

Procedure Title: State Complaint Procedures for Restraint and Seclusion	Procedure Number: C-7
OEC Section: Dispute Resolution	Director Approval: Jo Hannah Ward and Jennifer Vargo
Effective Date: June 24, 2021	
Review Dates: June 24, 2026	

I. What is a restraint and seclusion state complaint?

A complaint is a signed, written statement alleging that a local education agency (hereinafter referred to as “district”) or the Ohio Department of Education (the Department) violated a requirement of the [Ohio Administrative Code \(OAC\) 3301-35-15](#) (G-K), which addresses requirements regarding restraint and seclusion of students.

II. How can I file a complaint about restraint and seclusion?

1. A signed, written complaint may be filed by a parent or guardian. The complaint can may also be submitted electronically.
2. The signed, written complaint must be mailed via United States Postal Service or electronically sent to:

Ohio Department of Education
Office for Exceptional Children
Dispute Resolution Section
25 South Front Street, Mail Stop 409
Columbus, OH 43215

OEC-Dispute-Resolution@education.ohio.gov
3. The Ohio Department of Education, Office for Exceptional Children (OEC) will not accept:
 - a. Complaints that do not contain a signature.
 - b. Anonymous complaints.
4. A copy of the complaint must be sent by the complainant (the parent or guardian) to the superintendent, or the superintendent’s designee, of the school district against whom the complaint is being filed.
5. The complaint must include:

- a. A statement that the public school district has violated a requirement of the [OAC 3301-35-15](#) (G-K) in which the violation occurred not more than one calendar year prior to the date the complaint is received by the OEC;
 - b. Allegations supported by evidence (*Please note: the evidence refers to the **facts** on which the statement of alleged violation(s) is based*).
 - c. A signature and contact information for the complainant.
 - d. A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed. Please note that the proposed resolution will be taken into consideration; however, the final resolution of the complaint will be determined by the OEC.
 - e. Specific information with respect to the child:
 - i. The name of the child involved in the complaint.
 - ii. The address of the child.
 - iii. In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434(a)(2)), available contact information for the child.
 - iv. If the child is identified as a student with a disability under the Individuals with Disabilities Education Act (IDEA) at 34 CFR (300.8).
 - v. The name of the school district and the name of the school the child attends; and
 - vi. The grade of the child.
6. Once a complaint is filed, a complaining party cannot amend the complaint or add issues to the complaint. A complaining party may file an additional complaint with the new issues.

III. What happens once ODE OEC receives my complaint?

1. The most desirable method to resolve a complaint is for the parent/guardian and the education agency to work together to come to a mutual agreement in the best interest of the student, prior to the filing of a formal complaint about restraint or seclusion. Additionally, each district has a procedure in place for a parent to present a written complaint to the superintendent of the district to initiate an investigation regarding a parent's concerns about the restraint or seclusion incident. Within 30 days of the filing of a complaint to the district superintendent, it is the district's responsibility to make reasonable efforts to have an in-person follow up meeting with the parent. However, a state complaint can be filed at any time, or if the parent/guardian is unable to work through their issues.

2. Sufficiency: Upon receipt of a complaint, OEC will determine whether the complaint is sufficient. If the complaint is determined insufficient either in whole, or in part, because it does not contain the required elements listed in (II)(5)(a)-(e) above, OEC shall provide notice via United States Postal Service and electronic mail to the complainant that sets forth:
 - a. The reason(s) for the determination of insufficiency (Note: the insufficiency letter will include an explanation of the information that is needed to make the complaint sufficient, unless the complaint has been determined insufficient for lack of jurisdiction);
 - b. A statement that the complaint cannot go forward on items that are insufficient until a complaint is filed that meets the requirements of [Section 3301-35-15](#)(G-K) of the Ohio administrative code (Note: when some complaint issues are insufficient, OEC shall proceed with the portions of the complaint that are sufficient.);
 - c. A statement that the complaint (or the portion of the complaint that is insufficient) may be re-filed if it is sufficient within one calendar year of the occurrence of the event that is the subject of the complaint.
 - d. A notice of resources to assist parents who are not represented by counsel in completing complaints and correcting deficiencies included in the determination of insufficiency including, but not limited to, the contact information for Disability Rights Ohio and the Ohio Coalition for the Education of Children with Disabilities (OCECD);
 - e. OEC will not find a complaint insufficient for minor errors or omissions. If the complaint is missing an element, the OEC will contact the complainant and inform the complainant that an element is missing. The complainant will then have five business days from the point of contact with OEC to forward the necessary information to OEC. If the missing element is not forwarded to OEC within five business days, the complaint will be closed, and the complainant will be informed of the closure by letter. Please note that the 90-day timeline will not begin until a complaint has all required elements.
 - f. If any part of the complaint contains allegations that a district or the Department violated a requirement of the *Individuals with Disabilities Education Act (IDEA)* or the *Ohio Operating Standards for the Education of Children with Disabilities*, it will be investigated split into two parts as follows:
 - i. The issues regarding the IDEA will be investigated according to [Part 34, Section 300.153 of the C.F.R. \(Filing a complaint\)](#) and the Department's State Complaint Procedures; and
 - ii. The issues about the use of restraint and seclusion will be investigated according to part (L) of the [OAC 3301-35-15](#).
3. A person who files a complaint and who requests assistance in making a sufficient complaint, including assistance to parents with disabilities and parents who are not English proficient, will be provided notice of resources to assist them in completing a sufficient complaint.

4. Once a letter of complaint is received, it is assigned a complaint number and an acknowledgment packet is sent to the individual who filed the complaint.
 - a. The acknowledgment packet will also be sent to the following parties:
 - i. The student, if the student has reached the age of majority; and
 - ii. The superintendent of the school district (or the superintendent's designee).
 - b. The acknowledgment packet will include the following information:
 - i. A copy of the original complaint.
 - ii. Notice of the date that OEC received the complaint.
 - iii. Identification of the assigned OEC staff for the complaint.
5. The investigator assigned to the complaint will contact the parent or guardian to determine:
 - a. The complaint issues and whether OEC has the authority to investigate the identified issues.
 - b. Once the issues to be investigated have been determined, OEC will ascertain which law(s) has been allegedly violated and which legal citations will be used in the investigation.

IV. How will my complaint be resolved?

1. The OEC will investigate the complaint which will include a review of all relevant documentation and may include an on-site investigation. When investigating a complaint, OEC will:
 - a. Conduct an independent on-site investigation if OEC determines that an on-site investigation is necessary;
 - b. Give the parent/guardian the opportunity to:
 - i. Submit additional information in writing;
 - ii. Respond to questions through an oral telephone interview; and/or
 - iii. Provide a written or recorded response to investigator questions if preferred by the complainant or when ongoing attempts at phone interviews are determined to be ineffective by the OEC Director.

Telephone interview(s) are the preferred means of receiving complainant responses to investigator questions except in unusual instances where the subject matter of the complaint is such that the complainant has no personal knowledge that is relevant to the investigation of the complaint.
 - c. Provide the district with the opportunity to respond to the complaint;
 - d. Review all relevant education documentation (such as restraint/ seclusion forms, documentation regarding communication of restraint/ seclusion or meeting minutes or notes regarding incidents of restraint and seclusion) and any additional information provided to OEC by the parties to the complaint) in

order to resolve the complaint, so long as the information is provided within the designated timelines;

- e. Review all relevant information needed to make an independent determination as to whether the district is violating a requirement of [OAC 3301-35-15](#) (G-K);
 - f. Issue a written decision that addresses each allegation, contains findings of fact, draws a conclusion as to whether or not the district is in compliance regarding the alleged issues and provides rationale/analysis for the decision; and
 - g. Send a written decision simultaneously to the superintendent of the district (or the superintendent's designee), the parent/guardian, and the student who has reached the age of majority summarizing the complaint issues and results of OEC's investigation. The written decision shall address the following:
 - i. If the district is found in compliance, the complaint file is closed.
 - ii. If the district is found in noncompliance, the letter shall specify the required corrective action(s) to be taken by the district. The complaint file remains open until corrective action is completed. The letter will specify a required date for correction as determined by the OEC but shall not exceed one year.
2. Complaint extensions
 - a. OEC will issue a decision letter within 90 days from the date the complaint was received by the OEC Dispute Resolution Section unless an extension is granted. OEC may extend the timeline where exceptional circumstances exist with respect to a particular complaint;
 - b. OEC will send a letter informing the parties of an extension of the 90 day time limit for exceptional circumstances which will include the basis for the extension. The timeline will be extended for the minimum time necessary to overcome the exceptional circumstance.

V. What happens if the district is found in noncompliance?

1. Upon the conclusion of the investigation, the OEC will issue a letter of findings of OEC will outline the corrective action required by the district to address the noncompliant behavior as well as order the district to engage in any technical assistance.
2. The OEC will address each allegation contained in the complaint and ensure that the district effectively and timely implements a corrective action plan within a required due dates not to exceed one calendar year from the date of the letter of findings, that addresses each violation. In cases involving complex resolutions and systemic issues, OEC shall require periodic progress reports indicating the status of the district's efforts to achieve compliance.

OEC shall review the district's corrective action for compliance. Once the corrective action is completed within the required timeframe, OEC will close the complaint.

3. The OEC will work with the district to provide timely corrective action. However, If the district does not comply with the corrective action, progressive sanctions, as appropriate, will be implemented by OEC.

If the district fails to implement the corrective action plan within the time provided by the corrective action plan, or if OEC otherwise determines that the district is unable or unwilling to comply with the corrective action, OEC will implement progressive sanctions to ensure compliance, including but not limited to targeting resources to the district or withholding and reallocating state funds, to ensure provision of necessary services to the child or to all children

I. Is the ODE's decision appealable?

There is no internal administrative appeal or request for reconsideration.