



Resolving Disagreements

Occasionally issues arise concerning your child's special education services that cannot be resolved through an IEP (Individual Education Plan) meeting. Concerns also may arise over an Individual Program Plan (IPP) which is the planning document that regional centers for developmental disabilities have for their clients. When disagreements occur or when you believe that the school or the regional center is not meeting their legal obligations, there are several options available to parents to resolve these disputes.

This packet contains material that focuses primarily on disagreements with schools, with some information on regional center disagreements. There are protections in federal and state laws called "Procedural Safeguards" that spell out a parent's or a student's rights as well as how these rights can be asserted. For legal information related to school issues, you can contact the **California Department of Education Procedural Safeguards and Referral Services at 800-926-0648.**

It is usually to everyone's advantage to try to resolve your differences or correct compliance concerns in the least adversarial manner, at the lowest administrative level. This saves time, preserves relationships, and in the end, the outcome can be better for the student as well as their family. However, it is important to note that when you believe that the school (or the regional center) is not meeting their legal obligations (e.g. not abiding by timelines, changing services without holding a meeting, etc.) there are procedures that allow parents to file "compliance complaints." When you have a disagreement with the school (or the regional center) there are "due process" rights which spell out how you can assert your request.

During disputes, emotions can run high, therefore it is important to seek help from others who can help you balance information and emotions as you decide how to resolve your concern.

Sample of Other Available Information Packets:

Advocacy and Communication
Behavior
Discipline
Emotional Difficulties
Individual Education Plans (IEP) Overview
Learning Disabilities
504 Plans

Our libraries in Novato and Fairfield offer many articles, books, DVDs/videos, magazines and other materials that relate to this topic. We also offer workshops on IEP issues, support groups, and one-on-one consulting with parents. Visit our website for more information.

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1 (800) 578-2592



Sources and Resources

California Department of Education www.cde.ca.gov/sp/se/ga

California Department of Developmental Services www.dds.ca.gov

CADRE – Consortium for Appropriate Dispute Resolution in Special Education
www.directionservice.org/cadre

Rights Under the Lanterman Act: Regional Center Services for People with Developmental Disabilities, Protection and Advocacy, Inc. www.pai-ca.org

Special Education Rights and Responsibilities, Community Alliance for Special Education (CASE) and Protection and Advocacy, Inc. (PAI) www.pai-ca.org

“Special Education Rights of Parents and Children: Notice of Procedural Safeguards” – California Department of Education (parents should receive this document at **least annually**. **DO** read this document and save a copy for your records. Extra copies are available at Matrix, your school district or the California Department of Education website.

Wrightslaw: IDEA 2004, Wright, Peter and Pam, 2004, www.wrightslaw.com

From Emotions to Advocacy, Wright, Peter and Pam, 2006, www.wrightslaw.com

The Complete IEP Guide: How to Advocate for Your Special Ed Child, Siegel, Lawrence, 2002, www.nolo.com

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Resolving IEP Disagreements: A Continuum of Options

Informal Processes

It is always best to solve problems as close to the source as possible. For instance, if you are concerned that a feature of your IEP is not being implemented, start your discussion with the special education staff responsible for implementation. If the two of you are not able to resolve the issue, then you might speak with the Principal or Special Education Program Manager. If that is not helpful, you can talk with the Director of Special Education, or possibly, the SELPA (Special Education Local Plan Area) Director. You may want to discuss various ideas and strategies with a Matrix Parent Advisor or other experienced parents or advocates. As a general rule, everyone will benefit from concerns being aired and settled in an informal manner. For information on legal requirements, and/or compliance complaint assistance, contact the **California Department of Education/Special Education Procedural Safeguards and Referral Services at 800-926-0648.**

Alternative Dispute Resolution

Many SELPAs have instituted a program of options to assist parents and districts in resolving differences in a non-adversarial manner. These options can include Facilitated IEP Meetings, Resolutions Panels, Ombudsmen such as Sonoma and Solano Counties' Independent Child Advocate, and Local Mediation as in Marin County. These alternative or appropriate methods encourage the use of collaborative strategies that focus on resolving disagreements so that there is a "win-win" result, with a focus on meeting student needs and preserving relationships.

• Facilitated I.E.P. Meetings

This voluntary process is one in which an impartial facilitator conducts the meeting. The facilitator uses specific strategies to create an environment in which communication is clear.

A facilitator:

- develops a meeting agenda and helps set ground rules for the meeting with the team
- keeps team members focused on developing a satisfactory I.E.P.
- guides team discussion
- promotes a mutual problem solving approach
- builds agreement and working relationships
- assists team members in resolving differences or conflict

A facilitator does NOT:

- impose a decision on a group
- take sides, place blame or decide if an issue is right or wrong
- facilitate disputes unrelated to the I.E.P.

• Ombudsmen

Both Sonoma and Solano County offer an ombudsmen program through Independent Child Advocates. These staff can provide a more intensive intervention, interfacing between parents and districts, focusing on meeting student needs through legally compliant educational services.

If you would like more information on these and other ADR services, contact your SELPA office:

Marin SELPA (415) 499-5850 www.marinschools.org/selpa.htm

Napa SELPA (707) 253-3929 www.ncoe.k12.ca.us/selpa/

Solano (upper county) SELPA (707) 399-4465 www.solanocoe.k12.ca.us

Sonoma SELPA (707) 524-2750 www.scoe.org

Vallejo SELPA (707) 556-8921 www.vallejo.k12.ca.us

Formal Methods

• Pre-Hearing Mediation and Resolution Sessions

Mediation does NOT change the rights of a parent, guardian or district to request a due process hearing or to file a compliance complaint. Mediation can be requested at the time of a filing for due process or it can be requested without filing for due process. The request is made with the California Office of Administrative Hearings, Special Education Unit.

Mediation is defined as an attempt to bring about a settlement or compromise between parties to a dispute through the objective intervention of a neutral party. Mediation is an opportunity for parents and school officials to sit down with an independent mediator and discuss their differences in order to resolve the problem amicably without going to due process. Mediation can be initiated at any time, if both parties agree, to expedite the development of a solution.

When due process is requested, a Resolution Session must be held prior to proceeding, unless both parties (parents and school officials) agree to waive such Resolution Session. Mediated agreements and agreements reached through Resolution Sessions are binding. Negotiation details are confidential and cannot be entered into evidence during Due Process Hearings.

If informal resolution of conflict doesn't work, a parent can use more formal methods including State Mediation, Due Process Hearing and Compliance Complaints. It is important to indicate that informal measures to resolve conflicts were tried and failed, and to submit all required information. There is no cost for formal methods unless you decide to employ an attorney.

• Due Process

Where you and the school present evidence before an Administrative Law Judge from the California Office of Administrative Hearings and the judge decides how to resolve the problem. You will be asked first to consider State mediation. Lawyers can be involved. The Office of Administrative Hearings can be reached at (916) 323-6876 or www.oah.dgs.ca.gov.

• Compliance Complaint

Where you contact the State Department of Education and describe what requirement of IDEA you believe the school has violated. The Department of Education must either resolve your complaint, or it will assist the school district and parents to reach a solution. It will then review agreements. In most cases, the complaint must be resolved in 60 days.

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How to be an Effective Advocate

You believe your child's education is not going well. What should you do, how can you make a difference? If, as a parent, you react to concerns you have about your child's educational program without being an effective advocate, you risk having those concerns ignored or addressed in ways that are not satisfactory. So what does effective advocacy involve?

- Research
- Preparation and planning
- Good communication
- Willingness to solve problems

When advocating effectively, it is important to remember to focus on your critical areas of concern, your "interest" versus your "position," and ensure that your emotions do not interfere with your objective. Separating emotions from advocacy is difficult, but so very necessary.

Here are some things to do to help you be an effective advocate:

- Learn the rules of the game: legal requirements and how decisions are made
- Gather information and organize it
- Don't jump to conclusions
- Take good notes and add them to your "IEP binder"
- Keep written records of IEPs, assessments, correspondence, and phone calls
- Ask questions and listen for answers—it's ok to not know something
- Identify problems/barriers
 - Be a problem-solver—don't blame or accuse others
 - Bring in strategic people to overcome barriers
- Propose solutions
 - Use the facts, not speculations
 - Discuss issues not positions. By discussing your concern (your interest) rather than proposing a single solution (your position), you allow everyone to brainstorm options that might be different/better than your original solution or the IEP team might come to the same conclusion as you.
 - Find common interests. If behavior is your concern, it is probably a concern of school staff as well and everyone, including your child, will benefit with a solution that is well thought out and not a "band-aid" action such as sending your child to the office
 - Don't rehash the past—focus on what can be done today
 - Brainstorm—think outside the box—and make offers and proposals

It is always important to communicate respectfully, without being aggressive or blaming others. Instead, by being assertive, your concern will be the focus of the discussion and others in the room will be less defensive. And finally, always acknowledge good efforts and good intentions and thank those who have worked with you. You are building a relationship with those who educate your child.

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The Conflict Resolution Process

Six Steps to Win/Win Solutions

- 1. COOL OFF:** Many of these meetings happen when emotions are high, such as after things have gone wrong. It is essential for the good of the outcome to cool off for a day or two before opening discussions. It is always easier to see other perspectives when we are at a bit of a distance. You might call to schedule a meeting or express your concern but it is best to wait for the discussion until feelings have settled.
- 2. LAY THE GROUNDWORK:** Let those with whom you will be meeting know that you want to work for a win/win outcome. Describe the ground rules which you wish to use for discussion:
 - a. No interrupting
 - b. Be respectful of each other
 - c. Work to solve the problem
- 3. DESCRIBE THE PROBLEM FROM MULTIPLE POINTS OF VIEW:** Tell the problem from your perspective using "I" messages to avoid putting the other side on the defensive and to show that you own your part.

I _____ when _____ because _____.
your feelings *specific behavior or concern* *how it affects you*
- 4. BRAINSTORM SOLUTIONS:** Together, develop as many solutions as possible. The more ideas, the better. Any idea is "O.K." for brainstorming. Write ideas down, so you can discuss them later. No judging of ideas in the brainstorming process.
- 5. CHOOSE THE SOLUTION BEST FOR ALL:** Review each idea until all understand it, discard the ones that no one likes and work the others until you have a solution all can support.
- 6. MAKE THE PLAN AND IMPLEMENT IT (BE SPECIFIC):** Be specific about the agreements; whether an IEP or an accommodation plan, write it like a contract. Who is responsible for what, when, and how it will look? When is the review to see if things are working and how will you know if they are?

“Focus on the student’s interests. . .not on individual positions”

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California Department of Education (<http://www.cde.ca.gov/sp/se/qa/pssummary.asp>)
Questions: Procedural Safeguards and Referral Services | 800-926-0648

Parents' Rights A brief summary of Procedural Safeguards for students with disabilities receiving special education services.

Parents of children with disabilities from ages three through twenty-one have specific educational rights under the Individuals with Disabilities Education Act (IDEA). These rights are called procedural safeguards. Individuals serving as surrogate parents and students aged eighteen receiving special education services, are also entitled to these rights.

A number of staff in the child's district and special education local plan area (SELPA) may answer questions about the child's education and the parents' rights and responsibilities. When the parent has a concern, it is important that they contact their child's teachers or administrators to talk about their child and any problems they see. This conversation often solves the problem and helps maintain open communication.

Parents must be given opportunities to participate in any decision-making meeting regarding their child's special education program. Parents have the right to participate in individualized education program (IEP) meetings about the special education eligibility, assessment, educational placement of their child and other matters relating to their child's free appropriate public education (FAPE).

When a parent cannot be identified or located, a district may appoint a surrogate parent to represent a child with a disability.

What Are Parents' Rights in California Special Education?

Parents and students over age eighteen have the right:

To Participate

Parents have the right to refer their child for special education services, to participate in the development of the IEP and to be informed of all program options and alternatives, both public and nonpublic.

To Receive Prior Written Notice

Parents have a right to receive prior written notice, in their native language, when the school district initiates or refuses their request to initiate a change in their child's identification, assessment, or educational placement in special education.

To Consent

Parents must provide informed, written consent before their child is assessed or provided with any special education services. Parental consent must also be provided before any change in special education services may occur. The district must ensure that parents understand proceedings of the IEP team meeting including arranging for an interpreter for parents with deafness or those whose native language is other than English.

To Refuse to Consent

Parents may refuse to consent to an assessment or the placement of their child in special education.

To Be Given a Nondiscriminatory Assessment

Children must be assessed for special education through the use of methods that are not culturally biased or discriminatory.

To Receive Independent Educational Assessments

If parents disagree with the results of the assessment conducted by the school district, they have the right to ask for and obtain an independent educational evaluation (IEE) at public expense.

The parent is entitled to only one IEE at public expense each time the public agency conducts an evaluation with which the parent disagrees.

When a parent requests an IEE at public expense, the school district must, without unnecessary delay, either ensure that an IEE is provided at public expense, or request a due process hearing if the district believes their assessment was appropriate and disagrees that an IEE is necessary. The school district also has the right to establish the standards or criteria (including cost and location) for IEEs at public expense.

To Access Educational Records

Parents have a right to inspect, review, and obtain copies of their child's educational records.

To Stay in the Current Program If There is a Disagreement About Placement

If parents disagree with the district regarding their child's special education placement or a proposed change in placement, the law requires the student to "stay put" in the current program until the dispute is resolved.

To Be Given a Hearing Regarding Disagreements About an IEP

Parents have the right to present a complaint relating to the provision of a FAPE for their child; to have an attorney, an advocate, and the student, if appropriate, present at the due process hearing; and to make the hearing public. Under certain conditions, the hearing officer may award, reduce, or deny the reimbursement of attorneys' fees and fees paid to nonpublic institutions by parents in the settlement of a case. To request a due process hearing or to receive a complete notice of procedural safeguards related to a due process hearing, contact the Office of Administrative Hearings (see contact information below).

To Receive Mediation

Parents are encouraged to consider settling disagreements regarding their child's special education program through voluntary mediation, a process through which parties seek mutually agreeable solutions to disputes with the help of an impartial mediator. Parents may seek mediation alone or separate from due process, or they may participate in mediation pending a due process hearing. Mediation cannot be used to delay parent's right to a due process hearing.

To File a Complaint Against Your School District

If parents believe their child's school district has violated the law, they may file a complaint with the California Department of Education. The Department must investigate complaints alleging violations of noncompliance with IDEA, state special education laws, or regulations, and issue a written report of findings within 60 days of receiving the complaint.

To Be Informed of School Discipline and Alternative Placement

There are specific rules regarding the suspension and expulsion of students with IEPs. Generally, a student with a disability may be suspended or placed in an alternative educational setting to the same extent that these options apply to students without disabilities.

If the student with a disability is in such a placement for more than ten days, an IEP meeting must be held to consider the appropriateness of the child's current placement and the extent to which the disability is the cause of the misconduct. Regardless of the child's placement, the district must provide FAPE

To Be Informed of Policies Regarding Children Who Attend Private Schools

School districts are responsible for identifying, locating and assessing students with disabilities enrolled in private schools by their parents. However, school districts are not required to provide special education or related services to these students. There is no entitlement for services, though some private schools and students attending private schools may receive some services from the school district.

Additional Resources

This notice is an abbreviated summary of procedural safeguards under federal and state laws (20 USC Section 1415(d); 34 CFR 300.504; EC sections 56301(d)(2), 56321, and 56341.1(g)(1)). Special Education Rights of Parents and Children, a more extensive description of these rights, is available from the California Department of Education, Special Education Division.

To obtain more information about parental rights or dispute resolution, including how to file a complaint, contact the California Department of Education, Special Education Division, Procedural Safeguards Referral Service, by telephoning 800-926-0648 or writing to:

California Department of Education
Special Education Division
Procedural Safeguards Referral Service
1430 N Street, Suite 2401
Sacramento, CA 95814
Telephone: 800-926-0648
Fax: 916-327-3704

To file for mediation or a due process hearing, contact:

Office of Administrative Hearings
Special Education Division
2349 Gateway Oaks, Suite 200
Sacramento, CA 95833-4231
Telephone: 916-263-0880
Fax: 916-263-0890

[Last Reviewed: Monday, July 14, 2008](#)

Hints When Requesting Direct State Intervention

Suggestions with examples on how to expedite the investigation process.

The California Department of Education, Special Education Division, responds to complaints as quickly as possible in order to make sure that the needs of special education students are met. Following the suggestions listed below will help expedite the investigation process. The examples pertain to only the most common allegations. You have the right to file a complaint about any special education laws and regulations that may have been violated.

Be sure to sign your request for a complaint investigation.

If your complaint alleges failure to implement an individualized education program (IEP), attach a copy of the IEP in question. Also, indicate what part of the IEP was not implemented, and include the date(s) the IEP was not implemented.

Example: "The IEP dated April 8, 2006 says that my child is supposed to receive speech therapy three time per week, but the XXX School District did not provide any speech therapy between September 11, 2006 and October 14, 2006. A copy of the IEP is attached."

If your complaint involves a request for special education testing, attach a copy of the written request. If you don't have a copy, indicate that on the complaint form. Include the date(s) you requested testing.

Example: "I asked for special education testing on September 2, 2006. It's been more than 15 days and I still haven't received a proposed assessment plan from XXX School District. A copy of my request is attached."

If your complaint alleges that the an IEP team meeting has not been held within required timelines, attach a copy of the signed assessment plan or a copy of your written request for an IEP team meeting, whichever one applies. If you do not have a copy of the document involved, indicate that on the complaint form. Include the date you signed the assessment plan or the date you asked for an IEP team meeting.

Example: "On October 8, 2006, I asked for an IEP team meeting. It's been more than 30 days now and the XXX School District still hasn't held a meeting. A copy of my written request is attached." Note: If you are alleging that a review of your child's IEP was not held within one year of the last IEP team meeting, or that a triennial review was not held within three years, attach a copy of the last signed IEP and include the date a meeting should have been held.

If your complaint involves a request for copies of your child's school records, attach a copy of your written request. If you do not have a copy of the request, or if you asked verbally and there is nothing in writing, indicate that on the complaint form. Include the date(s) you asked for the records.

Example: "I asked for a copy of my child's school records on November 10, 2006. It's been more than five days and the XXX School District has not given me the copies. A copy of my request is attached."

REQUEST FOR COMPLAINT INVESTIGATION

PLEASE NOTE: *A complaint may be filed through the use of this form or by a written letter sent by fax or postal mail. E-mails cannot be accepted as formal complaints because they do not meet signature requirements under 34 C.F.R. 300.153(b)(3). If upon analysis of a request, a complaint is opened, a complaint investigation will be completed within 60 days of receipt in the California Department of Education (CDE) Special Education Division Procedural Safeguards Referral Service (PSRS) of all required information.*

The written complaint must specify at least one alleged violation of state and/or federal special education laws that occurred not more than one year prior to the date the complaint is received by the CDE. The party filing a complaint must forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files a compliance complaint with the CDE. (34 C.F.R. 300.153(d))

Please return the completed form to: California Department of Education; Special Education Division; Procedural Safeguards Referral Service; 1430 N Street; Suite 2401; Sacramento, CA 95814; Phone: (800) 926-0648; FAX: (916) 327-3704

Name of School District or other Public Educational Agency that allegedly violated state and/or federal special education laws:

Complainant Contact Information:

Name _____

Address _____

City _____, CA Zip Code _____

Phone Numbers (Please note the best time to call):

(day) _____ (evening) _____

(work) _____ ext. _____ (fax) _____

Parent/Guardian Information (if different from above):

Name(s) _____

Address _____

City _____, CA Zip Code _____

Parent/Guardian Phone Numbers (if phone contact is permitted, please indicate the best time to call):

(day) _____ (evening) _____

(work) _____ ext. _____ (fax) _____

Student Information (If alleging violations with respect to a specific child):

Name _____

Date of Birth _____ Current Grade Level _____

Address Where Student Resides (If different from Parent/Guardian information):

Address _____

City _____, CA Zip Code _____

School of Attendance (required) _____



Overview of Due Process

Due Process for Public Schools

As a parent, you are a part of the IEP team. If you cannot resolve a disagreement with any of the recommendations of the Individual Education Planning team regarding identification, evaluation, placement, or the provision of a free and appropriate public education for your child, you have several options. There are informal and/or non-adversarial avenues that you can pursue. Those are discussed in the Matrix publication "Resolving IEP Disagreements."

However, you may wish to ask for a Due Process Hearing, a formal procedure in which both the parent and the public school entity present evidence and arguments in a structured forum and an administrative law judge makes a decision which is binding on both parties.

When considering filing for a due process hearing, all attempts should be made by the Individual Education Planning team to reach an acceptable resolution of the differences. This includes the utilization of local alternatives to hearings including Facilitated IEPs, "Solutions Panels" which provide informal group mediation, the Independent Child Advocate, Resolution Sessions and Mediation provided by the California Department of Education. If such attempts have failed to resolve the disagreements, then a Due Hearing Process may be pursued by submitting a **written request** to:

Office of Administrative Hearings
Attn: Special Education Division
2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833-4231
(916) 263-0880
(916) 263-0890 fax

A copy should be sent to your school district (LEA or local education agency). The request for a Due Process Hearing should state the issue(s) upon which you are basing your request as well as proposed solutions and supporting documentation. Upon receipt of your request:

1. The Office of Administrative Hearings (OAH) will advise you and the public education agency of all your rights relating to procedural safeguards (the Due Process Hearing procedure) including the right to waive the mediation conference. As of July 1, 2005, a **Resolution Session with both parties is required unless both the district (LEA) and the student's family waive this requirement.**

2. Within three days after your school district receives your request for a Due Process Hearing, they must advise you of free or low cost legal services available in your area.

The basic Due Process Hearing procedures consist of the Resolution Session conference at the local level, the CDE provided Mediation conference, and the hearing at the state level. This procedure can be modified if either the Resolution Session and/or the Mediation conference is waived. There are strict timelines that must be followed by all parties involved, including the parent. The Resolution Session, unless waived, must be held within 15 calendar days of the school's receipt of a notice of a due process complaint.

Mediation may be requested both prior to the filing of a request for a due process hearing or

after a request for a due process hearing. OAH has 15 days from the receipt of your request to hold the Mediation conference. Many issues can be resolved at this stage. Mediators work with both parties, assisting them in coming to agreement. They do not make decisions or impose judgments.

However, if the problem is not resolved at Mediation, the mediator will list those issues upon which the state level hearing will be based. By participating in either Mediation or a Resolution Session you do not lose your right to pursue a formal due process hearing. Please note that when requesting a due process hearing it is essential that the specific facts and circumstances of the disagreement be stated and that a proposed solution be specified for each problem/complaint listed.

Due Process for Regional Centers

You as a parent or guardian have the right to appeal any decision made by the regional center if you feel that the decision is illegal, discriminatory, or not in your child's best interest. If you disagree with a regional center decision, you may:

- Ask for a meeting with the supervisor or multidisciplinary team. This is optional but may resolve the problem without any further due process.
- Ask your service coordinator for the decision in writing and for the procedure to appeal their decision. Regional Centers must provide a written "Notice of Proposed Action" at least 30 days prior to any decision made without your consent to reduce, change or terminate current services or terminate eligibility. Such notice must be provided within 5 days of a refusal to include in the Individual Program Plan a new service or support. They must provide you with the Request for Fair Hearing form as well as information on advocacy assistance. Notices must be sent by certified mail.
- You may at the same time request a Voluntary Informal Meeting and/or Mediation. The Informal Meeting must be held within 10 days of your request and the Mediation, if the Regional Center agrees to participate, must be held within 30 days of your request. The State Level Formal Fair Hearing must be held within 50 days of the Regional Center's receipt of your request for the hearing.
- If you are appealing a decision to end or change a service, it is important that you respond to the Notice of Proposed Action within 10 days of receiving the notice in order to continue to receive the service as currently authorized until the appeal is resolved. This is known as "aid paid pending." In any case, appeals must be filed within 30 days of receiving a Notice of Proposed Action.
- Your Request for Fair Hearing should be sent to the Director of the Regional Center who is required by law to immediately forward a copy of the request to the California Office of Administrative Hearings.
- Contact the Clients' Rights Advocate, Area Board on Developmental Disability, Matrix Parent Network, or other advocacy resources for assistance, as needed.

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**MEDIATION AND DUE PROCESS HEARINGS UNDER THE INDIVIDUALS WITH DISABILITIES
EDUCATION IMPROVEMENT ACT OF 2004(IDEA)**

IDEA provides for mediation and due process hearings to resolve disputes relating to the education of children with disabilities to ensure that each child receives a Free and Appropriate Public Education (FAPE) tailored to his/her unique needs. The process is initiated by serving a completed Request for Due Process Hearing and Mediation (generally called a Complaint) on the persons or entities you name as parties to the proceeding. Attached is a form that you should use to request a due process hearing and mediation on behalf of a particular child. You should be aware that the IDEA has very specific requirements regarding the information to be included on the request. If the information requested is incorrect, incomplete or not provided, your request for a due process hearing may be delayed until the request meets legal requirements. Once completed your request must be properly served on all of the named parties you have identified and a copy provided to the Office of Administrative Hearings.

BEFORE FILLING OUT THIS REQUEST PLEASE TAKE THE TIME TO READ THE FOLLOWING EXCERPTS FROM APPLICABLE FEDERAL STATUTES:

The Request for Due Process Hearing and Mediation (Complaint) **shall** include:

“the name of the child, the address of the residence of the child (or available contact information in the case of a homeless child), and the name of the school the child is attending...” (20 U.S.C. § 1415 (b)(7)(A)(ii)(I));

“a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem...”(20 U.S.C. § 1415 (b)(7)(A)(ii)(III)) and

“a proposed resolution of the problem to the extent known and available to the party at the time.” (20 U.S.C. § 1415 (b)(7)(A)(ii)(IV))

Either party now has the right to challenge the sufficiency of any Complaint. (20 U.S.C. § 1415 (c)(2)(A))

The party filing the Complaint is not entitled to a due process hearing if the Complaint does not comply with 20 U.S.C. § 1415 (b)(7)(A). (20 U.S.C. § 1415 (b)(7)(B))

The determination of whether a Complaint is sufficient and in compliance with the requirements of 20 U.S.C. § 1415 (b)(7)(A), shall be made by an administrative law judge solely on the content of the Complaint. (20 U.S.C. § 1415 (c)(2)(D))

A party may amend its Complaint only if: (I) the other party consents in writing and a Resolution Session is held; or (II) if permitted by the Administrative Law Judge. (20 U.S.C. § 1415 (c)(2)(E)(i))

All timelines, including those for a Resolution Session, start over upon the filing of an amended Complaint. (20 U.S.C. § 1415 (c)(2)(E)(ii))

REQUEST FOR MEDIATION AND DUE PROCESS HEARING

IMPORTANT: This form is designed to assist parties in requesting mediation services and a due process hearing. Provide all information requested. Failure to provide all information may result in delay or dismissal of your hearing request. The Special Education Division will contact you regarding your hearing request.

This Request is being initiated by the Parent School District (or other LEA)

STUDENT INFORMATION	PARENT INFORMATION
First and Last Name (Required)	First and Last Name
Street Address (Required)	Street Address
City, Zip Code (Required)	City, Zip Code
Date of Birth	Home Phone
Grade Level	Work Phone
Student's Primary Language (Required)	Cell Phone
School of Attendance (Required)	Fax
District of Residence (Required)	
Is the Student a person of color? Please check the appropriate box. (California Department of Education requirement)	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decline to State	

PARTIES TO BE NAMED

INSTRUCTIONS; Below, please list the Parties to be named in the Due Process Hearing Request. This includes any school district, county office of education or other public agencies responsible for providing services you feel should be a party in the hearing. (Use additional sheets if necessary)

Additional Party and Address
Additional Party and Address
Additional Party and Address

STATEMENT OF REASON(S) FOR REQUEST: Federal and state law require you describe with specificity the nature of the problem(s)/complaint(s). Simply describing a problem as "Student denied FAPE for school year 2005-2006" is insufficient. Include facts, dates, references to specific IEP provisions, etc. Lack of specificity in identifying problem(s)/complaint(s) may result in the dismissal of this Due Process Hearing Request.

PROPOSED RESOLUTION FOR EACH PROBLEM/COMPLAINT: Federal law requires that you provide a proposed resolution to each identified problem/complaint to the extent known. Again, please be as specific as possible. A proposed resolution that the District "provide a Free Appropriate Public Education (FAPE)" is insufficient. In the space below please identify specific problem(s)/complaint(s) and a proposed resolution for each to the extent known. All that is required and recommended is a simple, clear, concise statement of the problem/complaint. If you run out of space, use additional sheets with the same format. Lengthy narratives often create more confusion than clarity and are not a substitute for a clear statement of the dispute. If a narrative is included, attach it to your Request.

Problem/Complaint #1: _____

Proposed Resolution #1: _____

Problem/Complaint #2: _____

Proposed Resolution #2: _____

Problem/Complaint #3: _____

Proposed Resolution #3: _____

Problem/Complaint #4: _____

Proposed Resolution #4: _____

Problem/Complaint #5: _____

Proposed Resolution #5: _____

Problem/Complaint #6: _____

Proposed Resolution #6: _____

NECESSITY OF INTERPRETER

Person(s) needing interpreter services:

Language:

SIGNATURE OF PARTY REQUESTING DUE PROCESS HEARING

Please Print Name in this block	
Please Sign Name in this block	Date

STATEMENT OF SERVICE

INSTRUCTIONS: Federal and state law require you to send or deliver a copy of this Request to each of the named parties. Additionally, you must send or deliver a copy to the Special Education Division. Retain a copy for yourself. Please indicate your compliance with this requirement by checking the appropriate box below. In the event a legal representative makes service, please attach a copy of the proof of service.

I have provided a copy of this Request for Due Process Hearing and Mediation to all the named parties and to the Special Education Division by:

- First Class Mail**
- Facsimile Transmission**
- Messenger Service (UPS, FedEx, Other courier service) Please attach proof of service**
- Personal Delivery (If other than requestor please name person who made service)**

Signature of person completing this Statement of Service

FAIR HEARING REQUEST

DS 1805 (Rev. 1/2007)

Name of Person for Whom Hearing is Requested: <i>(Claimant)</i>	Date of Birth:	Medicaid Home and Community Based Services Waiver Participant? <i>(Check one)</i> Yes No
Address:		Daytime Telephone Number:

Name of Regional Center or State Developmental Center:

A State level fair hearing will be scheduled. In an effort to resolve this matter prior to a fair hearing, I am also requesting the following: *(Check all that apply)*

An informal meeting with the regional center's or state developmental center's director, or his/her designee.

Mediation with a neutral, independent mediator who will assist in reaching an agreement.

Reason(s) for requesting a fair hearing:

Describe what is needed to resolve your complaint:

Requester's Name If Not the Claimant:	Relationship to Claimant:
Address:	Daytime Telephone Number:

Requester's Signature  _____ Date of Request _____

Are the services of an interpreter required? No Yes If yes, what language _____

REPRESENTATIVE AUTHORIZATION

I authorize the following person *(Name)* _____

(Address) _____ *(Daytime Telephone Number)* _____

to represent me, the claimant, in this matter.

Claimant's/Area Board's Signature  _____ Date _____

DATES NOT AVAILABLE

I am not available during the following hours or days. (When identifying hours/days you will not be available, please keep in mind that an informal meeting will be held within 10 days, mediation within 30 days, and the fair hearing within 50 days after the receipt of your request.)

Signature of Claimant or Authorized Representative  _____

(Attach copy of Notice of Proposed Action. See page 2 for Appeal Rights and Instructions)

APPEAL RIGHTS

1. You may have a person or agency appointed by the local area board as your representative to assist you in the fair hearing process.
2. You have the right to a fair hearing.
3. You have the right to be present in all proceedings and to present written and oral evidence.
4. You have the right to confront and cross-examine witnesses.
5. You have the right to appear in person with counsel or other representatives of your own choosing.
6. You or your authorized representative have the right to access and examine records prior to any meeting or hearing.
7. You have the right to an interpreter.
8. You have the right to information on the availability of advocacy assistance, including referral to the clients' rights advocate, area board, publicly funded legal services, corporations, and other publicly or privately funded advocacy organizations, including the protection and advocacy system required under federal Public Law 95-602.
9. You have the right to an informal meeting with the regional center or state developmental center director or the director's designee within 10 days of the date the hearing request form is received, by the regional center or state developmental center. Notification, in writing, of the proposed date, time and place for an informal meeting shall be provided by the regional center or state developmental center director or the director's designee.
10. You have the right to request voluntary mediation prior to a fair hearing.
11. **You have the right to proceed directly to a fair hearing without participating in an informal meeting or voluntary mediation.**

INSTRUCTIONS

1. If you, or your authorized representative, are dissatisfied with any decision or action of the regional center or state developmental center which you or your authorized representative believe to be illegal, discriminatory, or not in your best interests, you or your authorized representative may use this form to request a fair hearing, along with an informal meeting with the regional center or state developmental center director, or his/her designee, and/or a mediation conference, if desired.
2. Within 30 days after notification of the decision or action complained of, the request form must be directed to the director of the regional center or state developmental center responsible for the action. The regional center or state developmental center will fax your request for fair hearing to the department and the director of the Office of Administrative Hearings, or his or her designee, within five working days of the regional center or state developmental center director's receipt of the request.
3. If you are currently receiving services and the reason for the appeal is the reduction or termination of services by the regional center or state developmental center, you must return this form to the regional center or state developmental center within 10 days after receipt of the notice of the proposed action in order to continue receiving those services during the fair hearing process.
4. If you do not have, or do not wish to have, an authorized representative, do not complete that portion of the form.
5. If you require the services of an interpreter, please check the appropriate box and provide an explanation of your interpreter needs.
6. If there is a particular time and/or day that you are not available, it is important that you specify that time or day in the space provided on the form. This is for your benefit, so that a time and day convenient to you can be scheduled for your informal meeting, mediation conference, and/or fair hearing.
7. **If you need help completing this form, contact your service coordinator or the Clients' Rights Advocate.**