

# Dispute Resolution Trends



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***Office of Superintendent of Public Instruction***

Special Education

(360) 725-6075

[www.k12.wa.us/specialed/](http://www.k12.wa.us/specialed/)



OSPI/WASA Special Education Conference

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# IDEA offers three formal dispute resolution options:

- Due Process Hearings
  - Citizen Complaints
  - Mediation
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We are providing an overview of citizen complaints, due process hearing requests, tips and trends.

# Indicators for Complaints And Due Process Hearings

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- **Indicator 16:** Percent of complaints resolved within 60 days or an allowable extension
- **Indicator 17:** Percent of decisions within 45 days or an allowable extension
- **Indicator 18:** Percent of hearing requests resolved through a resolution session.

# Due Process Hearing Requests

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- May be initiated by a parent or school district over matters involving:
  - *Identification, evaluation, educational placement of, or provision of FAPE to a student.*

# When Parents File the Request

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Districts must, **within 10 days**, *either*:

- File a response to the request, or,
- Send a prior written notice regarding the issues raised by the parent, if it has not already done so.

Districts must, **within 15 days**:

- Convene a resolution meeting with the parent, *unless*:
  - The parties jointly agree to waive the resolution session, or,
  - Agree to participate in mediation.

# When Districts File the Request

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- A resolution session is not required.
- The 45 day timeline begins the day after the request is filed.

Hearing procedures and timelines are at:

<http://www.k12.wa.us/SpecialEd/DisputeResolution/DueProcess.aspx> under quick links.

# Due Process Hearing Requests

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## **2008: 136 requests**

92 filed by parent

44 filed by district

Decisions: 20 (including consolidated)

## **2009: 116 requests**

79 filed by parent

37 filed by district

Decisions: 8

# Hearing Requests (continued)

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- There may be more than one hearing request on the same student.
- Timelines for hearings may be extended at the request of either party.

# When Districts Request Hearings

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- Obtain consent for evaluations and reevaluations. (*Optional*)
- Disciplinary exclusion hearings when requesting removal for dangerous behavior.
- If school disagrees with parent requests for IEE, school must initiate a hearing within 15 calendar days to show its evaluation is appropriate. **Or,** request hearing if contesting qualifications of IEE provider.

# Representative Issues by Parent

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## Inappropriate placement:

- LRE
- School can't provide FAPE

## Evaluations not appropriate:

- School professional qualified in area of disability(ies)
- Didn't conduct evaluation in all areas

## Parent participation not meaningful:

- IEP process
- Evaluation process

# Issues by Parent (continued)

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## IEP not appropriate:

- Insufficient progress;
- Goals were not followed;
- ESY

## Services not provided:

- OT/PT/Speech/Behavior plan

## Suspension:

- Discipline procedures, manifestation, services, etc.

## Inappropriate identification procedures:

- Disagreed with conclusion that student did not need special education

# Administrative Hearing Standards

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- Party bringing hearing bears burden of proof.
- US Supreme Court set forth a two-part test for compliance with IDEA:
  - 1. Has district complied with procedures set forth in IDEA?
  - 2. Is the IEP developed through the use of procedures, reasonably calculated to enable the child to receive educational benefit?

# Administrative Hearing Standards (continued)

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The ALJ's determination of whether a student received FAPE must be based on substantive grounds and only if procedural inadequacies:

- Impeded the student's right to a FAPE;
- Significantly impeded the parent's opportunity to participate in the decision making process; or,
- Caused a deprivation of educational benefit.

**Note:** ALJ's may still find procedural violations.

# Review of Hearing Decisions

## LEA Application Form 265

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Districts must address actions in response to due process hearing decisions that require corrective action including:

a) cause number; b) description of action; c) date completed; and d) description of the district's plan to ensure that the issue(s) does not recur.

# Relationship Between Citizen Complaints and Due Process

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- OSPI cannot investigate matters that are currently the subject of a due process hearing.
- OSPI cannot investigate any issues previously decided in a due process hearing.
- OSPI must resolve complaints alleging a public agency's failure to implement a due process decision.

# Citizen Complaints

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Any person or organization may file.

- Allege violations Part B of IDEA; or,
- Allege district is not implementing mediation or resolution agreement.

Violations must have occurred within one year of complaint.

# Responding to Complaints

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- Conduct your own investigation.
- Assemble documents.
- Prepare reply.
- Use neutral language in your reply.
- Offer corrective actions for any violations.
- Provide explanation and documentation of issues.
- Consider whether you and the parent can resolve the dispute.

# Citizen Complaints

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## 2008

- 58 filed
  - 12 for district
  - 20 for parent
  - 18 split
  - 8 withdrawn or closed

## 2009

- 49 filed
  - 8 for district
  - 12 for parent
  - 18 split findings
  - 11 withdrawn or closed

# Trends

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- Progress reporting (data collection)
- Transfer procedures
- Evaluation, review of existing data and documentation of assessments
- Parent participation
- Prior written notice

# OSPI Review

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## **Indicator 15**

### **Timely Correction of Non-compliance**

- Noncompliance must be corrected as soon as possible, and in no case, later than one year after the state's identification. Complaints address timelines for correction. OSPI verifies compliance with corrective actions.
- If you need additional time to address corrective actions, notify the complaint investigator assigned to the complaint.



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## Special Education

### Dispute Resolution

Parents are important participants in all aspects of their children's special education program. This involvement begins at the initial referral of a student for special education. The Office of Superintendent of Public Instruction (OSPI), Special Education Section always encourages parents and school districts to work together to try to resolve disagreements that affect a student's special education program. There will be occasions when a parent or an adult student disagrees with the districts program and does not think that the issues can be resolved through the Individualized Education Program (IEP) team or through communication with school district administrators. There will also be times when a district believes that it is unable to resolve disputes with a parent that involve the district's ability to provide a free appropriate public education (FAPE) to the student. When parents and districts are not able to resolve differences through direct communication, there are more formal dispute resolution options available.

The following pages (follow links below) provide an overview of the three dispute resolution processes available for students age 3 through 21 under Part B of the Individuals with Disabilities Education Act of 2004 (IDEA). More information about these dispute resolution processes and other procedural protections for special education students are described in the Notice of Procedural Safeguards given to parents by school districts and available on the OSPI, Special Education [publications webpage](#).

#### Quick Links

[Guidance for Families about Special Education Services](#)

[Special Education Ombudsman](#)

[Legal Assistance List \(PDF\)](#)

[Notice of Procedural Safeguards](#)

#### Contact Information

[speced@k12.wa.us](mailto:speced@k12.wa.us)  
(360) 725-6075  
(360) 586-0247 Fax  
(360) 586-0126 TTY

# For more information...

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Pam McPartland, Dispute Resolution Coordinator

[Pamela.McPartland@k12.wa.us](mailto:Pamela.McPartland@k12.wa.us)

Sarah White, Program Supervisor

[Sarah.White@k12.wa.us](mailto:Sarah.White@k12.wa.us)

Heather Unger, Program Supervisor

[Heather.Unger@k12.wa.us](mailto:Heather.Unger@k12.wa.us)

Primary Website Link:

<http://www.k12.wa.us/SpecialEd/DisputeResolution/default.aspx>

