

Complaint Process

The special education complaint process with federal and state law resource links.

The Special Education Complaint Process

Federal regulations require each state educational agency (e.g. California Department of Education [CDE]) to adopt written procedures for the investigation and resolution of any state complaint alleging that a school district or other public agency has violated certain requirements of the Individuals with Disabilities Education Act (IDEA). California law also requires the same obligations of the state and includes violations of state special education law.

This information is designed to help parents, guardians, students and educators understand California's administrative complaint process. It is not intended to interpret, modify, or replace any procedural safeguards or requirements of federal or state law. The information does not constitute legal advice nor is it a substitute for legal advice.

The CDE encourages parents or other individuals to work collaboratively with the local educational agencies (LEAs) to resolve differences at the earliest possible point of the disagreement. Successful resolution at the local level may lead to the withdrawal of the complaint, rendering further state investigation unnecessary.

What is a special education complaint?

A written signed complaint is a formal request to the CDE to investigate allegations in which the complainant believes the public agency (e.g. student's school district) has violated special education law or regulation, federal or state. Complaints may concern one child or student, or a group of students.

Examples of when a person might file a written state complaint include:

- The complainant believes the school district is not providing the services included in the child's individualized education program (IEP).
- A copy of the child's June 1, 2020—IEP was requested by the complainant and the District did not provide it.

Who may file a complaint?

Anyone, including parents, students, teachers, and agency representatives may file complaints. The person filing a complaint is the complainant. The complaint must meet requirements as explained in law and summarized in this document.

What information must be included in a special education state complaint?

Written state complaints must include the following details:

- A statement that a public agency (including the name of the LEA) has not followed a requirement of federal or state special education law (this is called the allegation)
- The supporting facts on which the statement is based (information that supports his/her belief that a violation has occurred)
- The signature and contact information for the person or organization filing the complaint

If the complaint concerns a specific child, the following information must also be included:

- The child's name and address
- The name of the child's school
- In the case of a homeless child or youth, contact information for the student
- A description of how the alleged violation affected the student (i.e. the nature of the problem to the student), including facts relating to the problem
- A proposed resolution of the problem to the extent known and available to the complainant at the time the complaint is filed with the CDE

The complainant must also forward a copy of the complaint request to the school district or public agency serving the student at the same time the complaint is filed with the CDE.

A complainant may use the model [complaint form](#)(PDF). Or, the complainant may write the complaint as a letter, making sure to include the required components, indicated above.

The 60-day timeline for the CDE to issue its decision begins on the date the Complaint Resolution Unit receives all the required information above.

What can delay or prevent an investigation from occurring?

If the request does not include the required components under the law or the request is based on laws outside of special education.

Is there a time limit for submitting a complaint to the CDE?

Complaints must allege a violation that occurred not more than one year prior to the date that the complaint is received.

Where is a complaint filed?

You may email your complaint request to speceducation@cde.ca.gov

You may also fax your complaint to: 916-327-3704

California Department of Education
Special Education Division
Complaint Resolution Unit
1430 N Street, Suite 2401
Sacramento, CA 95814-5901

How long does it take to complete an investigation?

Investigations are completed within 60 days of receipt in the Complaint Resolution Unit (CRU). The 60-day time limit may be extended if exceptional circumstances exist with respect to a particular complaint.

What happens after I file a written state complaint?

CDE's role is to be a neutral fact-finder and to promptly resolve complaints. CDE does not act as an advocate for either party.

1. When a complaint request is received, the request is screened to ensure all the required information has been provided and an investigator is assigned.
2. A team of investigators will determine whether or not the alleged violation(s) relate to a requirement of special education law; whether they occurred not more than one year prior to the date that the complaint is received; or whether there is missing information.
3. The complainant will be contacted using the information provided by the complainant in the complaint request to clarify any missing information and provide an opportunity for the complainant to clarify or provide additional information related to the allegations received by the CDE.
4. Once the allegations are confirmed and the required information is obtained, both the complainant and the local education agency will receive a notification letter indicating the allegations to be investigated. The CDE will also provide a courtesy copy of the complaint request to the LEA.
5. The CDE encourages cooperative, collaborative relationships by making available voluntary mediation of complaints. (Please see below for description, procedures and form).
6. As part of the CDE's required responsibilities, the LEA will be given an opportunity to respond to the complaint. The investigator will inform the LEA of the alleged violations and request the LEA to submit a response with materials addressing the

allegations and/or any related materials the LEA wishes the CDE to consider within a prescribed time period.

CAUTION: Refusal by the LEA to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

In addition, refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegations

7. The investigation is based on a gathering of facts about the allegation(s) through:
 - Communications with both parties confirming the allegation(s)
 - Communication to obtain clarification or additional information and facts, from both the Complainant and District specific to the allegations
 - Review of documents submitted by both parties
 - Interviews arranged with school staff, if necessary
 - A visit to the school may occur, if the CDE decides it is necessary

Although not a comprehensive list, the following are examples of what may be reviewed:

- Service logs and schedules
 - Assessment documents
 - IEPs
 - IEP team meeting minutes
 - Prior written notices
 - Settlement Agreements
8. The investigator shall review all relevant documents and information gathered and determine whether the LEA has violated a requirement of federal or state special education law and provide a written decision referred to as the complaint investigation report.
 9. The written decision report will be mailed within 60 calendar days of the complaint resolution unit's receipt of the complete complaint request.

What is a written state complaint report?

The purpose of the state complaint investigation report is to provide a written decision that addresses each alleged violation of special education law. The report includes:

- Allegation summary (the problem you allege)
- General investigation procedures (how CDE made its decision of compliance or noncompliance)
- Applicable law and regulation
- Findings of Fact
- Conclusions (compliance or noncompliance)
- Corrective actions and timelines for completion, if applicable

The CDE sends copies of the investigation report to the complainant, the LEA, and the parent, if different from the complainant.

What if there is noncompliance?

If the report finds noncompliance, it will include corrective actions and the CDE may require the school district or public agency for example, to:

- Conduct further assessments
- Submit plans outlining proposals to correct violations and prevent future ones
- Initiate personnel training in the areas of violations
- Provide compensatory education or reimbursement
- Review and/or revise procedures and practices
- Participate in monitoring and reporting activities
- Convene an IEP meeting

The outcome of the written state complaint is a final decision, which must include “corrective actions” that are required to address the needs of the student or group of students involved in the complaint and appropriate future provision of services for all children with disabilities, if the district is found out of compliance.

Any noncompliance will be monitored for completion by the CDE’s Focused Monitoring and Technical Assistance Unit II.

What if I disagree with the report?

California offers a reconsideration process for written state complaint decisions. As explained at the end of the investigation report, either party (complainant or public agency) may request reconsideration. The reconsideration process steps are:

- Send your reconsideration request no later than 30 days from the date appearing on the investigation report
- Email your request to speceducation@cde.ca.gov or fax the request to 916-327-8878
- Identify the reason(s) for your request:

1. Findings are insufficient to reach a conclusion of law
2. Finding(s) of fact are not supported by substantial evidence
3. Conclusion(s) are inconsistent with the law
4. Corrective action(s) fail to provide proper remedy

What happens when the CDE receives my reconsideration request?

Upon receiving your reconsideration request, the CDE will assign an investigator and:

- Send you a receipt letter notifying you we have received the request
- Review your request
- Review the original investigation report
- Review the evidence presented during the investigation
- If necessary, gather additional information
- Within 60 days, either modify the report or deny the request

The CDE will not consider information not previously submitted on reconsideration unless it was not known to the party during the CDE's investigation and could not have become known to the party during that time with due diligence (*5 California Code of Regulations*, Title 5 [CCR], Section 3204[b]). The CDE retains the discretion to seek out additional information from any source in order to ensure an accurate report (*5 CCR* Section 3204[c]). The CDE can make corrections to a report to ensure factual and/or legal accuracy (*5 CCR* Section 3204[d]).

How do school districts or public agencies respond to a complaint?

Districts cooperate by responding to the allegations and submitting relevant evidence in a timely manner.

What are the CDE's responsibilities in the complaint process?

The CDE:

- Reviews the complaint and determines if all the required components are addressed, including contacting the LEA and complainant
- Adheres to timelines
- Sends investigation report copies as appropriate
- Provides technical assistance to LEAs for corrective actions
- Reconsiders investigation reports when requested and according to the state law
- Retains all documents in accordance with CDE policy

Alternatives for Resolving a State Complaint (Disagreement)

While the parent can file a complaint with the California Department of Education, Special Education Division or participate in a local alternative dispute resolution arranged by the LEA, the parent may also participate in mediation with the Office of Administrative Hearings (OAH) or request a hearing with the OAH, seeking a decision by an Administrative Law Judge.

In this section, we will focus on mediation of a state complaint.

What is mediation?

Mediation is a voluntary process in which the parent and the LEA agree to have confidential discussions with a qualified and impartial individual with the goal to resolve disputes alleged in a state filed complaint. If the parties reach agreement on a resolution, the parties will enter into a legally binding agreement that documents the resolution. The parent and LEA may agree in writing to extend the complaint timeline so they can participate in mediation.

Who may request mediation of a CDE special education complaint?

Parents of a child with a disability and the LEA may request mediation.

How do you request mediation of a special education complaint submitted to the CDE?

A request for mediation must be sent to the CDE via US mail, fax, or email. A [request for mediation form](#)(PDF) can be accessed on the CDE [Quality Assurance web page](#). If you have any questions related to requesting a mediation for a complaint filed, please contact either the investigator assigned to your case provided the case is opened or the Complaint Support Unit, 1-800-926-0648.

It is important to note that both parties (parent and school district) must agree to mediation. In addition, the parent and public agency may agree in writing to extend the complaint timeline so they can participate in mediation.

Resources and online links

Laws and Regulations

- [IDEA](#)
- [IDEA Statute and Regulations](#)

- State Complaint Timelines and Procedures: California *Education Code* sections [56043\(p\)](#), and [56500.2](#)
- State Investigation procedures: 5 *CCR* sections 3200-3204

Federal Guidance

- [Office of Special Education Programs \(OSEP\)](#)
- [Questions and Answers on the Office for Civil Rights Complaint Process](#)
- [OSEP Policy Letters and Dear Colleague Letters](#)
- [What's New in OSEP](#)

Due Process

- [Office and Contact Information](#)
- [Resources](#)
- [Forms](#)

Resources

- [Federal and state funded organizations](#)

Comparison of Processes Available for Resolving Disagreements Related to Special Education

Questions for Each Process	CDE Complaint	Mediation of CDE Complaint	OAH Due Process	OAH Mediation Only
Who can initiate the process?	Any individual or organization	CDE is required to offer mediation to the parent or the LEA but both must agree, and participation is voluntary	Parent or LEA	Parent or LEA. Participation is voluntary
What is the time limit for filing?	One year from the date of the alleged violation	None specified	The parent or LEA must request a due process hearing through the filing of a due process complaint which must allege a violation that occurred not	None specified

			more than two (2) years before the date the parent or the LEA knew or should have known about the alleged action that forms the basis of the due process complaint.	
What issues can be resolved?	Alleged violations of federal and state special education laws.	Any matter identified in a CDE complaint	Any matter relating to the identification, evaluation or educational placement or provision of a free appropriate public education.	Any matter related to special education law
What is the timeline for resolving the issues?	60 days from receipt of the complaint unless an extension is agreed to by the parties or if exceptional circumstances exist with respect to a particular complaint	IDEA does not contain a specific timeframe in which mediation must occur. Because mediation is voluntary, the parties have the flexibility to identify a mutually agreeable time to meet.	45 days from the end of the resolution period unless specific extensions to the timelines are granted. Once an LEA is in receipt of the parent's due process complaint, the LEA must convene a resolution meeting within 15 days, unless the parties agree in writing to waive the meeting or agree to use mediation. The resolution period is 30 days from receipt of the parent's due process complaint unless the parties agree otherwise or the parent or LEA fails to participate in the resolution meeting or the LEA fails to convene the resolution meeting within 15 days of receipt of the parent's due process complaint.	In a timely manner
Who resolves the issues?	CDE	Parent and LEA with the help of a professional mediator arranged through CDE.	OAH Hearing Officer	Parent and LEA with the help of a professional mediator through OAH.

Questions: Complaint Support Unit | speceducation@cde.ca.gov | 800-926-0648
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