Ohio | Department of Education

Ombudsman Procedures for Ensuring Equitable Services

November 2018

1. Ombudsman Responsibilities

When school districts and nonpublic schools enter into equitable service agreements, the Ohio Department of Education will designate an ombudsman to oversee the agreement. The ombudsman will be responsible for monitoring and enforcing the requirements under the Elementary and Secondary Education Act (ESEA), reauthorized as the Every Student Succeeds Act (ESSA), Section 8501, including, but not limited to, the following:

- Ensuring expenditures for educational services and other benefits provided for eligible nonpublic schoolchildren, their teachers and other educational personnel serving those children shall be equal, taking into account the number and educational needs of the children to be served and the expenditures for participating public schoolchildren;
- Ensuring funds allocated to a school district for educational services and other benefits to eligible nonpublic schoolchildren are obligated in the fiscal year for which the funds are received;
- Ensuring the timely notices of allocated funds to the nonpublic schools;
- Ensuring the school districts and nonpublic schools engage in timely and meaningful consultation;
- Ensuring school districts maintain records and documentation of consultation and they provide written affirmation that the consultation has occurred;
- Resolving written complaints by nonpublic school officials.

2. Ombudsman Tasks

The ombudsman, paid through federal funds, is an employee of the Ohio Department of Education and complies with its policies and procedures. The ombudsman reports to the director of the Office of Federal Programs and serves as a liaison between offices that administer grants with equitable service requirements.

The ombudsman serves as a resource for nonpublic schools by providing the following:

- Provides resources and information to nonpublic schools;
- Provides impartial technical assistance related to equitable service requirements;
- Provides updates to nonpublic schools on the Office of Federal Programs' systems, timelines and policies;
- Serves as the Office of Federal Programs' representative on the nonpublic advisory committee and manages all questions and correspondence related to federal equitable services requirements;
- Works with Office of Federal Programs' operations team and CCIP developers to maintain a listing of nonpublic schools, contacts and a history log of all correspondence from/to Office of Federal Programs and the nonpublic schools;
- Works with the Office of Federal Programs' operations team to ensure appropriate enhancements are made to the Nonpublic Data System (NPDS);
- Updates office and agency federal guidance documents related to equitable services and proper placement on Office of Federal Programs' website and CCIP doc library;
- Develops Consolidated ESEA grants monitoring protocols (both on-site and desk reviews) according to the Department's uniform monitoring schedule;
- Provides regular updates to Office of Federal Programs' administration;
- Works with the Office of Federal Programs' complaint coordinator to ensure nonpublic complaints are filed, reviewed and resolved in the appropriate time frame.

3. Nonpublic Complaint Procedures

If a nonpublic school does not believe its required consultation with a school district was timely and meaningful, feels the school district did not give due consideration to the views and needs of the nonpublic school, or believes the decision fails to treat the nonpublic school or its students equitably, the nonpublic school official has the right to file a complaint with the Ohio Department of Education. Before submitting a written complaint that a school district or the Department failed to comply with the administration of ESSA Section 8501, complainants should contact the appropriate personnel at the school district and attempt to resolve all issues. If the parties cannot solve the dispute on their own, an ombudsman will resolve the dispute.

Step 1: Submission of a Complaint

A complainant must email (ESEA@education.ohio.gov) or mail a signed complaint that includes a description of the pertinent facts, identification of the alleged violations of ESSA Section 8501 and a recommendation for resolving the complaint.

Complaints can be mailed to:

Ohio Department of Education
Office of Federal Programs
Attention: Ombudsman
25 South Front Street
Columbus, Ohio 43215-4183

Step 2: Acknowledgement Letter to the Complainant

Upon receipt of the complaint, the ombudsman will issue a letter of acknowledgement to the complainant that contains the following information:

- The date the Department received the complaint;
- The identity of the ombudsman;
- If and how the complainant may provide additional information;
- A statement of the ways in which the Department may investigate the complaint;
- The Department's commitment to issue a resolution in the form of a "Letter of Findings."

Step 3: Investigation of a Complaint

A. Letter of Allegations: The ombudsman will develop and provide a Letter of Allegation to the entity in question ("the alleged"). The Letter of Allegations will:
   1. Identify the complainant's allegations in which the alleged failed to comply with the administration of ESSA Section 8501;
   2. Identify the documentation the alleged and the complainant will need to provide in order to assist the ombudsman in making a determination of compliance or noncompliance; and
   3. Specify the date in which the alleged will need to submit a written response to the ombudsman.

The Letter of Allegation will be mailed (or emailed with confirmation) to both parties. The ombudsman may, if necessary, request additional information from either party. Unless the ombudsman grants an extension based on extenuating circumstances, the documentation from both the alleged and the complainant must be received within the stated timelines in the Letter of Allegations.

B. Review of the Complaint: The ombudsman retains authority for determining how the allegations will be investigated. The ombudsman may use, but is not limited to, the following investigative options:
   1. Review of written documentation only;
   2. "On-site" visit (including opportunity of both the complainant and the alleged to present further information); or
   3. A combination of both.

Once all documentation is received, the ombudsman will analyze the information to determine whether the complaint has merit and communicate the findings in a Letter of Resolution.

Step 4: Resolution
The Letter of Resolution is sent to both parties and specifies whether the allegation is sustained by the ombudsman and if any corrective action is required. If corrective action is required, the Letter of Resolution will describe the actions needed, timelines for implementation and the acceptable documentation for resolution. The ombudsman will monitor the implementation of the required actions and use progressive sanctions if the school district fails to comply.

Step 5: Appeals of Department's Resolution
Parties may appeal the Department's complaint resolutions to the U.S. Secretary of Education.

Requesting the Department to Provide Direct Services

The Department of Education will only provide nonpublic equitable services directly to nonpublic schools if both of the following are met:

- Appropriate nonpublic school districts have requested the Department to provide such services; and
- The public school district is deemed out of compliance by a third-party hearing officer according to the Office of Federal Programs' progressive sanctions process.[1] In order for the Department to consider providing direct services, a third-party hearing officer would need to determine the district is noncompliant with the requirements after all progressive sanctions have been exhausted.

Additional Resources
20 U.S.C. 7844 General Applicability of State Educational Agency Assurances
20 U.S.C. 7883 Complaint Process for Participation of Nonpublic School Children

Contact Information
ombudsman@education.ohio.gov ODE Ombudsman

[1] Section 8015 (6) (C)