

Resolving Disputes in Special Education

OVERVIEW OF OPTIONS

Parents and schools must jointly make decisions about a child's educational program that will have far-reaching consequences after school life is over. This shared responsibility makes conflict inevitable. Disagreements in special education are usually resolved five ways, including informal and formal options, with all having positive and negative aspects. Informal options in Alabama include reviewing the child's Individualized Education Plan (IEP), and holding a Facilitated IEP Team Meeting. Formal options include requesting Mediation, filing a Written State Complaint, and requesting a Due Process Hearing. Let's briefly examine each one, and determine the most appropriate for your child's needs.

IEP REVIEW

Schools are responsible for reviewing the child's IEP at least annually, and revising it as necessary to meet the child's needs. If you have a concern even after the annual IEP review has taken place, contact the case manager or principal at the school and request a meeting to discuss your disagreement. Ask the school to provide you with Prior Written Notice outlining the reasons why the school has decided to provide or deny a service, and the data or rationale used in supporting their decision. You can contact the special education coordinator in your child's school district and notify them of your disagreement with the IEP team. Also, consider contacting the SES regional specialist at the State Department of ED assigned to work with your child's school district. They will gather

information and relay it to the school district so they can address your concerns.

FACILITATED IEP MEETING

Facilitated IEP meetings are an option which allows schools and parents the opportunity to resolve disagreements and preserve the relationship while using good communication skills. Facilitated IEP meetings must be voluntarily agreed to by both parties. After the request is made, a trained impartial facilitator is assigned by the state to maintain open communication and ensure that everyone can fully participate. The facilitator's role is help the team create an agenda and ground rules for the meeting, identify points on which they agree and disagree, encourage parents and professionals to consider new options to address unresolved problems, and guide the discussion by asking student focused questions. Facilitators do not place blame, choose one side or over another, and impose decisions. The goal is to help each side understand the point of view of the other, and in doing so, reach a mutually agreeable decision concerning the student's IEP. There is no cost associated with this option, nor does your participation in it affect your parental rights to consider other forms of dispute resolution.

MEDIATION

Mediation is one common option that parents consider when communication has broken down with the school in determining the child's special education needs. Mediation is voluntary and both parties must agree to participate. Parents, staff from the school district who have authority to



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make decisions, and the mediator must be present. After the request has been received, a trained, impartial mediator is assigned by the state department, and the meeting is held at a place and time convenient for both parents and school. Mediators must be trained communicators, and knowledgeable about special education and related services. This process is less adversarial than other options, and disagreements can be resolved more quickly than traditional litigation procedures. Whether there is a solution of the issues, or an agreement is created depends upon the participants. The mediator does not render a decision, but helps both sides come together willingly to sign a legally enforceable, written agreement. Mediation discussions are confidential and cannot be used as evidence during later actions. Mediation is available at any time, even if a due process complaint or written state complaint has been filed.

WRITTEN STATE COMPLAINT

Written state complaints are used to investigate special education issues. Complaints may concern only your child, or a group of students. Any person or organization may file a complaint, including one from another state. The written complaint must include a statement that the school has not followed a requirement of the federal special education law (IDEA), a list of the violations, facts to support the violation, and proposed resolutions to the issues. The written complaint must be made within one year of the violation issue. A sample written state complaint letter is available on the state department's website. You must forward

your signed letter to the state department's special education department, and send a copy to the school. Once the state department has reviewed the letter for all required federal components, the 60-day timeline for the complaint has begun, and an investigation is initiated into the allegations made. An on-site investigation team may schedule a visit to the school for clarification or additional information. The school will be given a chance to respond to your allegations, and you will have the opportunity to submit additional information that relates to. Mediation can be requested at any time during the state complaint process which will extend the 60-day deadline. After reviewing all relevant information, the state department makes a decision as to whether the school violated the child's rights. The investigation report will contain a summary of the issues, responses, findings, conclusions, and if required, corrective actions the school must take to address the needs of the child or group of children involved in the complaint. Corrective actions are monitored by the state department and expected to be completed. There is no appeal process for written state complaints, but parents may exercise their rights to use other due process options.

DUE PROCESS

When less formal options have been unsuccessful, a parent or a school district may file a due process complaint/hearing request which is 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



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education and related services. Filing a due process complaint involves a written document which starts a 30 day resolution phase where involved parties are given opportunities for settlement using mediation or resolution. If no resolution is reached, the timeline for the due process hearing begins. This is a formal hearing where an impartial hearing officer looks at the evidence, calls witnesses, listens to oral arguments and decides the outcome. Keep in mind that due process is considered the most adversarial, and least collaborative dispute resolution option, and may damage the working relationship between schools and parents. A hearing officer who doesn't know your child makes the decision, compared to mediation or resolution where a solution is reached by you and school staff who know your child best. It is strongly suggested that parents have an attorney specializing in special education law to represent them.

FOR ADDITIONAL INFORMATION

If you need additional information about these dispute resolution options, visit these websites:

Ala Department Education, Special Education Services, Dispute Resolution

www.alsde.edu/sec/ses

Center for Appropriate Dispute Resolution in Special Education

www.cadnetworks.org

U.S. Department of Education, IDEA

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

APEC IS HERE TO HELP

APEC provides free training, information, and consultation to families. Visit our training calendar for more information about learning opportunities at www.alabamaparentcenter.com or call our center.

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YOUR OPINION IS IMPORTANT

Your opinion matters. Please take a few moments to tell us what you think by completing a short survey about this sheet or other services of the AL-PTI. <https://www.surveymonkey.com/r/ALPTI>



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