

Alternative Dispute Resolution (ADR) and Due Process

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Introduction

Sonoma County SELPA and Sonoma County Charter SELPA have a comprehensive Alternative Dispute Resolution process. Alternative Dispute Resolution (ADR) involves providing alternative means of solving problems that arise between families and schools. The ADR program involves everything from training parents and educators in effective communication and negotiation skills to conducting informal mediations. We have had a very strong success rate of preventing conflicts from going to fair hearing at the state level. The intent of this program is to maintain positive relationships between the student's family and the school as well as to save money for both parties.

ADR Process Overview

Parent or LEA staff call the ADR phone line. The assigned Program Specialist will return the call within 1-2 business days. If both parties agree to participate in the ADR process, the Program Specialist will determine the appropriate support:

- Phone consultation
- Facilitated IEP
- Independent Child Advocate (ICA) assignment. The ICA is involved in cases when the parent needs more support in understanding special education processes, options, and how to navigate through them.
- Mediation

The SELPA recommends the following standard, best practices to prevent conflicts from arising:

1. Speak to the parent as soon as possible to find out about the issues.
2. Set and use an agenda at the IEP meeting
3. Establish ground rules prior to the IEP meeting starting
4. Check in with parents and school staff to assure everyone feels heard

State Conflict Resolution Processes: Due Process

When the parents of a student with disabilities and the educational agency disagree about the child's identification, assessment, educational placement, or provision of FAPE, either side can request a due process proceeding.

There are three levels to the hearing process:

1. **Resolution Session:** When a parent files a due process hearing request, the district is required to schedule a resolution meeting within 15 days of receipt of the complaint with the parents and the relevant members of the IEP team. The purpose of the meeting is to attempt to reach resolution at an early stage.
2. **Mediation Conference:** If the resolution session is not successful or is waived by either party, a mediation conference that is an informal meeting between the district, parent, and an administrative law judge is conducted. The mediation conference must be scheduled by the state within 15 days of receiving the request for due process hearing.
3. **Formal Administrative Fair Hearing:** If the mediation conference is not successful or is waived by either party, an administrative fair hearing is scheduled. This is a formal hearing conducted by an administrative judge from the Office of Administrative Hearings. At the hearing, both sides present evidence through submitting documents and by calling witnesses. The administrative law judge evaluates the evidence, determines the prevailing party, and directs corrective action, if any. This step must be held and a decision made within 45 days of the State's receipt of the request for a hearing.

Either party may request to have only a mediation conference instead of requesting a formal administrative fair hearing. If the issue is not resolved through mediation, a formal hearing can then be requested. (E.C. §§ 56501-56507)

Mediation and hearing requests must be made in writing and sent to:
Office of Administrative Hearings Special Education Division
2349 Gateway Oaks Drive, Suite 200 Sacramento, CA 95833-4231
Phone: (916) 263-0880 Fax: (916) 263-0890

Compliance Complaint

When it is believed that the LEA may have violated any part of special education law, a parent, individual, public agency, or organization can file a complaint with the California Department of Education (CDE). The party filing the complaint must forward a copy of the complaint to the other party at the same time it is filed with the CDE. The CDE must review it to decide if it is a matter for state or local investigation.

If it is determined to be an appropriate complaint for state investigation, an investigator interviews both sides, reviews documentation, and then decides whether the complaint is justified and what corrective action (if any) must be taken. A report of that investigation must be made within 60 days.
(34 C.F.R. § 300.153)

Complaint forms are available online at <https://www.cde.ca.gov/sp/se/qa/cmplntproc.asp> and may be filed with the superintendent of the local agency or sent directly to:
California Department of Education Special Education Division Procedural Safeguards Referral Service 1430 N Street, Suite 2401
Sacramento, CA 95814
Phone: 1-800-926-0648
Fax: (916) 327-3704
Email: speceducation@cde.ca.gov

Civil Rights Issues

It is the responsibility of the Office For Civil Rights in the Department of Education and the Office of Civil Rights in the Department of Health and Human Services to enforce federal laws prohibiting discrimination against persons on the basis of race, color, national origin, sex, age or mental and physical handicaps and to investigate discrimination complaints. (Title VI, Civil Rights Act of 1964; Title IX, Civil Rights Act of 1972; Section 504 of the Rehabilitation Act of 1973; and Title II of the Americans with Disabilities Act of 1990)

If a parent or other individual believes that his or her rights have been violated because of his or her disability, or his or her child's disability, by an educational institution receiving federal assistance, a complaint can be submitted to:
Regional Director, Office of Civil Rights, Region IX 50 Beale Street, Suite 7200
San Francisco, CA 94105
Phone: (415) 486-5555 or TDD (877) 521-2172 Fax: (415) 486-5570
Email: ocr.sanfrancisco@ed.gov