

Pro-Se Parent Guide to Neutral Conferences



Helpful hints for pro-se parents

*For more information and explanations, please refer to the
[Users' Guide to Administrative Process](#)*



- **TABLE OF CONTENTS**

- I. Essentials
- II. Filing for a Neutral Conference
- III. Agreement Prior to a Neutral Conference
- IV. The Neutral Conference
- V. What to Expect
- VI. Words to the Wise
- VII. Final Thoughts

NOTICE

NOTE: The following information was prepared by the Department of Education's Office of Legislation/Hearings to assist parents to Neutral Conferences and is meant to supplement and not in any way replace, modify or advise participants about federal and state law or regulations. Furthermore, although the information has been carefully reviewed to ensure the accuracy of the information contained herein, the Department is unable to promise total accuracy of the information and recommends that all participants carefully review and familiarize themselves with relevant federal and state law and regulations prior to participating in a hearing. The Department of Education reserves the right to modify this information, amend or terminate any description of procedures described in this guide at any time. See www.education.nh.gov for federal and state laws and regulations.

I. ESSENTIALS

I. BEGINNING THE NEUTRAL CONFERENCE

- 1. NH Department of Education, Office of Legislation and Hearings contact info:

101 Pleasant Street
Concord, NH 03301
(603)271-2299 Telephone
(603)271-4034 Fax
- 2. The Office of Legislation and Hearings does not give legal advice nor act as a representative or advocate for you.
- 3. The Office of Legislation and Hearings cannot appoint a lawyer or advocate to represent you or the student at the conference.

1. ESSENTIALS

- 4. The Office of Legislation and Hearings can only assist you with “technical assistance” regarding general information about the process.
- 5. The Neutral assigned to your case cannot act as a legal advisor or legal representative.
- 6. The Office of Legislation and Hearings has a very useful website:

<http://www.education.nh.gov/legislation/hearings.htm>

The website has links to

- Forms
- Statutes and regulations
- Users’ Guide to Administrative Process that explains the various administrative processes offered by the Department of Education.

1. ESSENTIALS

- 7. You can negotiate directly with the other party at any time.
- 8. You can withdraw your request for a Neutral Conference at any time during the process by sending a letter to the other party and the Neutral.
- 9. You should carefully consider whether it is a good idea for the student to attend the Neutral Conference.

II. FILING FOR A NEUTRAL CONFERENCE

– A. FORMAT

- If both parties agree to file for a Neutral Conference, the school district makes the request to the NH Department of Education, Office of Legislation and Hearings, on behalf of the parties. There is a form entitled Request for Neutral Conference as well as Agreement to Enter a Neutral Conference that the school district will help you to fill out. In addition, the school district, prior to the discussion, must fill out a form entitled Authorization to Commit Any Resources of the School District as a Result of a Neutral Conference.

II. FILING FOR A NEUTRAL CONFERENCE

- B. FILING THE REQUEST

- Prior to requesting a Neutral Conference, both parties to the dispute are requested to select 2 or 3 specific days which are mutually convenient and state what the issue(s) is/are to be discussed and each party's view of what they want;
- Parties may attend with a lawyer and/or advocate;
- Neutral Conferences are held in Concord.
- Neutral Conferences are generally held Monday-Friday (9 a.m. – 5 p.m.).

II. FILING FOR A NEUTRAL CONFERENCE

- C. AFTER THE OFFICE OF LEGISLATION AND HEARINGS RECEIVES YOUR REQUEST FOR A NEUTRAL CONFERENCE:
 - » 1. The Office of Legislation and Hearings will send a “Scheduling Notice” generally within 5 days of receiving the request.
 - » 2. The Scheduling Notice has important information, including:
 - » the name and address of the Neutral assigned to the matter;
 - » the date of the conference;

III. AGREEMENT PRIOR TO NEUTRAL CONFERENCE

- 1. Agreement: The school district and the parent can reach an agreement by talking directly and informally to each other at any time. If this occurs, you or the school district can contact the Neutral to cancel the conference.

IV. THE NEUTRAL CONFERENCE

- 1. Neutral Conference: If you do not come to an agreement prior to the Neutral Conference, you are on the road to the Neutral Conference.
- 2. The Neutral Conference is a non-adversarial means to discuss disagreements on a variety of matters including, but not limited to, special education, residency, manifest educational hardship, bullying, cyber-bullying, etc.
- 3. Please remember, the discussion will be more effective to both parties if you are prepared to **listen carefully** to other perspectives and to follow directions given by the Neutral.
- 4. Not less than 5 days prior to the neutral evaluation, the parties will submit to the Neutral and exchange a summary of the significant aspects of their case. The parties will attach copies of all documents on which they rely to the summary. These summaries must be not more than 4 pages.

IV. THE NEUTRAL CONFERENCE

- 5. At the Neutral Conference, the Neutral may address questions to the parties and will allow each party no more than 30 minutes to complement their written summaries with a brief oral statement. The Neutral's evaluation will be limited to not more than 2 hours;
- 6. The Neutral's role is after listening to each party's perspective of the dispute, to offer their oral opinion. A written report will be mailed to the parties within 48 hours of the conference, excluding Saturday, Sunday, or a holiday. The report will contain a suggested settlement or disposition as well as the reasoning that led to the suggested settlement or disposition.
- 7. The Neutral, who is also an independent contracted Hearing Officer/Mediator, can give valuable insights into the how a Hearing Officer would view the matter.

IV. THE THIRD PARTY DISCUSSION LED BY MODERATOR

- 8. All participants should be prepared to take whatever time is necessary to discuss the matter;
- 9. Neutral Conference sessions are confidential;
- 10. At the conclusion of a the matter, the Neutral will advise the Office of Legislation and Hearings:
 - If the Neutral Evaluation results in agreement, the conclusions will be incorporated into a written binding agreement signed by each party with a copy to the Office of Legislation and Hearings; or
 - If the Neutral Evaluation does not result in agreement, the Neutral Evaluator will report only the date and the participants of the meeting.

IV. THE INFORMAL THIRD PARTY DISCUSSION LED BY MODERATOR

- 11. As the Neutral Conference may result in an agreement, each party comes to the session with authority to commit any resources (time, effort, funds, staff, equipment, services, etc.) under their jurisdiction to whatever they may agree to as a result of the discussion (i.e. parents have authority over their child; the school district representative brings written authority to commit the district's resources);
- 12. If the Neutral Conference does not result in an agreement, parties are free to request an alternative dispute resolution (mediation) or an administrative hearing (for IDEA matters, a special education impartial due process hearing).

V. WHAT TO EXPECT

- 1. During all contacts with the Neutral and with the other party, you will be expected to:
 - be respectful,
 - be honest,
 - be cooperative,
 - be prepared,
 - be on time.

- 2. It is important to:
 - remain calm,
 - remain focused on your goal.

VI. WORDS TO THE WISE

- a. Remember that the other party, the lawyer(s) and the neutral are not your enemies. Their skills and experience can be very helpful to you if you maintain a professional attitude and ask for clarification or assistance when you need it.
- b. Keep in mind that everyone else at the Neutral Conference is probably just as uncomfortable as you are.
- c. Listen carefully to the Neutral and the other party. Ask questions if you don't understand.

VII. FINAL THOUGHTS

- 1. The goal of the Neutral Conference is to focus on facts, not opinions. Remember to always keep the facts of the case foremost in mind.

As you know, these disputes can be very emotional. You may be tempted to yell, to call others names, to accuse people of unprofessional conduct or other uncivil behavior.

PLEASE DON'T !!

If the Neutral senses the matter is getting out of hand, he/she has the authority to dismiss the Neutral Conference if your words or behavior are out of line.

VII. FINAL THOUGHTS

Please always keep in mind:

The Neutral does not know you and comes to every Neutral Conference with an open mind.

The Neutral knows you may be unrepresented and will assist you as best they can without prejudicing either party.

It is the duty of the Neutral to maintain order at all times. This means they can cut testimony off if they think it is irrelevant.

DEFINITIONS

VI. DEFINITIONS

You may see these terms in the Department of Education Hearing rules or in other documents about special education procedures. You may also hear them during mediation, negotiations or at hearing. The Hearing Rules can be found on the Department website:

<http://www.education.nh.gov/legislation/hearings.htm> ,

or you can ask the Office of Legislation and Hearings to send you a print copy of the Hearing Rules.

DEFINITIONS

- Admissible: Made part of the official record of the Hearing that the Hearing Officer will consider when making a Decision. The Hearing Officer can only pay attention to evidence that is “admitted” into the record.
- Burden of Proof: The moving party in a dispute has the burden of proof, which means it is that party’s responsibility to prove that what it said in the hearing request is true. If you request the hearing and you do not meet your burden of proof, you will not “win” your case.
- Caucus: A caucus is often a part of mediation. A caucus happens when the mediator speaks to one of the parties separately and apart from the other. The mediator may then return and caucus with the other party.
- Closing Statement: Your final argument in support of your hearing request.

DEFINITIONS

- Discovery: The process in which parties request and exchange information with one another after the Hearing Request has been filed and before the hearing begins. Interrogatories, requests for documents, and depositions are all different tools for discovery.
- Dismiss: The Hearing Officer closes the Hearing file. The Department will not take any more action on the hearing request.
- Dismiss with Prejudice: The case is closed and a Hearing Officer cannot consider the issues set out in the hearing request ever again.
- Dismiss without Prejudice: The case is closed but the Hearing Officer may consider the issues set out in the hearing request if an entirely new hearing request is filed.

DEFINITIONS

- Evidence: The documents and testimony that the Hearing Officer will consider when making the Decision.
- Examination: Formal questioning. Direct examination occurs when you ask questions of the witnesses you brought to the hearing. Cross examination occurs when you question the witnesses brought by the other party.
- Exclude: To keep a document or part of a witness's testimony out of the hearing record.
- Exhibits: Documents that are accepted into the official record of the hearing.

DEFINITIONS

- Ex Parte Communication: Communication between the Hearing Officer and one of the parties when the other party is not present. Ex parte communication is not allowed. The other party must always be present, either physically or on the line in a conference call, when you speak with your Hearing Officer. Similarly, the Hearing Officer cannot receive written ex parte communication. All correspondence and documents that you send to the Hearing Officer must be copied to any other party at the same time that you send them to the Hearing Officer.
- Expedited Hearing: A Hearing that is scheduled and resolved more quickly due to pressing circumstances outlined in the Hearing Rules.
- FAPE: Free Appropriate Public Education: All children with disabilities are entitled to FAPE according to state and federal law.

DEFINITIONS

- Five Day Rule: A list of all potential witnesses as well as all documents that you want the Hearing Officer to consider must be presented to the other party and to the Hearing Officer at least five business days before the hearing date. If you miss this deadline, the documents may not become a part of the hearing record.
- IDEA: Individuals with Disabilities Education Act: The most important federal law concerning special education.
- Inadmissible: Documents or testimony that does not meet the standards for inclusion into the hearing record.
- Joinder: Adding another agency or school that may be responsible for providing some services to the student as a party to the appeal.
- LEA: The local educational agency or school district.

DEFINITIONS

- Least Restrictive Environment (LRE): The principle that students with disabilities must be educated with regular education students as much as is appropriate and possible.
- Moving / Non-Moving Party: The *moving* party is the one who asks the Hearing Officer to take action (also known as the Petitioner). The *non-moving* party is the person or agency that responds (also known as the Respondent). These terms apply to both the original Request for Hearing and to any Motion made during the hearing process.
- Oath: The speaker swears to tell the truth. There are very serious consequences for the appeal and for the person if she or he is not honest after agreeing to tell the truth.

DEFINITIONS

- Objections: A statement made when you want the Hearing Officer to ignore a document or part of a witness's testimony. There must be a good legal reason for an objection.
- Official Record / Hearing Record: The documents and the tape-recorded testimony that the Hearing Officer will consider when making the Decision.
- Opening Statement: Your formal introduction of the issues and facts to the Hearing Officer.
- Party: A necessary participant in the Hearing. Generally the parties are the parents and the school district. Only parties must obey Hearing Officer orders.

DEFINITIONS

- Pro Se: Means “for oneself.” A *pro se* party is one who represents him/herself at Hearing, as opposed to being represented by an attorney or advocate.
- Pull Out: When the student is temporarily removed from the mainstream classroom for special education instruction or services.
- Recess: A break or pause in the hearing.
- Record: The documents and tape-recorded testimony that the Hearing Officer will consider when making the Decision.
- Show Cause: Means “tell me why.” An Order to Show Cause asks the parties to state in writing why the case should stay active. If the parties do not respond, or do not provide convincing reasons for the Hearing Officer to keep the case open, a Hearing Request may be dismissed.

DEFINITIONS

- Statute of Limitations: The law setting out the “expiration date” for special education claims. Generally, you must request a hearing within two years of the date of the school district’s action that you disagree with.
- Stay Put: A special education term which refers to the program or placement the student was attending at the time the Parents rejected the IEP or the Hearing Request was filed.
- Sua Sponte: Means “on one’s own.” A legal term used when a Hearing Officer decides to take formal action without the request of either party.

DEFINITIONS

- Subpoena: An order commanding a person to appear at a certain date and time, in a certain location, in order to give testimony in a legal proceeding.
- Subpoena Duces Tecum: An order requiring that specified documents be turned over to a party for use in a legal proceeding.
- Testimony: The words of the witness who has taken an oath to tell the truth.
- Venue: Location.
- Witness: The person who is responding to questions under oath at the hearing.