



## Quick Guide to Special Education Dispute Resolution Processes for Parents of Children and Youth (Ages 3 to 21)

*This guide is not intended to interpret, modify or replace any Individuals with Disabilities Education Act (IDEA) Part B procedural safeguards or requirements of federal or state law. Parents are encouraged to contact the Kentucky Department of Education, Office of Special Education and Early Learning for more information.*

*If a disagreement arises, the KDE suggests contacting the local director of special education (DoSE) before considering the following dispute resolution options. The goal is for parents and school personnel to work together to make decisions about a child's education. Often, a solution may be found through an informal meeting, which may be resolved more quickly than a due process meeting or a formal written complaint, helping to maintain a positive relationship. A list of all local school district details is available on the [KDE Open House webpage](#) including contact information for the local DoSE.*

Processes	Mediation	Formal Written Complaint	Due Process Hearing
<b>Process Comparison</b>	<p>Mediation is a voluntary and non-adversarial dispute resolution process. The meeting is facilitated by an impartial trained mediator and is focused on the needs of the student. The parents and district meet and work together to settle the dispute and develop a final agreement.</p> <p>Available anytime there is a disagreement specific to IDEA between parents and educators about special education and/or related services.</p>	<p>A formal written complaint is a written statement alleging that a school district has violated a requirement of state or federal special education law.</p> <p>A formal written complaint:</p> <ul style="list-style-type: none"> <li>• Must be filed with OSEEL within one year of the alleged violation; and</li> <li>• May be filed by a parent of a student with a disability or by any organization or person who believes IDEA has been violated.</li> </ul> <p>A formal written complaint should not address the following issues:</p> <ul style="list-style-type: none"> <li>• Violations of civil rights related to a disability (Section 504 or Americans with Disabilities issues);</li> <li>• Claims of child abuse or neglect; or</li> <li>• Matters under the sole authority of the local school district, such as employment of a teacher, assignments of teachers, or pupil assignments).</li> </ul> <p>Although the above issues may involve violations of the law, a formal written complaint addresses only violations of IDEA.</p> <p>Available anytime there is a concern specific to IDEA about a particular child or an issue that affects children system-wide.</p>	<p>An adversarial process in which a hearing officer resolves IDEA disagreements between a parent or public agency (e.g., school district), who are together referred to as "the parties."</p> <p>The hearing may be requested on any matter involving:</p> <ul style="list-style-type: none"> <li>• Identification;</li> <li>• Evaluation;</li> <li>• Educational placement and services; and</li> <li>• The provision of a Free Appropriate Public Education (FAPE).</li> </ul> <p>A due process hearing must be requested in writing and must be filed within three (3) years of the date the parent or district knew or should have known about the issue.</p> <p>Before a hearing may be held, the parties are required to hold a Resolution Meeting, so the district has the opportunity to resolve the dispute that led to the hearing request. The meeting is not held if the parties agree to Mediation or if the parties agree to waive it.</p>
<b>Who Initiates</b>	A parent or school district may request mediation at any time. A state educational agency may also recommend this as an alternative to a more formal process. Both parties must agree to engage in mediation.	Any person or organization may file a formal written complaint.	A parent or school district may file a due process hearing request. This must be requested in writing and must be filed within three (3) years of the date the parent or district knew or should have known about the issue.
<b>Outcome or Desired Result</b>	A signed, legally enforceable, written agreement that is agreed upon by both parties.	A written decision that includes findings and conclusions, and lists reasons for the final decision. Must also include actions required to address the needs of the child or children related to the complaint.	A written decision with findings of fact and conclusions of law, which may order specific activities to be carried out.
<b>Process Distinctions</b>	<p>Mediation discussions are confidential.</p> <p>Participants work on solutions together and determine the outcome.</p> <p>Mediation does not rule out the use of a formal written complaint or due process hearing.</p>	<p>This is the only dispute resolution option open to any person or organization, including those unrelated to the child.</p> <p>The final decision may include corrective actions that are child-specific or relate to system-wide issues.</p>	<p>A formal record of the hearing (a written or electronic transcript) must be made and provided to the parent.</p> <p>The decision is appealable in state or federal court.</p> <p>The prevailing party may attempt to recover attorneys' fees in a separate court action.</p>
<b>Benefits</b>	<p>Discussions are confidential – what is said in mediation cannot be used as evidence in a due process hearing or civil lawsuit.</p> <p>Offers a more flexible, less adversarial alternative to other dispute resolution options.</p> <p>Can help resolve disagreements more quickly than other options.</p>	<p>A written decision must be issued no later than 60 <u>calendar</u> days after the complaint was received unless the timeline is extended.</p> <p>An optional form is available to assist in filing a complaint.</p>	<p>From the date that the complaint is filed until the decision is final, the child stays in his or her current educational placement, unless you and the school district agree otherwise – this is called "pendency" or "stay-put."</p> <p>The decision is legally binding on the parties.</p> <p>The state educational agency is responsible for ensuring the decision is followed unless it is appealed.</p>

Processes	Mediation	Formal Written Complaint	Due Process Hearing
<b>Considerations</b>	<p>Mediation is voluntary, so the parent and school district must both agree to participate.</p> <p>Whether there is a resolution of the issues or an agreement is created depends upon the participants.</p> <p>Complex situations may require multiple mediation sessions to come to an agreement. There is no guarantee that a written agreement will be created.</p> <p>Mediators are assigned by the Kentucky Department of Education's Office of Legal Services.</p>	<p>The person or organization filing the complaint must provide facts to support the problems listed in their complaint.</p> <p>This process does not require those involved to try resolving the dispute collaboratively. Mediation remains available anytime.</p> <p>The complainant, parent or the local educational agency (LEA) shall have a right to appeal the written decision from a complaint to the commissioner of the Kentucky Department of Education. This appeal shall be filed within 15 business days of the receipt of the decision. The LEA is responsible for implementing corrective action specified in the Report of Findings even during the pendency of an appeal.</p>	<p>The decision is made by a hearing officer or administrative law judge who is not involved in the child's education.</p> <p>The decision is legally binding, even if a party disagrees with the outcome.</p> <p>If a decision is appealed, it may not be carried out until the appeal is final.</p> <p>School districts are typically represented by attorneys. If a parent hires an attorney, it is at their own expense.</p>
<b>Decision- maker</b>	Participants work on solutions together and are in control of the outcome.	The state education agency is responsible for ensuring that an investigation is done, if necessary, and a decision is made about the complaint.	<p>A hearing officer or administrative law judge makes the decision.</p> <p>In Kentucky, either party may request an appeal of the due process results to the Exceptional Children Appeals Board. The appeal must be requested within 30 <u>calendar days</u> of the hearing officer's decision (<a href="#">707 KAR 1:340, Section 13 (1)</a>).</p>
<b>Role of Third Party</b>	<p>A mediator typically:</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 laws relating to special education and related services.</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 a determination based on applicable law.</li> </ul>	<p>The hearing officer or administrative law judge:</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>
<b>Time Frame</b>	<p>Available at any time, even if a due process complaint/hearing request or formal written complaint has already been filed.</p> <p>Must be scheduled in a timely manner.</p>	<p>Under the IDEA, formal written complaints must be filed within 1 year of the date when the individual knew or should have known of the problem.</p> <p>The written decision must be issued no later than 60 <u>calendar days</u> from the date the complaint was filed unless the timeline is extended.</p>	<p>In Kentucky, due process hearings must be requested in writing and filed within 3 years of the date when a party knew or should have known of the problem (<a href="#">KRS 157.224</a>).</p> <p>The written decision must be issued within 45 <u>calendar days</u> from the end of the resolution period unless a party requests a specific extension of the timeline.</p>
<b>Financial Cost/ Who Pays</b>	No cost to the parent – the mediator and facilities are provided at public expense.	No cost to the complainant – the investigation and decision are provided at public expense.	<p>The hearing, hearing officer or administrative law judge, facilities, and decision are provided at public expense.</p> <p>Each party pays its own expenses, which may include attorneys' fees and witnesses.</p>
<b>Impact on Relationships</b>	<p>A mediator may help participants problem solve more effectively.</p> <p>A successful mediation can help preserve good relationships between the parties involved or improve the school-family relationship.</p>	This process does not focus on relationships.	Due process is considered the most adversarial dispute resolution process.
<b>How to Prepare</b>  <b>Additional resources are available on the <a href="#">CADRE Website</a></b>	<p>It may be helpful to:</p> <ul style="list-style-type: none"> <li>Identify issues to discuss during the mediation.</li> <li>Make a list of the child's needs and questions to ask.</li> <li>Think of questions others might ask and write down possible responses.</li> <li>Organize documents, put dates and notes on them, and bring extra copies.</li> <li>Bring materials that may be helpful to explain or inform others.</li> <li>Be willing to listen and carefully consider others' ideas, as well as possible solutions.</li> <li>Plan ahead about how to deal with emotions during the meeting.</li> </ul>	<p>A complainant should:</p> <ul style="list-style-type: none"> <li>Include information to support the problems identified when the complaint is filed.</li> <li>Follow Kentucky requirements for filing the complaint. (<a href="#">707 KAR 1:340, Section 8</a>)</li> <li>Provide the school district with a copy of the complaint.</li> <li>Respond to all requests for more information about the complaint in a timely manner.</li> <li>Review the school district's response to the complaint and, if appropriate, provide additional information according to Kentucky's guidelines.</li> </ul>	<p>Considerable preparation is needed to present a case adequately. Parties should be prepared to do the following for a hearing:</p> <ul style="list-style-type: none"> <li>Gather and submit evidence.</li> <li>Prepare testimony, witness lists, and other hearing documents.</li> <li>Question and cross-examine witnesses.</li> </ul> <p>Parties choose whether to hire or consult with an attorney. A person who is not represented by an attorney may be referred to as appearing "<i>pro se</i>." This is a Latin term that means the person represents himself or herself in the legal proceeding.</p>

The above content is nonregulatory guidance designed to work in conjunction with the procedural safeguard protections for students with disabilities under the Individuals with Disabilities Education Act (IDEA). It is intended to be informal guidance representing the interpretation of the applicable statutory or regulatory requirements in the context of the specific facts presented and is not legally binding.

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