

1. Be careful when you use the state and Office for Civil Rights complaint system. If the investigator does not agree with your complaint, you may not be able to ask for a due process hearing on the same issue.
2. Use complaints only if you can prove that the school is breaking the law.
3. Before you file a complaint about whether the school is providing your child with a free appropriate public education (FAPE), consult with an experienced special education attorney. This person may suggest better ways to settle FAPE issues.
4. Never file a complaint based solely on what someone tells you. It is best for you to have direct knowledge about what the school is doing wrong. For example, you have direct knowledge if your child has to leave school 30 minutes before nondisabled children because the special education bus leaves early. If someone calls you and says that the special education buses are leaving the school early, you do not have direct knowledge.
5. You must send proof or evidence of what the school is doing wrong for your complaint to be successful. If you have a letter from your school that says your child will leave school thirty minutes early because he rides the special education bus, you need to include a copy of that letter with your complaint.
6. You may find that by the time you learn about a violation, it is too late to file a complaint. You can ask that the timelines be tolled, or delayed. you must explain that you did not know about the violation until after the timeline had passed.
7. If the school keeps violating the law, over and over again, you can ask that the timelines be tolled because the violation is “ongoing.”
8. When you prepare to write your complaint, pretend that you are going to court. First, write down everything you know about what the school is doing wrong. These are the “facts.” Next, write down the evidence or proof that you are sending with your complaint. Next, write down what the school is doing wrong. These are the “violations.” Last, write what you want the complaint investigator to do to make the school stop doing what it is doing wrong. This is the “resolution.”
9. Do as much of the investigator’s work as possible. Make it easy for the investigator to agree with you that the school is wrong.

10. Send as much information as you can about what the school is doing wrong to prove your point. Help the investigator gather evidence so it is easy to agree with you that the school is wrong.

11. Send copies of all of the proof with your complaint. Send Individual Education Plans (IEPs), evaluations, reports, copies of tape recordings of IEP meetings, copies of notes you received or have written. Never assume that the investigator will have this information.

12. Never assume that the school will send information that matches what you send. Never assume that the school will send anything at all. Always assume the worst.

13. Never send your original papers. Always send copies of your papers with your complaint.

14. Have another person read your complaint and the information you plan to send. Ask if it is clear to them what the school did and what you want it to do. If this person does not understand part of your complaint, you need to change or add information to your complaint. Remember, if a friend does not understand what you want, a stranger will not understand either.

15. Consider sending a complaint when there is an emergency that must be resolved right away. If your child is in danger or the school is trying to keep your child from participating in an activity because of the child's disability, a complaint may be a fast way to get results.

16. If the school agrees to do what you want, write a letter to the investigator and advise that the complaint is settled. This is called "withdrawing" your complaint.

17. You may also want to withdraw your complaint if you know that the investigator who received your complaint is "school friendly."

18. The school or the Office for Civil Rights may ask if you want to use an Early Complaint Resolution (ECR) process. This is a good idea if you can get some, most, or all of what you want. If you use the ECR process, you will not risk having the investigator disagree with your complaint and rule against you. If you do not get everything that you want from the ECR process, you can always file another complaint later.

The URL for 18 Tips for Filing a Complaint is:

<https://www.wrightslaw.com/howey/complaints.tips.pdf>

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## **About the Author**

Patricia Howey has supported families of children with disabilities since 1985. She has a specific learning disability and became involved in special education when her youngest child entered kindergarten. Pat has children, grandchildren, and great-grandchildren who have a variety of disabilities and she has used her experience to advocate for better special education services for several of them.

Pat is a charter member of the Council of Parent Attorneys and Advocates (COPAA), serving on its Board of Directors from 2000 through 2003. She has been a Commissioner on the Tippecanoe (County) Human Relations Committee, a graduate of Leadership Lafayette and Partners in Policymaking, and a member of the Wrightslaw Speakers Bureau. She has been on the faculty of the College of William and Mary Law School's Institute of Special Education Advocacy since its inception in 2011.

Pat has an A.S. and a B.A. in Paralegal Studies from Saint Mary-of-the-Woods College, where she graduated magna cum laude. She is an Indiana Registered Paralegal and an affiliate member of the Indiana Bar and the American Bar Associations.

Pat began her advocacy career as a volunteer for the Task Force on Education for the Handicapped (now InSource), Indiana's Parent Training and Information Center. In 1990, she opened her advocacy practice and served families throughout Indiana by representing them at IEP meetings, mediation, and due process hearings.

In 2017, Pat closed her advocacy practice and began working on a contract basis as a special education paralegal. Attorneys in Indiana, Texas, and California contracted with her to review documents, spot issues, draft due process complaints, prepare for hearings, and assist at hearings. In January 2019, she became an employee of the Connell Michael Kerr law firm, owned by Erin Connell, Catherine Michael, and Sonja Kerr. Her duties have now expanded to assisting with federal court cases.

"Changing the World -- One Child at a Time."

## **Contact Information**

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