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*Statewide Parent
Advocacy Network*

The Role of Parent Centers in Helping Parents Prepare for the Resolution Session

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The Requirement for a Resolution Session

The Individuals with Disabilities Education Improvement Act of 2004 (IDEA) establishes a new conflict resolution procedure, “the resolution session.” Parents who feel that their child’s educational rights are being violated, or who disagree with the district’s IEP, services, placement, or any other aspect of special education, must file a complaint with the school district (with a copy to the state). The parent must provide the district with information concerning:

- Name, age/grade, school of the student
- Contact information
- Area(s) of concern
- Facts of the situation
- Proposed solution

The district must then decide to:

- File a response within 10 days of receipt of the parent’s complaint, and schedule a “resolution session;”
- File a response within 10 days of receipt of the parent’s complaint, and agree to let the due process hearing go forward without a resolution session; or
- Notify the parent and the state hearing officer within 15 days of receipt of the parent’s complaint that they are challenging the sufficiency of the parent’s complaint notice.

Conducting the Resolution Session

If the district decides to conduct a resolution session, the parent and the district meet to try to resolve the problem. The school district must convene the meeting with the parents and relevant members of the IEP team within 15 days of when the school district receives the parent’s due process complaint. The school district has 30 days from the time the complaint is filed to resolve the complaint to the satisfaction of the parents, after which a due process hearing can occur. If the parent does not bring an attorney to the resolution session, the district may not bring an attorney. (Parents may not be reimbursed for attorney’s fees from a resolution session). IDEA does not specify who must attend the resolution session, except that someone who is authorized to enter into an agreement with the parent must attend.

If the district and the parent come to a resolution, their agreement is written and signed by both parties. Either side has the right to change their mind within 3 days after the agreement is signed.

If the district and the parent do not come to a resolution, the parent can proceed to the due process hearing. The impartial hearing officer must issue a decision within 45 days from the parent’s request for a hearing.

Proceeding with the Due Process Hearing without a Resolution Session

The parent and the district may agree that a resolution session would not be productive and to let the hearing proceed. At this point, the hearing would proceed and a decision should be reached within 45 days of the state's receipt of the parent's request for a hearing.

Alleging that Notice is Insufficient

The district may allege that the parent's notice does not meet the legal requirements set forth in IDEA 2004. The district must formally declare that the notice is insufficient within 15 days of receipt of the parent's request. The impartial hearing officer then has 5 days to review the notice, the district's objection to the notice, and to issue a determination on the complaint's legal sufficiency.

If the hearing officer determines that the notice is *sufficient*, the district must respond to the complaint within 10 days, and offer to conduct a resolution session. (See ***Conducting the Resolution Session***, above).¹ If the hearing officer determines that the notice is *insufficient*, the parent must amend the complaint and resubmit it. The timeline then starts all over again.

How can Parent Centers help parents regarding the resolution session?

Filing a "legally sufficient" complaint

1. Work with your state to develop easy-to-use, "fill in the blanks" forms for families to use when filing a complaint with their district. Make sure the form elicits from the family information on each required component of the complaint. Provide easy-to-understand, step-by-step instructions for completing the complaint form as a part of the form itself. Once the form and instructions are developed, pilot them with diverse families to ensure that they are appropriate for families from diverse backgrounds, languages, etc. If your state will not work with you to develop the form and instructions, develop them yourself, and disseminate them widely to families as part of your Basic Rights manual and all your workshops. Make sure the form and instructions are in multiple languages.²
2. Develop a "Complaint Guide" that contains some of the most common concerns, cites the relevant sections of federal and state law and regulation, and gives examples of how parents might write their concerns and suggested resolution. By citing directly to the law, parents are notifying the district of the specific violations that they are alleging. Citing to the law also helps parents think about exactly why they disagree with what is happening, and identify what they would like to see happen to resolve their concerns.

¹ The statute is actually silent as to the timeline for responding to the parental complaint and holding the resolution session if the district challenges the sufficiency of the parent's complaint notice. It is likely, however, that the regulations will interpret the statute as allowing the district to start the timeline as of the date that the parent's complaint is determined to be legally "sufficient."

² Parents should be able to submit a complaint in their own language, although the statute doesn't specify this.

3. Offer telephone or in-person technical assistance to families regarding how to complete the complaint so that it is “legally sufficient.” Help the family talk through their concerns. Why do they feel that their child’s program or placement is not appropriate? What kind of “evidence” or facts do they have to support their position? What would they like to see happen differently? Issues can be divided into three main categories:

- a. *Clear violations of the law regarding services to the child:* For example, the child’s IEP may not be being implemented. The IEP requires three sessions of speech each week, but only two sessions are being provided, or the child hasn’t had speech services in a month. In this case, the complaint should state the specific section of the law that the parent feels is being violated and the evidence that they have to support their position. Any evidence directly from the district is particularly useful.
- b. *Disagreement regarding whether or not their child is receiving a “free, appropriate public education in the least restrictive environment.”* For example, the parents may want their child to be educated in the inclusive classroom, but the district is insisting that the child be educated in a self-contained classroom with little or no opportunity to interact with non-disabled peers. In this case, the complaint should cite the relevant section of the law, information on the research-base (i.e., research that students with disabilities generally receive a better education in an inclusive setting), any documentation from professionals that supports their contention, and their proposed solution.
- c. *Allegations that the district has violated the parent’s procedural safeguards.* For example, the parent may be concerned because they have not received a copy of their child’s IEP even though the IEP is allegedly being implemented and they have requested a copy. In this case, the parent should cite the relevant section of the law, the facts that support their allegation, and their proposed resolution. Note: This is the type of allegation that is most likely to be resolved through the resolution session.

Preparing for the Resolution Session

1. Listen to the parent’s story.
2. Help the parent identify:
 - a. What are the facts of the situation? What happened that should not have happened? What didn’t happen that should have happened?
 - b. What is the relevant law that relates to the facts?
 - c. How can the law be applied to the facts?
 - d. What is the parent’s proposed solution? What is the parent willing to settle for?
3. Help the parent plan and walk through their presentation of their complaint at the resolution session:
 - a. The parent should start out stating positively what their child’s IEP requires, or what they believe their child needs for a free, appropriate public education, as well as any evidence or documentation that they have to support their contention.

- b. The parent should then state what is actually happening and any “evidence” they have to support their allegations.
 - c. The parent should then identify the sections of the law that they believe are being violated and provide any documentary or other “evidence” of the violation.
 - d. The parent should close the presentation of their complaint with their proposed solution. Make sure the parent understands that they should not present their “fall back” position until after a complete and thorough discussion with the district, and a consideration of what the district is offering, as well as an analysis of the benefits and drawbacks of compromising.
4. Talk with the parent about what the district might say in response to their complaint.
 5. Help the parent identify their possible responses to the district’s statements.
 6. Talk with the parent about who they might want to bring with them to the session:
 - a. Is there a professional who supports their contention, such as a private service provider, a Boy or Girl Scout or religious education leader, etc.?
 - b. Is there a friend or family member who could accompany them?
 - c. Do they want to bring their child with them to the meeting?
 - d. Do they have difficulty with the English language, limited literacy, or a disability, and therefore need an advocate or someone from the Parent Center to accompany them? (Note: If the parent has limited English proficiency, help the parent request that the district provide an interpreter at the resolution session. If your parent center has the resources, you can offer to accompany the parent to ensure that the interpretation is accurate and doesn’t compromise the parent’s or student’s rights).
 7. Once the parent has a written plan of presentation and response, do a “run through” or “role play” so that the parent has the chance to “practice” their presentation.
 8. If you cannot accompany the parent to the resolution session, see if you can schedule a TA specialist to be available on the phone at the time of the resolution session in case the parent needs to call you because something occurs that she is not prepared for, or because she needs support during the resolution session.
 9. Explain to the parent what will happen at the resolution session in terms of procedure.
 10. Explain to the parent what will happen if resolution is reached or resolution is not reached at the session, including the timeline. Explain other options to the parent, including mediation and request for complaint investigation by the state.

Conducting the Resolution Session

1. Work with your state to develop clear procedures for the resolution session, including providing independent, non-biased facilitation at the resolution session at the request of the parent or the district to make it more likely that the session will result in resolution.

2. Work with your state to develop a training protocol and implement trainings for resolution session facilitators. Ensure that the facilitators who are selected for the program are unbiased. Identify parent center staff to participate in the training program as trainers and as potential facilitators.

3. Train parent volunteers and/or your staff to accompany parents to the resolution session for support, or to be available on the phone during the resolution session. Ensure that they understand:

- a. The law
- b. The resolution session procedures and consequences
- c. How to provide support to the family without substituting their judgment for the family's judgment
- d. How to actively listen (to the family, the district, and other participants)
- e. How to help the family explain their position
- f. How to
- g. Other options for the family and how to access them
- h. How to assist the family to negotiate with the district
- i. How to explain to the family what they are "giving away" if they compromise or "settle" for less than they believe they are entitled to.