What To Do When You Disagree
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To Agree or Disagree, that is the question...

Should You Disagree?
Disagreeing with your child’s current or proposed special education services is your right!

- If you agree with absolutely everything in the IEP, sign agree
- If you disagree with anything, no matter how small, sign disagree
What Happens When You Disagree?

- You can attend the 10-day reconvene ARD the school must offer, or waive it (only parent can waive)
- You can prepare a statement of disagreement, or if you believe the minutes reflect what you are specifically disagreeing with, you can waive the statement
- School cannot withhold services until agreement is reached; whatever has been agreed to, the school must implement

Other Strategies to Consider

- Take a break instead of ending in disagreement
- Request to review the IEP, including the minutes, and then decide to agree or disagree with the proposed services
- Request additional evaluations, or an Independent Educational Evaluation (IEE) at the school district’s expense

Evaluations
Initial Evaluations

• Once a request for initial evaluation is submitted to the school district, the school has 15 school days to obtain written consent from the parent or guardian to conduct the evaluation.

• The school district has 45 school days to conduct the evaluation after receiving signed consent from a parent or guardian.

• The school has 30 calendar days after completing the evaluation to hold an ARD meeting to review the results of the evaluation, determine eligibility, and develop an IEP if a child is found eligible for services.

Remember 15 - 45 - 30

Reevaluations/REEDs

• Must be done every 3 years unless the parents and school agree otherwise

• Can be done once a year at parent's or school's request

• School may conduct a Review of Existing Evaluation Data (REED) instead of a full Reevaluation

• All reevaluations must be completed within a reasonable amount of time

Independent Educational Evaluation (IEE):

• If the parent or guardian disagrees with the school’s evaluation, they can request an evaluation be conducted by an independent evaluator at the school’s expense.

• Parent or guardian is entitled to one independent evaluation each time the school district conducts an evaluation. If it’s been a year or more since the school district conducted an evaluation, the district may request that they be given the opportunity to conduct a reevaluation before granting an independent evaluation.
IEE Cont’d…

School has 2 options if you request an IEE:
• Agree to conduct the IEE and pay for it
• File for a Request for Due Process Hearing
to show that their evaluation is appropriate
  - Note: Usually less expensive and time
    consuming for the district to grant the
    IEE than file a request for a due process
    hearing

IEE Cont’d…

• You do not have to choose an evaluator
  from the school’s list
  - Note: If you choose your own
evaluator, they will have to meet the
  school’s criteria
• You do not have to tell the school why
  you disagree
• The IEE must be completed within a
  reasonable amount of time

Administrative Remedies
Available under Special
Education Laws (IDEA)
TEA Complaint Process

If you believe the school has violated your rights under IDEA:
- Write Letter of Complaint to TEA requesting investigation or use the form available online
- State the violations you believe have occurred
- State the facts on which your complaint is based
  Be specific!
- Attach important documents (ARD documents, evaluations, etc)
- State your proposed resolution
- Sign the complaint
- Send copy to the school district
- TEA has 60 days to determine if rights were violated

Examples of TEA Complaints:

School district fails to locate, identify, and evaluate students with disabilities
School district fails to implement accommodations, modifications, and/or services in IEP
School district fails to provide all teachers with a copy of the IEP
Teachers refuse to implement IEP
School district fails to adequately review and revise IEP each year
School district fails to complete special education evaluations within specified timelines
Not all required members of the ARD committee are present or participated in the development of the IEP

Examples of Proposed Resolutions:

- An evaluation
- Staff training and development
- Review and revise district policies and procedures
- Monetary reimbursement for educational expenses
- Compensatory education services
  - future services to be provided to a student to make up or compensate for a school district’s failure to provide the student with appropriate services in the past. The length or amount of a student’s compensatory services award will be determined by either TEA or the ARD committee and is based on the student’s individual needs and circumstances. A compensatory services award must be reasonably calculated to bring the student to the position the student would have been in if the appropriate services had been provided in the first place.
TEA Complaint Process Cont’d...

For additional information go to:
- TEA’s website: www.tea.state.tx.us
- Click on "A-Z Index" at the top of the page
- Scroll down to "Special Education" and click on that link
- Scroll down to "Complaint Investigation Guidance" and click on that link
- At the top of the new page, you will see "Complaint Resolution" with links to information about the complaint process, as well as the form you can complete to file a complaint

Mediation

- Parents may request mediation whenever there is a complaint or disagreement about special education services
- Mediation is FREE
- Mediation is not required if you request it; the school district must also agree to mediation

Mediation Cont’d...

To request mediation:
- Write letter to TEA requesting mediation or complete the form available online and submit via email, fax, or regular mail
- Include name of school district, name and grade of student, contact information, and a short description of concerns

For additional information go to:
- TEA’s website: www.tea.state.tx.us
- Click on "A-Z Index" at the top of the page
- Scroll down to "Special Education" and click on that link
- Scroll down to "Mediation" and click on that link
- You will be taken to a page that provides information about the mediation process, as well as the form you can complete to request mediation
Due Process Hearing

- A parent may request an impartial due process hearing as a last resort when they feel the school district has violated special education laws.
- This is usually done when there is a disagreement between the parent and the school over placement, type of services, the amount of services, type of program, general denial of Free Appropriate Public Education (FAPE), etc.

Due Process Hearing Cont’d...

- Resembles a trial, but a lawyer is optional; school district will most likely have their lawyer.
- Must present evidence, examine witnesses, usually need an expert, etc.
- Must request hearing within one year of the time you knew, or should have known, of the wrongful action.

Due Process Hearing Cont’d...

- Parent will be offered opportunity to attend a resolution session, which must be held within 15 days from time district receives hearing request.
  *Note: for expedited hearing, resolution session occurs within 7 days of filing the request for hearing.
- Can choose mediation, but school district has to agree.
- If no agreement is reached within 30 days of hearing request, due process hearing will proceed; decision must be issued with 45 calendar days from the end of the 30 day resolution period.
  *Note: expedited hearings will be scheduled to occur within 20 days.
Due Process Hearing
Cont’d...
For additional information go to:
- TEA’s website: www.tea.state.tx.us
- Click on "A-Z Index" at the top of the page
- Scroll down to "Special Education" and click on that link
- Scroll down to "Complaint Investigation Guidance" and click on that link
- In the middle of the new page, you will see "Due Process Hearings" with links to information about the due process hearing system and how to file a complaint

Other Complaint Options

District Level Grievance Procedure
Usually 3-Tiered Process:
- Level I: Principal
- Level II: Superintendent or Assistant Superintendent
- Level III: School Board
- To find information about your school district’s grievance procedure, go to your district’s website and click on the school board page. Find the “Board Policy” (or similar title) link and use the index to find “complaints.” That link should direct you to information about the district’s grievance procedures and may provide a copy of the form used to file a district grievance.
OCR’s authority to resolve complaints extends to allegations of discrimination based on race, color, national origin, sex, age or disability in public and private programs that receive Federal funds from the U.S. Department of Education. These include most schools and colleges and some other entities such as vocational rehabilitation agencies and libraries. OCR also has authority to resolve complaints of disability discrimination by public education entities.

Two Main Laws that Apply to OCR Complaints for Discrimination Against Students with Disabilities:

- Section 504 of the Rehabilitation Act (504)
- Title II of the Americans with Disabilities Act (ADA)

Online Complaint Form can be found at: http://www2.ed.gov/about/offices/list/ocr/complaintintro.html

Examples of OCR Complaints:

- School facilities and buildings are not accessible
- School district fails to identify and locate students with disabilities
- School fails to provide appropriate accommodations and modifications to students with disabilities
- School fails to use evaluation information to determine appropriate modifications and accommodations for students with disabilities
- School segregates students with disabilities from their non-disabled peers in both academic or nonacademic settings
- School does not provide students with disabilities with comparable settings or facilities as their non-disabled peers
- School does not have a system set up for complying with 504
- School fails to provide accessible transportation
- School does not allow students with disabilities access to physical education or athletic activities
**FINDING HELP:**

Resources and Contact Information

**Resources**

- **Texas Education Agency**
  - Special Ed. Dispute Resolution Processes
  - Guide to Admission, Review, and Dismissal Process
  - Side by Side Guide

- **Texas Project First** - [http://texasprojectfirst.org](http://texasprojectfirst.org)

- **Wrightslaw** - [http://www.wrightslaw.com](http://www.wrightslaw.com)

- **Earl Carl Institute for Legal and Social Policy at Texas Southern University**
  - Representation for School Tickets
  - Intake: 713-313-1139

**How Disability Rights Texas Can Help**

- Types of cases for which we offer assistance:
  - Discipline
  - Ending and preventing illegal seclusion or restraint
  - Inclusion
  - Transition Planning
  - Assistive Technology
  - Advice and Tech Support on other issues

- Resources: [http://www.disabilityrightstx.org/resources/education](http://www.disabilityrightstx.org/resources/education)

For help, call: (800) 252-9108