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South Dakota Department of Education Complaint/Dispute Resolution Procedure

When individual parents, a community group, or members of the general public suspect that a school district or individual school may be violating a state administered program authorized under the Elementary and Secondary Education Act (ESEA), they have a right to file a complaint with the SD Department of Education (SEA). Since a complaint implies a lack of cooperation between the district (LEA) and the person or group with a grievance, it is advisable to first consult with the local school administration about the alleged violation. Only when this course of action fails to produce results should a formal complaint be filed with the SEA.

A formal complaint is a signed written statement by parents, teachers, or other concerned individual or organization. The statement must include an allegation that a requirement applicable to an ESEA program has been violated and a statement of facts that support the allegation.

Disputes addressing the enrollment, transportation (including inter-district disputes), and other barriers to the education of children and youth experiencing homelessness are also addressed under this procedure. Parents, guardians, and unaccompanied youth may initiate the dispute resolution process directly at the school they choose, as well as at the district or LEA homeless liaison's office. The parent or guardian or unaccompanied youth shall be provided with a written explanation of the school's decision including the rights of the parent, guardian, or youth to appeal the decision. Students should be provided with all services for which they are eligible while disputes are resolved.

The SEA has a legal responsibility for monitoring its ESEA programs sub recipients. In fulfilling this responsibility, the SEA must establish complaint procedures.

Local Level Filing of Complaints/Disputes

Complaints against State administered ESEA programs and expenditures may be received at the local and state level. The expeditious and reasonable handling of these complaints is necessary for the effective conduct of the program as well as to promote community understanding and

involvement. Complaints shall be translated into constructive suggestions and recommendations for improvement.

The following procedures are outlined for use at the LOCAL level for State administered ESEA programs. (Public Law 107-110) The local school district must broadly disseminate the policy to students, parents, teachers, and general stakeholders. The district must ensure that private school representatives are aware of the policy. (Private school representatives may make a complaint that the public school officials did not conduct the private school consultation process appropriately or did not implement a high quality program of sufficient size and scope.)

Complaints/Disputes Received by the Local Education Agency

Record Initiated – A written record containing information pertinent to both the source and nature of the complaint should be initiated.

Complaint Hearing – Within fifteen (15) days following receipt of complaint, a hearing concerning the complaint shall be held by a hearing committee. Recommendations of the committee shall address answering the complaint. The committee shall be appointed by the Superintendent. No less than two persons shall be assigned to the committee, preferably the local coordinator and a parent.

Hearing Minutes – Minutes of a complaint hearing shall be taken and maintained at the local education agency. A copy of such minutes along with committee recommendations and administrative action shall be filed with the SEA. The parent or guardian or unaccompanied youth shall be provided with a written explanation of the district's decision including the rights of the parent, guardian, or youth to appeal the decision to the SEA.

State Follow-Up – The SEA shall maintain a record of all complaint hearings.

The designated State Coordinator shall review the records of the complaint hearing and make contacts with the local educational agency regarding a follow-up and possible remedial action.

If the complaint is not resolved to mutual consent of both parties, then either party can appeal through the state level procedures.

Complaints/Disputes received by the State Educational Agency

When a signed written complaint or a complaint made in person by recorded deposition or statement is received by the South Dakota State Educational Agency (SEA) directly, or indirectly via other state or federal agencies, which alleges improper administration of a State administered ESEA program, the SEA shall make a timely investigation and disseminate findings and corrective actions taken by the SEA to the complainants and other interested parties.

Referral and Dispatch

All complaints shall be referred to the designated Coordinator of the South Dakota Department of Education for investigation and resolution.

The Coordinator shall acknowledge receipt of complaint with a statement that he/she is requesting review and comment from the district.

He/she shall send a letter with an attached copy of the complaint letter to the Superintendent of the affected district with a request for review and comment within fifteen (15) days. If the written complaint is anonymous, the response from the district shall be voluntary. The response shall be to the state designated Coordinator.

Upon receipt of the district response, a meeting shall be arranged with the State Coordinator and any other appropriate State staff to determine any further actions for resolution of the complaint.

If an on-site investigation is determined appropriate by the above group, a team shall be appointed by the Coordinator to make the investigation. Such team shall include no less than three persons nor more than five, and shall include either the Coordinator or a Program Specialist, either a parent or representative from an LEA not included in the complaint. Other persons on the team may include representatives from any division or section of the South Dakota Department of Education and/or representatives from a local school district. The team shall be charged with making a full investigation of the complaint and writing a report of the findings. This report should be filed with the State Coordinator.

Conduct of the Investigation

A time limit of 60 calendar days after the SEA has received the complaint has been established. An on-site investigation shall begin twenty (20) days from receipt of the complaint. Unless the investigating team leader can cite exceptional circumstances which require additional time, the investigation shall be completed within forty (40) days following receipt of the complaint.

During the course of the investigation, sufficient notes should be made or mechanically recorded of all testimony or evidence of witnesses to enable the team leader to write a full report.

In addition to testimony received from the complainant and his/her witnesses, the team shall investigate the allegations further by interviewing and questioning the local school administrator and staff, the school board members, or any other person who may be able to give information to expedite the investigation and resolution of the complaint.

Reports

At the close of the investigation, a final report shall be prepared by the team leader and submitted to the State designated Coordinator. The report shall include:

1. A summarization of the substance of the allegations in the complaint and the name of the individual citizens, group, or agency making the complaint.
2. A summary of the activities engaged in by the investigating team and summary of the findings.
3. A statement of recommended actions by the SEA to resolve the issues involved in the complaint.
4. The state Coordinator will issue the necessary directives to the LEA administration to resolve the complaint and to prepare a response to the SEA within fifteen (15) days indicating corrective action implemented. The parent or guardian or unaccompanied youth shall be provided with a written explanation of the SEA's decision and directives to the LEA.
5. Decisions of the SEA are final with the exception of complaints from private school representatives that may be appealed to the U.S. Secretary of Education.