

SECTION 7

State Complaint Procedures

State Complaint Procedures

A complaint alleges that there has been a failure to implement a federal or state special education law or regulation by a public education agency. The complaint process is available for any student who has been referred, assessed, or identified for special education services.

Anyone who believes that there has been a violation of special education law or regulations may file a complaint. Complaints may include parents, school staff, organizations, and other interested parties.

The written complaint must specify at least one alleged violation of state and/or federal special education laws. The violation must have occurred not more than one year prior to the date the complaint is received by the California Department of Education (CDE).

When filing a complaint, the party filing a complaint must forward a copy of the complaint to the local education agency (LEA) or public agency serving the child at the same time the party files a state compliance complaint with the CDE. The state-level investigation and final report must be completed within 60 days of the CDE receiving the complaint unless an extension is granted due to exceptional circumstances. The final report may contain a timeline for resolving the problem.

Complaints alleging violations of federal and state special education laws or regulations may be mailed to:

California Department of Education (CDE)
Special Education Division (SED)
Procedural Safeguards Referral Service
1430 N Street, Suite 2401
Sacramento, CA 95814-5901

For complaints involving issues **not** covered by federal or state special education laws or regulations, the district's uniform complaint procedures are followed.

To obtain more information about dispute resolution, including how to file a complaint, contact the CDE, Special Education Division, Procedural Safeguards Referral Service, by telephone at (800) 926-0648; by fax at (916) 327-3704; or by visiting the CDE web site at <http://www.cde.ca.gov/sp/se>.

To obtain assistance from the San Joaquin County SELPA's Alternative Dispute Resolution program, call (209) 468-4925.

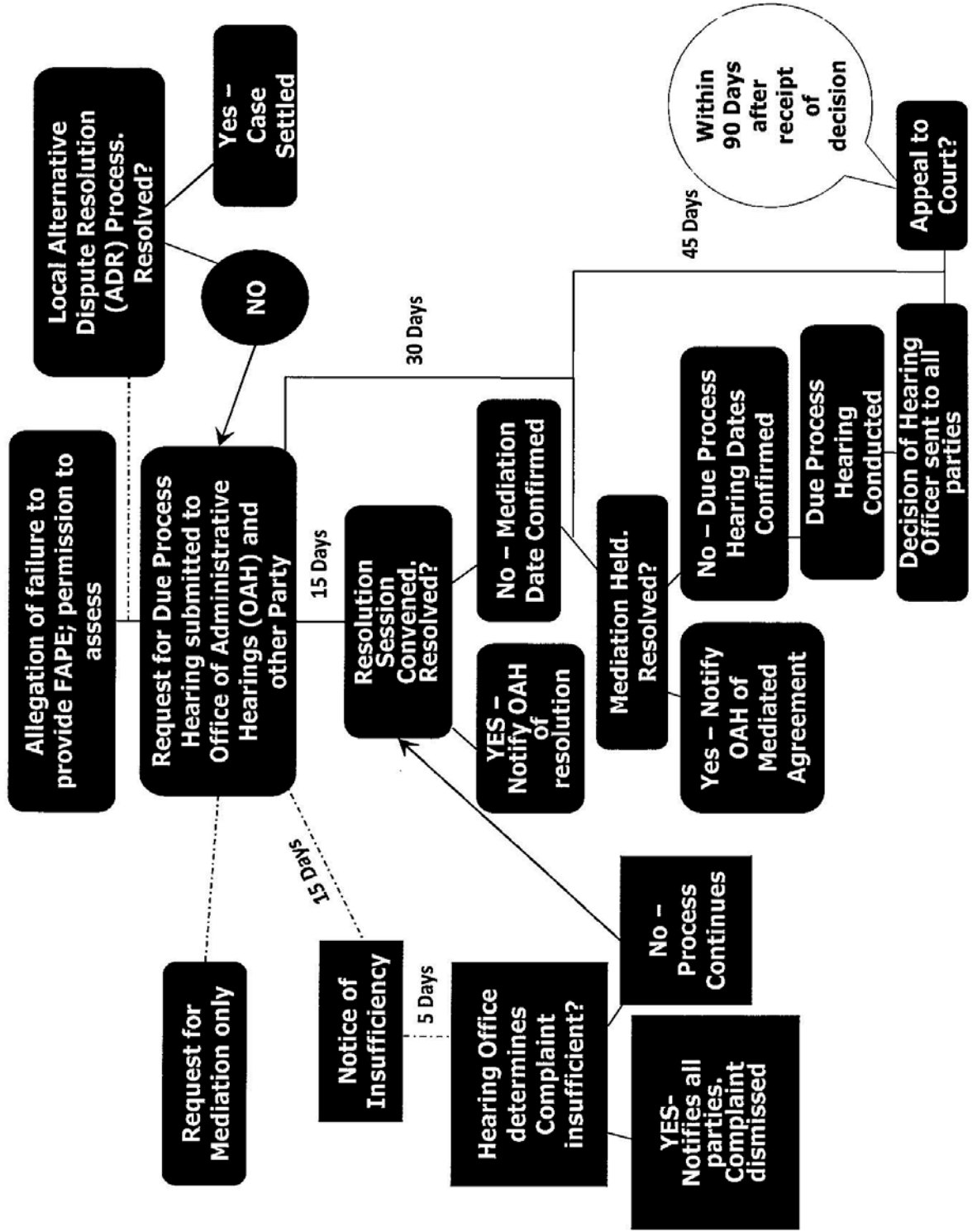
State Compliance Complaints that may result in direct state intervention

The California Department of Education (CDE) shall directly intervene without waiting for local educational agency investigation in certain situations. For complaints relating to special education, any one of the following shall be a condition for direct state intervention:

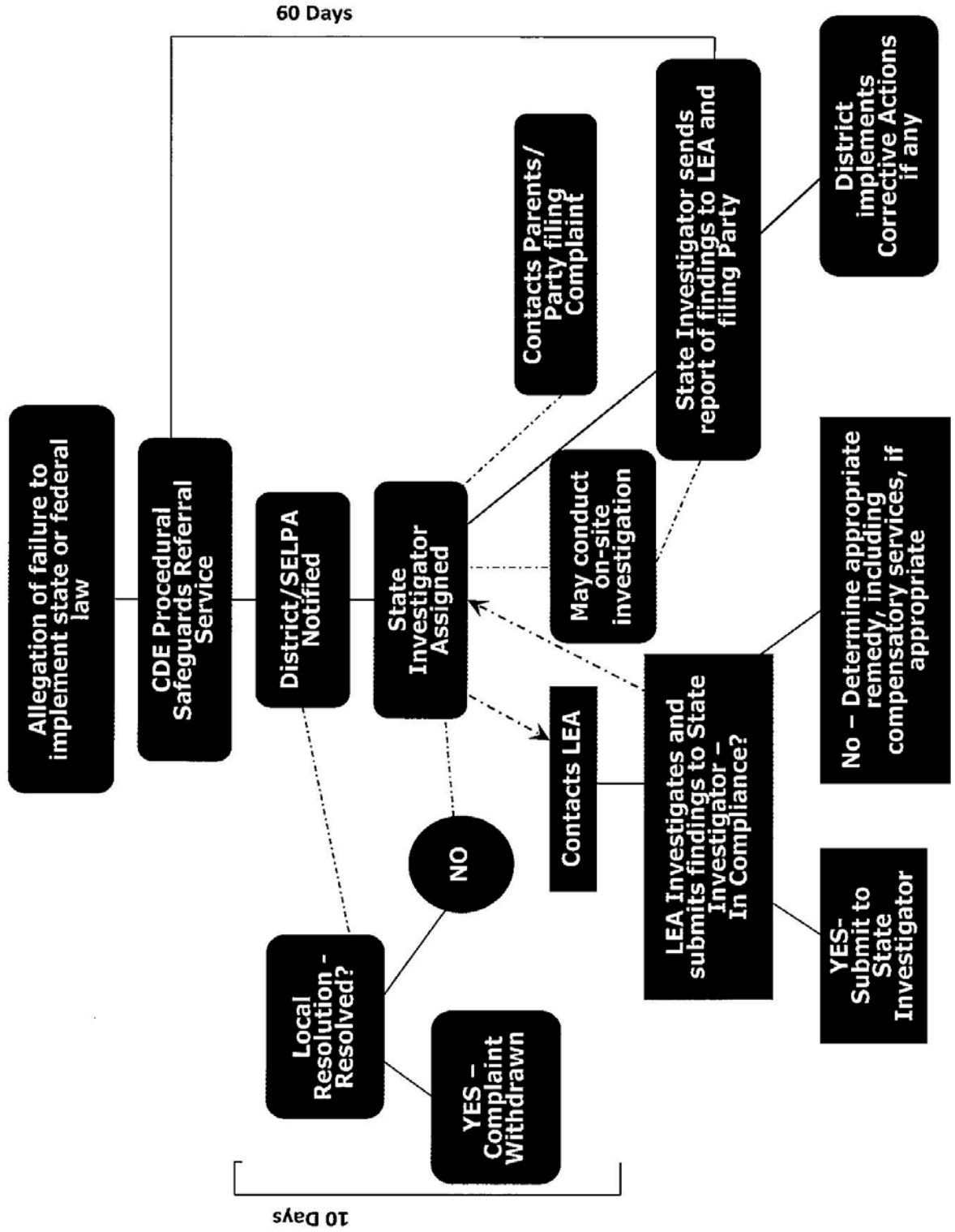
- The complainant alleges that a public agency, other than a local educational agency, fails or refuses to comply with an applicable law or regulation relating to the provision of free appropriate public education to individuals with disabilities.
- The complainant alleges that the local educational agency or public agency fails or refuses to comply with the due process procedures established pursuant to federal and state law and regulation; or has failed or refused to implement a due process hearing order.
- The complainant alleges facts that indicate that the child or group of children may be in immediate physical danger or that the health, safety or welfare of a child or group of children is threatened.
- The complainant alleges that an individual with a disability is not receiving the special education or related services specified in his or her individualized educational program (IEP).
- The complaint involves a violation of federal law governing special education or its implementing regulations.

The complaint shall identify the basis for filing the complaint directly to the CDE. The complainant must present the CDE with clear and verifiable evidence that supports the basis for the direct filing.

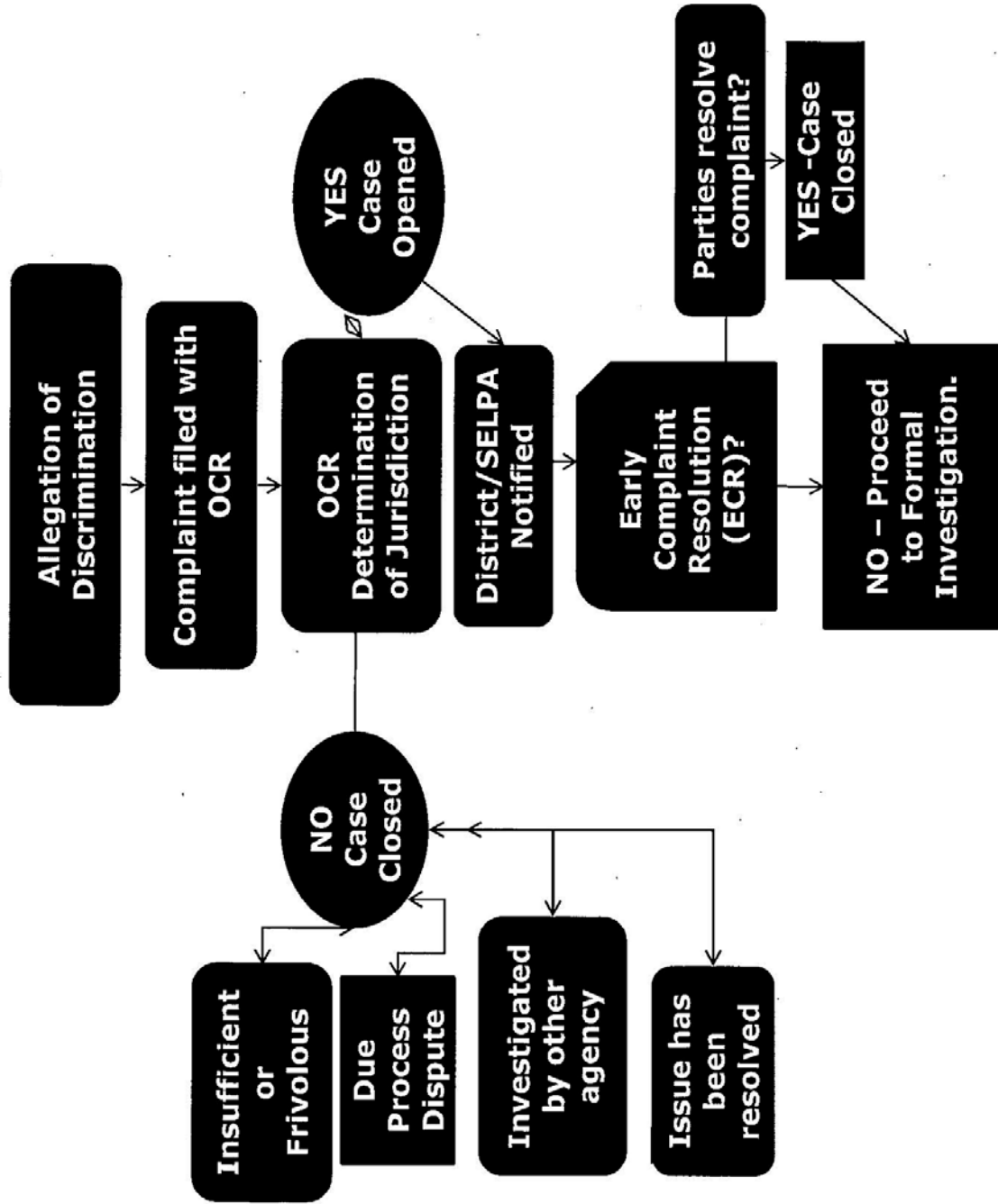
Due Process



CDE Complaint Process



OCR Discrimination Complaint



OCR Discrimination Complaint Formal Investigation

