

Disability Rights Nebraska

Protection and Advocacy for People with Disabilities

Filing a Complaint with the Nebraska Department of Education

This is an informal guide that gives general information on how to file a complaint with the Nebraska Department of Education (NDE). You may wish to file a complaint if you are not satisfied with your child's school district and their decisions regarding:

- Whether your child is identified as a "child with a disability."
- Whether, after an evaluation of your child, your child should receive special education services.
- The educational placement of your child.
- Whether the school district is providing a free appropriate public education to your child¹.

The complaint must include a statement that your child's school or other public agency has violated Rule 51 (Title 92, Nebraska Administrative Code, Chapter 51), 34 CFR 300, or Part B of the Individuals with Disabilities Education Act IDEA².

You may wish to file a complaint if you feel that the school district is not complying with Nebraska or federal laws. The complaint must state that a violation(s) of your child's special education rights has occurred and include a description of the violation(s)³.

Following the receipt of a complaint, the NDE staff will give your child's school district a chance to respond. That response can include

- A proposal to resolve the complaint, and
- The opportunity for you and the school district to engage in mediation⁴.

Additionally, the Office of Special Education will conduct an investigation. If your complaint is substantiated, the Office of Special Education will notify the school district of what actions they must follow to correct the situation⁵.

¹ Rule 51 sec. 009.11 (2017)

² Rule 51 sec. 009.11B1 (2017)

³ Rule 51 sec. 009.11B2; sec. 009.11B4d (2017)

⁴ Rule 51 sec. 009.11C2b (2017)

⁵ Rule 51 sec. 009.11C3; 009.11C6 (2017)

The procedures for the complaint can be found in Title 92, Nebraska Administrative Code, Chapter 51, otherwise referred to as "Rule 51." You can request a copy of Rule 51 from the Nebraska Department of Education by calling (402) 471-2295 and asking for the Nebraska Department of Education. Rule 51 is also available on the Nebraska Department of Education website at https://cdn.education.ne.gov/wp-content/uploads/2017/10/Rule51_2017.pdf. This guide is not intended to be all-inclusive. If you have any questions about the application of Rule 51 to the particular facts of your case, please contact our office.

Your complaint should be mailed to:

Complaint Investigator
Nebraska Department of Education
Office of Special Education
505A Broadway, Suite 500
Scottsbluff, NE 69361

You should also fill out the state complaint form, which is available through the Nebraska Education Department website. Select Special Education, and then select Dispute Resolution. Then select the "Sample State Complaint Form," which is available here: <https://www.education.ne.gov/wp-content/uploads/2017/07/StateComplaintForm.pdf>

You can include a letter with your complaint form, which should include the following:

- The school district that is responsible for your child's special education services including the name, address, and school of your child.
- A detailed explanation of the specific facts that give rise to you filing the complaint. When possible, give specific dates and names of persons involved in the events you describe.
- An explanation of all attempts you have made to resolve the matter. Give specific dates and names of persons involved. Include what the school's response has been to these attempts, and point out that the problems have continued.
- Describe, specifically, how the ongoing problems are in violation of the school district's responsibility by citing the appropriate section(s) of Rule 51.
- A copy of your child's Individual Education Program (IEP) documentation. You may also wish to include any copies of other documentation that supports your claim. This may include: correspondence to or from school personnel, Student Assistance Team (SAT) documents, Multi-Disciplinary Team (MDT) evaluation reports, or disciplinary documents or reports.

- Your address, phone number, and signature and the name and address of your child⁶.

Additional resources:

- Rule 51, Regulations and Standards for Special Education Programs - Nebraska Department of Education (January 2017).
- IDEA Part B Parents' Rights in Special Education (Age 3-21) - Nebraska Department of Education, Office of Special Education (August 2018).

Sample Letter

You may wish to use similar language when sending a letter to accompany your complaint form to the Nebraska Department of Education:

Complaint Investigator
Nebraska Department of Education
Office of Special Education
505A Broadway, Suite 500
Scottsbluff, NE 69361

Re: [Your child's name] – Formal Complaint to the Nebraska Department of Education

Dear Compliance Officer:

This is a formal complaint regarding the denial of Special Education Services to my child, [insert your child's name, address and the school they attend]. The [insert the school district's name and address] School District has not provided the services for which they are responsible under Rule 51 section [insert appropriate Rule 51 section number].

For example, on this date [insert date of incident that gives rise to filing of the complaint], this incident occurred [insert incident and facts that gives rise to filing of the

⁶ Rule 51 sec. 009.11B (2017)

complaint. Also include the names of any persons involved]. I have attempted to resolve the matter informally on these dates [insert dates] by [insert your actions, for example, contacting and meeting with the school principal]. The school has responded by [insert what the school told you they would or would not do to resolve the matter]. However, the problems have continued and are ongoing.

I have attached relevant documentation to support this claim. I look forward to your response in resolving this matter promptly. You can contact me at home and/or at work [insert your home and/or work phone numbers and addresses].

I appreciate your prompt attention to this request and ask that you respond in writing by [Insert a date two (2) weeks from the time mailed], and that the meeting be held by [Insert a date five to ten days later than the previous date]. Thank you.

Sincerely,
[Your signature]

[Your Name]
[Your Address]
[Your City, State, Zip]
[Your Phone Number]