/18 – 2019/20).*



Source: U.S. Department of Education, Office of Special Education Programs.

### **Metric 3: Ratio of Investigation Reports with Findings vs. No Findings**

This metric explores the ratio of complaints investigated in which the state department of education issued reports with findings of non-compliance compared to the number of reports issued in which there were no findings of non-compliance. A higher ratio of findings to non-findings would indicate that the investigations overall yielded more favorable outcomes for parents. A low ratio of findings issued could indicate that states may not be adequately investigating complaints, that complainants are failing to provide sufficient evidence, or that the complaint lacked merit.

*Findings.* Complaints investigated nationally yielded slightly more reports with findings than reports that did not, with about 1.3 reports with findings of non-compliance for every report that yielded no findings in 2019-20 and 1.5 over the most recent three-year period. The rates varied significantly across the states, however, with the District of Columbia having the highest rate with 15.0 reports that resulted in findings for every report that did not in 2019-20, by far the highest of any jurisdiction and nearly three times the rate of the second highest state. DC was followed by New York, Alaska, Nebraska, and Idaho. At the other end of the range of outcomes, North Dakota and Iowa had no complaints that resulted in a determination of noncompliance in 2019-20. Over the three-year period, DC again had the highest ratio at 6.7 followed by Delaware and Wyoming. Meanwhile, Iowa had the lowest ratio with no complaints that resulted in findings of noncompliance. Massachusetts, Louisiana, Hawaii and New Jersey also had a ratio of less than 1.0, meaning they had more reports with no findings than reports with findings.

*Table 4a. Ratio of reports with findings to reports with no findings.*

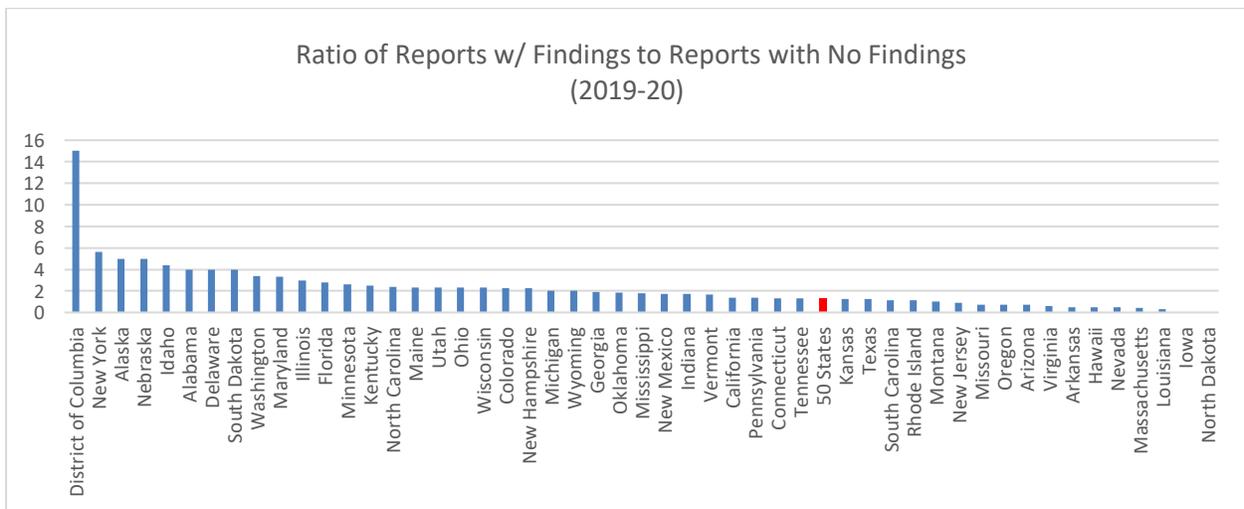
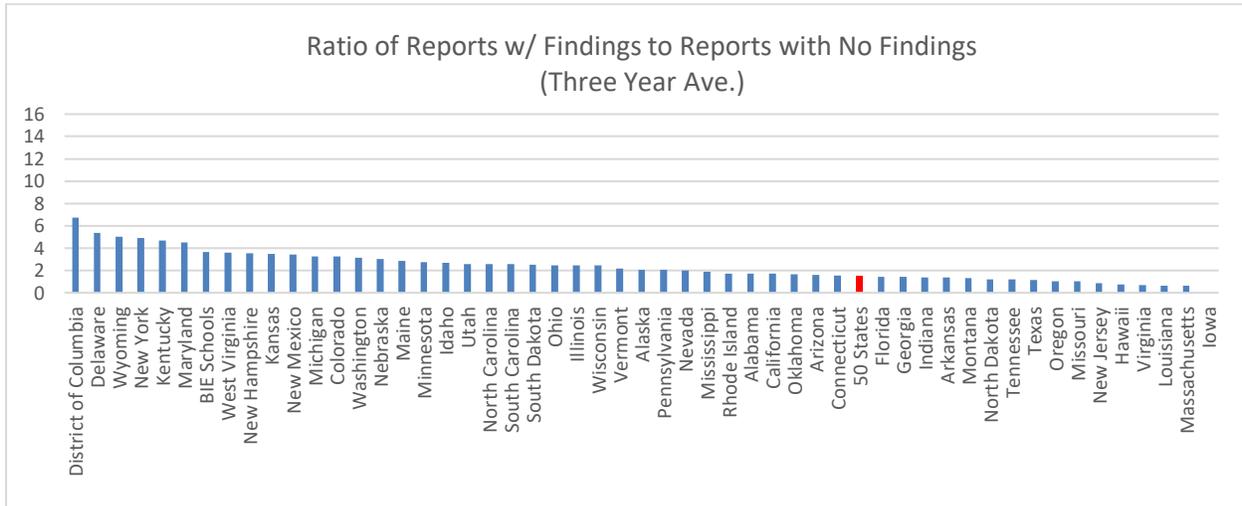


Table 4b. Ratio of reports with findings to reports with no findings over three-years (2017/18 – 2019/20).



Source: U.S. Department of Education, Office of Special Education Programs.

**Metric 4: Timeliness**

This metric explores whether states completed complaint investigations within 60 days as required by regulation. A low on-time completion rate may indicate a lack of staff capacity to handle caseloads. It could also signal the caseload includes a number of complex complaints or circumstances that require extended time or that the parties engaged in other dispute resolution such as mediation but didn’t resolve the complaint.

*Findings.* The majority of reports were issued within the required time, with just over 90 percent of investigations nationally completed within the mandated 60-day time limit in 2019-20 and over the three years. A total of 18 states had a 100 percent “on time rate” in 2019-20 while 13 states completed 100 percent of their investigations on time over the three years. On the other hand, Vermont had the lowest rate of investigations completed on time in 2019-20, with 0 cases completed on time, followed by Iowa (50 percent) and Maine (65 percent). Over the three years, the Bureau of Indian Education had the lowest on time rate (29 percent) followed by Vermont (33 percent) and Iowa (44 percent).

Table 5a. Ratio of reports completed on time, most recent year.

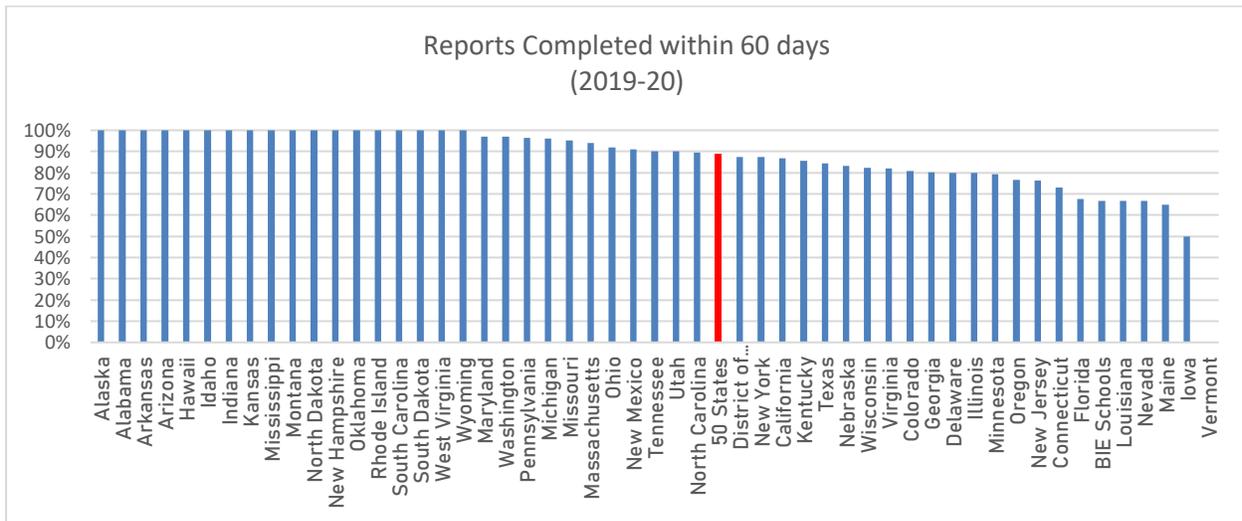
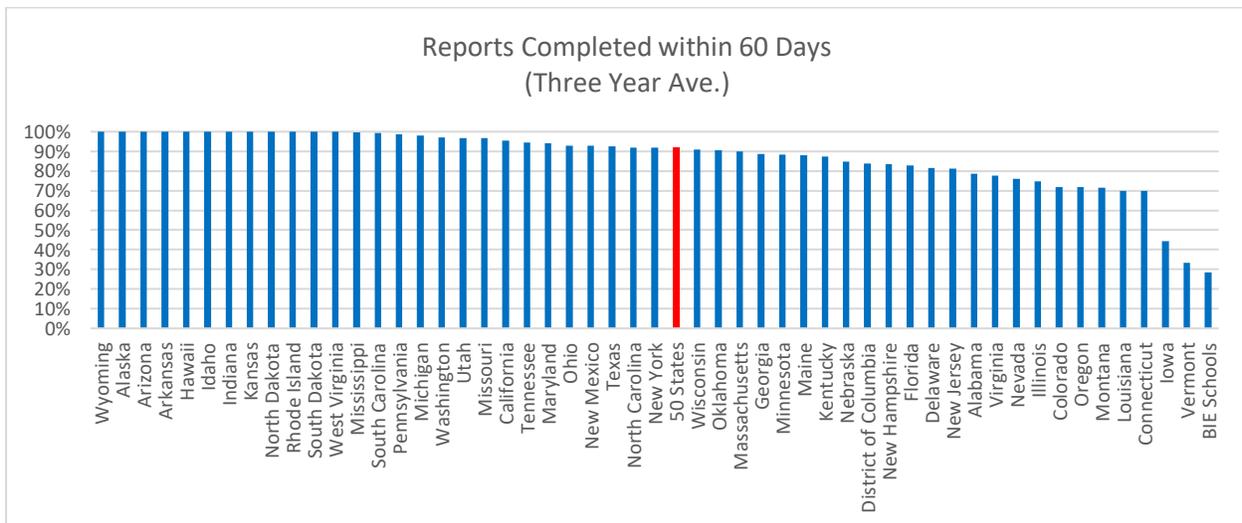


Table 5b. Ratio of reports completed on time over three years (2017/18 – 2019/20).



Source: U.S. Department of Education, Office of Special Education Programs.

## DATA ANALYSIS RESULTS

To better understand the relative overall levels of outcomes and patterns across the states, we analyzed the results to identify outliers for each metric (e.g., those states in the top and bottom decile of outcomes). The results of our analysis are shown in Table 6 with the respective list of outliers for each metric.

Table 6. Outliers by metric.

Metric	MOST RECENT YEAR		MOST RECENT THREE-YEAR AVE.	
	Highest Decile (rank)	Lowest Decile (rank)	Highest Decile (rank)	Lowest Decile (rank)
<i>Metric 1:</i> Complaints Withdrawn or Dismissed*	1 – Nebraska 1t - Wyoming 3 – Alaska 4 – Idaho 5 – California	48 – Alabama 49 – Hawaii 50 – West Virginia 51 – Louisiana 52 – North Dakota	1 – Alaska 2 – Nebraska 3 – Nevada 4 – Massachusetts 5 – Wyoming	48 – Indiana 49 – Georgia 50 – New Jersey 51 – Louisiana 52 – North Dakota
<i>Metric 2:</i> Findings of Noncompliance	1 – Alaska 2 – BIE Schools 3 – Idaho 4 – DC 5 – Delaware	48 – Arkansas 49 – Hawaii 50 – Louisiana 51 – Iowa 52 – North Dakota	1 – Wyoming 2 – Delaware 3 – Nebraska 4 – Idaho 5 – Washington	48 – Virginia 49 – New Jersey 50 – Louisiana 51 – North Dakota 52 – Iowa
<i>Metric 3:</i> Ratio of Findings of Non-compliance vs. No Finding	1 – District of Columbia 2 – New York 3 – Alaska 4 – Nebraska 5 – Idaho	48 – Nevada 49 – Massachusetts 50 – Louisiana 51 – Iowa 52 – North Dakota	1 – District of Columbia 2 – Delaware 3 – Wyoming 4 – New York 5 – Kentucky	48 – Hawaii 49 – Virginia 50 – Louisiana 51 – Massachusetts 52 – Iowa
<i>Metric 4:</i> Extended Time Required	18 states required no additional time (AK, AL, AR, AZ, HI, ID, IN, KS, MS, MT, ND, NH, OK, RI, SC, WV, WY)	48 – Nevada 49 – Louisiana 50 – Maine 51 – Iowa 52 – Vermont	13 states required no additional time (AK, AZ, AR, HI, ID, IN, KS, MS, ND, RI, SD, WV, WY)	48 – Louisiana 49 – Connecticut 50 – Iowa 51 – Vermont 52 – BIE

\* In this instance, the highest rank is associated with the lowest percentage of complaints dismissed or withdrawn.

Next, we aggregated mentions for a state in each top and bottom decile to identify state performance patterns across the multiple metrics measured (See Table 7).<sup>25</sup>

*Table 7. Aggregated results.***MOST RECENT YEAR**Highest Decile Outcomes

Alaska – 4 of 4 metrics  
 Idaho – 4 of 4 metrics  
 Wyoming – 2 of 4 metrics  
 Nebraska – 2 of 4 metrics

Lowest Decile Outcomes

Louisiana – 4 of 4 metrics  
 North Dakota – 3 of 4 metrics  
 Iowa – 3 of 4 metrics  
 Nevada – 2 of 4 metrics

**MOST RECENT THREE YEARS**Highest Decile Outcomes

Wyoming – 4 of 4 metrics  
 Alaska – 2 of 4 metrics  
 Delaware – 2 of 4 metrics  
 Idaho – 2 of 4 metrics  
 Nebraska – 2 of 4 metrics

Low Decile Outcomes

Louisiana – 4 of 4 metrics  
 Iowa – 3 of 4 metrics  
 North Dakota – 2 of 4 metrics  
 New Jersey – 2 of 4 metrics  
 Virginia – 2 of 4 metrics

**Results.** In the most recent year (2019-20) the states with the most favorable outcomes from the perspective of complainants included Alaska, Idaho, Wyoming, California, and Nebraska, while during the most recent three years, Wyoming, Delaware, Alaska, Idaho and Nebraska were the states with the most favorable outcomes. Alaska, Wyoming, Idaho, and Nebraska appear in both the one-year and three-year averaged results. Both Alaska and Idaho appeared in the top decile in all four metrics during the most recent year, and Wyoming appeared in the top decile for all four metrics over the three-year averaged results.

Among the states with the least favorable outcomes for complainants were Louisiana, North Dakota, Iowa, Nevada, and West Virginia, with each state appearing multiple times in the bottom decile in 2019-20. Over the three-year period, Louisiana, North Dakota, Iowa, Georgia, New Jersey and Virginia each appeared in the lowest decile two or more times. Louisiana, Iowa and North Dakota appeared on the aggregated list in both the most recent year analyzed and the most recent three years. Louisiana was the only state that appeared in the bottom decile for each of the four metrics analyzed for both the most recent year as well as the three-year period.

These results demonstrate significant variability in outcomes by state. Although the analysis found a group of states that appear to be responsive to complainants, the analysis also identified another group of states that appear to have significantly and

consistently less favorable results for parents, leading one to hypothesize that they may not be adequately responding to valid issues of concern.

It is beyond the scope of this analysis to definitively conclude what is driving the large variation in outcomes among the states, but the analysis does point to the need to examine the capacity of state departments of education to investigate complaints and meet their obligations as required under IDEA including their oversight systems. It also points to the need to examine whether states are providing parents/guardians the resources they need to effectively participate in the dispute resolution process, including submitting (or resubmitting) a complaint.

**Limitations.** In interpreting these results, we advise a number of cautions. For example, without reviewing the individual findings reports, it is difficult to know whether written state complaints were properly investigated and whether the states' conclusions are justified. This is beyond this report's scope.

Similarly, while a high rate of complaints dismissed or withdrawn could indicate that states may not be taking their responsibilities to investigate seriously, it is not possible to tell how many complaints are withdrawn by complainants compared to complaints dismissed by SEAs due to the way data is reported. It could potentially indicate, however, that the state may be encouraging or compelling parents to withdraw their formal complaint to settle the issue in a less formal manner.

For example, Louisiana's department of education created an informal complaint resolution system outside of IDEA guidelines that strongly encourages parents to use this route prior to it conducting a formal complaint investigation. It is not possible to know how many individuals file informal complaints, nor whether complaints filed as formal complaints are being re-routed by the SEA to become informal complaints, since it is not tracked or reported by the SEA.

Finally, it is not possible to know the reasons why investigations may not be completed in a timely manner – for example, whether there may be capacity constraints within investigative units or complainants have not provided required information in a timely manner.

## STATE COMPLAINTS BY INCOME, RACE AND GEOGRAPHY

Not only do outcomes for state complaints vary significantly by state, a Government Accountability Office (GAO) investigation also found that parents' outcomes varied by income, race and geography.<sup>26</sup> GAO's 2019 report examined publicly available dispute resolution data at the state and school district levels in Massachusetts, Michigan, New Jersey, Ohio, and Pennsylvania and found significant differences in the uses and

outcomes of the various dispute resolution tools across the states according to parents' race, income and geography (e.g., urban, suburban, or rural).

Their investigation found that predominantly Black and/or Hispanic districts had higher rates of activity for written complaints, as parents in those districts filed complaints at twice the rate of parents in districts with few Black and Hispanic students. Among the states, this pattern was most pronounced in Michigan, where parents in districts with high levels of diversity (e.g., more than 90 percent Black or Hispanic) filed complaints at more than five times the rate of parents in "low diversity" districts.

When examining activity rates according to income levels across the five states, parents in high and low-income districts filed complaints at similar rates. However, when looking at individual states, the results were much more varied. While parents in low-income districts in New Jersey and Ohio filed at a lower rate than parents in high-income districts, Massachusetts was an outlier in that parents in low-income districts filed more than twice as many complaints per capita compared to high-income districts.

*Table 8. State complaints filed per 10,000 students in SY 2017-2018.*

<b>State</b>	<b>High Income</b> ( $\leq 10$ percent Free & Reduced Price Lunch)	<b>Low Income</b> ( $\geq 90$ percent Free & Reduced Price Lunch)	<b>Low Diversity</b> ( $\leq 10$ percent Black/Hispanic)	<b>High Diversity</b> ( $\geq 90$ percent Black/Hispanic)
<i>Total</i>	11.7	12.4	8.8	17.8
MA	19.4	45.9	28.3	40.6
MI	24.2	22.7	6.3	31.0
NJ	10.7	6.6	11.3	13.5
OH	7.1	4.4	4.1	14.6
PA	6.6	9.7	3.8	8.3

*Source: U.S. Government Accountability Office.*

In terms of outcomes, the GAO report found that very high minority districts had a lower percentage of complaints investigated; however, in cases in which the SEA issued a report, they found non-compliance at much higher rates in very low-income and very high-minority districts.

Table 9: Number of state complaints filed and percent of complaints that resulted in a report with findings in five states, School Year 2017-18.

	Number of state complaints filed	Percent of complaints resulting in a report	Percent of reports containing findings of noncompliance
<b>By Income</b>			
Very high-income districts	130	62	53
Very low-income districts	115	57	85
<b>By race or ethnicity</b>			
Very low-minority districts	390	67	58
Very high-minority districts	145	48	77

Source: U.S. Government Accountability Office.

In looking more closely at geography, the study found lower rates of activity among parents in rural districts compared to suburban and urban districts. Based on parent interviews they conducted, the GAO surmised that parents in rural areas may be more reluctant to initiate dispute resolution options due to cultural norms and lack of alternative school options as two potential factors.

More broadly, parents interviewed reported that they faced a number of challenges that may limit their use of the dispute resolution process, including language barriers, fear of retaliation, and legal and hidden costs, including the need to take time off from work. Additionally, many parents reported they felt at a disadvantage in conflicts with their school district due to an imbalance of power.

## PARENT EXPERIENCES WITH WRITTEN STATE COMPLAINTS

In order to gain a deeper understanding of parents' experiences with the written state complaint process we conducted a survey of COPAA members who are parents, guardians or advocates to students protected under IDEA and Section 504.<sup>27</sup> Our findings confirmed those of GAO and broadened our understanding about parents' experiences and concerns.

*Findings.* Respondents identified a wide range of issues that were the focus of their written state complaints, with issues related to FAPE (62 percent) and IEP procedures

(51 percent) being the most commons cited, followed by accommodations (38 percent), evaluations/Independent Education Evaluations (34 percent), parental participation (33 percent) and related services (30 percent).

The majority of respondents had deep concerns about the written state complaint process, with 2 in 3 expressing doubt that filing a complaint would result in any meaningful corrective action. Similarly, 40 percent of respondents expressed concerns about retaliation by their school if they filed a complaint.

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*“Many families fear retaliation against their children, especially where those children are people of color or have complex communication needs and may not be able to report what happens at school.” ~ Parent in Minnesota*

*“I wouldn’t file a formal complaint without legal protection and representation because of the historic and ongoing abuse/retaliatory actions the school district engages in with me and my student.” ~ Parent in Washington state*

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Among those respondents who had filed a complaint, when asked if they felt their state’s written complaint process adequately addressed their legitimate concerns, 3 in 4 disagreed, with half strongly disagreeing.

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*“Filing a State Complaint is a waste of time. Unfortunately, compensatory education is not given and if the district is found in violation, the investigator orders an IEP meeting, which is an offer of nothing because I could have asked for that anyway.” ~ Parent in Illinois*

*“Our resolution system issues corrective actions, but does not ensure that they are correct, only that district complete them. Recently, the corrective action was for the district to train themselves. The district trained themselves to continue doing exactly what they were found non-compliant for.” ~ Parent in Massachusetts*

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Less than half of respondents agreed when asked if they felt they had access to the resources they needed to successfully file a complaint. About 1 in 5 respondents indicated they were not aware they could file a complaint, and nearly the same number indicated they didn’t have the time to file a complaint.

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*“Most families are not aware of how the state complaint process works. More training should be offered on a regular basis for families who need this information.”*

*More outreach needs to be done so that families are aware that they need this information!” ~ Parent in California*

*“The dispute resolution process is completely inaccessible. There are no materials or information to adequately describe the process available in any languages other than English.” ~ Parent in Minnesota*

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Perhaps the most troubling insight gleaned from the survey was related to what parents reported happened after their complaint was investigated. More than half of respondents (52 percent) indicated that their school did not or had yet to implement corrective actions called for by investigators, signaling a lack of follow-through by schools and lack of follow-up by state departments of education to ensure corrective actions were implemented.

*“I was awarded a small amount of compensatory services, which the school system failed to provide, and VDOE [Virginia Department of Education] did nothing about their failure to provide the compensatory services.” ~ Parent in Virginia*

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Overall, the survey findings paint a picture of deep skepticism among parents about the written state complaint process and point to the lack of accountability and impartiality, actionable improvement and relief resulting from parents’ written state complaints.

*“The state complaint is a total and complete waste of time and energy. Unless an attorney files a DP [Due Process] against a district, nothing happens.”  
~ Parent in Pennsylvania*

*“It’s the wolves watching the hen house with clear bias to the districts. Even when you win you will not get the remedy your kid needs in light of the circumstances.”  
~ Parent in Illinois*

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## A DEEPER LOOK AT THE OVERSIGHT OF STATE COMPLAINTS

The U.S. Department of Education has oversight responsibilities to monitor states’ activities under IDEA, including dispute resolution activities. Similarly, states are tasked with oversight of their LEAs to implement IDEA locally.<sup>28</sup> As Section 616 of IDEA states: “The primary focus of Federal and State monitoring activities ... shall be on— (A) improving educational results and functional outcomes for all children with disabilities; and (B) ensuring that States meet the program requirements under this

subchapter, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.”<sup>29</sup>

This oversight process focuses on three key aspects, including:

- annual reporting by states and LEAs known as the State Performance Plan/Annual Performance Report
- an annual determination of whether states and LEAs have met their obligations under IDEA
- state and local monitoring.

*Annual Reporting.* States are required each year to collect and aggregate information from their LEAs and report this data to OSEP.<sup>30</sup> This data covers a wide range of issues, including dispute resolution and more specifically, written state complaints. Improving the accuracy of this data has been a longstanding challenge and a recent priority for OSEP.<sup>31</sup>

*Annual Determinations.* Annual state determinations<sup>32</sup> rely on a score<sup>33</sup> derived from a set of indicators that assess how states are meeting a range of federally mandated responsibilities under IDEA, including dispute resolution. States are also required to conduct an annual survey that documents whether their school facilitated the involvement of parents in their child(ren)’s program.<sup>34</sup> Similarly, SEAs are required to annually assess whether their LEAs are meeting their obligations.<sup>35</sup> A poor score can lead to a range of consequences for both SEAs and LEAs.

Dispute resolution outcomes, including state complaints, factor as only a small overall share of a state’s annual score and determination.<sup>36</sup> States are awarded up to two points (out of 40 potential points) related to state complaints. More specifically, the points are awarded based solely on one criteria – states’ timeliness in investigating complaints (e.g., the percentage of investigative reports that are completed within 60 days).

Our independent analysis raises questions about the accuracy of the OSEP state determinations for this category. For example, in examining the annual determinations of states most often in the bottom decile of outcomes according to our analysis, both Louisiana and Iowa received a score of 100 percent for the timeliness of their written state complaint investigations in 2019-20 and were awarded the maximum score of two points. However, section 618 data shows that Louisiana completed only 10 of 14 reports (71 percent) on-time while Iowa completed 0 investigations.<sup>37</sup> According to OSEP’s scoring rubric, based on these results Louisiana should have received a score of 0 and Iowa should have received a score of “N/A.”<sup>38</sup> While we were unable to examine state determination reports for all states,<sup>39</sup> these examples raise concerns about the accuracy of OSEP’s scoring and annual determinations.

*Monitoring.* The third major area of oversight relates to the monitoring process (OSEP refers to this system as its “Differentiated Monitoring System,” or DMS) and the issues monitors focus on during their on-site visit and in their subsequent findings report. As of 2021 OSEP indicated that states will be monitored on a five-year cycle. According to OSEP, it “differentiates its approach for each state based on the state's unique strengths, progress, challenges, and needs.”<sup>40</sup> States have more latitude in determining the schedule and process for monitoring their LEAs but are required to monitor every LEA at least once during a six-year period. Nonetheless, OSEP raised concerns and cautioned states about the need to take seriously their responsibilities for state monitoring and oversight in its recent July 2023 guidance on the topic.<sup>41</sup>

With respect to its monitoring, OSEP utilizes a monitoring framework and a set of monitoring protocols.<sup>42</sup> For state complaints specifically, the protocol largely probes states’ fidelity in meeting federally mandated minimum requirements related to its handling of written state complaints, such as whether and how the State ensures that parents and others have access to its model State complaint form, what information the State requires for filing and accepting a State complaint, how the State ensures the timely resolution of complaints, under what conditions the State would extend the State complaint timeline, and how the State ensures the implementation of any investigative decisions.

Most of this information is gathered by OSEP staff several months prior to its visit by reviewing the State’s website and other publicly available data. Based on this initial information gathering, OSEP determines whether further in-depth probing is required through document requests or a phone interview prior to its on-site visit. If it finds deficiencies, OSEP may then decide to explore this topic in more depth during its on-site visit and would notify the State as such.<sup>43</sup>

However, it is unclear to what extent data on the state’s written state complaint activities is examined and used to inform OSEP’s on-site monitoring visits. For example, an analysis conducted in 2023 by the Advocacy Institute found that 29 SEAs did not provide fully accessible model forms<sup>44</sup> despite this issue being probed in OSEP’s monitoring protocol. Our review of state monitoring visit reports revealed that only 1 of the 17 DMS reports posted on OSEP’s website spanning 2017-2021 mentioned written state complaints as a topic of discussion for OSEP’s on-site visit or in its findings related to their monitoring visit.

Despite a major shift by OSEP in 2014 to a new “results-driven” model of monitoring that promised greater emphasis on examining outcomes and not merely whether states were in compliance with IDEA regulations,<sup>45</sup> there appears to be little examination of the results of states’ dispute resolution systems, such as the type of outcomes analysis that COPAA conducted for this study<sup>46</sup> or stakeholders’ feedback regarding their

experience—key areas that would help identify gaps in a continuous improvement cycle.

As further example, the National Council on Disabilities noted in its report [Federal Monitoring and Enforcement of IDEA Compliance](#) that “[s]tate complaints and the investigation reports produced by SEAs can serve as critical sources of information in OSEP monitoring activities. An analysis of the issues raised in state complaints and findings of noncompliance should be a standard part of monitoring activities by SEAs and OSEP.”<sup>47</sup> Among its recommendations, the NCD urged a heightened focus on identifying patterns related to state complaints as part of states’ targeted monitoring and systemic improvement efforts. While OSEP has recommended that its technical assistance providers and states employ this strategy as a best practice,<sup>48</sup> it does not appear that such analysis is routinely conducted by states nor shared with stakeholders.

## OTHER APPROACHES TO ADDRESSING SYSTEMIC ISSUES

Parents, advocates and other interested parties for students with disabilities may also use one of the unique features of IDEA’s written state complaint to try to compel states to address systemic shortcomings that affect more than one – and in some cases, many students – such as filing a systemic complaint against an LEA or SEA, or going directly to OSEP to urge them to investigate a SEA outside of its normal monitoring process.

As one example, the Education Law Center (ELC) filed a state complaint in 2022 that alleged the New Jersey Department of Education (NJDOE) had failed to take corrective action it agreed to in 2012 resulting from an investigation that found it to be out of compliance due to its failure to properly investigate complaints that alleged substantive violations of IDEA<sup>49</sup> and not merely procedural violations. The ELC complaint alleged the NJDOE had never corrected the problem, despite the 2012 agreement. As a result, the NJDOE and ELC reached a settlement in 2023 in which NJDOE agreed to make major revisions to its state complaint process, including training of investigators and conducting proactive outreach to administrators and parents about the changes it was implementing.<sup>50</sup>

Parents have also pursued other avenues to address ongoing, systemic deficiencies in their SEAs’ dispute resolution systems, including direct outreach to OSEP. Though rare, such outreach can trigger more intensive monitoring outside of the state’s normal monitoring cycle. As an example, OSEP initiated an on-site monitoring visit to the Virginia Department of Education (VDOE) in 2020 due to “emerging issues” that came to light as a result of outreach by parents and advocates regarding “potential compliance concerns related to the State’s general supervisory process and the

implementation of IDEA’s dispute resolution requirements.”<sup>51</sup> OSEP’s resulting monitoring visit uncovered numerous violations and lapses by the VDOE in its general oversight responsibilities associated with its dispute resolution processes as well as overall deficiencies in its oversight of LEAs more broadly.<sup>52</sup>

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*“VDOE first dismissed the complaint without investigating, then accepted the complaint when I revised and found no violation. I appealed, and the reviewer reversed and remanded VDOE’s decision. VDOE then refused to make a determination on the main issue of the complaint, and instead found a narrow violation so I couldn’t appeal again.” ~ Parent in Virginia*

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As a result, OSEP ordered a set of corrective actions. After VDOE failed to implement the required corrective actions, OSEP granted a series of extensions that stretched more than two years. VDOE has yet to comply with many of OSEP’s required corrective actions, including those pertaining to written state complaints.<sup>53</sup>

Consequently, this lack of compliance triggered another OSEP monitoring visit that resulted in additional findings and new areas of concern, as summarized in January and February 2023 letters to VDOE that indicated additional consequences could be levied against the state for its continued non-compliance.<sup>54</sup>

Then, a May 2023 memo<sup>55</sup> expanded OSEP’s investigation to include VDOE’s response to the Department’s Office for Civil Rights (OCR) findings that “Fairfax County Public Schools failed or was unable to provide a free appropriate public education to thousands of students with services identified in the students’ individualized education programs during remote learning. Specifically, OSEP would like to learn about the actions the State has taken, or plans to take, with similarly situated districts in light of these findings.” As of July 2023, the investigation appears to be ongoing.

It should be noted that new July 2023 guidance issued by OSEP reinforces and clarifies states’ supervisory responsibilities and appears to address some of the issues highlighted by this particular case including guidance on systems that states should utilize to track and respond to such areas of concern raised by stakeholders, as well as how any findings of non-compliance should be addressed. The new guidance certainly offers a road map for states to exercise their general supervisory authority and provide transparency and oversight.

Despite the promise of addressing systemic issues through the written state complaint process, current guidance seems to undermine the integrity and veracity of the state

complaint process, including federal guidance that allows a state to decide whether to investigate a complaint filed against itself or to utilize outside, independent investigators. This provision is at odds with the impartiality required in other dispute resolution mechanisms, as it provides an incentive for a state to investigate itself – creating an inherent conflict of interest that stacks the deck against parents’ receiving a fair and impartial investigation.<sup>56</sup>

These examples underscore why parents and advocates for students with disabilities have expressed serious and persistent concerns about the adequacy of written state complaint oversight and have called for changes to strengthen the system. For their part, OSEP appears to be listening to parent and advocate concerns, as evidenced by its recently released guidance regarding state general oversight responsibilities in which it calls out states for failure to provide meaningful oversight and reminds them of their supervisory responsibilities and potential consequences for continued non-compliance.

## STATES’ CAPACITY TO ADMINISTER STATE COMPLAINT PROGRAMS

As highlighted by concerns of parents surveyed by COPAA, one of the critical questions that needs to be explored is whether SEAs take their obligations seriously and assure that they have the capacity to administer the written complaint processes; whether they are adequately and impartially investigating parents’ complaints; and whether they are holding LEAs accountable to carry out corrective action plans ordered.

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*“The State complaint officer gave much more emphasis to school interviews that were not backed up by objective evidence. We felt the process was biased and the school district had the resources to use legal support.” ~ Parent in Colorado*

*“They seem lax when school districts fail to complete all of the corrective actions by the deadlines imposed by CDE.” ~ Parent in Colorado*

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In summarizing the results of its multi-year, multi-state technical assistance effort focused on strengthening written state complaint systems, CADRE raised concerns about staffing capacity, noting that “several states would benefit significantly from an increase in the number of FTE dedicated to written state complaints,” adding that “numerous states reported staffing capacity issues throughout the duration of the workgroup, with some reporting the pandemic compounded the problem.”<sup>57</sup>

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*“There is a large backlog in our state. It's not even worth filing. By the time someone gets to your complaint your issue is an old one!” ~ Parent in Connecticut*

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Hansen and Zirkel’s research on state complaints also points to staffing and training challenges, noting that investigative staff “often lack preparation in the specialized subject matter of special education.”<sup>58</sup>

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*“The investigators do a poor job of investigating and oftentimes the findings don't match the original complaint.” ~ Parent in Colorado*

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## OVERALL FINDINGS

IDEA’s state complaint was designed as a critical resource for families, providing a powerful tool to identify and correct noncompliance by schools. In fact, Congress intended the procedures to be so powerful that IDEA was written with no ceiling on their use, setting only a floor with the word "Minimum" in "Sec. 300.152 Minimum State complaint procedures.”<sup>59</sup> The expectation was for the tool to be so powerful that the number of due process complaints filed would be minimized.

Our analysis, however, finds that vision has not been fulfilled. While the overall percentage of complaints investigated with findings of non-compliance may appear to signal a system working as intended, a deeper look reveals a different picture. It portrays an ineffective written state complaint process – one in which states are diminishing the intended power of the state complaint as envisioned by IDEA and OSEP – and reveals a lack of transparency, impartiality, and accountability by state agencies in charge of administering the dispute resolution process. It also reveals significant problems with the oversight of the state complaint process as well as capacity and training challenges.

Following are the key findings from our study:

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*“The remedy is often minimal and leaves families open to retaliation. Our [Pennsylvania Dept. of Education] tends to make enough rulings to look like they are accountable to federal [law], but they offer little accountability for school districts.”  
~ Parent in Pennsylvania*

*“The state of Tennessee allows districts to use their attorneys as the investigators point of contact so they funnel all responses through the attorney. In my situation,*

*there was no true investigation of the school district; just what the attorney was willing to give them.” ~ Parent in Tennessee*

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- **States are diminishing the intended power of the state complaint.** COPAA heard from a number of parents about practices by state agencies that effectively diminish the intended power of the state complaint to address issues of non-compliance by schools. These include ineffective or inappropriate corrective actions ordered in response to written complaint investigations, corrective actions not being implemented by schools, and states’ failure to track and enforce ordered actions.

Some parents also expressed concerns about impartiality, noting that investigators displayed bias by failing to adequately take into account complainants’ evidence and favoring schools’ version of events at face value without verification. Further, parents noted that provisions in current federal guidance allow states to investigate themselves when complaints involve the state educational agency, an inherent conflict of interest.

A number of SEAs also appear to lack the capacity and training to effectively administer the written state complaint process, and research highlighted concerns about personnel with backgrounds not well suited to their oversight role. While technical assistance from the federal government is available for states, it is not mandated when deficits are identified.

- **Process lacks meaningful oversight and accountability.** Our analysis found that the current system of monitoring and oversight often fails to uncover shortcomings in states’ administration and oversight of the complaints process.

As one example, in 2020 outreach to OSEP by parents and advocates who gathered evidence that the Virginia Department of Education (VDOE) had failed to carry out its responsibility to investigate claims of non-compliance by schools.<sup>60</sup> This outreach resulted in OSEP conducting an on-site monitoring visit to VDOE outside of its regular oversight schedule under the guise of what it called “emerging issues.” OSEP’s visit uncovered numerous violations and lapses in VDOE’s dispute resolution processes as well as overall deficiencies in the general oversight of its LEAs more broadly<sup>61</sup> – problems that its regular monitoring visits failed to uncover. Nevertheless, VDOE has failed to address many of the issues identified, leaving parents frustrated and students without crucial services.

Similarly, concerns by advocates about the state's failure to investigate substantive claims of non-compliance through the state complaint process resulted in a 2012 investigation of the New Jersey Department of Education (NJDOE). Despite findings that affirmed these concerns and the state's agreement to correct those deficiencies, a decade later, advocates found that the state failed to make good on its promise, leading the Education Law Center (ELC) to file a new case against NJDOE in 2022. As a result, NJDOE agreed to make major revisions to its state complaint process, including training investigators and improving its outreach to administrators and parents.<sup>62</sup>

Beyond these specific cases, our review of OSEP's state monitoring visit reports revealed that only 1 of the 17 state reports mentioned that the topic of written state complaints was explored during their visit.

As previous reports and new July 2023 OSEP guidance point out, state complaints should be a powerful tool that SEAs use to identify trends and correct systemic problems in their state; however, our research showed that this practice is rarely used.

Overall, our investigation found that parents and advocates had few options to ensure that states are upholding their responsibility to carry out robust oversight that results in compliance by schools and meaningful relief for students.

- **Outcomes are inequitable by geography, race and income.** Our analysis found a significant and troubling degree of variation in the outcomes of the written state complaint process when those outcomes were viewed through the lens of race, income and geography.

A Government Accountability Office (GAO) investigation in 2019 found significant differences in the uses and outcomes of the various dispute resolution tools according to parents' race, income and geography (e.g., urban, suburban, or rural). Their investigation found that parents in predominantly Black and/or Hispanic school districts (e.g., very high minority districts) filed complaints at twice the rate of parents in districts with few Black and Hispanic students (e.g., very low minority districts). In terms of outcomes, GAO found that very high minority districts had a lower percentage of complaints investigated; however, in cases in which the SEA did investigate and issued a report, they found non-compliance at much higher rates in very low-income and very high-minority districts. Taken together, these findings raised troubling concerns about equity in the written state complaint process.

COPAA also conducted its own comparative analysis of written state complaint activity rates and outcomes for all 50 states, the District of Columbia and tribal schools. While our data analysis indicates that some states appear to be responsive in investigating concerns raised through their written state complaint process, there was a group of states that over time had consistently and significantly less favorable outcomes for complainants, leaving parents in those states with a written state complaint system that is arguably less responsive and robust at correcting issues of non-compliance.

- **Parents' experiences have undermined their confidence in the system and limited their use of this tool.** Independent research, as well as research conducted by COPAA, shows that parents and advocates for students are frustrated with and deeply skeptical about the written state complaint process and that they require additional tools and support to effectively access their state's complaint system. Among our findings, some 40 percent of parents surveyed by COPAA expressed concerns about retaliation by their school if they filed a complaint and two in three expressed doubt that filing a complaint would result in any meaningful corrective action. Among the other key findings, parents raised concerns about the lack of action taken by their school after their complaint was investigated, and less than half of respondents felt they had access to the resources they needed to successfully file a complaint.

Taken together, these findings demonstrate deep concern among stakeholders and point to a lack of State impartiality, actionable improvement and relief resulting from written state complaints. It also identifies parents' desire for greater transparency by SEAs administering the process.

Ultimately, these findings point to a written state complaint system that is uneven, fails to equitably protect students and their families – in particular students and families most vulnerable due to race/ethnicity, language, culture, disability or other barriers – and undermines the system of dispute resolution envisioned under IDEA that is intended to assist parents in addressing problems that may have a deep and lasting impact on students, families and school communities.

## RECOMMENDATIONS

To ensure concerns of stakeholders are being addressed by the written state complaint process in every state, district and territory, we recommend a comprehensive set of actions be taken by policymakers at all levels of government as well as by parents, guardians and advocates.

*U.S. Department of Education, Office of Special Education (OSEP):*

1. Follow-up on the updated guidance on state complaints that clarified IDEA's requirements and reminded states of their general supervisory responsibilities to assure they are utilizing their enforcement authority over LEAs in investigating and enforcing state complaints, including corrective actions for denial of FAPE and procedures operating outside of or parallel to legal requirements that may undermine resolution of formal state complaints.
2. Utilize the full range of available sanctions in cases where states consistently fail in exercising their oversight responsibilities with regard to state complaints, to include a referral to the Department of Justice and withholding federal funds.
3. Identify annually outlier states in written complaint outcomes and require any state who for two consecutive years has among the poorest complainant outcomes to undergo targeted review and training.
4. Ensure parents are included in meaningful ways as part of the monitoring and oversight process, including conducting parent interviews and forums regarding their experiences with the state complaint process.
5. Require states to utilize independent investigators when a written state complaint calls for an investigation into the state department of education itself.
6. Extend the statute of limitations on filing written state complaints to two years.<sup>63</sup>
7. Require SEAs to provide for a period of reconsideration of findings.
8. Establish an appeals process in which complainants can appeal the results of their state's investigation to OSEP for review.
9. Provide technical assistance to ensure states and LEAs create robust monitoring and enforcement systems including evidence-based ways to improve the validity and reliability of data gathering and analysis regarding dispute resolution.
10. Analyze the issues raised and findings of noncompliance in state complaints and investigative reports as a standard part of monitoring activities. This information should then be shared publicly and with OSEP's technical assistance centers charged with supporting SEAs in strengthening dispute resolution.
11. Require SEAs to make all IDEA state complaint investigation reports available to the public.

*States:*

1. Identify annually the key issues and systemic problems gleaned from written complaints and share these findings with the public and LEAs.
2. Publish results from any investigations completed, including LEAs as well as the SEA itself.
3. Publish results from LEA monitoring, Annual Performance Reports and annual determinations, including any corrective actions ordered and any funding withheld, searchable by issue and LEA.
4. Consider state complaints with findings of noncompliance in conjunction with LEA monitoring.
5. Ensure parents are included in meaningful ways as part of the LEA monitoring process, including conducting parent interviews and forums regarding their experiences.
6. Establish an impartial and accessible appeals process if one does not currently exist.
7. Conduct an annual self-examination benchmarked to best practices to ensure the State processes meet or exceed federal requirements for state complaints.
8. Redouble and expand parent educational and outreach efforts and create accessible, user-friendly tools to facilitate equitable access by parents to the written state complaint process.
9. Review procedures and staffing levels within dispute resolution offices to ensure investigative teams can meet all federal requirements and address complainant concerns in a timely manner.
10. Review and update training requirements and qualifications among investigative staff and ensure their independence as investigators.
11. Utilize their state's Office of Inspector General, state legislative auditor or their equivalents to periodically investigate and audit the SEA to ensure they are fulfilling responsibilities under IDEA including its dispute resolution system.<sup>64</sup>
12. Provide accessible digital and written forms, tools and resources that are specially designed to meet the unique needs of families with limited English and/or disabilities.
13. Redouble efforts to engage with parents to expand their knowledge and use of the written state complaint process in languages and formats that are readily understood by and accessible to all parents.

*Local Educational Agencies:*

1. Identify annually key issues and systemic problems gleaned from complaints and share these findings with local school boards, school administrators and senior leadership.
2. Communicate proactively and transparently with diverse groups of parents about their dispute resolution rights and assist them in accessing those options.

*Parents:*

1. Reach out to OSEP's monitoring division and/or the Office for Civil Rights at the U.S. Department of Education to pursue further investigation if they feel that the state is not adequately addressing systemic concerns raised.
2. Request that their SEA publicly release state complaint investigative reports.
3. Complete their SEA's annual parental involvement survey and include comments about their experiences with their state's dispute resolution system.

*U.S. Congress:*

1. Provide new annual discretionary funding and require the U.S. Department of Education to conduct an independent, comprehensive evaluation of the dispute resolution process to assess whether SEAs are effectively implementing the written state complaint process as envisioned by Congress, including issues identified in this report, particularly with regard to general oversight, impartiality, staff capacity and training, and appropriateness and implementation of corrective actions.
2. Increase IDEA's Part D funding for the Parent Information Centers to ensure parents understand their rights under Part B and Part C to dispute resolution, including filing a state complaint.
3. Request a Government Accountability Office (GAO) study of a representative sample of states to compare urban/rural districts, high/low poverty, high/low minority rates to determine gaps in the implementation of the written state complaint process from LEAs up to SEAs and OSEP.

## ENDNOTES

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<sup>1</sup> Parents, legal guardians and advocates on their behalf are referred to as parents or complainants for the remainder of the report.

<sup>2</sup> Parents may also file complaints with the Office for Civil Rights of the U.S. Department of Education (OCR) if they believe their school has violated protections under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act.

<sup>3</sup> Some states also offer a Facilitated IEP option as well; however, it is not required under IDEA, so for purposes of this report we will focus only on those dispute resolution options required under IDEA.

<sup>4</sup> U.S. Department of Education, Office of Special Education and Rehabilitative Services (OSERS), Memo 13-08, [\*Dispute Resolution Procedures under Part B of the Individuals with Disabilities Education Act \(Part B\)\*](#), 15, 2013,

<https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/accombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf> (citing 71 Fed. Reg. 46601 (Aug. 14, 2006)).

<sup>5</sup> IDEA Part C largely follows the same requirements and process. For more information about Written State Complaints under IDEA Part C, see <https://www.cadeworks.org/resources/cadre-materials-family-members/idea-early-intervention-written-state-complaints>.

<sup>6</sup> OSERS, *supra* n. 4 at 16. (In contrast, only a parent or a public agency may file a due process complaint.) A lawyer is also not required to file for due process, though favorable due process outcomes are generally associated with cases in which parents are represented by lawyers.

<sup>7</sup> *Ibid.*

<sup>8</sup> Kirstin Hansen and Perry A. Zirkel, “Complaint Procedure Systems Under the IDEA: A State-by-State Survey,” *Journal of Special Education Leadership* 31, no. 2 (September 2018)

<https://www.cadeworks.org/sites/default/files/resources/Hansen-Zirkel%20article.pdf>.

<sup>9</sup> Hansen and Zirkel, *supra* n. 3.

<sup>10</sup> A State may choose to accept and resolve complaints alleging violations that occurred more than one year prior to the SEA’s receipt of the complaint as an additional protection for parents. See OSERS, *supra* n. 4, 26 (citing to 71 Fed. Reg. 46606 (Aug. 14, 2006)).

<sup>11</sup> 71 Fed. Reg. 46601 (Aug. 14 2006).

<sup>12</sup> See 34 C.F.R. §§ 300.151 - 300.153.

<sup>13</sup> *Ibid.*

<sup>14</sup> OSERS, *supra* n. 4 at 21 (“Question B-10: If there is a finding in a State complaint that a child or group of children has been denied FAPE, what are the remedies? Answer: In resolving a complaint in which there is a finding that a public agency has not provided appropriate services, whether to an individual child or a group of children, an SEA, through its general supervisory authority under Part B, is required to address: (1) the failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and (2) appropriate future provision of services for all children with disabilities. 34 CFR §300.151(b). Thus, an SEA, pursuant to its general supervisory authority, has broad flexibility to determine appropriate remedies to address the denial of appropriate services to an individual child or group of children.”)

<sup>15</sup> OSERS, *supra* n. 4 at 17 (“Question B-4: Are there any mechanisms that an SEA must provide to assist parents and other parties in filing a State complaint? Answer: Yes. Under 34 CFR §300.509, each SEA must develop model forms to assist parents and other parties in filing a State complaint; however, the SEA or LEA may not require the use of the model forms. Parents and other parties may use the appropriate model form, or another form or document, so long as the form or document that is used meets the content requirements in 34 CFR §300.153 for filing a State complaint. If the SEA’s model form

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includes content not required by 34 CFR §300.153, the form must identify that content and specify that it is optional.”)

<sup>16</sup> 71 Fed. Reg. 46540, 46601 (Aug. 14, 2006); *see also* U.S. Department of Education Office of Special Education Programs (OSEP), *Letter to Oettinger* (March 2, 2023) (stating that the broad scope of the State complaint procedures, as permitted in the regulations, is critical to each State’s exercise of its general supervision responsibilities under IDEA.)

<sup>17</sup> 20 U.S.C. § 1416; *see also* U.S. Department of Education, *Differentiated Monitoring and Support (DMS) Reports*, accessed August 14, 2023, <https://www2.ed.gov/fund/data/report/idea/dmsrpts/index.html>.

<sup>18</sup> *Ibid.* OSEP’s annual differentiated monitoring and support focuses on ensuring improved outcomes for children with disabilities, complying with the IDEA programmatic requirements and federal fiscal requirements, collecting and reporting valid and reliable data, and ensuring implementation of the state’s State Systemic Improvement Plan (SSIP).

<sup>19</sup> While OSEP indicates that states are on a 5-year rotational monitoring cycle going forward, according to its website it appears that only 17 states received on-site monitoring during the most recent five years in which monitoring results were posted (2017, 2018, 2019, 2020 and 2021).

<sup>20</sup> For comparison purposes, parents most frequently use due process, with 20,887 filings in 2019-20, followed by mediation (9,983 requests) and then state complaints.

<sup>21</sup> Many schools closed in March 2020 due to the COVID-19 pandemic which likely impacted the number of complaints filed.

<sup>22</sup> For additional data analysis on this data, *see* <https://www.cadeworks.org/resources/data-resources>.

<sup>23</sup> Data collected under IDEA Section 618 includes U.S. territories; however, we excluded them from this analysis.

<sup>24</sup> “Complaints Dismissed or Withdrawn” include a written, signed complaint that was withdrawn by the complainant for any reason or that was determined by the SEA to be resolved by the complainant and the public agency through mediation or other dispute resolution means and no further action by the SEA was required to resolve the complaint; or a complaint dismissed by the SEA for any reason, including that the complaint does not include all required content.

<sup>25</sup> Aggregated results included only states with two or more outcomes in either the top or bottom decile.

<sup>26</sup> Government Accountability Office, *Special Education: IDEA Dispute Resolution Activity in Selected States Varied Based on School Districts’ Characteristics*, 2019, <https://www.gao.gov/products/gao-20-22>.

<sup>27</sup> For more details about the survey, *see*: [https://www.copaa.org/page/State\\_Complaint\\_Survey2023](https://www.copaa.org/page/State_Complaint_Survey2023)

<sup>28</sup> For more information about state supervisory responsibilities, *see* “Guidance on State General Supervision Responsibilities under Parts B and C of the IDEA” (July 24, 2023), accessed August 14, 2023, <https://sites.ed.gov/idea/idea-files/guidance-on-state-general-supervision-responsibilities-under-parts-b-and-c-of-the-idea-july-24-2023/>

<sup>29</sup> 20 U.S.C. § 1416(a)(2).

<sup>30</sup> For more details, *see* U.S. Department of Education, *Special Education—Technical Assistance on State Data Collection: IDEA Section 618 Data Products*, accessed August 14, 2023, <https://www2.ed.gov/programs/osepidea/618-data/index.html>

<sup>31</sup> *See* IDEA Data Center, accessed August 14, 2023, at: <https://ideadata.org/>.

<sup>32</sup> States receive a determination of “Meets Requirements,” “Needs Assistance,” “Needs Intervention,” or “Needs Substantial Intervention.”

<sup>33</sup> For an example of a matrix score result, *see* OSEP, *Iowa 2019 Part B Results-Driven Accountability Matrix*, accessed August 14, 2023, <https://osep.communities.ed.gov/services/PDCService.svc/GetPDCDocumentFile?fileId=39221>.

<sup>34</sup> *See* <https://ideadata.org/sites/default/files/media/documents/2022-06/IDC%20Laminated%20Cards%20%282%29.pdf>.

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<sup>35</sup> For more information about state supervisory responsibilities, see OSEP “*Guidance on State General Supervision Responsibilities under Parts B and C of the IDEA: Monitoring, Technical Assistance, and Enforcement*” (July 24, 2023), accessed August 14, 2023, <https://sites.ed.gov/idea/idea-files/guidance-on-state-general-supervision-responsibilities-under-parts-b-and-c-of-the-idea-july-24-2023/>

<sup>36</sup> For a summary of how OSEP derives state determinations, see U.S. Department of Education, *How the Department Made Determinations*, 2022, <https://sites.ed.gov/idea/files/how-the-department-made-determinations-part-b-2022.pdf>.

<sup>37</sup> Iowa had 11 complaints filed with 2 complaints dismissed, 9 complaints listed as pending and 0 investigations completed. It was the only state that reported 0 investigations.

<sup>38</sup> In order to receive a score of 2, states would need to demonstrate a rate of 95 percent or greater on this particular metric. To receive a score of 1, the state would need to demonstrate at least 75 percent and less than 95 percent compliance. A state would receive 0 points if the state’s data reflect less than 75 percent compliance. States with less than 100 percent compliance and less than 10 report decisions would receive a score of N/A.

<sup>39</sup> While OSEP requires states to make publicly available results of their annual determination, our research showed that few states publish their results matrix scores to their websites.

<sup>40</sup> See <https://sites.ed.gov/idea/files/DMS-2.0-Overview.pdf>, accessed August 14, 2023.

<sup>41</sup> OSEP, *supra* n. 35.

<sup>42</sup> See U.S. Department of Education, *DMS 2.0 Framework w/ Evidence and Intended Outcomes*, accessed August 14, 2023, <https://sites.ed.gov/idea/files/dms-framework-intended-outcome-09-23-2021.pdf>.

<sup>43</sup> For a list of potential areas see U.S. Department of Education, *Part B/C Dispute Resolution / State Complaint*, accessed August 14, 2023, <http://sites.ed.gov/idea/files/Part-B-and-C-Dispute-Resolution-State-Complaint.docx>

<sup>44</sup> See <https://www.advocacyinstitute.org/isrcr/SEAcomplaint.info.report.July2023.pdf>, accessed August 14, 2023.

<sup>45</sup> For a description of Results Driven Accountability (RDA), see U.S. Department of Education, *RDA: Results Driven Accountability*, accessed August 14, 2023, <https://www2.ed.gov/about/offices/list/osers/osep/rda/index.html>.

<sup>46</sup> The IDEA Data Center, via an OSEP grant, has developed an “Outlier Analysis” tool that allows states to identify LEAs that may need intensive support to improve their performance and/or data reporting. See IDEA Data Center, *IDEA Data Quality: Outlier Analyses Brief*, 2016, [https://www.ideadata.org/sites/default/files/media/documents/2017-09/outlier\\_analysis\\_brief\\_new\\_cover\\_revised.pdf](https://www.ideadata.org/sites/default/files/media/documents/2017-09/outlier_analysis_brief_new_cover_revised.pdf).

<sup>47</sup> See National Council on Disability, *IDEA Series: Federal Monitoring and Enforcement of IDEA Compliance*, 2018, 37, [https://ncd.gov/sites/default/files/NCD\\_Monitoring-Enforcement\\_Accessible.pdf](https://ncd.gov/sites/default/files/NCD_Monitoring-Enforcement_Accessible.pdf).

<sup>48</sup> OSEP, *supra* n. 35.

<sup>49</sup> For example, whether a student’s IEP delivered FAPE in the least restrictive environment

<sup>50</sup> Education Law Center, *In Settlement with ELC, NJDOE Agrees to Major Revisions in Handling State Special Education Complaints*, 2023, <https://edlawcenter.org/news/archives/special-education/in-settlement-with-elc,-njdoe-agrees-to-major-revisions-in-handling-state-special-education-complaints.html>.

<sup>51</sup> U.S. Department of Education, OSERS, *Letter to Lane*, 2020, <https://www2.ed.gov/fund/data/report/idea/partbdsrpts/dms-va-b-2020-letter.pdf>.

<sup>52</sup> *Ibid*.

<sup>53</sup> Special Education Action, *Virginia Dept. of Education’s Noncompliance Continues; Blows Through U.S. Dept. of Education’s 90-Day Compliance Deadlines*, last modified November 19, 2022, <https://specialeducationaction.com/virginia-dept-of-educations-noncompliance-continues-blows-through-u-s-dept-of-educations-90-day-compliance-deadlines/>

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<sup>54</sup> U.S. Department of Education, OSERS, *Letter to Balow*, January 17, 2023, <https://specialeducationaction.com/wp-content/uploads/2023/03/1.17.23-DMS-Letter-to-Virginia.pdf>; *Letter to Balow*, February 17, 2023, <https://specialeducationaction.com/wp-content/uploads/2023/03/2.17.23-DMS-Letter-to-Virginia.pdf>.

<sup>55</sup> U.S. Department of Education, OSERS, *Letter to Coons*, <https://specialeducationaction.com/wp-content/uploads/2023/06/5.12.23-DMS-letter-to-Virginia.pdf>

<sup>56</sup> OSERS, *supra* n. 4 at 22 (“Question B-12: How does an SEA resolve a complaint against itself? Answer: An SEA must resolve a complaint alleging that it has violated a requirement of Part B or the Part B regulations just as it must resolve any other signed written complaint that meets the requirements in 34 CFR §300.153. Under 34 CFR §300.33, the term “public agency” includes the SEA. Therefore, an SEA must resolve a complaint alleging that the SEA (a public agency) has violated a requirement of Part B or the Part B regulations. In resolving a complaint filed against the SEA, an SEA may either appoint its own personnel or may make arrangements with an outside party to resolve the complaint. Regardless of whether the SEA chooses to resolve the complaint on its own or chooses to use an outside party, the SEA must ensure that all of the procedures in 34 CFR §§300.151-300.153 are followed. Specifically, an independent on-site investigation must be conducted, if necessary, consistent with 34 CFR §300.152(a)(1) and the SEA must take appropriate steps to ensure this occurs. Additionally, the SEA must ensure that all relevant information is reviewed and that an independent determination is made as to whether the public agency (in this case the SEA) has violated a requirement of Part B or the Part B regulations with respect to the complaint. 34 CFR §300.152(a)(4). The SEA also must ensure that it or an outside party, whichever resolves the complaint, considers all available remedies in the case of a denial of appropriate services consistent with 34 CFR §300.151(b). Regardless of whether the complaint is resolved by the SEA or by an outside party that the SEA designates to resolve the complaint, the SEA must comply with all corrective actions, including remedies, set out in the final decision. 71 FR 46602 (August 14, 2006).”)

<sup>57</sup> CADRE, *Building States’ Capacity To Improve WSC Systems*, 2022, <https://www.cadeworks.org/sites/default/files/Written%20State%20Complaint%20Intensive%20TA%20Workgroup%20Brief%202022.pdf>

<sup>58</sup> Hansen and Zirkel, *supra* n. 8.

<sup>59</sup> [34 C.F.R. § 300.152](#)

<sup>60</sup> U.S. Department of Education, OSERS, *Letter to Lane*, 2020, <https://www2.ed.gov/fund/data/report/idea/partbdmsrpts/dms-va-b-2020-letter.pdf>.

<sup>61</sup> *Ibid*.

<sup>62</sup> Education Law Center, *In Settlement with ELC, NJDOE Agrees to Major Revisions in Handling State Special Education Complaints*, 2023, <https://edlawcenter.org/news/archives/special-education/in-settlement-with-elc-njdое-agrees-to-major-revisions-in-handling-state-special-education-complaints.html>.

<sup>63</sup> OSERS, *supra* n. 4 at 26 (“[A]n SEA may adopt a policy or procedure to accept and resolve complaints regarding alleged violations that occurred outside the one-year timeline in 34 CFR §300.153(c). In general, such a procedure would be treated as an additional protection for children with disabilities and their parents and not inconsistent with Part B. 71 FR 46606 (August 14, 2006).”)

<sup>64</sup> Many states have an independent Office of Inspector General (OIG) designed to investigate educational agencies. See Association of Inspectors General, “Directory of State and Local Inspector General Agencies,” accessed August 14, 2023, <https://inspectorsgeneral.org/useful-links/directory-of-state-and-local-government-oversight-agencies/>.

## ACKNOWLEDGEMENTS

Christopher Roe, Denise S. Marshall, Selene Almazan and Laura Kaloi contributed to the research and analysis in this report. They would like to thank Candace Cortiella of the Advocacy Institute and Andrew Feinstein for their expert feedback and suggestions to improve the report. COPAA would also like to thank its members for sharing their experiences in order to understand ways to strengthen the process. Any errors or omissions contained in the report are the sole responsibility of COPAA and the report authors.