



Overview of U. S. Department of Education’s Office of Special Education Programs (OSEP) Differentiated Monitoring and Supports (DMS) Communications

State Complaints		
Overview	OSEP Language	VDOE Planned Corrective Action
Parties to a state complaint	The State’s regulations and complaint procedures restrict the parties subject to the State complaint procedures. By using the term “LEA” or “school division,” individuals and organizations do not have notice that the IDEA complaint procedures are available to resolve allegations against not only LEAs, but also the SEA and other agencies included in the definition of public agency at 34 C.F.R. § 300.33.	<p>Action: Regulatory change</p> <p>Type of action: Exempt Action for regulatory change and revision to state procedures</p> <p>Timeline for Completion: July 1, 2024</p> <p>Communication of Change: March 28th Board vote to approve regulatory action and follow up VDOE communications to stakeholders.</p>
Required content for a state complaint	The State’s regulation and State complaint procedures exceed IDEA’s requirements in a manner that could limit a parent’s or other individual’s right to file a State complaint under 34 C.F.R. § 300.153(b).	<p>Action: Regulatory change</p> <p>Type of action: Exempt Action for regulatory change and revision to state procedures</p> <p>Timeline for Completion: July 1, 2024</p> <p>Communication of Change: March 28th Board vote to approve regulatory action and follow up VDOE communications to stakeholders.</p>
Complaints files by non-parent complainants	The State’s regulation and State complaint procedures do not allow for a case-by-case determination as to whether non-personally identifiable information in the SEA’s decision on a State complaint can be provided to	<p>Action: Regulatory change</p> <p>Type of action: Exempt Action for regulatory change and revision to state procedures</p>

	a non-parent complainant as required by 34 C.F.R. § 300.152(a)(5) and OSEP guidance.	<p>Timeline for Completion: July 1, 2024</p> <p>Communication of Change: March 28th Board vote to approve regulatory action and follow up VDOE communications to stakeholders.</p>
Calculating the 60-Day Time Limit for State Complaint Resolution	The State’s regulatory definition of “calendar day” and “business day” is inconsistent with 34 C.F.R. § 300.11(a) and (b), and IDEA’s 60-day timeline for resolving State complaints as required by 34 C.F.R. § 300.152(a).	<p>Action: Regulatory change</p> <p>Type of action: Exempt Action for regulatory change</p> <p>Timeline for Completion: July 1, 2024</p> <p>Communication of Change: March 28th Board vote to approve regulatory action and follow up VDOE communications to stakeholders.</p>
State Complaint Procedures and Remedies for Denial of Appropriate Services: Addressing Noncompliance Found Through State Complaint Resolution	VDOE does not consistently address all noncompliance with IDEA requirements found through its State complaint resolution procedures. Specifically, OSEP observed and discussed with the State, an instance where although additional noncompliance was found, VDOE addressed only the noncompliance related to the allegations included in the State complaint. This practice is inconsistent with the requirements in 34 C.F.R. §§ 300.149, 300.151, 300.153, 300.600 through 300.602, and OSEP guidance.	<p>Action: State procedure revision</p> <p>Type of action: VDOE internal revision</p> <p>Timeline for Completion: May 1, 2024</p> <p>Communication of Change: VDOE communications to stakeholders and provision of response to corrective action to OSEP (no later than March 2025).</p>
State Model Form	VDOE’s model State complaint form is inconsistent with the requirements in 34 C.F.R. § 300.509(a). Specifically, the model form includes data fields beyond those required by the IDEA regulation without specifying that the additional information asked for is optional. Further, VDOE imposes a requirement that complainants submit documentation to support their allegations and specific requirements for labeling documents and recordings.	<p>Action: VDOE Model Form revision</p> <p>Type of action: VDOE internal revision</p> <p>Timeline for Completion: May 1, 2024</p> <p>Communication of Change: VDOE communications to stakeholders.</p>

Mediation		
Overview	OSEP Language	VDOE Planned Corrective Action
Confidentiality of Mediation Discussions	Under State regulation 8VAC20-81-190.E.3, parties may be required to sign a confidentiality pledge before participating in mediation. OSEP has advised such a practice is inconsistent with the voluntary nature of IDEA’s mediation process and the requirements in 34 C.F.R. § 300.506(b)(8).	<p>Action: Regulatory change</p> <p>Type of action: Exempt Action for regulatory change</p> <p>Timeline for Completion: July 1, 2024</p> <p>Communication of Change: March 28th Board vote to approve regulatory action and follow up VDOE communications to stakeholders.</p>
Due Process		
Overview	OSEP Language	VDOE Planned Corrective Action
Filing a Due Process Complaint	The State’s regulation and due process procedures restrict the parties subject to the due process complaint. By using the term “LEA” or “school division” individuals and organizations do not have notice that the IDEA due process procedures are available to resolve allegations against not only LEAs, but also the SEA and other agencies included in the definition of public agency at 34 C.F.R. § 300.33.	<p>Action: Regulatory change</p> <p>Type of action: Exempt Action for regulatory change and revision to state procedures</p> <p>Timeline for Completion: July 1, 2024</p> <p>Communication of Change: March 28th Board vote to approve regulatory action and follow up VDOE communications to stakeholders.</p>
Due Process Timelines	The State’s regulation at 8VAC20-81-210.P.9.b., and due process hearing procedures, permit the SEA to provide approval for an extension of the due process hearing timeline when neither party requests an extension of time, which is inconsistent with the requirements in 34 C.F.R. § 300.515(a) and (c).	<p>Action: Regulatory change</p> <p>Type of action: Exempt Action for regulatory change and revision to state procedures</p> <p>Timeline for Completion: July 1, 2024</p> <p>Communication of Change: March 28th Board vote to approve regulatory action and follow up VDOE communications to stakeholders.</p>

Procedural Safeguards, Confidentiality and Independent Educational Evaluations		
Overview	OSEP Language	VDOE Planned Corrective Action
Prior Written Notice	The State’s written guidance that advises LEAs they are not required to provide prior written notice after an IEP Team meeting if the child’s IEP has not been finalized is inconsistent with the requirements in 34 C.F.R. § 300.503(a).	<p>Action: Change in VDOE guidance</p> <p>Type of action: VDOE internal revision</p> <p>Timeline for Completion: May 1, 2024</p> <p>Communication of Change: website/email/guidance</p>
Education Record Definition	There is a discrepancy between the State’s definition of “education record” as it appears in the State regulation and in relevant guidance documents. Further, the State’s guidance is inconsistent with IDEA and FERPA requirements.	<p>Action: Regulatory change</p> <p>Type of action: Exempt Action for regulatory change and revision to state procedures</p> <p>Timeline for Completion: July 1, 2024</p> <p>Communication of Change: March 28th Board vote to approve regulatory action/follow up communications.</p>
Notice to Parents	The State’s notice to parents related to the requirements for protecting the confidentiality of PII does not include all of the content required in 34 C.F.R. § 300.612.	<p>Action: Edit to Virginia’s Procedural Safeguards</p> <p>Type of action: VDOE internal revision</p> <p>Timeline for Completion: May 1, 2024</p> <p>Communication of Change: website/email/guidance</p>
Independent Educational Evaluations	The State has not ensured that its LEAs comply with the IEE requirements in the State’s revised regulation at 8VAC20-81.170.B.2.a and c, and IDEA’s requirements in 34 C.F.R. § 300.502.	<p>Action: Documentation requested and follow up pending monitoring of local school divisions</p> <p>Type of action: VDOE documentation follow up (OSEP)</p> <p>Timeline for Completion: March 2025</p> <p>Communication of Change: VDOE provides response to corrective action to OSEP (no later than March 2025).</p>