

Complaint Procedures for Federal Programs Every Student Succeeds Act (ESSA)

Statutory Requirement

In December 2015, the Every Student Succeeds Act (ESSA) was signed into law. ESSA amends and reauthorizes the 50-year-old Elementary and Secondary Education Act (ESEA) of 1965. Pursuant to ESEA § 8304(a)(3)(C) a state education agency (SEA) shall provide assurance that the state will adopt and use proper methods of administering each federal program, including the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of the programs.

What is a complaint?

A complaint is a written allegation that a school, local educational agency (LEA), other agency authorized by a LEA, or the Tennessee Department of Education has violated the law in the administration of education programs required by ESSA.

What must be included in a complaint?

Individuals or organizations filing a complaint concerning federal programs under ESSA, must do so in writing. The following information is required: full name, address, and telephone number of individual(s) or organization(s) filing the complaint; description of the situation or allegation and facts supporting the allegation; name of the school, LEA, or other agency, and name(s) of employees, if known, the complaint is being filed against; statement regarding the federal statute or regulation that applies to an applicable federal program that has been allegedly violated; and whether efforts have been made to resolve the complaint with the LEA.

Where should a complaint be sent?

Signed complaints must be sent to:

Tennessee Department of Education
Division of Federal Programs and Oversight Complaints
710 James Robertson Parkway
Andrew Johnson Tower
Nashville, Tennessee 37243

What happens to a complaint after it is received?

A written complaint will be promptly acknowledged and investigated. Appropriate program staff will conduct a review of the complaint and notify the complainant of receipt. If necessary, an on-site review may be conducted. If appropriate, based on the type of complaint, additional information may be gathered and forwarded to other appropriate offices or organizations. If additional information is needed, the complainant will be contacted. For this reason, a telephone number and address of the complainant must be included with the complaint. Failure to provide a telephone number and address will result in the department not being able to adequately respond to the complaint.

Within 45 days of receipt of the complaint, it will be investigated and a written decision with findings of fact will be issued and mailed to the complainant. If areas of noncompliance are found, corrective action will be required and timelines for completion indicated. All parties will be informed of the areas of noncompliance and the required corrective actions.

Except in the case of complaints involving ESEA §§ 1117 and 8501, if exceptional circumstances exist, the 45-day timeline may be extended. Some examples of exceptional circumstances may include:

- Complexity of issues
- Need for additional information not received within the initial 45-day timeline
- Unavailability of any of the necessary parties to the complaint

How can a complaint decision be appealed?

- a. If the complainant disagrees with the findings of fact, within 10 days of receiving the decision, the complainant may file a written appeal of the findings to the same address noted above.
- b. The division of federal programs and oversight (FPO) will review the written appeal of the decision, and after consulting with the Chief Districts and Schools Officer and/or the Commissioner of Education, within 45 days will provide the complainant written notification of the decision.
- c. The complainant has the right to request review of the department's decision by the Secretary of the United States Department of Education. The review is at the Secretary's discretion.
- d. In matters involving violations of ESEA § 8501, participation by private school children and teachers, the decision may be appealed to the Secretary no later than 30 days after the department resolves the complaint or fails to resolve the complaint within the 45-day time limit. The appeal shall include a copy of the department decision and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve the appeal no later than 90 days after receipt. (ESEA § 8503(b))