



Evaluative Conciliation Conference (ECC)

A voluntary process for parents and local education agencies seeking an independent assessment of a dispute related to the provision of public education to an exceptional child.

How to Access the Evaluative Conciliation Conference

For individuals seeking to access the ECC process for a dispute related to the provision of a free appropriate public education to a child with a disability or to the provision of gifted education to a gifted student, or to the provision of aids, services and accommodations to a protected handicapped student under Section 504 of the Rehabilitation Act of 1973 they should go to the ODR website (<http://odr-pa.org/alternative-dispute-resolution/evaluative-conciliation-conference>), download and complete the ECC request document. If individuals do not have access to the Internet, they should contact the Special Education ConsultLine (**In Pennsylvania: 800-879-2301 (Toll-Free); Outside Pennsylvania: 717-901-2146**) and request a copy of the form.

Please note that there is a fee for Evaluative Conciliation Conferences for issues pertaining solely to gifted education or aids, services and accommodations under Section 504 of the Rehabilitation Act of 1973. These fees are the responsibility of the LEA.

Receipt of Request

Once the ECC request has been received, a designated individual from ODR will contact the parties to notify them of the request for ECC, provide them with information about the process (including costs pertaining solely to gifted education and Section 504 of the Rehabilitation Act of 1973 conferences), and ascertain if both parties are interested in participating. The ECC process is voluntary and each party has the option to reject participation. Upon receipt of both parties' agreement to submit their dispute to ECC, the ECC consultant will contact them and initiate the conciliation conference process.

What to Expect from the ECC Process

ECC is a three-step process.

Step 1: Confidential Position Paper and Exhibits

First, each party will be required to submit a confidential position paper in which the party summarizes its position on each issue in the case and the key facts that support that position. The party must also include a concrete description of the minimum relief that the party is willing to accept or the maximum relief that the party is willing to give. The paper thus should describe the submitting party's bottom line. Every effort should be made to limit the length of the paper to not more than five, double-spaced pages. Included with this confidential memorandum should be copies of the most important exhibits upon which the party intends to rely in a hearing. The number of exhibits should not exceed ten, unless more are absolutely necessary to enable the consultant to understand the position of the party. Some examples of documents that might be relevant include, but are not limited to, IEPs, initial evaluations, reevaluations, independent evaluations, progress monitoring reports, and report cards. The ECC consultant will provide the parties with a deadline for



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submission of these documents. The parties to ECC are encouraged to submit all documents to the consultant by electronic transmission. Use the following email address for submissions: rosemary.mullaly.esq@gmail.com. If any party does not have access to email or the means to create electronic documents, first class mail is acceptable and should be directed to Rosemary E. Mullaly, P.O. Box 34, Glenside, PA 19038. Kindly call 215-233-4522 to provide notice that the documents will be sent via first class mail. All documents submitted to the consultant will be destroyed at the conclusion of the ECC process. ***The consultant will not share the confidential position paper of one party with the other party***, although key facts and documents provided by one party might be shared with the other as part of the case assessment that the consultant provides during step two of the process.

After reviewing the position papers and documents of each party, the ECC consultant will schedule an initial call with each party. Each party must designate one contact person for the ECC process. The party or legal counsel for the party may be designated as the contact person. At the time of the initial contact by the ECC consultant, the parties should be prepared to designate the contact person. The parties must be prepared to set aside at least one hour to discuss the case during this initial call. During the phone call, the party should be prepared to explain why they should receive the remedy being sought.

Communication with the parties will not take place outside of the contacts scheduled by the ECC consultant unless a party has a scheduling conflict necessitating the rescheduling of a conciliation session. Only good cause changes to the scheduled contacts with the ECC consultant will be considered. The parties must confirm that they will be available at the designated times and dates set aside for the conciliation sessions.

Step 2: Assessment of Case

Second, based on the review of the position papers and exhibits, and possibly on the answers to follow-up questions posed separately to each party, the ECC consultant will provide privately to each party an independent verbal assessment of the strengths and weaknesses of that party's case and will make settlement recommendations. The assessment will contain the opinion of the ECC consultant concerning the merits of the case, the problems with the case, and what each party will have to do to resolve the dispute through mutually agreed upon terms. The ECC consultant will not provide input or legal advice to either party related to the initiation of any legal proceeding that may result from the continued disagreement between the parties.

After the initial assessment of the case, the parties can decide whether they are interested in continued participation in the ECC process or not. If both parties are still interested in the ECC process after receipt of the consultant's assessment, the matter will proceed to negotiated settlement discussions. These settlement discussions will take place by telephone on mutually convenient dates and times. Negotiations could require several hours to conduct, and parties must be available for the duration. Opportunities for individual and group discussion regarding the matter will be possible by conference call. The assessment of the case may be negative and you might not like or agree with the conclusions offered by the ECC consultant. Your disagreement with the ECC consultant cannot be used against



you in any subsequent proceeding. ***Settlement recommendations made by the consultant to one party will not be shared with the other.***

After reviewing the preliminary assessment of the ECC consultant, the parties must provide the ECC consultant with their bottom line demand. If the bottom line figure or offer of one or both parties is not a realistic offer to resolve the matter, the ECC consultant will so notify that party. Be advised that if, in the opinion of the consultant, the bottom line settlement authority of one or both parties remains unrealistic, the consultant may decide not to proceed to the negotiated settlement process.

Step 3: Settlement Negotiations

Third, the ECC consultant will engage the parties on a flexible basis in settlement negotiations. As arranged between the consultant and the parties, these negotiations could involve the parties and the consultant together, each party conferring separately with the consultant, or a combination of these approaches. The purpose of these negotiations would be to resolve as many issues as possible. Once an agreement in principle is reached, the parties will be expected to draft a written settlement agreement reflecting the terms to which they have agreed. Although the ECC consultant will not generally assist in the drafting agreement, he or she can be available to assist the parties with any issues related to its terms or content.

By entering into the ECC process, the parties must acknowledge that the ECC consultant may recommend that a party take what the opposing party has offered. Such a recommendation will be based upon the consultant's assessment of the merits of the case in light of the information shared by the parties. Notwithstanding the value of the ECC consultant's assessment of the dispute, no party is obligated to resolve the matter during the ECC process. During the conciliation session, the ECC consultant may suggest certain compromises that neither party may have thought of or would be satisfied with. No party is mandated to accept the consultant's suggested compromise to resolve the dispute.

Regardless of whether the ECC process results in a settlement, the parties will be required to notify the consultant in writing of the outcome. A form will be provided to the parties for that purpose by the ECC consultant.

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