



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

January 2, 2017

REDACTED

Dear XXXXXX:

This letter responds to your August 29, 2016 electronic mail (email) correspondence to Rebecca Walawender, Deputy Director, Monitoring and State Improvement Planning Division, Office of Special Education Programs (OSEP).¹ You have asked whether it is permissible for a parent to file a due process complaint against a State educational agency (SEA). We note that you raise this question in connection with a due process complaint filed under the Individuals with Disabilities Education Act's (IDEA's) due process procedures (34 CFR §§300.507-300.516 and 300.532-300.533). Generally, it is not OSEP's practice to comment on the merits or factual accuracy of a due process complaint. However, we will respond to your general question about whether a parent may file a due process complaint against an SEA.

OSEP stated in its February 15, 2012 verification letter to the State of New Mexico that a parent may file a due process complaint against an SEA and the hearing officer has the authority to determine, based on the individual facts and circumstances in the case, whether the SEA is a proper party to the due process hearing. This document is available at:
<http://www2.ed.gov/fund/data/report/idea/partbvvltr/index.html#nm>.

This issue is also addressed in the Office of Special Education and Rehabilitative Services' *Questions and Answers on IDEA Part B Dispute Resolution Procedures* (July 23, 2013), Question C-17, which states: "[u]nder the IDEA, hearing officers have complete authority to determine the sufficiency of all due process complaints filed and to determine jurisdiction of issues raised in due process complaints consistent with 34 CFR §§300.508(d) and 300.513." This document is available at:
<https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqfinalmemo-7-23-13.pdf>. A party aggrieved by the hearing officer's decision may request a State-level review, if applicable, or bring a civil action in an appropriate State or Federal court. See 34 CFR §§300.514 and 300.516.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U.S. Department of Education of the IDEA in the context of the specific facts presented.

¹ We note that OSEP provided a response to your question via email on October 24, 2016. OSEP issues this letter to provide broader dissemination of the information shared in that response.

If you have any further questions, you may contact Rebecca Walawender of my staff, at 202-245-7399 or by email at Rebecca.Walawender@ed.gov.

Sincerely,

/s/

Ruth E. Ryder
Acting Director
Office of Special Education Programs