



WEBINAR MATERIALS

"Using State Complaints for Systemic Advocacy on Behalf of Students with Disabilities"

May 21, 2009

presented by

Jim Comstock-Galagan, Esq.

About the Presenter

Jim Comstock-Galagan is Executive Director of the Southern Disability Law Center (SDLC). Established in June 2001 by Comstock-Galagan, the SDLC is a non-profit corporation founded to protect and advance the legal rights of people with disabilities throughout the South. SDLC partners with Protection and Advocacy (P&A) systems, Legal Service Corporation (LSC) programs, the Southern Poverty Law Center and disability organizations in the Southern United States on major disability rights issues and cases.

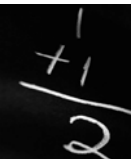
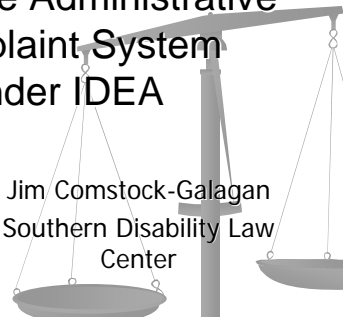
Comstock-Galagan has 31 years of legal experience, including 20 years of P&A work. From 1981 - 1989, he worked for the Louisiana P&A program, initially as a staff attorney and later as Director of Legal Services. From 1989-2001 he served as the Executive Director of Advocacy, Inc. the Texas P&A program. He has extensive litigation experience in IDEA, ADA, Section 504 of the Rehab Act and Juvenile Justice issues. He also has significant legislative advocacy experience. The past several years he has partnered with the Southern Poverty Law Center in filing and pursuing several systemic State Complaints in Louisiana, Mississippi, and Florida. All four of the complaints pursued in Louisiana have resulted in systemic Settlement Agreements. Three of these agreements require the implementation of district-wide PBIS.



A not-for-profit organization dedicated to services and projects
that work to improve the lives of children, youth and adults with disabilities.

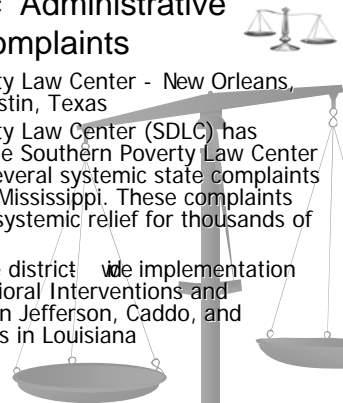
www.AdvocacyInstitute.org

The State Administrative Complaint System under IDEA



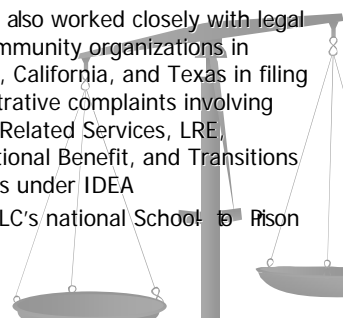
Jim Comstock-Galagan
Southern Disability Law Center

Systemic Administrative Complaints



- Southern Disability Law Center - New Orleans, Louisiana and Austin, Texas
- Southern Disability Law Center (SDLC) has partnered with the Southern Poverty Law Center (SPLC) in filing several systemic state complaints in Louisiana and Mississippi. These complaints have resulted in systemic relief for thousands of students
- Remedies include district wide implementation of Positive Behavioral Interventions and Supports (PBIS) in Jefferson, Caddo, and Calcasieu Parishes in Louisiana

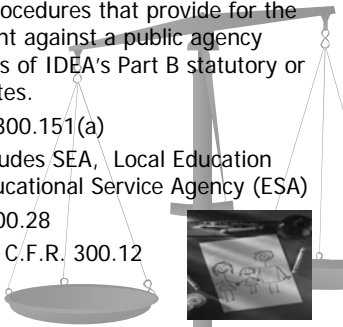
Systemic Administrative Complaints



- SDLC and SPLC- also worked closely with legal advocacy and community organizations in Florida, Kentucky, California, and Texas in filing systemic administrative complaints involving Child Find, PBS, Related Services, LRE, Discipline, Educational Benefit, and Transitions Services violations under IDEA
- Efforts part of SPLC's national School to Prison Reform Project

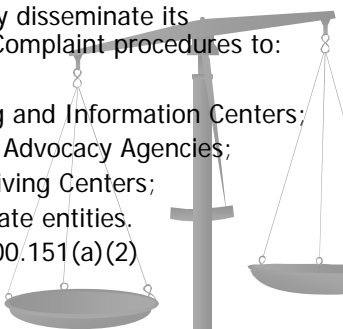
Administrative Complaints

- State Education Agency (SEA) must have written state complaint procedures that provide for the filing of a complaint against a public agency asserting violations of IDEA's Part B statutory or regulatory mandates.
34 C.F.R. § 300.151(a)
- Public Agency includes SEA, Local Education Agency (LEA), Educational Service Agency (ESA)
34 C.F.R. 300.28
- ESA defined at 34 C.F.R. 300.12



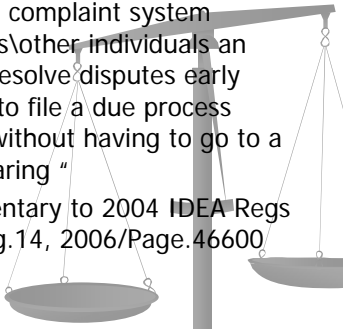
Administrative Complaints

- SEA must widely disseminate its Administrative Complaint procedures to:
Parents;
Parent Training and Information Centers;
Protection and Advocacy Agencies;
Independent Living Centers;
Other appropriate entities.
34.C.F.r.300.151(a)(2)



OSEP Commentary to 2004 IDEA Regulations

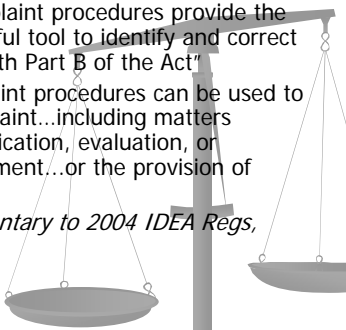
- " A strong State complaint system provides parents\other individuals an opportunity to resolve disputes early without having to file a due process complaint and without having to go to a due process hearing "
OSEP Commentary to 2004 IDEA Regs
F.R. Vol. 71/Aug.14, 2006/Page.46600



OSEP Commentary to 2004 IDEA Regulations

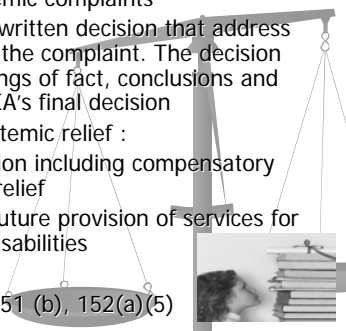
- "The [state] complaint procedures provide the SEA with a powerful tool to identify and correct noncompliance with Part B of the Act"
- "The state complaint procedures can be used to resolve any complaint...including matters concerning identification, evaluation, or educational placement...or the provision of FAPE..."

*OSEP Commentary to 2004 IDEA Regs,
Page 46601*



Why Are They Useful?

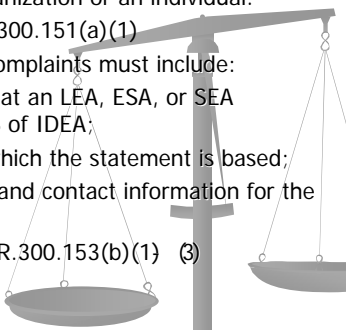
- Individual or systemic complaints
- SEA must issue a written decision that address each allegation in the complaint. The decision must include findings of fact, conclusions and reasons for the SEA's final decision
- Individual and systemic relief :
 1. Corrective action including compensatory and/or monetary relief
 2. Appropriate future provision of services for all children with disabilities
- Cost Effective
34 C.F.R. § 300.151 (b), 152(a)(5)



Filing a Complaint

- The complaint may be filed by anyone, including an organization or an individual.
34 CFR 300.151(a)(1)
- Administrative Complaints must include:
 1. A statement that an LEA, ESA, or SEA violated Part B of IDEA;
 2. The facts on which the statement is based;
 3. The signature and contact information for the complainant

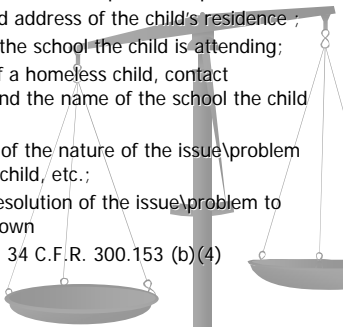
34 C.F.R.300.153(b)(1) (3)



Filing a Complaint

- If alleging violations with respect to a specific child
 - The name and address of the child's residence ;
 - The name of the school the child is attending;
 - In the case of a homeless child, contact information and the name of the school the child is attending;
 - A description of the nature of the issue\problem involving the child, etc.;
 - A proposed resolution of the issue\problem to the extent known

34 C.F.R. 300.153 (b)(4)



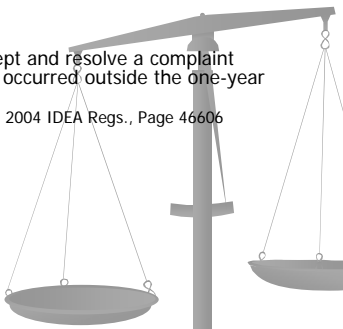
Filing a Complaint-Timeline

- The complaint must allege a violation that occurred not more than one year prior to the date the complaint is received

34 C.F.R. 300.153 (c)

- SEA however *may* accept and resolve a complaint alleging violations that occurred outside the one-year timeline

OSEP Commentary to 2004 IDEA Regs., Page 46606



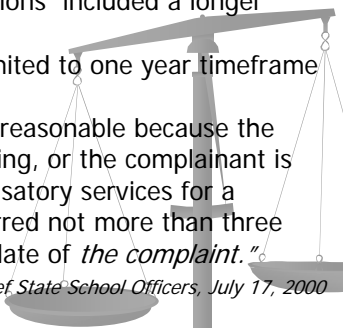
Filing a Complaint-Timeline

IDEA 1997 Regulations included a longer timeframe:

Complaints limited to one year timeframe unless...

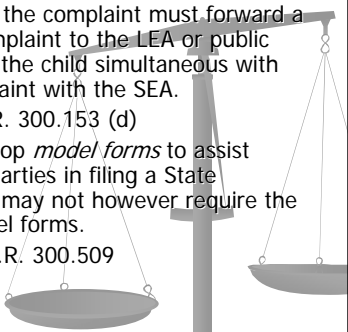
"a longer period is reasonable because the violation is continuing, or the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date of *the complaint*."

See OSEP Letter to Chief State School Officers, July 17, 2000



Filing a Complaint

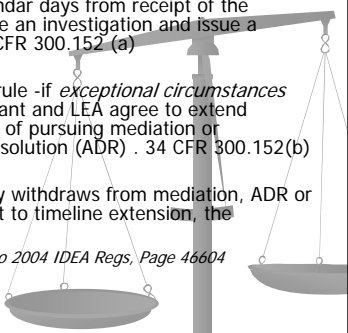
- The party filing the complaint must forward a copy of the complaint to the LEA or public agency serving the child simultaneous with filing the complaint with the SEA.
34 C.F.R. 300.153 (d)
- SEA must develop *model forms* to assist parents\other parties in filing a State complaint. SEA may not however require the use of the model forms.
34 C.F.R. 300.509



Timeline For SEA Investigation\Decision

- The SEA has 60 calendar days from receipt of the complaint to complete an investigation and issue a written decision. 34 CFR 300.152 (a)
- Exception to 60 day rule -if *exceptional circumstances* exist or the complainant and LEA agree to extend timeline for purposes of pursuing mediation or alternative dispute resolution (ADR) . 34 CFR 300.152(b)
 1. If either party withdraws from mediation, ADR or withdraws agreement to timeline extension, the extension ends.

OSEP Commentary to 2004 IDEA Regs, Page 46604

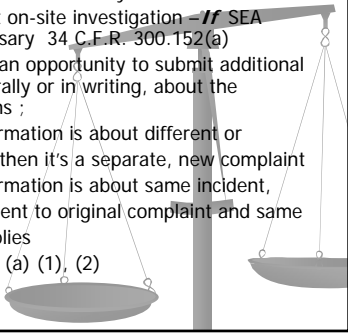


SEA Investigation\Decision

SEA must within the 60 day timeline:

- Conduct independent on-site investigation – *If* SEA determines it's necessary 34 C.F.R. 300.152(a)
- Provide complainant an opportunity to submit additional information, either orally or in writing, about the complaint's allegations ;
 1. If additional information is about different or unrelated incident, then it's a separate, new complaint
 2. If additional information is about same incident, treated as amendment to original complaint and same 60 day timeline applies

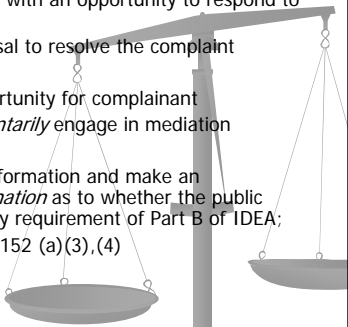
34 C.F.R.152 (a) (1), (2)



SEA Investigation\Decision

SEA must within the 60 day timeline:

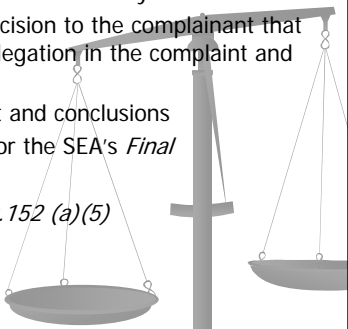
- Provide public agency with an opportunity to respond to complaint including
 1. offering a proposal to resolve the complaint and
 2. offering an opportunity for complainant and LEA to *voluntarily* engage in mediation
- Review all relevant information and make an *independent determination* as to whether the public agency is violating any requirement of Part B of IDEA;
34 C.F.R. 300.152 (a)(3),(4)



SEA Investigation\Decision

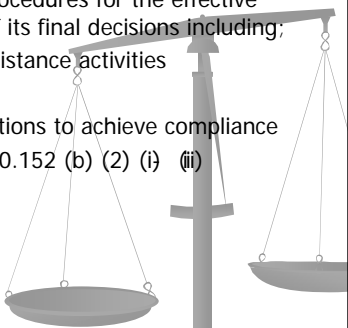
SEA must within the 60 day timeline:

- Issue a written decision to the complainant that addresses each allegation in the complaint and contains
 1. Finding of fact and conclusions
 2. The reasons for the SEA's *Final Decision*
- 34 C.F.R. 300.152 (a)(5)



SEA Final Complaint Decisions

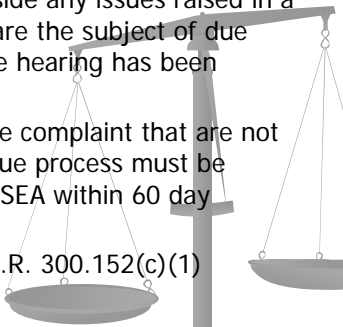
- SEA must have procedures for the effective implementation of its final decisions including;
 1. Technical Assistance activities
 2. Negotiations
 3. Corrective Actions to achieve compliance
- 34 C.F.R. 300.152 (b) (2) (i) (ii)



State Complaints and Due Process

- SEA must set aside any issues raised in a complaint that are the subject of due process until the hearing has been resolved;
- Any issues in the complaint that are not the subject of due process must be investigated by SEA within 60 day timeframe;

34 C.F.R. 300.152(c)(1)



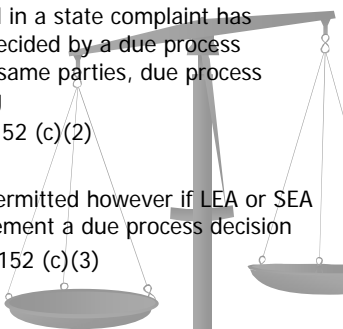
State Complaints and Due Process

- If any issue raised in a state complaint has previously been decided by a due process hearing involving same parties, due process decision is binding

34 C.F.R. 300.152 (c)(2)

- State complaint permitted however if LEA or SEA has failed to implement a due process decision

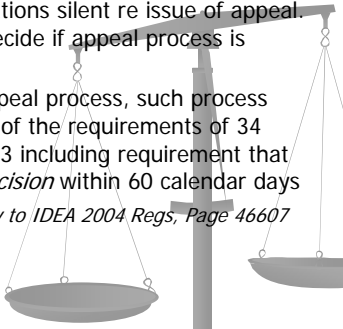
34 C.F.R. 300.152 (c)(3)



Appeal of State Complaint Decisions

- IDEA 2004 Regulations silent re issue of appeal. Each state may decide if appeal process is necessary
- If state adopts appeal process, such process cannot waive any of the requirements of 34 C.F.R. 300.151-153 including requirement that SEA issue *final decision* within 60 calendar days

OSEP Commentary to IDEA 2004 Regs, Page 46607

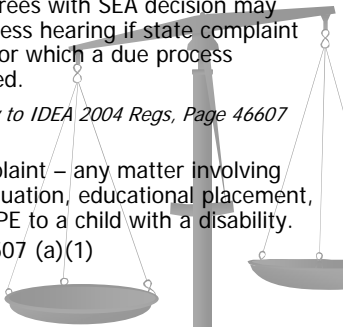


State Complaint Final Decisions

- After SEA *Final Decision* issued, parent or public agency who disagrees with SEA decision may initiate a due process hearing if state complaint involves issue(s) for which a due process hearing can be filed.

OSEP Commentary to IDEA 2004 Regs, Page 46607

- Due Process complaint – any matter involving identification, evaluation, educational placement, or provision of FAPE to a child with a disability.
34 C.F.R. 300.507 (a)(1)



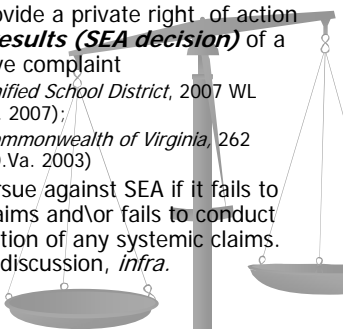
State Complaint Decisions- Private Right of Action?

- IDEA does not provide a private right of action to challenge the **results (SEA decision)** of a state administrative complaint

- *RK v. Hayward Unified School District*, 2007 WL 4169111 (N.D.Cal. 2007);

- *Virginia P&A v. Commonwealth of Virginia*, 262 F.Supp.2d 648 (D.Va. 2003)

- Due Process – pursue against SEA if it fails to investigate any claims and/or fails to conduct systemic investigation of any systemic claims. See Caddo Parish discussion, *infra*.

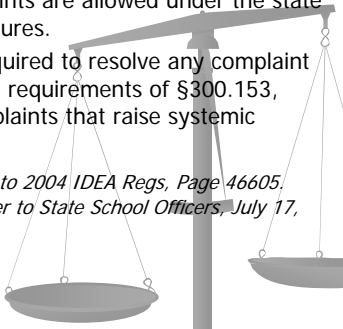


Systemic Administrative Complaints

- Systemic Complaints are allowed under the state complaint procedures.

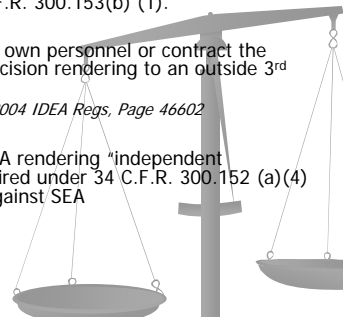
- "An SEA is required to resolve any complaint that meets the requirements of §300.153, including complaints that raise systemic issues..."

OSEP Commentary to 2004 IDEA Regs, Page 46605.
See also OSEP Letter to State School Officers, July 17, 2000.



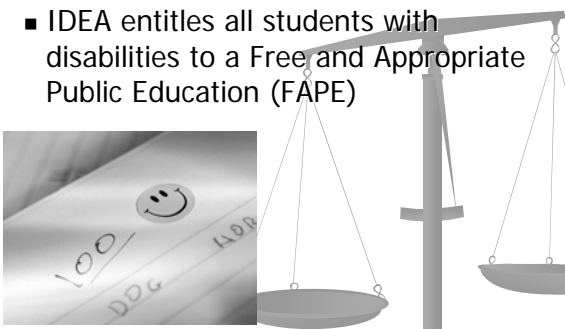
Complaint Against SEA

- Complaint permitted against an SEA - SEA is a public agency under 34.C.F.R. 300.153(b) (1).
- SEA may appoint its own personnel or contract the investigation and decision rendering to an outside 3rd party
OSEP Commentary to 2004 IDEA Regs, Page 46602
- Conflicts issue re SEA rendering "independent determination" required under 34 C.F.R. 300.152 (a)(4) for any complaint against SEA



Individuals with Disabilities Education Act of 2004 (IDEA)

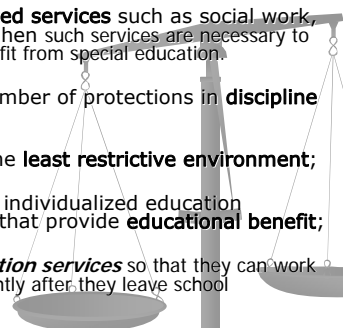
- IDEA entitles all students with disabilities to a Free and Appropriate Public Education (FAPE)



IDEA

IDEA mandates that students with disabilities:

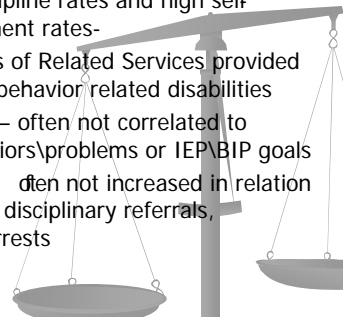
- Be provided **related services** such as social work, and counseling when such services are necessary to assist them to benefit from special education.
- Be provided a number of protections in **discipline** practices;
- Be educated in the **least restrictive environment**;
- Be provided with individualized education programs (IEPs) that provide **educational benefit**;
- Be provided **transition services** so that they can work and live independently after they leave school



IDEA- Issues are Related
Related Services

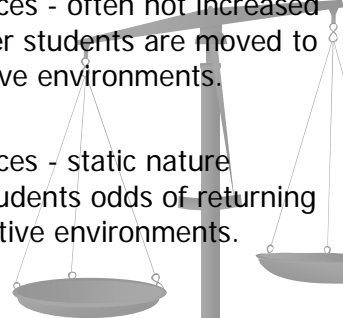
LEAs with high discipline rates and high self contained placement rates-

- Inadequate levels of Related Services provided to students with behavior related disabilities
- Related Services – often not correlated to presenting behaviors/problems or IEP/BIP goals
- Related Services- often not increased in relation to the number of disciplinary referrals, suspensions or arrests



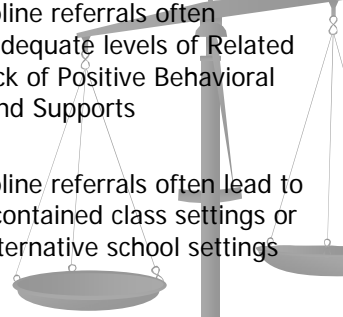
IDEA- Issues are Related

- Related Services - often not increased before or after students are moved to more restrictive environments.
- Related Services - static nature diminishes students odds of returning to less restrictive environments.



IDEA- Issues are Related
Discipline

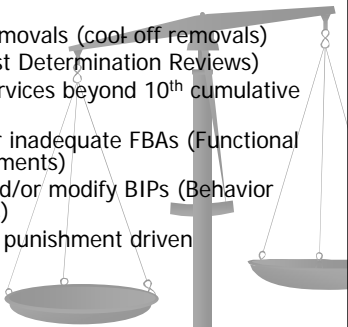
- Repeated discipline referrals often anchored to inadequate levels of Related Services and lack of Positive Behavioral Interventions and Supports
- Repeated discipline referrals often lead to restrictive self-contained class settings or placement in alternative school settings



Frequent Discipline Violations

Include:

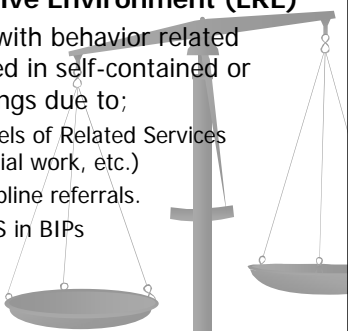
- Undocumented removals (cool off removals)
- No MDRs (Manifest Determination Reviews)
- No educational services beyond 10th cumulative day of removals
- Absence of and/or inadequate FBAs (Functional Behavioral Assessments)
- Failure to draft and/or modify BIPs (Behavior Intervention Plans)
- If they exist, BIPs punishment driven
- No PBIS!



IDEA- Issues are Related

Least Restrictive Environment (LRE)

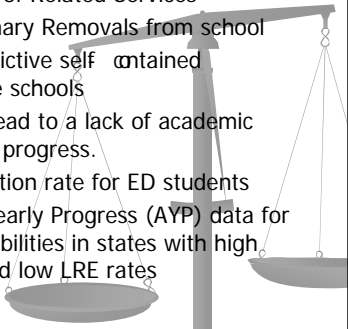
- Many students with behavior related disabilities placed in self-contained or alternative settings due to;
 - inadequate levels of Related Services (counseling\social work, etc.)
 - numerous discipline referrals.
 - absence of PBIS in BIPs




IDEA- Issues are Related

Educational Benefit

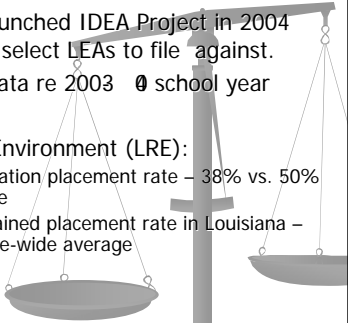
- Inadequate levels of Related Services
- Repeated Disciplinary Removals from school
- Placement in restrictive self contained classes\alternative schools
- Interrelated and lead to a lack of academic and\or behavioral progress.
- LA.: <10% graduation rate for ED students
- NCLB Adequate Yearly Progress (AYP) data for students with disabilities in states with high discipline rates and low LRE rates



Jefferson Parish

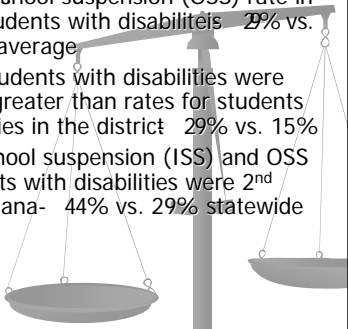


- SPLC and SDLC launched IDEA Project in 2004 using LEA data to select LEAs to file against.
- Jefferson Parish data re 2003-04 school year included :
- Least Restrictive Environment (LRE):
 - Low Regular Education placement rate – 38% vs. 50% state-wide average
 - Highest Self-Contained placement rate in Louisiana – 43% vs. 22% state-wide average



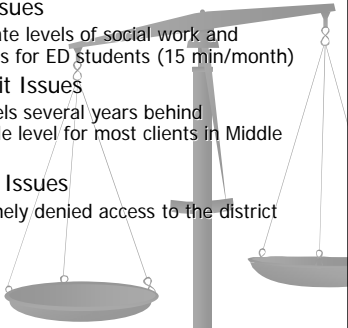
Jefferson Parish Data

- Discipline Rates
 - Highest out of school suspension (OSS) rate in Louisiana for students with disabilities – 29% vs. 17% statewide average
 - OSS rates for students with disabilities were also two times greater than rates for students without disabilities in the district – 29% vs. 15%
 - Combined in school suspension (ISS) and OSS rates for students with disabilities were 2nd highest in Louisiana- 44% vs. 29% statewide average



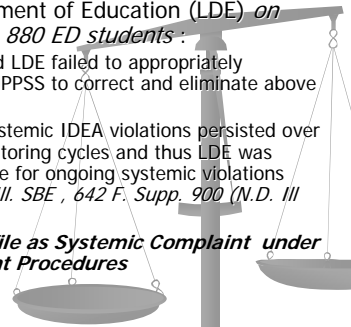
Related Client Data for 20+ ED Students

- Related Service Issues
 - Woefully inadequate levels of social work and counseling services for ED students (15 min/month)
- Educational Benefit Issues
 - Reading/Math levels several years behind chronological grade level for most clients in Middle and High School
- Transition Service Issues
 - ED students routinely denied access to the district vocational schools



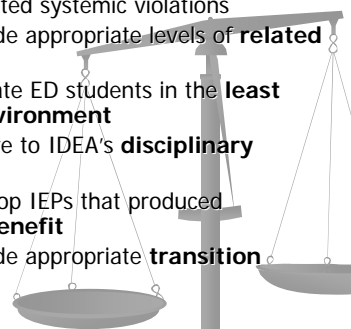
Class Due Process Complaint

- **Class Due Process Complaint** filed against Louisiana Department of Education (LDE) *on behalf of approx. 880 ED students* :
 - Complaint alleged LDE failed to appropriately monitor\compel JPPSS to correct and eliminate above IDEA violations
 - Many of these systemic IDEA violations persisted over several LDE monitoring cycles and thus LDE was legally responsible for ongoing systemic violations See *Corey H. v. Ill. SBE* , 642 F. Supp. 900 (N.D. Ill 1998)
 - **Today, would file as Systemic Complaint under State Complaint Procedures**



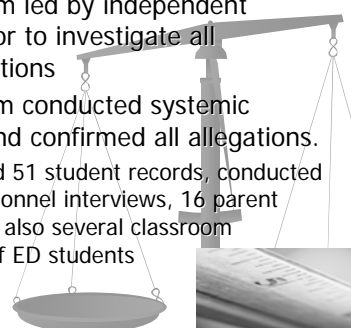
Class Due Process Complaint

- The **Class Due Process Complaint**- cited the following uncorrected systemic violations
 - Failure to provide appropriate levels of **related services**
 - Failure to educate ED students in the **least restrictive environment**
 - Failure to adhere to IDEA's **disciplinary provisions**
 - Failure to develop IEPs that produced **educational benefit**
 - Failure to provide appropriate **transition services**



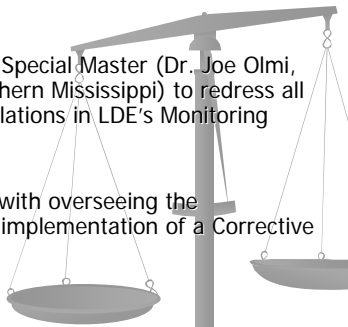
Class Due Process Complaint

- **Mediation** - LDE agreed to send 7 person monitoring team led by independent contract monitor to investigate all systemic allegations
- **Monitoring team** conducted systemic investigation and confirmed all allegations.
 - Team reviewed 51 student records, conducted 54 district personnel interviews, 16 parent interviews and also several classroom observations of ED students



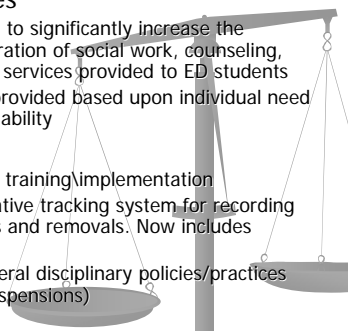
Mediated Settlement Agreement

- Settlement Agreement reached with LDE in August 2005
- Appointment of a Special Master (Dr. Joe Olmi, University of Southern Mississippi) to redress all IDEA systemic violations in LDE's Monitoring Report
- Dr. Olmi charged with overseeing the development and implementation of a Corrective Action Plan (CAP)



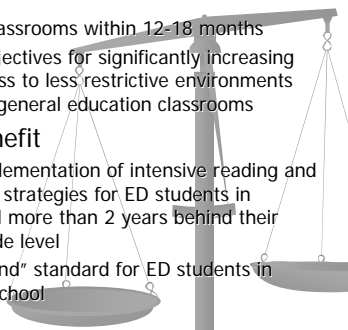
Settlement Agreement Highlights

- Related Services
 - Specific strategies to significantly increase the frequency and duration of social work, counseling, and psychological services provided to ED students
 - Related services provided based upon individual need and not staff availability
- Discipline
 - District-wide PBIS training implementation
 - Central administrative tracking system for recording discipline referrals and removals. Now includes arrests as well
 - Elimination of several disciplinary policies/practices (e.g. "cool-off" suspensions)



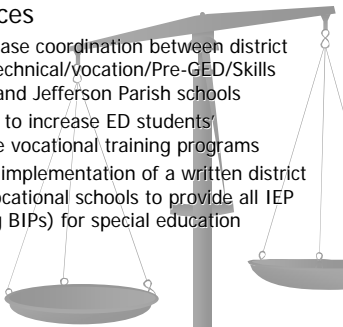
Settlement Agreement Highlights (cont.)

- LRE
 - Closure of MRE classrooms within 12-18 months
 - Strategies and objectives for significantly increasing ED students' access to less restrictive environments including regular/general education classrooms
- Educational Benefit
 - Development/implementation of intensive reading and math remediation strategies for ED students in elementary school more than 2 years behind their chronological grade level
 - "Three years behind" standard for ED students in middle and high school



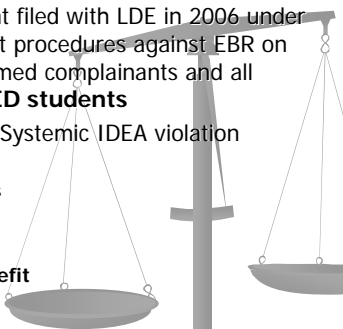
Settlement Agreement Highlights (cont.)

- Transition Services
 - Strategies to increase coordination between district operated career/technical/vocation/Pre-GED/Skills Option Programs and Jefferson Parish schools
 - Specific strategies to increase ED students' participation in the vocational training programs
 - Development and implementation of a written district policy requiring vocational schools to provide all IEP services (including BIPs) for special education students



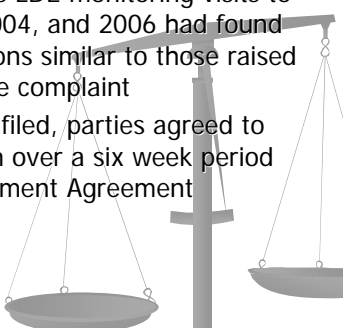
East Baton Rouge Parish Systemic Complaint

- Systemic Complaint filed with LDE in 2006 under the state complaint procedures against EBR on behalf of three named complainants and all similarly situated **ED students**
- Complaint alleged Systemic IDEA violation involving:
 - **Related Services**
 - **LRE**
 - **Discipline**
 - **Educational Benefit**

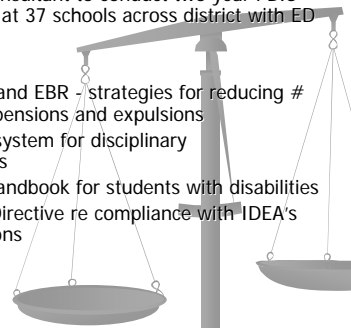


EBR Class Complaint (cont.)

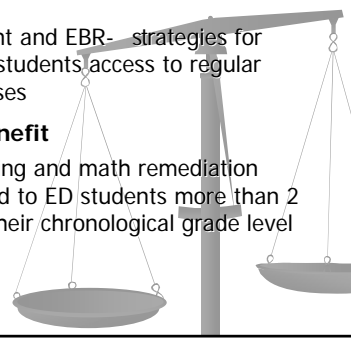
- Several previous LDE monitoring visits to EBR in 2003, 2004, and 2006 had found systemic violations similar to those raised in systemic state complaint
- After complaint filed, parties agreed to Mediation which over a six week period produced Settlement Agreement



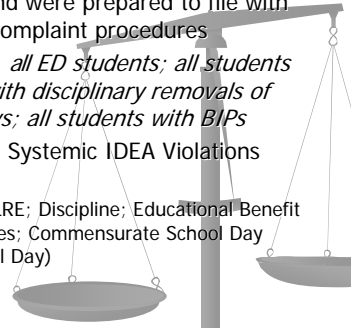
EBR Mediated Settlement Agreement

- **PBIS**
 - Hiring of PBIS Consultant to conduct two year PBIS training program at 37 schools across district with ED students
 - **Discipline**
 - PBIS Consultant and EBR - strategies for reducing # of long-term suspensions and expulsions
 - Central tracking system for disciplinary referrals/removals
 - New Discipline Handbook for students with disabilities
 - Superintendent Directive re compliance with IDEA's discipline provisions
- 

EBR Mediated Settlement Agreement

- **LRE**
 - PBIS Consultant and EBR- strategies for increasing ED students access to regular education classes
 - **Educational Benefit**
 - Intensive reading and math remediation services offered to ED students more than 2 years behind their chronological grade level
- 

Calcasieu Parish Systemic Complaint

- SDLC and SPLC drafted Systemic Complaint in the fall of 2007 and were prepared to file with LDE under state complaint procedures
 - Class defined as- *all ED students; all students with disabilities with disciplinary removals of more than 10 days; all students with BIPs*
 - Complaint alleged Systemic IDEA Violations involving:
 - Related Service; LRE; Discipline; Educational Benefit ;Transition Services; Commensurate School Day (Shortened School Day)
- 

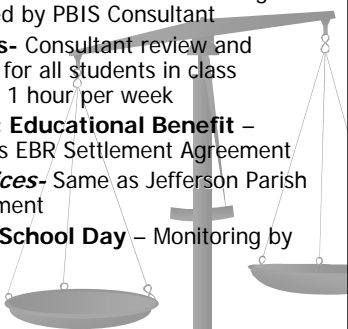
Calcasieu Parish Systemic Complaint

- Systemic Complaint submitted to Calcasieu Parish *in advance of filing*. Calcasieu Parish initiated negotiations which produced a Settlement Agreement .
- Systemic Complaint never filed with LDE due to Settlement Agreement



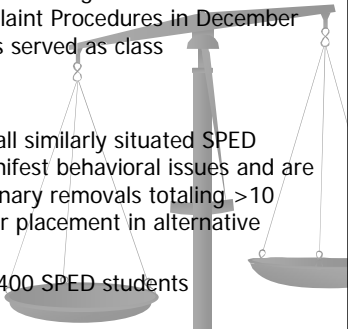
Calcasieu Parish Settlement Agreement

- **PBIS**- Three year district wide PBIS training program conducted by PBIS Consultant
- **Related Services**- Consultant review and recommendations for all students in class receiving less than 1 hour per week
- **LRE ; Discipline; Educational Benefit** – same provisions as EBR Settlement Agreement
- **Transition Services**- Same as Jefferson Parish Settlement Agreement
- **Commensurate School Day** – Monitoring by community group



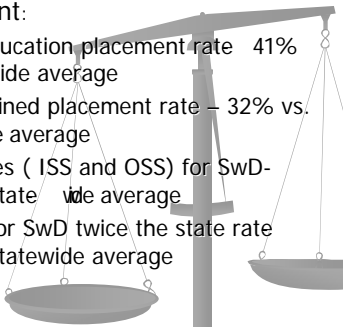
Caddo Parish Systemic Administrative Complaint

- Systemic complaint filed against Caddo Parish under State Complaint Procedures in December 2006. Six students served as class representatives
- Class defined as "ED Students and all similarly situated SPED Students who manifest behavioral issues and are subject to disciplinary removals totaling >10 school days and/or placement in alternative school settings"
Approximately 400 SPED students



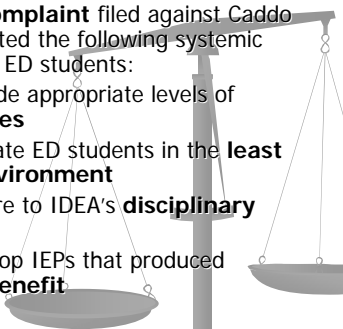
Caddo Parish Systemic Complaint

- Key Caddo data re 2005-06 school-year used in complaint:
 - Low Regular education placement rate 41% vs. 58% statewide average
 - High Self contained placement rate – 32% vs. 17% state wide average
 - Suspension rates (ISS and OSS) for SwD- 42% vs. 31% state wide average
 - Drop out rate for SwD twice the state rate 47% vs. 23% statewide average



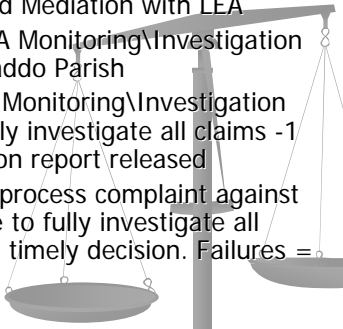
Caddo Parish Systemic Complaint

- The **Systemic Complaint** filed against Caddo Parish with LDE cited the following systemic IDEA violations re ED students:
 - Failure to provide appropriate levels of **related services**
 - Failure to educate ED students in the **least restrictive environment**
 - Failure to adhere to IDEA's **disciplinary protections**
 - Failure to develop IEPs that produced **educational benefit**



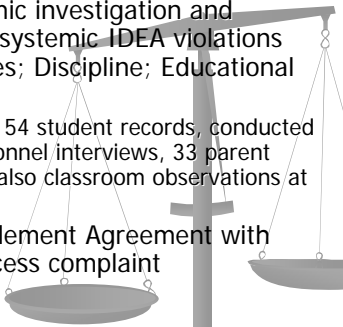
Caddo Parish Systemic Complaint

- Dec. 2006- Systemic Complaint filed
- Feb. 2007- Failed Mediation with LEA
- March 2007- SEA Monitoring\Investigation Team sent to Caddo Parish
- June 2007- SEA Monitoring\Investigation Team fails to fully investigate all claims -1 page investigation report released
- Nov. 2007- due process complaint against SEA re its failure to fully investigate all claims and issue timely decision. Failures = Denial of FAPE.



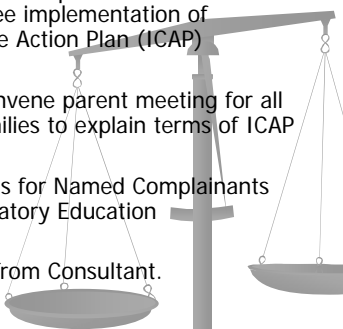
Caddo Parish Systemic Complaint

- Nov. 2007 - Second SEA monitoring team conducts systemic investigation and confirms three systemic IDEA violations (Related Services; Discipline; Educational Benefit)
 - Team reviewed 54 student records, conducted 44 district personnel interviews, 33 parent interviews and also classroom observations at 7 schools
- Dec. 2007- Settlement Agreement with SEA re due process complaint



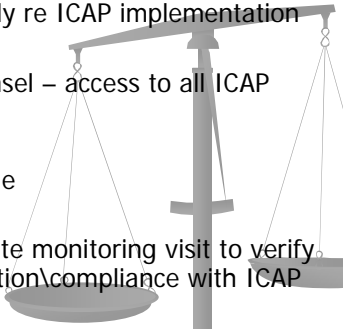
Caddo Settlement Agreement

- SEA appointment of independent Consultant to develop and oversee implementation of Intensive Corrective Action Plan (ICAP)
- LEA required to convene parent meeting for all class members families to explain terms of ICAP
- Individual Remedies for Named Complainants including Compensatory Education
- Quarterly Reports from Consultant.



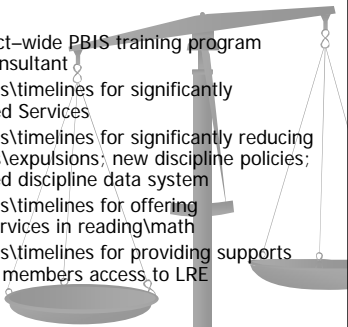
Caddo Settlement Agreement

- SEA, Petitioners counsel and Consultant meet 2x annually re ICAP implementation
- Petitioners counsel – access to all ICAP documents
- 3 year timeframe
- SEA - final on-site monitoring visit to verify full implementation/compliance with ICAP



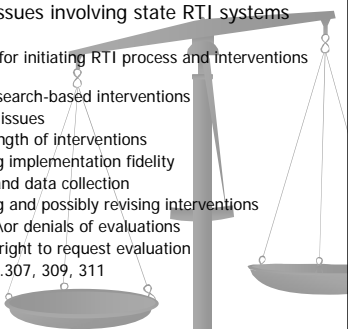
Caddo Settlement Agreement

- Intensive Corrective Action Plan must include following:
 - Three year district-wide PBIS training program conducted by Consultant
 - Specific strategies\timelines for significantly increasing Related Services
 - Specific strategies\timelines for significantly reducing # of suspensions\expulsions; new discipline policies; new computerized discipline data system
 - Specific strategies\timelines for offering compensatory services in reading\math
 - Specific strategies\timelines for providing supports to increase class members access to LRE



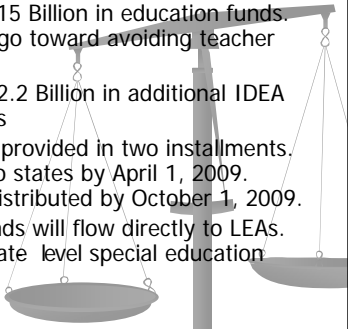
IDEA and Response to Intervention (RTI) Systems

- Numerous systemic issues involving state RTI systems including:
 - criteria and timelines for initiating RTI process and interventions for a student
 - design of scientific research-based interventions
 - cultural and linguistic issues
 - number, types and length of interventions
 - measures for ensuring implementation fidelity
 - progress monitoring and data collection
 - timeline for evaluating and possibly revising interventions
 - inordinate delays and/or denials of evaluations
 - parent notification of right to request evaluation
- See 34 C.F.R. 300.307, 309, 311



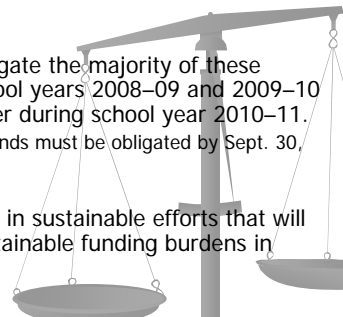
American Recovery and Reinvestment Act (ARRA)

- ARRA contains \$115 Billion in education funds. Bulk of funds will go toward avoiding teacher and staff layoffs
- ARRA contains \$12.2 Billion in additional IDEA Part B and C funds
- ARRA IDEA funds provided in two installments. 50% distributed to states by April 1, 2009. Remaining 50% distributed by October 1, 2009.
- All ARRA IDEA funds will flow directly to LEAs. No increases in state level special education spending.



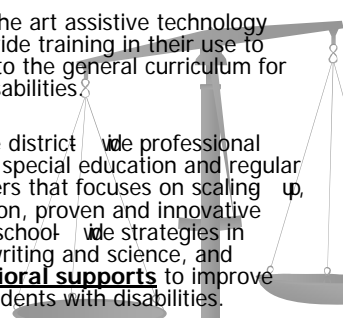
ARRA IDEA Funds

- U.S.DOE recommends using ARRA IDEA funds “expeditiously”.
- LEAs should obligate the majority of these funds during school years 2008–09 and 2009–10 and the remainder during school year 2010–11.
 - All ARRA IDEA funds must be obligated by Sept. 30, 2011.
- Funds to be used in sustainable efforts that will not create unsustainable funding burdens in future.



U.S.DOE Guidelines for ARRA IDEA Funds

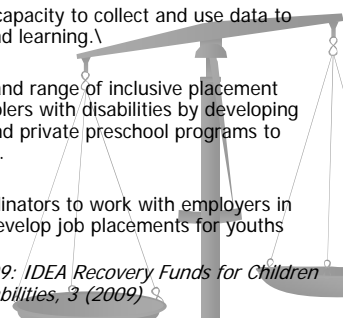
- Obtain state of the art assistive technology devices and provide training in their use to enhance access to the general curriculum for students with disabilities.
- Provide intensive district wide professional development for special education and regular education teachers that focuses on scaling up, through replication, proven and innovative evidence based school wide strategies in reading, math, writing and science, and **positive behavioral supports** to improve outcomes for students with disabilities.



U.S.DOE Guidelines for ARRA IDEA Funds

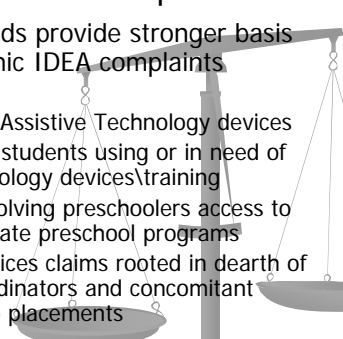
- Develop or expand capacity to collect and use data to improve teaching and learning.
- Expand availability and range of inclusive placement options for preschoolers with disabilities by developing capacity of public and private preschool programs to serve these children.
- Hire transition coordinators to work with employers in the community to develop job placements for youths with disabilities.

U.S.DOE, ARRA of 2009: IDEA Recovery Funds for Children and Youth with Disabilities, 3 (2009)



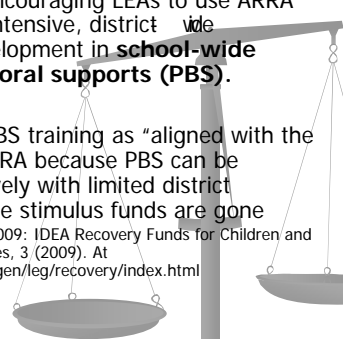
ARRA and Systemic Administrative Complaints

- ARRA IDEA funds provide stronger basis to press systemic IDEA complaints involving:
 - LEA denials of Assistive Technology devices
 - LRE claims for students using or in need of assistive technology devices\training
 - LRE claims involving preschoolers access to public and private preschool programs
 - Transition services claims rooted in dearth of transition coordinators and concomitant community job placements



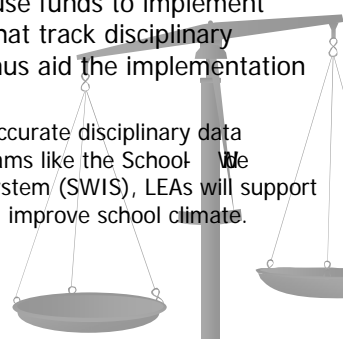
ARRA IDEA Funds and PBS

- The US DOE is encouraging LEAs to use ARRA IDEA Funds for intensive, district ~~wide~~ professional development in **school-wide positive behavioral supports (PBS)**.
- U.S.DOE views PBS training as “aligned with the core goals” of ARRA because PBS can be sustained effectively with limited district oversight once the stimulus funds are gone
 - U.S.DOE, ARRA of 2009: IDEA Recovery Funds for Children and Youth with Disabilities, 3 (2009). At www.ed.gov/policy/gen/leg/recovery/index.html



ARRA IDEA Funds and PBS

- LEAs can also use funds to implement data systems that track disciplinary referrals and thus aid the implementation of PBS
 - By collecting accurate disciplinary data through programs like the School ~~Wide~~ Information System (SWIS), LEAs will support instruction and improve school climate.



All Systemic Complaints, LDE
Investigation Reports and
Settlement Agreements Available
at:
www.splcenter.org

A graphic of a pair of scales of justice, with a central vertical post and a horizontal beam. Two pans are suspended from the beam by thin wires. The scales are rendered in a simple, grey-toned style.
