

COMPLAINT PROCESS FOR STUDENTS WITH DISABILITIES RECEIVING SPECIAL EDUCATION SERVICES

LOUISIANA DEPARTMENT OF EDUCATION

PERFORMANCE AUDIT SERVICES

Issued September 20, 2023

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September 20, 2023

The Honorable Patrick Page Cortez,
President of the Senate
The Honorable Clay Schexnayder,
Speaker of the House of Representatives

Dear Senator Cortez and Representative Schexnayder:

This report provides the results of our audit of the Louisiana Department of Education's (LDOE) process to address complaints related to students with disabilities. This report is the first in a series of reports evaluating LDOE's oversight of students with disabilities who receive special education services in Louisiana.

As of October 2022, 89,681 (13.1%) of 685,606 kindergarten through twelfth-grade public-school students in Louisiana had a disability and were receiving special education services. The federal Individuals with Disabilities Education Act (IDEA) mandates that all children with disabilities be provided a free and appropriate public education (FAPE), that educational services be designed to meet their unique needs, and that their rights and their parents' rights be protected.

Federal law requires LDOE to provide general supervision of local school systems and ensure all IDEA requirements are met. To accomplish this, LDOE must adopt written procedures for due process hearings, mediations, and formal complaints. Because federal law allows for some flexibility in how states set up their dispute resolution processes, Louisiana also has developed two additional processes — IEP facilitations and informal complaints.

We found LDOE investigated and rendered decisions on 61 formal complaints in academic year 2021-2022. However, it did not address all allegations it received through its dispute resolution email. Specifically, LDOE received an additional 42 emails through its dispute resolution email but did not investigate these allegations. LDOE responded to nine (21.4%) of these emails, did not respond to 13 (31.0%) of these emails, and could not provide evidence of how they responded to 20 (47.6%) of these emails.

Better tracking of complaint information may help LDOE identify trends of noncompliance and ensure that all allegations are referred to monitoring or program staff.

We also found LDOE could increase trust in its complaint process by making it more accessible, user friendly, and transparent. This includes receiving complaints by phone, ensuring parents are routed to appropriate resources, providing dispute resolution forms in languages other than English, and contacting the complainant during the formal investigation. Of the 17 complaints LDOE dismissed during academic year 2021-2022, eight (47.1%) were dismissed for insufficient or incomplete information. LDOE could give parents the opportunity to submit missing information before dismissing the complaint. LDOE also does not always reach out to parents during a complaint investigation, but they do reach out to the school systems, which may contribute to the parents' perception that the process is unfair and complaints are not thoroughly investigated.

In addition, we found LDOE should increase its outreach to parents of students with disabilities, help them navigate the system, and answer questions about the dispute resolution process. According to a survey we conducted, only 456 (47.8%) of the 954 parents or guardians who responded said they were aware of LDOE's dispute resolution options.

Additionally, state laws do not require school systems to post information on their websites about their informal complaint process or other dispute resolution options offered by LDOE.

The report contains our results, conclusions, and recommendations. I hope this report will benefit you in your legislative decision-making process.

We would like to express our appreciation to LDOE for its assistance during this audit.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Mike Waguespack", with a long horizontal flourish extending to the right.

Michael J. "Mike" Waguespack, CPA
Legislative Auditor

MJW/aa

Louisiana Legislative Auditor

Michael J. "Mike" Waguespack, CPA



Complaint Process for Students with Disabilities Receiving Special Education Services Louisiana Department of Education

September 2023

Audit Control # 40230004

Introduction

We evaluated the Louisiana Department of Education's (LDOE) complaint process for students with disabilities receiving special education services. According to the United States Office of Special Education Programs (OSEP), state complaints are a powerful tool to address noncompliance with federal law to support and protect the interest of children with disabilities and their parents¹ and can provide important information about the implementation of required special education services. We conducted this audit in response to legislative interest. This report is the first in a series of reports evaluating LDOE's oversight of students with disabilities receiving special education services in Louisiana.

A student with a disability means a child evaluated as having one of the following **exceptionalities**: an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

Source: 20 USCA § 1401(3)(A)

Number of Students with Disabilities. As of October 2022, 89,681 (13.1%) of 685,606 kindergarten through twelfth-grade (K-12) public-school students in Louisiana had a disability and were receiving special education services. Students receiving special education services may have multiple exceptionalities. As shown in Exhibit 1, these 89,681 students had 143,396 total exceptionalities.

¹ This includes parents and guardians of students receiving special education, hereafter referred to as parents.

Exhibit 1 Number of Students by Exceptionality (89,681 Total Students) As of October 1, 2022		
Exceptionality*	Number of Students	Percent of Total
Specific Learning Disability	72,060	50.3%
Speech or Language Impairments	20,275	14.1%
Developmental Delay	13,639	9.5%
Other Health Impairments	12,586	8.8%
Autism	8,100	5.6%
Intellectual Disability Mild	5,738	4.0%
Intellectual Disability Moderate	2,562	1.8%
Multiple Disabilities	2,402	1.7%
Emotional Disturbance	1,391	1.0%
Talented (Student also receives special education services)	989	0.7%
Orthopedic Impairment	960	0.7%
Hard of Hearing	907	0.6%
Gifted (Student also receives special education services)	443	0.3%
Visual Impairment Partially Seeing	332	0.2%
Deafness	286	0.2%
Intellectual Disability Severe	264	0.2%
Visual Impairment Blindness	226	0.2%
Traumatic Brain Injury	215	0.1%
Deaf Blindness	15	0.0%
Unable to complete Evaluation Process/No Exceptionality	6	0.0%
Total Exceptionalities	143,396**	100.0%
*As defined by Louisiana Revised Statute (R.S.) 17:1942 and LDOE. **This includes all exceptionalities identified for each student receiving special education services, not just the primary exceptionality. Source: Prepared by legislative auditor's staff using information provided by LDOE.		

Services for Students with Disabilities. The purpose of the Individuals with Disabilities Education Act (IDEA) is to ensure that all children with disabilities² are provided a free and appropriate public education (FAPE), that educational services are designed to meet their unique needs, and that their rights and their parents' rights are protected. Individualized Education Plans (IEP) are developed for students who have one of the qualifying exceptionalities, as noted in Exhibit 1, and have been found to need special education services.³ An IEP is a plan unique to each student's needs developed by a team that includes educators, parents, and other key individuals as needed (i.e., speech language pathologist, school psychologist, occupational therapist, physical therapist, etc.). The IEP defines the required special education and related services a student will receive, as well as the goals that the student will work towards, and the environment(s) in which the services will be delivered. IEPs are required to be updated annually by federal law.⁴

² IDEA does not cover students protected under Section 504 of the Rehabilitation Act of 1973. Section 504 is a civil rights law aimed at preventing discrimination based on a student's disability.

³ Parents can refuse special education services; therefore, these students would not have an IEP.

⁴ 20 USCA § 1414 (d)(1)

Dispute Resolution Options. Federal law⁵ requires LDOE to provide general supervision of local school systems and grants it the responsibility for ensuring that all IDEA requirements are met. To fulfill this requirement, federal law⁶ and/or regulation⁷ requires LDOE to adopt written procedures⁸ for due process hearings, mediations, and formal complaints. Because federal law allows for some flexibility in how states set up their dispute resolution process, the Board of Elementary and Secondary Education (BESE) and LDOE developed two additional processes—informal complaints and IEP facilitations. Exhibit 2 summarizes these dispute resolution options available in Louisiana.

Exhibit 2 Louisiana Department of Education (LDOE) Dispute Resolution Options Academic Year 2021-2022	
Option	Description
Informal Complaints /Early Resolution Process (ERP)	<ul style="list-style-type: none"> • This process is not required by federal law; instead, BESE promulgated it in state regulations as another option for parents. (LAC 28.XLIII:151(C)) • Although an informal complaint can be the same allegation as a formal complaint, informal complaints do not have to be in writing, signed, or have to include a contact for the complainant or facts that the school system has violated the law. These are the requirements for a formal complaint in federal regulations. • LDOE directs parents to file these complaints directly with their school system’s informal complaint representative. According to LDOE, it is the goal for parents and districts to work together before a complaint is escalated to a more adversarial option. • If a parent makes an informal complaint to LDOE, LDOE forwards these complaints to the school system’s representative and LDOE staff monitor to ensure: <ul style="list-style-type: none"> ○ The school system and complainant either sign a written agreement or agree to an extension within 15 days of the filing. ○ If no agreement is reached and no extension is agreed upon, the ERP representative must provide the complainants with information about other dispute resolution options.
Individual Education Plan (IEP) Facilitation	<ul style="list-style-type: none"> • This process is not required by federal law; instead, LDOE created it as another option for parents. • If a parent’s complaint is about a student’s IEP, IEP facilitators (i.e., individuals contracted by LDOE) will meet with the parents and school system together to help draft an IEP for the student. This is a voluntary process; both parents and the school system must agree to participate.

⁵ 20 USCA § 1412 (a)(11)

⁶ 20 USCA § 1415 (b)(7) and (e)(1)

⁷ 34 CFR 300.151

⁸ These written procedures can be found in Bulletin 1573 – Complaint Management Procedures and Bulletin 1706 – Regulations for Implementation of the Children with Exceptionalities Act.

Option	Description
Mediation	<ul style="list-style-type: none"> • This process is required in federal law. [20 USCA § 1415 (b)(5)] • Attorney-mediators (i.e., contracted by LDOE) create a structured environment for open communication to help resolve disagreements between parents and school systems. • Disagreement must involve the identification, evaluation, placement, services, or providing FAPE to a student with an exceptionality. • This is a voluntary process; both the parents and the school system must agree to participate.
Formal Complaint	<ul style="list-style-type: none"> • This process is required in federal law. [20 USCA § 1415 (b)(6)] • LDOE investigates allegations that occurred within one year, where a school system may be violating a requirement in applicable law or regulations. • LDOE only accepts signed, written complaints, as required by federal regulation, that include a statement that a school system has violated a requirement, the facts on which the statement is based, and a description of the problem. • During the investigative period, LDOE reviews relevant information submitted by the parent and school system, makes a written factual finding and legal determination whether school system violated a requirement of applicable Federal law, State statutes, or LDOE regulations, and sends it to the applicable parties.
Due Process Hearing	<ul style="list-style-type: none"> • This process is required in federal law. [20 USCA § 1415 (b)(7)] • A formal, court-like proceeding where parties present evidence to an independent, administrative law judge to resolve disputes between the parents of a child with an exceptionality and the school system. • The hearing is limited to issues involving the identification, evaluation, eligibility, placement, and providing FAPE to a student with an exceptionality.
<p>Source: Prepared by legislative auditor's staff using information from LDOE's Website, interviews with staff, and review of complaint files.</p>	

Number and Type of Complaint Allegations. For this audit, we focused primarily on informal and formal complaints (highlighted in Exhibit 2). In academic year 2021-2022, LDOE received 61 formal complaints with 92 total allegations. The most common allegations involved issues with the student's IEP and most were filed by parents. Exhibit 3 shows the number of allegations, type of allegation, and who filed the allegation for the 61 formal complaints LDOE received.

Exhibit 3 Number of Allegations by Type Recorded by LDOE <i>61 Formal Complaints</i> Academic Year 2021-2022			
Complaint Allegations, by Type			Complainants Relationship to Student
Allegation Type*	#	%	By Percentage
IEP not followed, Services denied, Untimely IEP, Other IEP issues	27	29.3%	<p>82.0%</p> <p>8.2%</p> <p>4.9%</p> <p>4.9%</p> <ul style="list-style-type: none"> ■ Advocate / Attorney ■ Other Relative ■ Parent ■ Other
Lack of communication, Failure to provide prior written notice	11	12.0%	
Bullying, Abuse, and Harassment	9	9.8%	
Failure to maintain or provide records, Falsifying records	8	8.7%	
Allegation that does not involve a student receiving special education services	7	7.6%	
Discrimination due to disability	6	6.5%	
Discipline procedures/Behavior plan not followed	6	6.5%	
Lack of special education staff/Untrained staff	6	6.5%	
Failure to identify student for special education services	5	5.4%	
Seclusion or Restraint	3	3.3%	
Student not in least restrictive environment	1	1.1%	
Other (school system is unfair/impartial/coercive, Dispute Resolution Agreement not followed)	3	3.3%	
Total	92**	100.0%	

*Some allegations do not fall under IDEA or other relevant regulations, and would not be investigated by LDOE.

**There are more allegations than the 61 formal complaints received because some complaints contained multiple allegations.

Source: Prepared by legislative auditor's staff using LDOE complaint files and emails.

Staffing and Budget. As of June 2023, LDOE had one staff attorney dedicated to processing and addressing dispute resolution options, including investigating formal complaints. According to LDOE, it also contracts with six IEP facilitators and five attorney-mediators, as of July 2023. Federal law⁹ requires LDOE to reserve IDEA funds for complaint investigations. According to LDOE, in academic year 2021-2022, LDOE spent approximately \$485,605¹⁰ on its special education dispute resolution process, which is 2.1% of its IDEA set-aside budget of \$22,808,610.

To conduct this audit, we interviewed LDOE staff, researched applicable state and federal laws and regulations, reviewed LDOE's consultant report on LDOE's

⁹ 20 USCA § 1411 (2)(B)

¹⁰ This does not include some travel expenses incurred by dispute resolution staff and contractors.

Dispute Resolution Process,¹¹ surveyed parents and special education directors, conducted parent interviews, and reviewed complaint files at LDOE. We also interviewed other states, and researched their websites, statutes, and regulations. The objective of this audit was:

To evaluate LDOE’s complaint process for students with disabilities receiving special education services.

Our results are summarized on the next page and discussed in detail throughout the remainder of the report. Appendix A contains LDOE’s response to this report, Appendix B details our scope and methodology, and Appendix C summarizes LDOE’s dispute resolution processes.

¹¹ LDOE contracted with a private consultant on February 1, 2023, for \$26,000 to evaluate their complaint process. The report was issued May 30, 2023, internally to LDOE and provided to the LLA on June 7, 2023.

Objective: To evaluate LDOE's complaint process for students with disabilities receiving special education services.

Overall, we found the following:

- **LDOE investigated and rendered decisions on 61 formal complaints in academic year 2021-2022. However, it did not address all allegations it received through its dispute resolution email.** Better tracking of complaint information may help LDOE identify trends of noncompliance and ensure that all allegations are referred to monitoring or program staff. The allegations in the emails included IEPs not being followed, services denied, discipline procedures, and behavior plans not being followed. These allegations were similar to other allegations that were accepted and investigated by LDOE.
- **LDOE could increase trust in its complaint process by making it more accessible, user-friendly, and transparent. This includes receiving complaints by phone, ensuring parents are routed to appropriate resources, providing dispute resolution forms in languages other than English, and contacting the complainant during the formal complaint investigation.** According to our parent survey, interviews with parents and other stakeholders conducted by our office, and interviews described in LDOE's consultant report on the dispute resolution process, many parents have a lack of trust in this process.
- **LDOE should increase its outreach to parents and help them navigate and answer questions about the dispute resolution process. According to our survey, only 456 (47.8%) of the 954 parents or guardians who responded stated that they were aware of the dispute resolution options offered by LDOE.** To increase outreach to parents, LDOE could post Families Helping Families (FHF) contact information on its dispute resolution webpage and develop or link to more user-friendly parent outreach resources. In addition, state laws do not require school systems to post on their websites information on their informal complaint process or other dispute resolution options offered by LDOE.

Our results and recommendations are discussed in more detail in the sections below.

LDOE investigated and rendered decisions on 61 formal complaints in academic year 2021-2022. However, it did not address all allegations it received through its dispute resolution email. Better tracking of complaint information may help LDOE identify trends of noncompliance and ensure that all allegations are referred to monitoring or program staff.

Federal regulations¹² require LDOE to develop minimum state complaint procedures, which includes carrying out an independent investigation if necessary, providing the complainant the opportunity to submit additional information, providing the school system with the opportunity to respond to the complaint, reviewing all relevant information, making an independent determination, and issuing a written decision. LDOE receives formal complaints through its dispute resolution email (DisputeResolution.DOE@la.gov), fax, and mail. LDOE investigated 61 formal complaints and rendered decisions on all these complaints during academic year 2021-2022. Exhibit 4 summarizes LDOE's actions on formal complaints and an example of each. Appendix C summarizes LDOE's dispute resolution processes.

¹² 34 CFR 300.152

Exhibit 4			
LDOE's Action on Formal Complaints			
Academic Year 2021-2022			
61 Total Complaints Received			
LDOE Action	#	%	Examples of Complaints and Resolution
Withdrawn by Complainant	21	34.4%	Parent alleged that their student's placement was changed without prior written notice and they were not receiving services in their IEP. School system and parent came to an agreement and parent withdrew complaint.
LDOE Dismissed	17	27.9%	Parent stated that their student was not receiving services listed in their IEP and their behavior plan is not being followed because there is no certified teacher. LDOE dismissed this complaint because there was not enough information about the student or requester, the document was not signed and there was no statement of facts that detailed a violation of IDEA. The parent did not refile the complaint.
LDOE Investigated and found no findings	16	26.2%	Parent alleged that the teacher secluded the student in the hallway away from other children. LDOE found that no violations occurred because there was no seclusion as the teacher allowed the student to complete a worksheet in the hallway in order to decrease his anxiety.
LDOE Investigated and had findings against the school system	7	11.5%	Complainant alleged that there was an instance of seclusion and restraint where the incident report was incomplete, and the guidelines and procedures were not given to parents. LDOE found school system violated provisions of law (R.S. 17:416.21) by providing no description of behavior that presented a threat of imminent risk of harm/substantial injury to self or others. LDOE required the school to develop a Corrective Action Plan to address this issue.
Total	61	100%	
Source: Prepared by legislative auditor's staff using information provided by LDOE.			

LDOE received an additional 42 emails through its dispute resolution email but did not address the allegations in these emails because, according to LDOE, parents did not sign the allegation. While federal regulations require formal complaints to be signed and in writing, LDOE should create a process to address all allegations it receives regardless of signature status. The allegations in the emails included IEPs not being followed, services denied, discipline procedures, and behavior plans not being followed. These allegations were similar to other allegations that were accepted by LDOE. Some other allegations in these emails involved bullying, harassment, and other areas not covered by IDEA; however, LDOE should have, at a minimum, responded to the email with an explanation of why the allegation did not meet the criteria for a formal complaint investigation. According to OSEP, states (i.e., LDOE) should not ignore credible allegations about potential areas of noncompliance, which could be received from complaints.

According to parent interviews, "Filing a complaint with LDOE is often the last option for parents to address issues with their student's education because they have already tried to address these issues with the school and school system or board."

Source: LLA Parent Interviews, 2023

During our review, we identified 42 emails that were submitted with an allegation but LDOE did not address these allegations. Specifically, we found that LDOE responded by email to nine (21.4%) of the emails, did not respond to 13 (31.0%) of these emails, and could not provide evidence of how they responded to 20 (47.6%) of these emails. By not adequately responding to all allegations, LDOE may cause parents to lose faith in the complaint process and fail to submit additional complaints in the future. According to LDOE’s consultant’s report on the dispute resolution process,¹³ parents stated that LDOE did not always address complaints and “complaints often die at LDOE without investigation.” If LDOE created a process to respond to all allegations received through its dispute resolution email, this may help the perception that LDOE is not addressing all complaints.

Better tracking of complaint information may help LDOE identify trends of noncompliance and ensure that all allegations are referred to monitoring or program staff. According to OSEP,¹⁴ identifying patterns that suggest systemic noncompliance is one component of an effective dispute resolution process. The Center for Appropriate Dispute Resolution in Special Education (CADRE)¹⁵ also recommends tracking case specific data from inquiry to result (e.g., practitioner, participants, issues, timelines, outcomes) to ensure cases are managed in a timely, consistent, compliant, and effective manner. Currently, while LDOE tracks formal complaints as required by OSEP, LDOE does not sufficiently track enough complaint information to be used to identify trends of noncompliance. State regulations¹⁶ also require LDOE to record all complaints it receives in a complaint log, but does not specify what information should be included. State regulations¹⁷ further require that when critical issues of noncompliance are identified, LDOE may conduct a targeted on-site compliance monitoring visit of the system.

LDOE’s consultant report also recommended “If noncompliance is found, and similarly situated students may be affected across a school or LEA, the areas of noncompliance should be relayed to the compliance and monitoring team. The [Informal Complaint] agreements should also be reviewed, and any suggestion of systemic noncompliance also reported to the compliance arm of the LDOE.”

Source: LDOE’s Consultant Report – Dispute Resolution Process, issued May 2023

¹³ Louisiana Department of Education’s *Special Education Dispute Resolution Process, Comparison to Other State Education Agencies, and Review of Parent Training and Information Center Outreach*, Completed by Kim Lewis Ed.D, May 30, 2023.

¹⁴ [State General Supervision Responsibilities Under Parts B and C of the IDEA, Monitoring Technical Assistance, and Enforcement](#), issued by the U.S. Department of Education Office of Special Education and Rehabilitation Services, July 24, 2023

¹⁵ CADRE is the National Center on Dispute Resolution in Special Education, supports State Education Agencies, Lead Agencies, and federally funded Parent Centers in 1) building local level capacity to prevent and resolve disputes, and 2) developing more effective and equitable dispute resolution systems.

¹⁶ LAC 28.LXI:505

¹⁷ LAC 28.XCI:101(D)(3)

While LDOE maintains physical files of complaints and associated documentation, it does not track important information on complaints, including the date received, name of complainant, school involved, allegation type, or complaint outcome. As a result, it cannot easily identify trends such as schools with a high number of complaints that should be referred to LDOE monitoring staff or LDOE program staff – who provide education to school systems. For example, a parent

CADRE recommends that “Leadership supports continuous improvement efforts and makes a concerted effort to foster a culture of information sharing, coordination and collaboration among leadership, dispute resolution staff, other departments, units, and contracted entities.”

Source: [CADRE Website](#)

filed a complaint that their student was not receiving their math or occupational therapy services. The parent withdrew the complaint because they came to an agreement with the school system. LDOE should consider referring cases like this to its monitoring or program staff to consider when monitoring the special education services provided at this school. According to LDOE, it has begun referring all formal complaints with findings to its monitoring and program staff in 2023. Additionally, while

LDOE tracks IEP facilitations, mediations, and due process hearings, as required by OSEP, it could track additional important information on IEP facilitations, mediations, and due process hearings, such as the date received, name of complainant, school involved, or allegation type. Better tracking of these other dispute resolution options would better help it identify systemic issues and trends.

Other states¹⁸ that we interviewed are either starting to or have been tracking complaints. For example, Oklahoma has just begun to use a spreadsheet that calculates the important deadlines in the process, and includes information about the school, school system and the allegations in order to identify systemic issues. Maryland is moving to a new system that will be interconnected between its different offices in order to improve communication regarding complaints. Finally, Virginia has a tracking log that records the number of each complaint type filed along with general information about each complaint. LDOE stated that it is in the process of building a more comprehensive complaint tracking program.

Recommendation 1: LDOE should create a process to ensure that it responds to all emails with allegations that are submitted through its dispute resolution email.

Recommendation 2: LDOE should comprehensively track information on all dispute resolution options including the date received, name of complainant, school involved, allegation type, and outcome. LDOE should also share this information with its monitoring and program staff.

¹⁸ This includes four (Arkansas, Oklahoma, Maryland, and Virginia) of the five states we interviewed. Of the 10 states (Alabama, Arkansas, Florida, Georgia, Kentucky, Maryland, Mississippi, Oklahoma, Texas, and Virginia) we selected for review, we interviewed five states (Arkansas, Georgia, Oklahoma, Maryland, and Virginia) as some opted out or never responded. However, when applicable, we reviewed the other five state’s websites, laws, and regulations.

Summary of Management’s Response: LDOE agrees with these recommendations. See Appendix A for management’s full response.

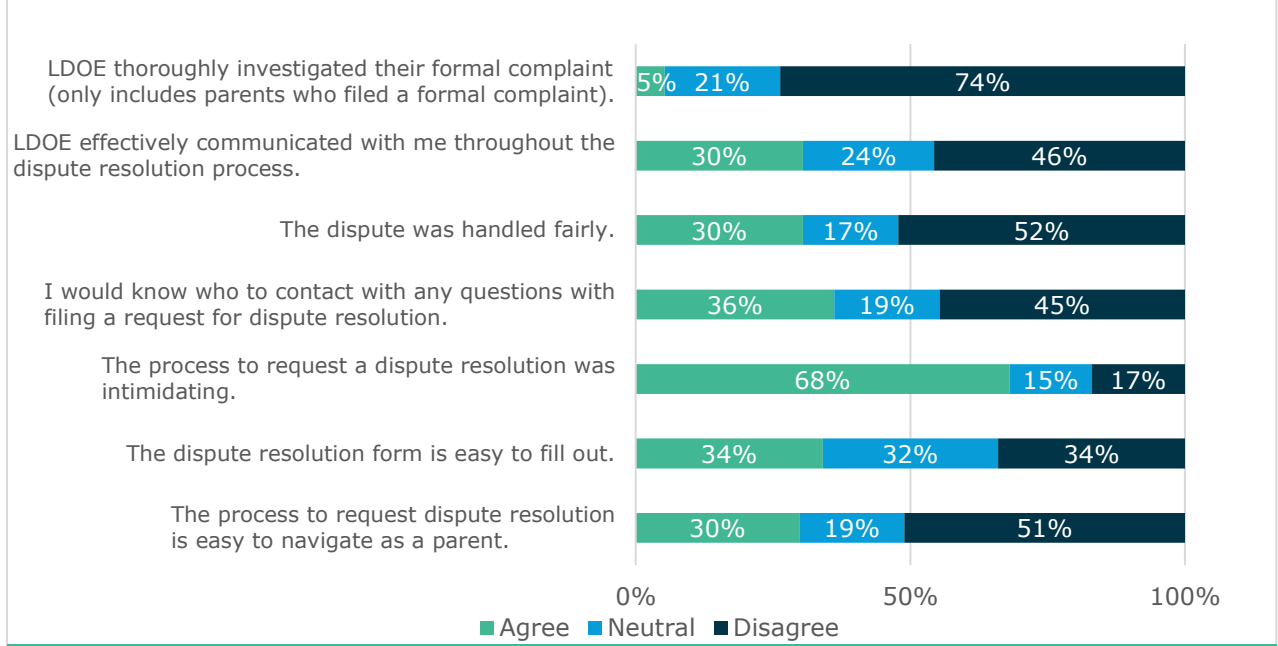
LDOE could increase trust in its complaint process by making it more accessible, user-friendly, and transparent. This includes receiving complaints by phone, ensuring parents are routed to appropriate resources, providing dispute resolution forms in languages other than English, and contacting the complainant during the formal complaint investigation.

Survey results showed that SPED Directors generally had positive experiences with LDOE’s dispute resolution processes. However, according to our parent survey, interviews with parents and other stakeholders conducted by our office, and interviews described in LDOE’s consultant report on the dispute resolution process, many parents have a lack of trust in the dispute resolution process. Specifically, in LDOE’s consultant report, parents stated that LDOE always sides with the school system, the informal complaint process often places parents in the position of being bullied by the school system, the school systems are like the “wild west” because no one holds them accountable, and the State has “no teeth”. Exhibit 5 summarizes parent response from our 2023 survey and Exhibit 6 summarizes special education directors’ responses.

With regards to the dispute resolution process, parent advocates believe that parents and attorneys know the dispute resolution process is broken and does not work, so why bother filing complaints? They shared, *“It isn’t worth the time and the most vulnerable families and students are suffering.”*

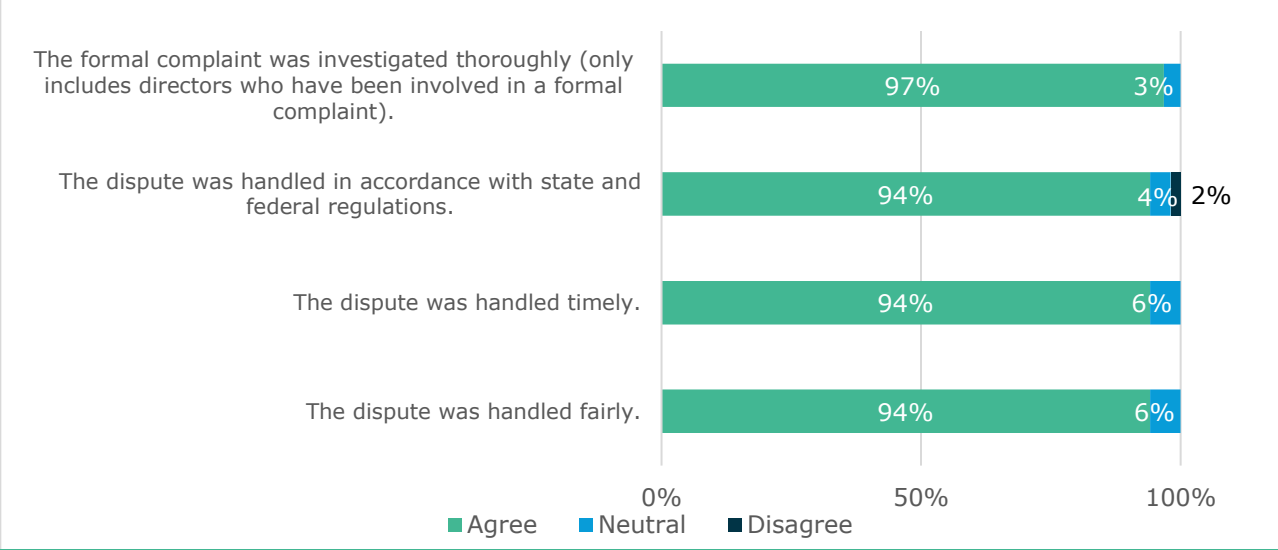
Source: LDOE’s Consultant Report – Dispute Resolution Process, issued May 2023

Exhibit 5 2023 Parent Survey Responses - Dispute Resolution Processes



Source: Prepared by the legislative auditor's staff using information from LLA Parent/Guardian Survey, 2023.

Exhibit 6 2023 SPED Director Survey Responses - Dispute Resolution Processes



Source: Prepared by the legislative auditor's staff using information from LLA Parent/Guardian Survey, 2023.

According to CADRE, complaint processes should be understandable, comprehensive, accessible, and not burdensome to intended audiences. CADRE also recommends that LDOE make efforts to understand the interest and experiences of

the people who use and are most impacted by the system and specifically recommends that departments request regular input from stakeholders (i.e., parent organizations and school systems).

LDOE could make the complaint process more accessible and user-friendly by developing a process to receive phone complaints and ensuring LDOE’s general call center staff correctly route complaint phone calls. While Louisiana regulations¹⁹ allow complaints to be filed in writing, by phone, or in person, LDOE does not have a process to accept complaints by phone. LDOE stated that it would accept phone complaints; however, it does not list this as an option on its dispute resolution webpage or provide a phone number to its dispute resolution staff on its website. In the mandatory documents provided to parents, LDOE does include the legal division’s number to request a mediation, but does not indicate that parents can file a complaint using this number. All 10²⁰ of the other states’ websites we reviewed listed either their dispute resolution phone number or their Special Education Department phone number. Not providing a phone number and not accepting phone complaints may discourage a parent from filing a complaint. Although federal regulations²¹ require complaints to be signed and submitted in writing, Louisiana regulations allow complainants the option of submitting a complaint by phone. Other states²² we interviewed stated that they would accept complaints by phone and work to get the parent to sign the written complaint in order to comply with federal law. Accepting complaints by phone is important because, according to LSU’s Manship School of Communication, 20% of Louisiana adults do not have internet service at home.

Since there is no phone number for LDOE’s dispute resolution staff posted on its website, the only phone number available to potential complainants is a general number for inquiries relating to everything LDOE oversees. Calls to this number go to LDOE’s contracted call center. According to LDOE staff, they have provided information on the dispute resolution process to the contactor. LDOE also stated that the contractor is responsible for training its employees until LDOE becomes aware that additional training is needed. We found that the call center did not always route calls regarding complaints to the dispute resolution office within LDOE to file a complaint. For example, we made 10 calls to LDOE’s call center in attempt to file a formal state complaint and received incorrect information for nine (90.0%) of these calls. This included referrals to call the federal Office for Civil Rights Office, referrals to a local number with no answer or no option to leave a voicemail, and a referral to the local school board with no mention of other dispute resolution options. In only one of these complaints did the LDOE call center staff provide us with the email address to file a request for a dispute resolution, but we never were able to speak directly to LDOE dispute resolution staff. Additionally, the call center staff never referred us to Families Helping Families (FHF) or Exceptional Lives, both

¹⁹ LAC 28.LXI:305

²⁰ Alabama, Arkansas, Florida, Georgia, Kentucky, Maryland, Mississippi, Oklahoma, Texas, and Virginia

²¹ 34 CFR 300.153

²² This includes three of the five states we interviewed (i.e., Arkansas, Oklahoma, and Virginia.)

of whom received IDEA funding to provide support to parents. Exhibit 7 summarizes the results of the 10 calls we made to LDOE's call center.

Exhibit 7 Call Center Complaint Referrals Based on 10 Calls Made by LLA Staff May-July 2023			
Usefulness	Referral	Number	Percent
Appropriate	Dispute Resolution Staff/Phone Number	0	0.0%
Appropriate	Dispute Resolution Email	1	10.0%
Appropriate	Families Helping Families or Exceptional Lives	0	0.0%
Appropriate Referrals		1	10.0%
Incorrect	Local School Board - <i>We were told we had to first file a complaint here, and not about other options at the LDOE level.</i>	2	20.0%
Incorrect	LDOE General Email Request	1	10.0%
Incorrect	US Department of Education's Office of Civil Rights - <i>This is for 504 students, not students receiving special education.</i>	5	50.0%
Incorrect	Provided caller with a local number with no answer/no voicemail option	1	10.0%
Incorrect Referrals		9	90.0%
Total		10	100.0%
Source: Prepared by legislative auditor's office using phone calls made to LDOE's call center.			

LDOE could make the complaint process more accessible by providing forms for the dispute resolution process in other languages besides English on its website. Although not required by federal or state law or regulation, the dispute resolution forms on LDOE's website are only available in English. All 10 states' websites that we reviewed provide either instructions on how to file a complaint and/or the necessary forms in at least one other language. All 10 states also offer dispute resolution documents and/or instructions in Spanish, with some in other languages such as Vietnamese. In the parent survey, one participant suggested, "providing the information in the person's native language as well as making sure the [school system] informs the parent of this right." By not having this information on the dispute resolution page of its website, students with disabilities whose parents do not speak English do not have access to the dispute resolution options and, as a result, may not be afforded the same protections. In addition, we also found that instructions on how to file dispute resolution requests written in languages besides English are hard to find. This is because they are not linked on LDOE's dispute resolution or Family Support Toolbox Library pages of its website; instead, they are linked only on the Academics page of the LDOE website.

"The LDOE website is not user-friendly, and it is extremely difficult to find information and to get answers to questions."

Source: Parent Comment from LDOE's Consultant Report – Dispute Resolution Process, issued May 2023

LDOE could make the formal complaint process more transparent by calling the complainant after receiving a formal complaint and posting complaint results on its website like some other states.²³ Federal regulations²⁴ require LDOE to develop minimum state complaint procedures, including providing the complainant the opportunity to submit additional information either orally or in writing, about the allegations in the complaint. However, LDOE does not call the complainant before beginning the investigation and does not always call during the investigation. Of the 17 complaints LDOE dismissed during academic year 2021-2022, eight (47.1%) were dismissed for insufficient or incomplete information. LDOE either sent the complainant a letter describing the missing information or downgraded the complaint to an informal complaint and forwarded it to the appropriate school system. Only one of the eight complainants submitted a new complaint with additional information. LDOE could make the complaint process more transparent and easier for parents by giving parents the opportunity to submit missing information about their complaint before dismissing the complaint.

Four²⁵ (80.0%) of the five states we interviewed said they either speak to the parent at the beginning of their investigation or when clarification is needed. For example, Arkansas staff speak with the parent as the first step of the investigation in order to gain an understanding of their complaint. According to the Arkansas Special Education Director, speaking to parents is a time-consuming but worthwhile approach. According to LDOE staff, they do not always reach out to parents because they want to remain unbiased during complaint investigations. However, they do reach out to the school systems, which may contribute to the parents' perception that the complaint process is unfair and complaints are not thoroughly investigated, as demonstrated by examples from the following survey responses. According to a response from our parent survey, "It was very clear through my complaint process [that] LDOE was working more in the school system's favor..." Another parent stated, "LDOE never contacted parents to discuss complaint. There was no investigation. Decision was completely based on explanation of the school system for not providing a prior written notice."

"I find that the LDOE was not very kind to the parent, more supportive of the district. I find that the process is hard to contact anyone by phone, especially with no voicemail. I find that the process is very disconnected from human interaction."

Source: LLA Parent/Guardian Survey 2023

²³ Maryland and Wisconsin

²⁴ 34 CFR 300.152 (a)(2)

²⁵ Arkansas, Georgia, Maryland, Oklahoma

In addition, while not required by federal law, LDOE could post formal complaint results on its website to provide transparency in its decisions. LDOE already posts due process hearings on its website, as required by federal law.²⁶

As advocates, they noted that they never saw a complaint resolved in the parents/students favor.

Source: LDOE’s Consultant Report – Dispute Resolution Process, issued May 2023

LDOE’s consultant’s report also recommended that LDOE post redacted versions of letters of findings on state complaints on its website. Although not required by law, this could provide additional information to school systems and parents to improve transparency of the dispute resolution process and show when LDOE has findings against school systems. This may help increase trust in the complaint process because parents, guardians,

and others would be able to see the violations LDOE finds and how they were corrected. For example, we found that Maryland and Wisconsin post complaint letters of findings on their websites. In addition, Kentucky posts trends about all of its dispute resolution options, including the number of formal complaints with findings of noncompliance, number of complaints per year, and by region. Exhibit 8 shows an excerpt of Maryland’s Department of Education’s website postings of Complaint Letters of Findings.

Exhibit 8 Maryland’s Website – Complaint Letters of Findings Excerpt	
Allegany County Public Schools	
Complaint #	Issues Subject to Investigation
23-001	Proper Written Notice - Part B; Behavior Interventions (COMAR regulations); IEP Development/Review/Revision
Anne Arundel County Public Schools	
Complaint #	Issues Subject to Investigation
23-021	Records; IEP Implementation-classroom instruction; IEP Implementation-accommodations, supplementary aids and services, modifications; IEP Progress Report
Baltimore City Public Schools	
Complaint #	Issues Subject to Investigation
23-010	IEP Implementation-accommodations, supplementary aids and services, modifications
Source: Maryland Department of Education’s website.	

Recommendation 3: LDOE should develop a process to start the formal complaint process over the phone, as allowed by state regulation.

²⁶ 20 USCA 1415 (h)(4)

Recommendation 4: LDOE should ensure its call center contractor is providing appropriate help for parents who call with a special education complaint.

Recommendation 5: LDOE should post dispute resolution instructions and forms in other languages besides English on its dispute resolution webpage.

Recommendation 6: LDOE should contact the complainant when it receives a complaint, and should not dismiss the complaint for lack of information before this contact occurs.

Recommendation 7: While not required by federal law, LDOE should consider posting formal complaint results on its website.

Summary of Management's Response: LDOE agrees with these recommendations. See Appendix A for management's full response.

LDOE should increase its outreach to parents and help them navigate and answer questions about the dispute resolution process. According to our survey, only 456 (47.8%) of the 954 parents or guardians who responded stated that they were aware of the dispute resolution options offered by LDOE.

IDEA requires every state to designate at least one Parent Training Information Center (PTIC). These centers provide guidance and outreach to families of children with disabilities receiving special education services. Louisiana's PTIC is Families Helping Families of Greater New Orleans.²⁷ LDOE has also allocated funding to Families Helping Families (FHF) in the other nine regions and Exceptional Lives.²⁸ To receive this funding, FHF is required to offer various forms of peer support, training, and technical assistance for families of children with disabilities.

"FHF's are able to help parents by providing guidance on the dispute resolution process and by helping parents solve the problem which may result in parents no longer needing the dispute resolution process."

Source: Families Helping Families Director Interview

²⁷ Families Helping Families of Greater New Orleans (FHF of GNO) is a family-directed resource center that provides information and referral, training and education, and peer-to-peer support on issues related to disability.

²⁸ Exceptional Lives is a not-for-profit that encourages and guides families and providers caring for children with disabilities by offering information, resources, skill-building tools, and connections to other caregivers.

In addition, school systems are required by federal regulations²⁹ to notify parents about dispute resolution options by providing parents, at least annually, a

"Parents need training on the law, they need clarity of dispute resolution process and need to understand what is legal and what is not."

Source: LDOE Consultant Report – Dispute Resolution Process, issued May 2023

copy of *Louisiana's Educational Rights of Children with Disabilities* which informs parents of the supports, services, and protections offered. One of the topics covered in this document is the dispute resolution options that LDOE offers to parents and provides the contact information for each FHF. However, according to our survey, only 456 (47.8%) of the 954 parents or guardians who responded stated that they

were aware of the dispute resolution options offered by LDOE. To increase outreach to parents, LDOE should consider implementing the following:

- **Post FHF contact information on its dispute resolution webpage.** Unlike seven³⁰ (70.0%) of the 10 other states we reviewed, LDOE does not provide PTIC information on its dispute resolution webpage. LDOE also does not make it clear that FHF can assist parents in filing a dispute. LDOE does provide this information elsewhere on its website, but adding an accessible link on its dispute resolution's webpage may help parents find the information more easily. For example, Arkansas has a parent resources tab on its dispute resolution webpage that lists PTIC and resources developed by CADRE. Also, LDOE's call center we reviewed did not refer parents to their respective FHFs for help navigating the complaint process. According to our parent survey, 547 (57.3%) of the 954 parents or guardians were aware of FHF.
- **Develop or link to other parent outreach resources.** While Louisiana does post on its dispute resolution webpage a brochure from CADRE about dispute resolutions and a comparison chart of the different dispute resolution options, nine³¹ (90.0%) of the 10 states we reviewed provide more user-friendly dispute resolution resources for parents. Most of these states link to more detailed resources provided by CADRE. This includes parent guides for each dispute resolution option, videos describing an overview of state complaints and what to expect after a complaint is filed, and training aimed at helping parents and school systems better communicate.

Other states have developed their own resources. For example, Georgia developed a brochure that provides parents with key information including contact information for PTICs. Virginia has developed its own parent guide for dispute resolution which includes common definitions, scenarios that help parents in deciding what option is best for them, and frequently-asked questions about complaints. Oklahoma's complaint forms offer simple instructions for each required element and it also provides examples of each

²⁹ CFR 34.300:504

³⁰ Arkansas, Florida, Georgia, Kentucky, Maryland, Mississippi, and Virginia

³¹ Alabama, Arkansas, Florida, Georgia, Kentucky, Maryland, Oklahoma, Texas, and Virginia

of these, to help guide parents in filling out the complaint form. Finally, LDOE's consultant report found that all eight states reviewed had some type of parent help available (i.e., help desks, consultation lines, and/or an ombudsman) and recommended that LDOE employ one ombudsman or staff a help desk specially for questions regarding students with disabilities.

State law does not require school systems to post on their websites information on their informal complaint process or other dispute resolution options offered by LDOE. State regulations³² require each school system to establish an internal informal complaint process that includes designating a representative and providing notice of the name and contact information for this representative. However, it does not specify methods for providing notice. We found that 13 (65.0%) of the 20 school systems' websites we reviewed did not mention its informal complaint process and 16 (80%) did not link to the LDOE dispute resolution options. In addition, we were only able to find the name or contact information of the school system's informal complaint representative for two schools.

School systems could also be required by state law to post useful information to help parents file disputes, including posting links to the local FHF, and links to *Louisiana's Educational Rights of Children with Disabilities*. Of the 20 school systems' websites we reviewed 15 (75%) did not link to their local FHF or to parents' rights. Since each school system is required to provide procedural safeguards that include dispute resolution options offered by LDOE, posting this information or including a link to LDOE's dispute resolution webpage may help parents become more aware of the dispute resolution options. Finally, while LDOE is required to disseminate to parents and other interested individuals the contact information of each school systems' informal complaint representative, it does not post this information on its own website. Posting this information on its website would help parents reach the appropriate person to file an informal complaint.

Recommendation 8: LDOE should consider ways to increase its outreach to parents, including posting FHF contact information on its dispute resolution webpage and developing or linking to more user-friendly parent outreach resources.

Summary of Management's Response: LDOE agrees with this recommendation and stated it has created a special education ombudsman position to give parents greater access to someone to help them navigate their concerns and also more effectively review parent grievances. See Appendix A for management's full response.

Recommendation 9: LDOE should post on its website a listing of all informal complaint representatives for each school system.

³² LAC 28.XLIII:151

Summary of Management's Response: LDOE agrees with this recommendation. See Appendix A for management's full response.

Matter for Legislative Consideration 1: The legislature may wish to consider requiring school systems to post dispute resolution information on their websites (i.e., informal complaint process information, a link to LDOE's dispute resolution webpage, informal complaint representatives' contact information, and other resources including links to the local FHF and the *Louisiana's Educational Rights of Children with Disabilities*).

APPENDIX A: MANAGEMENT'S RESPONSE



LOUISIANA DEPARTMENT OF EDUCATION

Michael J. Waguespack, CPA
1600 North 3rd St.
Baton Rouge, La. 70804-9397

Dear Mr. Waguespack,

Please accept this as the Louisiana Department of Education's (LDOE) response to the Louisiana Legislative Auditor's (LLA) draft report regarding LDOE's Complaint Process for Students with Disabilities Receiving Special Education Services.

I would like to thank you and your team's steadfast commitment to increasing governmental transparency and upholding the highest ethical standards. We enjoyed working alongside your team on this project in search of new and improved ways to serve students with disabilities while also providing greater access and support for families. The results of this review show a shared commitment to that ideal and will culminate in a stronger statewide delivery.

Students with disabilities deserve our best efforts in meeting their individualized needs. Responsive educators set high expectations, provide necessary resources, and offer support in promoting the success of every student. All Louisiana students benefit from access to high-quality teaching and learning aimed at creating a lifetime of opportunity. Likewise, parents should be able to access state government for assistance in addressing any relative concerns they may have.

Together with our families, educators, support professionals, leaders, and community members, we must ensure every student reaches their full potential. The recommendations provided will be helpful as we seek continuous improvement in delivery of special education services.

LDOE concurs with all of LLA's recommendations and has already begun working to implement the improvements. As one example, by directing existing agency resources, we have created the state's first special education ombudsman position as well as an additional complaint investigator. This will give parents greater access to someone to help them navigate their concerns and also more effectively review parent grievances.

Thank you again for your thoroughness and shared commitment to transparency.

Sincerely,

A handwritten signature in blue ink that reads "Meredith F. Jordan".

Meredith Jordan

Executive Director of Diverse Learners

APPENDIX B: SCOPE AND METHODOLOGY

This report provides the results of our performance audit of the Louisiana Department of Education's (LDOE) complaint process for students with disabilities receiving special education services. We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. This audit covered academic year 2021-2022. Our audit objective was:

To evaluate LDOE's complaint process for students with disabilities receiving special education services.

We conducted this performance audit in accordance with generally-accepted *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our results and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our results and conclusions based on our audit objective.

We obtained an understanding of internal controls that were significant to the audit objective and assessed the design and implementation of such internal controls to the extent necessary to address our audit objective. We also obtained an understanding of legal provisions that are significant within the context of the audit objective, and we assessed the risk that illegal acts, including fraud, and violations of applicable contract, grant agreement, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

To answer our objective, we performed the following audit steps:

- Reviewed federal laws and regulations regarding special education, including but not limited to, dispute resolution requirements.
- Reviewed Louisiana state laws and regulations regarding special education, including but not limited to, dispute resolution requirements.
- Interviewed LDOE staff to understand LDOE's dispute resolution processes.
- Interviewed various stakeholders, including parents, advocates of students with disabilities, parent training information centers, and school systems to understand their experiences with the dispute resolution process.

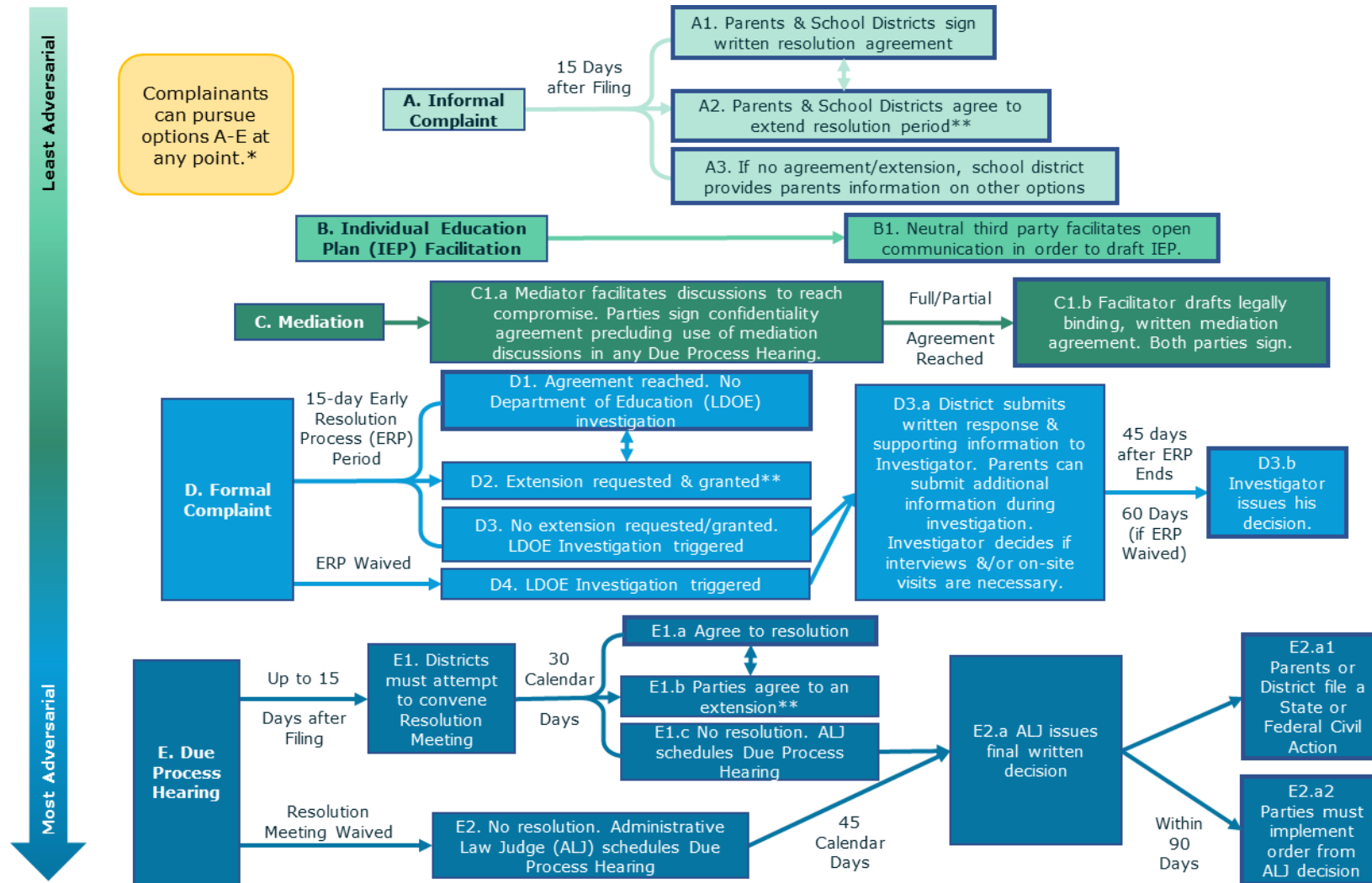
- Surveyed parents and guardians of students receiving special education services and special education directors from local school systems to obtain their input on LDOE’s dispute resolution processes.
- Reviewed LDOE’s website, including its dispute resolution webpage.
- For background purposes we obtained a copy of LDOE’s database for the Enhanced Special Education Reporting (eSER) System to identify the number of students receiving special education in Louisiana and the exceptionalities of each student.
- Reviewed LDOE’s consultant report, Louisiana Department of Education’s Special Education Dispute Resolution Process, Comparison to Other State Education Agencies, and Review of Parent Training and Information Center Outreach, Completed by Kim Lewis Ed.D, May 30, 2023.
- Made 10 calls to LDOE’s call center to determine if routed to the appropriate resources.
- Obtained access to and analyzed all formal complaints received and addressed by LDOE in academic year 2021-2022.
- Obtained access to and analyzed the email inbox for the dispute resolution email to determine if LDOE addressed all complaints in academic year 2021-2022.
- Reviewed 20 local school systems’ websites to determine if information and resources related to dispute resolutions were included. We included a selection of school systems based on size and type of school.
- Reviewed best dispute resolution practices created by Office of Special Education Programs and The Center for Appropriate Dispute Resolution in Special Education.
- Selected 10 other Southern Regional Education Board states³³ that were either meeting OSEP requirements, has a similar size population of students receiving special education services, and/or were a surrounding state. We reviewed each states’ dispute resolution process by reviewing relevant state laws and regulations and researching each states’ website. Of the 10 states we were also able interview five.³⁴

³³ Alabama, Arkansas, Florida, Georgia, Kentucky, Maryland, Mississippi, Oklahoma, Texas, and Virginia.

³⁴ Arkansas, Georgia, Maryland, Oklahoma, and Virginia.

- Provided LDOE with our results to review for accuracy and reasonableness.

APPENDIX C: LDOE DISPUTE RESOLUTION PROCESSES



* Complainants do not have to begin with less adversarial options before pursuing a more adversarial one.

** Extensions can be granted as many times that both parties are willing.

Source: Prepared by legislative auditor's staff using information from LDOE.