

OPTIONS FOR PARENTS TO RESOLVE DISAGREEMENTS: Navigating the Special Education Dispute Resolution System in Texas

The Texas Education Agency (TEA) offers multiple processes for resolving disputes related to special education: IEP Facilitation, mediation, special education complaints, and due process hearings.

STATE IEP FACILITATION

MEDIATION SERVICES

COMPLAINT INVESTIGATION

DUE PROCESS HEARING

WHAT IS THE PURPOSE?

Used when a parent and a school district cannot agree in an ARD committee meeting on important issues related to a student's IEP or when a meeting is expected to address difficult issues.

May be used any time a parent and a school district cannot agree about a student's special education and/or related services.

Used to investigate alleged violations of special education requirements relating to one or more students.

A formal way for parents and school districts to resolve disagreements about a student's special education and/or related services.

WHO CAN REQUEST?

The parent and the school sign a form requesting IEP facilitation.

A parent or school district may request mediation in writing.

Any person or organization may file a signed, written request with TEA.

A parent or school district may file a written due process hearing request.

WHEN/WHY CAN IT BE REQUESTED?

The request form must be filed within ten calendar days of the ARD committee meeting that ended in disagreement.

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.

To request an investigation of alleged violations of special education requirements.

This is the only dispute resolution option open to any person or organization, including those unrelated to the student.

You may request a due process hearing by filing a due process complaint on any matter relating to the identification, evaluation or educational placement of your child, or the provision of FAPE to your child.

IS IT KEPT CONFIDENTIAL?

The same laws that apply to protect the confidentiality of student information during ARD committee meetings apply during the IEP facilitation process.

Discussions during mediation are confidential and are not subject to release. Settlement agreements are subject to release with identifiable information removed.

TEA's written findings are subject to release with identifiable information removed.

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.

IMPORTANT ACRONYMS:

ARD = admission, review, and dismissal

IEP = individualized education program

FAPE = free appropriate public education

STATE IEP FACILITATION

A trained facilitator helps an ARD committee develop an IEP for a student with a disability. The facilitator uses techniques to help the committee communicate and collaborate effectively.

Facilitation is voluntary and allows all members of the ARD committee to participate fully.

WHAT DOES THE PROCESS LOOK LIKE?

TEA pays for this process.

The parties are responsible for paying any attorney or advocate fees they may incur if they hire one.

WHO HAS TO PAY?

The ARD committee reaches consensus on an IEP that addresses the needs of the student.

WHAT ARE THE POSSIBLE OUTCOMES?

MEDIATION SERVICES

An impartial mediator, assigned by TEA, meets with the parties in an informal setting and helps the parties resolve the issue(s) in dispute.

Mediation is a flexible process – participants may influence the process and ultimately determine the outcome.

TEA pays for this process.

The parties are responsible for paying any attorney or advocate fees they may incur if they hire one.

If the parties reach agreement, they execute a signed written agreement.

A mediation agreement is enforceable in court.

COMPLAINT INVESTIGATION

A TEA investigator reviews information and documentation related to the allegation(s) and makes findings based on special education laws and regulations.

The final decision, called an investigative report, may include corrective actions that are student-specific or relate to system-wide issues.

If a party to a complaint believes that the investigative report is in error, the party may file a request for reconsideration with TEA.

TEA pays for this process.

The parties are responsible for paying any attorney or advocate fees they may incur if they hire one.

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).

DUE PROCESS HEARING

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.

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.

TEA pays for this process.

Each party pays its own expenses, which may include attorney or advocate fees and costs related to witnesses.

The hearing officer issues a written decision with findings of fact and conclusions of law, which may order specific activities to be carried out.

STATE IEP FACILITATION

MEDIATION SERVICES

COMPLAINT INVESTIGATION

DUE PROCESS HEARING

WHAT ELSE SHOULD BE CONSIDERED?

- ▶ 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.

- ▶ 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 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.

- ▶ 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.

A facilitator:

- ▶ Helps develop ground rules and an agenda for the meeting.
- ▶ Guides discussion by asking student-focused questions.
- ▶ Keeps the ARD committee on task and the meeting on schedule.
- ▶ Asks questions to clarify points of agreement and disagreement, and help identify workable solutions.
- ▶ Does not make decisions or determine if team members are right or wrong.

A mediator:

- ▶ Helps participants develop ground rules for the session.
- ▶ Creates a safe environment and encourages participants to be respectful of other points of view.
- ▶ Guides discussion by listening, identifying interests, and clarifying concerns.
- ▶ Does not make decisions.
- ▶ Is knowledgeable of requirements relating to special education and related services.

An investigator:

- ▶ Reviews information related to the complaint.
- ▶ May interview or meet with people related to the complaint.
- ▶ Makes findings and determinations based on applicable special education requirements.

A hearing officer:

- ▶ Oversees the hearing timeline, including all pre-hearing activities.
- ▶ Conducts the hearing and manages procedural matters.
- ▶ Uses applicable law to write a decision based on evidence and testimony presented at the hearing.
- ▶ May dismiss the complaint if the issues are resolved before the hearing.

WHAT IS THE ROLE OF THE NEUTRAL PARTY?

WHO MAKES THE DECISION?

The ARD committee

The parties

The TEA

The hearing officer

STATE IEP FACILITATION

MEDIATION SERVICES

COMPLAINT INVESTIGATION

DUE PROCESS HEARING

WHAT ARE THE TIMELINES?

The request must be filed within ten 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.

Within 5 business days of receiving the form, TEA will determine whether the required conditions have been met and will notify the parent and the school district of the determination.

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.

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.

Subject to certain exceptions, due process complaints must be filed within two years. 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.

REQUEST FORMS:

Form to request a state-provided IEP Facilitator:

- ▶ [ENGLISH FORM](#)
- ▶ [SPANISH FORM](#)

Form to request a Special Education Mediation:

- ▶ [ENGLISH FORM](#)
- ▶ [SPANISH FORM](#)

Request for Special Education Complaint Investigation Form:

- ▶ [Fillable PDF Form](#)
- ▶ [Online Form](#)

Form to request a Due Process Hearing:

- ▶ [ENGLISH FORM](#)
- ▶ [SPANISH FORM](#)

NOTE: You may request a complaint investigation and mediation at the same time. However, if you request a complaint investigation and a due process hearing on the same issues, your complaint investigation request will remain on hold until the due process hearing has ended.

WEBSITES:

[TEA IEP Facilitation Website](#)
- Including conditions that must be met.

[TEA Special Education Mediation Website](#)
- Including the list of the Texas Mediators.

[TEA Special Education Complaint Process Website](#)
- Including instructions for completing the forms.

[TEA Special Education Due Process Hearing Website](#)
- Including the list of the Hearing Officers.

DISPUTE RESOLUTION HANDBOOK (INCLUDES AN FAQ FOR EACH SYSTEM):

- ▶ [English](#)
- ▶ [Spanish](#)
- ▶ [Chinese](#)
- ▶ [Vietnamese](#)
- ▶ [Arabic](#)

SPECIFIC DISPUTE RESOLUTION QUESTIONS:

IEP Facilitation and Complaints Process:
▶ 512-463-9414

Mediation and Due Process Hearings:
▶ 512-463-9720

GENERAL SPECIAL EDUCATION QUESTIONS:

Special Education Information Center - SPEDTex:
▶ 1-855-773-3839
▶ [SPEDTex.org](#)