

All Kinds of Complaints: Empowering Families to Use Procedural Safeguards to Express Concerns & Seek Resolutions

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In 1 hour...

- Complaints of Noncompliance → CA Dept of Education



- Complaints of Discrimination → Office of Civil Rights



U.S. Department of Education

- Complaints of Other Issues → School District



San Diego Unified
SCHOOL DISTRICT

- Q & A

What is a noncompliance complaint?

- If the LEA (Local Educational Agency) violates the procedural safeguards guaranteed to families
- If the LEA fails to implement a student's IEP to which the student's guardian has consented
- If the LEA fails to comply with CA special education laws

What is NOT a complaint:

If the student's guardian finds the District's offer of a free, appropriate public education inappropriate, inadequate, or incomplete. That is a matter for due process (via mediation and/or Office of Administrative Hearings).

Parent-to-Parent Tips for CDE Complaints

- Stay organized: You need to file within 1 year of the alleged violation.
- You do not need to engage an advocate or an attorney to file.
- You do not need to cite legal references; however, you ought to be pointing the investigator in the right direction. 😊
- You will need patience. This process can take 60-days or more.
- Filing a complaint is work. Less formal resolution can occur.
- IEP teams are not usually the correct venue to resolve complaints. They exist to develop IEPs, not to adjudicate past errors.

Resolution – and Reasonable Expectations

1) “Finding of noncompliance” as desired result.

2) Corrective Actions

A. Assurance that future students/families will not encounter this issue:

- Professional Development
- Focused Technical Training/Support

B. Indemnification for the student:

- Compensatory Education Services
- Independent Educational Evaluation
- Restorative Justice
- Other

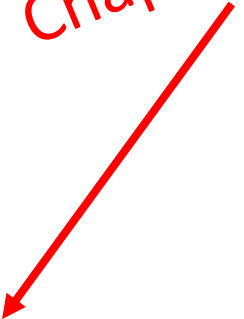
Remember:
It is **UNLIKELY** that you will remove a
staff member or change location of
services via complaint process.

Link to CDE website with all the information you require to file

<https://www.cde.ca.gov/sp/se/qa/cmplntproc.asp>

Other Resources for CDE Complaints

Recommended
reading:
Chapter 6!



- Notice of Procedural Safeguards for SDUSD OCT 2016 VERSION:
<https://www.sandiegounified.org/parent-services>
- Disability Rights CA Special Education Rights and Responsibilities. Excellent, parent-friendly guide to CA and US special education laws.
<https://www.disabilityrightsca.org/publications/serr-special-education-rights-and-responsibilities>
- Model complaint form:
<https://www.cde.ca.gov/sp/se/qa/documents/sedcomplaintform.pdf>

Office for Civil Rights (OCR) Compliance Complaint

The Office for Civil Rights enforces several Federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the Department of Education. **DISCRIMINATION**

Legal trend at the moment to not file as many OCR complaints since January 2017.

OCR Compliance Complaint against Berkeley Unified School District

- 504 Discrimination
- Voluntary Agreement but OCR can issue findings
 - Revised policies
 - Issued new trainings
 - Reporting requirements
 - Revised independent study programs

- More info at <https://dredf.org/2018/12/03/dredf-complaint-against-berkeley-unified-school-district-results-in-necessary-reforms-improvements-for-students-with-disabilities/>



*Compliance Complaint with
California Dept. of Education
(CDE)*

- Direct investigation by CDE
 - File when special education laws or procedures have not been followed
 - 60 days to investigate
- ex. Failure to provide school records w/in 5 days
- ex. Failure to convene IEP meetings within 30 days.

*Education Discrimination Complaint with U.S.
Dept. of Education, Office of Civil Rights
(OCR)*

- File regarding allegations of discrimination on the basis of disability
 - No investigation timeline
- ex. failure to allow all 504 students to participate in school clubs/activities
- ex. Offering special education students less instruction time.

Note: The following slides are adapted from the SDUSD OCP training.

Uniform Complaints may be used to allege the following:

- * Discrimination/bullying;
- * Failure to comply with various state and federal laws; and
- * Pupil fees.

Uniform Complaint Form – English

https://www.sandiegounified.org/sites/default/files_link/district/files/dept/legal_services_office/1312.3%20UCP%20Form-ENGLISH%20052819.pdf

Uniform Complaint Form – Spanish

https://www.sandiegounified.org/sites/default/files_link/district/files/dept/legal_services_office/1312.3%20UCP%20Form-SPAINSH%20052819.pdf

Williams Act Complaints cover allegations of:

- * Instructional materials
- * Teacher vacancy/misassignment
- * Condition of facilities

Complaints related to Instructional Materials

1. A pupil does not have standards-aligned textbooks or instructional materials or other required instructional material to use in class.
2. A pupil does not have access to instructional materials to use at home or after school
3. Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.

Complaints related to Teacher Vacancy or Misassignment

1. A semester begins and a teacher vacancy exists.
2. A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent of English learner pupils.
3. A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

Complaints of conditions of facilities:

THAT POSE AN EMERGENCY OR URGENT THREAT
TO THE HEALTH OR SAFETY
OF PUPILS OR STAFF

Williams Act Complaint Forms are available in English & Spanish.

https://www.sandiegounified.org/sites/default/files_link/district/files/dept/superintendent/E2%201312.4%20Williams%20Uniform%20Complaint%20Procedures.pdf

https://www.sandiegounified.org/sites/default/files_link/district/files/dept/superintendent/E2%201312.4%20Williams%20Uniform%20Complaint%20Procedures-Spanish.pdf

Uniform Complaint Links

SDUSD Uniform Complaint Training PPT - English:

https://www.sandiegounified.org/sites/default/files_link/district/files/dept/legal_services_office/UCP%20PPT%20Training.pdf

SDUSD Uniform Complaint Procedures Training PPT – Spanish:

https://www.sandiegounified.org/sites/default/files_link/district/files/dept/legal_services_office/UCP%20PPT%20Training%20SPANISH.pdf

Information:

<https://www.sandiegounified.org/uniform-complaints>

*You may also contact Lynn Ryan
at 619.725.7225 for assistance.*

What is NOT a Uniform/Williams Complaint:

- Classroom assignments
- Common core or curriculum
- Grades
- Personnel-hiring or evaluation
- Discipline
- Student records
- Homework issues

**For these issues, contact:
Quality Assurance Office
619-725-7211**

Disability Rights California (DRC) – California's protection and advocacy agency.

Gabriela M. Torres, Senior Staff Attorney (Youth)

Intake Line 800.776.5746

www.disabilityrightsca.org

SERR MANUAL - <https://www.disabilityrightsca.org/publications/serr-special-education-rights-and-responsibilities>

