

Themes and Trends in Conflict Resolution

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Special Education Dispute Resolution in Illinois

The following table provides a comparison of each of the dispute resolution processes offered by the Illinois State Board of Education (ISBE), Special Education Department.

	State-Sponsored IEP Facilitation	State-Sponsored Mediation	Written State Complaint	Due Process Hearing
Purpose	Used to promote effective communication and prevent conflicts as a parent and school district develop a mutually acceptable IEP.	Available anytime there is a disagreement between parents and educators about special education and/or related services, even if a written state complaint or due process has been filed.	Available when there is a concern that a public agency has not followed special education rules and regulations. May be filed on behalf of an individual student or a group of children.	Used to resolve disagreements relating to the identification, evaluation, educational placement, or provision of FAPE to a child.
Issues Addressed	Any issues related to IEP development	Any issues related to special education	Alleged violations of state/federal special education requirements	Any issue related to identification, evaluation, placement, or the provision of FAPE
Request	A parent or school district may request facilitation by contacting ISBE.	A parent or school district may request mediation by contacting ISBE.	Any person or organization may submit a written complaint to ISBE.	<p>A parent may file a due process request with the district superintendent.</p> <p>A district may file a due process request under limited circumstances (i.e., to challenge an Independent Educational Evaluation (IEE) request, to seek temporary removal of a student due to dangerous behavior).</p>
Request Form	https://sec.isbe.net/sems/iepfacilitationrequestpublic.aspx	https://www.isbe.net/Documents/34-15-mediation-request.pdf	https://www.isbe.net/Documents/complaint-form-English.pdf	https://www.isbe.net/Documents/dp_parental_19-86a.pdf
Process	ISBE provides a trained facilitator at no cost to the parties to help foster effective communication between parents and districts as they develop a mutually acceptable IEP.	ISBE provides a trained mediator at no cost to the parties as a means of resolving disagreements regarding special education matters.	Information and documentation related to the allegation(s) are reviewed by an ISBE complaint investigator.	An impartial hearing officer hears formal arguments, witness testimony, and documentary evidence similar to a court proceeding.

Format of Process	Parties meet within context of formal IEP meeting.	Parties convene for a formal discussion.	Parties do not meet, complaint investigator requests information from the district and independently reviews documentation.	Parties meet in an administrative hearing.
Potential Outcome	A mutually acceptable IEP is developed.	A legally-binding mediation agreement enforceable in court is developed.	A report with findings of facts, conclusions, and corrective actions (if noncompliance is identified) is issued.	A decision that orders remedial action, as determined by the hearing officer.
Timeline to Complete Process	No specific timeline	Must be scheduled in a timely manner	60 Calendar Days	75 Calendar Days*
Legal Representation	Attorneys are neither required nor prohibited.	Participants may include attorneys, advocates, interpreters, and other relevant parties who have knowledge of the student and/or of the matter being mediated.	Attorneys are neither required nor prohibited.	Although not required, parties are often represented by attorneys.
District Participation	Voluntary	Voluntary	Required	Required
Statute of Limitations	Not applicable	None	One Year	Two Years
Allowable Extensions	Meeting can be rescheduled with agreement of parties.	Meeting can be rescheduled with agreement of parties.	Only when exceptional circumstances require an extension.	At the request of either party
Website	https://www.isbe.net/Pages/IEP-Facilitation-System.aspx	https://www.isbe.net/Pages/Special-Education-State-Sponsored-Mediation.aspx	https://www.isbe.net/Pages/Special-Education-Complaint-Investigation-Process.aspx	https://www.isbe.net/Pages/Special-Education-Due-Process.aspx

*Regular hearing request with full resolution session timeline.

Adapted from Quick Guide to Special Education Dispute Resolution Processes for Parents at:

<https://www.cadeworks.org/sites/default/files/resources/Dispute%20Resolution%20Process%20Comparison%20Chart.pdf>

Top Ten Issues in Conflict Resolution

July 1, 2023 through June 1, 2024

Complaints	Due Process	Mediation
IEP Implementation (Special Education Svcs/Program)	Placement Determination	Educational Services/IEP
Development of IEP	Sufficiency of Instructional Services	Placement Determination
IEP Implementation (Related Services/Programs)	Independent Educational Evaluation	Evaluation of Students for Special Education Services
Parent Participation	Sufficiency of Related Services Offered	Eligibility of Students for Special Education Services
IEP Implementation (Accommodations/Modifications)	Placement of Children by Parents When FAPE Is an Issue	Reimbursement
FAPE (general)	FAPE (general)	Procedural Safeguards
Prior Written Notice	Disagreement Over Eligibility	Discipline Procedures
Content of IEP	Parent Participation in IEP Meetings	Related Services
Transportation	LRE Requirements	Other
Continuum of Placement Options	Child Find	Student Records

IEP Facilitation



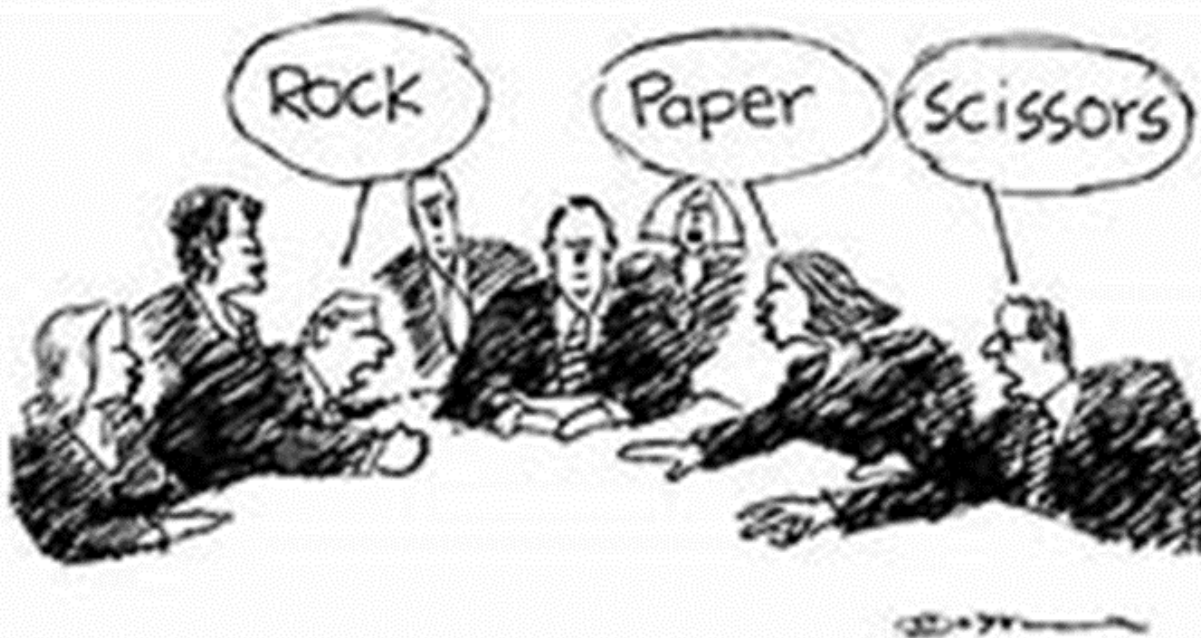
IEP Facilitation Statistics

*through 6/1/24

IEP Facilitations	2021-22	2022-23	2023-24*
Total requests	74	116	178
Facilitations held	73	107	153
Average meeting duration	1:55	1:42	1:32

Benefits of IEP Facilitation

- Builds and improves relationships among IEP team members;
- Keeps the meeting focused on the student;
- Encourages parents and professionals to consider new options to address unresolved problems;
- Provides opportunities for the IEP team to resolve conflicts;
- Supports participation of all IEP team members;
- No cost to the parties;
- Typically, less stressful than formal dispute resolution options;
- Improves communication skills and keeps the team focused on the development of the IEP;
- Keeps decision-making with team members who know the student best; and
- Develops greater capacity of teams as they learn from facilitators how to conduct meetings successfully.



Jameson, the mediator, uses his last remaining negotiating tool in an effort to break the stalemate.

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Top Ten Issues in Mediation

Two Years of Side-by-Side Data

July 1, 2022 – June 30, 2023	July 1, 2023 – June 1, 2024
Placement Determination	Educational Services/IEP
Educational Services/IEP	Placement Determination
Evaluation of Students	Evaluation of Students
Eligibility for Special Education Services	Eligibility for Special Education Services
Reimbursement	Reimbursement
Discipline Procedures	Procedural Safeguards
Related Services	Discipline Procedures
Procedural Safeguards	Related Services
Parentally-Placed Private School	Student Records
Student Records	Other

Mediation Statistics

*through 6/1/24

Mediations	2021-22	2022-23	2023-24*
Total requests	428	502	461
Mediations held	252	313	249
Mediations held related to DP	118	136	94
Mediation agreements reached	61	83	49
Mediations held NOT related to DP	134	177	155
Mediation agreements reached	97	121	110
Mediations withdrawn or not held	118	134	138
Mediations pending	56	53	74
Percentage of mediation agreements	63%	65%	64%

Benefits of Mediation

- Results in lowered financial and emotional costs compared to due process;
- Provides participants with an opportunity to increase their understanding of their unique situation and to explore a mutually acceptable resolution;
- Often results in written agreements where parties have an increased commitment to and ownership of the resolution;
- Enables parties to have more control over the process and decision-making;
- Remedies are often individually tailored, contain workable solutions, and are easier for the parties to implement;
- Mediation focuses on developing a plan for the future;
- Mediation discussions are confidential and cannot be used in a due process hearing or civil lawsuit; and
- May be helpful in resolving issues that are subject to State complaints or due process complaints.

“Stay-Put” in Mediation & Due Process

- Invoking “stay-put”—The “stay-put” placement shall be the student’s present educational placement and the student must continue, if applicable, in his or her present eligibility state and be provided with the special education and related services in place at the time the dispute arose.
- Illinois has now added a “stay-put” provision to mediation when mediation occurs outside of a pre-existing due process case.
- If a parent seeks mediation within ten days of an IEP meeting that results in a change of placement, “stay-put” will take effect until (a) the district declines to participate in mediation, or (b) the mediation takes place but no agreement is reached
- Upon termination of the mediation, the parent has an additional ten days to file for due process to continue the protections of “stay-put”
- In the context of mediation, the mediator does **NOT** serve as a judge to determine what the “stay-put” placement actually is or should be

“Stay-Put” in Mediation & Due Process

- Once due process is filed, the “stay-put” provision is automatic. It does not need to be invoked.
- Unlike mediation, a due process hearing officer does have the authority to determine and rule upon what the “stay-put” placement is.
- “Stay-put” in due process remains until:
 - The parties agree to another placement pending the final outcome of the due process, or
 - The hearing officer issues a final ruling or the due process request is either dismissed or withdrawn

Mediation, Due Process and Timelines

- Mediation, by itself, does not have a strict timeline. ISBE's strong preference is to assign a mediator and complete the mediation as fast as reasonably possible.
- Due Process, however, does have a timeline: the 30-day "resolution period" and the 45-day hearing timeline. The hearing timeline does not start until the resolution period concludes (except in Expedited Hearings)
- Per the requirements of 34 CFR 300.510, the resolution period may be longer or shorter depending on certain factors:
 - The parties agree in writing to waive the resolution meeting
 - The one party or the other refuses to participate in the resolution process when it is required to go forward, or
 - The parties agree in writing to utilize state-sponsored mediation in lieu of a resolution meeting – in this case, the hearing timeline does not start until the mediation is at an end

Mediation, Due Process and Timelines

- Important points about Mediation and Due Process:
 - Mediation can be requested at any time during Due Process, even if the parties attempted Mediation prior to the filing of the Due Process Request
 - If Mediation is undertaken AFTER the resolution period, it does not affect the hearing timeline
 - In the case of Expedited Hearings, Mediation does not delay the hearing timeline, even when Mediation in lieu of the Resolution Meeting. Expedited Hearing timelines can NEVER be extended.
 - If the parties engage in Mediation during Due Process, it is the parties' responsibility to keep the hearing officer informed of the progress in the mediation

Top Ten Issues in Due Process

Two Years of Side-by-Side Data

July 1, 2022 – June 30, 2023	July 1, 2023 – June 1, 2024
Placement Determination	Placement Determination
Sufficiency of Instructional Services Offered	Sufficiency of Instructional Services Offered
Independent Educational Evaluation	Independent Educational Evaluation
Placement of Children by Parents When FAPE Is an Issue	Sufficiency of Related Services Offered
Sufficiency of Related Services Offered	Placement of Children by Parents When FAPE Is an Issue
Disagreement over Eligibility	FAPE (general)
FAPE (general)	Disagreement over Eligibility
Discipline Appeal (MDR, IAES)	Parent Participation in IEP Meetings
Child Find	LRE Requirements
LRE Requirements	Child Find

Due Process Statistics

*through 6/1/24

Due Process	2021-22	2022-23	2023-24*
Total requests	267	266	232
Hearings held	7	14	22
Withdrawn/ Closed	201	161	83
Dismissed	7	22	38
Open	59	68	99

Ten Things for LEAs to Know about Due Process Hearings

- Significantly more cases going to hearing than in previous years
- Like Complaints, a proactive approach can save a lot of headaches.
- Grounds for due process tend to be much more expansive than Complaints.
- Districts have only limited grounds for initiating a due process hearing (typically in response to an IEE demand or removal from the placement due to “dangerousness”).
- Always consider options such as Resolution Meetings or Mediations as a means of resolving the dispute.
- 45-day timeline for the hearing following a 30-day resolution period that can be extended
- Expedited hearings are for disciplinary matters and acts involving actual or threatened violence only.
- Expedited timelines can NEVER be extended.
- Issues decided are only those raised in the hearing request.
- Hearing decisions are legally binding but can be appealed to court.

Top Ten Issues in Complaints

Two Years of Side-by-Side Data

July 1, 2023 – June 1, 2024	July 1, 2022 – June 30, 2023
IEP Implementation (Special Education Services/Program)	IEP Implementation (Special Education Services/Program)
Parent Participation (examine records, meetings, placement decisions)	Development of IEP
IEP Implementation (Accommodations/Modifications)	IEP Implementation (Related Services/Programs)
Development of IEP	Parent Participation
IEP Implementation (Related Services/Programs)	IEP Implementation (Accommodations/Modifications)
Notification (prior notice, content of notice, understandable language)	FAPE
FAPE	Notification
Referral/Evaluation Procedures	IEP Review and Revisions
IEP Review and Revisions	Content of IEP
Placement Determinations	Referral/Evaluation Procedures

Complaint Statistics

*through 6/4/24

Complaints	2021-22	2022-23	2023-24*
Total complaints filed	164	244	249
Total investigations conducted	112	142	107
Violations identified	81	88	75
No violations identified	31	54	32
Complaints withdrawn or dismissed	52	102	93

Ten Things for LEAs to Know about State Complaints

- Staff responsiveness to parental concerns may prevent formal complaints
- ISBE encourages parties to attempt to resolve complaint at local level even after a complaint is filed
- 60 calendar day investigation timeline (includes summer/winter breaks)
- Investigation may include documentation review, interviews, on-site visit
- LEA must provide response to complaint to ISBE and the complainant
- LEA response only required to address issues ISBE is investigating
- LEA encouraged to offer resolution to complaint in response to ISBE
- Participating in mediation/IEP facilitation does not automatically freeze complaint timelines
- If complaint and due process are simultaneous, complaint will be held in abeyance if issues are the same as in the due process request
- Complaint process intended to address correction of noncompliance-not punitive

Contact Information

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