

At ASK we routinely receive calls from tired, frustrated and overwhelmed parents who say, “I can’t get the school district to give my child what he needs. I just want to sue somebody!” While we sympathize with those feelings, we have learned through our experience with hundreds of parents and children that “suing” somebody is usually not a productive way to resolve differences and can actually be counterproductive to what the parent really wants for their child. There are circumstances where legal action may become necessary as a last resort, but there are many alternative methods of conflict resolution that parents can and should try before reaching that point.

Building Solutions

You may have heard the saying, “If you aren’t part of the solution, then you are part of the problem.” For alternative methods of conflict resolution to be truly successful, we all need to make a conscious effort to be part of the solution.

It might help to think about conflict resolution as a series of activities that start with a solid foundation and, like a pyramid, build to a peak. To be most successful, everyone should be working together to resolve differences at each level.

Most conflicts never reach the upper levels of the pyramid because they can be settled informally. If this model is followed, those disagreements that go through each level and still remain unresolved at the top will be few and far between. You can use any of the levels you feel is most appropriate, just know that if you start with a higher level of resolution, it is much more difficult to move back to the lower level processes.

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Level 1: Relationships

The most important way to prevent unnecessary conflict is to establish a solid working relationship between parents and educators—and do it before there are problems. If you have established a cordial relationship through routine contacts to talk about ordinary matters (homework assignments, field trips, etc.), you have a firm basis for working together to tackle more complex matters that may arise.

Level 2: Communication

Use those natural lines of communication, based on solid working relationships with educators, to present and resolve any minor issues of concern. Do your best to strike a good balance—don’t knit-pick or try to micro-manage, but don’t save up so many small problems that they turn into a big one.

The method of communication you choose may have an impact on how your message is received, so choose your method of communication to match your message. Minor issues can easily be communicated with a brief phone conversation or email, but don’t rely on that for important messages.

If it is a matter of importance to you, write a

formal letter (not an email) to the teacher, the administrator, or other educator, and if you expect a written reply, ask for it in your letter. Don't overwhelm them or demand an immediate response. Weigh the relative importance of your concerns and think about how to keep the communications short and to the point.

Level 3: The IEP Process

Your child's IEP meetings may be the single best opportunity to resolve disagreements before they go any further. The IEP team should include all the people with a meaningful role in the student's education and they should all be focused on the strengths and needs of that particular student. The reality is that lots of other considerations (whether openly discussed or not) can enter into the decision making process, but focus on the student and a collaborative problem solving process should be the main goal for the IEP Team.

Parents or educators can suggest any changes to the IEP that they think are appropriate for the student during the meeting for the team to discuss. Bring any supporting evidence from doctor's reports or evidence-based practices, which must be considered by the team. If the team is unable to reach an agreement, parents can ask for a Prior Written Notice (PWN) of the proposed or refused action. The PWN is the school's legal justification for a decision and will state the date that the change will occur. Parents can appeal the decision in writing if they want to challenge the decision. Requesting a PWN lets the team know that this is an issue that you feel strongly about and helps parents understand what the school has based that decision on.

Level 4: Informal Problem-Solving

When a problem or difference of opinion arises—either during the IEP process or on the course of day-to-day activities—parents can always request a problem-solving meeting. A short conference with the teacher may be sufficient, or it may be necessary to reconvene all or part of the IEP team to work things out.

If you have not been able to successfully resolve

the differences within the IEP process, and more structure is needed, your school district may have an internal plan for local conflict resolution, or they may utilize the Resolution Facilitator process. A "Resolution Facilitator" is a person from one of the Area Education Agencies (either your AEA or one from outside your area) who is trained in mediation and considered to be neutral to the conflict. Either way, you need to be aware that you have other options to help you resolve problems in collaborative ways.

Level 5: Mediation

Mediation is a meeting between parents and school or AEA officials to try to work out areas of disagreement. A mediator is provided by the Iowa Department of Education to help encourage parents and educators to work together, to communicate better, and find ways to resolve differences cooperatively. The mediator is trained in methods for resolving disputes and is a "neutral" party who listens to both sides, helps them communicate their points of view to each other, and tries to help them reach some agreement. Parents can choose to be represented by an attorney at a mediation session but definitely don't have to. Schools and AEAs may also choose to have legal representation present whether the parent does or not.

Mediation is the most commonly used option that parents have in the formal problem solving process in Iowa. Parents should come prepared with specific requests related to the IEP and any supporting information to the table and be ready to find some ways to come to a compromise.

Level 6: Due Process Hearing

A due process hearing is a legal proceeding in which both parents and school officials present their case to an administrative law judge (an ALJ) designated by the Iowa Department of Education. It is a much more formal process than the mediation, but it is still conducted at the administrative level.

The parties to a due process hearing (the parents, the school district, and the AEA) are

usually represented by their own attorneys. Witnesses give sworn testimony and can be cross-examined.

Records and other evidence are formally introduced and parties can be compelled to produce documents and share them at least five days prior to the hearing. The parties may present legal briefs to support their positions regarding the facts or the legal interpretation questions at issue.

Parents who choose to be represented by an attorney for a due process action will bear the responsibility for the cost. There are provisions in the IDEA (the Individuals with Disabilities Education Act) that allow parents to recover their legal expenses from the school districts and/ or AEA's when the parents "prevail" or win their case. This kind of recovery is by no means automatic. If there are multiple issues in a case, the parents may prevail on some issues, and the school district may prevail on others. If so, the recovery of the attorney fees would be limited to only those issues the parents "won".

In short, there are significant financial costs to a due process action. More importantly, there are significant unintended costs to the relationship between parents and educators. I've heard it said that mediation is like going to a marriage counselor and a due process is like going through a divorce. Often parents who have successfully proved their case and prevailed in a due process action have found the process to be so devastating to their relationship with educators and their comfort level in the district that they chose to move to another school district or open enroll their children in a neighboring district for a fresh start.

Level 7: District Court Action

The IDEA (Individuals with Disabilities Education Act), the federal law governing special education, allows actions in district court to enforce children's educational rights, but is strongly encourages mediation and other means of conflict resolution and it requires that a due process

hearing is held and a decision rendered before the case can go on to district court. If either parents or educators disagree with the due process decision of the administrative law judge, that decision can be appealed to the district court.

Level 8: State Complaint

A State Complaint can be filed with the Iowa Department of Education within one year if parents believe that the school district or AEA has violated the state Special Education rules or law under IDEA. In this process a fact-finding investigation and written conclusion will be completed within 60 days of the complaint. If the investigator concludes that violations have occurred, a plan for corrective action will be issued and evidence of that correction may be required.

Staying on Solid Ground

Next time you are feeling stressed-out and frustrated about your child's educational program, think about this discussion of conflict resolution options and consider whether the best way to solve the problem might be a step back to better communication and encouragement to work collaboratively, rather than a step up to a more contentious level of conflict. The better we all get at sharing concerns and resolving conflicts between parents and educators while they are minor, the better off we all are.

Please contact ASK Resource Center for more information on any of these processes.



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