



Special Education Dispute Resolution Options

Michigan Department of Education

Office of Special Education

June 7, 2021



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Special Education Dispute Resolution Options

Introduction

There are several dispute resolution options available to address disagreements regarding the education of children with disabilities. The most effective dispute resolution methods use direct, early, meaningful communication in a collaborative manner. Anytime a parent has a question or concern about their child’s education, the parent is encouraged to discuss the issue(s) directly with the special education administrator of the public agency (i.e., a district, an intermediation school district (ISD), or any other entity providing education to students with disabilities). Additional individuals who may provide information or assist parents with special education dispute resolution include a student’s classroom teacher, special education teacher, or service provider; building principal; superintendent; local school board member; or intermediate school district (ISD) special education staff members.

When a disagreement regarding a student with a disability cannot be resolved through informal discussions with the public agency, there are several dispute resolution options available including facilitated meetings, mediation, state complaints, and due process complaints. For a dispute resolution comparison chart, refer to the Center for Appropriate Dispute Resolution (CADRE) [Quick Guide to Special Education Dispute Resolution Processes for Parents of Children and Youth](#).

Informal Meeting

An informal meeting allows the parent and public agency to resolve educational issues without intervention from an outside agency. Parents may initiate an informal meeting to be held with the public agency. Informal meetings allow both parties to collaborate more effectively, reach decisions faster, preserve relationships, and avoid costly hearings. The issues discussed during an informal meeting are not limited to special education, nor must issues be limited to requirements under the *Michigan Administrative Rules for Special Education* (MARSE), Michigan law, or the *Individuals with Disabilities Education Act* (IDEA).

Facilitated Meeting

A [facilitated meeting](#) is an early dispute resolution option which may be especially helpful during meetings involving complex or potentially challenging special education

issues. The facilitation process is intended to promote effective communication, keep the meeting focused on the issues at hand, and prevent conflicts. This means facilitation can be used proactively to support good collaboration and communication during a meeting.

When scheduling a meeting related to the education of a student with a disability, participants can request a neutral, third-party meeting facilitator at no cost through [Special Education Mediation Services \(SEMS\)](#). The use of the facilitation process is voluntary and requires agreement from both parties. A neutral, third-party, trained facilitator will guide the process and help participants sort through issues in an efficient manner. Facilitators can be used during individualized education program team (IEP Team) meetings, manifestation determination review (MDR) meetings, meetings to develop a behavior intervention plan (BIP), or any other special education related meeting. A facilitator will make sure everyone has an opportunity to participate.

A facilitator will:

- Stay neutral.
- Support the meeting agenda.
- Acknowledge and address differing opinions in a respectful manner.
- Keep the meeting centered on the student’s needs.
- Help negotiate disagreements.
- Keep the meeting on track and on time.
- Make sure everyone adheres to agreed-upon meeting communication ground rules.

A facilitator will not:

- Be a part of the IEP Team.
- Give legal advice.
- Advocate for a position.
- Make decisions.

Mediation

The IDEA describes mediation as a dispute resolution option that is voluntary on the part of the parties, not used to deny or delay a parent’s right to a hearing or complaint, and is conducted by a qualified and impartial mediator trained in effective mediation techniques. Mediation can be requested anytime there is a disagreement about special education.

Special Education Mediation Service (SEMS) provides state-sponsored [mediation services](#) at no cost to parents or public agencies. Collaborative communication, during the mediation process, can help resolve a wide range of complex special education issues. During mediation, a neutral, third-party mediator guides participants through an assisted negotiation process to address and resolve disagreements related to a student’s educational program. Mediation participants may be different than IEP Team members. Conversations in mediation are confidential and cannot be used as evidence in a due process hearing or other court proceedings. Parties are not required to sign a confidentiality agreement to participate in mediation. However, if the parties reach an agreement, confidentiality must be included as part of the agreement. When parties come to a resolution and write an agreement, the agreement is legally enforceable in any state or federal court of competent jurisdiction. Mediation agreements can include topics not specified in the IDEA, such as communication.

A mediator will:

- Remain neutral.
- Conduct the mediation.
- Ensure all parties have equal opportunity to express their ideas and thoughts.
- Make sure everyone abides by the rules for appropriate conduct.
- Help the parties remain focused on the topic of their disagreement.
- Guide the participants towards creating an agreement.
- Record the agreement.

A mediator will not:

- Make decisions.
- Give legal advice.
- Take sides.

Effective written mediation agreements identify:

- What action will be taken and when the action will begin.
- When the action will be completed.
- The person responsible for making sure the action is taken.
- The person responsible for taking the action.
- The time period of the agreement.
- A process for review when the action is completed.
- A plan for making changes to the agreement, if needed.
- Steps to follow if the agreement terms are not being completed.
- Statement of confidentiality.
- The date of the agreement, and the signatures of the participants authorized to bind the agreement.

Special Education State Complaints

A state complaint is a written, signed statement that alleges a public agency has violated the requirements of the IDEA, the MARSE, or the Michigan Revised School Code, as it pertains to special education programs and services. Additionally, a state complaint may be filed when it is believed a public agency has failed to implement an individualized education program (IEP), an administrative law judge (ALJ) decision, an intermediate school district (ISD) plan for the delivery of special education programs and services, or the state application for federal funds under the IDEA. A state complaint may be filed on behalf of an individual student, a group of students, or regarding a system-wide concern.

Additional information can be found in the [Special Education State Complaints: Procedures and Model Forms](#).

Due Process Complaints

A due process complaint is a dispute resolution option available under the IDEA. It is used to resolve a formal complaint regarding the identification, evaluation, educational placement, or provision of a free appropriate public education (FAPE) to a child who needs or is suspected of needing special education and related services.

Additional information and model due process complaint forms can be found in the [Special Education Due Process Complaint Procedures](#) document.

Procedural Safeguards Notice

The [Procedural Safeguards Notice](#), which informs parents about the rights and protections available for their child with a disability under the IDEA, contains information about dispute resolution options. Districts must provide parents the procedural safeguards notice once per school year, and upon an initial referral or request for an evaluation, when filing a state complaint, in accordance with discipline procedures, and upon request by a parent. The procedural safeguards notice is available on the Michigan Department of Education (MDE) Office of Special Education (OSE) website in a variety of languages. The Family Matters [Procedural Safeguards fact sheet](#) provides a parent-friendly overview of key information from the procedural safeguards document.

Additional Resources

MDE OSE Information Line

The MDE OSE information line is answered Monday through Friday. The information line is available to all stakeholders and enables the OSE staff to provide information and answer questions related to special education. Contact the MDE OSE information line by phone at 888-320-8384 or email mde-ose@michigan.gov.

Family Matters

[Family Matters](#) is a resource page developed by the OSE specifically for parents and families. The Family Matters website provides information through a series of one-page fact sheets specific to special education topics that are written in parent-friendly language.

Michigan Alliance for Families

[Michigan Alliance for Families](#) is an IDEA grant-funded initiative which provides parent mentors, information and resources, support, and education for families who have children and young adults (birth to 26 years of age) who receive (or may be eligible to receive) special education services. Contact Michigan Alliance for Families by phone at 800-552-4821 or by email info@michiganallianceforfamilies.org.

Special Education Mediation Services

[Special Education Mediation Services \(SEMS\)](#) helps students by fostering cooperation and effective teamwork among those who plan their education. SEMS provides free mediation and/or meeting facilitation by a neutral, third-party mediator or facilitator. The use of a facilitator or mediator is voluntary, must be agreed to by both parties, and can be requested by a parent or public agency. SEMS is an IDEA grant-funded initiative that uses trained, independent facilitators and mediators who are not employees of the MDE, an ISD, or a district. The overall goal is to help students, parents, and educators make decisions that improve educational outcomes. Contact SEMS by phone at 833-543-7178, email info@MiKids1st.org, or by using the [SEMS online request for services form](#).

Disability Rights Michigan

[Disability Rights Michigan \(DRM\)](#) is the independent, private, nonprofit, nonpartisan protection and advocacy organization authorized by federal and state law to advocate and protect the legal rights of people with disabilities in Michigan. Contact DRM by phone at 800-288-5923 or use the [DRM online request form](#).

Appendix A: Glossary

Administrative Law Judge (ALJ)—The individual who conducts due process hearings.

Allegation—A statement describing how a public agency has violated any special education laws, rules, or other legal authority included in the definition of a state complaint.

District – A local school district or a Public School Academy.

Due Process—A formal administrative hearing with an impartial administrative law judge who is not an employee of the OSE or any school district or educational program.

Free Appropriate Public Education (FAPE)—Special education and related services provided at public expense in conformity with an IEP.

Individuals with Disabilities Education Act (IDEA)—Federal regulations to ensure children with disabilities receive a FAPE.

Individualized Education Program (IEP)—A written statement for a student with a disability that identifies the special education and related services required for the student to progress in the general curriculum, to make progress on annual goals, and to participate with nondisabled peers.

Individualized Family Service Plan (IFSP)— A written plan for providing early intervention services to eligible children and families that is developed jointly by the family and appropriate qualified personnel. An IFSP is based on an assessment of the child’s unique strengths and needs, including a review of the comprehensive multidisciplinary child evaluation (if one was conducted), and on a family directed assessment of the family’s resources, priorities, and concerns.

Intermediate School District (ISD)—May also be called an educational service agency (ESA), a regional educational service agency (RESA), or a regional educational service district (RESD). ISDs have general supervision authority to ensure the provision of a FAPE for all eligible students with disabilities within their member districts, including Public School Academies, within the ISD’s boundaries.

Michigan Administrative Rules for Special Education (MARSE)—State rules for special education.

Michigan Department of Education (MDE)—State education agency (SEA).

Mediation—A voluntary process where a neutral third-party mediator assists the parent and public agency to reach a mutually acceptable resolution of a dispute.

Procedural Safeguards Notice—A notice document that identifies parent and student rights as they relate to the IDEA and the MARSE.

Office of Special Education (OSE)—The office within the MDE that provides the general supervision, administration, and funding of special education programs and services for eligible children and youth with disabilities from birth through age 25, in accordance with federal and state law.

Parent—As defined by the IDEA, parent means a biological or adoptive parent, a foster parent, a guardian generally authorized to act as the child’s parent or authorized to make educational decisions, an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, an individual who is legally responsible for the child’s welfare, or an appointed surrogate parent.

Public Agency—An SEA, local education agency (LEA), ESA or ISD, district, nonprofit Public School Academy, or any other political subdivisions of the state that are responsible for providing education to children with disabilities.

Special Education Mediation Services (SEMS)—An IDEA grant-funded initiative that provides free mediation and IEP facilitation services to families and public agencies in Michigan.

Systemic Complaint—A state complaint filed on behalf of a group of students or regarding a system-wide concern.

Appendix B: State Complaint and Due Process Complaint Comparison

Question	State Complaint	Due Process Complaint
What is the difference between a state complaint and a due process complaint?	The state complaint process involves an objective review by the OSE, with support from the ISD representative when applicable, of a set of facts regarding issues of alleged violations.	A due process hearing is a formal administrative hearing with an impartial ALJ who is not an employee of the OSE or any school district or educational program.
How long do I have to file a complaint?	A state complaint must be filed within one year of the events concerning the state complaint request.	A due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint.
Who can file a complaint?	Anyone may file a state complaint alleging a violation of the MARSE, Michigan special education law, or the IDEA, including complaints about identification, evaluation, educational placements, or the denial of a free appropriate public education (FAPE).	A parent, adult student, or any public agency may request a due process hearing when there is disagreement with the identification, evaluation, educational placement, or provision of a free appropriate public education to a student who has or may have a disability.
Do I need to have an attorney to file a complaint?	Attorneys for both parties are optional.	A district is required to have an attorney. Parents have the option to obtain an attorney.
How long after a complaint is filed will a decision be made?	A state complaint final decision must be issued within 60 calendar days of the date the state complaint was filed.	A due process hearing final decision must be issued within 45 calendar days of the end of the required 30-calendar-day resolution period. Parties may agree in writing not to have a resolution period.

Question	State Complaint	Due Process Complaint
		<p>An ALJ may grant specific extensions of time beyond these time periods, at the request of either party.</p> <p>For expedited due process hearings related to placement or discipline protections, the hearing must occur within 20 school days of the date the due process complaint is filed. The ALJ must make a determination within 10 school days after the hearing.</p>
<p>Can I still try to fix the problem with the school district after a complaint is filed?</p>	<p>Mediation is optional and can be used either before or after filing a state complaint.</p>	<p>A resolution session is required within 15 calendar days of a parent filing a due process complaint.</p> <p>The parties can agree to participate in mediation instead of holding a resolution session.</p> <p>For expedited due process hearings, a resolution session must be held within seven calendar days of receipt of the due process complaint, unless parties agree in writing not to have a resolution session. Mediation can also be used in expedited hearings.</p>
<p>Which type of complaint is right for my situation?</p>	<p>The state complaint process is intended to be less adversarial than the more formal due process hearing procedures.</p>	<p>Parties may provide expert witnesses, subpoena, and cross-examine witnesses.</p>

Question	State Complaint	Due Process Complaint
How is the complaint handled after it is filed?	The OSE will conduct an investigation, including reviewing documents and working with the ISD to contact the parent, the district, and other relevant persons to schedule investigatory interviews. The investigation may also include the use of targeted questionnaires and an onsite visit to the district, if needed, to conduct a thorough fact-finding process.	An administrative law judge hears the case. The parties may enter and object to written evidence and request a record of the proceedings.
Will I have to testify?	There is no formal testimony by experts or others, and no oaths, subpoenas, or other formal due process protections. The state complaint investigator will schedule optional interviews with the parent to clarify issues and ask additional questions.	Testimony is under oath. Witnesses may be subpoenaed to appear.
I heard if I file a complaint my child will stay in their current placement.	Students do not automatically “stay put” in their current placement during a state complaint investigation. The OSE may order “stay put” when necessary.	When an allegation involves placement or discipline, the student must “stay put” in the current placement pending the results of the hearing unless the parties agree otherwise.
What if I disagree with the final decision?	There is no appeal process or process for reconsideration of a final decision.	Either party may appeal the final decision to state or federal court.