NORTH DAKOTA
DEPARTMENT OF
PUBLIC INSTRUCTION

SPECIAL EDUCATION FACILITATED IEP PROCEDURE MANUAL

July 2025

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Introduction

Parents and school staff usually agree on issues regarding evaluation, eligibility, services, and placement of students with disabilities. However, there are times when disagreement occurs. Disagreements and conflicts are often inevitable, but they need not produce negative results.

If a parent and school are unable to resolve a conflict concerning a student with a disability, facilitation is an available alternative dispute resolution option for both parties. A facilitated IEP meeting includes a neutral, trained facilitator who supports effective communication and assists the IEP team in developing an appropriate IEP for a student with a disability.

What is IEP Facilitation?

IEP facilitation is a voluntary, collaborative process that can be utilized when both parties agree that the presence of a neutral third party may foster effective communication to assist in the development of an appropriate IEP.

When Should IEP Facilitation be Considered?

Not all IEP meetings are productive or collaborative. Sometimes, IEP teams are not able to agree on what should be included in a student's IEP, and IEP topics may become contentious. When this happens, a facilitated IEP might be considered. Facilitated IEPs allow teams to work collaboratively to write a mutually agreed upon IEP that meets the requirements of the Individuals with Disabilities Education Act (IDEA). IEP facilitation may be considered before requesting other dispute resolution options, but IEP facilitation cannot interfere with parties requesting mediation, a state complaint, or a due process hearing.

What Are the Benefits of IEP Facilitation?

IEP facilitation may be beneficial in many circumstances. IEP facilitation may:

- Build and improve relationships among team members.
- Resolve disagreements more quickly than other dispute resolution options.
- Provide those involved with uninterrupted opportunities to present their points of
- view.
- Stimulate mutual problem-solving efforts.
- Help parents and school personnel focus on what they have in common, the
- student, rather than on the issues that divide them.

Who May Request IEP Facilitation?

IEP facilitation is a voluntary process and may be requested by:

- A student's parent or guardian.
- An adult student who is at least 18 years old and has parental rights
- transferred to them.
- School district staff.

How Does IEP Facilitation Differ from Mediation?

In both IEP facilitation and mediation, a neutral, trained third party is assigned to assist the parties with communicating and resolving disagreements. IEP facilitation, however, involves reconvening an IEP meeting to reach an agreement about the required elements of a student's IEP. In contrast, mediation may not involve holding an IEP meeting and may be used to resolve any disagreement arising under the IDEA, including identification, evaluation, IEP, educational placement, and provisions of a Free Appropriate Public Education (FAPE). Mediation may result in a legally binding written agreement, whereas facilitated IEP meetings can result in the development of an appropriate IEP agreed upon by the team.

Who are IEP Facilitators?

The North Dakota Department of Public Instruction (NDDPI) contracts with qualified individuals who serve as independent facilitators for IEP facilitation services. Facilitators are not NDDPI employees, an employee of the school district that the student attends, or someone who has a personal or professional interest that conflicts with his or her impartiality. To ensure impartiality and effectiveness, a facilitator must have:

- Demonstrated knowledge of federal and state special education laws and regulations.
- Demonstrated knowledge of and experience with the IEP team meeting process.
- Ongoing training or continuing education in special education and/or conflict resolution.

What is the IEP Facilitator's Role?

An IEP facilitator is a neutral third party who does not participate as a traditional member of the IEP team, nor do they make decisions about the student's education or provide legal advice. Instead, the facilitator:

- Helps the team develop and ask questions about issues that may need clarification.
- Develops an agenda and guides the discussion while modeling effective communication.
- Encourages both parties to identify possible solutions to the issues.
- Assists the IEP team in the development of an appropriate IEP.
- Maintains impartiality and does not take sides or impose a decision on the group.

How Much Does IEP Facilitation Cost?

IEP facilitation is available at no cost to the school or parents; NDDPI bears the related costs.

What If Only One Party Wants a Facilitated IEP?

IEP facilitation is a voluntary process that requires mutual agreement between the parent (or adult student with educational rights) and the school district. NDDPI can provide an IEP facilitator when both parties agree but will not be able to do so if only one party wants a facilitated IEP meeting.

Can the Parties be Required to Hold a Facilitated IEP?

No, IEP facilitation is voluntary. If a party chooses not to participate, they do not have to give a reason for the decision. Either party can withdraw from IEP facilitation at any time.

How is IEP Facilitation Requested?

Parents interested in requesting IEP facilitation are encouraged to first contact their school district to discuss the option and determine whether the school would be interested. For additional information regarding availability and the use of IEP facilitators, parents may contact NDDPI or a parent resource center. School districts may contact NDDPI about requesting IEP facilitation.

What Happens Once a Request for IEP Facilitation is Initiated?

Once the initial *Request for IEP Facilitation* is received, the NDDPI Office of Specially Designed Services contacts the other party identified to determine their willingness to participate. If the other party agrees to participate, they may sign the initial *Request for IEP Facilitation* form or complete a different *Request for IEP Facilitation* form to document their concerns or issues. If the other party declines to participate, the facilitation process ends.

By agreeing to participate in IEP facilitation, both parties acknowledge they have been informed of the following:

- The facilitator does not provide the parents, the school district, or the student with legal representation.
- The facilitator does not provide counseling or therapy services.
- The facilitator is a neutral third party who will assist the IEP team in agreeing to an appropriate IEP.
- Discussions during the facilitated IEP will be held confidential and cannot be used during subsequent proceedings pertaining to the student's case.

How Are IEP Facilitators Appointed?

Facilitators are appointed by the NDDPI Office of Specially Designed Services, on a cyclical basis. By requesting IEP facilitation, both parties understand that NDDPI will attempt to identify a facilitator within a reasonable time from the date of the request; however, this cannot be guaranteed. In such cases, NDDPI will inform the parties and, if necessary, will recommend that the parties attempt to move forward without a facilitator to avoid delaying the IEP process.

What Happens Once NDDPI Identifies a Facilitator?

Once the facilitator is identified, the *Request for IEP Facilitation* form(s) submitted by the parties is forwarded to the facilitator. In addition, NDDPI will provide the facilitator with both parties' contact information. During the initial contact with the parties, the facilitator will focus on scheduling the IEP meeting but might also clarify the areas of the IEP outlined in each party's request. Since the facilitator's role is to maintain neutrality, any information shared with the facilitator during initial contact is subject to being shared with the other party. Therefore, parties should refrain from "presenting their case" to the facilitator.

The facilitator, with assistance from the school district, will work to identify a secure, neutral, and comfortable meeting location. While the IEP meeting may or may not occur in the school or even on school grounds, it is crucial to hold it as soon as possible, and to do so, both parties need to be open to a more neutral setting, if suggested.

Does NDDPI Always Provide a Facilitator When Requested?

No. For NDDPI to provide a facilitator, the following conditions must be met:

- Both the parent and the school must complete and sign the Request for IEP Facilitation form(s).
- The dispute must relate to a previous IEP meeting in which the IEP team did not reach an agreement about the required elements of the IEP.
- A facilitator must be available within a reasonable time before the IEP meeting is due, so as not to cause an unreasonable delay of the IEP meeting.
- The dispute must not be about a manifestation determination (a meeting to determine if a student's behavior is substantially linked to the student's disability) or determination of an interim alternative educational setting.
- The parties must not be involved in special education mediation at the same time.
- The parties must not have participated in IEP facilitation concerning the same student within the same school year of the filing of the current Request for IEP Facilitation.

If NDDPI Declines to Provide a Facilitator, May the Parties Appeal the Decision?

No. The NDDPI's decision not to provide a facilitator is final and is not subject to review or appeal.

Does the Facilitator Make Decisions?

No, the facilitator's role is to facilitate communication and collaboration among the IEP team members and assist them in developing an appropriate IEP for the student. The facilitator models effective communication skills and offers ways to address and resolve conflicts in the development of the IEP. Facilitators are trained in effective communication and in ways to address and resolve conflicts. The members of the IEP team are the decision-makers.

Should a Notice of Meeting Form be Provided for a Facilitated IEP Meeting?

Yes, as with any IEP meeting, the notification procedures found in the IDEA apply. The Notice of Meeting must include the date, time, location, purpose, and expected attendees, and must be provided with sufficient advance notice to ensure meaningful parental participation.

Beginning when the student is 16, the Notice of Meeting form should reflect that the IEP meeting will address the development of post-secondary goals and secondary transition services.

Who Can Participate in the Facilitated IEP Meeting?

Participants should be limited to the required members of the IEP team as defined in IDEA. All individuals present must have knowledge of the student and the ability to support the development of an appropriate IEP.

What are the Roles of the Parties in IEP Facilitation?

The parties are expected to approach the facilitated IEP in good faith and with the intent to resolve areas of disagreement. Active participation, respectful dialogue, and a shared focus on the student's needs are essential to successfully develop an appropriate IEP.

What is the Role of Legal Counsel in IEP Facilitation?

Having an attorney at the facilitated IEP meeting is not recommended. The presence of an attorney may be perceived by the other party as adversarial and may negatively impact open dialogue. In addition, the attorney is not a required member of the IEP team, and their involvement may defeat any assistance the facilitator is there to provide. If either party secures an attorney, that party is responsible for the legal fees.

How Does One Prepare for a Facilitated IEP Meeting?

To prepare for the facilitated IEP meeting, one should:

- Review all relevant documents, papers, and reports prior to the meeting.
- Share relevant documents with other people involved in the facilitated IEP.
- Consider and share with others involved in the facilitated IEP the names of possible attendees who may have knowledge or expertise regarding the child.
- Prepare and organize relevant information and materials for the IEP meeting.
- Think of possible alternatives to the IEP areas that are in question.
- Set aside personality conflicts and focus on the student's best interest.
- Identify desired outcomes for the facilitation.
- Consider key points for the other party to reflect on.
- Determine areas where flexibility is possible.
- Be willing to listen and compromise in the student's best interest.

How Long is a Facilitated IEP Meeting?

Facilitated IEP meetings may be completed in as little as two hours. However, the duration may vary depending on the complexity of the issues, so parties need to be prepared and plan accordingly. It is recommended that participants prepare for the possibility of a follow-up meeting to complete the IEP.

What if the Facilitated IEP Meeting Does Not Result in an Acceptable IEP?

At times, the issues, disagreements, and problems may not be resolved through a facilitated IEP meeting. If the facilitated IEP does not result in a finalized IEP, parties may want to consider other dispute resolution options such as mediation, state complaint, or due process hearing.

How is a Facilitated IEP Requested?

To Request a Facilitated IEP:

1) Call 701-328-2277 or go to the NDDPI website.
2) Click on "Education Program→ Special Education→ Special Education Dispute Resolution→ *REQUEST FOR A FACILITATED IEP MEETING*.
3) Both parties must sign the Request for a Facilitated IEP Meeting form. (Each party can fill out the form separately or sign one together.)
4) Document the area(s) where an impasse was reached during the last IEP meeting.
5) Email, mail, or fax form(s) to NDDPI.
6) NDDPI will determine if the request meets the requirements and send verification of receiving the request.
7) A qualified, impartial facilitator will be assigned, and the facilitator will notify the parties to set up a meeting.
8) If the appropriate conditions are not met for IEP facilitation, NDDPI will notify both parties and offer additional resources or dispute options.

Mail, email, or fax the completed *Request for Facilitated IEP Meeting* Form to:

North Dakota Department of Public Instruction,
Office of Specially Designed Services
Attn: Director of Special Education
600 East Boulevard Avenue, Dept. 201
Bismarck, ND 58505-0440

Email: dpispecialed@nd.gov

Fax: 701-328-4149

Conclusion

IEP facilitation in special education aims to provide an optional process to resolve conflicts and open communication between parties to ensure everyone at the IEP meeting can participate fully to develop an IEP that benefits the student. Even if a facilitated IEP is unsuccessful, it can build and improve relationships among IEP team members, leading to better student outcomes.

Request for Facilitated IEP Meeting Form

REQUEST FOR A FACILITATED IEP MEETING
NORTH DAKOTA DEPARTMENT OF PUBLIC INSTRUCTION
OFFICE OF SPECIAL EDUCATION
SFN 58305 (07/2017)

Student Name

School District Information

School District/Special Education Unit	City	State	ZIP Code (ex. 58504-0440)
Name of Person Completing Form	Title of Person Completing Form		
Telephone Number			Fax Number

Parent/Guardian Information

Parent/Guardian Name	Student's Age	Grade
Cell Phone Number	Work Telephone Number	Home Telephone Number
Disability		

In our last IEP team meeting, we reached an impasse regarding the following areas:

- ☐ Placement
- ☐ Identification/evaluation
- ☐ Present levels of educational performance
- ☐ Services
- ☐ Transition
- ☐ Goals (objective)
- ☐ Other (specify)
- ☐ Adaptations/accommodations
- ☐ Related Services
- ☐ Assistive Technology
- ☐ Progress Reporting
- ☐ Discipline/Behavior
- ☐ Implementation of IEP

IEP Facilitation:

- Is a voluntary process;
- Uses a neutral third party;
- Permits a guided IEP meeting;
- Assists the IEP team members to communicate effectively;
- Supports all team members;
- Provides an opportunity to identify new options to address unresolved concerns.

The IEP Facilitator:

- Is neutral;
- Is knowledgeable and experienced in the IEP process;
- Participates only when invited by both parties, but is not a member of the IEP team;
- Ensures that the meeting is student-focused;
- Does not make decisions and does not tell the IEP team members how to solve issues;
- Does not provide legal advice.

Signature of Parent/Guardian or Adult Student	Date
Signature of District Administrator	Date

For State Office Use Only

☐ Accepted	☐ Not Accepted	Reasons

Return to:
ND Department of Public Instruction
Office of Specially Designed Services
600 E. Blvd. Ave., Dept. 201
Bismarck, ND 58505-0440
(701) 328-4149 (Fax)

NOTE: NDDPI, Office of Specially Designed Services, will accept electronic signatures on this form.