



## Making Decisions About Procedural Safeguards

Building and maintaining good relationships is the best way to support students. Yet mistakes and disagreements happen, and procedures can be misunderstood or overlooked. Formal legal battles, however, are always costly in terms of both time and money; and they typically harm relationships. Working to resolve issues by finding a reasonable compromise—one that honors the concerns of family members, respects the challenges that educators face, and works reasonably within available resources—is generally the best strategy for everyone.

**Alternative Dispute Resolution (ADR)**, offered by many SELPAs across California, is designed to support the best results for everyone involved, settle disagreements related to special education, and find mutually agreed-upon solutions for student services before a disagreement becomes contentious and litigious.

ADR can accomplish the following:

- ✓ Preserve relationships between parents and educators
- ✓ Enhance opportunities to resolve issues early in the procedural safeguard process
- ✓ Increase positive outcomes for students
- ✓ Reduce the number of due process mediations and hearings

If disputes cannot be resolved informally or through ADR, parents and students can always file a state complaint or due process complaint.

## State Complaint

A state complaint is a formal request to the California Department of Education (CDE) to investigate allegations of noncompliance with federal or state special education laws. The CDE conducts an investigation into the allegations and then, if violations of law are found to have occurred, issues corrective actions to the LEA. More information about the state complaint process can be found at <https://www.cde.ca.gov/sp/se/qa/cmplntproc.asp>

## Due Process

When disagreements about what is contained in the IEP cannot be informally resolved, IDEA gives parents the right to file a due process complaint and ask for an administrative hearing. In California, the Office of Administrative Hearings contracts with the CDE to conduct hearings. In particular:

- ✓ Due process includes **mediation and other complaint-resolution strategies**.
- ✓ Due process is a **formal approach** to resolving disputes with a school about a child's education.
- ✓ A parent can file a due process complaint **only for special education disputes**, not for general education issues.
- ✓ Due process has four primary steps: (1) It begins with a written due process complaint; (2) is followed by a resolution session held by the LEA when a parent files a due process complaint; (3) if no resolution is reached, moves forward to a mediation session; and (4), if no resolution is reached during mediation, concludes with an administrative hearing.
- ✓ The plaintiff has the right to an impartial hearing officer and to present evidence and witnesses at the due process hearing. Read more about due process hearings and associated procedures at <http://www.dgs.ca.gov/oah/SpecialEducation.aspx>

## A Closer Look at What Parents Should Do

## When the IEP Doesn't Seem to Be Working

What are the steps parents should take if their child with a disability continues to struggle in school?

1. Parents will first want to talk with their child's **classroom teacher** and share their specific concern. A conversation with a special education service provider (e.g., speech therapist, resource specialist, occupational therapist) also can help a parent understand what additional supports could be put in place.
2. Parents can call an Individualized Education Program (IEP) team meeting to collaboratively discuss why their child continues to struggle and to assess whether or not the IEP plan is as appropriate and effective as it might be, given the student's needs.
3. Parents will also want to make school administrators aware of any serious concern. For example, whether or not the principal is directly involved in resolving the issue, both

parents and staff who are communicating about the concern should copy the principal on any formal communications, including emails, and keep him or her informed. As well, the school district's **director of special education** can provide the next level of support and guidance if an IEP team is having difficulty coming to agreement about a student's program.

4. The school district's **Special Education Local Plan Area (SELPA)** can also provide informal assistance for resolving differences of opinion about issues of evaluation, placement, and the services and supports the school can or should provide for the student. Every local educational agency belongs to a SELPA in order to receive funding under IDEA.

5. The **Procedural Safeguards and Referral Services (PSRS)** Unit of CDE's Special Education Division provides information and resources about the educational rights of children from ages 3 through 21 (phone 800-926-0648; or email [speceducation@cde.ca.gov](mailto:speceducation@cde.ca.gov)). Because

the CDE can sometimes make phone calls to school district personnel to review and resolve differences, families will want to contact this office if they have questions and concerns that they feel have not been answered locally.

6. The **Office of Administrative Hearings** manages due process hearings for disagreements between the families and the LEA regarding assessment, identification, or placement of a student that cannot be resolved locally through relationship building, dispute resolution, or mediation (phone 916-263-0880 or visit <http://www.dgs.ca.gov/oah/SpecialEducation/AboutUs.aspx>).

7. For general support and information, parents of children with disabilities, or those who suspect their child may have a disability, will want to contact their local **Family Resource Center, Family Empowerment Center, or Parent Training and Information Center**. A list of these centers in California is at <https://www.cde.ca.gov/sp/se/qa/caprtntorg.asp>.