
SACRAMENTO COUNTY

Special Education Local Plan Area
(“SELPA”)

Alternative Dispute Resolution (ADR)
Policy and Procedures

November 14, 2017

(Adopted by Superintendents’ Coordinating Council December 15, 2017)

Sacramento County Special Education Local Plan Area

Alternative Dispute Resolution (ADR)

POLICY:

It is the policy of all Districts in the Sacramento County SELPA that each District, with the support of SELPA, shall participate in the informal process of resolving concerns and/or disagreements related to the provision of special education services to students with special needs. The Alternative Dispute Resolution (ADR) process encourages all parties to collaboratively problem-solve to reach a mutually beneficial resolution without litigation through informal meetings, mediation and facilitated IEP meetings.

PROCEDURE:

1. **Introduction:** Informal conversation often resolves conflict and helps maintain open communication and positive relationships. Disagreement is normal and a natural part of life; however, it is how it is approached and dealt with that determines everyone's level of comfort with decisions made.
2. **Alternative Dispute Resolution Overview:** Communication between home and school is an important factor in the development of a child's educational program. In this regard, Districts in the Sacramento County SELPA have embraced the concept of Alternative Dispute Resolution to encourage conflict resolution through continued home/school communication, before either party seeks more formal intervention. Districts will encourage parents to resolve conflicts first at the School Site level, then the District Level, and finally the SELPA level, before parent files with the California Department of Education (CDE) or Office of Administrative Hearings (OAH). *Nothing in this Policy/Procedures shall be construed to mean that a parent and/or District must first exhaust these ADR interventions before filing a complaint with CDE or OAH. If at any time a conflict with special education arises, parents and/or Districts have a right to seek formal intervention.*
3. **Hierarchy of Local Conflict Resolution Contacts (See Attachment "A"), Hierarchy to Follow When Resolving Conflicts)**
 - a. ***School Site Level:*** Parents concerned about their child's education are encouraged to first contact the child's teacher, school psychologist and/or school principal to discuss their concerns.
 - b. ***District Level:*** If an issue is not resolved at the School Site level, parents are encouraged to contact the District's Program Specialist/Coordinator, Special Education Director and/or Assistant Superintendent responsible for special

education to discuss their continued concern. **If due to the smaller size of a District, the District does not have various staff designated as Program Specialist, Coordinator or Director, parents should contact the district level administrator in charge of special education (in small districts that person may be the Superintendent/Principal), before contacting the SELPA Level for next steps in the process (See, paragraph 3.c., below).*

- c. **SELPA Level:** If an issue is not resolved at the School Site and District levels, parents are encouraged to contact the SELPA staff to facilitate finding the option that best fits the need at the time.

4. **Local Alternative Dispute Resolution (ADR) Options:** ADR is a cost-free process for resolving conflicts, and one that respects the dignity of individuals while creating mutually satisfying solutions. ADR resolves disagreements and conflicts by focusing on communication, collaboration, negotiation, and mediation to achieve agreements that meet the interests of all the parties involved. ADR provides a variety of options for districts and parents seeking to work toward a resolution at the local level.
 - a. **Collaborative IEP Process:** Districts have administrators and teachers trained in the Collaborative IEP Process – this is a process where agreement is reached at each point in the IEP before moving on. Often parents and Districts find they agree on many more things than they disagree, and can build on those areas to reach a compromise.
 - b. **Facilitated IEP:** The SELPA staff can help locate a trained IEP Facilitator to help an IEP team build and improve relationships among IEP team members. This Facilitator is a neutral party that clarifies the agenda and meeting outcomes, enforces working agreements, keeps the group focused on the IEP process, encourages problem solving, monitors time and encourages participation by all team members. The goal is to achieve a signed IEP that all team members feel represents all the issues needed to educate a student.
 - c. **Local Mediation:** Parents and Districts will be able to participate in cost-free, impartial local mediation when desired. Local mediation uses an effective problem-solving method through a Mediator who will discuss possible solutions and develop agreements that are mutually acceptable to both parties. It is a safe, low-pressure process. Final decisions will be committed to writing in a Settlement Agreement.

5. **State Level Interventions:** When disputes develop between the parent and the District regarding a student's educational program that cannot be resolved at the local level, it is sometimes necessary to utilize more formal procedures to resolve those disputes. There are three types of formal dispute resolution proceedings: Due Process through

OAH, Compliance Complaint through CDE and Complaint through Office of Civil Rights. Each proceeding is designed to address a different kind of dispute.

- a. ***Due Process through OAH:*** When the parents and the District disagree about the child's identification, assessment, educational placement, or provision of FAPE, either side can request a Due Process hearing. There are three levels to the hearing process:
 - i. ***Resolution Session:*** When a parent files a Due Process hearing request, the District is required to schedule a Resolution Session. The purpose of the meeting is to attempt to reach resolution at an early stage.
 - ii. ***Mediation:*** If the Resolution Session is not successful or is waived by either party, a Mediation is an informal meeting between the parent, District, parent, and an administrative law judge. Either party may request to have only a "Mediation Only" conference instead of requesting a Due Process hearing. If the issue is not resolved through Mediation, a formal hearing can then be requested.
 - iii. ***Due Process Hearing:*** If the Mediation is not successful or is waived by either party, a Due Process 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 by submitting documents and by calling witnesses. The administrative law judge evaluates the evidence, determines the prevailing party, and directs corrective action, if any.
 - iv. ***Contact:*** Mediation and Due Process hearing requests must be made in writing and filed either via U.S. Mail or secure E-file:

Office of Administrative Hearings Special Education Division
2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833 - 4231
Phone: (916) 263 - 0880
CA Relay Service: (800) 735 – 2922
www.dgs.ca.gov/oah/SpecialEducation.aspx

- b. ***Compliance Complaints:*** 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 Special Education Division (CDE).
 - i. ***Filing:*** 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.

Within 5 days of receiving the complaint, the CDE must review it to decide if it is a matter for state or local investigation.

- ii. *Process:* 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.
- iii. *Contact:* Complaint forms are available online and may be filed with the superintendent of the District or sent directly to:

California Department of Education
Special Education Division
Procedural Safeguards Referral Service (PSRS)
1430 N Street, Suite 2401
Sacramento, CA 95814 - 5901
Phone: (800) 926 – 0648 / Fax: (916) 327 - 3704
Email: speceducation@cde.ca.gov
<http://www.cde.ca.gov/sp/se/qa/cmpltproc.asp>

- c. ***Civil Rights Issues:*** It is the responsibility of the Office for Civil Rights in the Department of Education and the Office for 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 disabilities and to investigate discrimination complaints. If parents believe that the rights of their child have been violated because of a disability by an educational institution receiving federal assistance, a complaint may be submitted to:

San Francisco Office
Office for Civil Rights, U.S. Department of Education
50 United Nations Plaza
Mail Box 1200, Room 1545
San Francisco, CA 94102
Phone: (415) 486 – 5555 / TDD (800) 877 - 8339 / Fax: (415) 486 - 5570
Email: ocr.sanfrancisco@ed.gov

Federal and California Citations
34 Code of Federal Regulations §§ 300.151-153
California Education Code §§ 56500.2 and 56043(p)

Hierarchy to Follow When Resolving Conflicts

Site Level

Teacher
(Educational and/or Classroom Concerns)

School Psychologist
(Educational, Program and/or Placement Concerns)

Site Administrator
(School Safety, Educational and/or Personnel Concerns)

District Level

Program Specialist/Coordinator*
(Program Concerns)

Special Education Director*
(Educational, Program and/or Placement Concerns)

Assistant Superintendent of Educational Services or Student Support*
(Site, Personnel and/or Educational Concerns)

*See Section 3b of the ADR Policy for specific procedures for certain districts

SELPA Level

Program Specialist/ADR Intake
(Fact-Gathering, Alternative Dispute Resolution Coordination)

SELPA Executive Director
(Local Plan Implementation, Systems & Alternative Dispute Resolution Management)

State Level

California Department of Education/Special Education Division
(Compliance and Implementation of Federal and State Education Code Issues)

Office of Administrative Hearings
(Procedural, Assessment, Identification, Placement and/or Services Concerns)