



Facilitated Resolution Meeting

An Alternative Dispute Resolution

Office of the State Superintendent of Education • Office of Dispute Resolution
810 First Street, NE, 2nd Floor, Washington, D.C. 20002 • (202) 698-3819 • www.osse.dc.gov

Facilitated Resolution is now being offered for all Special Education Due Process Complaints

Introduction

A Facilitated Resolution Meeting (FRM) is a new offering by the Office of the State Superintendent of Education (OSSE) that provides an opportunity for parents and schools to resolve due process complaint issues prior to a due process hearing. Facilitated resolution meetings are a rapidly growing resource designed to assist schools and parents who may be experiencing difficulties in resolving special education disputes. The Office of the State Superintendent of Education has begun offering the opportunity for facilitated resolution whenever a due process complaint is filed. The Office of Dispute Resolution (ODR) is managing this process.

What is a Facilitated Resolution Meeting?

Under IDEA regulation 34 C.F.R. § 300.510, within 15 calendar days of receiving notice of the parent's due process complaint (7 days if expedited), and prior to the initiation of a due process hearing, a school must convene a meeting with the parent and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the due process complaint. The purpose of the meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the school has an opportunity to resolve the dispute. This is called the Resolution Meeting. The OSSE is offering schools and parents an opportunity to benefit from the expertise of a skilled facilitator with knowledge of the law to participate in the meeting to help the parties discuss their positions in a more meaningful way. The presence of a neutral facilitator at the resolution session may produce a more effective discussion and successful outcome.

Benefits

There are numerous benefits to the utilization of a facilitator during the resolution meeting, and the parties should consider inviting a facilitator to the meeting. The benefits include:

- A student-focused conversation, with participants who know the student best, make all decisions rather than a hearing officer.
- Both school personnel and the parent are afforded an opportunity to fully and meaningfully participate in the discussions in a non-confrontational environment.
- Promotes consensus building and open communication, possibly allowing school district personnel and the parent to independently resolve any disputes or disagreements should they arise in the future.
- The school and the parent are spared considerable expense associated with litigation.
- Should a hearing be necessary, the parties may well have narrowed disagreements and clarified points of agreement, which can lead to a more focused, effective and efficient due process hearing.

Can Facilitated Resolution be declined?

Yes, this is an optional service. All parties to the due process complaint will be contacted and must consent to facilitation before a facilitator is assigned. There is no cost to the parties for using a facilitator, and facilitation can increase the likelihood of success, so everyone should give it serious consideration.



Due Process Hearing

Individuals with Disabilities Education Act (IDEA)

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Introduction

A due process hearing is a court-like review process governed by the Individuals with Disabilities Education Act (IDEA). A due process hearing is one of the administrative remedies available to parents and school districts to resolve special education disputes. A due process hearing takes place after a due process complaint is filed. Hearings may be held on behalf of one student or may involve others, as in a class action. In the District of Columbia, due process hearings are presided over by impartial hearing officers whose decisions have the effect of law and are binding upon the parties participating in the hearing. The Office of the State Superintendent of Education's (OSSE's) Office of Dispute Resolution (ODR) oversees the administration of due process hearings.

What is an Impartial Hearing Officer?

In accordance with the law, hearing officers who preside over matters at the Office of Dispute Resolution (ODR) are licensed attorneys who possess the knowledge and ability to conduct a hearing and issue written decisions, as appropriate legal standard practice requires. In the District of Columbia, OSSE uses independent contractors to perform these services. Under IDEA regulation 34 C.F.R. § 300.511(c), impartial hearing officers must possess knowledge of, and the ability to understand the law. Moreover, hearing officers must be impartial. They must not be employees of the state education agency (OSSE), or the local education agency that is involved in the education or care of the child. Similarly, hearing officers must not have a personal or professional interest which conflicts with the hearing officer's objectivity in the hearing. A list of persons who serve as impartial hearing officers is located on our website at: www.osse.dc.gov.

What can I expect in a due process hearing?

Due process hearings are similar to trials, with the hearing officer presiding and acting as a judge. Both the parent(s) and the local education agency may represent themselves or be represented by attorneys. Witnesses are questioned and cross-examined under oath, and documents are admitted into the record for the

hearing officer's consideration. At the conclusion of the hearing, the hearing officer issues a final written decision, which is a legally enforceable document that details next steps for the parents and/or local education agency to follow if the hearing officer determines that the child has been denied a free appropriate public education.

How do I request a due process hearing?

If you are interested in requesting a due process hearing, you can visit our website at www.osse.dc.gov to download a model form for a due process complaint. If you choose not to use the form available on the website, the law requires that a due process complaint include the following: 1) the name of the child, 2) the address of the residence of the child, 3) the name of the school the child is attending, 4) a description of the problem including the facts (you should be as detailed as possible), 5) a proposed resolution of the problem (how you would solve the problem). If the child is homeless, you will need to include any contact information for the child, and the name of the school the child is attending. There is no legal requirement for you to use the form we provide, just be sure to include the information above. Once you've completed documenting your complaint, you must send it to the party whom the complaint is against and file a copy with the Office of Dispute Resolution.



Mediation

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Introduction

Under the Individuals with Disabilities Education Act (IDEA), specifically §§300.506 and 303.431, each public agency must ensure that procedures are established and implemented to allow parents of children with disabilities (Part B of the IDEA) or infants and toddlers with disabilities (Part C of the IDEA) to resolve disputes through a Mediation process. In the District of Columbia, the Office of the State Superintendent of Education (OSSE) through the Office of Dispute Resolution (ODR) administers the IDEA Mediation system for individuals who are interested in resolving their disputes in this manner.

What is Mediation?

Mediation is a confidential voluntary process where the focus is on collaboration and communication to resolve conflicts or disagreements between parents and schools, with emphasis on the student's needs. During Mediation, parties meet with a neutral third party, the Mediator, to discuss their dispute in an attempt to reach a mutually acceptable resolution. This meeting provides an opportunity for each side to express their concerns, discuss the issues, and together come up with an agreement that resolves the disagreements regarding the student's educational program. At any time during the complaint process a request for Mediation can be made.

Who will be a Mediator?

The Mediator is a neutral third party who helps the parties work with each other to resolve the dispute. The Mediator is trained in effective Mediation techniques and in laws and regulations relating to the provision of special education and related services and, for IDEA Part C, the provision of early intervention services. By law, the Mediator is not employed by the school district or the Office of the State Superintendent of Education (OSSE). This neutrality preserves the fairness and integrity of the Mediation system.

Benefits of Mediation

Mediation has proven to be a highly successful method for resolving disputes. Parties are more likely to maintain a cooperative relationship in

the future if the settlement of the dispute is by mutual agreement. Mutual agreements generally result in greater satisfaction for all parties because the parties decide the outcome. Other benefits of Mediation are that it is less formal, less costly, and less time consuming than other dispute resolution processes. Mediation allows parties to come together in a neutral way to discuss areas of disagreement. An independent third person (the Mediator) uses his/her training to apply techniques to:

- Assist parties in explaining their concerns in an open way;
- Enable people to hear and understand each other's concerns;
- Help parties talk about finding solutions to their problems;
- Explore options for addressing the areas in conflict; and
- Improve communication and establish trust as the relationship between the parent/ student and school district continues.

Can Mediation be declined?

Yes. Mediation is voluntary on the part of both parties. While the parties do not have to participate in Mediation, it can be a very successful method of resolving disputes and is offered without cost to the parties - so it is highly recommended.