# VIRGINIA DEPARTMENT OF EDUCATION

## SPECIAL EDUCATION COMPLAINT APPEAL PROCEDURES

**FOR COMPLAINTS FILED AGAINST A PRIVATE SCHOOL FOR STUDENTS WITH DISABILITIES**

The *Regulations Governing the Operation of Private Schools for Students with Disabilities*, at 8VAC20-671-160, establish the requirements for filing a state complaint and also state that the parties to the complaint procedures shall have a right to appeal the findings[[1]](#footnote-1) associated with the complaint to the Virginia Department of Education (VDOE) within 30 calendar-days of the issuance of the findings. Parties to a complaint, under 8VAC20-671-160.D, have the right to appeal a final decision rendered by the VDOE to an internal reviewer in accordance with these procedures.

1. The VDOE’s Office of Facilities and Family Engagement (SEFFE) is responsible for the management of the appeal process regarding complaints filed against a private school for students with disabilities.

1. The complainant and/or the private school for students with disabilities may appeal the findings, portion of the findings, and/or any Corrective Action Plan (CAP) rendered by the VDOE in the complaint findings.

1. The appeal request must be made in writing and submitted to the VDOE by regular mail, hand-delivery, fax, or electronic mail (email). The party requesting the appeal must contemporaneously provide a copy of the appeal request to the other party.

* 1. The written request for appeal must include any supporting documentation, articulate specific assignments of error, and articulate the basis for the errors alleged.

* 1. The request for appeal shall be made on the basis of: (i) newly discovered information; or (ii) an error in fact or law on which the findings were based.

* 1. The written appeal request, and all supporting documentation, must be received by the VDOE within 30 calendar days of the date the VDOE issues its Letter of Findings. The date of the appeal deadline shall be set forth in the Letter of Findings.

1. The VDOE shall have identified a complaint appeal reviewer from the VDOE Office of Dispute Resolution and Administrative Services (ODRAS) who is knowledgeable of complaint resolution procedures and has a working knowledge of the requirements outlined within the *Regulations Governing the Operation of Private Schools for Students with Disabilities.*
2. Within three business days of the VDOE’s receipt of the request for appeal, SEFFE shall:

* 1. appoint the reviewer;

* 1. provide the reviewer with a copy of the appeal request(s), the complaint findings, the complaint file, as well as other relevant information the reviewer requests, and

* 1. send the parties a Notice of Appeal(s), including the following information:

* + 1. the VDOE’s receipt of the appeal request(s);

* + 1. the name of the reviewer;

* + 1. the option of the non-appealing party to file a written response to the appeal; and

* + 1. the expected date for issuance of review finding.

1. The non-appealing party has the option of filing a written response to the appeal. The response shall be filed with the reviewer within five business days of the date of the Notice of Appeal (the final submission date shall be stated in the VDOE’s Notice of Appeal). The response must be submitted by regular mail, hand-delivery, fax, or electronic mail (email).

1. An appealing party does not have the right to submit additional information or argument in rebuttal to a response to the appeal filed by the other party. The reviewer shall not consider any information submitted for this purpose.

1. The parties shall not communicate with the reviewer, other than the non-appealing party opting to submit to the reviewer a written response to the appeal. The reviewer shall have the discretion to disregard untimely submissions.
2. The reviewer shall:

* 1. complete the review and issue written findings within 30 calendar days from the date of the appointment. The reviewer may request from the Director of SEFFE an extension of the deadline for good cause.

* 1. identify the basis for the decision by making the findings based on: (i) newly discovered information; or (ii) an error in fact or law on which the complaint findings were based.

* Only matters specifically articulated in the appeal and any response to the appeal will be reviewed; generalized disagreement with the Letter of Findings or non-specific requests for a generalized review of the Letter of Findings are non-justiciable (not appropriate or proper for consideration or resolution by the complaint appeal reviewer).

* 1. affirm or amend the findings, or remand to SEFFE for further review and reissuance of findings, as well as any corrective action plan to insure that the plan flows logically from the ultimate findings (of the complaint or of the appeal).
	2. provide a copy of his/her written findings to the SEFFE Director and all parties to the complaint.

1. SEFFE will comply with the VDOE’s protocols in maintaining the VDOE’s complaint file records in a confidential manner, including submissions from the parties as part of the complaint appeal process.
2. The reviewer’s findings on appeal shall be considered final.[[2]](#footnote-2)

1. During the complaint appeal process, if the VDOE’s complaint findings require a corrective action plan (CAP) of the private school, SEFFE staff shall continue to work with the private school in implementing the CAP. SEFFE staff will initiate whatever action is needed to readjust the CAP if revisions are needed as a result of the reviewer’s findings.

Issuance date: TBD

Posted to: [VDOE Special Education Day Residential Schools](http://www.doe.virginia.gov/special_ed/day_residential_schools/index.shtml) and [VDOE Special Education Resolving Disputes and Complaints](http://www.doe.virginia.gov/special_ed/resolving_disputes/complaints/index.shtml)

Contact number: (804) 225-2402

1. The decision is issued as a “Letter of Findings (LOF)” to both the complainant (and/or to the parent/guardian of any student whose rights are the object of the Complaint) and the private school against whom the complaint was lodged. [↑](#footnote-ref-1)
2. Issues in the Letter of Findings and/or the reviewer’s decision related to the student’s free appropriate public education are reviewable through a due process hearing in accordance with 8VAC20-81-210, *et seq.* [↑](#footnote-ref-2)