



# Resolving Special Education Disputes: A Brief Overview

A dispute between you and a school district may be resolved through due process. Due process ensures that you have a way to assert your rights and those of your child regarding special education. Under the Individuals with Disabilities Education Act (IDEA), our federal special education law, a party has the right to file a request for a due process hearing about any matter relating to the identification, evaluation, or educational placement of a child, or the provision of a free appropriate public education (FAPE) for a child.

## **The Complaint**

To request a hearing, you or your attorney or advocate will submit a complaint to the Office of Administrative Hearings, which provides resolution services and conducts hearings free of charge for parents of children with special needs. A copy of your complaint will also be sent to your child's school district. The complaint will include basic information about you and your child and the school district such as your child's name and birthdate, your name and address, and the name of the school district. The complaint will also include facts related to the dispute with the school district and your proposed resolutions to the dispute. Once a complaint is filed, you may participate in one or more of the following:

## **Resolution Session**

Within fifteen days of the school district receiving a copy of the complaint, a resolution session will be held unless both parties agree to waive it. The resolution session gives you and the school district the opportunity to work together to resolve the dispute. The resolution session is less formal than a hearing, may result in early resolution of the dispute, and may help repair relationships and open lines of communication between you and the school district.

## **Mediation**

Mediation is a voluntary confidential process during which the parties, facilitated by a mediator, work to resolve the dispute. The mediator is a neutral third party who helps the parties communicate their concerns to each other. Many mediators are administrative law judges who are especially knowledgeable about special education laws and due process. The focus of the mediation is in working to arrive at a solution to the dispute agreeable to both parties. Most special education matters are settled through mediation. In settling a dispute with a school district, careful attention must be paid to the wording of any settlement agreement to make sure that your child's interests are honored.

## **Prehearing Conference**

A prehearing conference is a telephone conference between the administrative law judge, the school district's attorney, and you or your attorney, if you have legal representation. Among other matters, you will discuss witnesses who may testify, how exhibits will be marked, and how many days the hearing may last.

## Hearing

An administrative law judge will conduct the hearing, which will focus on the issues contained in the due process complaint. During the hearing, both you and the school district will have the opportunity to present your cases through relevant evidence and testimony. Following the due process hearing, the parties will usually submit closing arguments, which summarize the law and the facts that support their positions. Sometime after the parties submit their closing arguments, the administrative law judge will issue a written decision. If you disagree with the decision, you have the right to appeal it to federal or state court.

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