

IDEA State Complaint Rules, Iowa Administrative Code 281—chapter 41

281—41.151(256B,34CFR300) Adoption of state complaint procedures.

41.151(1) General. The state maintains written procedures for the following:

a. Resolving any complaint, including a complaint filed by an organization or individual from another state, that meets the requirements of rule 41.153(256B,34CFR300) by providing for the filing of a complaint with the department.

b. Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities, the state procedures under rules 41.151(256B,34CFR300) to 41.153(256B,34CFR300).

41.151(2) Remedies for denial of appropriate services. In resolving a complaint in which the state has found a failure to provide appropriate services, the state, pursuant to its general supervisory authority under Part B of the Act, shall address the following:

a. 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

b. Appropriate future provision of services for all children with disabilities.

281—41.152(256B,34CFR300) Minimum state complaint procedures.

41.152(1) Time limit; minimum procedures. The state shall include in its complaint procedures a time limit of 60 days after a complaint is filed under rule 41.153(256B,34CFR300) to do the following:

a. Carry out an independent on-site investigation, if the state determines that an investigation is necessary;

b. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

c. Provide the public agency with the opportunity to respond to the complaint, including, at a minimum:

(1) At the discretion of the public agency, a proposal to resolve the complaint; and

(2) An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation consistent with rules 41.506(256B,34CFR300) and 41.1002(256B,34CFR300);

d. Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this chapter; and

e. Issue a written decision to the complainant that addresses each allegation in the complaint and contains:

(1) Findings of fact and conclusions; and

(2) The reasons for the state's final decision.

41.152(2) Time extension; final decision; implementation. The state's procedures described in subrule 41.152(1) shall do the following:

a. Permit an extension of the time limit under subrule 41.152(1) only if:

(1) Exceptional circumstances exist with respect to a particular complaint; or

(2) The parent or individual or organization and the public agency involved agree to extend the time to engage in mediation pursuant to 41.152(1)“c”(2), or to engage in other alternative means of dispute resolution, if available in the state; and

b. Include procedures for effective implementation of the state's final decision, if needed, including:

(1) Technical assistance activities;

(2) Negotiations; and

(3) Corrective actions to achieve compliance.

41.152(3) Complaints filed under this rule and due process hearings. If a written complaint is received that is also the subject of a due process hearing under rule 41.507(256B,34CFR300) or 41.530(256B,34CFR300) to 41.532(256B,34CFR300), or that contains multiple issues of which one or more are part of that hearing, the state must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures described in subrules 41.152(1) and 41.152(2). If an issue raised in a complaint filed under this rule has previously been decided in a due process hearing involving the same parties, the due process hearing decision is binding on that issue and the state must inform the complainant to that effect. A complaint alleging a public agency's failure to implement a due process hearing decision must be resolved by the state.

281—41.153(256B,34CFR300) Filing a complaint.

41.153(1) *Complainant.* An organization or individual may file a signed written complaint under the procedures described in rules 41.151(256B,34CFR300) and 41.152(256B,34CFR300).

41.153(2) *Contents of complaint.* The complaint must include the following:

- a.* A statement that a public agency has violated a requirement of Part B of the Act or of this chapter;
- b.* The facts on which the statement is based;
- c.* The signature and contact information for the complainant; and
- d.* If alleging violations with respect to a specific child:
 - (1) The name and address of the residence of the child;
 - (2) The name of the school the child is attending;
 - (3) In the case of a homeless child or youth within the meaning of Section 725(2) of the McKinney–Vento Homeless Assistance Act, 42 U.S.C. 11434a(2), available contact information for the child, and the name of the school the child is attending;
 - (4) A description of the nature of the problem of the child, including facts relating to the problem; and
 - (5) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

41.153(3) *Time limit.* The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with rule 41.151(256B,34CFR300).

41.153(4) *Complainant must provide copy of complaint to AEA and LEA.* The party filing the complaint must forward a copy of the complaint to the AEA and LEA or public agency serving the child at the same time the party files the complaint with the state.

41.153(5) *Failure to comply with due process hearing decision, mediation agreement, resolution meeting agreement.* A complainant may allege a public agency has failed to comply with a due process hearing decision, or a mediation agreement, or a resolution meeting agreement. If the complaint is substantiated, the state will grant appropriate relief.