

SD Dispute Resolution Overview

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What is Dispute Resolution

The IDEA requires state educational agencies (SEA) to have procedures in place to offer dispute resolution when a parent and school district disagree over special education services provided under IDEA.

- SEAs are required to offer:
 - Mediation
 - Written State Complaint (investigations)
 - Due Process Hearing and Expedited Due Process Hearings
- Other Options Available in South Dakota
 - IEP Facilitation
 - SD Parent Connections Navigator Program

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Mediation, Written State Complaints, Due Process

- **IEP Facilitation:** A facilitated IEP meeting is an IEP meeting that includes an impartial facilitator who promotes effective communication and who assists the IEP team in developing an acceptable IEP. The facilitator keeps the team focused on the proper development of the IEP while addressing conflicts that arise. IEP facilitation is not used to resolve disputes unrelated to the IEP. IEP facilitation is not required by federal mandates and is states choice to utilize.
- **Mediation:** refers to a process conducted by a qualified and impartial mediator to peacefully resolve a disagreement between a parent and public agency. Both parties will sign a legally enforceable written agreement.
- **Complaint:** Any parent of a child with a disability, another individual, agency or organization that believes a school district is not following state or federal laws or regulations related to the Individuals with Disabilities Education Act (IDEA) may file a formal complaint with the Department of Education.
- **Due Process Hearing:** A request for a due process hearing is requested when issues are related to disagreements about the identification, evaluation, or education placement of a child with a disability.
 - **Expedited Due Process** means the process time is shortened and is requested the parent disagrees with the school districts discipline related decision affecting the student’s placement.

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Request Received in SY 2023-24

	IEP Facilitations	Mediation	State Complaint	Due Process Hearing	Expedited Due Process
Total Number Received	7	12	19	7	2
Parent Request	2	4	12	3	2
District Request	5	1	0	0	0
Third Party Request	0	7	6	4	0
# Withdrawn or dismissed	4	3	3	3	2
# went through full process	3	9	16	4	0
# with findings of non-compliance	NA	NA	11	0	0

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Dispute Resolution Results

- Special Education Programs saw an increase in Due Process Hearing Requests from previous years
- There was an increase in requests filed by third parties on behalf of parents
 - Top Issues were:
 - IEP Development
 - Placement
 - IEP Implementation
 - Meaningful Parent Participation
 - Evaluation Procedures
 - Behavior Intervention Plans (Implementation and Development)

IEP Development	16
IEP Implementation	8
Accommodations/Modifications	8
Behavior Intervention Plan	8
Placement	5
Inclusion (LRE)	5
Meaningful Parent Participation	4
Evaluation Procedures	4
Discipline Procedures	4
Child Find	3

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Due Process Hearing Findings

- Due Process Hearing redacted final decisions can be obtained through a public records request.
 - The link and directions can be found at <https://doe.sd.gov/sped/complaints.aspx> under "Dispute Hearing Logs"
 - Complaint decisions are not considered public and the Department is not required to make them available to the public or stakeholders.

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Activities Conducted to Improve Results

Districts

- Training and supports:
 - Effective dispute resolution
 - Effective IEP Facilitation
 - SDPC Navigator Program
 - Share strategies and supports for effective communication
- Subscription to SpedConnections – technical assistance on sped topics
 - Highlight monthly topics on sped director webinars

Parents

- Training and supports:
 - Provide options for dispute and sample forms
 - SDPC Navigator Program
 - Parent Rights are offered in multiple language
 - Parent Guide to the IEP Process
 - Provide surveys after IEP Facilitation and Mediation

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SD Parent Connections Navigator Program

The Navigator Program provides individualized guidance to parents who suspect or have a child with a disability, and school professionals, at no cost. The program is a partnership between the South Dakota Department of Education, Office of Special Education Programs and South Dakota Parent Connection.

- Navigators remain objective and neutral as they help both parents and school personnel to:
 - Locate and utilize information and resources
 - Improve family-school communication
 - Understand the special education process
 - Build (re-build) partnerships
 - Reach or make progress towards agreement
- Peer Navigator Consultants are located around the state and have expertise in issues related to special education, disability, special health care needs, communication strategies and conflict resolution.
- Working with a Navigator is an informal, time-limited, problem-solving process and does not restrict a parent's rights to use formal processes such as the help of an advocate, filing a complaint, requesting a facilitator or mediator assigned by the state, or filing for a due process hearing.

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Resources

- Third Party Resources for Parents and Districts
 - Navigator Program website
<https://sdparent.org/about/information-center/#Navigator-Program>
 - Center for Appropriate Dispute Resolution in Special Education (CADRE)
<https://www.cadeworks.org/>
 - Disability Rights of South Dakota
<https://drsdlaw.org/>
- DOE, Office of Special Education Resources
 - Dispute Resolution Site
<https://doe.sd.gov/sped/complaints.aspx>
 - Parent Rights & Resources
<https://doe.sd.gov/sped/parentalrights.aspx>
 - Regional Representatives
<https://doe.sd.gov/sped/>