

Proposal for Legislation Amending Education Law Article 89

Prepared by Taimi Arnold, Ph.D., Wilton, New York, October 2026.

Attachment to letter of request to Assemblymember Angelo Santabarbara

I am proposing a bill to change New York's special education complaint procedure to meet the requirements of the Individuals with Disabilities Education Act (IDEA) and reduce reliance on due process, which is expensive, long, and exhausting.

Federal protection options have declined, making change urgent. In 2025, the U.S. Department of Education's Office for Civil Rights reached 78% fewer resolution agreements than in 2024, the lowest rate in more than a decade, according to a minority staff report of the Senate Committee on Health, Education, Labor and Pensions (HELP). It provided relief in only about 1% of its roughly 12,000 pending cases (Sen. Bernie Sanders, Senate HELP Committee, *Justice Denied: How Trump's Office for Civil Rights Reached a 12-Year Low in Protecting Students from Discrimination* (Apr. 28, 2026)). As federal enforcement declines, the quality of the State's investigations becomes vital to protecting students with disabilities.

Four distinct areas of law, each with important differences, underpin this request. IDEA is a federal law enacted by Congress and codified at 20 U.S.C. The U.S. Department of Education has issued federal regulations, codified at 34 CFR, that set out how IDEA must be implemented. New York State has its own special education regulations set out in 8 NYCRR Part 200, administered by the New York State Education Department (NYSED). The New York Board of Regents may amend these regulations without the legislature's approval. Education Law Article 89 is New York's special education law; only the Legislature can amend it, and it currently includes no provision for the State complaint process.

Before turning to the details, I want to highlight Chief Proudman's January 6, 2026 response to my charge to the Board of Regents: that the Office of Special Education's investigations verify procedures without examining whether students receive the protections guaranteed by IDEA. As Chief of Special Education Services in that office, she wrote that a State complaint investigation is "a substantive review which goes beyond procedural checks to assess compliance with legal requirements, policy alignment, and if the content is factually sound." She added that the decision "addresses each allegation in the complaint, identifies findings and conclusions, [and] sets forth the reasons for the final decision regarding each allegation."

Most importantly, she defined the office's jurisdiction: State complaints "allege that a school district or public agency has violated federal and New York State law or regulation relating to the education of students with disabilities." We need practices to align with this standard, and requirements must be enforceable.

Complaint Process Record

This section identifies each issue, including failures to meet federal and state legal requirements and protections the state could provide but does not. It explains why each provision in the proposed bill section is necessary. However, in my complaints, the office did not determine whether the district complied with the law or whether the child received the required services. It failed in three ways.

1. It did not assume its responsibility to ensure school districts comply with the law or exercise independent determination of the district's compliance with IDEA Part B requirements. Instead, it served as an adjudicator between two parties.
2. It did not investigate, which requires a review of all allegations and relevant information to make that determination; it rewrote or set aside allegations at intake, accepted evidence rather than testing it, and checked documents for headings rather than content.
3. It has no way to correct errors to make a decision whole. Instead, it refers parties to due process.

Independent Determination

The state complaint process is part of IDEA's requirement that states ensure school districts comply with the law (20 U.S.C. §1412(a)(11); 34 CFR §300.151). Federal law requires the state to determine independently whether a district meets legal requirements and to correct district practices and policies to protect all children. Federal guidance from the Office of Special Education Programs (OSEP) defines the state complaint procedure as investigative rather than adversarial. OSEP (2014) states that it is inconsistent with IDEA for State educational agencies (SEAs) to handle complaints as if they were due process cases, with the burden of proof placed on one side.

New York handles complaints as disputes between two parties, not as independent evaluations of a school district's compliance or whether a student received a free appropriate public education (FAPE). The State's terminology reinforces this approach: allegations are classified as "sustained," "not sustained," or "unfounded"; case files are captioned "Taimi Arnold v. Saratoga Springs City School District"; and legal counsel submits the district's response. New York's regulation omits the word "independent" (8 NYCRR 200.5[l][2][iv]). In 2025, the State handled my three complaints as two-party contests.

Narrowed Standards Applied

Part 200 of the New York State Education Regulations defines a State complaint as an allegation that a district "has violated a Federal or State law or regulation relating to the education of students with disabilities." In a January 6 letter, Chief Proudman expressly cited "federal and New York State law." NYSED's complaint acknowledgment letters applied a narrower standard, limiting their review to whether each allegation was outlined in IDEA or Part 200.

NYSED acknowledgment letters state that each allegation must satisfy the requirements of 34 C.F.R. § 300.153 and section 200.5(l) and confirm that the complaint has been reviewed for sufficiency. A complaint must allege a violation of Part B and include supporting facts and the complainant's signature and contact information. If the complaint concerns a specific child, it must also identify the child's name, address, and school; describe the problem; provide related facts; and propose a resolution. Sufficiency review focuses on the facts rather than whether the complaint cites a specific provision.

Three acknowledgment letters dismiss the allegations in nearly identical terms. Each states that the complaint "does not allege that the District has violated a federal or State law or regulation about the education of students with disabilities, as this is not outlined in the Individuals with Disabilities Education Act or Part 200 of the Regulations of the Commissioner of Education."

- June 17: The June 17 letter dismissed six concerns; one was about educational recovery. The district's functional behavioral assessment (FBA) records that the family declined a Partial

Hospitalization Program the district recommended. I had discussed the recommendation with my grandchild's psychiatrist, who opposed it.

Despite the recommendation for a more restrictive program and the pattern of absences, the district kept my grandchild in general education, without providing home instruction or changing the placement. At the November 7 meeting, the team let the quarter loss stand and did not change the services provided.

Students with disabilities are entitled to FAPE even with disability-related absences (34 CFR §300.101[a]). The Committee on Special Education (CSE) declined to address a known loss of FAPE. OSEP has stated that a State must resolve a complaint alleging denial of FAPE, even when it believes a due process hearing is more appropriate (OSEP Dear Colleague Letter, Apr. 15, 2015). NYSED addressed the requested remedy but not the underlying failure to provide instruction.

- July 29: Dismissed 'the attempt to schedule CSE meetings.' That was the letter's name for my allegation that the district scheduled meetings while withholding the records I needed to participate. Federal regulation requires a district to comply with a records request "without unnecessary delay and before any meeting regarding an IEP," and in no case later than 45 days (34 CFR §300.613[a]); Part 200 adopts that section (8 NYCRR §200.5[d][6]), and NYSED's Procedural Safeguards Notice states the rule to parents in those words. The district scheduled a CSE meeting for June 26, ten days after my June 7 request, and tried again on July 21 with the request still unfilled. My complaint gave those dates and asked that the records be shared before any CSE meeting. The allegation named a requirement in IDEA and Part 200; the letter said it named none. The district had answered my June 7 objection as a FERPA records request; NYSED adopted that label, judged the records under FERPA's 45-day period, and set aside the participation allegation the request served.
- September 2: The letter dismissed "inconsistencies in prior written notices" as issues not addressed by IDEA or Part 200. My complaint alleged that the district had given NYSED a version of the November 7 notice that differed from the versions it gave me, and that the differences "undermine the ability to investigate IDEA compliance." The letter did not address which version was genuine. The versions are set out under Verification of Evidence below.

Reframing Allegations

Federal regulations require the state's written decision to address every allegation in the complaint and include findings of fact, conclusions, and the reasons for the decision (34 CFR § 300.152(a)(5)). NYSED may frame the allegations for investigation, but its decision must still address each allegation as the complainant made it. Reframing cannot replace the original allegations. In my case, NYSED's reframing changed the nature of the complaints, the district's responses, the evidence requested, and the resulting findings. So, "sustained" or "not sustained" addresses NYSED's allegations—not mine.

Examples:

- In my June 2025 complaint, I alleged a pattern of behavior in which the district prioritized exclusion over accommodation. I reported that this approach caused educational loss, harmful responses to disability, insufficient flexibility and support, and ultimately a denial of FAPE. NYSED dismissed many of these issues before investigating, leaving only narrow allegations, such as whether the district provided math accommodations or responded to an evaluation request.

- In that same complaint, I alleged that the behavioral intervention plan (BIP) was developed “without proper team process.” NYSED narrowed that allegation to “without a team meeting,” and added that the BIP was “implemented,” a claim that was easier to disprove. The district responded that it had never implemented the BIP. No one investigated whether the plan was developed through proper procedures or whether I had a meaningful opportunity to participate. The determination addressed only whether the district implemented a BIP. It did not address how the team developed the plan or whether I had a meaningful opportunity to participate.
- My August 2025 complaint alleged that, at the November 7, 2024 CSE meeting, the district refused five requests: an alternative physical education program, educational recovery services, a medical absence accommodation, safety goals, and a schedule modification. I further alleged that the district failed to provide prior written notice of any of these refusals, despite 34 CFR §300.503(a)(2), which requires notice when a district refuses to initiate or change a student’s services or placement. NYSED focused instead on whether the prior notice concerning the FBA/BIP contained the required elements and was timely. It did not address whether the district issued notices for the five refusals, or the allegation I raised.

NYSED’s reframing failed to address all the allegations in my complaints and instead offered a narrow, almost meaningless framing.

Set Aside as Already Heard

The July 29 acknowledgment letter set aside my prior written notice allegation as “already been addressed in a previous State complaint.” It cites no authority for doing so.

I had not alleged a prior written notice violation in that previous complaint. The investigator raised the issue during our June 12 call, and I did not know what prior written notice was. The June 17 acknowledgment listed it anyway as Allegation 2: the district failed to provide me with prior written notices (PWNs) for CSE meetings. The July 23 determination addressed that allegation, finding the notices had been addressed and mailed to the right person.

My July 28 complaint stated that I had not formally alleged PWN failures before and was doing so now: the meeting summaries lacked required elements, and no notice had been provided in response to my written requests or to explain the BIP. The office’s July 29 letter treated that as already resolved. The only PWN allegation decided in the July 23 determination was one the office had introduced, framed, and answered.

34 CFR §300.152(a)(4) requires the department to review all relevant information and reach an independent determination on each complaint. Citing another file does not satisfy that duty when the allegations differ.

Verification of Evidence

NYSED’s complaint process lacks a consistent method for verifying disputed evidence. My complaints show what can happen when the district fails to produce evidence, when its records conflict with the investigator’s, and when different versions of the same documents change the evidence used in determinations.

- The math-accommodations allegation provides the clearest example of verification working as it should. The district denied that it had failed to provide the accommodations in the student’s individualized education program (IEP). NYSED found that the district “failed to submit any documentation around the provision of accommodations during math class.” Although the district

maintained that it had provided the accommodations, NYSED required evidence of compliance and sustained the allegation when the district produced none.

- The BIP allegation was different. Before I filed the complaint, a district employee retrieved and printed the full 14-page FBA/BIP from the district's records and handed it to me. I submitted that document with my complaint. When NYSED later requested the relevant records, the district's counsel submitted the same assessment as a ten-page FBA, twice, omitting the four-page BIP. Two days later, for my education-records request, the district again provided me with the full fourteen-page FBA/BIP. NYSED therefore had evidence that the BIP existed in the district's records before the district's submission. It did not ask why the BIP was missing from that submission or reconcile the versions before deciding the allegation.
- The November 7 prior written notices raised a related problem. Different district productions contained materially different versions of the same notices. The version submitted to NYSED through counsel on July 7 referred to the FBA/BIP. The version provided to me in the district's July 9 response to my records request did not refer to the FBA/BIP; the two differed by seven characters. Another version appeared in the district's August records production, addressed differently, and again containing the FBA/BIP language.

Whether inconsistent production of a record is itself an IDEA violation is a separate question from whether the inconsistency matters to an IDEA investigation. Here, it did. NYSED relied on the November 7 documentation to determine what occurred regarding the FBA/BIP, even though the parties' accounts of those events differed. The contemporaneous records that might have resolved that dispute were inconsistent. NYSED did not determine which version existed on November 7, which version I received, or when the FBA/BIP language was added.

- The July 23 determination states that, on January 22, 2025, the CSE decided to defer a BIP until it received updated medical information, citing the meeting minutes. But the minutes do not mention a BIP, and the IEP from that meeting says, 'Behavior Intervention Plan: No.' My April 25, 2025 email to the district, which the district produced and lists among its sources, states that the BIP 'was dismissed during the January CSE meeting.' The district did not dispute that account in its reply. The deferral account first appeared in district counsel's July 7 response. NYSED then repeated counsel's account, attributed it to the minutes, and omitted that its own sources contradicted it.
- The October 20 determination shows the consequence of proceeding without a clear verification standard. NYSED found that the district "failed to provide concrete documentation regarding how and when" it provided the November 7 PWNs to me. It nevertheless did not sustain the allegation. This contrasts with the math determination, where the district's inability to document compliance resulted in a sustained violation.

The process limits the complainant's ability to help identify these problems while they are still investigable. The district receives the complaint and supporting evidence, but the complainant does not receive the district's response and supporting evidence while the investigation remains open. As a result, I could not see the district's July 7 submission or compare it with the records the district had provided to me before NYSED issued its determination. The discrepancies became visible to me only after the determination, when the district's submission became available through a Freedom of Information Law (FOIL) request.

Federal regulation requires the State to review all relevant information and independently determine compliance. That function requires standards for what investigators must do when material evidence is

absent, records conflict, or a document's reliability is in question. Without those standards, the same basic evidentiary problem can produce different treatment from one allegation to another, and information that could resolve the dispute may never enter the investigation.

Superficial Compliance

The complaint process can confirm that a required document exists without determining whether it fulfills its purpose. NYSED found that "all PWNs submitted by the District contain all required elements of PWNs as outlined in the Part 200 Regulations of the Commissioner." The November 7, 2024 PWN at issue contains each required heading, but it merely states that the student should remain classified and continue receiving services. It refers to "evaluative data," "present levels," and "all program and service options available" without identifying any. It does not mention the FBA the District proposed at the meeting, explain why the District proposed it, or identify the alternatives considered.

NYSED's own determination contradicts its finding. NYSED noted that the District "may have provided a PWN during the CSE meeting, but the assessment and what was being provided was unclear to the Guardian," and recommended better communication going forward. Explaining the District's proposed action is the purpose of prior written notice.

Delegating the Remedy

The July 23 determination sustained the math accommodations violation. NYSED directed the district to convene a CSE to determine whether compensatory services were required and to submit its decision to the Regional Associate for "verification of compliance." In effect, NYSED returned the remedy to the district responsible for the violation.

This exposes a structural weakness in the corrective action process. Under 34 CFR §300.151(b), the SEA must address service-delivery failures through its general supervisory authority. Yet after sustaining the violation, NYSED sent the disputed factual question back to the district. The district then relied on its own oral evidence to conclude that it had provided accommodations that NYSED found undocumented.

The complainant had no defined role in NYSED's subsequent review and no right to receive the district's compliance submission, flag inaccuracies, or respond before NYSED closed corrective action.

"Verify compliance" may mean only confirming that the district completed the required process—not independently determining whether the remedy addressed the violation NYSED identified. The first checks paperwork. The second confirms that the child received an adequate remedy.

No Appeal

Each determination states: "There is no federal or State right to appeal a State complaint, and this decision is final." The only avenue for correction is a 15-day window to correct factual errors in the Statement of Facts. The office that issued the determination decides whether to correct, and no process allows reconsideration of a finding that the correction calls into question.

Fifteen days is not enough time to obtain the records often needed to support a correction. Reviewing the district's evidence may require a FOIL request. Under Public Officers Law §89(3)(a), an agency must acknowledge a FOIL request within five business days and may take up to 20 additional business days to

respond. Records may therefore take roughly five weeks to arrive. The correction window can expire before the agency's response is due, even when the FOIL request is filed promptly.

Education Law §310 does not apply to NYSED's own determinations; it covers actions by districts, boards, and school officers. Article 78 allows judicial review, but only in court. Neither provides an independent administrative reviewer with authority to correct an erroneous finding. This is a central flaw in the process.

Why Not the Board

The State special education complaint process has no statutory home. It exists solely as a Regents regulation implementing 34 CFR §§ 300.151–300.153. The Board may therefore decline any request to address it by rule and could later revise any rule it adopts without a legislative vote.

From July 2025 through January 2026, I asked the Board to review NYSED's complaint and enforcement systems. I then charged, in writing, that the Office of Special Education conducts investigations in violation of federal requirements. The Office of Special Education's Chief of Special Education Services replied. Not one Regent answered in their own name. The Legislature's designated body for correcting this by rule received a detailed request and sent the matter back to the very office at issue. That is not neutral discretion. It is discretion the Legislature should remove.

The Board is not the only body on notice. In its 2023 Differentiated Monitoring and Support review, OSEP found New York out of compliance for failing to resolve complaints pending due process in a timely manner and for failing to ensure that State complaints were ultimately investigated and resolved. OSEP also found that the State's general supervision system was not reasonably designed to identify noncompliance and verify its correction. OSEP closed those corrective actions in May 2026, while stating that it would continue to monitor the State's resolution and implementation of hearing decisions.

Six weeks later, the U.S. Department of Education downgraded New York's annual determination from "needs assistance" to "needs intervention," the second-lowest rating a state can receive. This determination reflects the State's overall performance report, not the complaint process alone, so it does not establish a single cause. It does establish, however, that this oversight system cannot be presumed sound.

The Cost, Unpublished

Every determination closes by telling both parties they may request an impartial hearing. For families whose allegations were reframed or dismissed—or who received no remedy for a sustained violation—the hearing is the only remaining option. The greatest cost falls on the child: they wait longer for an education that meets their needs, and they are the one person in the process who cannot file a claim. Hearings also cost the State and districts more than investigations, including hearing-officer time, outside counsel, and federally reported workload.

I cannot give the committee a figure, and that absence deserves its attention. The State's federal dispute-resolution reporting contains volume data, but cost data does not appear to be compiled in any form accessible to legislators or parents. District budgets do not separate outside counsel costs for special education disputes from other legal expenses. The State does not report what it spends resolving complaints compared with hearings. The numbers must exist, and it will take more than me to get them.

The Bill

Every provision should be placed in Education Law Article 89, where the Board cannot revise it out of existence. A rule can be rewritten to restore the status quo without a vote; a statute cannot.

The bill has five parts: what the investigation is for (1 and 2), how it runs (3 through 6), what follows a finding of noncompliance (7), how to correct an incorrect finding (8), and what the public and the Legislature see (9).

Proposed statutory language appears in italics. Each statutory block uses “the department,” the term for NYSED in the Education Law. The accompanying text explains each provision’s design and the failure it addresses.

1. Purpose and Independent Determination

New York law does not define the purpose of a State complaint investigation. Section 200.5(l) establishes procedures but does not state that purpose. As currently structured, the State’s process is adversarial and produces findings for or against the parties. Federal law requires a different approach. Under 34 C.F.R. § 300.152(a)(4), the SEA must review all relevant information and independently determine whether the public agency has violated a Part B requirement. OSEP has likewise stated that treating a State complaint as a due process proceeding and placing the burden of proof on one party is inconsistent with IDEA (OSEP Letter to Reilly, Nov. 3, 2014). The federal standard should therefore be codified in statute:

A State complaint investigation is the department’s determination of whether a school district complies with federal or State law or regulation governing the education of students with disabilities. In each investigation, the department shall review all relevant information, independently determine whether the district is violating any such law or regulation, and determine the district’s compliance with every requirement implicated by the facts before it, whether or not the complaint named the provision. The district bears the burden of demonstrating compliance. If it fails to do so, the department shall find that the applicable requirement has not been met. The complainant brings the matter to the department’s attention and assists in completing the record but bears no burden of proof.

The burden of proof matters because of what happened in my complaints. In one determination, the district provided no documentation, and the allegation was sustained. In another, the district provided no documentation, but the allegation was not sustained. If the department’s role is to determine whether the district complied, the district must prove that it did. The family has nothing to prove.

The independent-determination sentence restores language omitted from the State’s rule. 8 NYCRR §200.5(l)(2)(iv) requires the department to “review all relevant information,” and says nothing more. The federal rule it implements, 34 CFR §300.152(a)(4), continues: “and make an independent determination as to whether the public agency is violating a requirement.” The department’s Procedural Safeguards Notice already tells parents it will “review all relevant information and make an independent determination,” so this provision aligns the State’s rule with what the department already tells families it does. Federal law allows a State to exceed IDEA’s requirements if it gives written notice of any added requirement to its districts and to the Secretary (20 U.S.C. §1407(a)(2); 34 CFR §300.199(a)). For nearly two decades, Education Law §4404(1)(c) has exceeded the federal default, while §200.5(l) has defined the subject of a complaint more broadly than Part B alone. This provision does not add to federal law; it complies with it.

2. Scope

A State complaint may allege that a school district violated any federal or State law or regulation relating to the education of students with disabilities. The department shall decide each allegation within that scope. An investigation shall examine patterns of conduct and institutional practices indicated by the facts alleged or found, in addition to discrete procedural requirements. An allegation within that scope shall not be set aside on the ground that another agency or process could also hear it.

The first sentence enacts §200.5(l)'s own words so they cannot be read down by practice or revised down by rule. The bill names no additional law and adds none; the set-asides documented above fell within Part 200 itself, and the civil rights allegations routed outward fell within the definition's literal words. The second sentence requires investigations to examine substantive patterns and practices, not only isolated procedural items. My June complaint alleged a pattern of exclusion rather than accommodation and a pattern of harmful responses. The June 17 letter set them aside under those names as "not outlined in IDEA or Part 200." Nothing in the regulation excludes them. The intake letter did.

3. The Allegations

Before opening an investigation, the department shall serve the complainant with the allegations it proposes to decide and allow the complainant [ten] days from service to submit corrections. The department shall identify the requirements implicated by the alleged facts, regardless of how the district has characterized the request, the records, or the dispute. If the stated facts do not establish which requirement is at issue, the department shall ask the complainant to clarify the facts before setting the concern aside. The department shall not require the complainant to identify a provision of law. The department shall address the allegation raised in the complaint.

The department may set aside an allegation as previously decided only if a prior determination found compliance or noncompliance on the specific failure the complainant alleges. A determination concerning a different failure is insufficient, even if it involves the same requirement or documents. When setting aside an allegation on this basis, the department shall identify the prior complaint and include its determination with the acknowledgment.

If the specific failure alleged is under investigation in another open complaint, the department shall either add the allegation to that complaint and say so in the acknowledgment, or investigate it as part of the present complaint.

Every other allegation enters the present investigation.

Federal law requires a family to describe the problem and the facts related to it (34 C.F.R. § 300.153(b)(4)(iv)); it does not require a citation. The investigator must determine how those facts relate to the applicable requirements. Rejecting or narrowing a complaint because the family did not identify a specific provision turns a facts-based pleading process into a law-based one. The required contact is already mandated by 34 C.F.R. § 300.152(a)(2), which allows the complainant to submit additional information. This provision directs the contact to help complete the investigation, not narrow the complaint. As documented above, the revisions added "implementation" to one allegation and removed the refusal allegation from another; both changes determined the outcomes.

The set-aside paragraphs respond to the July 29 letter, documented above, which noted a determination that addressed a different failure under the same requirement—and nothing checked. An allegation that the department says is under investigation elsewhere must be directed somewhere, and the complainant must be told where.

4. The District's Response

The department's request for evidence shall require the unconditional production of core contemporaneous records, including committee meeting minutes, prior written notices, IEPs, behavioral intervention plans, and records documenting the delivery of services and accommodations. The district shall produce every version of each document in its possession and identify the date of each version. A district official with knowledge of the records shall certify that the production is complete and identify any items withheld and the basis for withholding them. Any statement prepared for the response, including one prepared by counsel, shall be identified as such. If a document's creation date, authorship, or authenticity is relevant to an allegation, the request shall include materials establishing those facts, including internal communications, metadata, and audit records from any electronic system in which the document was created, revised, or maintained.

The district shall serve the complainant with its response and all attachments when filing them with the department. The complainant shall have [ten] days after service to correct or supplement the record, and that period must end within the department's sixty-day decision period. The department shall not rely on any material the district did not serve on the complainant. If the complainant is not the student's parent, service is subject to the requirements governing the confidentiality of personally identifiable information.

The June 17 request sought minutes "if available." The resulting determination identified the production as CSE Meeting Minutes and relied on it to make a finding of fact. Counsel submitted a ten-page assessment twice, even though the district's records and my complaint contained the fourteen-page version. Nothing required the district to state that its production was complete. Three versions of one notice went to three recipients, yet no one had to identify which version existed on November 7.

A complainant must already serve the complaint on the district. Applying the same rule in reverse would make practical the opportunity to submit additional information that 34 CFR §300.152(a)(2) already promises. The sixty-day clock is federal, and the State may not extend it for this purpose, so the correction period must fit within it. Service would have placed the ten-page production alongside the fourteen-page one while the investigation was still open, rather than after it had closed.

5. Inquiry and Verification

Further inquiry beyond the parties' submissions is mandatory if the district's submissions conflict with one another or with documents held by the complainant; if the authorship, date, or authenticity of a document is disputed; if evidence concerning an allegation comes solely from one party; or if the complainant alleges that a submission is false.

The investigation shall determine whether each document relied upon is accurate and supports the assertion for which it is offered. A statement prepared in response is not evidence of what occurred, and an oral statement is not a record of delivery. The delivery of services and accommodations shall be established through contemporaneous records. No record that the district does not produce shall be presumed to exist or to support the district's account.

The first paragraph replaces the current standard, under which investigation occurs only “where the department determines such investigation is necessary.” Two productions of the same assessment, four pages apart, prompted no response. The second requires verification, not just receipt. Counsel’s July 7 account of a deferral was included in the findings as the January minutes. When the district produced nothing, one determination treated the fact as unproven, while the other treated it as proven. The final sentence resolves the discrepancy.

6. The Determination

Each determination shall identify each source by document and date and link each finding to its supporting source. If accounts conflict, it shall identify the conflict, state which account it credits, and explain why. Each finding shall state whether the requirement under review was met.

A determination must document its work for review. Readers must be able to locate each cited source by document and date and compare it with the finding it supports. When identifying a conflict, it must show that the office made an explicit choice rather than adopting an account without explanation. It must also state whether the district met a named legal requirement, explaining what the law required. Reviewers, families, and the Legislature need this information. External review and publication depend on specific sources and findings—not sources identified only by category or allegations labeled merely sustained or not. Finding that a document contains every required element does not establish compliance; the November 7 notice, documented above, illustrates this. The July 23 and October 20 determinations illustrate the other approach.

7. Remedy

If the department finds noncompliance, its determination shall order corrective action to remedy the violation. If the noncompliance denied a student appropriate services, the corrective action shall address that student’s needs, including through compensatory services or reimbursement. It shall be designed to restore what the student lost while imposing the least burden on the student and family. If the facts establish a systemic cause, the corrective action shall also address the district’s policies and practices, including through revisions, training, and follow-up monitoring, to ensure that all students with disabilities receive appropriate services in the future. The department shall determine the corrective action and shall not delegate to the district the decision whether a remedy is required or what that remedy must be. When filing compliance submissions, the district shall serve them on the complainant. Before determining that corrective action is complete, the department shall accept and consider the complainant’s response. Each order shall specify a completion deadline and the evidence required to verify completion. The department shall verify completion against that evidence. Completion shall be measured by the service or action the violation denied, not by issuing a document concerning it.

Federal law assigns this duty to the department, not the district. Under 34 CFR §300.151(b), when an SEA finds that appropriate services were not provided, it must, “pursuant to its general supervisory authority under Part B of the Act, ... address” the failure. It must take corrective action tailored to the child’s needs, including compensatory services or reimbursement, and ensure future services for all children with disabilities. New York regulation §200.5(l)(2)(v)(e) also requires written decisions to include remediation for denied services. Yet the department’s only sustained violation allowed the district’s committee to decide whether a remedy was owed. The service sentence fills this gap: the family could not review the district’s

compliance submission or respond before corrective action was closed. A remedy chosen by the violator is not the remedy required.

8. Independent Review

Within [forty] days of receiving the complete record underlying the determination, the complainant or the district may seek review of the determination by the Office of State Review on any of the following grounds: new evidence; an error of law; a finding not supported by the record; a decision on an allegation not raised in the complaint; a failure to decide an allegation raised in the complaint; or a failure to follow a procedure required by this article. The reviewer may affirm, modify, or reverse the determination, or direct further investigation. The reviewer's decision is binding on the department.

The Office of State Review already exists under Education Law § 4404(2), outside the Office of Special Education. The review period should begin when the record is received, not when the determination is issued. The current fifteen-day window can expire before the deadline to respond to a records request. The last ground, failure to follow a required procedure, makes the rest of the bill enforceable. Without it, a determination that bypasses a required step could be corrected only if the outcome was also wrong. Without this provision, the bill's other requirements would be merely advisory: the department could disregard the new investigative requirements in any case and still issue an unappealable decision.

9. Public Accountability

The department shall publish each acknowledgment letter and determination in a searchable format, with personally identifiable information redacted. Each published acknowledgment letter shall state each allegation as outlined in the complaint and as framed by the department, and identify any allegation set aside and the basis for that decision.

The department shall report annually to the Legislature, by district, the following: (1) the number of State complaints received and decided; (2) the number of allegations set aside at intake and the grounds for setting them aside; (3) the number of allegations decided and the number of findings of noncompliance; (4) the number of decisions issued within 60 days; (5) the number of corrective action orders issued and the number verified as complete; (6) the number of reviews sought and their outcomes; (7) the number of impartial hearings requested and held; and (8) the costs to the State and school districts of the complaint and hearing processes. The district-level figures shall also be included on the district's annual report card prepared under section 100.2(m) of the Commissioner's regulations or any successor provision.

IDEA requires hearing decisions to be made public without identifying information (34 CFR § 300.513(d)(2)). Extending this requirement to State complaints serves three purposes. First, families can see how similar allegations were framed and decided before filing their own complaints. Second, the Legislature and OSEP can identify patterns across cases instead of reviewing one family's file at a time. Third, the office's practices become visible: what it sets aside at intake, how it rewrites allegations, and the language it uses. Once visible, those practices must be defended as policy or changed. That is why the acknowledgment letter must be published alongside the determination: the set-asides occur in the letter, and the determination alone never shows what was excluded.

The State reports complaint and hearing counts to the federal government, but not how many allegations never reach investigation, how many corrective actions are verified rather than simply closed, or how many families move from a complaint to a hearing.

Placing district figures on the report card puts them where families already look and alongside the other measures for which districts are held accountable. Neither the State nor the districts now report the cost of either process. As explained in “The Cost, Unpublished” above, the Legislature cannot compare this bill’s cost with the cost of the alternative. This provision would make that comparison possible.

What Enactment Changes

Bill defines the State complaint investigation as the department’s determination of whether the district complied with the law. Everything else follows from that. The department must investigate by asking questions and examining evidence. It must address the family’s questions. The district’s demonstration of compliance must be visible and open to scrutiny. Someone outside the office must be able to correct a wrong finding. And for any of this to work, the public must be able to see it.

The bill requests three shifts. One restores the federal minimum the State’s regulation omitted: the independent determination of whether the school district has complied with Part B of IDEA. The rest establish fairness and transparency in how that investigation takes place and is reported. The third establishes an appeal path to correct wrong determinations.

The Chief’s January 6 letter described a substantive review that assesses whether the content is factually sound and states the reasons for each allegation. That letter describes this bill. Each provision addresses a failure that showed as I worked through the process. The record shows the gap between that description and actual practice. This bill closes it.

Supporting documentation is available on request.

References

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U.S. Senate Committee on Health, Education, Labor and Pensions, Minority Staff. (2026, April 28). *Justice denied: How Trump's Office for Civil Rights reached a 12-year low in protecting students from discrimination*. <https://www.sanders.senate.gov/wp-content/uploads/04.24.26-Justice-Denied-How->

Record Documents

The documents below are cited in the record section. They are available on request, with the student's identifying information protected.

Saratoga Springs City School District. (2024, November 7). Prior written notices for the November 7, 2024 committee on special education meeting (three versions).

Saratoga Springs City School District. (2024, November 15). Functional behavioral assessment and behavioral intervention plan (14 pages; 10-page version submitted to NYSED on July 7, 2025).

Saratoga Springs City School District. (2025, January 22). Individualized education program, January 22, 2025 committee on special education meeting.

Arnold, T. (2025, June 9). State complaint against Saratoga Springs City School District, received June 11, 2025, with supplemental submission.

New York State Education Department, Office of Special Education. (2025, June 17). State complaint acknowledgment letter with allegations.

Saratoga Springs City School District, by counsel. (2025, July 7). Response to State complaint, with responsive records.

Saratoga Springs City School District. (2025, July 9). Education records production.

New York State Education Department, Office of Special Education. (2025, July 23). Written decision of State complaint.

Arnold, T. (2025, July 28). State complaint against Saratoga Springs City School District.

Arnold, T. (2025, July 28). Letter to the Chancellor and the Board of Regents.

New York State Education Department, Office of Special Education. (2025, July 29). State complaint acknowledgment letter with allegations.

Saratoga Springs City School District. (2025, August 21). Education records production, with cover letter.

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New York State Education Department, Office of Special Education. (n.d.). Written decision of State complaint received July 28, 2025.

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