

DESCRIPTION OF OPTIONS TO RESOLVE DISPUTES

Outlined below is a brief overview of the formal options available for resolving disagreements. A complete description is contained in “Guidelines for Procedural Safeguards in the New Jersey Early Intervention System” and the booklet, “Family Rights in the New Jersey Early Intervention System.”

Mediation is an opportunity for parents and professionals to work out their disagreements with a trained, impartial facilitator. The mediation process is non-adversarial and is a means to resolve disagreements to the mutual satisfaction of all parties. Any parent, or with the consent of the parent, the parent’s representative, the service coordinator, a service provider, or the REIC, may request mediation to resolve disputes regarding identification, evaluation and assessment, eligibility determination, placement, or the provision of appropriate early intervention services for an individual child or family. *Parents may not be forced to participation in a mediation.* A parent may request mediation in addition to filing a request for an impartial hearing or a request for resolution of a complaint. The mediation, including issuance of a written mediation agreement, must be completed within 30 calendar days of the receipt of the request for mediation, unless the mediation was requested as part of a due process hearing or complaint investigation. In that case, the mediation must be completed within 15 calendar days to ensure adequate time for completion of the due process hearing or complaint investigation. If the parent is not satisfied with the results of the mediation, s/he may request an impartial due process hearing and/or file an administrative complaint.

An Impartial Due Process hearing is a forum for parents/guardians to resolve disagreements regarding identification, evaluation and assessment, eligibility determination, placement, and/or the provision of appropriate early intervention services for an individual child or family. Any parent, or with the consent of the parent, the parent’s representative may request an impartial hearing before an impartial hearing panel. A parent may request an impartial hearing in addition to requesting mediation or filing a complaint. The facts must be heard by impartial persons, who render written decisions based on a consideration of the law and facts within 30 calendar days of receipt of the request for a hearing. Any party that disagrees with the written decision may appeal the decision to state or federal court.

An Administrative Complaint is a request for the Procedural Safeguards Office to investigate allegations that an early intervention program, service provider, service coordinator, REIC, or the NJ Department of Health and Senior Services, or any other state agency involved in the early intervention system, is violating or has violated a requirement of federal or state early intervention law, regulations, or guidelines. Any parent or the parent’s representative, other individual, or organization, including an individual or organization from another state, may file a complaint with the Procedural Safeguards Office. The complaint may allege a violation concerning an individual child or the child’s family, or may be directed against a policy, pattern or practice that is alleged to be a violation. Any individual filing a complaint may request that their identity be kept confidential. The Procedural Safeguards Office will notify the individual if it is not possible to investigate the complaint while maintaining confidentiality of the complainant’s identity. When a complaint is filed, the Procedural Safeguards Office must decide whether the complaint alleges that a violation of law has occurred, and whether or not the Office will conduct an on-site investigation. A final resolution of the complaint must be issued no later than 60 calendar days from receipt of the complaint. If a written complaint is received that is also the subject of an impartial due process hearing, or contains multiple issues, of which one or more are part of that hearing, the Office must set aside any part of the complaint that is being addressed in the hearing until the conclusion of the hearing. However, any issue in the complaint that is not part of the due process action must be resolved within the 60-calendar day timeline. If the complainant(s) disagree with the final resolution, they may file a request for an impartial hearing and then an appeal with federal or state court.