



**TESTIMONY OF EDUCATION LAW CENTER
ON STATE SPECIAL EDUCATION OVERSIGHT**

ASSEMBLY EDUCATION COMMITTEE
May 7, 2026

Thank you, Chair Reynolds-Jackson, Vice-Chair Bagolie, and members of the Assembly Education Committee, for accepting the testimony of Education Law Center (ELC) on the State's monitoring, oversight, and investigation of special education services issues in school districts. I am Elizabeth Athos, a senior attorney at ELC, and special education has been part of my work portfolio at ELC for nearly 30 years.

As I'm sure you know, the delivery of special education services is largely governed by the federal Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400 *et seq.*, although New Jersey has added some of its own laws to enhance those services, N.J.S.A. 18A:46-1 *et seq.* IDEA was enacted over 50 years ago to remediate the exclusion of millions of students with disabilities from our public schools. 20 U.S.C. 1400 (c)(2). The law created both procedural and substantive rights for students and their parents, recognizing that parental participation was an important key to serving students well. 20 U.S.C. 1400(c)(5). Among those rights are access to dispute resolution systems to challenge school districts when they don't follow special education laws or fail to offer appropriate educational services in the least restrictive environment, as required by both federal and state law. 20 U.S.C. 1415.

Congress assigned to state educational agencies, in this case the New Jersey Department of Education's Office of Special Education (OSE), general supervisory and monitoring responsibility for ensuring all aspects of the IDEA are properly implemented, 20 U.S.C. §§1412(a)(11)(A), 1416(a)(1)(C), 34 C.F.R. 300.149, 300.600, including implementation of its dispute resolution system, 20 U.S.C. §§1415(a), (b)(6), 1412(a)(11)(A). *See also Beth V. v. Carroll*, 87 F.3d 80, 82 (3d Cir. 1996) (IDEA places primary responsibility on states).

My comments today will focus on the state complaint process, N.J.A.C. 6A:14-9.2, a form of dispute resolution available under IDEA, 34 C.F.R. 300.151-153, which is intended as a less costly and litigious alternative to special education due process hearings. To succeed in due process – which is an evidentiary hearing conducted at the Office of Administrative Law (OAL) before an Administrative Law Judge – generally



requires resources and sophistication. Without a lawyer and expert witnesses, it can be virtually impossible for parents to succeed.

Although the federal Office of Special Education Programs has consistently required that state complaints examine whether students are receiving appropriate services, not simply whether procedural rules have been followed (*see, e.g., [Dispute Resolution Procedures under Part B of the Individuals with Disabilities Education Act \(Part B\)](#)*, United States Department of Education (US ED), Office of Special Education and Rehabilitation Services (July 23, 2013) (Q&A B-2, B-7)), that has not consistently happened in New Jersey. Our state was found out of compliance by the federal government in March 2012 and ordered back then to address substantive disagreements regarding a particular child's educational program. However, it was only in response to a complaint by ELC that OSE entered into a mediation agreement in 2023 in which it revised its forms, policies, and procedures manuals to make it clear that complaints alleging a violation of a free appropriate public education – so-called FAPE violations – can be addressed through the complaint investigation process. And yet, we continue to see issues arising where parents attempt to use the state complaint process but don't get a meaningful remedy, even when a district is found to be noncompliant. It is not uncommon for OSE to send a parent back to the IEP team responsible for developing their child's inappropriate IEP to determine "whether compensatory services are warranted" instead of OSE making that determination itself.

National statistics by the [Center for Appropriate Dispute Resolution in Special Education](#) suggest that complaint investigation is an underutilized resource in NJ. For the 2023-24 school year, CADRE reported only 10.9% of disputes went through the written State complaint process, while 43.6% went through due process, and another 45.6% through mediation. According to CADRE's data, 10.9% of cases equaled 9.2 per 10,000 students filing state complaints in New Jersey. This is a far lower number than other northeastern states: out of 10,000 students, the number of state complaint filings was 23.5 in Connecticut, 24.6 in Maryland, 50 in Vermont, and 74.2 in Massachusetts.

ELC is here today to request that the Legislature dedicate more resources and require more training of investigators for adequate complaint investigation at the state level. We make this request for two reasons. First, we need a system that is a viable alternative to protect the rights of students whose parents don't have the sophistication and resources to go to due process. Second, effectively using the complaint process affords the state the opportunity to address systemic problems that may arise in particular districts or through misinterpretation of particular requirements and, in ELC's



view, will ultimately lead to a reduction in our state's due process filings, which historically have been more cost-intensive and taken longer to conclude.

But along with more resources and training of complaint investigators, there are additional legislative reforms needed to strengthen the complaint investigation system:

- 1) Require investigators to share documents and information provided by districts with complaining parents and afford parents an opportunity to respond, to ensure more accurate results and improve family confidence in the system;
- 2) Require OSE to determine and order specific meaningful relief, such as the amount and type of compensatory services, rather than delegating those decisions back to the offending school district or charter school;
- 3) Require OSE to post all complaint investigation decisions on its website so the rules of the game are clear to all parents and school staff, comparable to what this Legislature required for due process hearing decisions in 2017 (N.J.S.A. 18A:46-1.2); and
- 4) Require OSE to enforce the Corrective Action Plans ordered in its state complaint decisions, just as it assumes responsibility for enforcing mediation agreements and OAL decisions. I recently checked DOE's website – there are links to forms to request enforcement of mediation agreements and due process decisions but not state complaint determinations.

In passing the predecessor to IDEA, Congress recognized that disability is a natural part of human experience and that ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities is in our national interest. 20 U.S.C. 1400 (c)(1). The state's robust enforcement of appropriate and effective special education services will improve outcomes for students with disabilities and will make all of us stronger as a state.

We thank the members of the Committee for your consideration of these comments. Please do not hesitate to contact Elizabeth Athos, Senior Attorney for Educational Equity, at eathos@edlawcenter.org or (973) 624-1815, ext. 200, for additional information or to answer any questions.