



Chapter 8: Uniform Complaint Procedures

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Introduction

This chapter provides information to ensure the availability and utilization of Uniform Complaint Procedures (UCP) for the parents of all children with exceptional needs residing within the Desert/Mountain Special Education Local Plan Area (SELPA), as well as any employees of the Desert/Mountain SELPA. It applies to the filing, investigation, and resolution of any complaint regarding an alleged violation of state or federal educational laws including unlawful discrimination complaints on the basis of ethnic group identification, religion, age, sex, color, or physical or mental disability in any program or activity, as well as failure to implement the IEP.

- Each Local Education Agency (LEA) should adopt, in writing, UCP policies and procedures for the investigation of complaints. Each LEA must file a copy of these UCP policies and procedures with the Desert/Mountain SELPA.
- Each LEA within the Desert/Mountain SELPA is required to investigate complaints alleging failure to comply with any state or federal laws regarding special education as indicated above, and to resolve such complaints in accordance with its UCP procedures.
- The Desert/Mountain SELPA Due Process Program Manager is designated as the SELPA individual responsible for assisting LEAs in the development, implementation, and evaluation of their UCP procedures.
- Any complaints against the Desert/Mountain SELPA shall be responded to in accordance with the Uniform Complaint Procedure of the San Bernardino County Office of Education.

Section A – District Procedures

C.C.R. 4620. Each local education agency shall have the primary responsibility to ensure compliance with applicable state and federal laws and regulations. Each local educational agency shall investigate complaints in accordance with the procedures set out in this Chapter.

C.C.R. 4621(a). Each local educational agency shall adopt policies and procedures consistent with this Chapter for the investigation and resolution of complaints. Local policies shall ensure that complainants are protected from retaliation and that the identity of the complainant alleging discrimination remains confidential as appropriate. School districts and County Offices of Education shall submit their policies and procedures to the local governing board for adoption within one year from the effective date of this chapter.

The following list provides a summary of LEAs' Uniform Complaint Procedures (UCPs) that are suggested by the Desert/Mountain SELPA:

- Each LEA UCP document should include a statement of purpose regarding compliance with federal and state laws/regulations.
- Each LEA should ensure that complainants are protected from retaliation and that the identity of the complainant alleging discrimination remains confidential, as appropriate.
- Each LEA should identify in writing the person(s), employer(s), or agency position(s) responsible for receiving and investigating complaints and ensuring LEA compliance. The LEA should ensure that the person(s), employee(s), or position(s) responsible for compliance and/or investigations should be knowledgeable about the laws/programs they are assigned to investigate.
- Annually, each LEA should notify in writing its students, employees, parents or guardians of its students, the district advisory committee, school advisory procedures, including the opportunity to appeal to the California Department of Education (CDE). It should include the identity of the person(s) responsible for processing complaints. The notice should also advise the recipient of any civil law remedies that may be available, and of the appeal and review procedures contained in Sections 4650, 4652 and 4671 of the Title 5 California Code of Regulations. Note: When 15% or more of the students in any elementary or secondary school site speak a primary language other than English, the notice to parents or guardians of such students should be written in both English and the primary language.
- Each LEA UCP document should include a statement which advises complainants of any local civil law remedies.
- Each LEA UCP document should provide for investigation and/or mediation within a 60-day timeline, and explain how each complaint is received and handled within the LEA.

- Each LEA UCP document should specify that the complainant and representative are to be given the opportunity to present any evidence relevant to the complaint.
- Each LEA UCP document should provide that a written report of the LEA decision is prepared within 60 calendar days after receipt of the complaint by the LEA, and that said report is to be written both in English and the primary language of the complainant.
- Each LEA UCP document should indicate that notice is given to the complainant, at the time of the LEA decision, as to the right of appeal to the California Department of Education (CDE) within 15 days.

Section B – Filing a Local Complaint

For complaints other than discrimination, any individual, public agency, or organization may file a written complaint with the administrator/superintendent of the local education agency, alleging a matter, if true, would constitute a violation by that local education agency of federal or state law or regulations governing special education programs, as well as adult basic education, consolidated categorical aid programs, migrant education, vocational education, child care and development, and child nutrition programs. A complainant may also file directly with:

California Department of Education
 Special Education Division
 515 L Street, Suite 270
 Sacramento, CA 95814
 FAX: (916) 327-3516

An investigation of alleged unlawful discrimination shall be initiated by filing a complaint not later than six months from the date the alleged discrimination occurred, or the date the complainant first obtained knowledge of the facts of the alleged discrimination unless the time for filing is extended by the superintendent, upon written request by the complainant setting forth the reasons for the extension.

- The complaint shall be filed by the one who alleges that he or she has personally suffered unlawful discrimination, or by one who believes an individual or any specific class of individuals has been subjected to discrimination.
- The complaint shall be filed with the LEA director/superintendent or designee, unless the complainant requests direct intervention by the State Department of Education.
- An investigation of a discrimination complaint shall be conducted in a manner that protects confidentiality of the parties and the facts.

Section C – Filing a State Complaint

When the State Superintendent receives a complaint requesting direct state intervention, the superintendent shall determine whether the complaint meets one or more of the criterion specified in Section 4650 for direct state intervention and shall immediately notify the complainant by mail of his or her determination. If the complaint is not accepted, it shall be referred for local investigation.

If a complaint is erroneously sent to the State Superintendent without LEA investigation, the State Superintendent shall immediately forward the complaint to the LEA for processing in accordance with local procedures unless circumstances require State Department intervention. The complainant shall be sent a letter to notify him, her, or them of 1) the transferred complaint, 2) the State request for LEA resolution, and 3) to advise of State Department appeal procedures.

When direct state intervention is warranted pursuant to any provision of Section 4650, or when an appeal has been filed, the following procedures shall be used to resolve the issues of the complaint:

- The State Department shall offer to mediate the dispute which may lead to a state mediation agreement, and
- The State Department shall conduct an on-site investigation if either the LEA or the complainant waives the mediation process or the mediation fails to resolve the issues.

If the complaint involves several issues, nothing shall prohibit the parties from agreeing to mediate some of the issues while submitting the remainder for State Department investigation. Mediation shall be conducted within the 60-day timeline. Mediation shall not exceed 30 days unless the local or public agency and the complainant agree to the extension.

Section D – General Definitions

The following list of definitions is provided to clarify the complaint process:

Appeal: A request made in writing to a level higher than the original reviewing level by an aggrieved party requesting reconsideration or a reinvestigation of the lower adjudicating body's decision.

Complainant: Any individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a written complaint alleging violation of federal or state laws or regulations, including allegations of unlawful discrimination in programs and activities funded directly by the state or receiving any financial assistance from the state.

Complaint: A written and signed statement alleging a violation of a federal or state law or regulation, which may include an allegation of unlawful discrimination. If the complainant is unable to put the complaint in writing, due to conditions such as illiteracy or other handicaps, the public agency shall assist the complainant in the filing of the complaint.

Complaint Investigation: An administrative process used by the state department or local agency for the purpose of gathering data regarding the complaint.

Complaint Procedure: An internal process used by the state department or local agency to process and resolve complaints.

Compliance Agreement: An agreement between the state department and a local agency, following a finding of noncompliance by the state department, developed by the local agency and approved by the state department to resolve the noncompliance.

Days: Calendar days unless designated otherwise.

Department: The California Department of Education.

Direct State Intervention: The steps taken by the state department to initially investigate complaints or effect compliance.

Local Agency: A school district governing board or a local public or private agency that receives direct or indirect funding or any other financial assistance from the state to provide any school programs, activities, special education or related services. “Local Education Agency” includes any public school district and county office of education.

Mediation: A problem-solving activity whereby a third party assists the parties to a dispute in resolving the problem.

State Mediation Agreement: A written, voluntary agreement, approved by the Department, which is developed by the local agency and complainant with assistance from the Department to resolve an allegation of noncompliance.

State Agency: The State Department of Mental Health or Health Services or any other state administrative unit that is or may be required to provide special education or related services to students with disabilities pursuant to Government Code Sections 7570 et seq.

Superintendent: The Superintendent of Public Instruction or his or her designee.

APPENDIX A: District Compliance Complaint Procedures

District: Compliance Complaint Procedures

