

## **DISPUTE RESOLUTION**

When a disagreement or dispute arises between the parent(s)/guardian(s) and the school district, it is to the advantage of both parties to resolve the dispute at the lowest level and in a timely manner. Special Education Administrators and parent(s)/guardian(s) can anticipate that when a hearing request or complaint is filed at the state level, the SELPA is available to offer Alternative Dispute Resolution (ADR) services to both parties. Our goal is to remain focused on the needs of the student while offering supports to parents and district administrators. It is important to note that parent(s)/guardian(s) have the right to request an impartial due process hearing regarding the identification, assessment, and educational placement of their child or the provision of a free and appropriate public education (FAPE). Parents may also file a state compliance complaint when they believe that a school district has violated federal or state special education laws or regulations. Within sixty days after a complaint is filed the California Department of Education will carry out an independent investigation.

### **Procedural Safeguards**

The law gives us the responsibility for ensuring that a parent not only receives their rights but also is trained and understands them. We should provide a copy, reference their existence and reinforce their meaning at every opportunity. We should document at each IEP meeting that the Notice of Procedural Safeguards/Special Education Rights of Parents and Children were reviewed, or that the parents declined the district's offer to review them.

#### **Basic Components of Procedural Safeguards**

##### **Parent Rights**

- Notification
- Records Review
- Confidentiality
- Evaluation Procedures
- Participation In Meetings
- Informed Consent
- Due Process



##### **Student Rights**

- Assessment In Primary Language
- Participation In Meetings
- Free Appropriate Public Education
- Placement in the Least Restrictive Environment (LRE)
- Due Process up to three years after leaving public education

## Alternative Dispute Resolution

The Contra Costa SELPA Alternative Dispute Resolution (ADR) program grew from a commitment to a partnership with families of students with special needs. We believe that disputes are best resolved by the people involved in them. Turning decision making power over to a third party causes both families and districts to abdicate responsibility for program improvement. The Contra Costa SELPA offers a variety of options which allow the parties directly involved in the dispute the opportunity to create a mutual and long-lasting agreement. In addition to the cost and time savings, relationships between the parent and district are maintained or even enhanced. The ADR program continues to grow with additional options for informal mediation and personal skills development in communication and mediation.

### **Factors Contributing to Disputes**

- People hold different points of view and their needs appear to be incompatible
- People don't believe it is possible to reach agreement
- Each participant or side advocates for its position in a win/lose fashion



The options described below may be available to respond to the needs and concerns raised by a conflict.

### **Resource Parents**

Resource parents who are sanctioned by the district and trained by the SELPA provide parent-to-parent support. Parents of students with special needs volunteer to provide support and facilitate communication as Resource Parents. They also assist SELPA and districts with parent-professional collaborative efforts to improve services. After participation in twelve hours of training in communication, problem solving, the IEP process and role definition, Resource Parents are available to serve school districts. They provide consultation to other parents and may attend IEP meetings when requested. If a district does not have available trained Resource Parents, they can identify individuals to participate in the SELPA *Resource Parent Training*. Trained Resource Parents can be reached through the special education office in each district, or call the SELPA office for a current list.

### **Program Specialists**

Program specialists employed by the SELPA assist Local Education Agencies (LEAs) and parents in securing appropriate placements for students. Out-of-district placements, staff development, preparation for transition, and service to students are their primary functions. Program Specialists are trained in the fundamentals of ADR, communication, collaboration, and relationship building. They utilize these skills at the IEP level. Their experience as credentialed special education providers is valuable to the parents and school staff in planning and placement. The program specialist provides a placement bridge between program providers. Program specialists can conduct Facilitated IEPs when the IEP process needs a more formal structure and a neutral person to assure the process is followed.

### **Dispute Resolution Coordinator**

The SELPA Dispute Resolution Coordinator is available to districts and parents for consultation around a variety of issues relating to assessment, identification, placement and services to individuals with exceptional needs. The Coordinator can also provide technical support and assistance to districts in working more effectively with students and families. If parents are not successful in reaching a satisfactory agreement at the site level and have already contacted the director of special education in their district or the SELPA program specialist, they may call (925) 827-0949 x24 to speak to the Coordinator of Dispute Resolution for Contra Costa SELPA. The Coordinator will use the information provided to determine which ADR activity or resource would best address the situation.

### **Facilitated IEP Meetings (FIEP)**

A Facilitated IEP places additional ground rules on the participants and requires open, receptive participation of the of all team members. A facilitated IEP meeting is one in which an IEP is developed by a collaborative team whose members share responsibility for the meeting process and results. Decision-making is managed through the use of essential facilitation skills. The process of facilitation enables the team to build and improve strong relationships among team members, reach true consensus, focus the IEP content and process on the student.

#### **What are Facilitated IEP meetings?**

- FIEP meetings utilize a specific format and a trained facilitator to guide IEP teams in developing an appropriate, compliant, and effective IEP.
- FIEP meetings maximize collaborative, consensus-based decisions that focus on the needs of the child.
- FIEP meetings are designed to improve interaction, participation, and relationships between parents and educators that benefit the child.

#### **What will happen in Facilitated IEP meetings?**

- The facilitator will assist the team in setting and prioritizing an agenda, and honoring it.
- The facilitator will focus attention on the strengths and needs of the student
- The facilitator will assure that all the necessary components of an IEP are included.
- The facilitator will encourage the full participation of each IEP team member and assure that their contributions are considered.
- The facilitator will manage the communication to avoid emotional conflicts and irrelevant review of non-IEP issues.
- The IEP Team will develop a consensus-based plan for the student that both the family and the district will support.

#### **How do I get a trained facilitator for an IEP meeting?**

- Contact your SELPA program specialist first. If they cannot facilitate the meeting, call the SELPA Coordinator for Dispute Resolution who has a list of all persons in the SELPA who have been trained in the Essential Facilitation for the IEP Meeting Process method. ADR Coordinator: 925-827-0949 x 24.

## **Solutions Panel**

Solutions Panels are available to assist districts and parents in reaching a mutually agreeable solution. A Panel is composed of 2 to 4 trained facilitators (usually parents, administrators, service providers and community representatives) who volunteer their time to assist parents and districts. There is no cost to either district or parent and the panel can usually be in place within two weeks from the time of the request. This has proven to be a more cost-effective approach to settling disputes than formal, state-level due process hearings. Panel can be used either before or after a Due Process Hearing has been requested by either party. The Solutions Panel process is more satisfying than legal action. It is faster than due process and less costly than other dispute resolution methods. Panels are scheduled to be convenient for both parties. All matters are confidential. Agreements signed by both parties are legally binding. It is the goal of the process to develop a collaborative working relationship between parents and district personnel.

### What happens at a Solutions Panel Meeting?

- ☑ The panel members describe the process and the “ground rules.”
- ☑ The parent describes the concerns, uninterrupted by the district, using as much time as necessary. The panel members ask questions for clarification.
- ☑ The district representative describes the district’s concerns, uninterrupted by the parent, using as much time as necessary. The panel members ask questions for clarification.
- ☑ The panel members ask each party to describe the other party’s position as they understand it. Panel members or the other party may clarify as necessary to make sure that both parties fully understand the other’s interests and concerns.
- ☑ Panel members assist the parties to “brainstorm” possible solutions or contributions.
- ☑ Panel members assist the parties to select options that they could agree to.
- ☑ Panel members assist the parties to write an agreement that will become binding when signed.

## **Administrative File Review**

SELPA staff will conduct an administrative file review at the request of a district or parent. The review provides a structured evaluation of the chronological facts and required documentation in a student’s file. The goal is for the SELPA to provide insight into any procedural errors that may affect a student’s right to a free, appropriate, public education, and to give the district or parents information on how to remedy the situation. The SELPA staff does not offer legal advice to either parents or districts, but may direct the parties to seek technical advice from attorneys when necessary.

## **Resolution Meetings**

The reauthorization of IDEA 2004 added an opportunity for districts to meet with parents following the filing of a request for due process hearing and prior to the hearing itself. The resolution meeting is the district’s opportunity to clarify and understand the parent’s position in the case and develop an offer that may eliminate the need for the hearing. The meeting must be scheduled within 15 days of receipt of the filing and should include only the individuals relevant to solving the problem. Parents may bring an attorney if they choose. Districts may not bring an attorney unless the parents indicate that they will bring an attorney. Parents cannot “waive” this meeting, but they may request that it not be held. If the district agrees with this request, the

meeting is not required. At the request of the district, Contra Costa SELPA will provide a trained facilitator to assist with the meeting. The facilitator will require the district to provide a copy of the Due Process Hearing Request and a copy of the district's response in advance of the meeting. From these documents, the facilitator will construct a visual representation of the allegations, the requested remedy for each allegation, and the district's response to each. At the meeting, the facilitator will review the points and ask for any clarification or elaboration on each point. When that is complete, the facilitator will ask the parent and the district to prioritize the lists of allegations and remedies and look for areas where issues can be resolved prior to hearing. If agreements can be reached, they will be written and signed. IEP issues will be remanded to an IEP meeting for review and remedy. The written agreement can be voided by the parents within 3 days if they choose.

Did You Remember to Include in Your Written Agreement

- Effective dates?
- Agreement on assessment?
- Agreement on goals?
- Agreement on services?
- Agreement on placement, including extended year?
- Agreement on compensatory services? (if discussed)
- Agreement on reimbursements? (if discussed)
- Agreement that settlement resolves all claims, or list of things that are not settled?
- Agreement on how communication regarding changes in program will be handled?
- Agreement that settlement has been read, understood and voluntarily signed by both parties?



The district must notify the Office of Administrative Hearings of the Resolution Meeting outcome as soon as it becomes valid. The OAH has a form for this.

Issues that are not resolved in this meeting will move forward to state mediation and possibly a Due Process Hearing.

20 USC 1414(a)(1)(D)(i)(I)

20 USC 1415(b)(6)

34 CFR 300.504

34 CFR 300.152

EC 56500.1

34 CFR 300.300