

Montana's IDEA Special Education Dispute Resolution Options

Options	Early Assistance Program (EAP) Resolution	IEP Meeting Facilitation	Written State Complaint	Mediation	Due Process Complaint/Hearing Request	Expedited Due Process Hearing
Who Can Initiate the Process	Parent,* school district staff, advocate, and other members of the special education community can contact EAP.	Parent,* or public agency (e.g., school district) but must be voluntary for both parties.	Any individual or organization.	Parent* or public agency (e.g., school district) but must be voluntary for both parties.	Parent* or public agency (e.g., school district).	Parent* or public agency (e.g., school district).
Time Limits	None.	None.	Must allege a violation that occurred within 1 year prior to the date the complaint is filed.	None.	Two years from when the party knew or should have known of the alleged problem.	Two years from when the party knew or should have known of the alleged problem. Intended to quickly address decisions about discipline and placement.
Process (More details on each process can be found in the IDEA Part B Procedural Safeguards Notice)	Informal, voluntary dispute resolution to assist with issues related to IDEA, including technical assistance for IDEA requirements resolution of written state complaint and communication between parties.	Informal, voluntary dispute resolution during an IEP meeting where an impartial facilitator assists the IEP team in resolution of disagreements arising in the development of the IEP.	A written complaint alleging a public agency (e.g., school district) has not followed IDEA or Montana Special Education laws.	Informal, voluntary dispute resolution where a mediator assists parties in communicating and resolving disagreements related to any matter arising under IDEA. This is done outside of the IEP meeting process.	Formal legal proceeding used to resolve disagreements relating to the identification, evaluation or educational placement or provision of a free appropriate public education (FAPE), with some exceptions.	Formal proceeding used solely when a parent or adult student disagrees with a school district's discipline-related decision that affects the student's placement, or whether the student's behavior is related to his or her disability. A school district may use this process if it believes the student's behavior could be dangerous to the student or others.
Who Oversees the Process	Director of EAP.	IEP facilitator.	Director of EAP.	Mediator.	Hearing officer.	Hearing officer.
Decision Makers	Parents and public agencies (e.g., school districts).	IEP Team, including parents.	Office of Public Instruction, Dispute Resolution Office.	Parents and public agencies (e.g., school districts).	Hearing officer.	Hearing officer.

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Timeline to Resolve Issues	None unless part of the written state complaint process, then 15 business days from filing unless the time period is extended by the parties.	No specific timeline.	The final report must be issued no later than 60 calendar days from the date the complaint was filed, unless the timeline is extended by the parties to engage in dispute resolution or exceptional circumstances.	None.	The decision must be issued within 45 calendar days from the end of the resolution period. A resolution meeting must occur within 15 days of filing. The resolution period is 30 days from filing. If a district initiates the complaint there is no resolution period. Other factors may affect the timeline. Parties may agree to waive the resolution process or request specific extensions of time.	Resolution meeting must occur within 7 calendar days, unless parties agree in writing not to have the meeting. The hearing timeline proceeds if the issue is not resolved within 15 calendar days. The hearing must be held within 20 school days of the request being filed. The decision must be issued within 10 school days of the hearing. No extensions on timeline.
Outcome or Desired Result	Parties reach agreement without undermining the relationships necessary to ensure the smooth delivery of special education services.	Consensus on the IEP.	A written decision that includes findings and conclusions, with an explanation for the final decision and if necessary, corrective actions to address the needs of the students(s) related to the complaint. Note: The final decision is not appealable.	A signed, legally enforceable, written agreement.	A written decision with findings of fact and conclusions of law, which may order specific activities to be carried out. Decision may be appealed to state or federal court.	A written decision with findings of fact and conclusions of law, which may order the student to be provided with a specific educational placement. Decision may be appealed to state or federal court.

*CFR 300.30(a) "Parent" means –

- (1) A biological or adoptive parent of a child;
- (2) A foster parent;
- (3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
- (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
- (5) A surrogate parent.

(b)(1) The biological or adoptive parent is presumed to be the parent unless such parent does not have legal authority to make educational decisions.

(2) If a judicial order identifies a specific person to act as parent to make educational decisions for the student, that person or persons shall be determined to be parent(s) for the student.