

## CHAPTER 8: DUE PROCESS PROCEDURAL SAFEGUARDS/PARENTAL INVOLVEMENT CONSIDERATIONS

Revised 5/08

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## DUE PROCESS PROCEDURES AND PARENTAL INVOLVEMENT CONSIDERATIONS

Due process procedures refer to the rights and procedural safeguards afforded parents and children/students with disabilities under federal and state law. Districts must insure that parents of children/students with disabilities are provided the opportunity to be involved in all aspects of the development, planning, acquisition and implementation of special education and related services specific to the student. This includes providing for a surrogate if appointed to represent the student whenever natural parent(s) cannot be located or parental rights have been terminated by the courts (see: [Guidelines Regarding Appointment and Training of Surrogate Parents](#)).

If, in the identification, evaluation, educational placement or provision of FAPE to a child, a district and parent(s) disagree, disputes regarding identification, evaluation, educational placement, manifestation determination, interim alternative education placement, or the provision of FAPE, will be resolved through the use of conciliation, mediation, facilitated team meetings or another alternative process. Districts must provide at least one opportunity to meet with district staff for a conciliation conference. Following a conciliation conference, district staff will provide a conference memorandum describing the district's final proposed offer of services.

Districts will handle student information in the manner specified in Chapter 14, Governance Standards (see [Data Privacy and Confidentiality](#) in chapter 14).

Member district staff will provide written notice to parents of a child with a disability before the district proposes to:

- A. Initiate or change the identification, evaluation or education placement of a student or the provision of FAPE; or
- B. Refuses to initiate or change the identification, evaluation or educational placement of a student or a provision of FAPE. The notice will include:
  1. a description of the action proposed or refused by the district;
  2. an explanation of why the district proposes or refuses to take action;
  3. a description of each evaluation procedure, assessment, record or report the district used as a basis for the proposed or refused action;
  4. a statement that the parents of the child with a disability have protection under the procedural safeguards and if the notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguard can be obtained;
  5. sources for parent to contact to obtain assistance in understanding these provisions;
  6. a description of other options the IEP team considered and reasons why these options were rejected; and
  7. a description of other factors that is relevant to the proposal or refusal.

Written Prior Notice will be written in language understandable to the general public and will be provided in the native language of the parents when feasible. If the native language or other mode of communication of the parent is not written, the member districts will take steps to ensure the notice is translated orally or by other means to ensure the parent understands the notice and there is evidence the requirement was met.

A copy of the State of Minnesota's Procedural Safeguards will be provided to parents:

1. upon initial referral or request for evaluation;
2. upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
3. in accordance with discipline procedures; and
4. upon request of a parent.

The procedural safeguards provided to parents as shown above will include a full explanation of all of the federal safeguards relating to:

- Independent educational evaluations
- Prior Written Notice
- Parental consent
- Access to educational records
- Opportunity of parent to resolve complaints through the due process complaint system and state complaint procedures
- Availability of mediation
- Child placement during pendency of a due process complaint
- Procedures for students who are subject to placement in an interim alternative educational setting
- Requirements for unilateral placement by parents of children in private school at public expense
- Hearing on due process complaints, including requirements for disclosure of evaluation results and recommendations
- State level appeals
- Civil actions, including the time period in which to file those actions
- Attorneys fees

A copy of the procedural safeguards notice is on the Northern Lakes Special Education Cooperative website:

[www.nlsec.org/web/](http://www.nlsec.org/web/)

Parents of a child with a disability will be afforded the opportunity to participate in meetings with respect to the identification, evaluation and educational placement of their child or the provision of FAPE. Member districts will take steps to ensure that one or both parents of a child with a disability are present at each team meeting or are afforded the opportunity to participate by:

- A. Notifying the parent(s) of a meeting early enough to ensure the parent(s) will have an opportunity to attend; and
- B. Scheduling the meeting at a mutually agreeable time and place.

Member districts will not consider informal or unscheduled conversations involving district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of services provisions as a meeting requiring parent participation. Formal meetings also do not include preparatory activities to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

Member districts will ensure that a parent of a child with disabilities is a member of any group that makes decisions regarding educational placement of their child. If neither parent can participate, districts will use other methods to ensure participation, including individual conference, telephone calls or video conferencing. If placement is made without parent involvement, districts will provide evidence of attempts to ensure parent involvement.

Member districts require the following membership on all IEP team meetings related to a child with a disability:

- A. parent of the child
- B. other individuals who have knowledge or special expertise regarding the child, including related services personnel
- C. the child's regular education teacher or a regular classroom teacher qualified to teach a child his/her age; and
- D. at least one person qualified to conduct an individual diagnostic examination of the child.

## DISPUTE RESOLUTION

Member districts work to resolve disputes over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education (FAPE) to a student with a disability through conciliation, mediation, facilitated team meetings, or other alternative process. All dispute resolution options are voluntary on the part of the parent. These options will not be used to deny or delay the parent's right to a due process hearing. All dispute resolution processes under this section are provided at no cost to the parent.

### Alternative Dispute Resolution

In addition to offering at least one conciliation conference, districts will inform parent(s) of other dispute resolution processes, including mediation and facilitated IEP team meetings.

## CONCILIATION CONFERENCE

Conciliation is a voluntary process by which the parents and a representative of the district with authority to resolve a dispute further discuss specific issues without involving an outside third party. A conciliation conference must be held within 10 calendar days of receipt of parent's request to participate in a conciliation conference. (See: [Conciliation Conference](#)).

### Type of conflict best resolved:

- Questions of opinion related to the identification, evaluation, placement, manifestation determination, interim placement or the provision of free appropriate public education (FAPE) for a child with a disability.

### How long does the process take?

- If you cannot come to a resolution in one or two meetings, you may wish to try mediation.

### Who makes the decision?

- The district and the parent(s).

### Who pays for the process?

- The school district. If the school district or the parents choose to engage legal representation, each will be responsible for their own legal costs.

### Things district/parent can do to help the process work:

- Come to the conciliation ready to share concerns and objections to the district's proposed action or denial.
- Address the specific issues raised.
- Focus on the needs of the student.

### For Part C, Infants and Toddlers with a Disability and their Families

Conciliation can be used between the school district and the family. The district should provide parent(s) with an opportunity to meet with appropriate district staff in at least one conciliation conference if the parent(s) objects to any proposal for which the parent(s) receives notice. Following a conciliation conference, the district will prepare and provide to the parent(s) a conciliation conference memorandum that describes the district's final proposed offer of service.

## MEDIATION

Mediation is a dispute resolution process that involves a neutral party provided by the state to assist a parent and a district in resolving disputes over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education

(FAPE) to a child with a disability. The mediation process is available as an informal alternative to a due process hearing but must not be used to deny or postpone the opportunity of a parent or district to obtain a due process hearing. Mediation is voluntary for all parties. All mediation discussions are confidential and inadmissible as evidence in any subsequent proceeding, unless the:

1. parties expressly agree otherwise;
2. evidence is otherwise available; or
3. evidence is offered to prove bias or prejudice of a witness.

Mediation agreements are not admissible unless the parties agree otherwise or a party to the agreement believes the agreement is not being implemented, in which case the aggrieved party may enter the agreement into evidence at a due process hearing. The parties may request another mediation to resolve a dispute over implementing the mediated agreement. After a due process hearing is requested, a party may request mediation and the commissioner must provide a mediator who conducts a mediation session no later than the third business day after the mediation request is made to the commissioner.

**Type of conflict best resolved:**

- Questions of opinion related to the identification, evaluation, placement, manifestation determination, interim placement or the provision of free appropriate public education (FAPE) for a child with a disability.

**How long does the process take?**

- Usually three to four weeks.

**Who makes the decision?**

- The district and the parent(s).

**Who pays for the process?**

- Minnesota Department of Education (MDE). If the school district or the parents choose to engage legal representation, each will be responsible for their own legal costs.

**Things district/parent can do to help the process work:**

- Come to the mediation ready to share concerns
- Keep it non-adversarial
- Keep in mind you are establishing and maintaining a long-term working relationship
- Focus on the needs of the student

*For Part C, Infants and Toddlers with a Disability and their Families*

Mediation can be used by the family and/or an agency providing services, as well as among the agencies themselves, to resolve disputes. Mediation for this age group must take place within 20 calendar days from the date the request is received.

## **FACILITATED IEP**

A facilitated IEP is a voluntary IEP/IFSP/IIIP meeting moderated by an impartial state-provided facilitator to promote effectual communication, address conflicts as they arise and assist the team in developing an IEP/IFSP/IIIP.

**Type of conflict best resolved:**

- Questions of opinion related to the identification, evaluation, placement, manifestation determination, interim placement or the provision of free appropriate public education (FAPE) for a child with a disability.

### **How long does the process take?**

- If you cannot come to a resolution in one or two meetings, you may wish to try mediation.

### **Who makes the decision?**

- The district and the parent(s).

### **Who pays for the process?**

- Minnesota Department of Education (MDE). If the school district or the parents choose to engage legal representation, each will be responsible for their own legal costs.

### **Things district/parent can do to help the process work:**

- Come to the facilitated meeting ready to share concerns and objections related to the district's proposed action or denial
- Keep it non-adversarial
- Address the specific issues raised
- Focus on the needs of the student

## **DUE PROCESS HEARING**

A due process hearing uses a hearing officer (HO) who will listen to the parent's and the district's side of a disagreement and will make a decision based on the student's best interest in keeping with the law. The hearing officer's decision is final unless it is appealed in the Minnesota Court of Appeals or in the Federal District Court within 60 calendar days of receiving the hearing officer's decision.

A parent or a district is entitled to an impartial due process hearing conducted by the state when a dispute arises over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education (FAPE) to a child with a disability. The hearing must be held in the district responsible for ensuring that a free appropriate public education (FAPE) is provided according to state and federal law.

### **Type of conflict best resolved:**

- Questions related to the identification, evaluation, placement, manifestation determination, interim placement or the provision of free appropriate public education (FAPE) for a child with a disability.

### **How long does the process take?**

- 45 days from request to final decision

### **Who makes the decision?**

- An independent hearing officer

### **Who pays for the process?**

- The school district. If the school district or the parents choose to engage legal representation, each will be responsible for their own legal costs, unless the parent(s)' prevails. In this case, the district would be responsible for parent(s)' legal costs.

### **Things district/parents can do to help the process work:**

- Specify and limit issues as much as possible
- Properly prepare the substantive evidence you want the hearing officer to consider
- Know the hearing procedures and procedural rights

*For Part C, Infants and Toddlers with a Disability and their Families*

- In Part C, hearing officers make decisions over any early intervention service provided by or through education, health or human services agencies. The appeal process is the same.

A due process complaint must allege a violation that occurred not more than two years before the date of the alleged violation regarding identification, evaluation or educational placement of a student with a disability, or the provision of FAPE, unless the parent(s) was prevented from filing a due process complaint, the district misrepresented the resolution or withheld information from the parent. Parents will be informed of free or low cost services if the parent(s) requests the information or when a due process complaint is filed.

A request for a due process hearing must be in writing, describe the nature of the dispute, including facts related to the dispute. The written complaint must include:

1. The name of the child;
2. The address of the residence of the child;
3. The name of the school the child is attending;
4. In the case of a homeless child or youth, the available contact information for the child and the name of the school the child is attending;
5. A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and
6. A proposed resolution of the problem to the extent known and available to the party at the time.

The due process complaint will be deemed sufficient unless the party receiving the due process complaint notifies the hearing officer and the other party in writing, within 15 days of receipt of the due process complaint, that the receiving party believes the due process complaint does not meet the requirements. Within five days of receipt of notification of the request for a hearing, the hearing officer will make a determination on the face of the due process complaint of whether the due process complaint meets the requirements, and will immediately notify the parties in writing of that determination. A party may amend its due process complaint only if:

- The other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a resolution meeting; or
- The hearing officer grants permission, (the hearing officer may only grant permission to amend at any time not later than five days before the due process hearing);

If a party files an amended due process complaint, the timelines for the resolution meeting and the time period to resolve begin again with the filing of the amended due process complaint.

The school district administrator who receives a request for a due process hearing will immediately forward the request to the Commissioner of Education. Within two business days of receiving a request for a due process hearing, the Commissioner will appoint a hearing officer. A party may disqualify a hearing officer only by affirmatively showing prejudice or bias to the Commissioner or to the Chief Administrative Law Judge if the hearing officer is an administrative law judge. If a party affirmatively shows prejudice against a hearing officer, the Commissioner will assign another hearing officer to hear the matter.

After receiving a due process complaint, districts must, within 10 days of receiving the due process complaint, send to the other party a response that specifically addresses the issues raised in the due process complaint.

Prior written notice should be sent to the parent regarding the subject matter contained in the parent's due process complaint. Within 10 days of receiving the due process complaint, the district should send to the parent a response that includes;

- A description of the action;
- An explanation of why the district proposed or refused to take the action raised in the due process complaint;

- A description of other options that the IEP team considered and the reasons why those options were rejected;
- A description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action;
- A description of any other factors that are relevant to the district's proposal or refusal.

## **RESOLUTION MEETING**

Within 15 days of receiving notice of the parent's due process complaint and prior to the initiation of a due process hearing, the district will convene a meeting with the parent and the relevant member or members of the IEP team who have specific knowledge of the facts identified in the due process complaint. The IEP team will include a representative of the district who has decision-making authority on behalf of that district and will not include an attorney of the district unless the parent is accompanied by an attorney.

The purpose of the meeting is for the parent of the student to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the district has the opportunity to resolve the dispute that is the basis for the due process complaint.

The district resolution meeting does not need to be held if the parent and the district agree in writing to waive the meeting or the parent and the district agree to use the mediation process.

The parent and the district representative will determine who the relevant IEP team members are that should attend the meeting. If the district has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing will occur. The timeline for issuing a final decision begins at the expiration of this 30-day period.

Except where the parties have jointly agreed to waive the resolution process or to use mediation, the failure of the parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held. If the district is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made, the district will at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's due process complaint. If the district fails to hold the resolution meeting within 15 days of receiving notice of a parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline.

The 45-day timeline for the due process hearing starts the day after one of the following events:

- Both parties agree in writing to waive the resolution meeting;
- After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible;
- If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or public agency withdraws from the mediation process.

If a resolution to the dispute is reached at the resolution meeting the parties must execute a legally binding agreement that is:

- Signed by the parent and a representative of the district who has the authority to bind the district; and
- Is enforceable in any State court of competent jurisdiction or in a District Court of the United States, or, by the State Education Agency, if the State has other mechanisms or procedures that permit parties to seek enforcement of resolution agreements.

If the parties execute an agreement, a party may void the agreement within three business days of the agreement's execution.

## DUE PROCESS HEARING

### Who is responsible for Conducting a Hearing

The resident district is responsible for resolving disagreements between the student's parents and the district, including conciliation and due process hearings when the placement has been made by the resident district. If the providing district, agency, or academy receives a request for a conciliation conference, mediation, or due process hearing from the parent, the providing district, agency, or academy must notify the resident district of the parent's request within one school day.

No resident of a district who is eligible for special instruction and services will be denied instruction and service on a shared time basis because of attending a nonpublic school. If a resident student with a disability attends a nonpublic school located within the district of residence, the district will provide necessary transportation for that student within the district between the nonpublic school and the educational facility where special instruction and services are provided on a shared time basis. If a resident student with a disability attends a nonpublic school located in another district and if no agreement exists for providing special instruction and services on a shared time basis to that student by the district of attendance and where the special instruction and services are provided within the district of residence, the district of residence will provide necessary transportation for that student between the boundary of the district of residence and the educational facility. The district of residence may provide necessary transportation for that student between its boundary and the nonpublic school attended, but the nonpublic school must pay the cost of transportation provided outside the district boundary.

### Additional Rights and Obligations Related to a Hearing

#### Counsel, Evidence, and Witnesses

Any party to a hearing or an appeal conducted has the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities.
2. Present evidence and confront, cross-examine, and compel the attendance of witnesses;
3. Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing.

At least five business days prior to a hearing, each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

A parent must have an opportunity to meet with appropriate district staff in at least one conciliation conference if the parent objects to any proposal of which the parent receives notice. If the parent refuses district efforts to conciliate the dispute, the conciliation requirement is met. Following a conciliation conference, the district will prepare and provide to the parent a conciliation conference memorandum that describes the district's final proposed offer of services. This memorandum is admissible in evidence in any subsequent proceeding.

In addition to offering at least one conciliation conference, a district will inform a parent of other dispute resolution processes, including mediation and facilitated IEP team meetings. The fact that an alternative dispute resolution process was used is admissible as evidence at any subsequent proceeding.

Mediated agreements are not admissible unless the parties agree otherwise or a party to the agreement believes the agreement is not being implemented, in which case the aggrieved party may enter the agreement into evidence at a due process hearing. The parties may request another mediation to resolve a dispute over implementing the mediated agreement. After a due process hearing is requested, a party may request

mediation and the Commissioner of Education must provide a mediator who conducts a mediation session no later than the third business day after the mediation request is made to the commissioner.

### **Hearing Records and Decisions**

The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed unless the other party agrees otherwise.

Any party to a hearing or appeal has the right to:

- Obtain a written, or, at the option of the parent, electronic, verbatim record of the hearing; and
- Obtain written, or at the option of the parents, electronic findings of fact and decisions.

A decision must be made not later than 45 days after the expiration of the 30-day period.

### **Burden of Proof**

The burden of proof in a due process hearing is on the party who brought the due process complaint to the hearing. The complaining party must demonstrate, by a preponderance of the evidence, that a school district is or is not in compliance with state and/or federal laws pertaining to the provision of a free appropriate public education (FAPE) to the child in the least restrictive environment (LRE).

### **Parents – Specific Rights**

Parents involved in hearings must be given the right to:

- Have the child who is the subject of the hearing present;
- Open the hearing to the public; and
- Have the record of the hearing and the findings of fact and decisions provided at no cost to the parents.

Each hearing and each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved.

### **Stay Put**

Except during the pendency of any administrative or judicial proceeding regarding a due process notice requesting a due process hearing, unless the State or school district and the parents of the student agree otherwise, the student involved in the complaint must remain in his or her current educational placement. If the complaint involves an application for initial services for a student who is transitioning from Part C and is no longer eligible for Part C services because the student has turned three, the district is not required to provide the Part C services that the student had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services, then the district will provide those special education and related services that are not in dispute between the parent and the public agency.

If the hearing officer in a due process hearing agrees with the student's parents that a change of placement is appropriate, that placement must be treated as an agreement between the State and the parents. Until a due process hearing is completed or the district and the parent agree otherwise, the child must remain in the student's current educational placement and must not be denied initial admission to school. Until an expedited due process hearing challenging an interim alternative educational placement is completed, the student must remain in the interim alternative educational setting until the decision of the hearing officer or the expiration of the 45 days permitted for an interim alternative educational setting, whichever occurs first, unless the parent and district agree otherwise.

## **Prehearing Conference**

A prehearing conference must be held within five business days of the date the Commissioner appoints the hearing officer. The hearing officer must initiate the prehearing conference which may be conducted in person, at a location within the district, or by telephone. The hearing officer must create a written verbatim record of the prehearing conference which is available to either party upon request. At the prehearing conference, the hearing officer must:

- Identify the questions that must be answered to resolve the dispute and eliminate claims and complaints that are without merit;
- Set a scheduled order for the hearing and additional prehearing activities;
- Determine if the hearing can be disposed of without an evidentiary hearing and, if so, establish the schedule and procedure for doing so; and
- Establish the management, control, and location of the hearing to ensure its fair, efficient, and effective disposition.

A hearing officer may bar any party that fails to comply with the requirements from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

If a hearing officer requests an independent educational evaluation as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

The hearing officer's decision must:

- Be in writing;
- State the controlling and material facts upon which the decision is made in order to apprise the reader of the basis and reason for the decision; and
- Be based on local standards, state statute, the rules of the Commissioner, and federal law.

A district is not liable for harmless technical violations of this section or rules implementing this section if the school district can demonstrate on a case-by-case basis that the violations did not harm the student's educational progress or the parent or guardian's right to notice, participation, or due process.

The portion of a hearing officer's decision granting relief requested by the parent must be implemented upon issuance unless the district and parent agree otherwise.

The Commissioner must monitor final hearing officer decisions and ensure enforcement of hearing officer orders.

The hearing officer may require the resident school district to provide compensatory educational services to the student if the hearing officer finds that the school district has not offered or made available to the student a free appropriate public education (FAPE) in the student's educational program and that the student has suffered a loss of educational benefit. Such services shall take the form of direct and indirect special education and related services designed to address any loss of educational benefit that may have occurred. The hearing officer's finding shall be based on a present determination of whether the child has suffered a loss of educational benefit.

The hearing officer must issue a decision within 45 days of the date on which the Commissioner receives the request for a due process hearing. A hearing officer is encouraged to accelerate the time line to 30 days for a child under the age of three whose needs change rapidly and who requires quick resolution of a dispute. A hearing officer may not extend the time beyond the 45-day period unless requested by either party for good

cause shown on the record. Extensions of time must not exceed a total of 30 calendar days unless both parties and the hearing officer agree or time is needed to complete an independent educational evaluation. Good cause includes, but is not limited to, the time required for mediation or other settlement discussions, independent educational evaluation, complexity and volume of issues, or finding or changing counsel.

### **Appeals**

The parent or district may seek review of the hearing officer's decision in the Minnesota Court of Appeals or in the Federal District Court, consistent with federal law. A party must appeal to the Minnesota Court of Appeals within 60 days of receiving the hearing officer's decision.

### **Expedited Due Process Hearings**

A parent has the right to an expedited due process hearing when there is a dispute over a manifestation determination or a proposed or actual placement in an interim alternative educational setting. A district has the right to an expedited due process hearing when proposing or seeking to maintain placement in an interim alternative educational setting. A hearing officer must hold an expedited due process hearing and must issue a decision within ten calendar days of the request for a hearing. A hearing officer may extend by up to five additional calendar days the time for issuing a decision in an expedited due process hearing.

### **When Attorney Fees are Awarded**

In any action or proceeding, the court, in its discretion, may award reasonable attorney's fees as part of the costs to:

- The prevailing party who is the parent of a student with a disability;
- To a prevailing party who is a district against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or
- To a prevailing district against the attorney or a parent, or against the parent, if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

### **When Attorney Fees Are Not Awarded**

Attorney fees may not be awarded and related costs may not be reimbursed in any action or proceeding for services performed subsequent to the time of a written offer of settlement to a parent if the offer is made within the time prescribed. In the case of an administrative proceeding, attorney fees may not be awarded at any time more than 10 days before the proceeding begins; the offer is not accepted within 10 days; and the court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

Attorney fees may not be awarded relating to any meeting of the IEP team unless the meeting is convened as a result of an administrative proceeding or judicial action, or at the discretion of the State, for mediation.

### **When Attorney Fees Are Reduced**

The court will reduce, accordingly, the amount of the attorney's fees awarded if the court finds that:

- a. The parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;
- b. The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonable comparable skill, reputation, and experience;

- c. The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or
- d. The attorney representing the parent did not provide to the district the appropriate information in the due process request notice in accordance.

This provision does not apply if the court finds that the school district unreasonable protracted the final resolution of the proceeding or there was a violation of the Individuals with Disabilities Education Act (IDEA).

### **Interagency Dispute Procedures (Birth – 3 programs)**

A dispute between a school board and a county board that is responsible for implementing the provisions of early childhood special education B-3 programs, regarding early identification, child and family assessment, service coordination, and IFSP development and implementation must be resolved according to Minnesota Statute when the dispute involves services provided to children and families eligible under the Individuals with Disabilities Education Act (IDEA).

A dispute occurs when the school board and county board are unable to agree as to who is responsible to coordinate, provide, pay for, or facilitate payment for services from public and private sources.

Written and signed disputes must be filed with the local primary agency.

The local primary agency must attempt to resolve the matter with the involved school board and county board and may request mediation from the Commissioner of the state lead agency for this purpose.

When interagency disputes have not been resolved within 30 calendar days, the local primary agency must request the Commissioner of the state lead agency to review the matter with the Commissioner of Health and Human Services and make a decision. The Commissioner must provide a consistent process for reviewing those procedures. The Commissioner's decision is binding subject to the right of an aggrieved party to appeal to the State Court of Appeals.

The local primary agency must ensure that eligible children and their families receive early intervention services during resolution of a dispute. While a local dispute is pending, the local primary agency must either assign financial responsibility to an agency or pay for the service from the early intervention account. If in resolving the dispute, it is determined that the assignment of financial responsibility was inappropriate, the responsibility for payment must be reassigned to the appropriate agency and the responsible agency must make arrangements for reimbursing any expenditures incurred by the agency originally assigned financial responsibility.

A parent may resolve a dispute regarding issues for Infants & Toddlers through mediation. If the parent chooses mediation, all public agencies involved in the dispute must participate in the mediation process. The parent and the public agencies must complete the mediation process within 30 calendar days of the date the Office of Dispute Resolution receives a parent's written request for mediation. The mediation process may not be used to delay a parent's right to a due process hearing. The resolution of the mediation is not binding on any party. Resolution of a dispute through mediation, or other form of alternative dispute resolution, is not limited to formal disputes arising from the objection of a parent or guardian and is not limited to the period following a request for a due process hearing. The Commissioner shall provide training and resources to school districts to facilitate early identification of disputes and access to mediation.

## STATE COMPLAINT PROCEDURES

**Authority:** Individuals with Disabilities Education Act (IDEA)

**Definition:** A complaint is a signed, written allegation that a public agency (usually a public school district) has violated a requirement of state or federal law or rule pertaining to the Individuals with Disabilities Education Act (IDEA).

**Type of conflict best resolved:**

- Questions of law, such as: IEP implementation, length of time for evaluations, parental notice, etc.

**How long does the process take?**

- Up to 60 days

**Who makes the decision?**

- Minnesota Department of Education (MDE)

**Who pays for the process?**

- Minnesota Department of Education (MDE). If the school district or the parents choose to engage legal representation, each will be responsible for their own legal costs.

**Things parents can do to help the process work:**

- Outline specifics of the allegation.
- Submit written data and explain how it supports the allegation(s).
- Be able to articulate a preferred outcome.

***For Part C, Infants and Toddlers with a Disability and their Families***

- In carrying out the above points, MDE coordinates with the Minnesota Department of Health and Human Services to resolve complaints related to early intervention services.

The alleged violation must have occurred within the past year, unless a longer period is reasonable because of a continuing violation. A complaint may also be investigated if the alleged violation occurred up to three years prior or if compensatory services would likely result if the allegations are substantiated.

**When May a Complaint be Filed?**

A complaint may be filed whenever anyone believes that a school district has violated a provision of state or federal special education law or rule. Parents or other persons may contact a complaint investigator if they are unsure whether or not their concerns meet the requirements.

**How are Disputes Involving Infants and Toddlers with a Disability and Their Families Resolved:**

Complaints related to services for children ages birth to three are also resolved through the Special Education Complaint System. The Minnesota Department of Education (MDE) will consult with the Minnesota Department of Health and Human Services to review and resolve written complaints when necessary.

Written complaints involving children up to age three can be filed by anyone who feels that a federal law or regulation, state statute, or rule governing early intervention has been violated.

**Procedures for Filing a Complaint:**

A complaint may be filed by an individual or an organization. The complaint must be in writing and it must be signed. It must include a statement that the district has violated a requirement of state or federal special

education law or rule and the facts on which the statement is based. Complaints should be sent to: *Minnesota Department of Education, Division of Monitoring and Assistance, 1500 Highway 36 West, Roseville, MN 55113-4266.*

The complaint must include:

- A statement that a public agency has violated a requirement of IDEA;
- The facts on which the statement is based;
- The signature and contact information for the complainant; and

If alleging violations with respect to a specific child –

- the name and address of the residence of the child;
- the name of the school the child is attending;

In the case of a homeless child or youth –

- available contact information for the child;
- the name of the school the child is attending;
- A description of the nature of the problem of the child, including facts relating to the problem; and
- A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

The party filing the complaint must forward a copy of the complaint to the school district serving the student at the same time the party files the complaint with the state agency. A complaint may be filed regarding an issue that arose within the past year. A longer period may be reasonable, as determined by MDE on a case by case basis, if the complainant is seeking compensatory education for an alleged violation occurring within the past three years, or if an alleged violation is continuing. Attorney's fees are not recoverable for work done on a complaint. If a hearing officer has already decided issues raised in a complaint, the hearing decision is binding. A complaint investigation will not proceed on any issues that are also pending before a hearing officer. If a complainant or district is not satisfied with a complaint decision, they may appeal the decision to the Minnesota Court of Appeals within 60 days.

Once the complaint is received by MDE, it is assigned to a complaint investigator in the Division of Monitoring & Assistance (DMA). The investigator reviews the complaint and determines:

- the issues in question;
- if MDE has jurisdiction over the complaint; and
- the federal or state statutes or rules that may have been violated.

A sixty (60) calendar day timeline for resolution begins on the day the complaint is received or clarified, when necessary, with the complainant.

**After the Complaint is Received, MDE Takes the Following Action:**

1. A written statement documenting the receipt of the complaint will be sent to the complainant.
2. A written statement of the complaint issues, including the apparent applicable laws or rules which are alleged to have been violated, will be sent to the district superintendent, the complainant and the director of special education. A courtesy call will be made to the director if time permits.
3. The complaint investigator determines whether the investigation will consist of phone contact, requests for submission of written documents, an on-site review, interviews, consultation with educational specialists, and any other measures which will allow for successful resolution of the complaint.
4. If other complainable issues arise during the course of the investigation, the parties will be notified in writing and the district will be afforded an opportunity to respond under the timelines determined by the complaint investigator. The complaint investigator may add the new issue(s) to the existing complaint or may choose to open a new complaint to address these issues.

### **District Responsibilities During the Complaint Process:**

The district is given the opportunity to respond in writing to the complaint allegation(s) within the timeline specified by the complaint investigator. The district may also submit additional data determined by the district to be pertinent.

School districts must provide access to any requested documentation and knowledgeable staff. District staff must be available for interviews, as needed, and unencumbered by fear of reprisals, implied or otherwise, for providing relevant information. Even if the complaint is filed during a period when school buildings or staff are difficult to access, the complaint still must be resolved within the 60-calendar day timeline mandated by federal regulations.

The district must send a copy of its response to MDE and to the complainant.

Within five days of receipt of the district's response, the complainant may submit additional information to MDE, either orally or in writing, about the allegations in the complaint.

### **A Final Report is Issued:**

A final report containing Findings of Fact, Conclusions of Law, and, where appropriate, orders, is sent to both parties. The final report is binding on the parties when issued.

### **If Corrective Action is Required of the District:**

The district must carry out all orders in the report within the timelines contained therein.

In some cases, the district may be required to submit a plan to remedy the issues of noncompliance for approval.

If acceptable corrective action was completed before the final report is issued, it will be duly noted.

Failure to comply with corrective orders may result in fiscal actions or other measures.

### **Corrective Action is Monitored by MDE:**

The complaint investigator monitors the implementation of the Corrective Action Plan (CAP) either through follow-up contacts or reports by the complainant. The complainant is expected to notify the complaint investigator if an order has not been duly implemented.

Technical assistance may be provided by MDE to assist in the effective implementation of the corrective action.

If the district refuses to comply with federal laws or regulations, or state statutes or rules, the violation is reported to the Commissioner who will withhold state and/or federal funds from the district.

The complaint investigator sends a letter to the complainant and the district closing the case when all aspects of the order or Corrective Action Plan (CAP) have been investigated and approved.

### **Withdrawal of a Complaint:**

Occasionally, a complainant makes a request that a complaint be withdrawn. When this happens, the complaint investigator will consider the request and make a decision on a case-by-case basis. Withdrawal of a complaint may be permitted if the withdrawal would be consistent with MDE's responsibility to ensure compliance with IDEA.

**Secretarial Review:**

Either party to a complaint has the right to request that the United States Secretary of Education review the final decision of the MDE. A Secretarial Review is not conducted on demand, but must meet specific criteria, such as an apparent misinterpretation of federal law.

**Additional Information:**

In cases of exceptional circumstances, an extension of timelines may be granted upon written request. The amount of time granted for an extension is at the discretion of the complaint investigator. Parties will be informed immediately of any revised timelines.

A summary of complaint decisions is maintained by the Office of Compliance and Assistance and periodically reported to the state Special Education Advisory Council.

## DOCUMENTATION

- [Conciliation Conference](#)
- [Facilitated IEP Meeting Information](#)
- [Facilitated IEP/IIIP/IFSP Meeting: Questions and Answers](#)
- [Authorization Request for Facilitated IEP/IFSP/IIIP Meeting](#)
- [Request for Facilitated IEP/IIIP/IFSP Meeting Form](#)
- [Minnesota Special Education Mediation Service \(MNSEMS\): Questions and Answers](#)
- [Request for Mediation Form](#)
- [Due Process Hearing Request Notice](#)
- [Due Process Hearing Request Form Guidance](#)

## CONCILIATION CONFERENCE

A Conciliation Conference is held when the parent(s)/guardian(s) disagree with the school district's proposed action or denial. It is intended to informally facilitate the reconciliation of differences. Parent(s)/Guardian(s) have the option of going directly to a due process hearing. The conciliation process must **not** be used to deny or delay a parent's/guardian's right to a due process hearing. A conciliation conference does not require full team membership. A conciliation conference must have in attendance at a minimum, a parent and a district staff with the authority to resolve the dispute.

- Parents always have a right to try to conciliate a disagreement with the school district. Parents cannot be required to conciliate.
- The fact that conciliation was attempted can be disclosed at a due process hearing although discussions occurring in conference cannot.
- If parents want to conciliate, they must ask the district for a conciliation conference and it must be held within ten (10) calendar days.
- Following conciliation, the district must prepare a memorandum within five (5) business days that discusses their final proposed offer of services.

### How to Proceed:

1. Schedule the conference at a mutually convenient time and place and hold the meeting within 10 calendar days after receipt of the written objection.
2. Contact the parent(s) to schedule a meeting and complete the **Notice of a Team Meeting** (optional) and send to the parent(s)/guardian(s). Enclose the brochure **Notice of Procedural Safeguards**.
3. Conduct the conference at a mutually convenient time and place.
4. Complete the **Parental Consent/Objection** and **Prior Written Notice** forms with an attached conference summary and send to the parent(s)/guardian(s) within five (5) business days. The following statements are included in the **Summary of Conciliation Conference**:
  - a) A summary of the issues/concerns discussed at the conference.
  - b) A description of the action proposed or refused by the district (if not shown on the IEP, IFSP or IIP).
  - c) A description of any other options the district considered and reasons those options were rejected.
  - d) A description of each evaluation procedure, test, record or report the district used as a basis for the proposed or refused action.
  - e) A description of other factors that are relevant to the district's proposal or refusal.

Also, provide any proposed IEP resulting from the conciliation conference. The summary and IEP are admissible evidence in a due process hearing. If the proposed action is an initial evaluation or initial placement, the district *must not* proceed until parent(s) give written informed consent. For all other proposed actions, the district must proceed in ten (10) business days after the memorandum is served on the parent(s), unless the parent objects in writing to the proposed action or denial within that time period.

### Refusal to Conciliate

Parents must have an opportunity to meet with appropriate district staff in at least one conciliation conference if the parent(s) objects to any proposal or refusal of which the parent(s) are notified. If the parent(s) refuses

efforts by the district to conciliate the dispute with the district, the district is deemed to have satisfied its requirement to offer a conciliation conference.

If parent(s) refuse efforts by the district to conciliate the dispute and notify the district of their intent to request an impartial due process hearing, the district must inform the parent of the procedure for requesting a hearing.

## FACILITATED IEP

A facilitated IEP is another form of alternative dispute resolution that offers an IEP/IFSP/IIP meeting moderated by an impartial state-provided facilitator to promote effective communication, address conflicts as they arise and assist the team in the development of an IEP/IFSP/IIP. It is similar to an IEP team meeting.

1. Parent(s)/guardian(s) or a school district may request a facilitator from Minnesota Special Education Mediation Services (MNSEMS).
1. The "facilitator" is a neutral party who facilitates communication between the parties. A facilitator does not make decisions.
2. Participation in a facilitated IEP meeting is voluntary for parent(s)/guardian(s). Any party may refuse to participate or withdraw at any time.
3. The facilitator is provided at no cost to either party.
4. The facilitator cannot be called to testify and the facilitator's records cannot be used in a due process hearing.
5. The results of a facilitated IEP are not binding, unless the agreement becomes part of the IEP/IFSP/IIP.

**MINNESOTA SPECIAL EDUCATION FACILITATED  
IEP/IIIP/IFSP MEETINGS****Questions and Answers about Facilitated IEP/IIIP/IFSP\* Meetings****What is a facilitated IEP Meeting?**

A facilitated IEP meeting is an IEP meeting that includes an impartial facilitator who promotes effective communication and assists an 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.

**When can parents and school districts request a facilitator?**

When the IEP team process has been difficult or ineffective at developing an IEP acceptable to the parents and school district, either party may seek to use a facilitator. A facilitator is used to improve communication within the team and to help the team resolve conflicts that arise. A facilitator is not used to resolve disputes unrelated to the IEP or to attend an IEP meeting that does not include all of the minimally required team members pursuant to 34 C.F.R. § 300.344.

**How is a facilitated IEP meeting different from mediation?**

The purpose of a facilitated IEP meeting is to develop an acceptable IEP and involves the required IEP team members, in addition to the facilitator. Mediation may deal with a broad range of issues and involves a balanced number of participants.

**Where and when is a facilitated IEP meeting held?**

Similar to any IEP meeting, a facilitated IEP meeting is scheduled by the district and is held at a time and place mutually agreed to by the parent and school. The district must give proper notice to the parent including the purpose, the time, and the place where the meeting will occur, and who will attend. Just as in any IEP meeting, parents can bring an advocate or other people at their discretion.

**How long does the facilitated IEP meeting take?**

A facilitated IEP meeting may take longer than a typical IEP meeting but the scheduled time should not exceed four hours. A facilitated IEP meeting can always be reconvened if consensus on the IEP is not reached at the first meeting.

**Who is the facilitator?**

Facilitators are individuals on the roster of the Minnesota Special Education Mediation Service (MNSEMS) who have experience and training in IEP development and conflict resolution. The facilitator is not a decision maker but models effective communication skills and offers ways to address and resolve conflict. They are impartial and do not represent the parent, the school district or the state.

**For more information:**

For more information about facilitated IEP meetings and the Minnesota Special Education Mediation Service or to obtain this material in a different format like large print, Braille or on tape, contact:

Patricia McGinnis, MNSEMS Coordinator

Telephone: 651-582-8222

Toll Free: 1-866-4MNSEMS (1-866-466-7367)

Fax: 651-582-8498

For TTY communication, contact the Minnesota Relay Service at 1-800-627-3529

\*All references to the IEP include the IIIP (an interagency plan) and the IFSP (a plan for young children)

**AUTHORIZATION REQUEST FOR FACILITATED IEP/IFSP/IIIP MEETING****Request for Facilitated IEP/IFSP/IIIP Meeting***Instructions*

1. Fill out the information that pertains to you and sign the form.
2. Send this form to the other party to be completed and signed or submit it directly to the Minnesota Department of Education (MDE). The MNSEMS coordinator will contact the other party to see if they are willing to work with a facilitator to develop an acceptable IEP.
3. If parties fill out this form at the same time, the school district will forward the form to MDE.
4. Once the request form is signed by the parents and the school staff, the district schedules an IEP meeting and faxes the notice of the meeting and the current IEP to MDE. The notice will include the date, time, place and address of the meeting. Upon receipt of this information, the MNSEMS coordinator needs seven days to assign a facilitator and send confirmation materials.
5. For additional information, contact MNSEMS at 651-582-8222, toll free at 1-866-4MNSEMS or fax: 651-582-8498. For TTY communication, contact the Minnesota Relay Service: 1-800-627-3529.

**MNSEMS**  
**Minnesota Department of Education**  
**1500 Highway 36 West**  
**Roseville, Minnesota 55113**

**Authorization to Release Educational Data**

By agreeing to participate in a facilitated IEP meeting, I am authorizing School District #\_\_\_\_\_ and its employees, agents and contractors to share information with the Minnesota Department of Education about my child's identity, needs, and issues surrounding disagreements about educational programming.

Date: \_\_\_\_\_ Parent/Guardian \_\_\_\_\_

Date: \_\_\_\_\_ Parent/Guardian \_\_\_\_\_

**A facilitated IEP meeting will not be held until MDE receives this signed authorization.**

**REQUEST FOR FACILITATED IEP/IFSP/IIIP\* MEETING FORM**

*Our last IEP team meeting was on (date)\_\_\_\_\_.* *We have concerns about the following areas of the IEP:*

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> identification, evaluation                | <input type="checkbox"/> placement                    | <input type="checkbox"/> progress reporting    |
| <input type="checkbox"/> present levels of educational performance | <input type="checkbox"/> accommodations/modifications | <input type="checkbox"/> transition            |
| <input type="checkbox"/> goals and objectives                      | <input type="checkbox"/> related services             | <input type="checkbox"/> discipline/behavior   |
| <input type="checkbox"/> services                                  | <input type="checkbox"/> assistive technology         | <input type="checkbox"/> implementation of IEP |

- We request assistance in facilitating an IEP meeting.
- We know that using a facilitator is **voluntary** and **cannot be used to delay or deny the parent's right to a due process hearing.**
- Our goal is to write an acceptable IEP that focuses on the needs of the child.
- We understand that the facilitation will occur only if the minimally required team members are present.
- We agree not to call the facilitator to testify in any subsequent proceedings.
- The Minnesota Department of Education provides a facilitator, at no cost to the participants, to assist schools and parents in reaching consensus on an IEP.

**PLEASE PRINT**

\_\_\_\_\_  
School District / Cooperative Name and #

\_\_\_\_\_  
Student's Name

\_\_\_\_\_  
School Administrator's Name and Title

\_\_\_\_\_  
Student's Age      Grade      Disability

\_\_\_\_\_  
Address

\_\_\_\_\_  
Parent/Guardian Name(s)

\_\_\_\_\_  
City                      State                      Zip

\_\_\_\_\_  
Address

Phone ( ) \_\_\_\_\_

\_\_\_\_\_  
City                      State                      Zip

Fax # ( ) \_\_\_\_\_

Phone: Home ( ) \_\_\_\_\_

Work ( ) \_\_\_\_\_

Email \_\_\_\_\_

Cell \_\_\_\_\_

Date \_\_\_\_\_

Email \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
School Administrator's Signature

\_\_\_\_\_  
Parent/Guardian's Signature

*Please review instructions on the other side before completing this form.*

\* All references to the Individual Education Program (IEP) in this document also include the Individual Interagency Intervention Plan (IIIP) and the Individual Family Service Plan (IFSP)

**MINNESOTA SPECIAL EDUCATION MEDIATION SERVICE (MNSEMS)****Questions and Answers about Special Education Mediation****What is special education mediation?**

Mediation is a way to settle a dispute which:

- helps parents, school and agency personnel solve disagreements about a student's special education needs
- uses a trained and experienced mediator to guide the participants toward a mutually acceptable solution
- encourages open communication in a confidential setting
- is structured, yet informal
- is voluntary for all parties
- does not take away the right to a conciliation conference or a due process hearing

**How does the mediation process work?**

Once a completed and signed *Request for Mediation* form is received by MNSEMS, the parties are asked when they can meet and a mediator is assigned. Most mediation sessions can be scheduled within two to four weeks.

**Who may attend the mediation session?**

The number of participants at each mediation session will be kept to a minimum in order to enhance effective problem solving. People attending must include someone who has the authority to make decisions and to commit any resources agreed upon as a result of the mediation - typically the parents and the school district's representative. Other participants may include individuals who have knowledge of the student's needs or who have specialized knowledge of the issues in the dispute. The parties must agree on who can attend the session. Generally, the school will be limited to no more participants than the parents have present.

**How long does a mediation session take?**

Mediation sessions can take from five to six hours. Depending on the complexity of the issues and the number of participants, however, a session could last a full day. While conflicts are normally resolved in one session, some cases may require additional sessions.

**What occurs during the mediation session?**

The mediation session consists of several stages:

- **Introduction** - the mediator reviews his/her role and explains the ground rules covering confidentiality, the use of caucus, and other procedural rules. The mediator then outlines what will happen during the session and responds to the participants' questions.
- **Sharing Points of View/Defining Issues** - parties are given a chance to define the issues from their point of view. These comments would generally take no more than 15-20 minutes each. The mediator may ask questions to clarify or summarize what has been said.
- **Caucus** - the mediator may use a caucus, which is a chance for each party to meet privately with the mediator, to clarify issues and to discuss possible solutions.
- **Discussion of Options for Resolution** - the mediator assists the parties to identify a wide range of possible solutions, tests those solutions, and explores the consequences of not settling the dispute.
- **Agreement** - if there is an agreement, the mediator will help the parties write it down. If agreement is reached, each party will receive a copy. If appropriate, an Individualized Educational Program (IEP) team

meeting will be scheduled to incorporate the terms of the mediation agreement into the IEP. If the session does not result in an agreement, the parties are free to pursue any of the options they had before they entered into mediation.

## To Request Mediation

A request for mediation can occur whenever the parents or the school believe it might help resolve a given dispute. All parties must agree to participate in this voluntary process. A request form must be signed by the parties and sent to the Minnesota Special Education Mediation Service (MNSEMS) office. These forms are available at school district offices, agency offices, at advocacy organizations and public libraries, or will be sent to an interested party by MNSEMS. An attempt to convene a mediation session cannot be used to deny or delay a parent's right to a due process hearing.

**For more information:**

For more information about special education mediation and the Minnesota Special Education Mediation Service or to obtain this material in a different format like large print, Braille or on tape, contact:

Patricia McGinnis, MNSEMS Coordinator

Telephone: 651-582-8222 or toll free at 1-866-4MNSEMS (1-866-466-7367)

Fax: 651-582-8498

For TTY communication, contact the Minnesota Relay Service at 1-800-627-3529

**REQUEST FOR MEDIATION INSTRUCTIONS****Request for Mediation***Instructions*

1. Fill out the information that pertains to you and sign the form.
2. Send this form to the other party to be completed and signed or submit it directly to the MNSEMS. MNSEMS will then contact the other party to see if there is a willingness to participate in mediation to resolve the dispute.
3. If parties fill out this form at the same time, the school district will forward the form to MNSEMS.
4. Upon receipt of the signed form, MNSEMS staff will contact all parties to schedule the mediation session.
5. For additional information, contact Patricia McGinnis, MNSEMS Coordinator, at 651-852-8222 or toll free at 1-866-4MNSEMS (1-866-466-7367). Fax: 651-582-8498. For TTY communication, contact the Minnesota Relay Service: 1-800-627-3529.

**MNSEMS**  
**Minnesota Department of Education**  
**1500 Highway 36 West**  
**Roseville, Minnesota 55113**

**Authorization to Release Educational Data**

By agreeing to participate in mediation, we are authorizing School District #\_\_\_\_\_ and its employees, agents and contractors to share information with MNSEMS about my child's identity, needs, and issues surrounding disagreements about educational programming.

Date: \_\_\_\_\_ Parent/Guardian \_\_\_\_\_

Date: \_\_\_\_\_ Parent/Guardian \_\_\_\_\_

**Mediation cannot begin without this signed authorization.**

**REQUEST FOR MEDIATION**

We request that a mediator be assigned to assist in resolving the following issues:

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- We know that mediation is **voluntary** and we can still have a due process hearing if we cannot agree.
- We know that the mediation session is **confidential**. We agree that we will not ask the mediator to go to any other proceedings.
- We agree to try to find a solution in the best interests of the student.
- We understand that any agreement reached in mediation is enforceable in court.
- MNSEMS will provide a mediator at no cost to the participants.

**PLEASE PRINT**

\_\_\_\_\_  
School District / Cooperative Name and #

\_\_\_\_\_  
Student's Name

\_\_\_\_\_  
School Administrator's Name and Title

\_\_\_\_\_  
Student's Age      Grade      Disability

\_\_\_\_\_  
Address

\_\_\_\_\_  
Parent/Guardian Name(s)

\_\_\_\_\_  
City                      State                      Zip

\_\_\_\_\_  
Address

Phone (    ) \_\_\_\_\_

\_\_\_\_\_  
City                      State                      Zip

Fax # (    ) \_\_\_\_\_

Phone: Home (    ) \_\_\_\_\_

Work (    ) \_\_\_\_\_

Email \_\_\_\_\_

Cell \_\_\_\_\_

Date \_\_\_\_\_

Email \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
School Administrator's Signature

\_\_\_\_\_  
Parent/Guardian's Signature

Is this mediation the result of a hearing request?

- Yes
- No

I need these accommodations for the mediation: \_\_\_\_\_

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**DUE PROCESS HEARING REQUEST NOTICE**

11/05

**Due Process Hearing  
Request Notice**

To initiate a special education due process hearing, you must send this completed form to the school district or parent(s) **and** to the MN Department of Education, Due Process Hearing Coordinator at 1500 Highway 36 West, Roseville, MN 55113. It can be faxed to MDE at 651-582-8613. Keep a copy for your records.

Hearing Request by (check appropriate box) \_\_\_\_\_ Parent(s), or \_\_\_\_\_ District.

Child's Date of Birth: \_\_\_\_\_ Child's Primary Disability: \_\_\_\_\_

\*Child's Name: \_\_\_\_\_ Parent's Name: \_\_\_\_\_

Child's Address (or contact information if homeless): \_\_\_\_\_  
\_\_\_\_\_

\*Parent's Address, Phone and E-mail: \_\_\_\_\_  
\_\_\_\_\_

\*Name of School Attending: \_\_\_\_\_ School District: \_\_\_\_\_

Director of Special Education  
Name, Address and E-mail: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attorney's (if represented)  
Name, Address and E-mail: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Parents: Are you requesting an expedited hearing because you disagree with: a manifestation determination, an interim alternative educational placement, or a change in placement due to disciplinary or safety reasons? \_\_\_\_\_

District: Are you requesting an expedited hearing in order to protect the student or others from injury? \_\_\_\_\_

\* Information with an asterisk (\*) is required and must be provided.

\*Why are you requesting a hearing? Please specify the nature and facts of your complaint. (This should describe a violation that has occurred within the last two years):

\*If you are aware of a possible solution to the problem, please describe the solution here (what do you want to accomplish by requesting this hearing?):

### Notice to Filing Party

Failure to provide a complete notice may result in a denial or delay in the due process hearing if the other party notifies the hearing officer, in writing, of an objection to the sufficiency of the hearing request notice within 15 days of receipt. If you have questions about the requirements for this request notice, please contact the MDE Due Process Hearing Coordinator at 651-582-8689

This due process hearing request notice may only be amended if: 1) the other party agrees and is given the opportunity to resolve the complaint in a resolution session or mediation, or 2) the hearing officer grants permission to amend. An amended due process hearing request notice will result in the applicable timelines beginning anew.

### Parent/Student E-mail Permission

I permit the Minnesota Department of Education (MDE) and the Hearing Officer to share information with me, including hearing notices and decisions, via electronic mail. I understand that electronic mail may not be a secure method of communication and release MDE and the Hearing Officer of any inadvertent breach of private data.

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Parent (or Student if 18) Signature

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Date

Date received by district or parent(s)

Date received by MDE

**This form is available in several languages, Braille, or other formats. Contact MDE**

651-582-8689

(to be completed by recipient only)

(to be completed by MDE only)

**DUE PROCESS HEARING REQUEST FORM NOTICE GUIDANCE****Due Process Hearing Request Form Guidance****Written Form**

Requests for due process hearings must be in writing. The due process hearing request form includes the legally required information noted with an asterisk (\*), that must be included in all hearing requests.

**Complete Notice**

The required information must be completed, signed, and returned to the Minnesota Department of Education (MDE) with a copy of the hearing request sent to the opposing party (school district or parent).

Failure to provide a complete notice may result in a denial or delay in the due process hearing if the other party notifies the hearing officer in writing of an objection to the sufficiency of the hearing request notice within 15 days of receipt.

**Expedited Hearing Request**

If a parent requests a hearing regarding a disciplinary action in which the district has placed the student to an interim alternative educational setting. Space is included for noting which party is seeking an expedited hearing and for what reason.

**Questions**

Questions related to hearing requests can be directed to the MDE Due Process Hearing Coordinator at 651-582-8689

**Specifics**

**“Hearing Requested By”** Check one of these boxes so that it is clear who is requesting the hearing.

**“Child’s Date of Birth”** The child’s age is important for determining whether the hearing is to operate pursuant to Part C or B of IDEA.

**“Child’s Primary Disability”** This data is useful to track trends in the frequency of disputes concerning students with various disabilities.

**“Director of Special Education”** This information will help us ensure the correct individuals are notified about the request.

**“Attorney”** If an attorney is involved, it is important to ensure communication with the attorney.

**Applicable Citations**

34 C.F.R. §300.507 - §300.509  
Impartial Due Process Hearing  
Hearing Officer  
Hearing Rights

**Additional Resources:**

Additional information regarding due process hearings, including timelines and procedures, can also be found within the Notice of Procedural Safeguards available at:  
[http://education.state.mn.us/mde/accountability\\_programs/Compliance\\_and\\_assistance/special\\_education\\_due\\_process\\_hearings/index.html](http://education.state.mn.us/mde/accountability_programs/Compliance_and_assistance/special_education_due_process_hearings/index.html)