

## **FORMAL Dispute Resolution Procedures Available to Parents and Schools in New Hampshire**

As the dispute resolution options move to the right, the parties have less control over the outcome

3.22.2021

	<b>Neutral Conference (NH)</b>	<b>Due Process Complaint (Hearing)</b>	<b>Resolution Session</b>	<b>Mediation</b>	<b>State Complaint</b>
<b>What Issues Can Be Addressed?</b>	Any issue. Can be requested prior to or after filing for a due process hearing	Any matter regarding identification, evaluation, educational placement or provision of FAPE (except if a parent fails to respond /refuses consent for an initial evaluation or initial provision of services)	Any issue. Is intended to address issues raised by a parent's filing for a due process hearing	Any issue. Can be requested prior to or after filing for a due process hearing	Whenever it is alleged that a child or parent's special education rights have been violated (e.g. IEP requirements, timelines, consent, written prior notice)
<b>Who Can Initiate this Procedure?</b>	Parent or LEA (local educational agency or school district), but both parties must agree to participate	Parent or LEA	Must be scheduled by the LEA when a parent files for a due process hearing (parties may agree to waive it or use mediation instead)	Parent or LEA, but both parties must agree to participate	Any individual or organization (including those from out of state)
<b>What is the Time Limit for Filing?</b>	No time limit	2 years from when the party knew or should have known of the issue	Must be scheduled by the LEA within 15 days of receiving a due process complaint	No time limit	Must be filed 1 year from the date of the alleged violation
<b>What is the Timeline for Resolving the Matter?</b>	No time limit	45 days after receipt of the due process request, or, if a parent filed for the hearing: 45 days from the end of the 30-day resolution period, with some exceptions.	The resolution period ends 30 days after receiving a due process complaint or when the parties agree: to waive the resolution session or that no agreement is possible.	If used as an alternative to a due process hearing, a mediation conference shall be conducted within 30 calendar days after receipt of a written request	60 days after receiving the complaint, (some extensions allowed). LEA must be given a chance to resolve
<b>How is the Dispute Resolved?</b>	The "Neutral" renders a non-binding opinion	The hearing officer issues a decision (a party may appeal the decision by filing a civil action within 90 days from the decision)	The parent and LEA reach an agreement or the issue goes on to a due process hearing. The LEA cannot bring an attorney unless the parent brings one.	Both parties work with the mediator to try to reach an agreement	The Commissioner of Education issues a report of facts and conclusions as recommended by the investigator
<b>What are the Benefits of this Dispute Resolution Procedure?</b>	Provides a 3 <sup>rd</sup> party to review issues and give a non-binding opinion; is shorter than / may avoid, a due process hearing	Provides a formal means for parents and LEAs to resolve disagreements	Provides the LEA with an opportunity to resolve the dispute to the satisfaction of the parent prior to a due process hearing	Provides an alternative to a due process hearing in which the parties can reach an agreement, which is binding in court. The result may be a compromise or different than what the parties sought, so long as there is mutual agreement. <i>Win-Win</i>	Provides a means for alleged violations to be investigated and, as warranted, corrective action ordered. Also considers whether the violation is systemic. Sanctions may be ordered.
<b>What are the Drawbacks to this Dispute Resolution Procedure?</b>	Parties may not accept the Neutral's opinion (could then proceed to a due process hearing or mutually agree to attempt mediation)	Adversarial; can be costly; generally involves attorneys; decision can be appealed to court. Someone "wins" and someone "loses"	Only required when a parent files for a due process hearing (unless the parties agree to waive it or to use mediation instead). Either party may revoke the agreement within 3 business days (this will likely deepen mistrust between parties).	May not result in an agreement (could then decide to proceed to a due process hearing, or if both parties agree, to a neutral conference)	Must be able to document or demonstrate (prove) each alleged violation
<b>Impact on Team Relationships</b>	Helps the parties to evaluate the merit of their positions in a neutral setting	Relationships can be damaged / trust broken; may make working together in future meetings more difficult. May be appealed to civil court, prolonging the negativity.	If no resolution is reached the parties may continue to see each other as adversaries; may question each other's good-faith efforts to resolve the dispute	Helps the team see how they can brainstorm / work collaboratively to come to agreement in a safe setting	School staff will likely not view investigation as a positive act so the relationship can be damaged or compromised. <i>"Win/Lose"</i>
<b>How Can I Learn More?</b>	NH Department of Education, Legislation and Hearings at (603) 271-2299 / Appeals and Mediation: <a href="https://www.education.nh.gov/parents-and-students/appeals-and-mediation">https://www.education.nh.gov/parents-and-students/appeals-and-mediation</a> The Parent Information Center on Special Education at (603) 224-7005 / toll-free at 1-800-947-7005 / <a href="http://www.picnh.org">www.picnh.org</a>				

## INFORMAL Dispute Resolution Procedures Available to Parents and Schools in New Hampshire

In most instances, informal dispute resolution options can be a good starting point to resolve disputes

3.22.2021

	<b>Provide New or Additional Information to the Team</b>	<b>Request Another IEP Team Meeting</b>	<b>Third-Party Moderated Discussion</b>	<b>Facilitated Team Meeting</b>
<b>What Issues Can Be Addressed?</b>	Any issues that are part of an IEP team meeting; when the team lacks the information to fully understand existing options or the parent or other team member wishes to offer a new option to consider	Any issues that are part of an IEP team meeting (or unresolved issues when a parent provides partial consent), when communication has broken down or the team needs more time to consider options.	Any parent//LEA disagreement; in addition to special education, issues may include residency, manifest educational hardship, bullying, cyber-bullying; etc.	Any issues that are part of an IEP team meeting; when communication has broken down
<b>Who Can Initiate this Procedure?</b>	Parent or LEA (local education agency is the school district/public agency) may provide additional information; the LEA may have criteria for accepting independent educational evaluations	Parent or LEA (school district/public agency) may request a meeting; the LEA can refuse, but must then provide a written prior notice (WPN) explaining their refusal	Parent or LEA (school district/public agency), but both parties must agree to participate; then the LEA makes the request to the Department of Education	Parent or LEA (school district/public agency), but both parties must agree to participate
<b>What is the Time Limit: • For Filing?</b>	No time limit	The meeting must be scheduled and convened, or the LEA must provide the WPN within 21 days after receiving a parent's request for an IEP team meeting	No time limit, but when requesting this option, both parties must provide dates when they are available to meet	A facilitator, who is a neutral party, must be requested prior to the team meeting (the Department may have limited availability of facilitators)
<b>• For Resolving the Dispute?</b>	There is no specific time limit for resolving the matter	There is no specific time limit for resolving the matter	There is no specific time limit for resolving the matter	There is no specific time limit for resolving the matter
<b>How is the Dispute Resolved?</b>	The IEP team considers any additional information, along with existing information, to make an informed decision	The IEP team uses the additional meeting to more fully understand, discuss and/or consider the options available. A written prior notice documents any decisions made (actions that are proposed or refused)	The Moderator listens to each party's perspective of the dispute; may clarify or offer options to consider to possibly resolve the dispute; the Moderator's role is not to provide a decision	Both parties work with the facilitator to try to reach an agreement; the facilitator supports the team working together, while keeping the agenda moving forward. The facilitator does not "weigh in" on the issue.
<b>What are the Benefits of this Dispute Resolution Procedure?</b>	Provides the IEP team the information and time they may need to work together to reach agreement at the IEP team meeting level. <i>Win-Win</i>	Provides the IEP team with a break when communication at a meeting has broken down; provides additional time the IEP team may need to work together to reach agreement at the IEP team meeting level. <i>Win-Win</i>	The Moderator's role is to help participants open dialogue, search for possible solutions and present possible scenarios to consider; not to make the decision. Agreements may be documented in a written settlement agreement developed by the parties. <i>Win-Win</i>	Provides a way to help the IEP team work together more effectively to reach agreement at an IEP team meeting. <i>Win-Win</i>
<b>What are the Drawbacks to this Option?</b>	May not result in an agreement. If agreement is not reached through one of these informal dispute resolution options, the IEP team still has the option of deciding to use any of the remaining informal or formal NH dispute resolution procedures. If available, local alternative dispute resolution options may also be used. While agreement may be reached, each process attempted that does not result in agreement will add to the time it takes to resolve the dispute.			
<b>Impact on Team Relationships</b>	Gives team members an opportunity to provide additional input so the team can work together to make informed decisions as they strive to reach agreement	Allows the IEP team to continue working together to make decisions at the IEP team meeting level	May provide an additional perspective to the IEP team for members to consider, while keeping the decision at the IEP team level.	Helps the team stay focused and work together to make team decisions; supports effective communication and collaboration (may build skills for use at future meetings)
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