

## 24. COMPLAINTS

The Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and

other laws have been established to ensure that all children with disabilities receive a free and appropriate public education (FAPE). Unfortunately, sometimes disagreements develop between parents/advocates and the school administration or other agencies regarding agency obligations under the law.



**Due Process Procedures should be used if the advocate or parent and school or other agencies disagree about the child's identification, assessments, eligibility, educational program or placement in special education (See next section for more information).**

Complaints should be filed when an individual believes the school or service agency has violated any part of the Individuals with Disabilities Education Act (IDEA) that results in a failure to provide the child with appropriate services. A parent, care provider, advocate, social worker, service provider or other interested individual can file a complaint on the child's behalf.

### **Complaints can be filed when the school staff fails or refuses to:**

- Inform parents/surrogates and child of legal rights regarding FAPE
- Accept a referral
- Follow legally mandated timelines for responses, meetings, start of services
- Provide necessary services agreed to in IEP
- Provide proper notice of meetings, proposed changes to child's program, including placement or services
- Provide requested information in a timely manner
- Adequately protect family or child confidentiality
- Provide any other information or service dictated by state or federal law.

## District Investigated Complaints

If possible, the parent or advocate should first approach the school administrator or district superintendent to request a resolution to the problem. Changes should be requested in writing, identifying the child, the advocate and relationship to the child. The parent or advocate should list concerns and any previous attempts to fix the problem, including the names of individuals contacted and dates of contact whenever possible. The parent or advocate should conclude by clearly requesting any action necessary to resolve the matter, citing any relevant laws that address the agency's obligations regarding the issue.

**See sample letters in Appendix**

**The superintendent/administrator must respond to the complaint within 60 days. The response must include:**

- The nature of the complaint
- The results of any investigation concerning the complaint
- The "disposition" of the complaint (how the district will respond)
- An explanation of the district's response

If the district finds the complaint has merit, the response will also include what the school will do to fix the problem and when. If report "finds" no fault on behalf of the district, the person submitting the complaint has a right to appeal the decision.

### **Mediation**

The school may also offer voluntary mediation services prior to initiating a formal compliance investigation. Mediation offers an opportunity for the parties to come together informally to resolve the complaint using the services of an impartial mediator. Agreeing to mediation does not extend the time lines for the school's obligation to investigate and resolve the complaint unless the complainant agrees, in writing, to extend the time line.

### **Appeal of LEA Decision**

If the district finds in favor of the school regarding the parent or advocate's complaint (the school is not required to make requested changes), the parent or advocate can appeal the district's decision. This should be done whenever the parent or advocate feels strongly that the requested change is necessary for the child's academic, physical, social or emotional well-being. Appeals can be made at the local level by notifying the district of the parent or advocate's request to appeal the district's decision regarding the complaint.

## Complaints filed directly with the State

**A complaint can be filed directly with the state when:**

Agencies outside the school refuse to comply with the laws regarding FAPE (usually service agencies such as County Mental Health, California Youth Authority, etc.)

- The school or district refuses to comply with due process proceedings, including timely response/resolution to filed complaints
- The parent or advocate believes that the health, safety or welfare of the child or group of children is threatened
- The child is not receiving special education or related services outlined in the IEP and attempts to resolve the issue are unsuccessful

**For additional information regarding state complaints contact:**

California Department of Education

Special Education Division Procedural Safeguards Referral Service

1-800-926-0648.

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**For more information:**

**Humboldt County Office of Education**

901 Myrtle Ave.

Eureka, CA 95501

707-445-7043