

LOCAL COMPLAINT PROCEDURES

LEAs/districts may at times receive complaints from parents or guardians regarding special education. LEAs/districts are required to have a local complaint process in place. Below are guidelines to assist LEAs/districts on the requirement.

LEAs/districts are required to adopt policies and procedures for the investigation and resolution of complaints of alleged violation of federal or state laws governing educational programs. Local policies shall ensure that complainants are protected from retaliation and that the identity of a complainant alleging discrimination remains confidential as appropriate. LEAs/districts shall submit their policies and procedures to the local governing board for adoption.

Each local educational agency shall include in its policies and procedures the person(s), employee(s) or agency position(s) or unit(s) responsible for receiving complaints, investigating complaints and ensuring LEA/district compliance. The local educational agency's policies shall ensure that the person(s), employee(s), position(s) or unit(s) responsible for compliance and/or investigations shall be knowledgeable about the laws/programs that he/she is assigned to investigate.

The LEA/district may provide a complaint form for persons wishing to file a complaint to submit. However, a person is not required to use the complaint form furnished by the LEA/district in order to file a complaint.



CALIFORNIA DEPARTMENT OF EDUCATION COMPLAINT AND INVESTIGATION PROCEDURES

A California Department of Education (CDE) or “state” complaint is a formal request to the CDE to investigate allegations of noncompliance with special education laws, federal or state, and may be filed by either an organization or individual(s). It is the responsibility of the CDE to ensure that LEAs/districts abide by laws pertaining to special education while meeting the educational needs of students with disabilities. A complaint must be filed within one year of the alleged violation. [34 CFR 300.151].

IDEA regulations require state educational agencies such as the CDE to:

- Adopt written procedures for resolving complaints
- Include remedies for the denial of appropriate services
- Specify minimum requirements for state’s complaint procedures
- Contain procedures for complaints related to due process hearings
- Include procedures for filing a CDE complaint
- Specify the timeline for filing a complaint
- Provide model complaint forms. [34 CFR 300.151-153 and 34 CFR 300.509][U.S.C. 1221e-3 and 20 U.S.C. 1415(b)(8)]

Who May File a Complaint?

Individuals, including parents, students, teachers, and agency representatives, may file a complaint with CDE. Organizations may file complaints as well. The party filing the complaint must forward a copy of the complaint to the LEA/district or public agency serving the child at the same time the party files the complaint with CDE. [34 CFR 300.153(b) and 300.153(d)]

What are the Required Elements of a Complaint?

A complaint must be submitted in writing and include the following:

- A statement that the LEA/district has violated special education law
- Facts on which such statements are based
- Signature and contact information for the complainant
- Child’s name, address, and school if alleged violations are student specific
- Proposed resolutions [34 CFR 300.153(b) and 300.153(d)]

Where Must a CDE Complaint be Filed?

CDE complaints may be sent by mail or fax to:

California Department of Education
Special Education Division
Procedural Safeguards Referral Service (PSRS)
1430 N Street, Suite 2401
Sacramento, CA 95814-5901
Fax: 916-327-3704



What are the Elements of a Complaint Investigation?

Once an individual has filed a complaint with the CDE, an investigator will contact the complainant and the LEA/district in the complaint. The investigator will gather facts about the allegations through interviews and document reviews.

Based on documentation/information collected, the investigator will prepare a complaint investigation report which will contain the following:

- Allegation summary
- General investigation procedures
- Applicable law and regulation
- Finding of facts
- Report conclusions (compliance or noncompliance)
- Corrective actions and timelines, if applicable

The CDE will send a copy of the investigation report to the complainant, the LEA/district and the parent (if different from the complainant).

A complaint investigation is completed within 60 days of receipt of the complaint by CDE; however the 60 day timeline may be extended under certain circumstances.

What if Noncompliance is Found?

If the complaint investigation yields a finding of noncompliance, the investigation report may include corrective actions, including requiring an LEA/district to:

- Convene a new IEP meeting
- Conduct further assessments
- Submit plans outlining proposals to correct violations and prevent future ones
- Initiate personnel training in the area(s) of violation(s)
- Provide compensatory education or reimbursement
- Review and revise procedures and practices
- Participate in monitoring and reporting activities

What if There is Disagreement with Investigation Findings?

The CDE has an appeals process in which any party involved in the complaint may request reconsideration. In order to initiate the appeal process the party in disagreement with the investigation findings shall submit a written reconsideration request to the CDE within 35 calendar days of receiving the investigation report.

What Can an LEA/district Do to Facilitate a Complaint Investigation?

- Cooperate with any complaint investigation and provide any requested documentation in a timely manner
- Submit all documentation regarding the complaint.
- Offer a resolution session (alternative dispute resolution (ADR)) to address resolve concerns that prompted the complaint. This step is voluntary. For more information, please reference the section of this guide titled, "Due Process."

Failure to respond may result in a finding and remedy in favor of the complainant.



Please contact your SELPA program specialist for additional information regarding the complaint process and investigation procedures. You may also contact the California Department of Education (CDE).

