

Santa Barbara County Special Education Local Plan Area

Administrative Regulation: Alternative Dispute Resolution with Parents/Guardians AR 1001

The Santa Barbara County SELPA (“SELPA”) supports parents/guardians, students, and member LEAs through ADR as a neutral third party. SELPA is not an advocate for a member LEA nor for a parent/guardian. SELPA focuses on the dispute and journeys all conversations back to focus on the student’s interests. ADR is a process for resolving disputes that is free of charge, voluntary, confidential, and encourages future positive relationships, while creating mutual consensus and solutions.

The SELPA shall provide information regarding ADR services to member LEAs and parent(s)/guardian(s) within the SELPA via the SELPA’s website, which is located at: <https://www.sbcselpa.org>. Information will also be made available to parent(s)/guardian(s) through the SELPA’s Community Advisory Committee (“CAC”). In addition, member LEAs will be provided with information through professional development, notices, and emails.

The following are the steps of the Santa Barbara County SELPA’s ADR.

Step 1: Consultation

When a dispute arises for a parent/guardian, student, or member LEA, a phone call is made to the SELPA office. The SELPA Coordinator or Executive Assistant discusses the dispute with the parent/guardian or member LEA and completes “Intake Form and Procedures.” The SELPA Coordinator will contact the parties to seek agreement for the SELPA to facilitate the ADR. Upon agreement of the parties to participate in ADR, the SELPA Coordinator will review, and if the situation is determined to be appropriate for ADR, will assign a SELPA ADR Facilitator.

Between the intake and the assignment of a SELPA ADR Facilitator, the SELPA Coordinator may contact the parties to further investigate the dispute. The SELPA Coordinator’s role is to listen, be neutral, provide learning opportunities, and provide time for the parent(s)/guardian(s) and member LEA to provide additional information and ask questions. If the nature of the dispute appears to be a communication breakdown, the SELPA Coordinator will support positive communication between the member LEA and parent(s)/guardian(s) through follow up conversation(s). SELPA encourages both parties to have continued communication with each other despite the fact that there is an identified dispute. If possible, the SELPA Coordinator will resolve the issues related to the dispute through this conversation(s) without the involvement of a SELPA ADR Facilitator. If a resolution is reached, the SELPA Coordinator will complete the “Intake Form and Procedures” to document the outcomes and any follow-up that is required.

If the SELPA Coordinator is not able to resolve the dispute, the SELPA Executive Director and Coordinator will assign one to two SELPA ADR Facilitators to facilitate the dispute, informing via introductory email both parent(s)/guardian(s) and member LEA of the names of the SELPA ADR Facilitators and their contact information.

Step 2: SELPA ADR Facilitator(s), if Needed

The SELPA has created a group of SELPA ADR Facilitators who are member LEA leaders trained in dispute resolution. All SELPA ADR Facilitators are skilled in special education law, procedures, and practices within the SELPA. The SELPA’s ADR Facilitators are neutral individuals who represent the SELPA’s ADR process and do not represent or take the side of either of the parties. The SELPA’s ADR Facilitators are confident in facilitating collaboration between parent(s)/guardian(s) and other member LEAs for the benefit of students.

If the dispute is not resolved in Step 1, the SELPA Executive Director and Coordinator will assign one to two

SELPA ADR Facilitator(s) based on availability, geographical locations in Santa Barbara County, and the issues within the case. The assigned SELPA ADR Facilitator(s) shall not be an employee of the member LEA that is involved in the dispute, nor will it be an employee of a member LEA in which the student has previously attended school or to which the student will matriculate based on where the student is currently attending school.

The member LEA that is the subject of the dispute remains responsible for the provision of the special education and related services for the student during the ADR process, except in the case of a student who moves residence or matriculates to another LEA during the course of the ADR process. ADR shall not obligate an LEA to serve a student that it is not required to serve pursuant to the California Education Code.

A. Training, Philosophy, and Ethics of SELPA ADR Facilitators

All SELPA ADR Facilitators will complete mediation coursework. Possible resources for coursework include, but are not limited to, the following: <https://www.cadeworks.org>, SELPA ADR Conference, Straus Mediating the Litigated Case, Key2Ed, and legal trainings on special education issues. SELPA ADR Facilitators will participate quarterly in SELPA ADR Facilitator meetings throughout the school year. These meetings will take place at least four times a year (August, December, March for State ADR Conference, and April).

The SELPA ADR Facilitator shall agree to all of the terms of the SELPA's ADR Facilitator Code of Ethics, which includes the following:

As a neutral facilitator, the SELPA ADR Facilitator recognizes the importance of impartiality about any ideas, options, feelings, or values expressed by participants in the ADR process. The SELPA ADR Facilitator is committed to remaining confidential, neutral, and unbiased at all times during the ADR process.

If the SELPA ADR Facilitator knows or becomes aware of any actual or possible conflicts of interest with the dispute or parties to the dispute, the SELPA ADR Facilitator shall communicate that to the parties and the SELPA Executive Director. If the parties agree to waive the actual or possible conflict in writing, the SELPA ADR Facilitator may continue to facilitate; however, if the parties will not agree, the SELPA ADR Facilitator shall recuse him/herself from the ADR process related to the dispute. The SELPA Executive Director and Coordinator will then assign a different SELPA ADR Facilitator to the dispute.

The SELPA ADR Facilitator will not give advice or provide opinions about the content of the dispute. The role of the SELPA ADR Facilitator is to identify areas of consensus in the ADR process and to be aware of areas needing further exploration and information, promoting fluid positive communication with all ADR participants. The SELPA ADR Facilitator will only sign any ADR attendance documents as "in attendance only" as they will not be a decision maker in any ADR process, including at an individualized education program ("IEP") team meeting.

In order to ensure confidentiality and the ability to fully facilitate the ADR process, the SELPA Executive Director, SELPA Executive Assistant, SELPA Coordinator, and SELPA ADR Facilitator will not be able to testify in any complaint, due process, litigation, or similar proceeding about the ADR process or what happens/happened in ADR in order to ensure that the ADR process remains confidential and neutral. The exception is if a participant in the ADR process (1) makes a threat or action of physical harm; (2) if there is information that is revealed that requires mandated reporting for child abuse or elder abuse; (3) if anything of a criminal nature comes to light; (4) if the SELPA Executive Director, SELPA Executive Assistant, SELPA Coordinator, and SELPA ADR Facilitator needs to defend him/herself; or, (5) if otherwise required by law.

B. SELPA ADR Facilitator Process

The SELPA ADR Facilitator assigned to the dispute will conduct the following procedures:

1. Call the parent(s)/guardian(s) and member LEA leadership within 2 business days of the receipt of the ADR Meeting Intake form, soliciting additional information and identifying the areas of dispute from the parent(s)/guardian(s) and member LEA.
2. Obtain consent from the parent(s)/guardian(s) and member LEA representative to get consent to Meeting Participation Guidelines form.
3. Create, from the phone conversations, an agenda for a future meeting with parent(s)/guardian(s) and member LEA, providing the 'draft' agenda to the team for input and revisions in advance of a scheduled meeting.
4. Attends the scheduled meeting with parent(s)/guardian(s) and member LEA and facilitates in accordance with the agreed upon agenda.
5. During the meeting, the SELPA ADR Facilitator may take notes to document areas of consensus and areas of impasse. The SELPA ADR Facilitator supports collaboration during the meeting ensuring each team member can provide input to each agenda item.
6. Keeps track of time, ensuring each agenda item is reviewed. If the entire agenda is not completed within the given time, the SELPA ADR Facilitator highlights the agenda items to be covered in a follow-up meeting.
7. Upon completion of the meeting, the SELPA ADR Facilitator shows appreciation to all team members for the collaboration and teamwork. The SELPA ADR Facilitator, if appropriate and at the discretion of the SELPA ADR Facilitator, provides the notes taken by the SELPA ADR Facilitator at the meeting to parent(s)/guardian(s) and the member LEA for information and review.

Alternative to Dispute Resolution (ADR) Services and Meeting Types Parent Conference:

Parent(s)/guardian(s) and member LEA may request a collaborative conference to discuss and resolve disagreements before a formal meeting is held such as an IEP team meeting. The process is voluntary, confidential, and can increase effective communication between parent(s)/guardian(s), and member LEA. IEP services and goals are not amended at this informal meeting. If held, the SELPA ADR Facilitator will work to support collaborative conversations.

Facilitated IEP Team Meeting:

Facilitation is a collaborative process in which a trained and impartial person, the SELPA ADR Facilitator who is not a member of the IEP team, assists the IEP team to communicate effectively and work towards consensus. The SELPA ADR Facilitator is not a decision maker or an advisor. Facilitation can be used whenever an IEP team wants to improve the effectiveness of communication. When disputes have developed, facilitation can help defuse tensions and restore trust and more positive working relationships.

A facilitated IEP team meeting may result in:

- a. More collaborative IEP team meetings.
- b. Improved relationships and communication between schools and parent(s)/guardian(s).
- c. Resolutions to disputes.
- d. Greater understanding for teams of how to conduct communication at meetings successfully.
- e. Review and adjustment of the IEP to further benefit the student.

ADR Meeting with SELPA Executive Director or Coordinator:

If working ADR is not successful with a SELPA ADR Facilitator, if there is a California Department of Education (“CDE”) Compliance Complaint filed, or there is a pending OAH due process resolution session in a case without attorneys, parent(s)/guardian(s) or member LEA administrator may make a request to the SELPA Executive Director or Coordinator to meet to resolve a dispute. The SELPA Executive Director or Coordinator may be more directive than would be appropriate for a SELPA ADR Facilitator.

Models of Practice:

There are various models of practice that can be employed during ADR facilitation.

- Evaluative: This model is directive and provides advice and authority. The goal is settlement.
- Facilitative: This model is supportive as it guides a team through probes and queries with purpose. The SELPA ADR Facilitator helps the team to generate options, and the goal is a productive dialogue.
- Transformative: This model is reflective and follows the discussion while asking questions without providing direction. The SELPA ADR Facilitator does not generate options for the team, rather the team discovers the options themselves through the facilitation process. The goal of this model is empowerment and recognition.

Time and Scheduling of ADR Conference or ADR Facilitated IEP Team Meeting

A request for SELPA ADR facilitation should be made at least 10 days prior to any already scheduled meeting, but it is preferred that facilitation be requested prior to the scheduling the meeting at which a SELPA ADR Facilitator’s presence is requested. Exceptions to this rule can be made in extenuating circumstances.

Time Allotment for Meetings

Each meeting will be allotted 3 hours of facilitation time and a total of 5 hours per case; should additional time be needed, the facilitator will consult with the SELPA Executive Director or Coordinator to determine if it appropriate to extend the time allotted for the particular case and/or if another SELPA ADR Facilitator should be assigned to the continuation of the case. The SELPA ADR Facilitator will be responsible for logging hours spent on each case and will inform SELPA of the total hours and results of each case.

Denial of ADR Conference or ADR Facilitated Meeting Request

A request can be denied for facilitation. These types of situations include, but are not limited to:

- A topic beyond the scope of facilitation
- The case is in due process
- An attorney is involved for the parent(s)/guardian(s) and/or member LEA
- Parent(s)/guardian(s) or member LEA does not agree to facilitation
- There is insufficient time to arrange for a SELPA ADR Facilitator or there are no SELPA ADR Facilitator available.

Step 3: ADR Data Collection, Evaluation, and Reporting

After the SELPA ADR Facilitator notifies SELPA of the completion and results of the facilitation process, the

SELPA Executive Assistant will provide the parties with a mechanism for providing feedback on the ADR process. This form is designed to gather feedback on the ADR process and outcome(s) from the meeting.

The SELPA Executive Director and Coordinator will review the data at least two times annually to determine the efficacy of the SELPA's ADR process.

Ongoing Evaluation SELPA ADR Facilitators

The SELPA Executive Director and Coordinator will informally evaluate the effectiveness of each SELPA ADR Facilitator annually prior to June each school year. Evaluation will be based on 1) availability of each SELPA ADR Facilitator for facilitation throughout the school year; 2) meeting outcomes; and 3) survey data. The SELPA Executive Director and Coordinator will use this information to evaluate the need for and add SELPA ADR Facilitators as well as to rotate SELPA ADR Facilitators off the panel.