

RESOLVING DISAGREEMENTS

LOS ANGELES UNIFIED SCHOOL DISTRICT

Schools are encouraged to resolve disagreements regarding the content of IEPs at IEP team meetings and at the school site level whenever possible. The District may not initiate the provision of special education services without parent consent. The parent may consent to some elements of the proposed IEP yet not consent to others. Only the elements to which the parent has provided consent shall be implemented immediately so as not to delay the provision of instruction and services to the student. With regard to the disputed elements of the proposed IEP, the school will continue to provide those elements (e.g. placement, services, and supports) previously agreed upon and implemented in the student's last IEP until the disagreement is resolved.

At the conclusion of an IEP meeting, if the parent disagrees with the IEP or raises concerns over what is appropriate for the student, clarify with the parent the areas of agreement and disagreement. Areas of disagreement may be related to:

- Assessment
- Eligibility
- Instructional Setting
- Specific Instruction and Services

Whenever possible, attempt to work out the disagreement within the IEP process. If it is believed that an agreement can be reached, decide what steps will be taken to reach an agreement.

If a school cannot resolve a disagreement over what is appropriate for the student, document on *page 10, Section Q*, of the IEP the areas of disagreement and the reason. Indicate the elements of the IEP that the parent consents to being implemented. Unless specified in *Section Q*, the student will continue to receive the services, placement and other provisions of the last agreed upon IEP.

Make sure the parent has a copy of *"A Parent's Guide to Special Education Services (Including Procedural Rights and Safeguards)"*, which details the optional dispute resolution processes: Informal Dispute Resolution (IDR), State Mediation Only and Due Process Hearing/Proceedings. The IEP administrator shall be prepared to provide an explanation of the various dispute resolution processes and answer any questions the parent may have. *See Reference Guide 1410.9 for detailed information.*

Note: Participation in dispute resolution is voluntary and a Parent is not required to initiate any form of dispute resolution.

INFORMAL DISPUTE RESOLUTION

The District's IDR process is an optional process in which Parents identify their issues and concerns related to the IEP and the District attempts to work with the Parent to resolve the issues and concerns quickly and informally. It is the Parent's decision whether or not to initiate the IDR process. Participation in the IDR process is voluntary. A Parent is not required to utilize the IDR process before initiating formal due process proceedings. Further, a Parent may utilize the IDR process and subsequently initiate formal due process proceedings if the IDR process is unsuccessful.

The purpose of the IDR process is to facilitate the early resolution of concerns and issues regarding disputed components of the IEP quickly and informally. The process is completed within 20 school days and is often a better process for resolving disputes because it is faster and less contentious, than formal dispute resolution options.

STATE MEDIATION ONLY

State Mediation Only is an optional state-administered process that parents may choose where a mediator assigned by the California Office of Administrative Hearings (OAH) assists a parent and the school district in discussing possible resolutions to their disagreement. The State-assigned mediators are trained in the mediation process, are not employees of the school district, and do not have a personal or professional interest in the dispute. At a mediation conference, the mediator facilitates communication between the parent and the school district so that all perspectives are clarified. The mediator may also suggest options for resolving the dispute. No attorneys or advocates may participate in the mediation. In addition, communications exchanged in a mediation conference are confidential and may not be used in any subsequent due process hearing or civil proceeding. The goal of the mediation is to reach an agreement on how to resolve the dispute. If the parties reach an agreement, it will be documented in a settlement agreement and provided to the parent and District for approval and execution. Once it is executed, a mediation settlement agreement is enforceable under State and Federal law. If an agreement cannot be reached through the State Mediation Only process either party may request a due process hearing to resolve the disagreement.

If a resolution is reached at mediation, the settlement agreement will be sent to the school site for follow-up. If resolution is not reached, the Due Process Specialist will inform parents of their right to initiate due process proceedings.

DUE PROCESS PROCEEDINGS

Due Process Proceedings are the most formal option for resolving a disagreement regarding an IEP. Due Process Proceedings include among other things, a resolution period, an optional pre-hearing mediation, and a formal hearing with documentary evidence, witness testimony

and arguments presented by each side. Special education laws and regulations set forth specific procedures and timelines that apply to Due Process Proceedings.

Prior to the formal hearing, the parent and the District may participate in a pre-hearing mediation or settlement conference. At a pre-hearing mediation or settlement conference, OAH provides an administrative law judge or mediator to assist the parties in reaching an agreement to resolve the case. A parent may be represented by an attorney or advocate at a pre-hearing mediation or settlement conference. A District representative from the Due Process Department and/or an attorney will represent the District at the mediation or settlement conference. In most cases, the assigned Due Process representative and/or attorney will obtain information about the disagreement(s) and the IEP from the administrator/designee and other IEP team members prior to the mediation or settlement conference. If a resolution is reached at mediation or at a settlement conference, the settlement agreement will be sent to the school site for follow-up. If resolution is not reached, the matter will proceed to a due process hearing.

Due process hearings are conducted by administrative law judges (or hearing officers) from OAH. Procedurally, the hearing is very much like a trial. Each side presents arguments, documents/evidence and witnesses testify and are cross-examined. In addition, hearing officers may question witnesses, have experts discuss issues with each other, visit placement sites, call witnesses and/or order independent educational evaluations. The role of a hearing officer is to determine what is appropriate for the student, consistent with State and Federal law.

The due process hearing must be held and a written decision mailed to all parties within forty-five (45) days of the expiration of the 30-day resolution period, unless the hearing officer grants an extension of time at the request of one or all of the parties.

After a hearing is concluded the hearing officer will render a decision. Decisions of hearing officers are binding on all parties, but may be appealed by any party to a State or Federal Court within ninety (90) days of the final decision.

Except for certain alternative educational placements permitted by law, during the due process proceedings the student will remain in his or her current IEP placement, and will receive the services in his or her last agreed upon and implemented IEP, unless the parent and the District agree to some other arrangement. If the disagreement involves an application for initial admission to public school, the student, with the parent's consent, will be placed in the public school program until the completion of all proceedings.