

CHAPTER 13. PROBLEM SOLVING: WORKING TOGETHER TO RESOLVE DISAGREEMENTS

What do I do if I have a problem or disagreement?

For a variety of reasons, the role of the parent in the special education process can sometimes be confusing, frustrating, and/or difficult. Parents are put in the position of having to make critical decisions for their child and may be unfamiliar with the resources and strategies that will assist them in this role. The following are resources collected from various groups and suggestions made by parents to address parents' needs.

Any time there is a disagreement about your child's special education program or placement, you have the right to voice your concerns. After you have made attempts to resolve the issue with school personnel, the Director of Special Education, the SELPA Director, etc., and if you feel that continued dialogue will not resolve your concerns, you may request a mediation conference, due process hearing, and/or file a complaint with either the district or the California Department of Education.

What steps can I take to resolve the issue(s)?

If you are a parent of a child for whom an individualized education program has been written, and you experience a problem with your child's education, take the following steps. If the problem is not resolved at one level, then make your concerns known at the next level, until you have found a satisfactory resolution.

- Step 1: Discuss the problem with your child's classroom teacher and/or other school staff members who are aware of your child's specific needs; for example, a nurse; counselor; speech, language and hearing specialist; adaptive physical education teacher.
- Step 2: Discuss the problem with the administrator of your child's school.
- Step 3: Contact your child's special education teacher and/or school psychologist and request a review of your child's individualized education plan.
- Step 4: Contact your Director of Special Education and express your concerns.
- Step 5: Contact the Alternate Dispute Resolution (ADR) coordinator (707.399.4468) to assist in working through the issues.
- Step 6: Contact the SELPA Director at 707.399.4460.
- Step 7: Initiate in writing a request for due process. For information on whom to contact, see information that follows.



What is a Facilitated IEP?

An IEP meeting in which the team works collaboratively with the help of a trained facilitator who has no direct involvement with the current issue and who guides the meeting process, supporting the relationship to meet the educational needs of the student.

What is the Independent Child Advocate (ICA)?

The Independent Child Advocate is an independent entity, experienced in child advocacy and special education, who focuses on identifying student needs in respect to legal requirements and best practices.

What is a compliance complaint?

Filing complaints under Uniform Complaint Procedures: Uniform Complaint Procedures are procedures used to resolve complaints regarding state and federal law. There are procedures for local complaints, which are filed with the district, and procedures for state complaints, which are filed with the California Department of Education.

What can the Independent Child Advocate (ICA) do?

The Independent Child Advocate will consult with all of the parties, gather information, review documents, at times attend IEP meetings, and make recommendations to parents and to districts from an independent perspective.

Complaints: If you believe that the school has violated federal or state laws or regulations governing special education programs by, for example, failing to implement your child's IEP, you can file a complaint. The complaint should describe the problem and include all the information needed to support the allegation or complaint. If desired, a special education staff site administrator and/or the SELPA office can help you write your complaint.

You may send your complaint to either your school district in care of the director of special education or to the SELPA office to:

California Department of Education
Special Education Division, Procedural Safeguards Referral Services
1430 N Street, Suite 2401, Sacramento, CA 95814
Phone: (800) 926-0648 FAX: (916) 327-3704

OR

Solano County Office of Education
Attn: SELPA Director
5100 Business Center Drive, Fairfield, CA 94534

Once your complaint is received, the district has one day to notify the Special Education Division of the California Department of Education (CDE) of the complaint. The district has ten days to resolve the complaint without the CDE's involvement. If there is no resolution by the tenth day, the CDE will begin its own investigation.

What is a due process hearing?

If a party requests a due process hearing, a resolution meeting shall be held within fifteen (15) days with the parents and relevant members of the IEP Team who have knowledge of the facts identified in the request. No attorney retained by the district may attend unless the parent brings their attorney. A resolution meeting shall be held unless waived by both parties or mediation is requested. If resolution is reached, a signed legally binding agreement will be

developed which may be voided within three (3) business days. Such agreement shall be enforceable in Court. A due process hearing will be scheduled if no resolution is reached within thirty (30) days. A due process hearing is a more formal process of resolution. You or the district may initiate a due process hearing when:

- There is a proposal to initiate or change your child's identification, assessment, educational placement, or special education services with which you disagree;
- There is a refusal to initiate or change your child's identification, assessment, educational placement, or special education services; and/or
- The parent refuses to consent to an assessment of his or her child.

The due process hearing will be held at a reasonably convenient time and place. The due process hearing must be held and a written decision mailed to all parties within 45 days of receiving your request for a due process hearing. The hearing officer may grant specific extensions of time at the request of either party to the hearing.



Upon your request or your initiation of a due process hearing, the California Department of Education will inform you of any free or low-cost legal, and other relevant services available in your area.

The Office of Administrative Hearings (OAH) or its designee will conduct the hearing. The case will be heard by an Administrative Law Judge employed by the OAH.

What is a mediation conference?

A mediation conference is a voluntary and informal process where a mediator meets with you and the school to work out an agreement about your child's assessment, eligibility for special education services, educational placement, or special education services. The mediation conference will be held at a reasonably convenient time and place, and will be scheduled and completed within 30 days after the receipt of your request, unless you agree to an extension of time.

There are two types of mediation conferences. The first is a prehearing mediation. A request for a prehearing mediation must occur before requesting a due process hearing. At a prehearing mediation, attorneys or paid advocates may not participate.

The second type of mediation conference is simply called mediation. Mediation can be requested any time after a due process hearing has been requested. Attorneys or other paid advocates may be present during this type of mediation.

How do I request a mediation conference or due process hearing?

You may send your written request for a mediation conference or due process hearing to:

Office of Administrative Hearings
Special Education Unit
2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833-4231
Phone: (916) 263-0550 Fax: (916) 263-0554

You must also send a copy of your request to your child's school district of residence.