



THE DISPUTE RESOLUTION PROCESS

Options of Dispute Resolution:

Early Assistance Program (EAP): Provides informal dispute resolution for special education issues relating to a student's free appropriate public education or any violation of Part B of the Individuals with Disabilities Education Act (IDEA) or Montana Special Education Law.

IEP Facilitation: This is an optional dispute resolution process. The facilitator, provided by MT Office of Public Instruction (OPI), leads the IEP meeting to assist the team with resolving issues during the meeting. The facilitator does not offer advice or make decisions but keeps the parties focused towards a resolution.

Mediation: If both the school district and the parent agree to participate in the mediation process, a mediator, appointed with input from both parties, helps the parties resolve disagreements relating to any matter under the IDEA or Montana special education law. The goal is for the parties to work together to enter into a written agreement.

State Complaint: Any person or organization alleging a public school violated the IDEA or failed to implement Montana laws, may file a state complaint with OPI.

Resolution Meeting: A meeting that occurs after a parent files a state complaint but before an investigation by OPI takes place. This meeting is to resolve issues listed in the complaint.

Due Process Hearing: Parents or school districts may file a request for a due process hearing with the Montana Superintendent of Public Instruction regarding disagreements related to the identification, evaluation, or educational placement of a student with a disability, or the provision of a Free Appropriate Public Education (FAPE). The parties must participate in a resolution meeting before the hearing takes place.

Expedited Due Process Hearing: This is a special due process hearing used only when a parent disagrees with a school district's discipline-related decision that affects the student's placement, or the district determines the student's behavior is not related to their disability. A school district may use this process if it believes there is a substantial risk that the student's behavior will result in injury to themselves or others. The parties must participate in a resolution meeting before the expedited hearing takes place.

Time Frames of Dispute Resolution:

Early Assistance Program (EAP): There is no timeline unless it is part of the written state complaint process. In that case, the district has 15 business days from the date the complaint was filed to respond.

IEP Facilitation: There is no specific timeline. Meetings may be scheduled within a few days or weeks of a request being received by the MT Office of Public Instruction (OPI).

Mediation: Upon receipt of a written request for mediation, signed by all parties, the Superintendent of Public Instruction will, with input from the parties involved, assign a mediator. The mediator has 30 days to schedule mediation.

State Complaint: The alleged violation must have taken place no more than one year prior to the date the complaint is filed. The dispute resolution office will conduct an investigation and make an independent determination as to if any violation has occurred. The dispute resolution office will issue a final report addressing the allegations in the complaint within 60 calendar days of the filing of the state complaint.

Resolution Meeting: The school district has 15 business days from the date the complaint was filed to convene a resolution meeting. If the school district has not resolved the complaint within 30 days from the date the state complaint was filed, the resolution period ends. The resolution meeting may be waived, if both parties agree in writing to use the mediation process.

Due Process Hearing: If the state dispute is not resolved through mediation or the resolution meeting, the hearing officer conducts a hearing and issues a written decision within 45 days. At the due process hearing, parties have the right to present evidence and confront and cross examine witnesses. The hearing officer's decision is legally binding on the parties, unless the decision is appealed to state or federal court.

Expedited Due Process Hearing: When this special due process hearing is requested, the school district must convene a resolution meeting within 7 calendar days of the request. If the matter is not resolved within 15 calendar days, the resolution period ends. The resolution meeting may be waived, if both parties agree in writing or the parties agree to use the mediation process. The Montana Superintendent of Public Instruction will appoint a hearing officer without input from the parties involved. The hearing must occur within 20 school days of the request for the expedited hearing. The hearing officer must render a decision within 10 school days after the hearing is concluded. The hearing officer's decision is legally binding unless the decision is appealed to state or federal court.

Sources: <https://opi.mt.gov/Educators/School-Climate-Student-Wellness/Special-Education/Dispute-Resolution> <https://www.cadreworks.org/>

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