

## **PROCEDURES FOR APPEALING 2007 AYP DETERMINATIONS**

### **I. INTRODUCTION**

In an effort to protect each LEA's right to due process, the Department will review each issue that an LEA raises in an AYP appeal and determine how to resolve the issue. Upon initial review of an AYP appeal, the Bureau of Assessment & Accountability will determine the office, bureau or division within the Department that possesses the required level of expertise to consider each element of the LEA's appeal and the authority to determine and implement a remedy if the LEA's complaint is determined to be valid.

The Bureau of Assessment & Accountability in the first instance will determine the issues raised in an AYP appeal that are within its area of expertise and its authority to remedy if the LEA's complaint is found to be valid. For those issues raised in the AYP appeal that the Bureau determines are outside its expertise or its authority to remedy, the Bureau will transfer those complaints and issues to the appropriate office within the Department.

Specifically, complaints made by an LEA in its AYP appeal regarding the Department's compliance with the programmatic or funding requirements of the No Child Left Behind Act (NCLB) or related federal regulations will be referred to the Division of Federal Programs (Division) in the Department's Bureau of Teaching and Learning Support. Upon transfer of an LEA's complaint about the Department's compliance with NCLB statutory or regulatory requirements regarding programs and funding, the Division of Federal Programs will investigate the compliance issues raised by the LEA; and if any complaint is found to be valid, the Division will recommend an appropriate resolution or remedy.

An LEA that is dissatisfied with the Division's determination regarding a complaint about the Department's compliance with NCLB or federal regulations will have the right to appeal the Division's determinations to the Pennsylvania Secretary of Education, who will consider and decide the administrative appeal in accordance with the requirements of due process. If an LEA is dissatisfied with the decision of the Secretary, the LEA will have the right under federal law to request review by the U.S. Department of Education and, if authorized by Pennsylvania law, to appeal to Commonwealth Court.

Consistent with the Department's commitment to consider all issues that are raised in an AYP appeal, the procedures for the filing and consideration of AYP appeals are set forth below.

## II. REVIEWING AYP DATA AND APPEALING AYP DETERMINATIONS

- On July 17th, LEAs will be able to access the Preliminary AYP Data File and review information concerning the AYP status of the LEA and its individual schools.
- From July 17 - 31, LEAs may file AYP appeals on their own behalf or on behalf of one or more of their schools.
- LEAs filing AYP appeals must use the appropriate attached appeal forms. Please note that the forms for appealing district-level and school-level appeals are different.
- LEAs must submit to the Department completed appeal forms and supporting data by U.S. mail bearing a postmark of July 31, 2007 or earlier. LEAs must direct completed appeal forms and supporting data to:

Dana Klouser  
Pennsylvania Department of Education  
Bureau of Assessment and Accountability  
333 Market Street, 9<sup>th</sup> Floor  
Harrisburg, PA 17126-0333

- The Bureau of Assessment & Accountability will complete its review of all appeals by August 10, 2007. Following its review of each appeal, the Bureau will send a letter to the LEA indicating how the appeal has been resolved and confirming the status of the LEA and/or school(s). The letter will also inform the LEA which, if any, of the issues raised in the appeal were transferred to the Division of Federal Programs or other office, bureau or division within the Department. Please note that when issues are transferred to the Division of Federal Programs, the procedures in Section III of this document will apply.
- An LEA may appeal the Bureau's determination to the Secretary of Education pursuant to 1 Pa. Code § 35.20. Appeals to the Secretary are governed by Pennsylvania's General Rules of Administrative Practice and Procedure, which are published in Title I of the Pennsylvania Code at chapters 31, 33 and 35. In order to file an appeal to the Secretary, the LEA must submit a Petition for Appeal within ten (10) days after receipt of the Bureau's determination. The Petition for Appeal must be sent to:

Gerald L. Zahorchak, D.Ed.  
Secretary of Education  
Pennsylvania Department of Education  
333 Market Street, 10<sup>th</sup> Floor  
Harrisburg, PA 17126-0333

### **III. REVIEW BY DIVISION OF FEDERAL PROGRAMS**

- Upon receipt of a referral of an issue or issues raised in an AYP appeal, the Chief of the Division of Federal Programs (Division Chief) will send the LEA a letter acknowledging receipt of the appeal form.
- The Division Chief will investigate the claims made and issues raised in the AYP appeal.
- The Division Chief, in her discretion, may provide the LEA with the opportunity to present additional information.
- The Division Chief will prepare a summary of the investigation and issue a final report with a recommended resolution or remedy if she has found that the LEA has made a valid complaint.
- The LEA may appeal the recommended resolution to the Secretary of Education pursuant to 1 Pa. Code § 35.20. (This appeal is governed by the General Rules of Administrative Practice and Procedure published at Title I of the Pennsylvania Code at chapters 31, 33 and 35.)
- The resolution of the issues transferred by the Bureau of Assessment and Accountability to the Division of Federal Programs should occur within sixty (60) days of the Division's receipt of the referral. (The time limit may be extended for exceptional circumstances.)
- An LEA that is dissatisfied with the Department's final resolution of its complaint regarding the Department's compliance with NCLB or applicable federal regulations has the right under federal law to file an appeal with the United States Department of Education pursuant to 34 CFR § 299.11(c). The LEA may also file an appeal to Commonwealth Court, if permitted by Pennsylvania law.