# **Virginia Department of Education**

# **Office of ESEA Programs**

# **Complaint Procedures – Section 8524 of the *Every Student Succeeds Act***

# **Constitutionally Protected Prayer**

Section 8524(b) of the *Every Student Succeeds Act* (ESSA) requires each school division that receives ESSA funds to annually certify that no policy of the school division prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary and secondary schools. States must provide an annual report to the U.S. Department of Education that names any school divisions that have not submitted certification.

The U.S. Department of Education’s [*Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools*](https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html) requires each state to provide a process for filing a complaint against a school division that allegedly denies a person, including a student or employee, the right to participate in constitutionally protected prayer. As part of the annual certification process, all complaints that are filed through the state’s process and any public legal charges or complaints that the state has notice of must be reported to the U.S. Department of Education.

The process for filing a complaint under Section 8524(b) of ESSA is provided below.

## Filing a Complaint

A complaint may be filed by any individual or organization. The complaint must:

* Be in writing and submitted via postal mail or email.
  + Via postal mail – Office of ESEA Programs, Virginia Department of Education, P.O. Box 2120, Richmond, Virginia 23218-2120
  + Via email – [ESSA@doe.virginia.gov](mailto:ESSA@doe.virginia.gov)
* Include the signature and contact information of the complainant. Complaints received via email will be considered as received with an electronic signature.
* Address an action that occurred not more than one year prior to the date the complaint is received.
* Contain a statement that the school division has denied a person or persons the right to participate in constitutionally protected prayer.
* Include the facts on which the complaint is based. Specify the name of the person(s) and school(s) involved in the alleged violation.
* Contain all relevant documents and supporting information.
* Be forwarded to the school division at the same time the complaint is forwarded to the Virginia Department of Education (VDOE).
* Include a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

## Initiation of Complaint and Submission of LEA Response

Within fourteen (14) business days of receipt of the complaint, VDOE staff take the following actions:

* Send written Notice of Complaint to the complainant and school division superintendent.
* Provide a copy of the complaint and supporting documentation to the school division superintendent.
* Provide a copy of these complaint procedures to the complainant and school division superintendent.
* Review the complaint to determine if it is complete/sufficient. If VDOE staff determines that the complaint is insufficient for any reason, the complainant and division are notified in writing. The complainant is given directions for resubmission of the complaint. Resubmitted complaints are treated as new complaints.

## Notice of Complaint

In the Notice of Complaint, VDOE staff identifies the relevant issue(s) and requests that the division respond in writing.

* The division’s written response to the alleged violation, which may include documentation of a resolution to the complaint, must be received within fourteen (14) business days of receipt of the Notice of Complaint.
* A copy of the divisions’ response, along with all submitted documentation, must be simultaneously sent by the division to the complainant.

If the division’s written response includes satisfactory resolution of the complaint, the complaint is closed.

## Investigation

If the division’s written response does not include satisfactory resolution of the complaint, VDOE staff conducts an investigation.

* The investigation is conducted within sixty (60) calendar days. VDOE staff notifies the complainant and division if this timeline is extended due to extenuating circumstances.
* Upon completion of the investigation, a written Letter of Findings is issued to the complainant and division.

## Letter of Findings

A letter of findings is sent to the complainant and division superintendent. The Letter of Findings includes:

* A summary of the complaint issue(s);
* The assessment of the complaint; and
* The VDOE decision.

If the division is found in compliance, the complaint is closed.

## Corrective Action

If the division is found in noncompliance, the Letter of Findings specifies the corrective action(s) to be taken.

* The division must submit to VDOE a Corrective Action Plan within thirty (30) calendar days.
* The complaint file remains open until the Corrective Action Plan is received and approved by VDOE staff.
* Once the Corrective Action Plan is approved, VDOE staff notifies the complainant and division superintendent that the complaint file is closed.