



Disagreement Resolution Options in Missouri September 2020

Myth: The only disagreement resolution option for schools in Missouri is for the parent to take the district to due process.

Disagreement resolution is a term that refers to a number of processes that can be used to resolve a conflict, dispute or claim. While due process is an option for resolving disagreements for both parents/guardians AND the school district, it is not the only option available in Missouri. There are several other, less formal options parents and LEA's can agree to when trying to resolve a conflict or a dispute related to special education. The following list describes each of the options available for disagreement resolution in Missouri.

Facilitated IEP: In a facilitated IEP meeting, an external facilitator assists the team in crafting agreements that lead to the most beneficial IEP outcomes for students with disabilities. This external facilitator acts as a neutral party to keep the IEP team members focused on the development of the IEP with the student and his/her needs central in the discussion. The facilitator will also help the team work through conflicts and disagreements that may arise during the meeting. The goal is always to develop a high quality IEP focused on the needs of the child, not the parent or the school.

Both the parent(s) and the LEA must agree to participate in a facilitated IEP. The Department of Elementary and Secondary Education, Office of Special Education, receives requests for facilitated IEPs and assigns one of several trained facilitators to the request. The facilitator then gathers preliminary information from both the district and the parent, prior to the scheduled meeting date.

The facilitator does not make decisions about the student or determine what should be included in the IEP. The facilitator guides the team in making those decisions collaboratively and through consensus. IEP Facilitation is provided at no cost for IDEA-related cases and is requested through the Missouri Department of Elementary and Secondary Education, Office of Special Education. The FIEP model form can be found at https://dese.mo.gov/sites/default/files/dac_forms/MO5003154.pdf

Mediation: Mediation is defined as intervention in a disagreement in order to resolve it. DESE makes mediation available to allow parents or adult students and responsible public agencies to resolve disagreements involving any matter under Part B of IDEA, including matters arising prior to the filing of a due process complaint or as the basis for a child complaint. Mediation is provided at no cost to either party. The parties must mutually agree to mediate and mutually agree on a mediator from the trained mediator list maintained by the DESE Office of Special Education. Attorneys are not permitted in mediation sessions, although parents may be accompanied by a lay advocate. Each party is limited to 3 persons in the session(s) unless mutually agreed upon to include others. If the parties resolve a disagreement through mediation, they must enter into a legally binding agreement which includes the stipulation that discussions held within the session(s) remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any federal court or state court.

A booklet entitled **Mediation in Missouri** can be found here:

<https://dese.mo.gov/sites/default/files/se-dp-mediation-booklet-finalized-2009-updated-august-2019.pdf>

Child Complaint: DESE must maintain procedures for receiving, investigating, and resolving complaints alleging that statutes and/or regulations implementing IDEA have been violated. This process is known as the child complaint process. A complaint must allege a violation by a public agency that occurred not more than one (1) year prior to the date that the complaint is received. A child complaint can be filed by anyone who believes that a public agency has violated a requirement of Part B of IDEA. The person filing the complaint should submit a signed written complaint including the facts on which the complaint is based. Names and addresses of specific children involved, the name of the school/district involved, a proposed resolution and the signature and contact information of the complainant also need to be included in the written complaint. The party filing the complaint should forward a copy of the complaint to the public agency serving the child at the same time the complaint is submitted to DESE. The timeline for investigating and resolving the complaint is 60 calendar days from the date of the complete complaint. Members of the DESE staff will be assigned to investigate and respond to the complaint. Findings in a child complaint are final. No further appeal is available.

If a district and a complainant agree to participate in mediation, the timeline for the child complaint decision will be extended for up to 30 days. Additional information about the child complaint process can be found at this link: <https://dese.mo.gov/special-education/compliance/due-processchild-complaint/complaint-procedures>

Due Process: Even if the public agency and parents/guardians have attempted to resolve disputes in any of the above ways, parents or a public agency may file a due process complaint with the DESE Office of Special Education concerning the proposed action of the agency *to initiate or refuse to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student*. None of the above mentioned dispute resolution methods negate this right. Generally, the due process complaint must allege a violation that happened not more than two years before the date the parent or the public agency knew or should have known about the alleged action that forms the basis of the due process complaint. In order to request a due process hearing, a parent or the public agency (or the attorney representing either party) must provide the other party with a copy of the due process complaint. There is specific information that must be included in the complaint and the complaint must be kept confidential. The party filing a due process complaint must forward a copy of the complaint to DESE. Due process complaints follow very specific timelines and guidelines. More information on the process and procedures that occur once a due process complaint has been filed can be found in the Missouri State Plan at this link https://dese.mo.gov/sites/default/files/RegulationVProceduralSafeguardsDiscipline_1.pdf