

281—41.152(256B,34CFR300) Minimum state complaint procedures.

41.152(1) *Time limit; minimum procedures.* The state shall include in its complaint procedures a time limit of 60 days after a complaint is filed under rule 41.153(256B,34CFR300) to do the following:

a. Carry out an independent on-site investigation, if the state determines that an investigation is necessary;

b. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

c. Provide the public agency with the opportunity to respond to the complaint, including, at a minimum:

(1) At the discretion of the public agency, a proposal to resolve the complaint; and

(2) An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation consistent with rules 41.506(256B,34CFR300) and 41.1002(256B,34CFR300);

d. Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this chapter; and

e. Issue a written decision to the complainant that addresses each allegation in the complaint and contains:

(1) Findings of fact and conclusions; and

(2) The reasons for the state's final decision.

41.152(2) *Time extension; final decision; implementation.* The state's procedures described in subrule 41.152(1) shall do the following:

a. Permit an extension of the time limit under subrule 41.152(1) only if:

(1) Exceptional circumstances exist with respect to a particular complaint; or

(2) The parent or individual or organization and the public agency involved agree to extend the time to engage in mediation pursuant to 41.152(1) "c"(2), or to engage in other alternative means of dispute resolution, if available in the state; and

b. Include procedures for effective implementation of the state's final decision, if needed, including:

(1) Technical assistance activities;

(2) Negotiations; and

(3) Corrective actions to achieve compliance.

41.152(3) *Complaints filed under this rule and due process hearings.* If a written complaint is received that is also the subject of a due process hearing under rule 41.507(256B,34CFR300) or 41.530(256B,34CFR300) to 41.532(256B,34CFR300), or that contains multiple issues of which one or more are part of that hearing, the state must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures described in subrules 41.152(1) and 41.152(2). If an issue raised in a complaint filed under this rule has previously been decided in a due process hearing involving the same parties, the due process hearing decision is binding on that issue and the state must inform the complainant to that effect. A complaint alleging a public agency's failure to implement a due process hearing decision must be resolved by the state.