



RIVERSIDE UNIFIED SCHOOL DISTRICT PARENT OPTIONS FOR IEP DISPUTE RESOLUTION

Background Information

There are three options available to Parents for resolving special education disputes: Informal Dispute Resolution, State Mediation Only, and Formal Due Process proceedings. Parents who disagree with all or part of their child's IEP may use any or all of these processes, which are described below:

- **The District's Informal Dispute Resolution (IDR)** is an informal, voluntary, and optional process where the District works with Parents to: (1) identify the special education issue(s) in dispute and (2) quickly and informally resolve the identified issues. If successful, the agreement may be memorialized in a written settlement agreement between the Parents and the District. In the event that parties do not reach an agreement through the IDR process, Parents have the option to proceed via State Mediation Only or Formal Due Process proceedings. While IDR is an informal process between the District and Parents where attorneys and advocates are generally not involved, Parents have the right to have an attorney or advocate present during the IDR negotiation process and/or to review any settlement agreement reached between the parties.
- **The State Mediation Only** process is a formal, voluntary, and optional process where a Parent or the School District make a formal request to the Office of Administrative Hearings for a State-assigned neutral mediator to assist Parents and the District in attempting to resolve a special education disagreement. If successful, this process results in a written settlement agreement. Under State rules, attorneys and paid advocates may not participate in the State Mediation Only process, but Parents may have an attorney or advocate review any resulting settlement agreement. If State Mediation Only does not result in an agreement, Parents have the option to proceed via IDR or Formal Due Process proceedings.
- **Formal Due Process** begins when the Parent or District files a Request for Due Process with the Office of Administrative Hearings (OAH). Once the Request is filed, Formal Due Process requires a mandatory 30-day pre-hearing resolution period, a resolution session, an optional mediation, and, if the parties have not resolved their dispute, a mandatory formal hearing. A neutral administrative law judge (ALJ) presides over the formal hearing and provides a written decision on the issues in dispute. Parents have the right to have an attorney or advocate present with them during the Formal Due Process proceedings.

1. INFORMAL DISPUTE RESOLUTION (IDR):

IDR is an optional, voluntary, and informal process to resolve disputes regarding a child's IEP. Parents are not required to proceed through IDR, and may instead request a formal State Mediation Only proceeding or initiate Formal Due Process proceedings. Under IDR Parents identify issues in dispute and the District attempts to work with the Parents to quickly and informally resolve the identified issues. Although the process is quick and informal, it may result in a formal, binding agreement between the District and the Parents (Form B). This agreement will include a waiver of certain claims, including all special education claims Parent may have against the District up to the time of the agreement, meaning that Parents will no longer be able to file a request for Formal Due Process or State Mediation Only for anything occurring prior to the agreement. Accordingly, Parents should be sure they understand all of the terms of the agreement.



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(Form B) before signing. If the IDR process is unsuccessful, Parents may still initiate State Mediation Only or Formal Due Process proceedings.

a. **To Initiate IDR Process**

If a Parent disagrees with all or any portion of a child's IEP, at the end of the IEP meeting the Administrative Designee of the student's IEP team will endeavor to identify:

- The disputed issues;
- Which parts of the IEP are agreed upon;
- Any other disputes from the past two years that Parent has with the District regarding the Student's educational programming that have not been resolved; and
- Which process the Parents would like to use to resolve the dispute.

The Administrative Designee will inform the Parent of their due process rights and of the various dispute resolution options (i.e., IDR, State Mediation Only, and Formal Due Process). The Administrative Designee will refer the Parent to the District's Notice of Procedural Safeguards and Parent Rights which describes the various dispute resolution processes. The Procedural Safeguards are available on the District website at <http://www.rusdlink.org/Page/245>.

If the Parent selects the IDR process, the Administrative Designee will do all of the following within a reasonable time of the conclusion of the IEP meeting:

- Provide the Parent with the District's Notice of Procedural Safeguards and Parents' Rights;
- Provide the Parent with a list of advocates and attorneys from the Office of Administrative Hearings, in the event the Parent desires assistance in the IDR process;
- Provide the Parent with the District's Parent Options for IEP Dispute Resolution;
- Provide the Parent with a copy of their child's last IEP; and
- Assist the Parent in completing IDR Form A, which outlines the issues in dispute and confirms the Parent's election to pursue IDR.

After the IDR Form A is submitted to the Special Education Department, a Program Specialist will work with the Parent to try and resolve the disagreement(s) identified on Form A. The Program Specialist will contact the Parent to schedule a time to meet to try to resolve the dispute. The Parent may bring an attorney or advocate to this meeting.

b. **Informal Dispute Resolution Activities**

Resolution activity will be recorded on the "Informal Dispute Resolution Activity – IDR Form B". This form is a binding agreement between the Parent and the District. The form documents:

- The Parent's request(s);
- Their rationale for the request(s);



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- The District's settlement proposal, if any; and
- Whether the Parent accepts or rejects the District's proposal.

When IDR Form B is completed and signed by the District representative and Parent, it will be filed with the Special Education Department and placed in the student's file. The Parent will also receive a copy.

c. IDR Agreement Implementation

- **IEP to Implement the Agreement:** If a resolution is reached during IDR which results in an agreement between the parties, a Program Specialist will take the steps needed to implement the resulting agreement, including ensuring that a copy of Form B is placed in the student's file and convening the student's IEP team within 30 days of execution of Form B, to inform the IEP team of the terms of the agreement and the resulting services to be implemented.
- **Confidentiality:** IDR Form B contains options for whether the Parties wish the agreement to be confidential or not. Parents should consider whether they want the agreement to be confidential prior to entering into the agreement.
- **Stay-Put Placement and Services:** IDR Form B contains options for the child's "stay-put" placement and services. If there is a disagreement as to the Student's educational placement and services when the agreement (Form B) expires, and the Parent files for Formal Due Process or State Mediation Only, "stay-put" determines the Student's placement and services during those proceedings. Stay-put can either be the placement and services in the agreement (Form B) or it can be the last IEP Parent agreed to before the agreement (Form B).
- **Binding Agreement:** Please note that the agreement which results from the IDR process, once executed by all parties and following the three (3) day revocation period provided in Form B, shall constitute a binding agreement, enforceable in a court of law. The Parent can no longer file for Formal Due Process or State Mediation Only on the issues waived in the agreement. Thereafter, in the event that Parent has any questions or concerns regarding the District's implementation of the agreement, Parent can contact the District's IDR compliance monitor. Upon request, the District's compliance monitor will provide Parent with a list of advocates and attorneys from the Office of Administrative Hearings.
- **Revoking the Agreement:** If an agreement is not reached or is revoked by either party within three days of execution as provided in Form B, a District administrator will remind the Parent of their right to initiate a formal State Mediation Only or request Formal Due Process proceedings.
- **Enforcement of Agreement:** If the Parent has concerns or complaints about the enforcement of the Agreement, they may lodge a Complaint with the District's IDR



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Compliance Monitor who will be responsible to ensure the agreement is complied with. At this time, Parents may request the District provide them with a list of advocates and attorneys from the Office of Administrative Hearings, in the event the Parent desires assistance.

2. STATE MEDIATION ONLY:

If a Parent selects the State Mediation Only process, the Administrative Designee of the Student's IEP team will:

- A. Provide the Parent with a "Mediation Only Request Form". This form is also available on the OAH website at www.oah.dgs.ca.gov.
- B. Inform the Parent that State Mediation Only is initiated by sending a completed Mediation Only Request Form by mail or fax to the California Office of Administrative Hearings (OAH), Special Education Division, 2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833-4231 (Telephone: (916) 263-0880; Fax: (916) 263-0890) with a copy to the District's Special Education Department at 5700 Arlington Avenue, Riverside, CA 92504.

After OAH receives the Mediation Only Request Form, it will schedule a mediation date for the Parent and the District's Special Education Department to meet with a neutral mediator. A District representative will represent the District at mediation. The District representative will obtain information from the IEP team members prior to mediation. Under State law, the parties are not entitled to have advocates or attorneys present during the mediation session; however, parents may have an advocate review the agreement resulting from a successful mediation.

If agreement is reached at mediation, a Program Specialist will take steps needed to implement the mediation agreement. Please note that the agreement which results from the State Mediation Only process is a legal and binding agreement which can be enforced in a court of law.

If agreement is not reached at mediation, the Program Specialist will remind the Parent of their right to initiate IDR or Formal Due Process proceedings.

III. FORMAL DUE PROCESS PROCEEDINGS

If a Parent elects to initiate Formal Due Process proceedings (rather than IDR or Mediation Only), the Program Specialist will provide the Parent with a Request for Mediation and Due Process Hearing Form (the "Complaint"). The Complaint form is also available online at www.oah.dgs.ca.gov.

A completed Complaint form or a "written complaint notice" with the required information must be submitted to the Office of Administrative Hearings, at California Office of Administrative Hearings, Special Education Division, 2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833-4231 (Telephone: (916) 263-0880; Fax: (916) 263-0890), and copied to the District's Special Education Department.

A written complaint notice must include:



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- The name of the child;
- The address of the residence of the child or available contact information for the child if homeless;
- The name of the school the child is attending;
- A description of the nature of the problem; and
- A proposed resolution to the problem to the extent known and available at the time.

A. Receipt of Completed Complaint Form or Written Complaint Notice

Timelines are critical during the resolution period. Resolution period timelines are calculated from the date the completed Complaint form or written complaint notice is submitted to OAH and the District.

B. The Resolution Session

Within fifteen (15) days of receipt of the Complaint, the District will contact the Parent to set up a mandatory resolution session meeting ("Resolution Session"). Participants in the Resolution Session meeting will include member(s) of the IEP team who have specific knowledge of the facts identified in the Complaint, including a representative of the District who has decision-making authority. Both the District and the Parent/student are entitled to have an advocate or attorney present to assist in the process. The purpose of the Resolution Session is to discuss the Complaint and the facts that form the basis for the Complaint so that the parties have an opportunity to resolve the dispute prior to the commencement of the formal proceedings. The Resolution Session is not mandatory and may be waived if the parties agree in writing to use the due process mediation process instead. Information of the due process mediation process can be found at <http://www.dgs.ca.gov/oah/SpecialEducation.aspx>.

If agreement is reached at the Resolution Session, a settlement agreement will be jointly drafted and be legally binding, enforceable in a court of law. If a resolution is not reached at the Resolution Session, the Program Specialist will continue to work with the Parent to reach a successful resolution.

If there is no resolution by the 30th day following submission of the Complaint, Formal Due Process proceedings and related timelines will commence. Information on the Formal Due Process proceedings and related timelines can be found at <http://www.dgs.ca.gov/oah/SpecialEducation.aspx>.