



## The State Special Education Dispute Resolution System: A Comparison of Services Available to Parents and Schools

This guide is intended to provide an overview of options available for resolving disputes arising under federal and state special education law. It is not intended to interpret, modify, or replace any procedural safeguards provided by, or requirements of, federal or state law.

	State IEP Facilitation	Complaint Investigation	Mediation	Due Process Hearing
<b>Purpose</b>	IEP facilitation is used when a parent and a school district cannot agree in an admission, review, and dismissal (ARD) committee meeting on important issues related to a student's individualized education program (IEP) or when a meeting is expected to address difficult issues.	<p>The special education complaints process is used to investigate alleged violations of special education requirements relating to one or more students.</p> <p>Alternate dispute resolution options for a special education complaint include an early resolution proposal, mediation, and TEA-assisted resolution in which a Texas Education Agency (TEA) staff member helps the parties resolve their dispute by phone.</p>	Mediation with the help of a trained mediator may be used any time a parent and a school district cannot agree about a student's special education and/or related services.	<p>A due process hearing is a formal way for parents and school districts to resolve disagreements about a student's special education and/or related services.</p> <p>Alternate dispute resolution options for a due process hearing include mediation, resolution session, and informal settlement agreements between the parties.</p>
<b>Who Initiates and How to Request</b>	<p>The parent and the school sign a form requesting IEP facilitation. The request for an IEP facilitation must be filed within five calendar days of the ARD committee meeting that ended in disagreement.</p> <p>The form to request a state-provided facilitator is at: <a href="https://tea.texas.gov/Academics/Special_Student_Populations/Special_Education/Dispute_Resolution/Individualized_Education_Program_Facilitation/">https://tea.texas.gov/Academics/Special_Student_Populations/Special_Education/Dispute_Resolution/Individualized_Education_Program_Facilitation/</a>.</p>	<p>Any person or organization may file a signed, written request with TEA requesting an investigation of alleged violations of special education requirements.</p> <p>A model special education complaint form is available at: <a href="https://tea.texas.gov/Academics/Special_Student_Populations/Special_Education/Dispute_Resolution/Special_Education_Complaints_Process/">https://tea.texas.gov/Academics/Special_Student_Populations/Special_Education/Dispute_Resolution/Special_Education_Complaints_Process/</a>.</p>	<p>A parent or school district may request mediation in writing any time there is a dispute about a student's special education eligibility or services, including before or during a due process hearing or state complaint investigation.</p> <p>A model mediation request form is available at: <a href="https://tea.texas.gov/About_TEA/Government_Relations_and_Legal/Special_Education/Office_of_Legal_Services_Special_Education_Mediation_Program/">https://tea.texas.gov/About_TEA/Government_Relations_and_Legal/Special_Education/Office_of_Legal_Services_Special_Education_Mediation_Program/</a>.</p>	<p>A parent or school district may file a written due process hearing request.</p> <p>A model request for due process hearing form is available at: <a href="https://tea.texas.gov/About_TEA/Government_Relations_and_Legal/Special_Education/Due_Process_Hearings/Office_of_Legal_Services_Special_Education_Due_Process_Hearing_Program/">https://tea.texas.gov/About_TEA/Government_Relations_and_Legal/Special_Education/Due_Process_Hearings/Office_of_Legal_Services_Special_Education_Due_Process_Hearing_Program/</a>.</p>
<b>Financial Cost/Who Pays</b>	TEA pays for this process. However, the parties are responsible for paying any attorney or advocate fees they may incur if they hire one.	TEA pays for this process. However, the parties are responsible for paying any attorney or advocate fees they may incur if they hire one.	TEA pays for this process. However, the parties are responsible for paying any attorney or advocate fees they may incur if they hire one.	TEA pays for this process. Each party pays its own expenses, which may include attorney or advocate fees and costs related to witnesses.

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Process and Process Distinctions	<p>IEP facilitation involves the use of a trained facilitator to help an ARD committee develop an IEP for a student with a disability. The facilitator uses techniques to help the committee communicate and collaborate effectively.</p> <p>Facilitation is voluntary and allows all members of the ARD committee to participate fully.</p>	<p>The TEA investigator reviews information and documentation related to the allegation(s) and makes findings based on special education laws and regulations.</p> <p>This is the only dispute resolution option open to any person or organization, including those unrelated to the student. The final decision, called an investigative report, may include corrective actions that are student-specific or relate to system-wide issues.</p> <p>If a party to a complaint believes that the investigative report is in error, the party may file a request for reconsideration with TEA.</p>	<p>After both parties agree to participate in mediation, an impartial mediator, assigned by TEA, meets with the parties in an informal setting and helps the parties resolve the issue(s) in dispute.</p> <p>Mediation is a flexible process – participants may influence the process and ultimately determine the outcome.</p>	<p>An Impartial hearing officer assigned by TEA hears evidence in a courtroom-like setting, and a formal record of the hearing (a transcript) must be made and provided to the parent free of charge.</p> <p>The hearing officer issues a written decision, and the decision may be appealed to state or federal court. The prevailing party may attempt to recover attorney fees in a state or federal court.</p>
Confidentiality	<p>The same laws that apply to protect the confidentiality of student information during ARD committee meetings apply during the IEP facilitation process.</p>	<p>TEA's written findings are subject to release with identifiable information removed.</p>	<p>Discussions during mediation are confidential and are not subject to release. Settlement agreements are subject to release with identifiable information removed.</p>	<p>A due process hearing request is confidential. The parent has the right to open the hearing to the public. Hearing decisions are posted on the TEA website with identifiable information removed.</p>
Possible Outcome	<p>The ARD committee reaches consensus on an IEP that addresses the needs of the student.</p>	<p>TEA issues a written decision that includes findings and conclusions and that explains the reasons for the final decision. If TEA finds that the school district violated special education law or regulations, the decision must also include actions required to correct the violation(s).</p>	<p>If the parties reach agreement, they execute a signed written agreement. A mediation agreement is enforceable in court.</p>	<p>The hearing officer issues a written decision with findings of fact and conclusions of law, which may order specific activities to be carried out.</p>

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Timeframe	The request for IEP facilitation must be filed within five calendar days of the ARD committee meeting that ended in disagreement, and a facilitator must be available on the date set for reconvening the meeting.	TEA can only investigate allegations that occurred within one calendar year of the date that TEA receives the complaint. The written decision must be issued no later than 60 calendar days from the date the complaint was filed unless the timeline is extended for exceptional circumstances such as a complaint filed on behalf of multiple students.	There are no specific timelines for mediations. Mediation is available at any time, even if a due process hearing request or state complaint has already been filed. The mediation session must be scheduled in a timely manner.	Subject to certain exceptions, due process complaints must be filed within one year of the date when a party knew or should have known of the problem. The written decision must be issued within 45 calendar days from the end of the resolution period, unless a party requests a specific extension of the timeline, and the hearing officer grants the extension based on a finding of good cause.  Due process hearings that involve certain disciplinary placement issues must take place within 20 school days of the date that the hearing request is filed. The decision must be issued within 10 school days of the hearing.
Considerations	IEP facilitation is voluntary, so the parent and school district must both agree to participate.  For the process to be successful, everyone at the meeting needs to respect the role of the facilitator and be willing to participate.  The facilitator does not address issues unrelated to the IEP.	The person or organization filing the complaint must provide facts to support the issues listed in their complaint.  TEA always encourages the use of alternative resolution options such as the early resolution proposal, TEA-assisted resolution, and mediation.	Mediation is voluntary, so the parent and school district must both agree to participate. The parties determine whether an agreement is reached and the terms of that agreement.  There is no guarantee, however, that a mediation will result in a written agreement.	The hearing officer assigned by TEA is either a private practice attorney under contract with TEA or an administrative law judge with the State Office of Administrative Hearings.  The hearing officer's decision is legally binding, but either party may appeal it to state or federal court.
Decision-maker	The ARD committee	The TEA	The parties	The hearing officer

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Role of Neutral Party	<p>A facilitator:</p> <ul style="list-style-type: none"> <li>• helps ARD committee members develop ground rules and an agenda for the meeting;</li> <li>• guides discussion by asking student-focused questions;</li> <li>• keeps the ARD committee on task and the meeting on schedule;</li> <li>• asks questions to clarify points of agreement and disagreement, and help identify workable solutions; and</li> <li>• does not make decisions or determine if team members are right or wrong.</li> </ul>	<p>An investigator:</p> <ul style="list-style-type: none"> <li>• reviews information related to the complaint;</li> <li>• may interview or meet with people related to the complaint; and</li> <li>• makes findings and determinations based on applicable special education requirements.</li> </ul>	<p>A mediator:</p> <ul style="list-style-type: none"> <li>• helps participants develop ground rules for the session;</li> <li>• creates a safe environment and encourages participants to be respectful of other points of view;</li> <li>• guides discussion by listening, identifying interests, and clarifying concerns;</li> <li>• does not make decisions; and</li> <li>• is knowledgeable of requirements relating to special education and related services.</li> </ul>	<p>A hearing officer:</p> <ul style="list-style-type: none"> <li>• oversees the hearing timeline, including all pre-hearing activities;</li> <li>• conducts the hearing and manages procedural matters;</li> <li>• uses applicable law to write a decision based on evidence and testimony presented at the hearing; and</li> <li>• may dismiss the complaint if the issues are resolved before the hearing.</li> </ul>

**Additional information about these four special education dispute resolution processes is found at:**

[https://tea.texas.gov/Academics/Special\\_Student\\_Populations/Special\\_Education/Dispute\\_Resolution/Special\\_Education\\_Dispute\\_Resolution\\_Processes/](https://tea.texas.gov/Academics/Special_Student_Populations/Special_Education/Dispute_Resolution/Special_Education_Dispute_Resolution_Processes/).

**Please direct questions related to the state’s Facilitated IEP Project and about the special education complaints process to 512-463-9414.**

**Please direct questions related to mediation and due process hearings to 512-463-9720.**

**General questions related to special education may be addressed to the state’s Special Education Information Center at 1-855-773-3839 or at <http://www.spedtex.org/>.**