

# Understanding the TEA Complaint Process and How to Effectively Respond

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## Do You Know the Answers?

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- A disgruntled former employee files a complaint with TEA asserting that various children's IEPs have not been implemented. Is this allowed?
  - TEA wants to interview the teachers for the investigation. Can they do that?
  - The parent files a complaint as to the administrator's determination that their child committed the offense which is the subject of the MDR. Can TEA investigate that issue?

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## Do You Know the Answers?

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- You receive a complaint on a child that wasn't on your radar. Can you call the parent and see if you can meet with her to address her concerns?
- You've just received notice from TEA that a complaint has been filed. The issues are inappropriate restraint and use of timeout. You investigate the matter and find out that while the parent was orally notified of the restraint, no written notice of the restraints were provided to the parent. Additionally, the teachers were not tracking the time-outs. What needs to be done?

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## 1. What is the Purpose of the TEA Complaint Process?

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TEA is required to operate a complaint process for addressing any violation of the Individuals with Disabilities Education Act (IDEA) involving the identification, evaluation, or placement of a student with a disability, or the provision of a free appropriate public education to the student. They must also investigate complaints that a district has violated a state special education law or rule.

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## 2. Can Someone Other than the Parent File a Complaint?

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Yes. A complaint can be filed by someone other than the parent, legal guardian, or adult student. TEA refers to these complaints as a “third party complaint.”

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## 3. Can an Organization File a Complaint with TEA?

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Yes. Organizations may file complaints.

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#### **4. Can a Complaint be Filed Anonymously?**

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TEA does not accept anonymous complaints.

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#### **5. Can a Complaint be Filed Against a District Regarding More than One Student?**

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Yes. Complaints may be about services being provided to one student with a disability or to a group of students with disabilities.

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## **6. How Far Back in Time Can an Investigation Go?**

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There is a two year statute of limitations in place since September of 2022. Consequently, TEA can investigate alleged violations for a two year period. TEA will not review complaints alleging violations that occurred more than two calendar years before the complaint is filed.

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## **7. Is a Parent's Call to TEA Complaining About the School's Implementation Sufficient to Start the Complaint Process?**

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While a parent can call TEA to discuss a concern the parent has regarding their child's education, a phone call to TEA is not sufficient to be treated as a complaint. TEA will only consider it an actual complaint when they receive the complaint in writing.

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## 8. What are the Reasons That a TEA Complaint Can Be Filed?

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A special education complaint may be filed when there is a concern that a school district or other public agency, such as TEA, has violated federal or state special education requirements. For TEA to investigate a complaint, it must allege at least one violation of a special education requirement and set forth facts to support each allegation.

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## 9. What Length of Time does TEA Have to Complete the Investigation?

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Under federal law, TEA must issue a written decision within 60 calendar days. The 60-day timeline begins to run on the next business day after the day on which TEA receives the complaint. The timeline does not begin until all requirements for filing a complaint have been met. Exceptions to the deadline are as follows:

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## **10. Are There Circumstances Where the Timeline for Conducting the Investigation is Expedited?**

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Under state law, a complaint alleging that a school district has refused to provide special education or related services to an eligible student must be expedited to ensure that any services due to the student are promptly provided.

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## **11. Are the Timelines for Completing the Investigation Abated if the Parties Want to Pursue Mediation?**

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The parties may agree to extend the 60 calendar day timeline to participate in mediation.

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## 12. Can the Parent Submit Additional Documentation During the Investigation?

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During the investigation process, TEA must give the parent an opportunity to submit additional information, either orally or in writing, about the issues in the complaint.

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## 13. After the Complaint is Filed, What Happens?

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TEA will review the complaint, and if it is determined that all requirements for filing a complaint have been met, the complaint is assigned to a complaint investigator.

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## 13. After the Complaint is Filed, What Happens? (Cont'd)

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The complaint investigator will review the complaint to determine if it raises issues that TEA may investigate under the IDEA. Specifically, the complaint investigator will review the following issues:

- whether the alleged violations occurred within the required timelines;
- whether the alleged violations are matters covered by the IDEA or state special education requirements;
- whether the complainant has provided supporting facts for each alleged violation; and
- whether any of the alleged violations in the complaint are the subject of a pending or previous due process hearing.

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## 13. After the Complaint is Filed, What Happens? (Cont'd)

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If TEA determines that the complaint meets the requirement described above, it will send the parties a letter called a Notice of Special Education Complaint Investigation and Request for Response. The letter states the allegations to be investigated, requests information needed to conduct the investigation, lists the investigation timelines, and encourages the parties to attempt to resolve the disagreement informally at the local level or through TEA's mediation process. If any issues raised in the complaint cannot be investigated through the special education complaints process, the letter will explain why not.

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## **14. What Must the School Do After Receiving a Request for Response?**

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The school district or other public agency must provide TEA with its response to the complaint and all requested information by the timeline set by TEA, unless TEA extends the timeline due to extenuating circumstances.

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## **15. Is the District Required to Provide a Copy of its Response to the Parent?**

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Yes. The school must send a copy of its written response to parent. If the complainant is not the parent, the district cannot release the response to the complainant regarding individual students unless the parents sign a written consent for release.

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## 16. After the District Provides the Response, What Happens?

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The assigned complaint investigator will review the information from the school district or other public agency and any additional information provided by the complainant. The complaint investigator may also gather information through telephone or personal interviews. If TEA decides an on-site investigation is required, the complaint investigator will make arrangements with the parties for an on-site visit. The complaint investigator's interviews are informal. The complaint investigator must review all relevant information and make an independent determination as to whether the public agency has violated a requirement of IDEA.

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## 17. What Does the Investigative Report Include?

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The Investigative report includes the following:

- a description of the allegations in the complaint;
- TEA's findings of fact and conclusions;
- a discussion of how the findings of fact and the applicable law support TEA's conclusions;
- any technical assistance that TEA determines may help the school district to avoid such situations in the future; and
- any corrective actions TEA will require of the school district or other public agency if TEA finds that a violation occurred.

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## 18. What Corrective Action Will TEA Take if it Finds a Violation?

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If TEA determines that there has been a violation, it will require corrective actions. The type of corrective action will depend on the type of violation found and must be appropriate to address the needs of the specific student. If TEA determines that the violation affected or may have affected a group of students, the corrective action will include steps that the school district or other public agency must take to correct the broader problem.

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## 18. What Corrective Action Will TEA Take if it Finds a Violation? (Cont'd)

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Examples of corrective actions TEA may require include, but are not limited to, the following:

- an evaluation;
- compensatory services;
- monetary reimbursement for educational expenses;
- an ARD committee meeting to review and/or revise the student's IEP;
- an ARD committee meeting to work out the details of compensatory services, reimbursement, or other corrective action;
- staff training or development;

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## 18. What Corrective Action Will TEA Take if it Finds a Violation? (Cont'd)

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- a review and/or revision of policies, practices, and/or guidelines;
- a self-assessment regarding compliance with the IDEA; or
- periodic monitoring or reporting on implementation of corrective actions.

TEA may not charge fines or address staffing decisions as part of the corrective action.

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## 19. How are the Parties Notified of the Decision by TEA?

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TEA will send the parent and the school district an investigative report that addresses each allegation in the complaint and will contain the following:

- Findings in its investigation of each allegation;
- Conclusions on whether the district violated the law as alleged by the parent on each issue; and
- The reasons for its final decision.

If TEA decides the information obtained during the investigation supports the allegation, it will set forth in the report what the corrective actions the district must take.

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## **20. Can the Parent Bring Concerns Through the Complaint Process that are not Addressed Through the IEP, Such as Placing a Camera in a Self Contained Classroom?**

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No. The Complaint Division has no jurisdiction to address non IDEA issues. TEA may not use the special education complaints process to investigate the following:

- personnel issues or assignments,
- teaching/instructional methodology,
- parents' access to the campus,
- local matters of concern,
- discrimination,

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## **20. Can the Parent Bring Concerns Through the Complaint Process that are not Addressed Through the IEP, Such as Placing a Camera in a Self Contained Classroom? (Cont'd)**

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- harassment,
- retaliation,
- Section 504 determinations or services, or
- Abuse and/or neglect of students.

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## **21. If a Third Party Files a Complaint, Can they Receive a Copy of the TEA Investigative Complaint?**

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Any organization or individual may file a special education complaint on a behalf of a minor or adult student. However, unless TEA receives signed consent from the parent or guardian of the student, TEA cannot release an investigative report or any other information about the student to the complainant.

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## **22. After the District Reviews the Complaint and Determines that it has some Noncompliance and Chooses to Address It and Informs TEA of Its Corrective Action, Will the District Still be Cited?**

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TEA may choose not to issue a finding of noncompliance if the public agency has appropriately corrected the violation before TEA issues an Investigative Report.

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## **23. Can a Decision Be Appealed?**

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There is no TEA appeal process for final decisions.

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## **24. Can the Parent Still File a Due Process Hearing at the Same Time that a Complaint is Filed?**

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Yes, but TEA will abate investigating any issues raised in a complaint that are being addressed in a due process hearing until the hearing is over. TEA will notify the parties in writing of the specific issues that must be set aside and those that will be addressed.

After the hearing is over, TEA will determine whether any issue that was set aside was not addressed in the hearing. If any issue was not addressed in the hearing, TEA will address it within 60 calendar days from the date of the hearing officer's decision unless the complainant withdraws the complaint.

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