

## Chapter 6: Information on Due Process/Compliance Procedures

- (6.1) What is a due process hearing?
- (6.2) What is a compliance complaint?
- (6.3) What is the difference between a compliance complaint and a due process hearing?
- (6.4) Who can file a compliance complaint?
- (6.5) When should I file a compliance complaint directly with the CDE?
- (6.6) How do I file a compliance complaint with the CDE?
- (6.7) Is there a time limit on when I must file a compliance complaint?
- (6.8) What happens after I file a compliance complaint?
- (6.9) How does the CDE investigate complaints?
- (6.10) What happens when CDE finds a district to be out of compliance?
- (6.11) What can I do if I do not agree with the CDE's decision?
- (6.12) Who handles compliance complaints when CDE does not intervene directly?
- (6.13) How do I file a compliance complaint with my local district?
- (6.14) How does a district conduct investigations?
- (6.15) Can a school district try to mediate (or otherwise informally resolve) a complaint before beginning a formal investigation?
- (6.16) What happens if I disagree with the district's investigation decision?
- (6.17) What can I do if a teacher (or other staff) hurts my child – other than bringing a civil lawsuit against the school district or reporting the incident to the appropriate law enforcement authorities?
- (6.18) Would I follow different complaint procedures if CCS (California Children's Services) fails to provide services as specified in my child's IEP?

- (6.19) Can teachers and other staff also file a compliance complaint?
- (6.20) Can I file a discrimination or harassment complaint with any other agencies?
- (6.21) How would I file a complaint with OCR?
- (6.22) When would I file a Section 504 discrimination or harassment complaint with OCR?
- (6.23) How does the OCR investigate complaints?
- (6.24) Can I file a discrimination, harassment, intimidation or bullying complaint with my school district or the CDE?
- (6.25) If the school district and I disagree about proposed changes to my child's special education program, must the district give me some kind of notice before I file for a due process hearing?
- (6.26) What information should the district include in this notice?
- (6.27) What other notice should I get from the district about my procedural rights and when should I get it?
- (6.28) What information must be contained in the procedural rights notice?
- (6.29) When would I request a due process hearing?
- (6.30) Should I file for due process as soon as I realize that the district and I cannot agree about services or placement?
- (6.31) What are some of the main issues I should know about a due process complaint with the OAH?
- (6.32) Can the school district also request a due process hearing?
- (6.33) If I refuse to consent to an assessment or services, can the district use due process to force me to sign an assessment plan or IEP?
- (6.34) How do I know if I am prepared for the due process hearing?
- (6.35) How specific should I be in my due process complaint?

- (6.36) What is a “Notice of Insufficiency”?
- (6.37) When must a response to a complaint be filed?
- (6.38) If the district does not provide “prior written notice” of its IEP proposal and a parent disagrees with the proposal, does the district have to provide me that notice once I request due process?
- (6.39) May a district file a Notice of Insufficiency if it did not give you prior written notice before you filed your due process complaint?
- (6.40) Are there opportunities to resolve my complaint before an actual hearing?
- (6.41) What is a mediation conference?
- (6.42) What are the pros and cons of mediation?
- (6.43) Are there any other dispute resolution procedures?
- (6.44) How is mediation different from a “resolution session”?
- (6.45) If I filed for due process and went through OAH mediation but could not settle my case, and the district approaches me to try to settle before the hearing (but outside of OAH mediation), what should I do?
- (6.46) What happens to my child’s placement and services if I file for a due process hearing?
- (6.47) How can you ensure that a district honors the “stay-put” provision?
- (6.48) Do I need to request due process and ask for stay-put if the district is not implementing my IEP?
- (6.49) What rights do I have in due process?
- (6.50) At a special education due process hearing, must I persuade the ALJ that the district has offered my child an inappropriate program or must the district persuade the ALJ that it has offered my child an appropriate program?
- (6.51) Where do I get the evidence I will need to present at the due

process hearing?

- (6.52) How would I use an expert witness?
- (6.53) Instead of having witnesses come to the due process hearing, can I submit letters, records, or other documents to prove my case?
- (6.54) Will the ALJ read all the documents that I submit and the district submits?
- (6.55) What is a pre-hearing conference?
- (6.56) Must I be represented by an attorney in order to go through due process?
- (6.57) Where is the due process hearing held?
- (6.58) Who can be present during the due process hearing?
- (6.59) Can written information be submitted to the ALJ? When must the district and parent submit their exhibits and witness lists?
- (6.60) Is the due process hearing like a trial or like being in court?
- (6.61) What happens at the hearing?
- (6.62) What is the record?
- (6.63) What if a witness does not want to attend the hearing?
- (6.64) Does the ALJ simply listen to witnesses and review the documents submitted, or can the ALJ participate in the hearing process?
- (6.65) Can I get the district to pay for my attorney and expert witnesses?
- (6.66) If I am not ready to go to hearing on the scheduled day, can I ask for a postponement?
- (6.67) If I lose the due process hearing, can I do anything?
- (6.68) If I lose my special education due process hearing, will I have to pay the district's attorneys' fees?
- (6.69) Is there anything I can do to be reimbursed or compensated for the district's failure to provide FAPE to my child?

- (6.70) What if the district failed to provide FAPE for a period of time and I did not purchase alternate educational services? Do I still have a remedy?
- (6.71) Are there any limitations to claiming reimbursement or compensatory education in California?
- (6.72) I would like to sue the district for money damages for the way my child's special education was mishandled or ignored over the years. What are my chances of success?
- (6.73) Can Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act (ADA) help me in suing the district for money damages?
- (6.74) Are there any other federal laws that help me if I sue the district for money damages?
- (6.75) What if my child was physically or emotionally injured by negligent acts by school personnel? Do I have to go through a due process hearing when I am not making any claim under special education law before I file a lawsuit in court?