

SECTION J

Conflict Resolution



(SPECIAL EDUCATION LOCAL PLAN AREA)

Introduction

Disagreements and conflict seem to be an inevitable part of special education. There are informal structured approaches, which are referred to as Alternative Dispute Resolution (ADR) and there are formal legal approaches which are considered Due Process.

It is the belief of the member Local Education Agency (LEAs) of the SELPA that every attempt should be made to resolve issues on a local basis. The SELPA office provides a number of services, which attempt to attain this end. The SELPA office also helps parents and LEAs if they choose to seek due process resolution to conflicts or disagreements. Use of ADR is strictly voluntary. ADR is in no way intended to impede the IEP process. A district or parent may choose to proceed with the IEP process when SELPA or designated facilitators are unavailable.

Conflicts and Local Resolution

When issues arise where parents and the LEA cannot reach agreement, there are a number of ways to resolve the conflict. Parents are encouraged to:

1. Speak with the teacher, site administrator, and/or the LEA special education administrator
2. Contact the SELPA for information and/or to start an Alternative Dispute Resolution process

Alternative Dispute Resolution

The San Luis Obispo SELPA administrative office, both through a grant from the California State Department of Education (CDE) and direction from the superintendents of the LEAs within the county, has been charged with the responsibility of providing ADR activities for parents and schools within this county.

Parents are encouraged to use ADR for the following reasons:

1. The process is more satisfying than legal action. Courts dictate decisions. ADR allows the parties in conflict to control and shape their own agreement. A collaborative working relationship between parents and LEA personnel is maintained and often improved.
2. ADR options are provided at no cost. The expense of one resolution session is less than one hour of attorney time
3. Formal state level Due Process has a 45-day timeline. Use of ADR options does not delay the timeline for Due Process.
4. Meetings are held at a site agreeable to both parties making the process more convenient
5. Everyone involved in the ADR process is bound by agreement and law to maintain confidentiality, making more open information possible

ADR Approaches Available

The following ADR approaches are available to parents and LEAs.

Intake and Information: The SELPA staff is available to discuss special education related issues on a confidential basis and provide information to parents relevant to their concerns or issues

Problem Solving: The SELPA staff will work with parents to explore issues and find solutions. This may extend to contact the child's LEA to gather further information or find directions to alleviate the dispute

Neutral Observation: The SELPA staff may, in some circumstances, act as a neutral observer of the student in the classroom or during Student Study Teams (SST) or Individualized Education Program (IEP) meetings. This is done to gain objective data concerning the student or to improve cooperation of the parties in the dispute.

Facilitated IEP Meeting: A Facilitated Individualized Education Program (IEP) meeting is one in which an IEP is developed by a collaborative team whose members share responsibility for the meeting process and results and decision-making is managed through the use of essential facilitation skills

The facilitator in this process guides the IEP team towards their objective; assists the team in building understanding and agreement; and works to bring out the best in all group members.

This process of facilitation for IEP meetings enables the team to:

1. Build and improve strong relationships among team members
2. Reach true consensus
3. Focus the IEP content and process on the needs of the student
4. Exercise an efficient, guided meeting process where effective communication and reflective listening skills are practiced

Resource Parents: Resource parents are parents who have worked through the challenges of special education or are working through them. They are parents who have been identified as positive problem solvers and have gone through the SELPA training modules. The SELPA assists in selecting, training and monitoring resource parent activities.

Resource parents are referred by the LEA director or the SELPA director to assist parents who have asked for support and who are new to special education or who are having difficulties within the special education system. Resource parents serve in a positive and neutral manner to provide information, assist in resource acquisition, and/or provide support for parents who are in need. Resource parents are not advocates and are taught not to take sides in a dispute.

Resolution Session: The Resolution Session uses a problem solving method that brings disputing people or parties together, guided by a neutral facilitator, usually the SELPA Director to reach a mutually satisfying agreement. The facilitator does not take sides, but acts as a neutral third party to ease the way to a solution. The facilitator will not decide who is right or

wrong, but will assist the parties in reaching a mutually satisfactory agreement. When agreement is reached, the specifics are put into writing and signed by all parties. A Resolution Session may be held prior to or following a request for due process.

Complaint Procedures

A complaint involves alleged violations of established laws and regulations. Any individual, public agency, or organization may file a written complaint with the State Superintendent of Schools with a copy to the involved LEA.

Examples of a complaint are:

1. Change of placement without an IEP team meeting
2. Failure to respond to a parent's request to review student's records
3. Failure to meet timelines

The LEA will have 10 days after a complaint has been received to resolve the problem at the local level. The California Department of Education will investigate all complaints not resolved. The investigation will be completed within 60 days after a complaint is filed unless an extension is granted due to exceptional circumstances. A written decision will be issued, as well as procedures for effective implementation of the decision.

Due Process Procedures

Due process ensures that both school agencies and parents are provided procedural safeguards to resolve disagreements relative to the appropriateness of the special education services offered.

Issues that may be considered under the due process hearing procedure include:

1. Identification
2. Evaluation/assessment
3. Educational placement
4. Provision of a free, appropriate, public education (FAPE)

Either the school LEA or the parents may submit a written request to the State Office of Administrative Hearings (OAH) for a due process hearing. A copy of the request must be provided to the other party at the time the request is initiated. If the parents file for due process a resolution session prior to the process moving forward is required. A resolution session must be completed within 30 days. It must be scheduled and completed within 15 days of the date the hearing request is filed. If both parties agree, the requirement for a resolution session may be waived.

The hearing must be completed within 30 days after the mediation conference or within 45 days after receipt of the hearing request if mediation is waived. The OAH assigns a mediation officer and/or a hearing officer.

Parental rights and procedural safeguards at a due process hearing include, but are not limited to, the following:

1. The right to examine and receive copies of any documents contained in the student's educational records
2. The right to have the student present at the hearing
3. The right to be accompanied at the hearing by a representative(s) of the parents choosing
4. The right to open the hearing to the public

All evidence and lists of witnesses are exchanged by the parent and the LEA five days prior to the hearing. Hearing proceedings are recorded verbatim and both parties have access to the recordings. The hearing officer admits relevant evidence and all testimony is under oath.

The decision is written and mailed to both parties. Both parties are given notice of their rights and explanation of the procedures to appeal the hearing decision to a court of competent jurisdiction.

During the due process procedures, including the actual state level hearing, the student remains in their present placement (stay put) unless the LEA and the parent agree to an alternative placement. Certain expulsion conditions are an exception to this procedure, however. Refer to *Section I: Suspension and Expulsion* for further information.

Filing for CDE Complaint and Due Process

1. Parents may file a written complaint with the CDE alleging violations of IDEA. Complaints should be mailed to:
CDE
Special Education Division
Procedural Safeguards Referral Service
1430 N. Street, Suite 2401
Sacramento, CA 95814
Phone: (800) 926-0648
Fax: (916) 327-3704
2. File for Due Process
 - a. Parents are encouraged to ask for state mediation prior to a hearing. Mediation is designed not to slow the resolution of the process but to help the resolution of issues in a manner less formal than a hearing.
 - b. Parents may obtain a request for mediation/due process form from:
Office of Administrative Hearings (OAH)
Special Education Division
2349 Gateway Oaks, Ste 200

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Sacramento, CA 95833-4231

Phone: (916) 263-0880

Fax: (916) 263-0890

In either case, the parent will receive help with the process from the SELPA, if it is requested.

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