**24:05:15:05.  Complaint against a school district.** If the complaint is against a school district, the following steps shall be taken:

 (1)  The state director of special education shall appoint a complaint investigation coordinator from the department's special education programs. The coordinator and any consultants may conduct an independent on-site investigation if it determines that one is necessary;

 (2)  The complainant may submit additional information, either orally or in writing, about the allegations in the complaint;

 (3)  The school district may respond to the complaint, including, at a minimum:

 (a)  At the discretion of the school district, a proposal to resolve the complaint; and

 (b)  An opportunity for a parent who has filed a complaint and the school district to voluntarily engage in mediation consistent with this article;

 (4)  The complaint coordinator and any consultants shall make a recommendation to the state director of special education;

 (5)  After reviewing all relevant information, the state director of special education shall make an independent determination as to whether the complaint is valid, what corrective action is necessary to resolve the complaint, and the time limit during which corrective action is to be completed. The state director of special education shall submit a written report of the final decision to all parties involved;

 (6)  The written report shall address each allegation in the complaint, contain findings of fact and conclusions, and include reasons for the final decision;

 (7)  If the complaint is valid, the state director of special education shall find the school district out of compliance with federal and state statutes and rules;

 (8)  If corrective action is not completed within the time limit set, including technical assistance and negotiations, the department shall withhold all federal funds applicable to the program until compliance with applicable federal and state statutes and rules is demonstrated by the school district;

 (9)  When the school district demonstrates completion of required correction action, the department's Office of Finance and Management shall be notified by the state director of special education, and all moneys withheld shall be paid to the school district; and

 (10)  Documentation supporting the corrective actions taken by a school district shall be maintained by the department's special education programs and incorporated into the state's monitoring process.

 **Source:** 16 SDR 41, effective September 7, 1989; 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000; 33 SDR 236, effective July 5, 2007; 35 SDR 165, effective December 23, 2008; 36 SDR 96, effective December 8, 2009.

 **General Authority:** SDCL 13-37-1.1.

 **Law Implemented:** SDCL 13-37-1.1.

 **Cross-Reference:** Department of Education Rules 34 C.F.R. §§ 300.151-153.