



HOUSE OF REPRESENTATIVES
STATE OF MICHIGAN

ELLEN COGEN LIPTON

Michigan Department of Education
Office of Special Education
608 West Allegan
P.O. Box 30008
Lansing, MI 48909

July 22, 2013

To Whom It May Concern,

I am formally submitting the following State Complaint to the Michigan Department of Education, Office of Special Education, per the guidelines established in the department's procedures for state complaints titled "Special Education Problem Solving Process." If any additional or follow up materials are necessary, please contact me as immediately as possible. Otherwise, I will consider the complaint as having been filed in a timely and complete manner as of today's date.

Sincerely,

A handwritten signature in black ink that reads "Ellen Cogen Lipton".

Ellen Cogen Lipton
State Representative, 27th District



Appendix A: Request for State Complaint Investigation

Parents and other individuals and organizations may file a complaint if they believe a school district or other educational agency has violated one or more requirements of the **MARSE, Michigan special education law, or the IDEA.**

Person filing the complaint

Representative Ellen Cogen Lipton

Name

P.O. Box 30014

Address

Lansing, MI 48909-7514

City/State/Zip

517-373-0478

Telephone

ellenlipton@house.mi.gov

Email

Complainant's relationship to student:

Parent Citizen Attorney Advocate Self

The public agency the complaint is against

Education Achievement Authority

Name of Public Agency

The student involved (required if the alleged violation is regarding a specific student)

Name of Student

Date of Birth

Home Address (include if different from above; if homeless, include other contact information)

City/State/Zip

Name of School Student is Attending

Number and list each alleged violation separately. Describe the alleged violation and specific facts related to the alleged violation. If possible, include names, dates, and locations. Additional pages may be attached if needed.

See Attachment 1

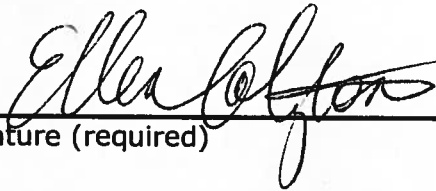
Proposed resolution (required if the alleged violation is regarding a specific student)

For each of the above alleged violations, what is the proposed resolution? Attach additional pages if needed.

See Attachment 2

This state complaint investigation request must be signed and mailed or faxed to the OSE.

Michigan Department of Education
Office of Special Education
608 West Allegan
P.O. Box 30008
Lansing, MI 48909
Fax (517) 373-8414



July 19, 2013

Signature (required)

Date

If the person filing the complaint is not the student's parent, or if the student has reached the age of majority (18 in Michigan), this state complaint investigation request should include a consent for the release of information to the complainant, signed by the student's parent or the student if age 18 or older, before any information will be shared with the complainant. If authorization for release of information is not provided, then no information will be shared with the complainant subsequent to the issuance of this office's final decision in this matter.

Attachment 1

Violations, Relevant Facts, and Related Rules

1. Students with disabilities (possibly as many as 800 students) previously receiving special education programs and related services were exited or “decertified” from special education without: a) an appropriate evaluation being conducted for such purpose; b) prior written notice being provided to the students’ parent given such action constituted a change in placement; and, c) an IEP team meeting being convened to make any such determination, in violation of 34 C.F.R. 300.305(e), 300.503, and 300.327 respectively.
2. Students with disabilities had certain of the special education programs and related services to be provided in their current IEPs reduced, changed and/or eliminated, without: a) prior written notice being provided to the student’s parent given such action constituted a change in placement; and b) an IEP team meeting being convened to make any such determination, in violation of 34 C.F.R. 300.503; R340.1722(2), and 300.327 respectively.
3. Students with disabilities previously enrolled and placed in schools now operated by the EAA (including those in center programs) were rejected or discouraged from continuing to attend such schools due to the lack of available appropriate programs and services needed to implement the student’s IEPs without: a) a prior written notice being provided to the student’s parent given such action constituted a change in placement; and b) an IEP team meeting being convened to make any such determination, in violation of 34 C.F.R. 300.503 and 300.327 respectively. Many of these students do not appear to have returned to any public school district.

4. Students with disabilities such as emotional/behavior/social needs expressed in their IEPs have received several suspensions constituting a "pattern": long term suspensions, expulsions, "administrative transfers" to a non EAA school and/or threats to either leave an EAA school and have no disciplinary record or be suspended/expelled, without: a) an appropriate functional behavior analysis (FBA) being conducted; b) appropriate positive behavioral interventions, supports and other strategies being considered, and if appropriate, provided in the student's IEP or a positive behavior support plan; c) a manifestation determination review to determine whether the behavior was a manifestation of the student's disability; and/or d) no interim alternative educational services being provided, in violation of 34 C.F.R. 300.530.
5. Students with disabilities identified as having a specific learning disability (SLD) are being provided services in resource room settings where the resource teachers' caseloads and class sizes exceed legal limits in violation of special education rules such as R340.1749b.

Attachment 2

Proposed Resolution

R 340.1855 Failure to comply with corrective action; sanctions.

Rule 155 (1) If a public agency fails to correct known violations of law, or fails to cooperate with the department or the intermediate school district during the conduct of its investigation, or presents known falsification of fact, or continues repetition of similar violations, the department shall do 1 or more of the following:

- (a) If the public agency in violation is a local school district or a public school academy, then the department shall direct the intermediate school district to provide complying programs and services pursuant to section 1702 of 1976 PA 451, MCL 380.1702.**
- (b) If the public agency in violation is an intermediate school district, the department may withdraw the authority of the intermediate school district to operate a program that is in noncompliance and simultaneously require the public agency of residence to place the affected student or students in an appropriate program.**
- (c) Withhold federal funds under part B of the individuals with disabilities education act, 20 U.S.C. chapter 33, §1400, et seq.**
- (d) Apply other penalties under 1976 PA 451, MCL 380.1.**
- (e) Withhold state funds under 1979 PA 94, MCL 388.1601, or any other governing statute.**
- (f) Withhold, withdraw, or suspend such endorsements, approvals, credentials, grants, or authorizations pertaining to special education personnel or projects that the department, or its designee, had authority to grant as authorized by, and in accordance with, the procedures required by law.**
- (g) Seek enforcement of the corrective action in a court of appropriate jurisdiction.**