



# Quick Guide to Special Education Dispute Resolution Processes for Parents of Children & Youth (Ages 3-21)

*This guide is not intended to interpret, modify, or replace any IDEA Part B procedural safeguards or requirements of federal or state law. State regulations associated with these processes vary widely. Parents are encouraged to contact their state educational agency or parent center for more information.*

Processes	IEP Facilitation <i>Not required by the IDEA; availability varies by state</i>	Mediation	Resolution Meeting	Written State Complaint	Due Process Complaint/ Hearing Request	Expedited Hearing Request & Resolution Meeting
<b>How the Processes Differ</b>	An optional early resolution process where an impartial facilitator assists the IEP team with communication and problem solving.	A voluntary process that brings people together with a mediator, who helps them communicate with each other and resolve their disagreements.	A meeting that takes place after a parent files a due process complaint/hearing request but before a due process hearing takes place.	A written document used to communicate that a public agency (e.g., school district) has not followed the IDEA, and to request an investigation.	A process used to resolve a formal complaint made by a parent or public agency (e.g., school district), who are together referred to as "the parties."	A special type of due process complaint/hearing request available only in certain situations that relate to a student's discipline and placement.
<b>What Issues &amp; When Used</b>	Used when a parent and school district are unable to agree on important issues related to a child's IEP, or when a meeting is expected to address complex issues or be controversial.	Available anytime there is a disagreement between parents and educators about special education and/or related services.	Used to resolve issues listed in a due process complaint/hearing request.  The meeting must occur unless the parent and school district agree in writing not to have the meeting, or to use the mediation process instead.	Available anytime there is a concern about a particular child or an issue that affects children system-wide.	Used to resolve disagreements relating to the identification, evaluation, educational placement or provision of a free, appropriate public education (FAPE) to a child who needs or is suspected of needing special education and related services.	Used when parents disagree with a school district's discipline-related decision that affects their child's placement, or whether the child's behavior is related to his or her disability.  A school district may use this process if it believes that a child's behavior could be dangerous to the child or others.
<b>Who Initiates</b>	A parent or school district may request IEP facilitation. A state educational agency may also recommend this, as an alternative to a more formal process.	A parent or school district may request mediation. A state educational agency may also recommend this, as an alternative to a more formal process.	The school district must hold a resolution meeting within 15 <u>calendar</u> days of receiving notice of a parent's due process complaint/hearing request.	Any person or organization may file a written state complaint.	A parent or school district may file a due process complaint/hearing request.	A parent or school district may file an expedited due process complaint/hearing request.
<b>Outcome or Desired Result</b>	An IEP that is supported by the team members and benefits the child.	A signed, legally enforceable, written agreement.	A signed, legally enforceable, written agreement that resolves issues listed in the due process complaint/hearing request.	A written decision that includes findings and conclusions, and lists reasons for the final decision. Must also include actions required to address the needs of the child or children related to the complaint.	A written decision with findings of fact and conclusions of law, which may order specific activities to be carried out.	A written decision with findings of fact and conclusions of law, which may order the child to be provided with a specific educational placement.
<b>Process Distinctions</b>	IEP facilitation is an early dispute resolution option that is not required by the IDEA.  IEP facilitation allows all members of the team the chance to participate fully, since the facilitator serves as the meeting leader.	Mediation discussions are confidential.  Mediation is a flexible process – participants may influence the process, and ultimately determine the outcome.	Resolution meetings only occur after a due process complaint/hearing request is filed.  The resolution meeting occurs unless the parent and school district both agree in writing not to have the meeting, or go to mediation instead.	This is the only dispute resolution option open to any person or organization, including those unrelated to the child.  The final decision may include corrective actions that are child-specific or relate to system-wide issues.	A formal record of the hearing (a written or electronic transcript) must be made and provided to the parent.  The decision is appealable in state or federal court.  The prevailing party may attempt to recover attorneys' fees in a separate court action.	See <i>Due Process Complaint/Hearing Request</i>  ←
<b>Benefits</b>	May build and improve relationships among IEP team members.  Sometimes, team members feel better heard when a facilitator is involved.  Can help resolve disagreements more quickly than other options.  Keeps decision-making with team members who know the child best.  The IEP team may work together more effectively and efficiently.	Discussions are confidential – what is said in mediation can't be used as evidence in a due process hearing or civil lawsuit.  A more flexible, less adversarial alternative to other dispute resolution options, like due process complaints/hearing requests.  Sometimes, participants work with the mediator to design the process; in some cases, they may be allowed to select the mediator together.  Can help resolve disagreements more quickly than other options.	Provides a chance for the parent and school district to work together to resolve issues prior to a due process hearing.  Keeps decision-making with the parent and school district who know the child.  The school district may only bring an attorney to the resolution meeting if the parent chooses to bring an attorney.  The parent or school district may cancel a resolution agreement within 3 <u>business</u> days of the agreement being signed.	A written decision must be issued no later than 60 <u>calendar</u> days after the complaint was received, unless the timeline is extended.  A written state complaint is relatively easy to file.	From the date that the complaint is filed until the decision is final, your child stays in his or her current educational placement, unless you and the school district agree otherwise – this is called "pendency" or "stay-put."  The decision is legally binding on the parties.  The state educational agency is responsible for ensuring the decision is followed, unless it is appealed.	This process is intended to quickly address decisions concerning a student's discipline and placement.
<b>Considerations</b>	Parents and the school district must agree to use IEP facilitation.  For the process to be successful, everyone at the meeting needs to respect the role of the facilitator and be willing to participate.  The facilitator typically does not address issues unrelated to the IEP.	Mediation is voluntary, so the parent and school district must both agree to participate.  Whether there is resolution of the issues, or an agreement is created, depends upon the participants.  Complex situations may require multiple mediation sessions to come to agreement. There is no guarantee that a written agreement will be created.	Discussions at the resolution meeting are not confidential, and you cannot be required to sign a confidentiality form to participate in the meeting.  Parents and the school district may choose to sign a confidentiality agreement or include it in a resolution agreement.	The person or organization filing the complaint must provide facts to support the problems listed in their complaint.  This process does not require those involved to try resolving the dispute collaboratively. Mediation remains available anytime.  The IDEA does not require states to offer an appeal process for the written decision— <i>check with your state educational agency for options that may be available.</i>	The decision is made by a hearing officer or administrative law judge who is not involved in the child's education.  The decision is legally binding, even if you disagree with the outcome.  If a decision is appealed, it may not be carried out until the appeal is final.  School districts are typically represented by attorneys. If a parent hires an attorney, it is at their own expense.	The expedited hearing timeline is based on <u>school</u> days, and the resolution meeting period is based on <u>calendar</u> days.  It is important to keep timeline differences in mind, especially during or close to times when school is not in session, such as vacations and extended breaks.  The resolution period, hearing, and decision timelines cannot be extended.

Processes	IEP Facilitation <i>Not required by the IDEA; availability varies by state</i>	Mediation	Resolution Meeting	Written State Complaint	Due Process Complaint/ Hearing Request	Expedited Hearing Request & Resolution Meeting
<b>Decision-maker</b>	The IEP team.	Participants work on solutions together and are in control of the outcome.	The parents and school district identify the terms of any agreement.	The state is responsible for ensuring that an investigation is done, if necessary, and a decision is made about the complaint.	A hearing officer or administrative law judge makes the decision. If the decision is appealed, a judge makes the decision.	See <i>Due Process Complaint/Hearing Request</i> ←
<b>Role of Third Party</b>	A <u>facilitator</u> typically: <ul style="list-style-type: none"> <li>Helps team members develop ground rules and an agenda for the meeting.</li> <li>Guides discussion by asking child-focused questions.</li> <li>Keeps the team on task and the meeting on schedule.</li> <li>Asks questions to clarify points of agreement and disagreement, and help identify workable solutions.</li> <li>Does not make decisions or determine if team members are right or wrong.</li> </ul>	A <u>mediator</u> typically: <ul style="list-style-type: none"> <li>Helps participants develop ground rules for the session.</li> <li>Creates a safe environment and encourages participants to be respectful of other points of view.</li> <li>Guides discussion by listening, identifying interests, and clarifying concerns.</li> <li>Does not make decisions.</li> <li>Is knowledgeable of laws relating to special education and related services.</li> </ul>	The IDEA does not include a third party for resolution meetings.  <i>Some states may provide facilitators for resolution meetings if requested by the parent and school district, although this is not required.</i>	An <u>investigator</u> : <ul style="list-style-type: none"> <li>Reviews information related to the complaint.</li> <li>May interview or meet with people related to the complaint.</li> <li>Makes findings and a determination based on applicable law.</li> </ul>	The <u>hearing officer or administrative law judge</u> : <ul style="list-style-type: none"> <li>Oversees the hearing timeline, including all pre-hearing activities.</li> <li>Conducts the hearing and manages procedural matters.</li> <li>Uses applicable law to write a decision based on evidence and testimony presented at the hearing.</li> <li>May dismiss the complaint if the issues are resolved before the hearing.</li> </ul>	See <i>Due Process Complaint/Hearing Request</i> ←
<b>Time Frame</b>	No specific timeline.  Meetings may be scheduled within a few days or weeks of a request being received.	Available at any time, even if a due process complaint/hearing request or written state complaint has already been filed.  Must be scheduled in a timely manner.	If the requirement is not waived, or mediation is not used, a resolution meeting must take place within 15 <u>calendar</u> days of the filing of a due process complaint/hearing request.  A parent may ask the hearing officer or administrative law judge to start the hearing timeline if the school district does not hold the resolution meeting on time.  The parties have up to 30 <u>calendar</u> days to work on a resolution prior to the hearing timeline. The hearing officer or administrative law judge may extend this period at the request of the parties.	Under the IDEA, written state complaints must be filed within 1 year of the date when the individual knew or should have known of the problem.  The written decision must be issued no later than 60 <u>calendar</u> days from the date the complaint was filed, unless the timeline is extended.	Under the IDEA, due process complaints must be filed within 2 years of the date when a party knew or should have known of the problem.  The written decision must be issued within 45 <u>calendar</u> days from the end of the resolution period, unless a party requests a specific extension of the timeline.	A resolution meeting must occur within 7 <u>calendar</u> days, unless the parties agree in writing not to have the meeting, or use mediation instead.  The hearing timeline proceeds if the issue is not resolved within 15 <u>calendar</u> days.  The hearing must be held within 20 <u>school</u> days of the request being filed.  The decision must be issued within 10 <u>school</u> days of the hearing.
<b>Financial Cost/ Who Pays</b>	Typically, there is no cost to the parent – the meeting is provided at public expense.	No cost to the parent – the mediator and facilities are provided at public expense.	No cost to the parent – the meeting is provided at public expense.	No cost to the complainant – the investigation and decision are provided at public expense.	The hearing, hearing officer or administrative law judge, facilities, and decision are provided at public expense.  Each party pays its own expenses, which may include attorneys' fees and witnesses.	See <i>Due Process Complaint/Hearing Request</i> ←
<b>Impact on Relationships</b>	Having a facilitator present at IEP meetings can help team members problem-solve together more effectively.  Better communication and improved relationships often result from facilitated IEP meetings.	A mediator may help participants problem-solve more effectively.  A successful mediation can help improve the school-family relationship.	Resolution meetings give parents and school districts an opportunity to resolve issues without going to a hearing.  Where available, using a facilitator to guide discussion and problem-solve may result in better communication.	This process does not focus on relationships.	Due process is considered the most adversarial dispute resolution process.	See <i>Due Process Complaint/Hearing Request</i> ←
<b>How to Prepare</b>  <i>Additional resources are available on the CADRE Website</i>	It may be helpful to: <ul style="list-style-type: none"> <li>Make a list of the issues you want to discuss and questions you want to ask.</li> <li>Think about what is most important to your child and his or her needs.</li> <li>Be willing to listen and carefully consider others' ideas.</li> <li>Organize documents, put dates and notes on them, and bring extra copies.</li> <li>Bring materials that may be helpful to explain or inform others.</li> <li>Think about how you plan to deal with emotions during the meeting.</li> <li>Arrive a little before the meeting, so you have time to get ready to participate.</li> </ul>	It may be helpful to: <ul style="list-style-type: none"> <li>Identify issues you want to discuss during the mediation.</li> <li>Make a list of your child's needs and questions you want to ask.</li> <li>Think of questions that others might ask and write down possible responses.</li> <li>Organize documents, put dates and notes on them, and bring extra copies.</li> <li>Bring materials that may be helpful to explain or inform others.</li> <li>Be willing to listen and carefully consider others' ideas, as well as possible solutions.</li> <li>Think about how you plan to deal with emotions during the meeting.</li> </ul>	It may be helpful to: <ul style="list-style-type: none"> <li>Bring a copy of the due process complaint/hearing request and other materials that may be useful to you.</li> <li>Make a list of your child's needs.</li> <li>Organize materials, including dates and notes on documents.</li> <li>Consider all possible solutions to the problem.</li> <li>Think about how you plan to deal with emotions during the meeting, and try to stay optimistic.</li> <li>Consider asking someone to go to the meeting with you, to help you stay positively focused.</li> </ul>	A complainant should: <ul style="list-style-type: none"> <li>Include information to support the problems identified when the complaint is filed.</li> <li>Follow state requirements for filing the complaint. (For example, some states require an original, signed complaint.)</li> <li>Provide the school district with a copy of the complaint.</li> <li>Respond to all requests for more information about the complaint in a timely manner.</li> <li>Review the school district's response to the complaint and, if appropriate, provide additional information according to the state's guidelines.</li> </ul>	Considerable preparation is needed to present a case adequately.  Parties should be prepared to do the following for a hearing: <ul style="list-style-type: none"> <li>Gather and submit evidence.</li> <li>Prepare testimony, witness lists, and other hearing documents.</li> <li>Question and cross-examine witnesses.</li> </ul> Parties choose whether to hire or consult with an attorney. A person who is not represented by an attorney may be referred to as appearing "pro se." This is a Latin term that means the person represents himself or herself in the legal proceeding.	See <i>Due Process Complaint/Hearing Request</i>

CADRE produced this document under U.S. Department of Education Office of Special Education Programs Cooperative Agreement No. H326X130001. Tina Diamond, Ph.D., served as the project officer. The views expressed herein do not necessarily represent the positions or policies of the U.S. Department of Education. No official endorsement by the U.S. Department of Education of any product, commodity, service, or enterprise mentioned in this publication is intended or should be inferred. This product is public domain. Authorization to reproduce it in whole or part is granted. While permission to reprint this publication is not necessary, the citation should be: CADRE (2015). *CADRE Quick Guide to Special Education Dispute Resolution Processes for Parents of Children & Youth (Ages 3-21)*, Eugene, Oregon, CADRE. Publication Date: January 2015.

