

The Power of IDEA State Complaints

APRIL 26, 2022

Council of Parent Attorneys and Advocates



The logo for COPAA (Council of Parent Attorneys and Advocates) features the acronym "COPAA" in a bold, white, sans-serif font. A green swoosh underline is positioned beneath the letters.

Council of Parent Attorneys and Advocates

*Protecting the Civil & Legal Rights of
Students with Disabilities and their Families*

The Power of IDEA State Complaints

Information shared in this session is not legal advice. Presenters cannot answer questions about individual cases. If you seek assistance, please visit the COPAA website professional directory to find practitioners in your area.

This webinar is being recorded, please do not share personally identifiable information. Each participant may decide whether to use the video function provided in Zoom. Participants are muted.

The Power of IDEA State Complaints

Who we are ...

- **Chris Roe** Director of State Policy at the Council of Parent Attorneys and Advocates
- **Candace Cortiella** Director of The Advocacy Institute and the IDEA State Complaint Resource Center
- **Diane Willcutts** Director of Education Advocacy, LLC and long-time special education advocate in Connecticut

The Power of IDEA State Complaints

What we'll cover ...

- Key differences between IDEA dispute resolution options
- Advantages of using IDEA State Complaint process
- Limitations
- Data on State Complaints
- Need for transparency
- Role of Advocates
- Tips and Strategies
- Tour of IDEA State Complaint Resource Center
- Questions

CADRE ~ Center for Appropriate Dispute Resolution in Special Education

www.cadreworks.org

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Key differences between dispute resolution options

Who can initiate

- Due Process: Only parent or public agency
- State Complaint: Any individual or organization

Time limit for filing

- Due Process: Two years
- State Complaint: One year

What issues can be resolved

- Due Process: Identification, evaluation, or educational placement of a child with a disability, or the provision of a FAPE
 - State Complaint: Alleged violations of Part B of IDEA (state or Federal) for a child with a disability or system-wide
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- See CADRE's *Quick Guide to Special Education Dispute Resolution Processes*

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Advantages of using IDEA State Complaint process

- Can be filed by **any** individual or organization
- Can allege violation(s) on behalf of individual child or a group of children
- Can address systemic issues in a district (LEA) or state
- Does not require legal expertise
- Less adversarial than due process complaints
- Speedier resolution than due process complaints
- No cost to complainant

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Limitations of IDEA State Complaint process

State complaints cannot be used for:

- Civil rights related to disability. (Direct complaints to the Office for Civil Rights, US Department of Education)
- Personnel issues
- General education matters

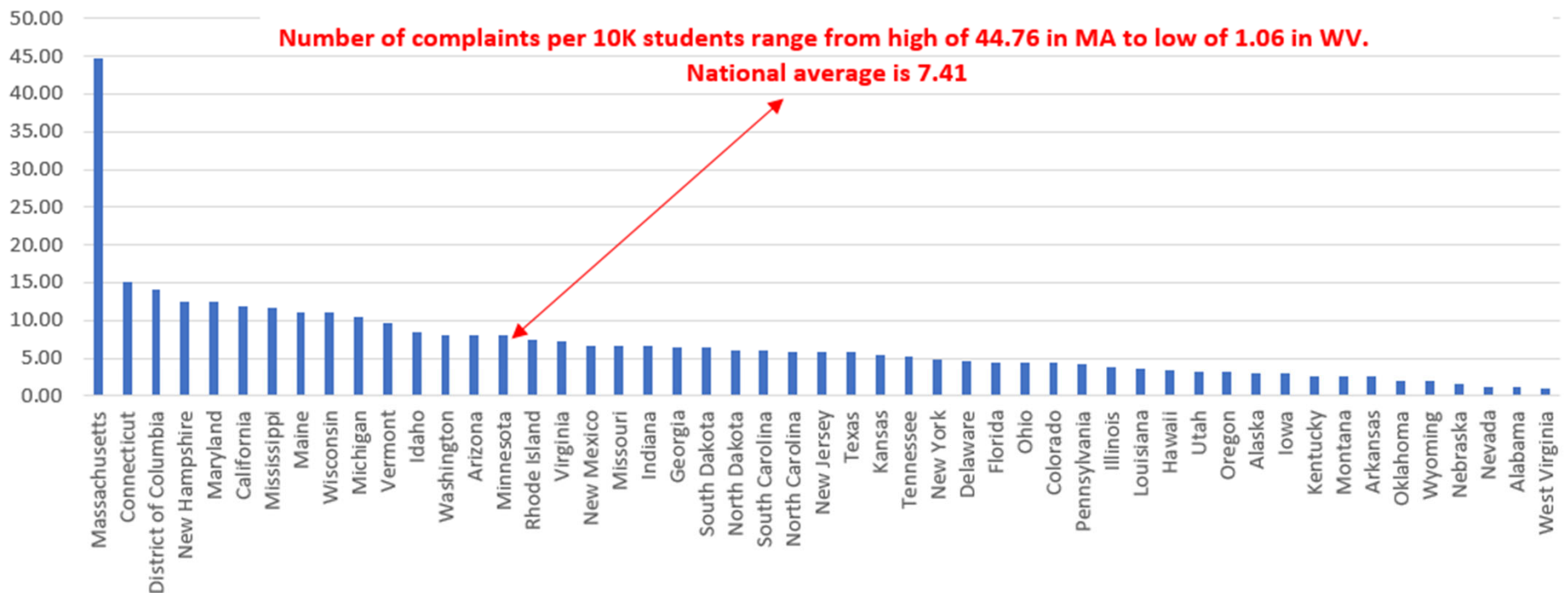
Alleged violation(s) must have occurred within one year.

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Data on State Complaints

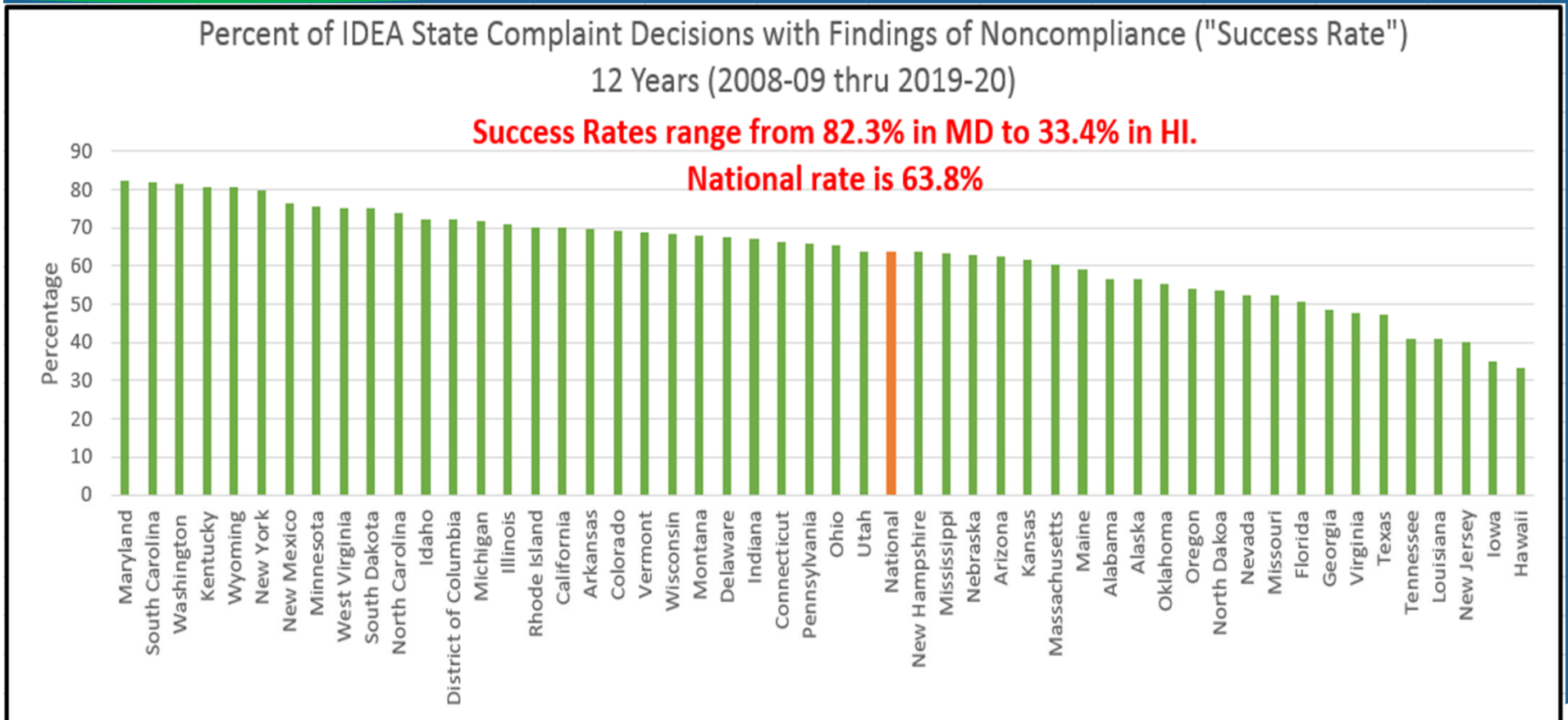
In order to compare state complaint activity across states, we calculate the number of state complaints filed per 10,000 special education students in the state.

IDEA State Complaints filed per 10K special education students
2019-2020



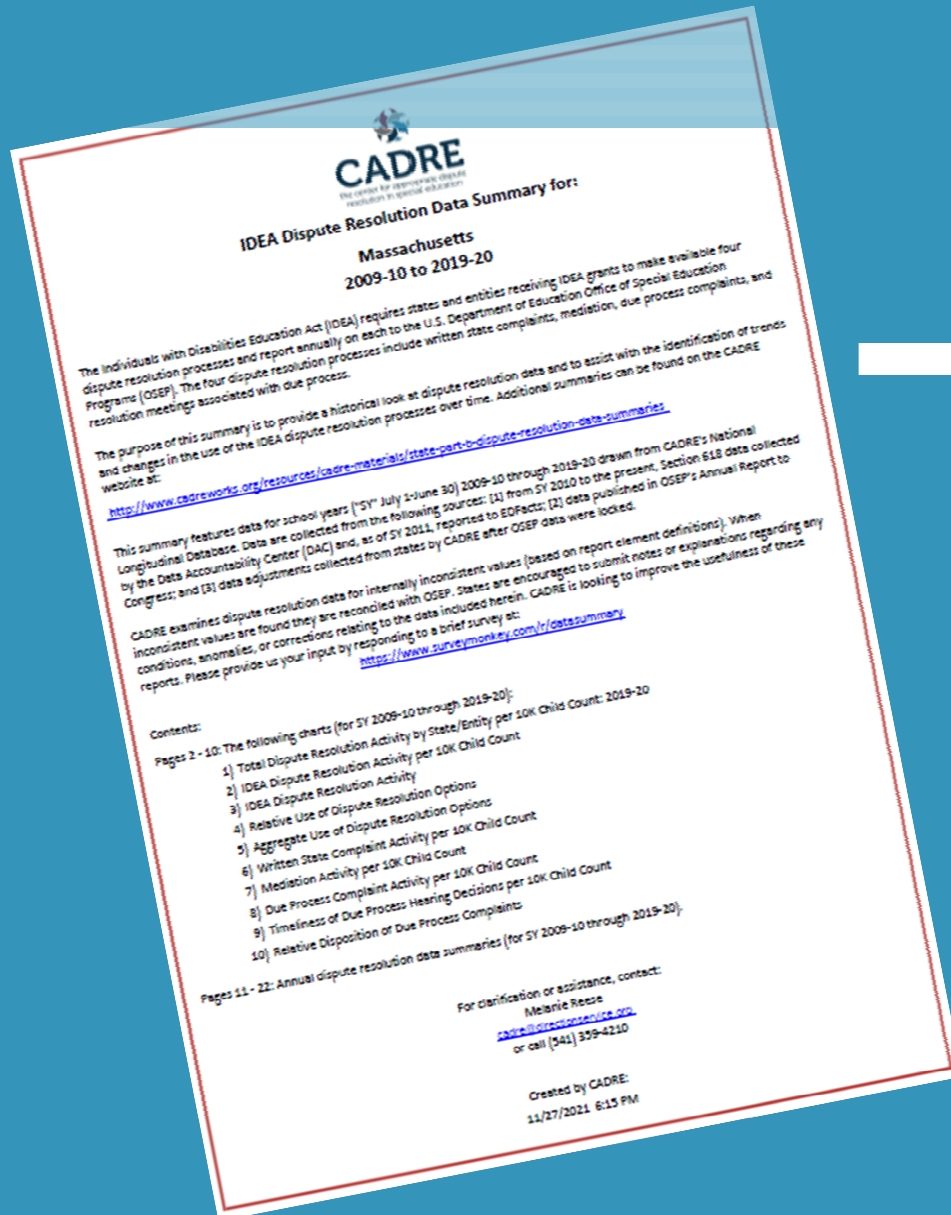
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Data on State Complaints



Success Rate is the percent of complaints that were found to have violations. It is calculated by dividing the number of decisions with findings of noncompliance by the number of total decisions issued.

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IDEA Dispute Resolution Summaries for every state

www.cadreworks.org

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Need for transparency

Only 14 states* make IDEA state complaint investigation reports available to the public by posting on SEA website.

Lack of access prevents potential complainants from:

- considering the nature, scope, and parties to complaints that have been filed,
- the extent to which the complaints have been investigated,
- outcomes attained,
- viability and effectiveness of such procedures in attaining individual and broader systemic relief requested.

* Colorado, Delaware, District of Columbia, Indiana, Kansas, Maine, Maryland, Montana, Nevada, Ohio, Oregon, Washington, Wisconsin, Wyoming

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Complaint Process in a Nutshell

1	Identify violation(s) of state and/or Federal special education rules that occurred within one year; prepare complaint with all required components.
2	Submit signed complaint to state educational agency (SEA); send copy of complaint to the school district or public agency serving the child.
3	Receive acknowledgement from SEA; SEA investigates alleged violations, conducts on-site visit if needed.
4	The complainant (the individual or organization filing the complaint) must be given the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.
5	The SEA is obligated to resolve such a complaint <i>within 60 calendar days</i> from the date of receipt, unless exceptional circumstances exist with respect to the complaint.
6	If violation(s) are found, SEA provides a corrective action plan including timeline.
7	Depending on state, either party can file for reconsideration (appeal) within a time provided by SEA. SEA issues appeal decision.

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Role of Advocates

- Identify systemic issues within districts
- Help families to identify issues for dispute resolution
- Help families to determine whether they want to file a complaint or to use another dispute resolution process
- Assist parents with drafting complaint OR
- Submit individual or systemic complaints directly from advocate
- Identify documents to submit with the complaint
- Communicate with state investigator
- Participate in mediation

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Tips and Strategies

- Know your state. Freedom of Information Act requests.
- Draft the complaint in a way that the investigator can cut and paste what you wrote into their decision.
- Begin the complaint by stating the violations of IDEA.
- Tell the story – but just the facts, ma'am.
- Quote from documents that support the complaint and provide these to investigator.
- Request that the complaint investigator email you the district's written response as soon as it is received.
- Follow up with a response to the response if needed.

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Pitfalls & Challenges

- Drafting a complaint that doesn't describe IDEA violations. E.g., “the mean administrator keeps coming to my child's meetings” is typically not an IDEA violation.
- Using disrespectful language regarding school staff. Saying, “they are all liars” or “they are just trying to save money and don't care about children” will not help your case. Stick to the facts, and let the investigator draw their own conclusions.
- Relying on the investigator to request key documents that are needed to substantiate the complaint. Better to provide those documents up front and to quote from them in the complaint.
- Not asking follow-up questions if the investigator says the complaint doesn't meet requirements and won't be investigated. Just send an email to ask, “What required elements am I missing?”
- Withdrawing a complaint when the complaint investigator says, “are you sure you want to file a complaint, or would you rather do this informally?”
- Not requesting a copy of the district's response to the complaint. Important to read the response and to provide a written (not just phone) response to any inaccuracies—before the decision is issued.

IDEA State Complaint Resource Center www.iscrc.org



Home	Feature complaint/podcast
About this Project	Need for project, advisors
State Complaint Basics	USED guidance, Federal regulations, articles, webinars, podcasts, policy letters
State Complaint Links	Links to each state's complaint information
State Complaint Data	Data on # of complaints filed and success rate
Sample Complaints	Bank of investigation reports organized by issue
Share a Complaint	Tool to send us a complaint for posting
Spread the Word	Ways to let others know about the resource center

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Questions



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