



## **KNOW YOUR RIGHTS: DISPUTE RESOLUTION**

Parents are encouraged to work with their school districts to resolve disagreements regarding the need for special education or related services. These informal discussions include eligibility committee meetings, Individualized Education Program (IEP) meetings, 504 plan meetings, discussions with the school principal, and discussions with the special education coordinator or superintendent of your district. Parents should be willing to compromise, but feel empowered to make their child's needs known and speak up when they disagree. Parents are wise to put their wishes and disagreements in writing and send a copy to the school district. Also, parents of students with disabilities need to familiarize themselves with the law, policies and procedures regarding special education and the processes available to protect those rights.

### **Below are methods available under Federal and State law to help resolve matters regarding special education or related services:**

**State Complaint (Investigation)**- This is a formal complaint process that can trigger an investigation conducted by the Office of Special Programs (OSP) where there are issues regarding the identification, evaluation, placement, the provision of appropriate services, or a general complaint with school policy. This is a great self-advocacy tool for parents because once a sufficient complaint is filed, a third-party investigator will look into the alleged violations. Within 60 days of filing a complaint (excluding unusual circumstances), the investigator will generate a report detailing their findings and submit a corrective action plan if violations are found.

**Mediation**- Mediation is a voluntary process that encourages parents and district to come together with the help of a neutral third party to reach an agreement. Opportunities to mediate can arise as part of a state complaint investigation or due process hearing procedure, but parents may also request a standalone mediation session. Mediation is arranged and paid for by the WV Department of Education at no cost to the parents or district. You do not have to come to an agreement at the end of mediation session.

**Due Process Complaint**- This is the most formal of the dispute resolution procedures and is very similar to a court proceeding. The school district will have an attorney to represent them in front of an Administrative Law Judge. Parents may represent themselves or have an attorney present. This dispute resolution process is complex, but a necessary step when other avenues of resolving disputes prove futile or they feel that their child is in danger. In some circumstances, a parent may request and be granted an expedited hearing. Additionally, parents and districts will have the opportunity to participate in a dispute resolution session, which is much like mediation, after a due process complaint is filed.

	<b>Who?</b>	<b>What?</b>	<b>When?</b>	<b>Why?</b>	<b>How?</b>
State Complaint (Investigation)	Any individual or organization may file a State Complaint	Once a sufficient complaint is received, the Office of Special Programs (OSP) will investigate your complaint. Once the investigation is complete parents will receive a report detailing the results of the investigation. If the OSP finds the district in violation, they will include a corrective action plan.	Within one year from the date of the alleged violation.	Violation of federal or state regulations or laws regarding special education	A parent must put request in writing with an original signature. Complaint must include the following information: contact information, law or regulation you believe district is violating, name of child, residence of child, name of district or agency, specific details regarding the alleged violation, and proposed resolution(s) to the issue. Complaint should be sent to county school district and West Virginia Department of Education.
Mediation	Parent and district both voluntarily agree to enter into mediation process	Parents and district will work with an impartial mediator to reach a solution (at no cost to parent or district). Both parties must agree to the solution in writing and once signed, it becomes legally binding	There is no time limit specified, but school district must voluntarily agree to enter into mediation.	Violation of federal or state special education regulations	A parent must put their request for mediation in writing and include original signature. Request should be sent to county school district and West Virginia Department of Education.
Due Process Hearing	A parent or district may initiate the due process hearing procedures	Once a parent files a complaint, parent and district can agree to dispute resolution session or sign a binding agreement before hearing is held. If no agreement is reached, an impartial hearing examiner may hear complaint and issue an order.	Two years from when the party knew <i>or should have known</i> of the problem (with limited exceptions).	Any matter relating to the identification, evaluation, placement or provision of FAPE (with limited exceptions)	A parent must submit a complaint requesting an impartial due process hearing in writing and send it to district superintendent and West Virginia Department of Education. Your request must include the name of the student, address of the student's residence (or available contact information), name of school, a description of the nature of the student's problem (include facts about proposed change or refusal), and proposed resolution to the problem.

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ALTERNATE FORMATS AVAILABLE ON REQUEST