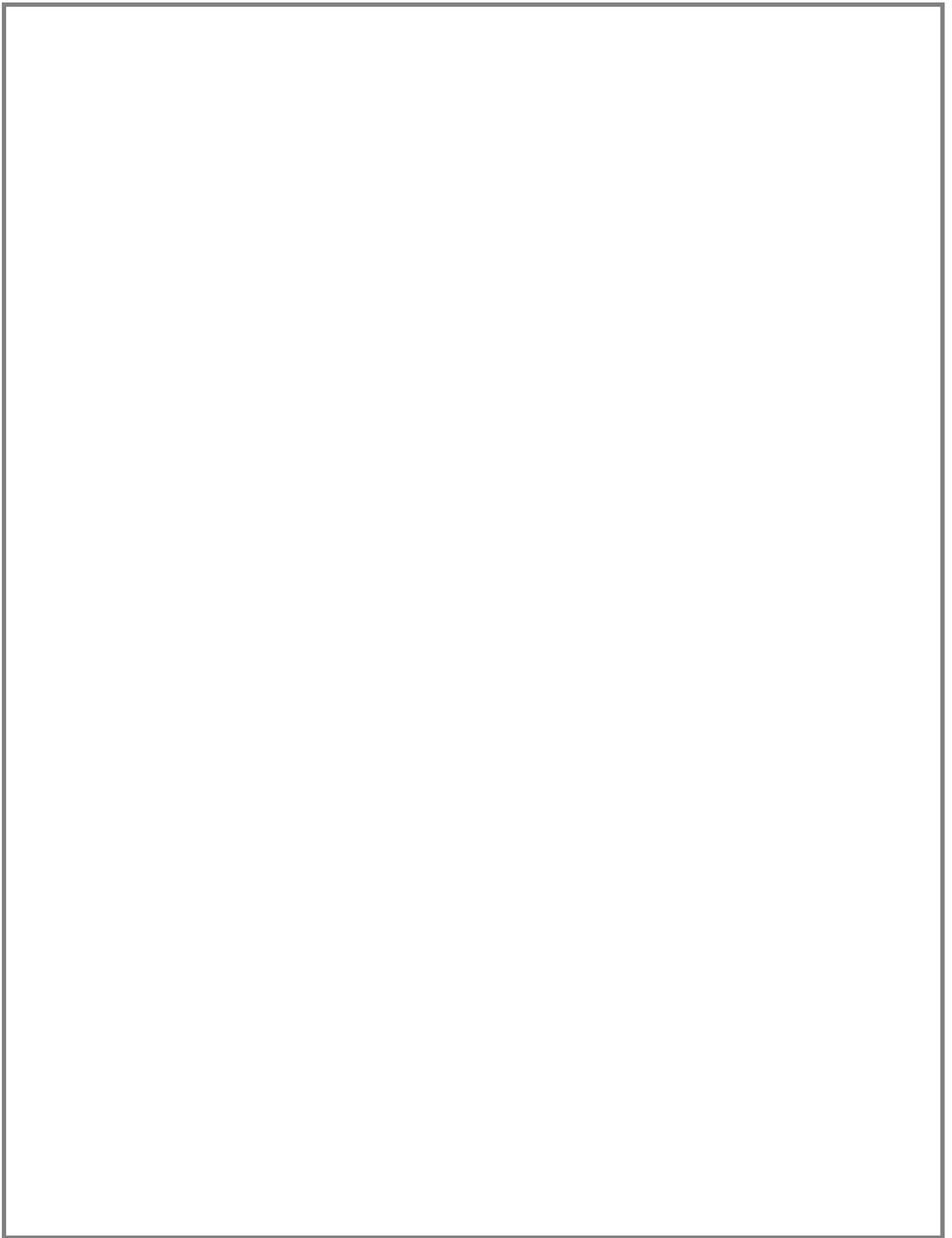


Resolving Disagreements in Special Education

**Quincy Parent Advisory Council
to Special Education (QPAC)**

(with information from the Massachusetts
Department of Elementary and Secondary Education)

This information is provided for educational purposes
only and should not be considered legal advice.



Resolving Disagreements in Special Education

Although the IEP Team is usually able to reach consensus, there may be times of disagreement. Whenever a dispute arises, there are several options for finding resolution.

Local Resolution

Parents who have concerns about any aspect of special education, such as their child's progress, placement, or the appropriateness of their goals or services, may choose to resolve it through local resolution. Most parents will find this the easiest and fastest way to get their concerns addressed.

See Page 2

Program Quality Assurance Services

If a parent believes that there is an issue with compliance, such as whether the district is abiding by the procedures set out within a state or federal education law or implementing a child's IEP, they may opt to file a complaint with the **Problem Resolution System (PRS)**. PRS is administered by Program Quality Assurance Services at the Massachusetts Department of Elementary and Secondary Education and serves as the state's special education complaint process.

See Page 4

Office of Civil Rights

If a parent believes that their child may have been discriminated against because of their disability, the parent may opt to file a **Civil Rights Complaint** with the Office of Civil Rights (OCR). OCR is a division within the federal Department of Education that enforces Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act, among other federal laws.

See Page 5

Bureau of Special Education Appeals

The Bureau of Special Education Appeals (BSEA) is an independent department located within the Massachusetts Division of Administrative Law Appeals. The BSEA works with the Department of Elementary and Secondary Education (DESE) to maintain a number of different dispute resolution options.

Mediation.

Mediation is a voluntary, informal dispute resolution process that may be requested by either a parent or the school district whenever there is a dispute about the educational needs of a student with disabilities. **See Page 6**

Facilitated IEP Meetings

A Facilitated IEP Meeting is a voluntary dispute resolution option that may be requested by either a parent or the district whenever they think that the presence of a neutral third party would assist in the drafting of an IEP. **See Page 7**

SpedEX

SpedEX is a voluntary dispute resolution option that may be requested by a parent or the district whenever there is a dispute regarding whether the district's proposed IEP offers a free appropriate public education in the least restrictive environment. In addition, SpedEx may only be requested after an IEP has been rejected or a hearing request has been filed. **See Page 8**

Due Process Hearings

A Due Process Hearing is a formal dispute resolution option that may be requested by either the parent or the district whenever there is a dispute about eligibility, evaluation, placement, IEP, or provision of special education. Prior to and during the Hearing process, the parties are afforded several opportunities for informal resolution. **See Page 9**

Tips for Effective Participation See Page 10

Local Resolution

Who offers this option?

This option is offered by the school district.

Who may use this option?

A Parent, student over the age of 18, or school district may request this option.

What types of issues can this option address?

Local resolution is an appropriate option for a concern with any aspect of special education, such as a child's progress, placement, or the appropriateness of his or her goals or services. Although it is not required, parents are encouraged to try resolving the issue locally before pursuing other dispute resolution options.

What is the time-frame for requesting this option?

There is no time-frame for requesting this option, but it is generally most effective to resolve the concern as soon as possible after it develops.

How is this option requested?

A parent may engage in local resolution by speaking to their child's teacher, service provider, Team Chairperson, and/or Team Administrator. It is advisable to use the chain of command.

How is the issue resolved?

The Team is required to convene at least once per year to review the IEP and placement. During the Team meeting, the parent will have the opportunity to share and discuss information about their child's needs and abilities. The Team will consider all information presented, including the results of any recent evaluations, to develop an IEP and determine a placement. Once the parent receives the proposed IEP and placement, they have 30 days to respond. A parents who has questions or concerns about what is being proposed are encouraged to contact their Team Chair. The Chairperson will work with the parent to provide answers and resolve issues. They may suggest, or the parent may request, that another meeting be held.

If the parent partially or fully rejects the IEP or refuses the placement, the district will send notice to the Bureau of Special Education Appeals (BSEA) within 5 days. The BSEA will send the parent information on their right to request Mediation or a Due Process Hearing. For either the proposed IEP or placement, the parent may request a meeting to discuss their reasons for rejection or refusal. If they cannot resolve the issue with the Team, the parent may also choose to contact their child's Team Administrator who can assist in troubleshooting any problems.

Throughout the school year, the parent will receive regular reports on their child's progress towards meeting annual goals. If a parent has questions about this progress or any other concerns about special education, they may contact their child's teacher or service provider. Issues can often be addressed with a telephone call. If the concern cannot be resolved with this person, the Team Chair may be contacted. The parent may request that a meeting be held to address the issue at any time. This meeting can be a formal reconvene of the entire Team, but can also be an informal meeting with two or three individuals.

Minor changes to the IEP, such as revising goals or services, can be made without reconvening the entire Team. Any agreed upon changes can be formalized in an IEP Amendment. Just like the IEP, the Amendment requires the parent's written consent before being implemented. Amending the IEP through this process does not eliminate the obligation of the Team to review the entire IEP at least once per year. More substantial modifications to the IEP, such as changes of placement, should be made with the entire Team present. The parent may also request that the Team reconvene to address other issues. Once again, if a parent cannot resolve any issues with the Team, they may to contact the Team Administrator. If all other means of direct communication fail to address the question or concern, the parent may contact the Director of Special Education or the Superintendent. The parent may also opt to use other methods of dispute resolution at any time.

Can this option be appealed?

If either the parent or the school district is unsatisfied with the results of local resolution, they may choose to use other dispute resolution options.

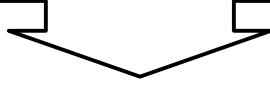
Additional Information

QPAC's Special Education Chain of Command Handout (adjoining page)

Who do I call when I need help with an question or concern?

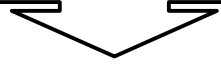
Have a question or concern about your child's Individualized Education Program (IEP) or services? First contact the person closest to your child and the issue at hand. This may be a teacher, therapist, or other service provider.

Special Education Teacher	Service Provider	Service Provider
Name: _____	Name: _____	Name: _____
Telephone: _____	Telephone: _____	Telephone: _____
Regular Education Teacher	Teacher	Teacher
Name: _____	Name: _____	Name: _____
Telephone: _____	Telephone: _____	Telephone: _____



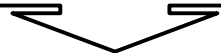
If you cannot resolve the issue after attempts at direct, positive communication with this person, contact your child's Team Chair or Liaison. This may be the guidance counselor at the Elementary level or a teacher at the Middle and High school levels. Decide whether your issue requires a face-to-face meeting, or if a telephone call can clarify it. If the Team Chair or Liaison cannot resolve the issue, contact the Team Administrator. Each special education program has a Team Administrator who oversees IEP implementation at one or more schools. At the High schools, the Team Administrator serves as the Special Education Department Head. The Team Administrator can often help troubleshoot problems.

Team Chair	Team Administrator
Name: _____	Name: _____
Telephone: _____	Telephone: _____



If all other means of communication fail to address your issue, then contact the Director of Special Education.

Quincy Public Schools Director of Special Education Judy Todd 617-984-8743



Contact the Superintendent as a last resort.

Superintendent of Quincy Public Schools Dr. Richard DeChristofaro 617- 984-8700
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Using this chain of command will help ensure that your issues are addressed positively and efficiently! Although we encourage you to first try resolving issues locally, you may use formal dispute resolution options at any time.

Need help finding your contacts? QPAC can help you identify who to contact to help resolve issues with your child's IEP or services. Visit our website for more information: www.quincypac.org!

Problem Resolution System

Who offers this option?

The Problem Resolution System (PRS) is administered by Program Quality Assurance Services (PQA) at the Massachusetts Department of Elementary and Secondary Education. It serves as the state's special education complaint process.

Who may use this option?

Any concerned individual, including a parent, may file a complaint through PRS.

What types of issues can this option address?

PRS may be an appropriate option when the conflict involves compliance, such as whether the district is abiding by the procedures set out within a state or federal education law or is implementing a child's IEP. PRS cannot be used to investigate an issue that is or has been the subject of a Due Process Hearing, or that is currently being investigated by the Office of Civil Rights.

What is the time-frame for requesting this option?

A PRS complaint must be filed within one year of the violation.

How is this option requested?

A PRS complaint may be requested by contacting PQA. An individual who requests PRS is generally first referred to the PQA Liaison assigned to the involved student's school district. This Liaison may discuss the situation, answer questions, suggest steps the individual might take on their own, and/or offer to intervene informally. If the individual wants to follow through with filing a complaint, they will be transferred to the PRS Intake Coordinator who will log the concern and send an Intake Information Form. The completed Intake Information Form should be returned to PQA within 30 days.

Program Quality Assurance Services
Massachusetts Department of Elementary and Secondary Education
75 Pleasant Street
Malden, MA 02148
781-338-3700

How is the issue resolved?

Upon the receipt of a completed Intake Information Form, PQA will review the allegations to determine if there may have been a violation of the law. The school district will be given the opportunity to review, investigate, and respond to the allegations. PQA will review the district's response and information provided by the complainant, to determine whether any further investigation or action must be taken. A letter will be sent that explains the results of the investigation, any actions taken by the school district to address the complaint, and any further requirements for the district to resolve the issue.

What is the timetable for resolving the issue?

A PRS complaint is usually investigated and resolved within 60 days of the receipt of a completed Intake Information Form.

Can this option be appealed?

Decisions of PRS complaints cannot be appealed. If an individual believes the determination was based on incomplete and/or inaccurate information, they may contact PQA to request that additional information be considered. A parent and school district may, however, engage in Mediation during the investigation regarding one or all issues raised in a PRS complaint. The parent or school district may also opt to engage in other dispute resolution options.

Additional Information

Problem Resolution System <http://www.doe.mass.edu/pqa/prs/>

Civil Rights Complaint

Who offers this option?

The Office for Civil Rights (OCR), a division within the federal Department of Education, administers the Civil Rights Complaint process.

Who may use this option?

Any concerned individual, including a parent, may contact OCR to file a Civil Rights Complaint.

What types of issues can this option address?

A Civil Rights Complaint may be an appropriate option when the conflict involves disability discrimination under Section 504 of the Rehabilitation Act or Title II of the Americans with Disabilities Act. A Civil Rights Complaint cannot be used to investigate an issue that is currently the subject of a Due Process Hearing, or being addressed within the Problem Resolution System or through a local complaint process. OCR may investigate an issue that has formally been reviewed through these processes under certain circumstances.

What is the time-frame for requesting this option?

A Civil Rights Complaint must be filed within 180 days of the violation.

How is this option requested?

A Civil Rights Complaint may be filed by contacting the local OCR office or by using an online complaint form.

Office for Civil Rights
Department of Education
5 Post Office Square, 8th Floor
Boston, MA 02109
617-289-0111

OCR Online Complaint Form: <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

How is the issue resolved?

Upon receipt of the completed complaint form, OCR will determine if it has jurisdiction and can investigate. During the investigation, an individual within the local OCR office will collect and analyze relevant evidence from the complainant, the school district, and other sources as appropriate. If it is determined that the school district failed to comply with one of the civil rights laws that it enforces, OCR will attempt to negotiate a voluntary resolution agreement. The agreement will describe the specific remedial actions that the district will undertake to address any areas of noncompliance identified by OCR.

Can this option be appealed?

An individual who disagrees with the outcome of the OCR investigation may appeal it within 60 days. The individual may also, regardless of OCR's findings, file suit in federal court.

Additional Information

Questions and Answers on OCR's Complaint Process
<http://www2.eed.gov/about/offices/list/ocr/qa-complaints.html>

Mediation

Who offers this option?

Mediation is offered by the Bureau of Special Education Appeals (BSEA), an independent department located within the Massachusetts Division of Administrative Law Appeals.

Who may use this option?

A parent or a school district may request Mediation, but both parties must agree to participate. A student over the age of 18 or an advocate or attorney acting on the parent's, student's, or district's behalf may also request Mediation.

What types of issues can this option address?

Mediation may be an appropriate option when the conflict involves the educational needs of a student with disabilities, such as the appropriateness of goals, services, or placements. Problem Resolution System complaints may also be mediated.

What is the time-frame for requesting this option?

There is no time-frame for requesting Mediation, but it is generally most effective to resolve the concern as soon as possible after it develops.

How is this option requested?

Mediation can be requested by contacting the Coordinator of Mediation at the Bureau of Special Education Appeals to receive the name and contact information for the mediator assigned to the region. A randomly-assigned mediator may also be requested. The mediator will work with both parties to find a mutually-agreed upon time and location for the Mediation session.

Bureau of Special Education Appeals
75 Pleasant Street
Malden, MA 01248
781-338-6443

How is the issue resolved?

During the Mediation session, the mediator will help the parent and school district clarify the issues and underlying concerns, explore interests, discuss options, and collaborate to reach mutually satisfying agreements that address the needs of the student. The mediator does not decide how to resolve the dispute, but may generate suggestions and alternatives for both parties to consider. When the parties resolve all or some of the issues, they work together with the mediator to put their agreement in writing. Once both parties sign the Mediation agreement, it can be enforced in a court of law.

What is the timetable for resolving the issue?

Mediation is usually scheduled within 30 days after the parent and school district agree to mediate. The Mediation session generally lasts from 2 to 5 hours. Additional sessions can be scheduled, if needed.

Can this option be appealed?

Mediation cannot be appealed. If the parties are unable to reach agreement, they may consider other dispute resolution options. Mediation discussions are confidential, and therefore cannot be used as evidence in any subsequent due process hearing or civil proceeding.

Additional Information

Mediation <http://www.doe.mass.edu/bsea/mediation.html>

Preparing for Special Education Mediation and Resolution Sessions: A Guide for Families and Advocates
<http://www.advocacyinstitute.org/resources/Preparing.for.SpEd.Mediation.Resolution.Sessions.pdf>

Facilitated IEP Meetings

Who offers this option?

Facilitated IEP Meetings are offered by the Bureau of Special Education Appeals (BSEA), an independent department located within the Massachusetts Division of Administrative Law Appeals.

Who may use this option?

A parent or a school district may request a Facilitated IEP Meeting, but both parties must agree to participate.

What types of issues can this option address?

A Facilitated IEP Meeting may be an appropriate option when it is agreed that the presence of a neutral third party would assist in the successful drafting of an IEP for a student.

What is the time-frame for requesting this option?

There is no time-frame for requesting a Facilitated IEP Meeting, but it is generally most effective to resolve the concern as soon as possible after it develops.

How is this option requested?

A Facilitated IEP Meeting can be requested by contacting the Coordinator of Mediation at the Bureau of Special Education Appeals.

Bureau of Special Education Appeals
75 Pleasant Street
Malden, MA 01248
781-338-6443

How is the issue resolved?

During a Facilitated IEP Meeting, a BSEA mediator serves as a facilitator and helps the Team stay directed toward a discussion of the student's needs, make decisions, and reach agreement. They assist the Team with developing and following an agenda, staying focused on writing a satisfactory IEP, building lasting relationships through consensus and open communication, and resolving any disagreements that may arise during the meeting. The facilitator does not make decisions, but helps the Team reach consensus and develop the IEP. All federal and state laws and procedural protections related to the development of the IEP continue to apply.

Can this option be appealed?

A Facilitated IEP Meeting cannot be appealed, but an IEP developed during the Facilitated IEP Meeting may be subsequently rejected and the parent or school district may opt to engage in other dispute resolution options. The Facilitator will not be the same person who might later be assigned as a mediator.

Additional Information

Facilitated IEP Team Meeting <http://www.doe.mass.edu/bsea/fiep.html>

Facilitated IEP Meetings: An Emerging Practice <http://www.taalliance.org/publications/pdfs/facilitatediep.pdf>

SpedEx

Who offers this option?

SpedEx is offered by the Bureau of Special Education Appeals (BSEA), an independent department located within the Massachusetts Division of Administrative Law Appeals.

Who may use this option?

A parent or a school district may request SpedEx, but both parties must agree to participate.

What types of issues can this option address?

SpedEx may be an appropriate option when the conflict involves whether the district's proposed IEP offers a free appropriate public education (FAPE) in the least restrictive environment (LRE). In addition, SpedEx may only be requested after an IEP has been rejected or a hearing request has been filed.

What is the time-frame for requesting this option?

There is no time-frame for requesting SpedEx, but it is generally most effective to resolve the concern as soon as possible after it develops.

How is this option requested?

SpedEx can be requested by contacting the SpedEx Administrator.

Dr. David Scanlon, SpedEx Administrator
david.scanlon@bc.edu

How is the issue resolved?

During the SpedEx process, the parent and district jointly agree on a consultant from a list maintained by the SpedEx Administrator. The consultant will conduct a review of the student's needs, which may include examining past assessments, IEPs, recommendations, and related information. They may also interview the parent, staff, and the student, if appropriate, or conduct observations. The consultant will then prepare a written report of findings and recommendations, which is sent to the parent and district. If the parties agree with the recommendations, they will be incorporated into the IEP and implemented. The SpedEx consultant will then observe the student in the new program to assure that FAPE is being provided in the LRE.

What is the timetable for resolving the issue?

The SpedEx consultant will generally conduct their review and issue their report within 30 days. The student begins his or her new program within 30 days of both parties' agreement. The follow-up observation of the student occurs within 30 days of this placement.

Can this option be appealed?

The SpedEx consultant's recommendations can not be appealed, though either party may reject them and pursue other dispute resolution options. Regardless of the parties' decision, the SpedEx consultant's report becomes part of the student's record.

Additional Information

SpedEx <http://www.doe.mass.edu/sped/spedx/>

Due Process Hearing

Who offers this option?

Due Process Hearings are offered by the Bureau of Special Education Appeals (BSEA), an independent department located within the Massachusetts Division of Administrative Law Appeals.

Who may use this option?

A Hearing may be requested by either a parent or the school district. A student over the age of 18 or an advocate or attorney acting on the parent's, student's, or district's behalf may also request a Due Process Hearing.

What types of issues can this option address?

A Due Process Hearing may be an appropriate option when the conflict involves a dispute about the eligibility, evaluation, placement, IEP, procedural protections, or provision of special education for a student with disabilities. In addition, a parent may request a Hearing on any issue involving the denial of the free appropriate public education guaranteed by Section 504 of the Rehabilitation Act.

What is the time-frame for requesting this option?

A Hearing must be requested within two years of the violation.

How is this option requested?

A Hearing must be requested in writing to the BSEA, with a copy of the request simultaneously sent to the opposing party. A Hearing Request Form may, but is not required to, be used.

Bureau of Special Education Appeals
75 Pleasant Street
Malden, MA 01248

BSEA Hearing Request Form: <http://www.doe.mass.edu/bsea/forms/hearing.pdf>

How is the issue resolved?

A Due Process Hearing is conducted by a hearing officer. During the Hearing, each party has the opportunity to present evidence to support its position, through documents and the testimony of witnesses. The parties also have the right to cross-examine witnesses and to submit rebuttal evidence. In addition, the parties are afforded the opportunity to present oral and/or written argument to the hearing officer. The hearing officer's decision is based upon the evidence submitted by the parties, and any relevant legal principles. Prior to and during the Hearing process, the parties are afforded several opportunities for informal resolution. If an agreement is reached, the Hearing request can be withdrawn.

What is the timetable for resolving the issue?

A hearing is usually scheduled 20 - 35 days after the Hearing Request is received by the opposing party. A Hearing decision is usually issued within 45 days of a mandated resolution period. Other time lines apply.

Can this option be appealed?

Due Process Hearing decisions may be appealed in state or federal court within 90 days of the decision.

Additional Information

Due Process Hearings <http://www.doe.mass.edu/bsea/process.html>

Advisory Opinion Process <http://www.doe.mass.edu/bsea/opinions.html>

BSEA Pro Se Guide http://www.doe.mass.edu/bsea/forms/prose_guide.pdf

BSEA Reference Manual http://www.doe.mass.edu/bsea/forms/proselitigant_manual.pdf

Resolution Meetings: A Guide for Parents <http://www.taalliance.org/publications/pdfs/cadreresolution.pdf>

Tips for Effective Participation

The special education process is grounded on parent participation. Here are some tips to help you effectively participate!

Know Your Rights and Responsibilities

Understanding your rights will allow you to participate in the special education process as a knowledgeable partner, as well as eliminate some of the misconceptions that may arise between you and other Team members and help ensure a positive working relationship. It will also enable you to be a better advocate for your child's needs.

Put It In Writing

Although most requests to the school district are not required to be in writing, it is certainly good practice for them to be so. It is recommended that any formal request to the district be submitted in written form. It is also advisable that your questions, concerns, and/or suggestions be in writing as well. Putting it in writing can help avoid misunderstandings. It also provides both you and the Team with a record of concerns and requests.

Organize Your Records

You have meeting notices, evaluation reports, and copies of the IEP. How do you organize all these records? One way is to create an IEP binder. An IEP binder is a simple, yet invaluable tool to keep you organized at, and in between, Team meetings. Creating an IEP binder is easy. All you need is a large, sturdy three-ring binder and hole puncher. You should include in the binder copies of the most recent evaluations, the IEP, progress reports, letters to and from the district, and any and all other relevant information or documentation. Some parents arrange documents in chronological order, while others prefer to use index dividers to further organize by type of document. Use whatever system is easiest for you!

Take a Day (or More)

It can be tempting to agree to the proposed IEP and placement right there at the Team meeting. Do not! A lot of information was presented and discussed, and you need some time to process it. Take the IEP home, along with any assessment reports you received, and put it all aside for the day. The next day give them a good read-through. Do you agree with all that is being proposed? Then go ahead and sign your agreement to the IEP and placement. If the answer is no, make a note of all your questions and concerns. You can request another meeting to address them. and make changes to the IEP if necessary.

Act Locally First

If you have concerns about your child's progress, placement, or the appropriateness of his or her goals or services, we recommend first trying to resolve them locally. Most parents will find this the easiest and fastest way to get their concerns addressed. Resolving your concerns locally will help ensure that they are addressed positively and efficiently! And remember, at any time you may opt to use other methods of dispute resolution.

Get an Independent Evaluation

Most disputes in special education involve how to appropriately meet a student's needs. Getting an Independent Education Evaluation (IEE) for your child may help clarify the issue. A parent may obtain an IEE at private expense at any time. If you disagree with an evaluation completed by the district, you may request an IEE at public expense.

Ask for Help

No doubt you will have questions about special education at some point. There are many places you can go for help. If you have questions about your child's evaluation, IEP, or placement, your child's teacher or Team Chair will be able to provide you with more information. If you have questions about the special education process and understanding your rights within the process, or need referrals to more information or resources, QPAC can help you out.

