

DESCRIPTION OF OPTIONS TO RESOLVE DISPUTES

Outlined below is a brief overview of the formal options available for resolving disagreements under the Individuals with Disabilities Education Act (IDEA).

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 representative of the district in a special education case, or the representative of the early intervention system, 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. A district may request a hearing to get permission from the hearing officer to evaluate a child if the parent has refused consent, or to prove that their evaluation was appropriate and comprehensive if the parent has requested an independent evaluation at district expense. Before moving forward with the hearing, there is an opportunity for a resolution session to resolve the issues. Unless both parties agree not to have the resolution session, or the parties have mediation, the resolution session should be held within 15 days of receipt of the request for a hearing. There are 15 days after the resolution session for the issues to be resolved. If the issues are not resolved at that time, then the hearing moves forward. The facts must be heard by an impartial person, who renders written decisions based on a consideration of the law and facts within 45 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 state lead agency to investigate allegations that a state or local agency responsible for implementing IDEA (early intervention or special education) is violating or has violated a requirement of federal or state 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 an administrative complaint (also known as a request for complaint investigation). 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 state lead agency will notify the individual if it is not possible to investigate the complaint while maintaining confidentiality. The state lead agency must decide whether the complaint alleges that a violation of law has occurred, and whether or not they 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 lead agency 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.