**Sample Template for Complaint Filed with ADE Concerning Student not Receiving Free and Appropriate Education While Hospitalized**

[DATE]

[Name of Parent/Guardian]

[Address]

[Email]

[Phone Number]

[Student Name]

[Student DOB]

[School]

[Address]

[Phone Number]

1. What is the alleged violation?

[School] is failing to provide [Student’s Name], a student with disabilities, with a free and appropriate public education while [Student’s Name] is in the hospital. [School] withdrew [Student’s Name] from school [and/or] is not providing [Student’s Name] with the special education and related services in [Student’s Name]’s Individualized Education Program (IEP) while [Student’s Name] is in the hospital, in violation of the Individual with Disabilities Education Act (IDEA).

“The IDEA offers federal funds to States in exchange for a commitment: to furnish a ‘free appropriate public education’—more concisely known as a FAPE—to all children with certain physical or intellectual disabilities.” *Fry v. Napoleon Cmty. Sch.*, 137 S. Ct. 743, 748–49 (2017). A FAPE comprises “special education and related services” — both “instruction” tailored to meet a child’s “unique needs” and sufficient “supportive services” to allow the child to benefit from that instruction. 20 U.S.C.A. §§ 1401(9), (26), (29). An eligible child, “acquires a ‘substantive right’ to such an education once a State accepts the IDEA’s financial assistance.”  *Fry*, 137 S. Ct. at 748–49.

The IDEA declares as its primary purpose “to ensure that all children with disabilities have available to them a free appropriate public education.” § 1400(d)(1)(A). The FAPE requirement “provides the yardstick for measuring the adequacy of the education that a school offers to a child with a disability” and under that standard “a child is entitled to ‘meaningful’ access to education based on [their] individual needs.” *Fry*, 137 S. Ct. at 753­-54.

IDEA requires states to provide students with disabilities “special education” at no cost to their parents, and “special education” is defined to include “instruction conducted in the classroom, in the home, in ***hospitals*** and institutions, and in other settings.” 20 U.S.C.A. § 1401 (29) (emphasis added). Accordingly, the law contemplates that children will be provided with education while hospitalized. *See also* 34 C.F.R. 300.39 (a)(1)(i). And, the “failure to provide any special education instruction for a significant segment of the year compels the conclusion that the services provided were not reasonably calculated to provide educational benefit.” *Everett v. Santa Barbara High Sch. Dist*., 28 F. App’x 683, 685 (9th Cir. 2002) (affirming a finding that a school district failed to provide a student with educational benefit during the school year because it did not provide a special education credentialed teacher to the student for a significant segment of the year, and no instruction for a time, while he was on home/hospital instruction).

Accordingly, [School] is legally obligated to continue to provide [Student’s Name] with a free and appropriate education while they are in the hospital. [School’s] failure to do so constitutes a violation of IDEA Part B.

2. What are the facts or evidence on which the allegation is based?

[Include details of student’s disability; attach a copy of student’s Individualized Education Program; a brief history of enrollments and withdrawals from the school as well as school programs and services; the amount of time student spent in hospitals and length of hospital stays; any accommodations you or your child requested of the school related to the hospitalization, as well as the school’s response; and whether or not the student currently is in the hospital or is likely to spend frequent or continuous time in the hospital because of their disability going forward]

3. What are significant dates and events that may be relevant to this allegation?

* [Include bullet point list of the significant dates of the events discussed above in chronological order]

4. What documents should be reviewed regarding this allegation?

* [Student’s Name]’s special education documents, including IEPs, METs, and evaluation reports
* Any written communications between [School] and [Student’s Name/Parents’ Names], including emails
* Any memos or other documentation regarding telephone calls between [Student’s Name/Parents’ Names] and [School]
* [Student’s Name]’s Hospital Records and other relevant medical documentation
* [List any other documents that it would be important for the person investigating the claim to look at]

5. What ideas do you have for how the issue you stated in (1) could be resolved?

* Require [School] to give [Student’s Name] free and appropriate education while in the hospital by:
  + [List what accommodations/services you would like to include. Possible requests include:
    - *Providing a laptop/tablet/other device to [Student’s Name] that will allow them to access virtual classes and classwork while in the hospital;*
    - *Arranging for an instructor to physically or virtually visit with [Student’s Name] X times a week/month for X hours;*
    - *Provide suitable homework packets with school work to be delivered to the hospital or to be picked up by a parent or guardian every X days;*
    - *Scheduling a meeting with [Student’s Name]’s treating health care professional(s) or hospital administrator to discuss Student’s schedule and ability to engage in school work while hospitalized, as well as to learn about what educational opportunities the hospital offers to patients, in order to coordinate and ensure maximum efficacy of educational services being provided to the patient/student.]*
* Require [School] to review and revise its absence policies to be in accordance with IDEA and Arizona’s chronic illness law, A.R.S. § 15-346;
* Require [School] to work with [Student’s Name and Parents/Guardians’ Names] to allow [Student’s Name] to be counted present on days when [he/she] is able to do schoolwork in the hospital and to have excused absences for days that [Student’s Name] does not feel well enough to do school work;
* Require [School] to provide [Student’s Name] with compensatory education for the XX days of instruction [he/she] has been denied this school year while in the hospital because of a disability.