

F. CIVIL ACTIONS, INCLUDING THE TIME PERIOD IN WHICH TO FILE THOSE ACTIONS (34 CFR §300.516)

1. General

Any party (you or the LEA) who does not agree with the findings and decision in the SEA's decision has the right to bring a civil action with respect to the matter that was the subject of the due process hearing (including a hearing relating to disciplinary procedures). The action may be brought in a district court of the United States without regard to the amount in dispute or in a State court of competent jurisdiction (a State court that has authority to hear this type of case). In Pennsylvania, the court of competent jurisdiction is the Commonwealth Court.

2. Time limitation

The party (you or the LEA) bringing the action in a district court of the United States shall have 90 calendar days from the date of the decision of the SEA to file a civil action. The party bringing the action in the Commonwealth Court shall have 30 calendar days from the date of the decision of the SEA to file a civil action.

3. Additional procedures

In any civil action, the court:

1. Receives the records of the administrative proceedings;
2. Hears additional evidence at your request or at the LEA's request; and
3. Bases its decision on the preponderance of the evidence and grants the relief that the court determines to be appropriate.

4. Rule of construction

Nothing in Part B of the IDEA restricts or limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973 (Section 504), or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under Part B of the IDEA, the due process procedures described above must be exhausted to the same extent as would be required if the party filed the action under Part B of the IDEA. This means that you may have remedies available under other laws that overlap with those available under the IDEA, but in general, to obtain relief under those other laws, you must first exhaust the available under the IDEA, but in general, to obtain relief under those other laws, you must first exhaust the available administrative remedies under the IDEA (i.e., the due process complaint, resolution meeting, and impartial due process hearing procedures) before going into court unless some specific judicial exception is available which renders exhaustion of administrative remedies futile.