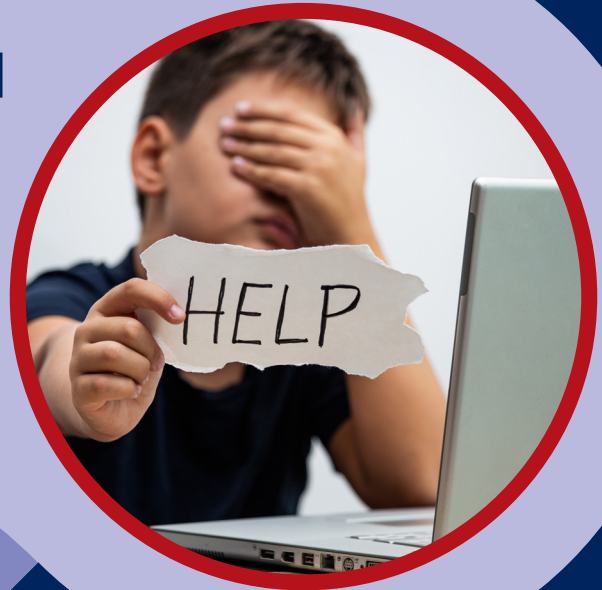


SPECIAL EDUCATION COMPLAINT TOOLKIT



*A guide for helping parents in
Virginia understand the Special
Education Administrative Complaint
in Dispute Resolution Process*

Since 1978, PEATC has provided tools and information to empower Virginia's students with disabilities (birth – age 22) and their families and help them navigate the special education process. PEATC promotes respectful, collaborative partnerships between parents, schools, professionals, and the community to increase the success of students with disabilities. As Virginia's **Parent Training & Information Center** (PTI), we talk to many families who are struggling to navigate the special education system. Navigating the dispute resolution system within special education can be especially difficult.

We believe that families are their children's first and best teachers. We also believe that information and training will empower families and professionals to build strong partnerships. This toolkit, adapted from **FACT Oregon's Complaint Toolkit** and Virginia's **Parents' Guide to Special Education Dispute Resolution**, has been created to help families, and the professionals that support them, understand one of Virginia's dispute resolution processes: the administrative state complaint, also known as a complaint.

RULES

Deciding to file a complaint requires thought and preparation. This is not something to be done in anger, but after the emotion has subsided and you are clear on the facts. A complaint is a tool that parents can use if they believe that their rights or their child's rights have been violated under federal or state special education laws and regulations.

LAWS

IF YOU FEEL UNSURE ABOUT WHAT CHOICE TO MAKE, SHOULD I OR SHOULD I NOT FILE A COMPLAINT, YOU CAN:

Visit our website: www.peatc.org to review our Complaint fact sheet, or to review the Parent's Guide to Dispute Resolution on the Virginia Department of Education's website.

REGULATIONS

Think about why you feel you need to file a complaint and how that will help address your concerns.

Think about productive solutions that will result in positive outcomes for your child. Remembering that positive and collaborative relationships between families and schools are an important part of your child's success.

Contact us to talk the situation through and get guidance on possible next steps: Call 800-869-6782 | Email partners@peatc.org

PEATC is here to help. So, if you have questions, please don't hesitate to reach out. We have bilingual staff to support our Spanish-speaking families.

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What You Need to Know about Special Education Complaints

WHAT IS A COMPLAINT?

A complaint is a written request to investigate an **alleged violation of state or federal special education laws or regulations**. It is filed with the Office of Dispute Resolution and Administrative Services (ODRAS) at the Virginia Department of Education.

WHO DOES IT APPLY TO?

This process applies to students who have an Individualized Education Program (IEP), or who should have an IEP and have not been identified or found eligible yet.

If your child is receiving early intervention services under Part C of IDEA, that is a different process not handled by VDOE.

WHO CAN FILE?

Anyone can file a complaint, not just the parents. For example, if parent Jane Doe files the complaint on behalf of their own child, John Doe, then the parent is the complainant. If ABC Company files a complaint on behalf of John Doe, then ABC Company is the complainant. If someone other than the parent files the complaint the complainant must submit a release of information signed by the parent consenting to ODRAS communicating with a third party, otherwise ODRAS can only share information with the parent once the complaint has been issued.

HOW LONG DO I HAVE TO FILE?

A complaint must be filed no more **than one year** from the original event/violation. If the violations are ongoing, it is good to keep a record of when they each occurred.

WHO IS INVOLVED IN THE COMPLAINT PROCESS?

The complainant (typically the parent but can be anyone), the local education agency (LEA) representative, i.e., the school division, and the ODRAS compliance specialist.

HOW DO I FILE A COMPLAINT?

There are specific requirements on what must be included in a complaint. The toolkit section on *Process for Filing a Complaint* provides detailed information on this.

CAN I WITHDRAW A COMPLAINT?

Yes, you can withdraw the complaint by submitting a signed written statement to ODRAS at any time before a Letter of Findings (LOF) is issued.

WHAT HAPPENS AFTER I FILE A COMPLAINT?

Once a special education complaint is filed with ODRAS, a complaint investigator will decide whether to consider it an **“inquiry”** or a **“complaint.”**

ODRAS may decide a complaint **is an inquiry** if it doesn't allege a violation of special education law or regulations **OR** if it does not include the required information. ODRAS will notify of that decision within in seven business days. They may give guidance on what is needed to resubmit the complaint. **A resubmitted complaint is considered a new complaint.**

If ODRAS decides it is a complaint, they will issue a **Notice of Complaint** within **seven business days** of receiving the complaint to the complainant, the superintendent, and the special education central office point of contact, usually the special education director, of the local school division. An **ODRAS compliance specialist** will be assigned to investigate.

The Notice will include **the issues** raised in the complaint and **the section(s) of the law or regulations that apply as well as identify timelines. It will also require a response and documents from the LEA.**

After the **Notice of Complaint** is issued, **three things happen:**

1. **Early Resolution System (ERS).** The school division has **10 business days** to provide a formal response or resolve issues through ERS. This can be a meeting with the parents or mediation. If the parties agree to a resolution, they must submit a signed resolution statement to ODRAS. ODRAS will review it to ensure that the issues have been resolved.

2. **Complaint Response.** If ERS does not work, the school division must submit a written response to the complaint, including documentation that responds to the issues. They must respond to the parent and ODRAS at the same time. The parents and school then have an additional **10 business days** to submit additional information orally or in writing to ODRAS.

3. **ODRAS Investigation.** After ODRAS has the information they need from the parent and the school, they will review it. The compliance specialist may go to the school to investigate further, or they may contact the parent and the LEA to conduct interviews or to request more information. The specialist will then decide whether the school division did or did not violate state and/or federal regulations.

ODRAS must **resolve complaints within 60 calendar days.** That timeframe can be extended if there are exceptional circumstances or if both parties agree to extend because they are resolving the dispute using the formal mediation process.

ODRAS will issue a **Letter of Findings (LOF).** If the LOF finds the school was not in compliance with one or more complaint allegations, it may order a Corrective Action Plan (CAP) be developed by the school.

YOU CAN APPEAL THE LOF?

After the LOF is issued, the parent or school can **appeal within 30 calendar days.** The appeal decision must be issued within 30 calendar days after ODRAS receives it. An appeal must be based on either (1) **newly discovered** information not provided in the initial complaint or response, or (2) **an error in fact or law on which the findings were based.** Regardless of your decision to appeal, the LEA will continue to complete the CAP.

The appeal is reviewed by **an independent reviewer** whom ODRAS appoints who is not a VDOE employee. The reviewer can agree with ODRAS' findings, reverse them, or return (remand) the issue to ODRAS for more investigation. If ODRAS issues a new LOF after more investigation, that can also be appealed.



Here's What the Timelines Look Like



Am I Ready to File a Complaint?

There are some steps you can take before filing a complaint to make sure you are ready. Completing these activities will also help you write your complaint.

I. LIST YOUR CONCERNS

A

B

C

D

2. HAVE YOU TRIED ANY OF THESE STEPS TO TRY TO RESOLVE THE CONCERNS?

(Check all that apply; you do not need to have completed these steps to file a complaint but it will be helpful)

- I reviewed the current IEP and any other relevant documents.
- I shared a [student profile](#) that includes the strengths and challenges of the child with the IEP team.
- I have discussed my concern(s) directly with the IEP team, case manager, school counselor, or teacher and have documented these conversations in writing.
- I discussed my concern(s) with the building principal, the school special education coordinator, and/or the school division's special education director.
- I have shared my concerns with the school district. (This can be in meeting notes, emails, calls, letters, and/or prepared written parental input statements for IEP documents.)
- I requested an IEP meeting in writing to discuss my concern(s).
- I have the documentation that supports the concern(s) I would like addressed. (i.e., progress notes, prior IEPs, incident reports, outside evaluations or notes from other providers etc.)
- I requested mediation to try to address the concerns.
- I have taken other actions to address the concern(s). List below.

3. WHAT WOULD YOU LIKE THE SCHOOL DISTRICT TO DO TO RESOLVE THE CONCERN?

A

B

C

4. DESCRIBE HOW THE CONCERN(S) IS/ARE A VIOLATION OF SPECIAL EDUCATION LAW (IDEA or Virginia regulations).

The complaint process is focused on violations of the *Individuals with Disabilities Education Act (IDEA)* and the IDEA regulations and/or violations of the *Regulations Governing Special Education Programs for Students with Disabilities in Virginia* and associated statutes.

If you file a complaint relating to issues that are **not a violation of federal or state special education law and regulations**, the complaint will be dismissed. Here are examples of issues that are not subject to the special education complaint process:

- ✓ Violations of Section 504 of the Federal Rehabilitation Act
- ✓ Violations of the Americans with Disabilities Act
- ✓ Abuse or neglect complaints unless the allege that they interrupt the student's ability to receive an education
- ✓ Matters over which the school division has sole authority. One example is staff discipline/termination.

Below are **six principles of IDEA** that can form the basis for a special education complaint. **Special education** is defined as specially designed instruction, which means that special education is different from general education, it also means that special education is something more than providing accommodations and/or assisting a student with assignments. [34 C.F.R. § 300.39 (b) (3)] Think about whether the school division violated any law or regulation related to one or more of these areas? Let's learn more about these!



1. **Free Appropriate Public Education (FAPE)**
2. **Appropriate Evaluation**
3. **Individualized Education Program (IEP)**
4. **Least Restrictive Environment (LRE)**
5. **Parent Participation**
6. **Procedural Safeguards**

1. Free Appropriate Public Education (FAPE). FAPE is defined as special education and related services for children with disabilities ages 2 to 21 that are at no cost to the family, meet the standards of the Virginia Board of Education, include an appropriate preschool, elementary, school, middle or high school education, and are provided under an IEP. It is also the concept that an IEP should be drafted in such a way that it is reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.

2. Appropriate Evaluations. IDEA requires that students must be evaluated before being provided special education and related services to decide whether the child is a student with a disability with a qualifying condition under IDEA and if so, to determine their educational and functional needs. There are additional requirements for these and other types of evaluations.

3. Individualized Education Program (IEP). The IEP is the cornerstone of FAPE. It is the written plan for a child with a disability developed by the IEP team that details the individual educational needs of the child and what special education and related services are needed to meet those needs. It must be implemented as written.

4. Least Restrictive Environment. LRE requires that your child with a disability is educated to the maximum extent appropriate with children without disabilities and that they not be removed to a special class, separate school, or another more restrictive setting unless due to the nature or severity of the disability, their IEP cannot be satisfactorily implemented in the regular class even with the use of supplementary aids and services.

5. Parent Participation. Schools must ensure that parents are present at IEP meetings or given the opportunity to participate. They must provide advance notification and schedule IEP team meetings at a mutually agreed upon time and place. If the parents can't attend a meeting, the school must find other ways to ensure their participation such as phone calls. In addition, the school must provide interpreters or other accommodations if needed to ensure that parents understand what is happening at the meetings and the information they receive.

6. Procedural Safeguards protect the rights of children with disabilities and their parents. They include but are not limited to the right to participate in meetings, examine educational records, obtain an independent educational evaluation, and receive Prior Written Notice. Dispute resolution options are also procedural safeguards.

If you think the school division has violated your child's rights under any of these regulatory provisions, you can file a complaint.



Use the space below or a separate sheet of paper to document which of these IDEA principles your concerns relate to and whether they violate IDEA and/or special education regulations.

Section of Law or Regulation Violated (list section and describe violation)

Section of Law or Regulation Violated (list section and describe violation)

Section of Law or Regulation Violated (list section and describe violation)

Process for Filing a Special Education Complaint

As noted earlier, you do not have to use the VDOE form <https://www.doe.virginia.gov/home/showpublisheddocument/19275/638054917822070000>), but you do have to include all of the following information. If the complaint is incomplete, ODRAS will send it back with instructions on what information is needed to refile the complaint. A sample completed complaint form is on page 19.

1. Your Contact Information (name, address, email, telephone (home, office, mobile))

2. Relationship to Student

- Parent
- Citizen
- Attorney
- Advocate

3. Student Information (full name, school, school division, address). In the case of a homeless child, provide any available contact information for the child.

4. Subject(s) the Complaint Involves

- ✓ Include the **disability area** involved along with a summary of what you allege to be the violation of the special education regulations.

- ✓ It is helpful, but not required, to include the exact **special education regulation** you feel is being violated. For example, if you are alleging a violation of parental consent requirements for eligibility, you would reference federal regulation 34 CFR 300.300 and/or Virginia Regulation 8VAC20-81-60 (B)(2).

- ✓ **Individuals you have already talked with** to resolve the complaint, along with their response. If you have emails, these can be included in supporting documentation

5. A description of the nature of the problem, including facts relating to the problem.

Describe the alleged IDEA and/or Virginia regulation, and the specific facts that relate to each. Remember, complaints must address an action that occurred not more than one year before the date the complaint is received by VDOE. So, if the violation occurred on May 1, 2022, the complaint must be filed by April 30, 2023.

HELPFUL TIPS

- **Be thorough** (include all critical information including dates), **but concise** (use as few words as necessary). You can attach additional pages to the complaint.
- The written complaint process focuses on **IDEA violations, not emotions**. Focus on the allegations and the facts that support them. Do not include information about violations that occurred more than one year from the date you are filing the complaint.
- You can include **any documentation that supports your allegation(s)**. You should include the child's IEP. This also includes emails, audio recordings, and video recordings. If you do provide recordings, you must list in your complaint where on the recording the supporting information is located.

6. List Proposed Solutions

- ✓ State clearly what you would like to see happen to address the concern in the complaint.
- ✓ Each allegation should have a proposed solution. If a solution addresses more than one allegation, list it under each.

This information can also assist in reaching an early resolution with the school division

7. Sign and Send

Sign and date the complaint and certify that you are sending it to ODRAS and the local school division at the same time. A simple statement or a checkmark on the VDOE form will accomplish this.

Consider Mediation: Indicate to ODRAS on the form or letter whether you are interested in participating in mediation as an option to resolve your complaint issues or whether you decline mediation. Offered at no cost to parents and school personnel, both parties must agree to participate. Mediation does not stop the complaint process unless both parties agree to an extension of the 60-day timeline for the complaint resolution.

Send your complaint by mail, fax, or email to BOTH:

VDOE, Office of Dispute Resolution and Administrative Services

P.O. Box 2120, Richmond, Virginia 23218-2120

Fax: 804-786-8520

Email: ODRAS@doe.virginia.gov

AND

The local school division against which you are filing the complaint. Send your complaint to the Special Education Director for the Division. If you like you can also send a copy to the school principal.

You can find **contact information** on your school division's website or social media site or by calling the school division's central office.

WHAT IF I CHOOSE MEDIATION?

ODRAS will offer the opportunity for voluntary **mediation** in its initial notification to both parties. Mediation is available at no cost to either party. The impartial third-party mediator meets with both the complainant and the school district to assist them in reaching a mutually acceptable agreement. If an agreement is made, the complaint process would stop.

WHAT IF I ALSO FILE FOR A DUE PROCESS HEARING?

If a complaint issue becomes the subject of a due process hearing **before ODRAS issues a Letter of Findings**, the complaint is put on hold until the due process hearing is completed. This is called putting a complaint in abeyance. If the issue is not resolved in due process, ODRAS will go back to its investigation and resolve the issue. **If a complaint issue has previously been decided through the due process system**, that same issue will not be investigated as a complaint issue.

WHY WOULD ODRAS DISMISS A COMPLAINT WITHOUT AN INVESTIGATION?

Remember, investigations can only be completed when there is an allegation of violation of the *Individuals with Disabilities Education Act (IDEA)* or the *Virginia Regulations Governing Special Education Program for Students with Disabilities*. The complaint must state specific concern(s) or allegations and include the basis (supporting facts) for the allegation.

ODRAS may **dismiss** a complaint without an investigation for the following reasons:

- ✓ There are no allegations of special education regulation violations.
- ✓ The alleged violations take place more than 1 calendar year before the complaint was filed.
- ✓ The complaint includes no basis or facts to support the alleged IDEA/state regulations special education violations.
- ✓ The allegations in the complaint have been resolved by other means (early resolution, mediation, or due process).
- ✓ The allegations are vague and it is unclear to the specialist, what the complaint is alleging



Examples of Allegations and Supporting Facts for Students in K-12

EXAMPLE 1

Allegation: The school division held an IEP meeting without me.

IDEA and State Regulatory Violations: (Parent Participation) Parents must be provided an opportunity to participate in meetings. IDEA 34 CFR §300.322; related Virginia Special Education Regulation 8VAC20-81-110(E)

Supporting Facts: On October 3, 2022, the division contacted me and told me the date/time of my child's IEP meeting. I explained I could not meet at that time and gave them two other dates I could meet. I was told that the staff wasn't available on that day so the meeting would move forward without me. They held the meeting on November 15, 2022.

Proposed Solution: Provide 2 or more mutually acceptable dates to reconvene the IEP meeting and create a new IEP with parent participation.

EXAMPLE 2

Allegation: The school district predetermined placement for my child based on their disability.

IDEA and State Regulatory Violation: (Least Restrictive Environment). To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled. IDEA 34 CFR §300.114(a)(2)(i); related Virginia Special Education Regulation 8VAC20-81-130

Supporting Facts: Before the initial IEP meeting, I was told that my child would be placed in the special education program classroom because they have Down syndrome.

Proposed Solution: School district to receive training on IEP processes. Provide compensatory services to the student due to time outside of the general education classroom. I also want the IEP team to reconvene to address placement.

EXAMPLE 3

Allegation: The school district did not implement my child's assistive technology as included in the IEP.

IDEA and State Regulatory Violation: (Free Appropriate Public Education-FAPE and IEP Implementation) The district must ensure that assistive technology devices and services are made available to a student with a disability if it is required as a part of the student's special education, related services, or supplementary aids and services. IDEA 34 CFR §300.105; related Virginia State Regulation 8VAC20-81-100(E) and 8VAC20-81-100(B)(6)

Supporting Facts: My child is eligible for their IEP under the category of autism spectrum disorder with a secondary disability of speech-language impairment. The IEP team determined that my child requires two different types of assistive technology, one for reading and one for communicating. Neither has been provided for the past few months. I've included the emails that I sent to my child's case manager at the school about my child not receiving their assistive technology.

Proposed Solution: Provide the assistive technology included in my child's IEP. Provide compensatory services to make up for progress lost due to the lack of technology.

EXAMPLE 4

Allegation: The school district did not implement my child's IEP.

IDEA Violation and State Regulatory Violation: (FAPE and IEP Implementation) I believe the school district is not providing the services that are contained in my child's IEP. IDEA 34 CFR §300.17(d); related Virginia State Regulations 8VAC20-81-110(B)(6)

Supporting Facts: My child's last signed IEP includes 30 minutes per week of speech services. I have since discovered that my child hasn't been receiving speech services for the last 5 months. I've included the email that I sent to the school when I made this discovery.

Proposed Solution: Services to begin as soon as possible and compensatory services awarded to make up for the time that she has missed.

EXAMPLE 5

Allegation: The general education teachers refuse to accommodate my child's disability.

IDEA and Virginia State Regulation Violation: (FAPE) I believe that the school is not providing the accommodations included in my child's individualized education program (IEP). IDEA 34 CFR §300.105; related Virginia state regulation 8VAC20-81-100

Supporting Facts: My 11th-grade daughter has a specific learning disability. Her last signed IEP says she will have extra time to complete assignments and take tests in the resource room so they can be read to her. Her teachers lower her grade on assignments when she takes extra time to complete them and won't let her go to the resource room to take tests. I have included emails where I have communicated with the teachers the dates that my child was not allowed to go to the resource room to take her tests. Additionally, I have documentation on her work that states that her grade was lowered because she needed additional time.

Proposed Solution: Provide training to general education teachers to make sure they implement my child's IEP correctly. I would also like a review of any grades that may have been impacted by my daughter not receiving her agreed-upon accommodations.

The complaint process also applies to students with disabilities receiving **Early Childhood Special Education Services (ECSE)**. In Virginia, these services are available for children 2-5 years old. The same regulations apply to preschoolers as they do to K-12 students. See the following examples of complaints relating to young children with disabilities.



Examples of Allegations and Supporting Facts ECSE

EXAMPLE 1

Allegation: My child's Early Childhood Special Education Program did not complete comprehensive evaluations on my child.

IDEA and Virginia State Regulation Violation: (Initial Evaluation) The school did not perform related services evaluations in the initial evaluations. IDEA 34 CFR §300.301; related Virginia regulation 8VAC20-81-70

Supporting Facts: I requested, in writing, that the school district complete full, comprehensive evaluations to determine if my child was eligible for special education and related services. I requested specifically that related services evaluations be completed as well in my written request. The related services evaluations were not completed as part of the initial evaluation. I was not given Prior Written Notice explaining why these evaluations were refused.

Proposed Solution: Related services evaluations to be completed to determine if services are required. If they are required, I request compensatory services going back to the original eligibility date.

EXAMPLE 2

Allegation: My child's Early Childhood Special Education Program did not implement my child's IEP.

IDEA and Virginia State Regulation Violation: (FAPE and IEP Implementation) The school is not providing the services included in my child's IEP IDEA. 34 CFR §300.17; related state Virginia Regulation 8VAC20-81-100 and 8VAC20-81-100(B)(6).

Supporting Facts: My child's IEP states he will have four hours of service from a physical therapist per month, but he has never received more than two hours per month.

Proposed Solution: Begin providing the PT services in my child's IEP and determine the best plan of action to provide compensatory education for the PT services that my child has not received.

Sample Completed Virginia Department of Education Complaint Form

Virginia Department of Education
Division of Special Education and Student Services
Office of Dispute Resolution and Administrative Services
P. O. Box 2120
Richmond, Virginia 23218-2120
(804) 225-2013

STATE SPECIAL EDUCATION COMPLAINT FORM

PLEASE TYPE OR WRITE LEGIBLY A RESPONSE TO EACH QUESTION BELOW. THEN SIGN AND DATE THE FORM.

1. **Name of Person Filing Complaint¹:** Mary Downing
Address: 13620 Baker Street, Newtown, VA 22335
Email address (optional): Mdowning3323@mymail.com
Telephone: Home: 803-222-2222 Office: 703-333-3333
Relationship to student: Parent Citizen Attorney Advocate

2. **Full Name of Student:** Jacob Downing
School: XYZ School
School Division: Newtown
Student's Address: 13620 Baker Street, Newtown, VA 22335

In case of a homeless child or youth, please include any available contact information for the child.

3. **Subject(s) the Complaint Involves:** (Please include the disability area involved, and give a brief summary of what you allege to be the violation(s) of the special education regulations):
My son has spina bifida and an intellectual disability. He is supposed to have a one-on-one aide as written in his IEP and the school has not provided the aide or any other classroom support since the beginning of the school year (September 2022). This violates IDEA CFR 300.17, FAPE, and Virginia State Regulation 8VAC20-81-100.
4. **List persons you have already talked with to resolve this complaint, along with their response to your request.** I have called an IEP team meeting. I have spoken with the school special education coordinator. They all say they can't hire an aide. The school doesn't have the resources.

¹ If the person filing the complaint is not the child's parent, or if the child has reached the age of majority (18 in Virginia), this complaint should include a consent for the release of information, signed by the child's parent or the child if age 18 or older, to the complainant, before any information will be shared with that individual. If authorization for release of information is not provided, then no information will be shared with the complainant subsequent to the issuance of this office's Notice of Complaint in this matter.

5. **Provide a description of the nature of the problem, including facts relating to the problem here. Use additional sheets, if needed. Please number specific areas of concern if you can. Please include dates, where available. (Note: complaints must address an action that occurred not more than one year prior to the date the complaint was received by the Virginia Department of Education (VDOE).**

My son Jacob needs a one-on-one aide to assist him in navigating between and within the classrooms and to assist him physically in the classroom with things like turning pages, interacting with his peers, and completing his assignments. Last May 2022, a one-on-one aide was written into his IEP. When school started in September 2022, Jacob did not have an aide and as of today, he still does not have an aide. I am attaching a recording of a meeting in which I was told that the school did not have the resources to hire the aide. The relevant section is at 12 minutes and 42 seconds into the audiotape. I have also attached copies of my correspondence to the school division and their response back to me.

Note: you may include any documentation that supports your allegation(s) as an attachment to this form. Should audio recordings (cd or cassette tape) or video recordings (dvd or videotape) be submitted to support an allegation(s), there must be a reference made, either in the complaint document or on the recording label, as to where on the recording the supporting information is located.

6. **Provide a proposed resolution of the problem to the extent known and available.**

I would like the school to assign a one-on-one aide to work with Jacob as required in his IEP.²

A COPY OF THIS COMPLAINT, WHICH INCLUDES THE SUPPORTING DOCUMENTATION, MUST BE SIMULTANEOUSLY FORWARDED TO THE SCHOOL DIVISION.

7. **To satisfy the sufficiency standards established by federal and state regulations for processing of a state complaint, a copy of this complaint, along with the supporting documentation, must be simultaneously submitted to the school division. Please indicate below if this requirement has been met:**

YES NO

Signature (Required): *Mary Downing*

Date: 11/20/2022

MEDIATION

Mediation is offered at no cost to parents and school personnel. Mediation is encouraged and may be beneficial in your case. Please be advised, however, that mediation is a voluntary system for resolving disputes. Both parties must agree to mediate their issues prior to the initiation of the mediation process. Additional information regarding mediation is available on our office's website at: <https://www.doe.virginia.gov/programs-services/special-education/resolving-disputes/special-education-mediation>.

Please indicate your interest below concerning mediation as an option in resolving your complaint issues.

YES NO I am interested in mediation as an option in resolving my complaint issues.
 YES NO I decline mediation.

² Proposed resolutions are intended in part to assist the parent and school division in reaching early resolution of the complaint. Any corrective action that may be required in connection with the complaint is within the discretion of the VDOE. Certain actions that may be suggested, such as discipline or termination of school division personnel, are not within the VDOE's authority.

Sample Letter Complaint

VDOE Office of Dispute Resolution and Administrative Services

PO Box 2120

Richmond, VA 23218-2120

Dear Compliance Specialist,

I am filing this special education complaint and requesting that you investigate XYZ school division in the matter listed below concerning my daughter. Here is my contact information:

John Jackson, 9999 Xcalibur Road, Minuette, VA 22222

777-777-7777 (H) 888-888-8888 (mobile)

JJackson0000!@mymail.com

I am writing this complaint regarding services denied to my daughter who has an Individualized Education Program (IEP). Her information is as follows:

Jennifer Jackson

MySchool Elementary School

Minuette School Division

8888 MyRoad Drive, Minuette, VA 22222

Jennifer has autism and we are alleging a violation of Virginia state regulation 8VAC20-81-60, Referral for Initial Evaluation. Jennifer's eligibility determination process has gone well beyond the 65 business days from receipt of the referral, and we have not consented to any extensions.

My wife and I have spoken to the principal and assistant principal at what would be Jennifer's home school on multiple occasions. I have attached copies of correspondence between me and the school and my wife and the school documenting our continued concerns that the eligibility keeps getting delayed. They just make excuses as to being short-staffed, missing particular staff needed to conduct the evaluations, and even blaming COVID which should not be a factor at this time.

My daughter Jennifer turned 3 on March 12, 2022 and was supposed to be evaluated for early childhood special education services after exiting the Part C early intervention program. I signed the consent for the comprehensive eligibility evaluation on March 15, 2022 (see attached). The school was supposed to complete the eligibility process within 65 business days of having received the referral for eligibility evaluation. It is now November 2022, 8 months later and the eligibility has not been completed and my daughter is not receiving any services. The school told us they don't do evaluations during the summer. I don't know if that's legal or not but even accounting for that, they are well beyond 65 days. My daughter needs services to catch up to her non-disabled peers and the school has even said she will likely be found eligible.

We would request that the school be advised to complete the eligibility process expeditiously and assuming she is found eligible that Jennifer is awarded compensatory services for lost instructional time from the time that the 65-business day timeframe expired.

I am sending this complaint to ODRAS and to Minnette School Division at the same time. We are not currently interested in mediation. Thank you for looking into this.

John Jackson, 11/15/22



Blank Virginia Department of Education Complaint Form

Virginia Department of Education
Division of Special Education and Student Services
Office of Dispute Resolution and Administrative Services
P. O. Box 2120
Richmond, Virginia 23218-2120
(804) 225-2013

STATE SPECIAL EDUCATION COMPLAINT FORM

PLEASE TYPE OR WRITE LEGIBLY A RESPONSE TO EACH QUESTION BELOW. THEN SIGN AND DATE THE FORM.

1. **Name of Person Filing Complaint:**

Address:

Email address (optional):

Telephone: Home:

Office:

Relationship to student: Parent Citizen Attorney Advocate

2. **Full Name of Student:**

School:

School Division:

Student's Address:

In case of a homeless child or youth, please include any available contact information for the child.

3. **Subject(s) the Complaint Involves:** (Please include the disability area involved, and give a brief summary of what you allege to be the violation(s) of the special education regulations):

4. **List persons you have already talked with to resolve this complaint, along with their response to your request.**

5. Provide a description of the nature of the problem, including facts relating to the problem here. Use additional sheets, if needed. Please number specific areas of concern if you can. Please include dates, where available. (Note: complaints must address an action that occurred not more than one year prior to the date the complaint was received by the Virginia Department of Education (VDOE).

Note: you may include any documentation that supports your allegation(s) as an attachment to this form. Should audio recordings (cd or cassette tape) or video recordings (dvd or videotape) be submitted to support an allegation(s), there must be a reference made, either in the complaint document or on the recording label, as to where on the recording the supporting information is located.

6. Provide a proposed resolution of the problem to the extent known and available.¹

A COPY OF THIS COMPLAINT, WHICH INCLUDES THE SUPPORTING DOCUMENTATION, MUST BE SIMULTANEOUSLY FORWARDED TO THE SCHOOL DIVISION.

7. To satisfy the sufficiency standards established by federal and state regulations for processing of a state complaint, a copy of this complaint, along with the supporting documentation, must be simultaneously submitted to the school division. Please indicate below if this requirement has been met:
- YES NO

Signature (Required): _____

Date: _____

MEDIATION

Mediation is offered at no cost to parents and school personnel. Mediation is encouraged and may be beneficial in your case. Please be advised, however, that mediation is a voluntary system for resolving disputes. Both parties must agree to mediate their issues prior to the initiation of the mediation process. Additional information regarding mediation is available on our office's website at: <https://www.doe.virginia.gov/programs-services/special-education/resolving-disputes/special-education-mediation>.

Please indicate your interest below concerning mediation as an option in resolving your complaint issues.

_____ I am interested in mediation as an option in resolving my complaint issues.

_____ I decline mediation.

¹ Proposed resolutions are intended in part to assist the parent and school division in reaching early resolution of the complaint. Any corrective action that may be required in connection with the complaint is within the discretion of the VDOE. Certain actions that may be suggested, such as discipline or termination of school division personnel, are not within the VDOE's authority.

Glossary of Special Education Complaint-Related Terms

TERM	DEFINITION
Abeyance	Temporary inactivity or suspension
Appeal	Procedure in which the parent or school division asks that a review be done of the ODRAS complaint decision because they do not agree with the decision. An appeal to a complaint must be based on new information not previously available or on an error in law or fact.
Allegation	A statement describing how the school division or VDOE state-operated program has violated the Individuals with Disabilities Education Act federal regulations or the <i>Regulations Governing Special Education Programs for Students with Disabilities in Virginia</i> . An allegation has not yet been proven true.
CFR	The U.S. Code of Federal Regulations
Compensatory Services	Services provided by the school division to make up for the lack of appropriate services provided at an earlier time.
Complainant	The person(s) or organization(s) that files a special education complaint
Complaint	A written statement filed with the Office of Dispute Resolution and Administrative Services (ODRAS) alleging that a school division has violated one or more of the state and/or federal laws and regulations governing special education.
Compliance Specialist	ODRAS staff that review and investigate complaints and issue findings.
Continuing Violation	A continuing violation is based on actions that occurred in part within the last year but are part of a pattern of repeated conduct or a series of acts going back further. For example, repeated refusals to evaluate a student.
Corrective Action Plan (CAP)	A plan that the school division is required to implement if ODRAS staff find that the school division violated federal, or state regulations as alleged in the complaint.

Early Resolution System

A process that encourages both parties to come to an agreement to resolve the issues alleged in the complaint prior to an ODRAS investigation. It can include mediation.

Letter of Findings (LOF)

A letter issued by ODRAS staff that sets forth their determination on each allegation of a complaint in terms of whether the school division was compliant or non-compliant and the corrective action that ODRAS requires, if any.





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