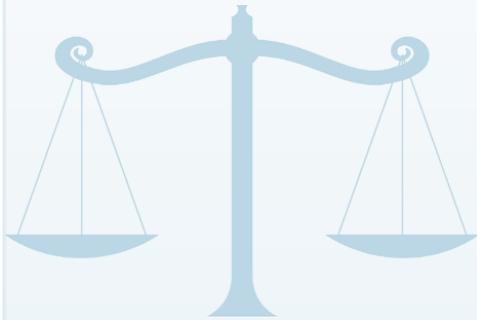


## Due Process & Hearings

A Due Process petition is a legal action filed to obtain a decision by a judge about a special education issue. Due Process cases typically involve disputes between the parent and the school about whether the services provided to the child are proper and allow the child to make progress at school. They can also relate to issues about eligibility or evaluations.

A Due Process petition must be filed by a parent of a special education student, or the student if he or she is 18 or over. School districts can also file Due Process petitions. If the issues are not settled, a court-like hearing will be held. Testimony will be taken from witnesses and a judge will make a decision.



**For more information regarding these rights and procedures, carefully review the NC Procedural Safeguards found at <http://ec.ncpublicschools.gov/parent-resources/parents-rights-handbook>.**

## HELPFUL SUGGESTIONS FOR PARENTS

### ADDRESS AT CLASSROOM LEVEL

- First--Parents should talk to their child's teacher about any questions and/or concerns.
- The teacher should respond to the parent in a timely manner, discuss his/her concern, and decide if an IEP meeting is necessary. The teacher may want to consult with the principal or administrator.

### ADDRESS AT SCHOOL LEVEL

- Second--If the issue continues to be a concern, the parent should contact the principal/administrator at the child's school.
- The principal/administrator should respond to the parent in a timely manner to discuss possible ways to address the concern and decide if an IEP meeting is necessary.

### ADDRESS AT LEA LEVEL

- If the issue is unable to be resolved at the school level, the parent or the principal/administrator should contact the EC Director of the school/district.
- The EC Director should respond to the parent or principal/administrator in a timely manner to discuss his/her concerns, consult with the school regarding the issue, and decide if an IEP meeting is necessary to resolve the dispute.
- If a dispute is unable to be resolved, the parent and the LEA may want to consider if dispute resolution options are appropriate next steps, such as IEP facilitation or mediation.

The Exceptional Children Division's consultants are also able to offer consultation to assist parents, advocates, or school systems, charter schools, or state operated programs personnel who request help with problem-solving.

**Exceptional Children Division**  
6356 Mail Service Center  
Raleigh, NC 27699-6356  
Telephone 919.807.3969 :: Fax 919.807.3243

## DISPUTE RESOLUTION

### Exceptional Children Division



**Public Schools of North Carolina**  
State Board of Education  
Department of Public Instruction



## What is IEP Facilitation?

Individualized Education Program (IEP) facilitation is an optional, informal process of dispute resolution, not required by the Individuals with Disabilities Education Act (IDEA). The state educational agency (SEA) or school district/local education agency (LEA) may provide this option to parents and schools. A facilitated IEP (FIEP) meeting is the same as any other IEP meeting, except that the facilitator organizes a mutually agreeable meeting agenda and helps with communication among team members. The facilitator does not make decisions about the student's IEP. The goal of an FIEP meeting is to develop an IEP that is supported by all team members and benefits the student.

- Families and schools must agree to have a facilitator join an IEP meeting.
- Facilitators maintain open communication and ensure that everyone at the IEP meeting can participate fully.
- If disagreements arise during the meeting, a facilitator can help the team clarify and resolve them.
- Facilitators assist with keeping the focus of the meeting on the mutually agreeable meeting agenda based on the unique needs of the student.

## Mediation

Mediation is available to resolve disputes under the IDEA. Both families and schools have the right to request the Department of Public Instruction to provide mediation services if they are unable to agree upon the identification, evaluation, educational program, placement or the provision of a free appropriate public education (FAPE) of the student.

### *What are the benefits of mediation?*

- Mediation is private and confidential.
- Mediation is a VOLUNTARY process where both the parents and the school have control and ownership over the settlement; nothing is decided unless the parties agree to it. Mediation concentrates on satisfying the interests of each party and provides a win-win resolution for each party and the student.
- Mediation is fast and has a high level of success.
- Mediation is fair and less time consuming than other due process actions.
- Mediation can help to maintain or restore relationships.
- Mediation is free to the parties.

### *When should I consider mediation?*

Parents and schools systems are able to resolve most disputes themselves through discussions with the teacher, exceptional children program director, principal, or superintendent, or at IEP meetings. However, sometimes discussions between the parents and the school personnel break down. When these issues are left unresolved, they can escalate and damage working relationships. Mediation may assist the parties to resolve these disputes before further misunderstandings occur.

## Formal Written Complaint

If a parent disagrees with a decision made by the IEP Team or believes the district is not appropriately serving his or her child, the parent has a right under the IDEA to file a state complaint with the Exceptional Children (EC) Division of the NC Department of Public Instruction (NCDPI).

A state complaint is a written request to NCDPI asking for an investigation of the actions of a school regarding a special education student. It can be filed by a parent or anyone else. A state complaint usually involves a concern that special education requirements were not followed.

For example, a complaint might state that services included on a student's IEP were not provided or that the school did not look at whether a child should get special education services after a parent asked for them. In addition, a complaint may raise an issue of whether an IEP is appropriate to meet the needs of a student. In such cases, NCDPI will look at whether the school followed the law (IDEA 2004) and considered all the relevant information about the student.

Based on the findings, NCDPI will issue a written decision on whether the school violated any rules. If it is determined violations resulted in the denial of a free appropriate public education (FAPE) for the student, NCDPI can require the IEP Team to meet again and reconsider the issues.

***For more information about DISPUTE RESOLUTION, visit our website at <http://ec.ncpublicschools.gov/parent-resources/dispute-resolution>.***