

**NORTH DAKOTA DEPARTMENT OF
PUBLIC INSTRUCTION**

OPTIONS FOR DISPUTE RESOLUTION IN SPECIAL EDUCATION



PL111
TRMS

Individuals With Disabilities Education Act (IDEA)

IDEA was based on Congress' finding that millions of children with disabilities had educational needs which were not being met.

Education for All Handicapped Children Act of 1975 (EAHCA).

Code of Federal Regulations



TITLE 3—THE PRESIDENT
1971—1975 Compilation

COMPILED BY THE OFFICE OF MANAGEMENT
AND BUDGET PRACTICES IN
THE WHITE HOUSE, UNDER THE
AUTHORITY OF 5 U.S.C.
552 AND 5 U.S.C.

With Assistance and Under

Direction by the OFFICE of the Federal Register,
National Archives and Records Service,
General Services Administration,
in a Special Edition of the Federal Register.

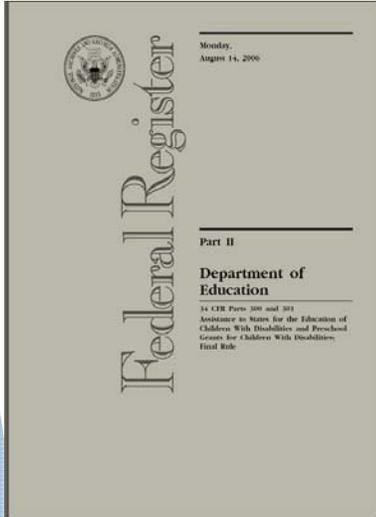
**NORTH DAKOTA DEPARTMENT OF
PUBLIC INSTRUCTION**



Slide 2

- DLJ1** it also addressed the fact that over half the states had laws related to educating students with disabilities that they were not implementing. See John Bredemas- I can get you the citation if you want.
Dodge, Lynn J., 3/19/2015
- TRM5** Would love you to get me citation
Tschider, Robin M., 3/19/2015

Individuals With Disabilities Education Act (IDEA)



1990 EAHCA was renamed the Individuals with Disabilities Education Act (IDEA).

IDEA is a comprehensive Federal statute that serves two functions, education and civil rights.



SLIDE TRM6



The first intention of IDEA was clearly to assure that students with disabilities had the opportunity to participate in education.



Slide 4

- DLJ2** You might want to explain the comprehensiveness of IDEA results from its serving two functions- education and civil rights. This might help understanding the first sentence which is really wordy. think that is complex can be deleted.
Dodge, Lynn J., 3/19/2015
- TRM6** Thanks. I am trying not to detour the show into the history, which is a presentation on its own. Thanks
Tschider, Robin M., 3/19/2015



The second intention was to provide a process whereby educators and parents could work together and reach consensus on what are appropriate services for the student.



SLIDE
TRM7

When there are differences of opinion among the members of a student's IEP team, IDEA sets out a series of procedures to work towards agreement or consensus.



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Slide 6

DLJ3 isn't it more about developing consensus rather than agreement?

Dodge, Lynn J., 3/19/2015

TRM7 In this particular slide its a general statement that parties may disagree and the law has ways to address it. But I know what you are saying about consensus

Tschider, Robin M., 3/19/2015

DLJ4

Continuum of Options for Dispute Resolution



Quick Guide to Special Education Dispute Resolution Processes for Parents of Children & Youth

This guide is not intended to interpret, modify, or replace any IDEA Part B procedural safeguards or requirements of federal or state law. State regulations associated with these processes vary widely. Parents are encouraged to contact their state educational agency or parent center for more information.

Processes	IEP Facilitation <i>Not required by the IDEA; availability varies by state</i>	Mediation	Resolution Meeting	Written State Complaint	Due Process Complaint/ Hearing Request
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IDEA, 34 CFR §300.504 -§300.515 requires each state agency to have policy and procedures for a continuum of options to resolve conflict.



DLJ5

PROCEDURAL SAFEGUARD NOTICE

A comprehensive written explanation of procedural safeguards are available to all parents of a child with a disability.

SPECIAL EDUCATION IN NORTH DAKOTA
 North Dakota Department of Public Instruction
 Kristen Kaestler, State Superintendent
 Office of Special Education
 600 E. Boulevard Ave., Dept. 201
 Bismarck, ND 58505-0440

701-328-2277 (voice)
 701-328-4530 (TDD)
 701-328-4140 (fax)

Parental Rights for Public School Students Receiving Special Education Services

Notice of Procedural Safeguards



The Program Continues

Building the Legacy: IDEA 2004

United States Department of Education, Office of Special Education Programs (OSEP)



Slide 7

DLJ4 Revise Through out sentence.
Dodge, Lynn J., 3/19/2015

Slide 8

DLJ5 all aspects of the development of the IEP.?
Dodge, Lynn J., 3/19/2015

DL17
TRM10
TRM10

Early Resolution

Reasonable efforts should be made to resolve disagreement as early as possible and within the IEP team.

- Special education teacher and/or case manager
- Principal and/or superintendent of the schools
- Special education coordinator or director
- Pathfinders - parent advocates and information
- Protection and Advocacy (P&A)
- ND Department of Public Instruction



DLJ8

Early Resolution: IEP Review



IEP teams are encouraged to hold another meeting and discuss the specific concerns. This may be a meeting to review the IEP or simply the ^{DLJ9}parent and school personnel coming together to discuss the concerns.



Slide 9

- DLJ7** organizations ?
Dodge, Lynn J., 3/19/2015
- TRM8** P&A
Tschider, Robin M., 3/19/2015
- TRM9** Now I am questioning this word
Tschider, Robin M., 3/19/2015
- TRM10** OK I changed it
Tschider, Robin M., 3/19/2015

Slide 10

- DLJ8** first sentence in notes is tooo long.
Dodge, Lynn J., 3/19/2015
- DLJ9** second sentencs should end at concerns. The try to phrase should introduce the first sentence.
Dodge, Lynn J., 3/19/2015

DU110
TRM11

IEP Facilitation
Not required by the IDEA; availability varies by state

An optional early resolution process where an impartial facilitator assists the IEP team with communication and problem solving.



When an IEP team reaches an impasse, a facilitated IEP may be considered.



DU11

IEP Facilitation

- What is a facilitated IEP?
- Is the facilitator part of the IEP team?
- Is facilitation required?
- Who pays the facilitator?



Slide 11

DLJ10 slide - When an IEP team reaches an an impass, a facilitated IEP may be considered.
Dodge, Lynn J., 3/19/2015

TRM11 good thanks
Tschider, Robin M., 3/19/2015

Slide 12

DLJ11 #2-with staying focused
Dodge, Lynn J., 3/19/2015

Requesting a Facilitated IEP

- Who can request a facilitator?
- What are the procedures to initiate a facilitated IEP?

REQUEST FOR A FACILITATED IEP MEETING
 DEPARTMENT OF PUBLIC INSTRUCTION
 SPECIAL EDUCATION DIVISION
 91A-0300 (03/06)

Student Name: _____

School District Information
 School District/Special Education Unit: _____ City: _____ State: _____ (Type in: 0000-0000)

Name and Title of Person Completing Form: _____

Parent/Guardian Information
 Parent/Guardian Name: _____

Student's Age: _____ Grade: _____ Disability: _____

Work Telephone Number: _____ Home Telephone Number: _____ Cell Phone Number: _____

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

<input type="checkbox"/> Placement	<input type="checkbox"/> Adaptations/accommodations
<input type="checkbox"/> Identification/evaluation	<input type="checkbox"/> Related Services
<input type="checkbox"/> Present levels of educational performance	<input type="checkbox"/> Assistive Technology
<input type="checkbox"/> Services	<input type="checkbox"/> Progress Reporting
<input type="checkbox"/> Transition	<input type="checkbox"/> Discipline/Behavior
<input type="checkbox"/> Goals (objective)	<input type="checkbox"/> Implementation of IEP
<input type="checkbox"/> Other (specify): _____	

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 School Administrator: _____ Date: _____

For State Office Use Only
 NCDPI accepts does not accept this application for the following reason: _____

PLEASE RETURN BY MAIL OR FAX:
 Attn: Collins
 ND Dept. of Public Instruction
 Office of Special Education
 600 E. 5th St., Dept. 211
 Raleigh, ND 27601
 (919) 328-4149 (Fax)

IEP Meeting

Mediation

Writing State Complaint

Due Process Hearing Request

Mediation

A voluntary process that brings people together with a mediator, who helps them communicate with each other and resolve their disagreements.

- ▶ Mediation is an option for dispute resolution that also includes a neutral third party.
- ▶ Unlike facilitation, mediation may be used to resolve a broader range of issues not directly related to the IEP.

DL112
DL113
DL114
DL115
DL116

Mediation

What is mediation?

What are the benefits of mediation?

Is mediation confidential?

Is the mediation agreement enforceable?



DL17

Requesting Mediation

Who can request mediation?

What are the procedures to initiate mediation?

REQUEST FOR MEDIATION
DEPARTMENT OF PUBLIC INSTRUCTION
OFFICE OF SPECIAL EDUCATION
919.860.6871

I/We request mediation in the matter of _____ (child/student's initials) to try to reach an agreement on some or all of the issues regarding educational services for the child/student. I/We have read and understand the written materials describing mediation services and have been fully informed of the following:

- The mediator does not provide the parent(s), the school district, or the child/student with legal representation.
- The mediator does not provide counseling or therapy services.
- The mediator is a neutral third party who will assist the group in developing an agreement that is mutually satisfactory.
- If an agreement is reached, the written and signed agreement may be shared with other individuals working with the child/student.
- The signed written agreement is considered legally binding under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA '04).
- Discussions during the mediation session will be held confidential and can not be used during subsequent proceedings pertaining to the child/student's case.
- The IEP team should reconvene to discuss components of the agreement that should be implemented in the student's IEP.

The following is a summary of the issues that I/We would like to discuss in mediation: (if more space is needed, please include additional pages) _____

Please identify individuals who will accompany you to the mediation.

Name	Position/Relationship to student

Please identify other individuals that you would like to participate in this mediation.

Name	Position/Relationship to student

School and District Name _____ Address _____ City _____ State _____ Zip + 4 digit code _____
 Name of School Administrator _____ Telephone _____ Email _____

Person/Contact Name _____ Address _____ City _____ State _____ Zip + 4 digit code _____
 Telephone _____ Cell phone or Email _____ Student Name _____ Student ID or Birth _____
 Signature of Person(s) Completing This Form _____ Date _____

PLEASE RETURN BY MAIL OR FAX:
 Attn: Callahan
 NC Dept. of Public Instruction, Office of Special Education
 800 E. 8th St., Dept. 201
 Raleigh, NC 27602
 (919) 120-4140 (Fax)



Slide 15

- DLJ12** how about a comma after proceedings, less....., and original positions.
Dodge, Lynn J., 3/19/2015
- DLJ13** slide- What are the procedures to initiate mediation?
Dodge, Lynn J., 3/19/2015
- DLJ14** #4-proceeding in federal or state court?
Dodge, Lynn J., 3/19/2015
- DLJ15** #5- competent jurisdiction? in any state court having? not sure what you mean here
Dodge, Lynn J., 3/19/2015
- DLJ16** should Mediation at the end be part of question 1?
Dodge, Lynn J., 3/19/2015

Slide 16

- DLJ17** notes- end first sentence after confidential. delete and .
Dodge, Lynn J., 3/19/2015

Mediation vs. IEP Facilitation

Mediation

- ▶ Neutral third party trained in mediation with a basic understanding of IDEA;
- ▶ May deal with a broad range of issues and often focuses on the communication between parties;

IEP Facilitation

- ▶ Neutral third party has background in Special Education and has thorough understanding of the IDEA;
- ▶ Deals primarily with IEP issues and is more student focused.



Mediation vs. IEP Facilitation

Mediation

- ▶ Involves a smaller, number of participants; The mediator makes the final decision on participating members.

IEP Facilitation

- ▶ Involves all the required IEP team members plus the facilitator; Similar to a regular IEP meeting: a guided process.



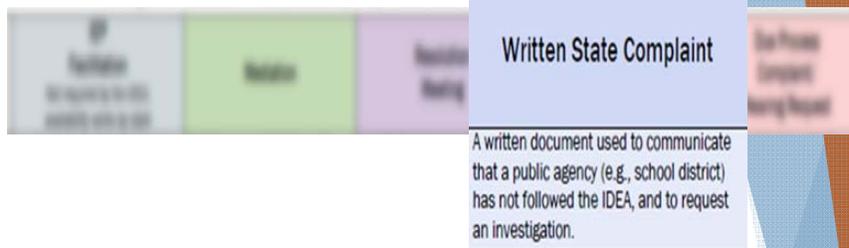
Mediation vs. IEP Facilitation

Mediation

- ▶ Clarifies disputed issues, identifies possible solutions, generally concludes with a written agreement among the parties;

IEP Facilitation

- ▶ Clarifies disputed issues, identifies possible solutions for reaching consensus and acceptable IEP development;



Formal State Complaints are one of the types of dispute resolution options that parents of children with disabilities can use to resolve issues or disagreements.



D1119
TID1119
DU20
ate
Complaint Investigation



- What is a State Complaint?
- What information must be included?
- What are the State Education Agency (SEA) procedures for handling the complaint?
- Are there time limits?
- What results can be expected?



NORTH DAKOTA DEPARTMENT OF PUBLIC INSTRUCTION

Requesting a Complaint Investigation

- Who may file a complaint?
- What are the procedures to initiate filing a complaint?


REQUEST FOR COMPLAINT INVESTIGATION
 ND Department of Public Instruction
 Office of Special Education
 394 58519 (1/07)

Return to:
 Dept. of Public Instruction
 Office of Special Education
 600 E Boulevard Ave, Dept. 201
 Bismarck ND 58505-0440

REQUEST FOR COMPLAINT INVESTIGATION

Any individual or organization may file a complaint with the department if they believe a public agency has violated federal requirements to provide a free and appropriate public education (FAPE) under the Individuals with Disabilities Education Act (IDEA). All complaints must be in writing, must be signed, and should clearly identify the alleged violation(s). A complainant has the right to file a complaint with the department within one year of an alleged violation.
 The Department of Public Instruction will investigate the complaint and issue a decision within 60 days of receiving the complaint, unless exceptional circumstances extend this timeline. If the department finds that the public agency has violated requirements relating to special education, the local educational agency will be directed to complete corrective actions to correct the violations.

Complaint should be returned to: Department of Public Instruction, Office of Special Education, 600 E Boulevard Avenue, Dept 201, Bismarck, ND 58505-0440.

Date of Request:		Name of Complainant:	
Complainant Address:	Home Telephone Number:	Work Telephone Number:	
Cell Phone Number:	Fax (if available):	Email (if available):	
Would you consider mediation to resolve these issues? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Child's Name:		Date of Birth:	
Child's Address (if different than that above):		School District/Child Attending:	
Child's Grade/age:	Child's Disability:	Complainant's Relationship to the Child:	

Complaint and Supporting Facts: (Directions: Number and list each allegation separately. Describe the violation and the specific facts that related to that violation. If possible, include dates, names and locations. Attach additional pages if more space is required.)



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Slide 21

DLJ18 slide- 4th bullet- What are

Dodge, Lynn J., 3/19/2015

TRM12 love having another set of eyes! I can tell I have been looking at this PPT for too long

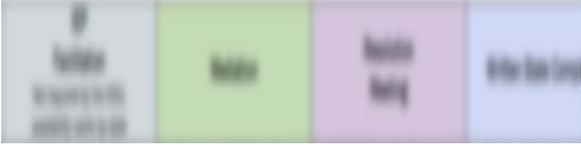
Tschider, Robin M., 3/19/2015

DLJ19 notes- 3- 3rd bullet- delete that

Dodge, Lynn J., 3/19/2015

DLJ20 attention- addressed to the attention?

Dodge, Lynn J., 3/19/2015



**Due Process Complaint/
Hearing Request**

A process used to resolve a formal complaint made by a parent or public agency (e.g., school district), who are together referred to as "the parties."

IDEA requires LEAs to have procedures in place that make due process available to parents and public agencies to resolve a dispute involving any matter arising under IDEA.

NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION



**DLJ21
DLJ22**

Due Process Complaint

- What is a due process complaint?
- Are there time limits?
- What information must be included?
- What if it's not included? How does a LEA respond?
- How long before a hearing can occur?



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Slide 24

DLJ21 Note 1. A due process complaint alleges a...

Dodge, Lynn J., 3/19/2015

DLJ22 Note 5- contains all required information. delete deemed sufficient with

Dodge, Lynn J., 3/19/2015

DLJ26

Resolution Meeting

A meeting that takes place after a parent files a due process complaint/hearing request but before a due process hearing takes place.

The purpose of the Resolution Meeting is for the parent of the child to discuss the due process complaint, and the facts of the complaint, so the LEA has the opportunity to resolve the dispute



Filing a Due Process Complaint

- ▶ Who can file a Due Process Complaint?
- ▶ What are the procedures to initiate filing a complaint?



DUE PROCESS COMPLAINT NOTICE		
 ND Department of Public Instruction Office of Special Education SFN 9461 (7/05)		Return to: Dept. of Public Instruction Office of Special Education 600 E Blvd Ave, Dept. 201 Bismarck ND 58505-0440
DUE PROCESS COMPLAINT NOTICE		
<p>A due process complaint may be initiated by a school district, multidistrict special education board, a parent, or a legal guardian for the purposes set forth in the guidelines and regulations for "Due Process and Review" published in the Annual Program Plan, Part B, Individuals with Disabilities Education Act as Amended by P.L. 108-446 [IDEA 2004] and distributed by the Department of Public Instruction. The regulations contained in this publication should be studied thoroughly prior to completing this due process complaint notice. This notice should be considered only if all efforts at the local level for agreement have failed.</p>		
Mediation		
A.	Have you considered the option of mediation for resolution of this conflict?	<input type="checkbox"/> Yes <input type="checkbox"/> No
B.	Do you wish to request mediation to help resolve this conflict?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Parent Initiation of Hearing		
<p>A parent of a child with disabilities or the parent of a child whom the parent believes to be disabled may initiate a hearing if:</p>		
A.	The parent disagrees with a proposal by a local school district or a proposal by another public agency operating an education program to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child; or	
B.	A local school district or another public agency operating an education program refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.	
School District Initiation of Hearing		
<p>A local school district or other public agency operating an educational program may initiate a hearing:</p> <ul style="list-style-type: none"> • when a parent refuses consent for initial evaluation; • to demonstrate that the school district has conducted an appropriate evaluation; • to demonstrate that the school district has offered a free appropriate public education. 		
<p>Complete and return both pages to: Department of Public Instruction, Office of Special Education, 600 E Blvd. Ave., Dept 201, Bismarck, ND 58505-0440. Your application must include a detailed statement describing the problem(s) involved, a proposed resolution of the problem, and must be signed by the party initiating the request (parent/guardian or school district). (Federal regulations at 34 CFR §300.507)</p>		
Name of Child	Child's Date of Birth:	Date of Request:
CHILD'S Address	Name of school child attending:	
Person Requesting the Hearing:	Address:	Telephone Number:
Signature and Declaration of Mailing		
<p>I, _____, assert by signing this document that a copy of this notice was mailed / hand delivered (circle one) to _____ the other party involved in this conflict, on _____ (date).</p>		
STATE OFFICE USE ONLY		
Date Application Received:	Signature:	
Date Application Approved:	Signature:	
Assignment of Hearing Officer (Name):	Date:	
Date Approved Copy Sent to Applicant:		



Slide 25

DLJ26 At the Resolution meeting, parents and the educational agency discuss possible solutions to resolve...
Dodge, Lynn J., 3/19/2015

ND DPI Dispute Resolution Activities Promote

- ✓ More collaboration between families and providers
- ✓ Money being shifted from adversarial procedures to educational programming
- ✓ Improved learning and behavior for students

CADRE



The National Center on Dispute Resolution in Special Education

"Encouraging the use of mediation and other collaborative strategies to resolve disagreements about special education and early intervention programs."



Slide 27

DLJ28 delete purpose and keep the ND DPI statement as title for slide
Dodge, Lynn J., 3/19/2015

Slide 29

TRM1 Tschider, Robin M., 3/19/2015

TRM4 Tschider, Robin M., 3/19/2015

Slide 30

DLJ29 First sentence in notes is really too long. how about breaking it up?
Dodge, Lynn J., 3/19/2015

TRM2 Makes sense to me, thats just how it was stated on another document.
Tschider, Robin M., 3/19/2015

Information and Resources

ND DPI Special Education Dispute Resolution:

www.dpi.state.nd.us/speced/resource/conflict/index.shtm

Pathfinder Parent Center:

<http://pathfinder-nd.org>

Center for Parent and Information Center:

www.parentcenterhub.org/?s=dispute+resolution

CADRE Website:

www.directionservice.org

IDEA Dispute Resolution Guides:

<http://www.directionservice.org/cadre/DRparentguides2014.cfm>

Protection & Advocacy:

<http://www.ndpanda.org>

