Disability Rights WISCONSIN

Filing an IDEA State Complaint with the Department of Public Instruction

A Guide for Parents

This resource material is intended as a self-advocacy guide for people with disabilities. Nothing written here shall be understood to be legal advice. For specific legal advice, please contact an attorney.

Introduction

As a parent of a child receiving special education services, you have the right under the Individuals with Disabilities Education Act (IDEA) to engage in dispute resolution when you disagree with your child's school regarding their Individualized Education Program (IEP) and educational services. One form of dispute resolution is to file what is called a **"state complaint"** with Wisconsin's Department of Public Instruction (DPI).

Disability Rights Wisconsin has created this complaint template to guide you through the Department of Public Instruction Complaint process.

What is Disability Rights Wisconsin?

Disability Rights Wisconsin (DRW) is Wisconsin's state protection and advocacy agency. Our work is funded by federal grants to assist people with disabilities, including kids in special education. Disability Rights Wisconsin uses various strategies, including creating self-advocacy guides like this one, to help people with disabilities and their families to learn about their rights, and how to enforce them. Our organization can help people understand and exercise their individual rights, including the right to file a grievance or complaint.

1-800-928-8778 Toll Free | **disabilityrightswi.org**

What should I do if I disagree with my child's school?

When a parent and school find themselves in disagreement about the child's education, it is important to try to first resolve the dispute informally by communicating the issues with the Individualized Education Program team. If the child has an Individualized Education Program, parents can ask for a meeting with the team at any time to discuss the concerns.

If you can't resolve the issue at the informal level, there are dispute resolution options available. Alternative dispute resolution options include Individualized Education Program facilitation or mediation:
dpi.wi.gov/sped/dispute-resolution/wsems

If you believe the district has violated special education law, you may wish to exercise your right to file a Department of Public Instruction state complaint.

This guide is intended to assist parents in understanding the state complaint process and drafting an effective state complaint. This guide does not discuss the Due Process Complaint and Hearing procedure. If you are interested in pursuing Due Process, it may be beneficial to consult with an attorney, as the process is complex and may be difficult to manage without the assistance of an attorney or advocate. You can find more information about Due Process here:
dpi.wi.gov/sped/dispute-resolution/due-process

Note

Don't wait too long to file your complaint!

You must file a Department of Public Instruction Complaint within one year of the incident or alleged violation of special education law.

Learn more about your right to file a complaint and the complaint process:

dpi.wi.gov/sped/dispute-resolution/complain

Complaint Template

This template contains 3 sections (A - C) for a **Department of Public Instruction Complaint**:

- **A.** Complaint form with signature
- **B.** Complaint description, including:
  - i. Description of the student (name, age, grade, diagnosed disability)
  - ii. School and school district
  - iii. Description of the event or problem at school
  - iv. Violation(s) of special education law
  - v. Proposed resolution of the problem
- **C.** Supporting documents

State complaints don't have to be in this format, but this is one way to organize a complaint.



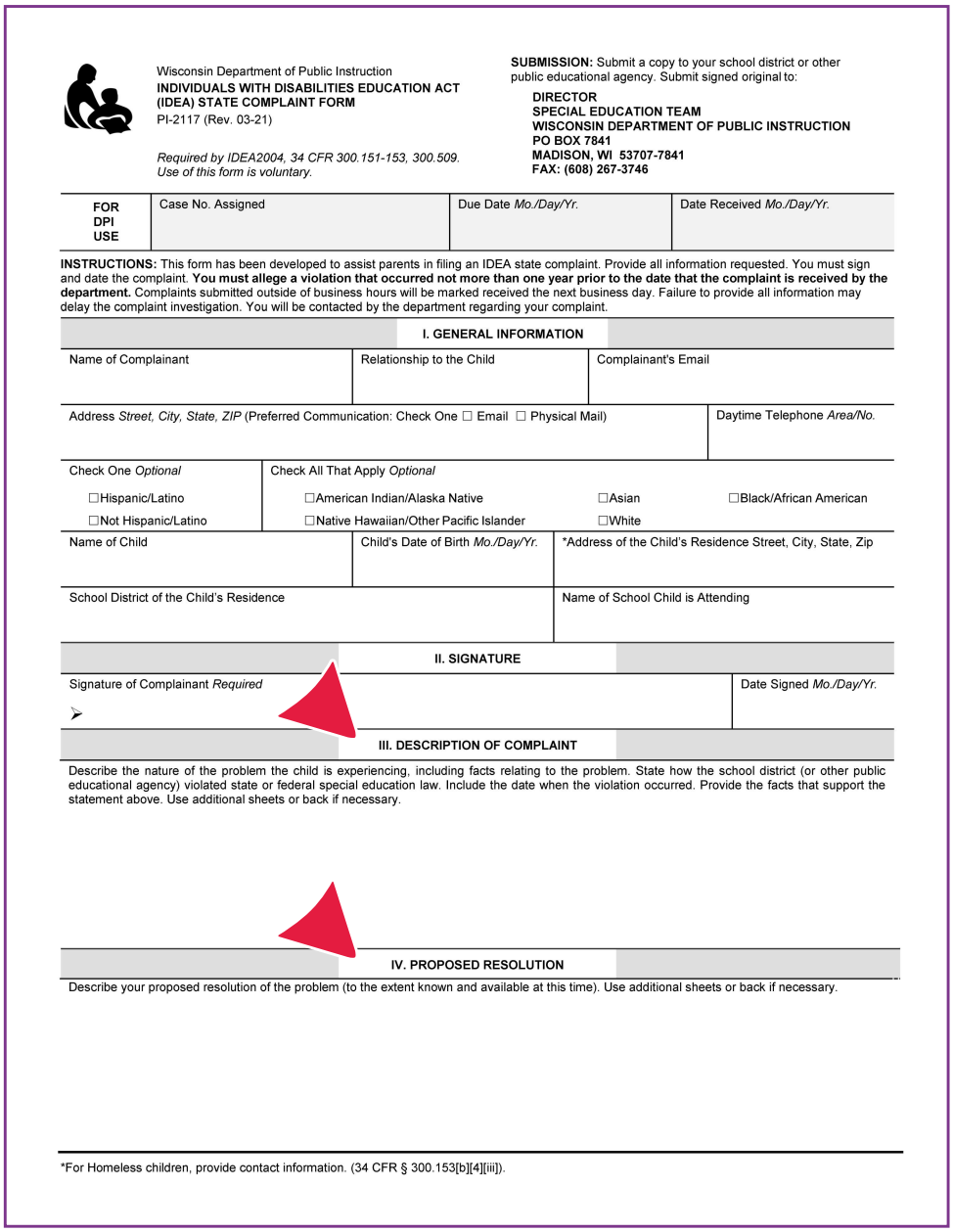
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A Complaint Form

The Department of Public Instruction's **Individuals with Disabilities Education Act (IDEA) State Complaint form** can be found here: dpi.wi.gov/media/13033

You do not have to use this form, but it may be helpful to make sure you include all necessary information.

The complaint form has sections for "Description of Complaint" and "Proposed Resolution." You can write out these sections on the form, but you will likely need to add additional typed or handwritten pages to adequately describe the issue.



Wisconsin Department of Public Instruction
INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA) STATE COMPLAINT FORM
PI-2117 (Rev. 03-21)

Required by IDEA2004, 34 CFR 300.151-153, 300.509. Use of this form is voluntary.

SUBMISSION: Submit a copy to your school district or other public educational agency. Submit signed original to:

DIRECTOR
SPECIAL EDUCATION TEAM
WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION
PO BOX 7841
MADISON, WI 53707-7841
FAX: (608) 267-3746

FOR DPI USE	Case No. Assigned	Due Date *Mo./Day/Yr.*	Date Received *Mo./Day/Yr.*

INSTRUCTIONS: This form has been developed to assist parents in filing an IDEA state complaint. Provide all information requested. You must sign and date the complaint. **You must allege a violation that occurred not more than one year prior to the date that the complaint is received by the department.** Complaints submitted outside of business hours will be marked received the next business day. Failure to provide all information may delay the complaint investigation. You will be contacted by the department regarding your complaint.

I. GENERAL INFORMATION

Name of Complainant	Relationship to the Child	Complainant's Email

Address *Street, City, State, ZIP* (Preferred Communication: Check One ☐ Email ☐ Physical Mail)	Daytime Telephone *Area/No.*

Check One *Optional*	Check All That Apply *Optional*		
☐Hispanic/Latino	☐American Indian/Alaska Native	☐Asian	☐Black/African American
☐Not Hispanic/Latino	☐Native Hawaiian/Other Pacific Islander	☐White	

Name of Child	Child's Date of Birth *Mo./Day/Yr.*	*Address of the Child's Residence Street, City, State, Zip

School District of the Child's Residence	Name of School Child is Attending

II. SIGNATURE

Signature of Complainant *Required*	Date Signed *Mo./Day/Yr.*
➢	

III. DESCRIPTION OF COMPLAINT

Describe the nature of the problem the child is experiencing, including facts relating to the problem. State how the school district (or other public educational agency) violated state or federal special education law. Include the date when the violation occurred. Provide the facts that support the statement above. Use additional sheets or back if necessary.

IV. PROPOSED RESOLUTION

Describe your proposed resolution of the problem (to the extent known and available at this time). Use additional sheets or back if necessary.

*For Homeless children, provide contact information. (34 CFR § 300.153[b][4][iii]).

B Complaint Description

1. Student

Use this section to describe who your child is and their disability-related needs. You may consider including the following:

- the child's name.
- the child's suspected and diagnosed disability or disabilities.
- any medical diagnoses.
- how the child's disability impacts their ability to access their education.
- any skill deficits and needs for supports and services determined by the child's Individualized Education Program team or treating medical professionals.
- services necessary for the child to access and progress in the general education curriculum or their education generally.

Example

Tom is a 13-year-old child diagnosed with Autism. He attends the [*school district name*] and is in the 7th grade. Tom has been receiving special education since first grade. He was evaluated and diagnosed with Autism when he was six years old by Dr. [*doctor's name*], at the [*clinic or facility name*]. Tom has significant challenges with communication and expressing his emotions. Tom has difficulty understanding the emotions of others. When Tom was little, he had difficulty playing with other children and was bothered by loud noises. Now that Tom is older, he becomes frustrated easily and continues to have challenges managing and understanding his feelings. Sometimes, Tom's behaviors and expressions of his feelings, emotions, and communication include crying, yelling, or leaving the space without asking for permission.

Tom receives individualized instruction to help him understand his feelings and express his needs. The supports in place are to prevent emotional dysregulation and behavioral challenges. Tom's Individualized Education Program team conducted a Functional Behavior Assessment (FBA) on [*date*] and developed a Behavior Intervention Plan (BIP) last year. The team agreed to increase adult support to help with behavior. Tom receives occupational and speech therapy.

Note

Information in your complaint should be supported by documentation if you have it available.

For this example, a parent could submit Tom's Individualized Education Plan, the results of the school's functional behavioral assessment evaluation, a copy of Tom's behavior intervention plan as well as any outside clinical assessments, if the parent has those documents.

2. Problem or Event

This section should describe the incident or series of events related to the issue with the district. You can include what action(s) by the school district have led to the alleged violations of your child's rights. You can refer directly to the supporting documentation, such as Individualized Education Programs, Manifestation Determinations, emails, etc. Use supporting documentation (see section (C) below) to reference throughout your description of events. Adding page numbers to your documentation will allow you to easily refer to documents throughout the complaint description.

Example

The [*school district name*] conducted a Manifestation Determination for Tom on [*date*] and later expelled him for fighting with another student in the hallway after school. The incident was described by the school as follows: [*quote from document here*] (See [*title of document*], p. *X*).

Note

If your complaint is complex, it may be helpful to make a written timeline to track multiple events.

This creates a visual aid to help the Department of Public Instruction investigator understand what happened. The district must also comply with certain timelines in special education law, so a written timeline can help demonstrate a violation or series of violations that may have occurred.

3. Violations of Special Education Law

This section should identify the law(s) you believe the school district violated and how. A comprehensive guide to special education laws can be found here: dpi.wi.gov/sites/default/files/imce/sped/pdf/spec-ed-plain-lang-english.pdf

Helpful overviews of special education law can be found by topic here: dpi.wi.gov/sped/laws-procedures-bulletins/bulletins

Topics include:

- Special Education Evaluations
- Free Appropriate Public Education (FAPE)
- Least Restrictive Environment (LRE)
- Manifestation Determinations

Note

If you have more than one issue you are addressing in your complaint, it may be helpful to number and describe each one separately.

Example

1. The school failed to follow Tom's Behavior Intervention Plan that helps prevent him from escalating. Due to their failure, Tom was inappropriately restrained resulting in emotional harm. As a result, Tom requires extra therapy sessions to help him work through his anxiety. Since the inappropriate restraint, Tom cries every morning and says he does not like school anymore.
2. The school failed to reconvene Tom's Individualized Education Program team after he was inappropriately restrained on [*date*].

4. Proposed Remedy or Resolution

To resolve the violation(s) you are alleging, you may request specific remedies in your complaint. Some available remedies that may be applicable include:

- relevant staff training.
- convening an Individualized Education Program meeting to reconsider or discuss a certain issue.
- conducting a re-evaluation of the child or obtaining reimbursement by the school district for an independent educational evaluation.
- implementation of the child's Individualized Education Program with fidelity.
- returning the child to their educational placement (if you are alleging the child was improperly removed or has been segregated from their peers for reasons that are not included in the Individualized Education Program).
- compensatory education or services for all periods when the child was entitled to educational services by the district.
- other and further remedies as the Department of Public Instruction deems proper (always include).

Note

Ask yourself what you believe is necessary to resolve the issue(s) stated in your complaint.

Is there something you feel the teachers need to be able to meet the student's needs? Is there something the district can provide to make up for educational opportunities your child lost due to the district's actions? Any remedies sought should be reasonable, relevant to your complaint, and based on your child's disability-related needs.

Keep in mind that educational remedies under the Individuals with Disabilities Education Act are different from financial damages in civil lawsuits, which are not addressed through the state complaint administrative process.

Note

Parents may be tempted to use Artificial Intelligence (AI) apps to help write their complaint. The Department of Public Instruction allows this, but it's important to remember that entering your child's confidential information into AI shares their information with the AI company.

See DPI's *Guidance for use of Generative Artificial Intelligence (AI)* here: dpi.wi.gov/sped/dispute-resolution/complain

C Supporting Documents

The Department of Public Instruction's role is to investigate your complaint and determine if the district violated special education law. It is important for the investigator to have all documents necessary to thoroughly investigate your complaint. Remember that the Department of Public Instruction investigator does not know you or your child, or what the problem is – so documentation is crucial for them to understand the issue.

Tip

Taking the time to organize your documents before you start writing your complaint will save you time, providing you quick access to what you need when you need it.

Adding page numbers to your documents will make them easy to reference throughout your complaint.

In this section, you can make a numbered or bullet point list of documents you are submitting with your complaint. If you have already organized your child's records, the documents will be accessible and ready to copy. You may include any documentation that supports the statements in your complaint. Some examples of supporting documentation include:

- the child's current and past Individualized Education Programs.
- Behavioral Intervention Plans.
- educational evaluations, including Functional Behavior Assessments.
- copies of medical evaluations.

- relevant report cards and progress reports.
- attendance records.
- behavioral or incident reports.
- disciplinary records.
- suspension and / or expulsion notices.
- seclusion and restraint reports.
- copies of emails or text messages between you and district staff.

Sending Your Complaint to the Department of Public Instruction

You must send a copy of your complaint to both the school district and the Department of Public Instruction. You can send the complaint to the department:

by mail:

Director
Special Education Team
Wisconsin Department of Public Instruction
P.O. Box 7841
Madison, WI 53707-7841

by e-mail: idea@dpi.wi.gov

by fax: 608-267-3746

Note

Be sure to send the district's copy of the complaint by mail to the district offices or by email to the school's principal, the district superintendent, or the Special Education Director.

If sending by mail, you should request a mailing receipt or mail the complaint via certified mail.

What Happens After You Send Your Complaint to the Department of Public Instruction?

The Department of Public Instruction will send you and the district a complaint acknowledgment after receiving the complaint. You can follow up with the department if you don't receive an acknowledgement within two weeks of filing.

The department will assign an investigator to your complaint. The investigator will interview district staff and request records. They will also contact you to collect more information and possibly do an interview.

The Department of Public Instruction has 60 days to make a decision on your complaint. Their decision will be in a written letter sent to you. If the department finds that the district violated special education law, they may order the district to take corrective action – which can come in the form of re-doing a meeting, ordering compensatory services, considering alternative placements, etc.

Tip

After the school district receives your complaint, they may reach out to you and ask to mediate the issue.

Whether or not you participate in mediation is up to you. Keep in mind that mediating will usually result in putting a pause on Department of Public Instruction's 60-day decision timeline.

Additional Resources

- **For a guide to special education laws, policies, and practices in Wisconsin,** read the Special Education in Plain Language handbook by the Wisconsin Department of Public Instruction:
  dpi.wi.gov/sites/default/files/imce/sped/pdf/spec-ed-plain-lang-english.pdf

- **For more information on how to write letters and complaints** to the school district, read "The Art of Writing Letters":
  www.wrightslaw.com/advoc/articles/DRAFT_Letters.html

- **For more information on organizing your child's educational records,** read "Organizing Your Child's Special Education File: Do It Right":
  www.fetaweb.com/03/organize.file.htm

- **For an example of a Department of Public Instruction complaint decision requiring the child's Individualized Education Program team to meet to discuss compensatory services,** read "IDEA Complaint Decision 15-053": dpi.wi.gov/sped/idea-complaint-decision-15-053