

COMPARISON OF WRITTEN STATE COMPLAINTS AND REQUESTS FOR DUE PROCESS HEARINGS

	Written State Complaint	Request for a Due Process Hearing
What is it?	A written document used to communicate that a public agency (e.g., school district) has not followed the IDEA, and to request an investigation.	A process used to resolve a formal complaint made by a parent or public agency (e.g., school district), who are together referred to as “the parties.”
Who can file?	Any person or organization may file a written state complaint.	A parent or school district may file a due process complaint/hearing request.
What issues?	Available anytime there is a concern that a public agency violated the requirements of federal or state special education statutes or regulations with respect to a particular child or system-wide.	Used to resolve disagreements relating to the identification, evaluation, educational placement or provision of a free, appropriate public education (FAPE) to a child who needs or is suspected of needing special education and related services.
Time frame?	Written state complaints must allege a violation that occurred not more than one year prior to the date that the complaint is received.	A request for a due process hearing must be filed within two years of the date the petitioner knew or should have known of the action being challenged through due process.
Decision maker?	The state is responsible for ensuring that an investigation is done, if necessary, and a decision is made about the complaint.	An administrative law judge makes the decision.
What is the process?	<p>An investigator:</p> <ul style="list-style-type: none"> • Reviews information related to the complaint. • May interview individuals related to the complaint. • Makes findings and a determination based on applicable law <p>The written decision must be issued no later than 60 calendar days from the date the complaint was filed, unless the timeline is extended.</p>	<p>An administrative law judge:</p> <ul style="list-style-type: none"> • Oversees the hearing timeline, including all pre-hearing activities. • Conducts the hearing and manages procedural matters. • Uses applicable law to write a decision based on evidence and testimony presented at the hearing. <p>The written decision must be issued within 45 calendar days from the end of the resolution period, unless a party requests a specific extension of the timeline.</p>
Stay-Put?	There is no entitlement to “stay-put” following the filing of a written state complaint.	From the date that the complaint is filed until the decision is final, the child stays in his or her current educational placement, unless the parent and the school district agree otherwise – this is called “pendency” or “stay-put.”

