

BRIEF OVERVIEW OF CDE SPECIAL EDUCATION DISPUTE RESOLUTION OPTIONS AVAILABLE UNDER THE IDEA

	Mediation	State Complaints	Due Process (Non-Expedited) Complaints
Who can file?	Parents or the Administrative Unit (AU) may request but the other party must voluntarily agree to mediate the dispute.	Any individual or organization.	Parents or the AU.
For what issues?	Disputes concerning matters protected under the Individuals with Disabilities Education Act (IDEA) or the Exceptional Children’s Educational Act (ECEA).	Any alleged IDEA or ECEA violation that occurred not more than one year prior to the date of a properly filed complaint.	Any alleged IDEA or ECEA violation that occurred w/i the past two years concerning the identification, evaluation or educational placement of a child with a disability or the provision of a free appropriate public education (FAPE).
Cost?	Free to the parties. The Department pays for the Mediator’s services.	No filing fees. Each party must pay for any attorney fees and costs that they incur.	No filing fees. Each party must pay for any attorney fees and costs that they incur.
Who decides?	The parties control the outcome.	The State Complaints Officer (SCO).	The Administrative Law Judge (ALJ).
What happens?	An impartial Mediator is assigned to assist the parties in resolving their dispute. The Mediator helps the parties to express their views and positions but remains neutral and does not take the side of either party.	A party files a state complaint and documentation. The other party then files a response. The complaining party can then file a reply to the response. The assigned SCO conducts an investigation, including interviews and review of the relevant documentation.	A party files a due process complaint and documentation. An ALJ is assigned. The AU must conduct a resolution meeting. Any unresolved issues are heard by the ALJ. At the hearing, each party: presents evidence, gives testimony and cross examines witnesses.
Timeline	Mediations must be scheduled in a timely manner. Typically, mediations are completed w/i 30 calendar days of a mediation request.	A written decision is issued w/i 60 calendar days after a properly filed complaint was received by the SCO and the AU.	The AU must convene a resolution meeting w/i 15 days of a properly filed complaint. The resolution period may continue for up to 30 days. If no resolution is reached, a hearing must be conducted and a decision issued w/i 45 days.
Outcomes & Remedies	To be enforceable, any agreements reached must be reduced to a written settlement agreement and signed by both parties during the mediation . As to unresolved disputes, a party may file a state and/or due process complaint.	The SCO issues a written decision. If the SCO determines that IDEA violations require remedies, the SCO enters orders that must be taken to correct the violations, including, but not limited to: a corrective action plan, compensatory services, reconvening of the IEP meeting, etc. If the SCO determines that no IDEA violations occurred, no remedies are ordered.	The ALJ issues a written decision. If the ALJ determines that IDEA violations require remedies, the ALJ enters orders that must be taken to correct the violations, including, but not limited to: compensatory services, reconvening of the IEP meeting, etc. If the ALJ determines that no IDEA violations occurred, no remedies are ordered.
Appeal?	If a party alleges that a settlement agreement has been breached, that party may seek enforcement of the agreement in state or federal court.	The SCO’s decision cannot be appealed but either party may file a due process complaint on the same issue(s).	The ALJ’s decision may be appealed in state or federal district court w/i 90 days of the date of the decision.