



ABA & VERBAL BEHAVIOR
G R O U P

— **Education Advocacy** —

September 2022

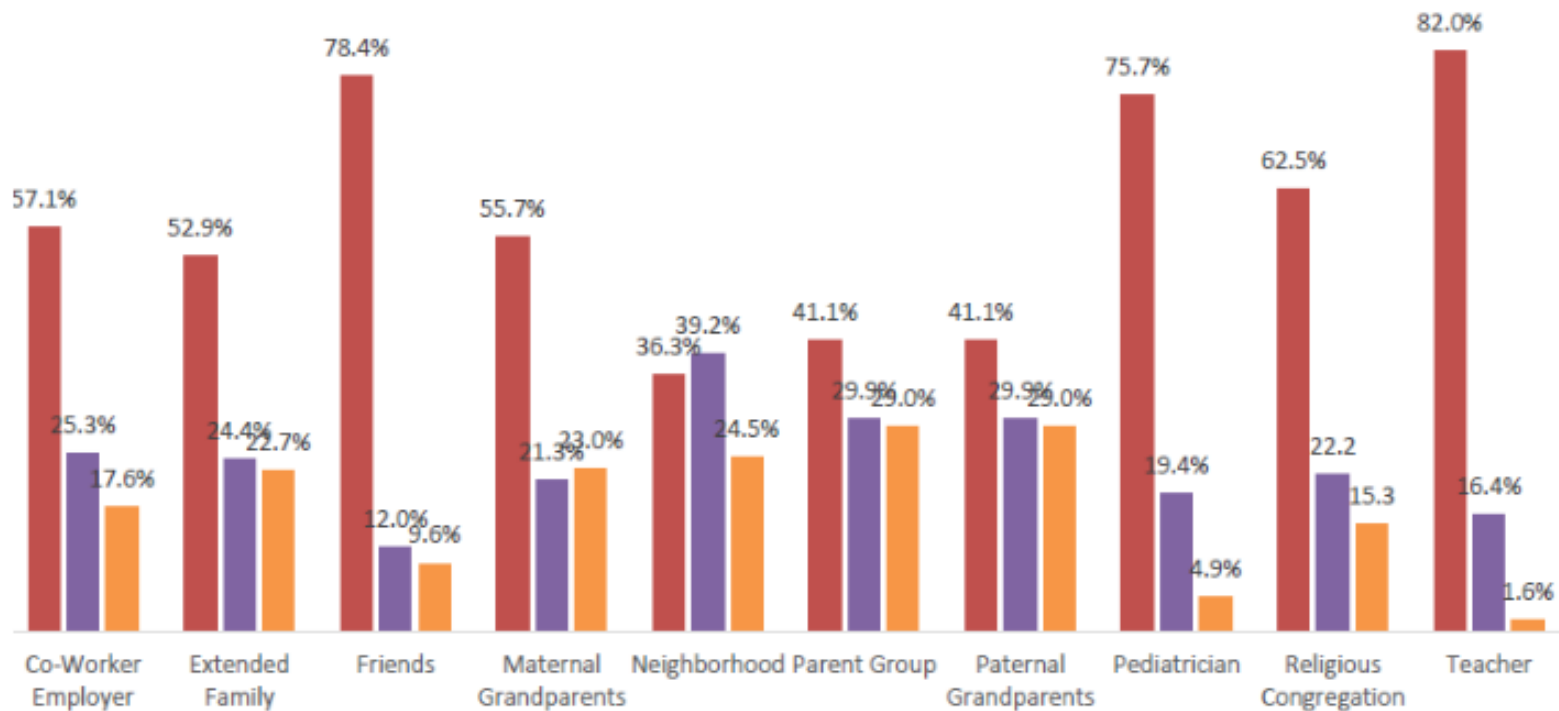
Why Advocate?

Families with children with special needs require one or more of the following services:

- Referrals to professionals
- Assessment and diagnosis
- Education about the disorder
- Information about treatment
- Support for a new reality
- Parent support and training
- Sibling support
- Family therapy
- Information about educational needs
- Education about IEPs
- Advocacy
- Access to inclusive child-care recreational programs

2017-2019 Informal Social Support

■ Helpful ■ Not Helpful ■ Not Available



What is FAPE?

FREE

- District has to meet the needs of the student- whether they have the resources or not,
- Might have to hire a non-public agency if resources not available
- Must show that the services are needed or else it is possible to not get it
 - Show with data/assessment/diagnosis

Appropriate

- Rowley, “basic floor of opportunity”; Hellgate “meaningful benefit”
- Endrew, the new standard “make progress appropriate in light of the child’s circumstances”
- Ninth circuit- IEP must be reasonably calculated so that the child can make progress in general education curriculum while taking into account the child’s potential, looking for goal progress

Public

- Local Education Agency (LEA) must oversee
- At public expense and under public direction
 - Public school still liable for progress, must still attend IEP

Education

- Instruction and related services necessary for student to receive education benefit
 - Related services

SDRC Services

— OVER 3 YEARS OLD —

Eligibility Determination

- Complete intake process with San Diego Regional Center (SDRC)
- Must have a developmental disability
- Disability must originate before age of 18 & be expected to continue indefinitely
- Disability must be substantial
 - i.e., major impairment in cognitive or social functioning AND result in deficits related to the developmental disability in 3/7 areas
 1. Communication
 2. Learning
 3. Self care
 4. Mobility
 5. Self direction
 6. Capacity for independent living (Older age)
 7. Economic self sufficiency (Older age)

SDRC Transition

IFSP TO IPP

What is an Individual Program Planning meeting?

- The IPP is the SDRC contract that takes the place of the IFSP when the SDRC client is over the age of 3 years old
- The IFSP is reviewed
 - The IFSP is education & non-education services before age 3
 - IPP is non-education services after age 3
 - Education: school, pre-school, etc
 - Example: Head Start Services
 - Non-education: Speech, Respite, ABA services, transportation, diapers
- It is a written agreement between client's family (and client) and the Regional Center that includes an action plan that identifies goals, services, and supports including:
 - Behavioral training
 - Independent living services
 - Infant programs & services
 - Respite services
 - Transportation
- The IPP can also serve as a meeting to discuss a school plan

IPP as an Education Meeting for IEP services

- Who is present?
 - Local Educational Agency (LEA)
 - Parents
 - Service coordinator
 - School district administrator
 - Highly recommended for parents to attend meeting regardless of when school enrollment happens
- A school assessment is scheduled before the child turns 3
 - Note: If child is not receiving early intervention services through SDRC but receiving services through the local education agency, then the LEA y are responsible for transition
 - If not receiving any services at all, then parents are responsible for reaching out to the district to get an assessment
 - Should reach out to schedule assessment 6 months prior to turning 3
- The district would be out of compliance if they don't follow up with assessment
- If determined eligible for school services, then an IEP must be in place
 - IEP should be ready to be implemented at age 3 years and 1 day old if determined eligible
- This meeting may include Head Start services

Note: A child may start school at the age of 3 if they have a diagnosis or if the family meets financial criteria for Head Start services.

How to Schedule an IPP

- Contact the SDRC service coordinator to request an IPP when the client is over 3 years old
- You can record with a 24hr notice
- Anyone can attend
- Know the requirements for the service you need
 - <https://www.dds.ca.gov/transparency/laws-regulations/lanterman-act-and-related-laws/>
- Must have an IPP meeting every 3 years
- The IPP must be updated annually
- The IPP can be revised/updated at any time

- If the parent/guardian is unreachable and/or declines the IPP, then they will not be eligible for SDRC services
 - SDRC is assisting in the transition to school
 - If IPP is declined, parent/guardian is responsible for initiating the enrollment process through the service coordinator or contacting the school district (see slide 20)

IPP Rights

- If you don't agree with everything that is in your IPP, you don't have to sign it but can agree to part of it. Write down what you agree with and don't agree with. Can start on services agreed on.

- Example:

If you only agree to part of your IPP, ask your service coordinator to write it out, like this:

I agree to these parts of my IPP -

- 1.
- 2.
- 3.

Please start/continue the services that I agree to right away.

I do not agree to these parts of my IPP -

- 1.
- 2.
- 3.

- If the regional center denies requested support, they must provide a letter within 5 days along with appeal process.
 - Resolve through informal mediation or litigate through the department of developmental services hearing
- What to do if no one's listening?
 - Contact service coordinator, clients' rights advocate, or local state council on developmental Disabilities Regional Office
 - <http://www.disabilityrightsca.org/pubs/506301SuppAA.pdf>
 - <https://www.disabilityrightsca.org/system/files/file-attachments/503801.pdf>

School Transition

— IPP TO IEP —

What is the Child Find?

- The school district has the obligation to find a child who is suspected of having a disability
- Suspect of disability can come from either parents or teachers/staff
 - Submit a written request to evaluate preferably via email
- It is then required to provide an evaluation to assess the child's needs in the school
- This is mandatory for any school
 - Private schools
 - Charter schools
 - Public schools

Student Study Team Meeting

Parents should request this informal meeting when there is little to no progress made or there are behavioral concerns

In attendance is the teacher, school administration and parents

- This meeting would occur prior to an IEP meeting
- The school has 15 days to schedule SST after submitting a written request
- This is the initial phase of the IEP process
- In this meeting there is discussion about available resources within a regular education program/ minor modifications
- This meeting may determine if an IPP specific to the school setting is appropriate

Note: This meeting may be bypassed, it is not a requirement for the IEP.

IPP at School

- An IPP at school is developed if a student is not meeting curriculum outcomes in the public school system
- The IPP would then replace some or all of the outcomes from the public school program with individualized goals

Suspicion of Disability

- Request a Special Education assessment
 - Example of letter requesting SPED Assessment: *I'm requesting my student to have an assessment for special education. Noticed some delays in reading and math.*
 - Letter can be short (one paragraph)
 - Emails are preferred
- IF a student has been diagnosed with a disability, there has to be an assessment
 - This may not mean they're eligible to receive services
- **Document** every conversation even if done in person, follow up in writing
- Failure to assess denies the ability to have a conversation of student's delays
 - Parent participation is often limited to signature only but parents have the right to be an active member of the team
- Parents should request a SST while waiting for a special education assessment
 - The SST does not act as an IEP or special education assessment

How to request a Special Education Assessment

- A request for a special education assessment is often referred to as a “referral for assessment”
- The following can request this referral:
 - Parent
 - Teacher
 - School psychologist
 - Service provider
 - Family physician
- The referral must be in writing to the LEA (local school district)
- The letter or email should include:
 - Child’s name, date of birth, name, address, phone number, name of the school, whether the child has received special education services
 - Must address that the child is having learning difficulties and that an evaluation is being sought out to determine if special education services are appropriate
- The request can be delivered to the school principal or teacher

School Placement

Preschool to Kindergarten

- Most children become eligible for kindergarten at age 5
 - It is required that a child turn 5 on or before September 1st of that school year
 - If the child turns 5 between September 2 through December 3, they are eligible for Kindergarten
- School is compulsory until age 6-18

How to request school of choice?

- Open Enrollment
 - This is a process where a student living within a school district can opt to attend any school in that district.
 - All a parent needs to do usually is to return the relevant forms, listing their top choices for schools (may not get their top choice).
 - Dates vary by school/school district but usually occur during the beginning of the school year.
- Past open enrollment?
 - School placement is determined by the school district
 - You may contact school district's office if you're past the open enrollment period
- If specific support services are recommended on an IEP and not available in assigned school, children must be re-allocated in school with available services.
- SDRC enrollment support contact information:
https://www.sandiegounified.org/departments/neighborhood_schools_and_enrollment_options
- District & school placement is dependent on residency

Intradistrict Transfer

- An intradistrict transfer/open enrollment is when parents/guardians wish to register/admit/enroll their student(s) at a school other than the designated school that is in their attendance area **within** their district.
- California [Education Code sections 46600–46610](#)
 - permits parents to indicate a preference for the school which their child will attend, irrespective of the child's place of residence **within** the district, and requires the district to honor this parental preference if the school has sufficient capacity without displacing other currently enrolled students.
 - Districts are encouraged to give preference to siblings attending the same school and to consider the location of parents' places of employment or established child care arrangements in determining enrollment priority.

Interdistrict Transfer

- An interdistrict transfer/reciprocal agreement is when parents/guardians wish to register/admit/enroll their student(s) at a school other than the designated school that is in their attendance area **outside** of their district.
- California [Education Code sections 46600–46610](#)
 - Interdistrict transfer/reciprocal agreement must be approved by both the student's original district of residence and the district to which the student seeks to transfer to.
 - Both districts need to approve before transfer becomes valid
 - If a request for an interdistrict transfer/reciprocal agreement is denied, the student's parents/guardians may file an appeal to the county office of education in the student's district of residence within 30 days of receipt of the official notice of denial of the transfer.

Individual Education Plan

— THE PROCESS —

How to Prepare for an IEP

- Request a draft of the proposed IEP and/or assessment reports in advance of the meeting
 - Parents may request to observe the class placement recommended in the IEP prior to the IEP (or at anytime)
 - Observation is limited to only the placement that is stated in the IEP
- If parents plan to take an attorney/advocate to meeting, need to notify ahead of time
- Request a translator to the teacher
- Always ask to record meeting 24hrs in advance
 - Use digital voice recording device
 - Bring a copy of the notification record
- All requests should be made in writing, i.e., emails to the teacher/principal

Translation Services

- Request a translator through email or fax (easier to document)
- A translator should be provided by the district
 - The district should also have access to outsourcing translators if there are none available within the district
- The district must provide a copy of the IEP in primary language within 30 days after IEP meeting
- The translator is required to say every word that is said in the IEP

How the IEP Process gets started

- Special Education teacher contacts parents for general availability and then coordinates IEP meeting based on their availability
- Special Education teacher provides predetermination or proposed IEP goals
 - Otherwise considered to be a procedural violation that denies a parent meaningful participation in the development of an educational program for their child.
- Special Education teacher must provide a prior written notice if:
 - The district is proposing, or refusing to initiate, or any changes that are made in regards to the evaluation/assessment and/or education placement
 - A written notice should be provided when ANY specific provision of a FAPE is offered.
Examples include:
 - Independent education evaluation (IEE) results and provide reasoning/request/explanation/description of assessment procedure/report/statement that the parent has protection of the procedure safeguards/other considered interventions and explanation why they didn't choose to follow.
 - Roadmap of why the district decided to take action

IEP Team Members

- General Education teacher
- Special Education teacher
- School Psychologist
- Assessor (knows data)
- District representative (Could have one member fill all roles if they qualify)
- Parent friend/assistant
 - Okay to collect notes
 - Must communicate with the team their attendance prior to the meeting
- Anyone with knowledge of special expertise concerning the student can attend
 - This includes the in-home BCBA
 - Parent notifies the IEP team that BCBA will be in attendance
 - BCBA may share behavior intervention plans, data, reinforcement schedules but they are not required to implement.

Before or during an IEP Meeting, parents can....

- Request data at any time
- Attend any meeting including the IEP via Telehealth (District must provide this option)
- Change the date/time for an IEP meeting
- Question areas to ensure goals are accurate and still needed
- Request anyone to attend IEP (BCBA, advocate, service coordinator)
- Propose goals

What to Look for in an IEP

- Proposed services and accommodations (Least Restrictive Environment/Services/Aides)
- Goals
 - Measurable (Qualitative and quantitative)
 - Specific
 - Include a baseline
- Present levels of performance
 - Academic achievement, functional performance
 - Must be detailed, report specific levels
- Placement
 - Least restrictive environment (LRE) with nondisabled peers to the greatest extent appropriate
- Special Factors
 - Behavior
 - Limited English proficiency
 - Instruction for students who are blind or visually impaired
 - Communication needs
 - Assistive technology

Accommodations

- Presentation
 - Modifications- the school is responsible
- Audio recordings
- Fewer questions per page
- Designated reader
- Class notes
- Verbal responses
- Use of spelling dictionary or electronic spell-checker
- Different problems or questions
- Alternate projects or assignments
- Learn different material
- Assess using different standards
- Response requirements
- Setting (preferential seating)
- Schedule (ex., required to leave earlier to attend other services)

These accommodations **must be written in the IEP** for compliance of services

Augmentative and Alternative Communication (AAC)

- Communication devices, systems, strategies and tools that replace or support natural speech are known as augmentative and alternative communication (AAC).
- Request for the IEP to document what assistive technology is required
 - Even if they have it available for all students incase child moves to a different school/city.
- Some districts propose to do a consult vs an assessment (this is specific to AAC)
 - Consult: no written reports only verbal reports & no timeline associated with consults
 - Assessments: Timelines associated with assessments & written reports
 - Parent must then request an assessment, a consult does not mean an evaluation will be completed with 90 days
- Parent Training:
 - Must provide steps for parents to be successful with implementation vs just using technology at school
- If using assistive technology
 - After 30 days, assistive technology professional will come in & observe progress and modify as necessary

Out-of-Compliance with IEP

- Alternative dispute resolution (ADR): any procedure, agreed to by the parties of the dispute, in which they use the services of a neutral party to assist them in reaching agreement and avoiding litigation
- If an IEP lawyer is needed, it shouldn't cost anything (District provides a lawyer)
 - Can reach out to a lawyer privately
- Request records:
 - Education records (any record is available)
 - Early intervention docs
 - Referral forms
 - Initial assessments
- If claiming there's progress, request data (at any time)
- If there's no agreement between parents & IEP members (i.e., parent is not signing the IEP), then SPED Attorney/advocate lawyer can help with seeking a due process

Out-of-Compliance with IEP

- Each district has its own written complaint investigation process.
- Request a copy of the district's complaint investigation process before you file for a complaint.
- Send the complaint to the district superintendent of schools or director of special education.
- Describe the situation fully and attach any documents such as the IEP if they are relevant to the complaint.

Due Process Hearing

- If you decide to file a request for due process hearing, you must file your request within two years from the date that you knew (or had reason to know) of the facts of your complaint.
- At the hearing, both parties present evidence to an independent hearing officer hired by the State of California.
- The hearing officer will decide on the facts and the law and issue a written decision.

Re-Assessment/Amendments IEP

- Re-evaluation of behavior plans and IEPs occur at least every 3 yrs (Tri-annual)
 - Tri-annual includes all formal assessments conducted by all school providers
 - Unless both the district & parent agree a reevaluation is unnecessary
 - Determine progress, accommodations, and current placement.
- Annual IEPs review current goal progress and parent concerns as well as discuss any addendums
- Amendments (small accommodations, examples include: number of services minutes, breaks) to the IEP can be made and be agreed upon in writing by both parents and members.
 - Identify the party initiating the proposed amendment
 - A detail description of the proposed amendment
 - Justification
 - Proposed modality
 - Response to proposal
 - Prior written notice

How to Request an Education Record

- If parent requests records, school needs to provide records within 5 business days
 - Usually provided by any way but preferable electronically
 - Types of education records:
 - assessment and test scores
 - Notes NOT considered educational records (considered to be personal memory aide)
- Tips when requesting records
 - Do it in writing (preferably via email)
 - Include DOB, Name of Student, Student ID (top of letter)
 - Put information regarding the school & classroom
 - Detailed requests of the dates needed (ex., last 2 weeks, month of January 2022)
 - Include a general statement of the type of records needed
 - service logs, scores, assessments
 - Request the Special Education Director to confirm delivery
 - Request ED records on the parents behalf- include a ROI (release of information) signed by the parent

What to do when education records are not received?

- Send follow up email including previous email sent
 - Example: please see attached email of previous record request
 - Email to remind that there has been a request and has not been resolved within 5 business days.
- If records were requested to the special education teacher, may want to include the principal in the email as well as any other members of the special education department

Independent Educational Evaluation

IEE

IEE v.s. FBA

	Individual Educational Evaluation	FBA (also called a Functional Analysis Assessment FAA)
WHAT	-An evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question	-A process schools use to figure out what's causing challenging behavior. An FBA leads to a plan with strategies to improve the behavior.
WHY	-Disagreement with the findings or recommendations of a district special education assessment	-Used to determine the function of a student's behavior. -Legally must be conducted when school authorities seek to change the placement of a child
WHO	-Completed by someone who does not work for the school district	-Assessments must "be conducted by persons competent to perform the assessment, as determined by the local educational agency" <i>Education Code</i> Section 56320(b)(3)
HOW	-Parents and guardians can get an IEE paid for by the district if they request one	-An IEP team requests that a FBA be conducted as it is deemed appropriate for the child -Parents must provide consent

How to Request an IEE

- If there is a disagreement with the school's assessment of the child, a written letter/email should be sent to the case manager or the district's Special Education Director
 - It should be stated that there is a disagreement with the assessment and that this is a formal request for an IEE at the public's expense.
 - A school district is not required to fund an IEE unless there is a notice of disagreement sent.
 - A school may ask for follow up reasons, however this is unnecessary and refusal to provide reasons to the school cannot be used as a delay for the request.
 - Generally, a school has 15 school days to respond.
 - An IEE can be requested during the IEP meeting

IEE Compliance

- If the school district agrees to fund the IEE, an Independent Evaluator will be selected with the school district
- Can the evaluator be the same as the BCBA providing home ABA services?
 - Yes, but preferably have a new set of eyes
 - Functional Behavior Assessment (FBA) not a conflict of interest because they are just recommending an intervention
 - Conflict of interest if BCBA from school goes to home setting
 - It is recommend having a third BCBA come in as a new perspective
- If the school district does not respond, you may file a formal complaint to the California Department of Education

Rules about the IEE

- An in-home BCBA would not be considered as an Independent Educational Evaluation (IEE) assessor unless assigned by the school district
 - They may still go observe to see behaviors/get information to utilize for home service
 - “We are targeting these behaviors within the home settings and need to collect more information”
- Schools might limit access to conduct FBA
 - Especially when a parent requests to conduct an FBA using their own personal BCBA.
- District can limit amount of observations to IEE assessors but not deny it
 - Request to observe classroom with sufficient time to fully understand the placement
 - May dispute to increase duration/visits due to understanding the IEP
 - Via email directed to the school principal, school psychologist, and/or school district dept of special education.

Statute of Limitations

- You can sue only for something that occurred within last 2 years
 - Example: 18 yr old graduated and can't read.
 - Work up the chain of command
 - Contact SPED District Director
 - Write an email or send a letter
 - If they still refuse to provide SPED Assessment, then contact lawyer
 - Don't contact lawyer first
 - Time sensitive: extends the period a few months when you go to a lawyer

Days per Action

Education Record Requests	5 days to deliver
IEP Request to hold meeting	Must be held within 30 days after written request
Final IEP Copy	30 days to provide copy of IEP (including requested language)
Assessment Plan	15 calendar days to conduct evaluation
IEP consent by parents and team	60 calendar days
IPP request	Must happen within 30 days
SST meeting	15 days from the day of request

Special Education Timeline: <https://www.disabilityrightsca.org/publications/special-education-timelines>

How to Get an Advocate

- Office of Clients' Rights Advocacy for Southern California
 - 1-866-833-6712 (TTY 877-669-6023)
- Office of Clients' Rights Advocacy (San Diego Regional Center)
 - 530 B Street, Suite 400
 - San Diego, CA 92101
 - Phone: (619) 239-7877
 - Fax: (619) 239-7838
 - Supervised by Brittnee Gillespie Malone

Tania Schloss – CRA

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Maria Salas – Assistant CRA

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Special Education Advocates

- Summer Stech
 - summerstech@gmail.com
- Matthew Storey
 - (858) 433-1060
 - <https://calsped.com/about-our-education-law-firm/>
- Margaret Adams
 - mimiadams@sandiego.edu
- Monica Rodriguez
 - monica.iep@gmail.com
- USD School of Law Education and Disability Clinic (FREE)
 - (619) 260-7470
 - <https://www.sandiego.edu/law/free-legal-assistance/>

Important Links

17 Special Education Advocacy Tips

<https://www.disabilityrightsca.org/publications/17-special-education-advocacy-tips>

SDRC Requirements per services

<https://www.dds.ca.gov/transparency/laws-regulations/lanterman-act-and-related-laws/>

IDEA

<https://sites.ed.gov/idea/>

Complaint to the local school district

<https://serr.disabilityrightsca.org/serr-manual/chapter-6-information-on-due-process-compliance-procedures/6-13-how-do-i-file-a-compliance-complaint-with-my-local-district/>

Due process Hearing

<https://serr.disabilityrightsca.org/serr-manual/chapter-6-information-on-due-process-compliance-procedures/6-29-when-would-i-request-a-due-process-hearing/>

Important Links

How to request an IEE

<https://www.disabilityrightsca.org/publications/how-to-obtain-an-independent-educational-evaluation-at-public-expense>

How to file to CDE

<https://serr.disabilityrightsca.org/serr-manual/chapter-6-information-on-due-process-compliance-procedures/6-6-how-do-i-file-a-compliance-complaint-with-the-cde/>

Head Start

<https://www.benefits.gov/benefit/1899>