

TITLE 4: DISCRIMINATION PROCEDURES
CHAPTER XLV: STATE BOARD OF EDUCATION

PART 1300
AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

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AUTHORITY: Implementing Title II, Subtitle A, of the Americans With Disabilities Act of 1990 (42 USC 12131-12134), as specified in regulations for Title II (28 CFR 35.107), and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.6].

SOURCE: Adopted at 29 Ill. Reg. 6254, effective April 25, 2005.

Section 1300.10 Purpose

- a) This Part establishes a procedure for use in resolving grievances asserted by qualified individuals with disabilities, pursuant to the Americans With Disabilities Act of 1990 (ADA) (42 USC 12101 et seq.) and its implementing regulations at 28 CFR 35.107. Any individual who desires to review the ADA or its implementing regulations in order to understand the rights, privileges, and remedies afforded by the Act may contact the designated coordinator.
- b) In general, the ADA requires that each program, service, and activity offered by the State Board of Education, when viewed in its entirety, be readily accessible to and usable by qualified individuals with disabilities.
- c) It is the intention of the State Board of Education to foster open communication with all individuals who request readily accessible programs, services, and activities. The State Board encourages the supervisors of the Board's programs, services, and activities to respond to requests for modifications before grievances arise.

Section 1300.20 Definitions

A “complainant” is an individual with a disability who files a grievance form provided by the State Board of Education under this Part.

The “designated coordinator” is the person or persons appointed by the State Superintendent of Education to be responsible for coordinating the State Board’s efforts to comply with and carry out its responsibilities under Title II of the ADA, including the investigation of grievances filed by complainants. The designated coordinator for the State Board of Education can be contacted at 100 North First Street, Springfield, Illinois 62777.

“Disabilities” shall have the same meaning as set forth in the Americans With Disabilities Act.

A “grievance” is any complaint under the ADA that is reduced to writing by or on behalf of an individual with a disability who meets the essential eligibility requirements for participation in or receipt of the benefits of a program, activity, or service offered by the State Board of Education and who believes that he or she has been excluded from participation in, or denied the benefits of, any program, service, or activity of the State Board or that he or she has been subject to discrimination by the State Board.

A “grievance form” is the form prescribed for use in filing a grievance pursuant to this Part. It includes information such as the complainant’s name, address, and telephone number; the nature of the grievance, including the date, time, and place of the incident; and any witnesses.

“Qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the State Board.

Section 1300.30 Applicability of Procedure

- a) To be eligible for consideration, each grievance shall be submitted in accordance with the procedure established in Sections 1300.40 and 1300.50 of this Part.
- b) A complainant's failure to submit a grievance or to appeal it to the next level for consideration within the applicable time limit shall be deemed a withdrawal of the grievance or the complainant's acceptance of the response most recently given by the State Board of Education under the grievance procedure.
- c) Upon becoming aware that an individual has a complaint or wishes to file a formal grievance, staff of the State Board of Education shall instruct the individual how to receive information about the procedure established under this Part and a copy of the grievance form.

Section 1300.40 Designated Coordinator's Level

- a) Each individual who wishes to submit a grievance shall complete a grievance form and submit it to the designated coordinator for the State Board of Education no later than 180 days after the occurrence of the alleged instance of discrimination.
- b) The designated coordinator shall provide such assistance as may be necessary to help individuals avail themselves of the grievance process, including assisting in completing the grievance form if requested to do so. Incomplete grievance forms shall not be considered.
- c) The designated coordinator or a representative shall investigate the grievance and shall make reasonable efforts to resolve it if it is found to be valid. The designated coordinator shall provide a written response to the complainant and to the State Superintendent of Education within 15 days after receipt of a completed grievance form.

Section 1300.50 Final Level

- a) If a grievance is not resolved to the complainant's satisfaction by the actions taken at the designated coordinator's level under Section 1300.40 of this Part, the complainant may submit a copy of the grievance form and the designated coordinator's response to the State Superintendent of Education for review. These documents shall be submitted within 15 days after the complainant's receipt of the designated coordinator's response and shall be accompanied by a brief written explanation of the complainant's dissatisfaction.
- b) Within 15 days after receipt of a request for review, the State Superintendent shall appoint a three-member panel to review the grievance at the final level. One of the appointed members shall serve as chairperson of the panel. The panel shall schedule a review of the grievance to begin no later than 15 days after the last member of the panel is appointed.
- c) The complainant shall be afforded an opportunity to appear before the panel and shall have the right to appoint a representative to appear on his or her behalf. The panel shall review the designated coordinator's written response and may conduct interviews and seek advice as it deems appropriate.
- d) Upon agreement of at least two of the panel members, but no later than 15 days after completion of the panel's review, the panel shall make recommendations in writing to the State Superintendent as to the proper resolution of the grievance. All recommendations shall include the panel's rationale and shall bear the signatures of the concurring panel members. A dissenting member of the panel may make a separate recommendation to the State Superintendent in writing and shall sign any such recommendation.
- e) Within 15 days after receipt of a panel's recommendations, the State Superintendent or his or her designee shall approve, disapprove, or modify the panel's recommendations; shall render a decision in writing; shall state the basis for the decision; and shall cause a copy of the decision to be served on the parties. The State Superintendent's decision shall be final.
- f) The grievance form, the designated coordinator's response, the complainant's statement of his or her reasons for dissatisfaction, the recommendations of the panel, and the decision of the State Superintendent shall be maintained in accordance with the State Records Act [5 ILCS 160] or as otherwise required by law.

Section 1300.60 Accessibility

The State Board of Education shall ensure that all stages of the procedure set forth in this Part are readily accessible to and usable by individuals with disabilities.

Section 1300.70 Case-By-Case Resolution

Each grievance involves a unique set of factors. Accordingly, termination of a grievance at any level, whether through the granting of relief or otherwise, shall not constitute a precedent on which any other complainant should rely.