

Stop Banging Your Head Against the Wall: Options for Dispute Resolution in Special Education

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www.FormedFamiliesForward.org

FORMED FAMILIES **FORWARD**

Formed Families Forward - who we are...

- A family-led resource center in Northern Virginia supporting foster, adoptive and kinship families who are raising children, youth & young adults with special needs, and professionals who work with our families.
- We offer free training, consultations to families, events, resources, and systems navigation. Also - peer support groups; Resource Directory; *Learning Your Way* self-paced classes; youth classes, videos and other resources.
- Family partner to Virginia Tiered Systems of Supports (VTSS; a VDOE project)

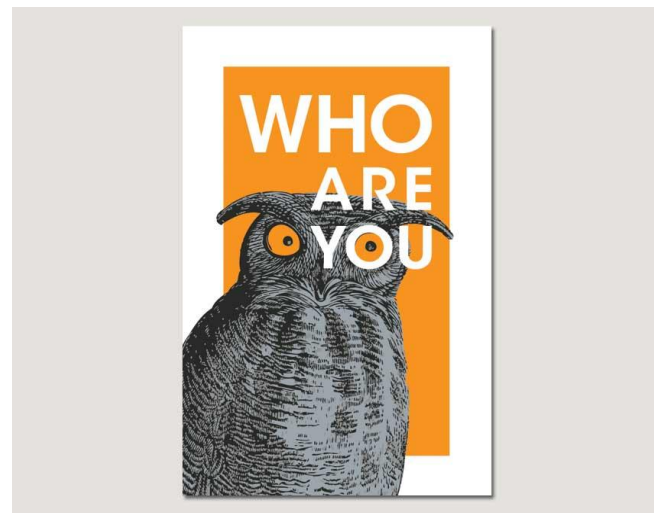
Renee.Myers@formedfamiliesforward.org

POLL

What's your role(s):

- Adoptive parent
- Kinship caregiver
- Foster or resource parent
- Professional
- Birth parent

Mark all that apply. Chat in any additional roles.

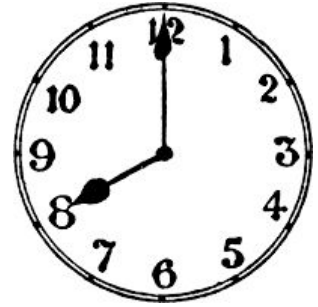


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Plan for our time

What to do when you don't agree....

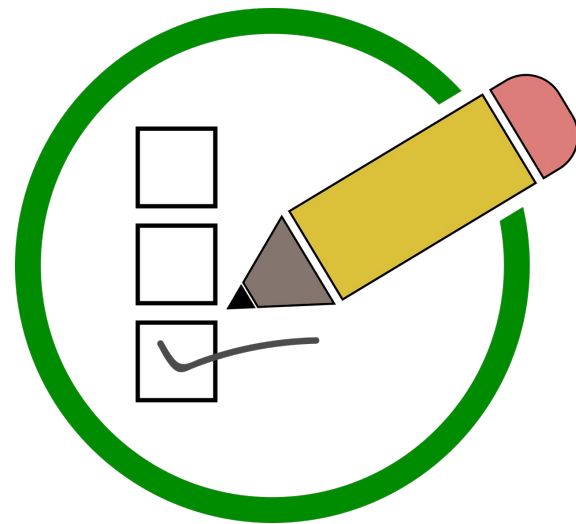
- Informal Options
 - Conference/IEP Meeting
 - Administrative Review
 - Facilitated Individualized Education Program (IEP)
 - Ombudsman for Special Education
- Formal Options (IDEA)
 - Mediation
 - Written State Complaints
 - Due Process Complaint/Hearing Request



POLL

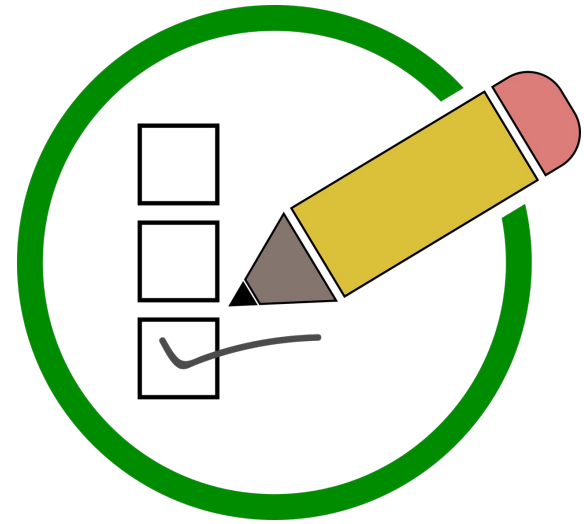
Mark all that apply:

- I am concerned about my child but he/she has not been referred yet
- My child was evaluated but was not found eligible
- I have (or had in the past) a child with an Individualized Education Program (IEP)

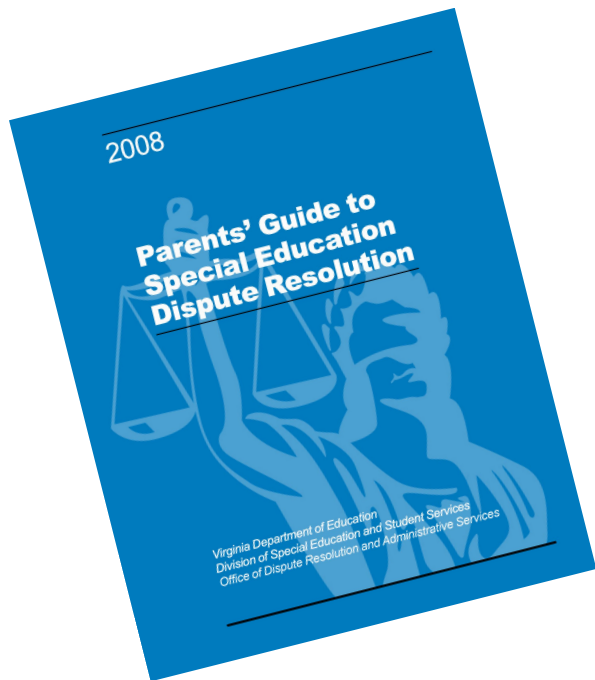


POLL

- I am in agreement with the school regarding my child's identification, evaluation, educational placement, and/or services
- I do not agree with the school regarding my child's identification, evaluation, educational placement, and/or services



Family Friendly Resources



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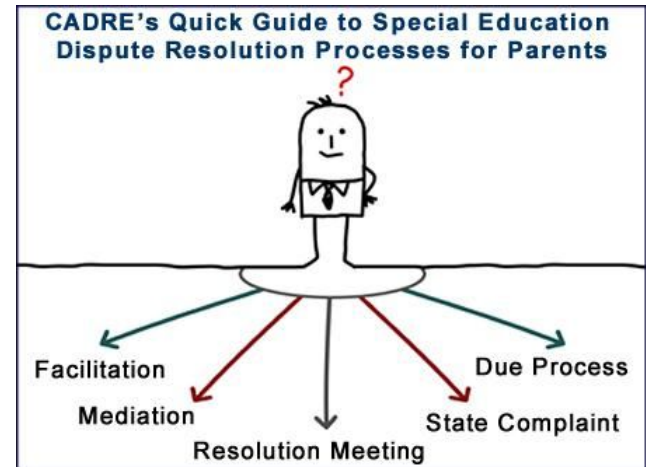
*What options do parents/families have when they disagree with their school district regarding the **identification (or lack of), evaluation, educational placement, or services** or the **provision of free appropriate public education (FAPE)** for their child?*

Informal Methods:

- Administrative Review
- IEP Facilitation
- Special Education Ombudsman

Formal Methods:

- Mediation
- Written State Complaint
- Due Process Complaint/Hearing



IDEA's Definition of "Parent"

Parent means—

1. A biological or adoptive parent
2. A foster parent
3. A guardian (but not a guardian ad litem or the state)
4. An individual acting in the place of a biological or adoptive parent (including grandparents, stepparent, or other relatives)
5. A surrogate parent (cannot be an employee of an agency involved in the education or care of the child)



The term "parent" is an inclusive term.

34 CFR Sec. 300.30

Be sure to review your state regulations or speak with someone familiar with them!

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1st Step: Set up a Conference or Meeting

- Request a meeting with teacher/school
- Prepare
- Take detailed notes



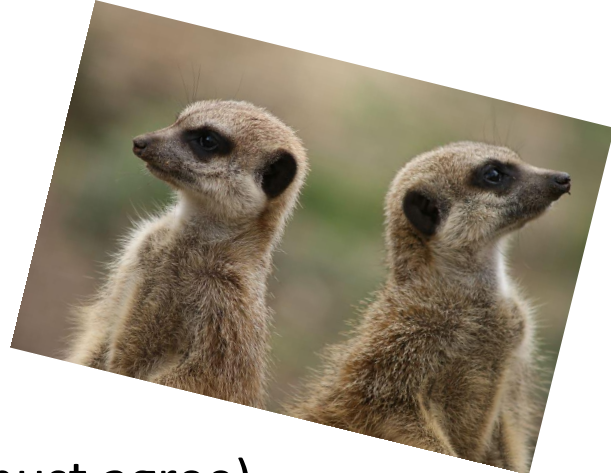
Administrative Review

- Informal, voluntary
- Parent or principal may request
- Administrative review committee reviews information and renders an opinion/decision



Facilitated IEP

- Early, informal dispute resolution
- Not required by IDEA
- Parent or school district may request (both must agree)
- SEA may recommend as alternative
- Provided at no cost
- Held at mutually agreed upon time and place



Submit requests to ODRAS@doe.virginia.gov

The Facilitator



- Selected on a neutral basis
- Does not take sides or make decision
- Models & maintains effective communication
- Helps identify points of agreement and disagreement
- Helps create an agenda and ground rules
- Keeps team on task and on time
- Ensures IEP document reflects decisions made during the meeting

Benefits of a Facilitated IEP

- Builds and maintains relationships
- Encourages consideration of alternative solutions
- Decision made by those who know the student best
- Quicker resolution



Ombudsman

- Neutral party
- Resource to parents and schools
- Promotes collaboration and communication
- Informal/no formal complaint or request form
- Confidential

VA Parent Ombudsman for Special Education

Toll Free: 800-422-2083

Email: SpecialEducationOmbudsman@doe.virginia.gov

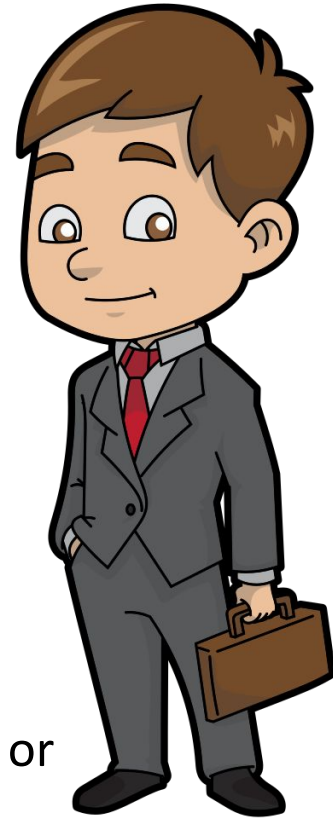


"Helping Hands" by Alec Peever

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The Ombudsman

- Listens to concerns
- Serves as a resource:
 - Provides information
 - Helps locate assistance
 - Clarifies processes
 - Helps develop options
- Provides conflict coaching
- Explains district policies and procedures
- Makes recommendations to Superintendent for policy or practice changes



Mediation



- Voluntary process
- Both the family and school must agree to participate
- Participants may leave mediation at any time

Mediation

WHEN?

- Meeting discussions are going nowhere
- It seems like no one is listening
- Before you file for due process
- After you file for due process
- It would be helpful to have an impartial person to help work through a disagreement



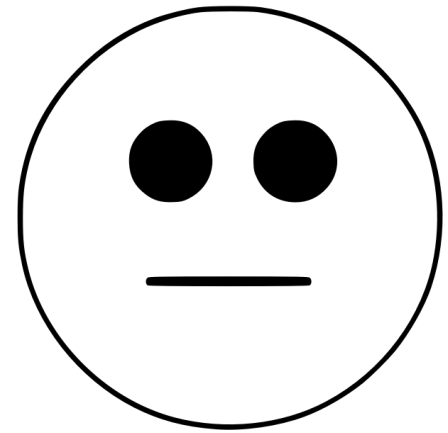
Benefits of Mediation

- 70% of mediations result in agreements
- Increases understanding of differing points of view
- Decision made by those who know the child
- More satisfaction when decisions are made together
- Quicker resolution

Source: CADRE

The Mediator

- The mediator is a neutral or impartial party
- Selected, appointed, and trained by the VDOE
- Paid by the VDOE
- Does not make decisions
- Helps the parties communicate and guides problem solving



What else should I know about mediation?

- Available at any time – even if due process hearing or written complaint has been filed
- Families & school district decide who will attend
- If agreement is reached, it must be in writing
- Signed, written agreements are legally binding



Mediation

Your grandson was found eligible for special education services as a student with Other Health Impairment (ADHD). During the meeting to develop the IEP, you disagree with the school regarding services and are unable to come to an agreement. You request mediation and the school agrees; however, after 2 mediation meetings, you feel like you are banging your head against the wall and getting nowhere.

True or False: Once you begin mediation, you must continue with it until you reach an agreement.

True
False

Stay Put

While negotiations are ongoing, the child continues to receive the program which was last agreed upon.



What else should I know about mediation?



- Meetings are confidential
 - Parties may be required to sign a consent form...containing a confidentiality pledge *8VAC20-81-190. Mediation E(3)*
- Things that are said cannot be used as evidence in a due process or civil lawsuit

How do I request mediation?



- Both parties must agree and sign the request
 - Form available in Spanish and English
- Indicate any necessary accommodations

How do I prepare for mediation?

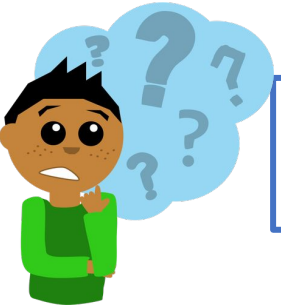
- Get organized
- Think about questions and concerns
- Plan for setting boundaries and maintaining confidentiality
- Consider different solutions
- Deal with emotions
- Talk it out
- Arrive early



Written State Complaint



- When there has been a violation of IDEA
- Requests an investigation
- May involve one student/child or a group
- May be filed by any person or organization (including people unrelated)



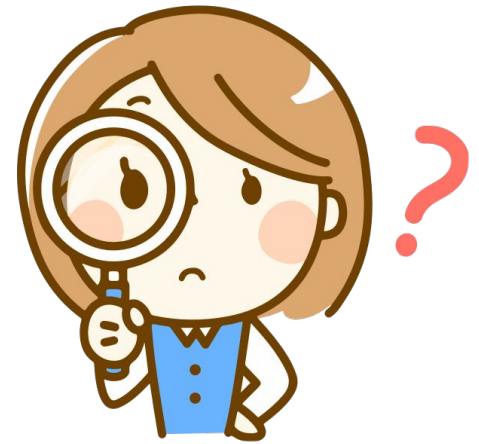
Written State Complaint

In which of these situations would it *not* be appropriate to file a written state complaint?

- A. The school finds your child not eligible but you disagree
- B. You feel that your child's math teacher is not qualified to teach Algebra
- C. You believe the school is exceeding class size limits for kindergarten
- D. The school is not following your child's IEP

The Investigator

- Reviews information/evidence
- Interviews/meets with relevant individuals
- Makes findings based on law



How do I submit a complaint?

Your written complaint must include:

- 1) Your name and relationship to the student
- 2) Name of the student and the disability area involved
- 3) Description of the alleged violation of special education regulations
- 4) Facts related to the problem, including dates where available
- 5) Documentation that supports your claim
- 6) A proposed resolution

***A copy of the written complaint along with any supporting documentation should be sent simultaneously to VDOE Office of Dispute Resolution and Administrative Services (ODRAS) and to the school district

[VDOE :: Special Education Complaints \(virginia.gov\)](http://vdoe.virginia.gov/special-education-complaints)



How do I prepare?

- Follow requirements and include all required information
- Provide the school district with a copy of the the complaint
- Respond to all requests for more information
- Review the school district's response and provide additional info if needed



What else should I know about Written State Complaints?

- Must be filed within 1 year of the problem
- The person or organization filing the complaint must provide facts to support the problems listed on the complaint
- A written decision must be made within 60 calendar days
- The outcome (LOF: Letter of Findings) is a final decision and includes required actions (CAP: Corrective Action Plan)
- The parent or school may file an appeal within 30 calendar days

Due Process Hearing Request

1. Identification
2. Evaluation
3. Educational placement and services
4. Provision of FAPE

WHEN?



Due Process Hearing Request

True
FALSE

True or False. You are concerned that your foster child has significant learning difficulties. However, the school decides not to evaluate him, because they have not received complete records from his previous schools. This would be a legitimate reason to file a due process hearing request.

How do I make a Due Process Hearing Request?

- Filed within 2 years
- Must be in writing and include:
 - Child's name, address and school
 - Description of dispute and proposed resolution
- Submit to school division and state education agency
- Write own request or fill out special form
 - Be sure to include *all* information requested



Stay Put

From the date the hearing request is filed until the final decision is made, the child stays in their current or last agreed-upon educational placements (unless the family and school agree on another placement).



What happens next?

School must:

1. Inform parents of right to mediation
2. Inform family of free/low-cost legal services
3. Provide procedural safeguards notice
4. Schedule a Resolution Session



 publicdomainvectors.org

The Resolution Meeting

- 30 day period to resolve dispute
- Meeting scheduled within 15 days
- Parents and other relevant parties attend
- Parents decide if lawyers participate
- If agreement is reached, legally binding
- 45 day timeline begins after 30 day resolution period



The Hearing

- Takes place in a conference room
- Hearing officer presides
- Court reporter records proceedings
- Witnesses testify
- Parents may open hearing to the public



The Decision

- Within 45 calendar days
- Written report including rulings & action items
- Decision is legally binding
- Right to appeal



The hearing officer has the authority to grant an extension.

Things to consider:

- Formal, legal proceeding
- Time consuming
- Emotional Toll
- Expensive
- Low probability of favorable ruling (Source: Hear Our Voices)
- Impact on relationships



A hearing officer who does not know the child makes a decision; in mediation or resolution meetings, the family, school staff, and others who know the child, work together to come to an agreement.

Appeals

- Either party may appeal
- Requirements and timeline vary by state



Expedited Hearing Request

- Special type of due process complaint
- Parents disagree with school's discipline related decision
 - Manifestation determination
- School believes child's behavior could be dangerous to self or others
- States may have same or different filing requirements

Child “stays put”

Resources

2008 Parents' Guide to Dispute Resolution in Special Education, Virginia Department of Education Division of Special Education and Student Services Office of Dispute Resolution and Administrative Services.

“IDEA Dispute Resolution Parent Guides and Companion Videos.” CADRE, 17 May 2021.

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