



Special Education
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**Information about Dispute Resolution
Mechanisms for Special Education Students:
Mediation,
Citizen Complaints
and
Due Process**

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**Office of Superintendent of Public Instruction
Special Education**

**Information about Dispute Resolution Mechanisms for Special Education Students:
Mediation, Citizen Complaints and Due Process**

Parents, including surrogate parents, are important participants in all aspects of their children's special education program. This involvement begins at the initial referral of a student for special education. The Office of Superintendent of Public Instruction (OSPI), Special Education Section always encourages parents and school districts to work together to try to resolve disagreements that affect a student's special education program at the lowest possible level. There will be occasions when a parent or an adult student disagrees with the district's program and does not think that the issues can be resolved through the Individualized Education Program (IEP) team or through communication with school district administrators. There will also be times when a district believes that it is unable to resolve disputes with a parent that involve the district's ability to provide a free appropriate public education (FAPE) to the student. When parents and districts are not able to resolve differences through direct communication, there are more formal dispute resolution options available.

The following information is an overview of the three dispute resolution processes available for students age 3 through 21 under Part B of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA). This information is not a substitute for a parent's [Notice of Procedural Safeguards](#). Changes regarding due process hearings and mediation procedures went into effect on July 1, 2005. More specific information on those changes and all of these dispute resolution processes and other procedural protections for special education students are described in the *Notice of Procedural Safeguards* given to parents by school districts and available on the OSPI, Special Education webpage: <http://www.k12.wa.us/SpecialEd/>.

Note: If you have a dispute under Part C of the IDEA (Early Intervention Services for children ages birth to three), you may obtain information from:

Department of Social and Health Services
Infant Toddler Early Intervention Program
P.O. Box 45201
Olympia, WA 98504-5201
(360) 725-3500
<http://www1.dshs.wa.gov/iteip/>

Mediation

Mediation services are offered by OSPI at no charge to parents or school districts. Mediation is available to help resolve problems that involve the initial identification of a student, evaluations of the student, the educational placement, and the educational services provided to a student (FAPE). An impartial mediator works with the parties to clarify issues, resolve conflicts and develop agreements between the parties, when an agreement is reached. Parents and school districts may invite any participants they believe will assist in the mediation. Mediation is a voluntary process for the parents and districts. Either the district or the parent may refuse to mediate, and there are occasions when parties are not able to reach an agreement. Mediation may not be used to delay or deny rights under IDEA or the right to proceed to a due process hearing. When parties reach an agreement, those agreements are in writing and are enforceable in state and federal courts.

To request mediation, or obtain more information call: Sound Options Mediation and Training Group, L.L.C. at 1-800-692-2540 or (206) 842-2298 (Seattle). Washington State relay service numbers are 1-800-833-6388 (TDD) or 1-800-833-6384 (voice).

Citizen Complaints

Any individual or organization may file a citizen complaint if it believes a school district, another public agency serving special education students, a private agency under contract with a public agency to serve special education students, an educational service district, or the state has violated federal or state laws or regulations implementing IDEA. **The complaint must be in writing and it must be signed.**

The signed complaint **must** include the following information:

- A statement that a public agency has violated a requirement of Part B of IDEA, or corresponding state law or regulation; or, a statement that the school district is not implementing a mediation or resolution agreement.
- The name, address, and telephone number of the person filing the complaint.
- If the complaint involves a specific student, including students who are homeless, the name and contact information for the student.
- The name of the school district. If the complaint is about an agency other than the school district providing special education services, include the name and address of the other agency.
- A description of the problem with the facts supporting the allegations.
- A proposed resolution of the problem to the extent known.

When preparing a complaint it is helpful to include as much information as possible including significant dates and events that may be relevant to the allegations. Although it is not required, a complaint form has been developed to assist individuals or organizations in providing the information needed in order to accurately process complaints. This form may be requested from OSPI, Special Education at (360) 725-6075. It is also available on the special education web site at: www.k12.wa.us/SpecialEd/pubdocs/Citizen_Complaint_Request_Form.pdf.

The citizen complaint should be sent directly to:

Office of Superintendent of Public Instruction
Attn: Special Education
PO Box 47200
Olympia, WA 98504-7200

Signed, written complaints may also be faxed to OSPI, Special Education at (360) 586-0247.

A copy of the complaint **must** be provided to the district or other agency.

After a complaint is received by OSPI, a copy of the complaint, along with any accompanying documentation, is sent to the school district, and the district is asked to respond to the allegations. A copy of the district's response is sent to the complainant and he or she is given an opportunity to reply to the district's response. After investigation, a written decision is issued within 60 days, unless an extension of time is warranted. If the

parent or district needs additional time to address issues raised in the complaint he or she must request an extension and the reasons needed for the extension. If there are violations of either state or federal special education law or regulations, the decision will address measures that are designed to correct both student specific and district systemic violations.

OSPI only investigates allegations of violations under Part B of the IDEA that have occurred in the past year.

OSPI only has authority to investigate issues arising from an allegation of a violation of IDEA, or the regulations that implement IDEA, unless a different statute or regulation requires parties to use a different dispute resolution provision. For example, if a parent is requesting an order placing a student in a private school or residential facility because the parent believes that the district is unable to provide a FAPE, federal special education law as implemented by the state's regulations require that this type of dispute be resolved through a due process hearing.

OSPI also cannot investigate matters that are currently the subject of a due process hearing, or matters that have been previously resolved in a due process administrative hearing decision.

Impartial Due Process Hearings

Both parents and school districts may request an impartial due process hearing involving issues about the identification, evaluation, placement, or provision of a FAPE to a student. The Office of Administrative Hearings (OAH) assigns an independent administrative law judge (ALJ) to conduct the special education due process hearing.

The **original** request for a due process hearing must be provided to the other party. Parents who are requesting a hearing provide the original request for a due process hearing to the superintendent of the school district. A **copy** of the due process hearing request must also be sent to OSPI, Administrative Resource Services:

Office of Superintendent of Public Instruction
Attn: Administrative Resource Services
Old Capitol Building
PO Box 47200
Olympia, WA 98504-7200

A copy of the due process hearing request may also be faxed to Administrative Resource Services at (360) 753-4201.

State and federal regulations require that a request for a due process hearing contain the following written information (which remains confidential):

- The name of the student;
- The address of the residence of the student (or available contact information in the case of a homeless student);
- The name of the school the student is attending;
- A description of the nature of the problem and the facts related to the problem; and
- A proposed resolution of the problem to the extent known and available to the party at the time.

The right to a due process hearing can be denied or delayed if the request does not include all of the information stated above. It is up to the party requesting the hearing to provide proof that the due process hearing request was received. Any issues about whether or when the due process hearing request was received will be determined by the ALJ.

OSPI has developed a hearing request form available for use at http://www.k12.wa.us/SpecialEd/pubdocs/DPH_form.doc. The form may be requested from OSPI, Administrative Resource Services or Special Education, or from the school district. OSPI has also developed written instructions entitled *Procedures and Timelines for Due Process Hearings Under IDEA 2004* that addresses the required procedures for providing the due process hearing request notice to the other party, including timelines before the due process hearing can begin. It is on our webpage: http://www.k12.wa.us/SpecialEd/pubdocs/DPH_Time_Procedures.doc.

Once OSPI receives a hearing request OSPI assigns a cause number and forwards a copy of the hearing request to OAH. OAH appoints an ALJ who sends written confirmation to both parties that addresses the proceedings and timelines for the hearing process.

IDEA 2004 establishes a resolution period after the due process hearing request is provided to the other party. An explanation of the resolution period is provided in the *Interim Notice of Procedural Safeguards* and in the "Resolution Session Information Sheet" available on OSPI's webpage at: http://www.k12.wa.us/SpecialEd/pubdocs/Resolution_Session_Info.doc.

Except for hearings involving discipline, while the due process hearing is pending, a student must remain in his or her present educational placement until the completion of all the proceedings unless the parties agree otherwise. An ALJ must issue a final decision not later than 45 days after the hearing time period begins unless the ALJ grants an extension of time at the request of either party. When a due process hearing request involves disciplinary matters, the due process hearing is expedited. While a hearing involving discipline is pending the student remains in the interim alternative educational setting until the ALJ decision, or the expiration of the disciplinary time period, whichever comes first, unless the parties agree otherwise. Expedited due process hearings must occur within 20 school days from the date the hearing is requested. The ALJ must issue a final decision within 10 school days after the hearing. You may refer to the *Procedures and Timelines for Due Process Hearings Under IDEA 2004* instructions for more information about these timelines.

Both parents and school districts may be accompanied and advised by an attorney and by individuals with special knowledge or training with respect to the problems of children with disabilities. For parents seeking legal assistance, information can be obtained by contacting OSPI, Special Education at (360) 725-6075 or on the special education web site at: www.k12.wa.us/SpecialEd/pubdocs/legal_referral_list.pdf.

OSPI Special Education Staff

Special education staff is available to answer questions from parents, districts and the general public regarding special education issues. In addition, OSPI funds state needs projects to provide information and resources in various areas including autism, sensory disabilities, assistive technology, early childhood, transition, and staff training. Publications containing information about special education and resources are available

on the special education web site at: <http://www.k12.wa.us/specialed/>, email: speced@k12.wa.us or by calling (360) 725-6075, or TTY (360) 586-0126.

This informational resource was developed under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) federal grant and may be reprinted without permission.

This material is available in alternative format upon request. Contact Special Education at 360/725-6075, TTY 360/586-0126, or speced@k12.wa.us. OSPI complies with all federal and state rules and regulations and does not discriminate on the basis of race, color, national origin, sex, disability, age, or marital status.

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