

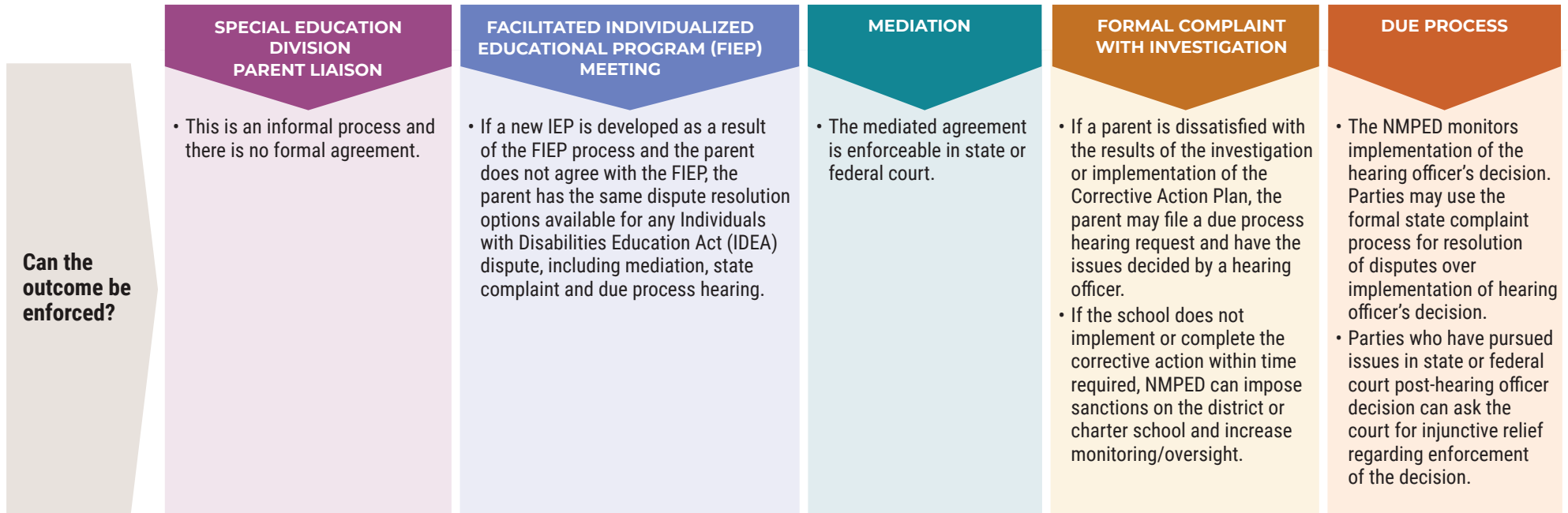
QUICK GUIDE TO

# Dispute Resolution Options for Students with Disabilities

	SPECIAL EDUCATION DIVISION PARENT LIAISON	FACILITATED INDIVIDUALIZED EDUCATIONAL PROGRAM (FIEP) MEETING	MEDIATION	FORMAL COMPLAINT WITH INVESTIGATION	DUE PROCESS
What issues can be addressed?	<ul style="list-style-type: none"> <li>Any question related to special education.</li> </ul>	<ul style="list-style-type: none"> <li>Disagreements or lack of resolution of FIEP issues.</li> </ul>	<ul style="list-style-type: none"> <li>Any issue related to special education.</li> </ul>	<ul style="list-style-type: none"> <li>Alleged violations of special education requirements.</li> </ul>	<ul style="list-style-type: none"> <li>Any issue related to special education identification, evaluation, placement or the provision of a free appropriate public education.</li> </ul>
Who can initiate?	<ul style="list-style-type: none"> <li>Parent, adult student, advocate, or school.</li> </ul>	<ul style="list-style-type: none"> <li>Parent, adult student, or school.</li> <li>IEP facilitation is voluntary and requires the consent of both parties.</li> </ul>	<ul style="list-style-type: none"> <li>Parent, adult student, or school.</li> <li>Mediation is voluntary and requires the consent of both parties.</li> </ul>	<ul style="list-style-type: none"> <li>Parent, adult student, any Individual, or any organization.</li> </ul>	<ul style="list-style-type: none"> <li>Parent, adult student, or school.</li> </ul>
How is this option initiated?	<ul style="list-style-type: none"> <li>Contact the Special Education Division by calling at 505-827-1457 and ask speak to the Parent Liaison, or email the Parent Liaison at <a href="mailto:spedfeedback@state.nm.us">spedfeedback@state.nm.us</a></li> </ul>	<ul style="list-style-type: none"> <li>If the FIEP is requested <b>before</b> a formal complaint or due process hearing request is filed, submit a written request for IEP facilitation to the school's Special Education Director.</li> <li>If the FIEP is requested <b>after</b> a formal complaint or due process hearing request is filed, submit a written request for IEP facilitation to the New Mexico Public Education Department (NMPED) Special Education Division by mail or fax.</li> <li>A <a href="#">Model Alternative Dispute Resolution (ADR) Form to request IEP facilitation</a> is on the NMPED website.</li> </ul>	<ul style="list-style-type: none"> <li>Submit a written request for mediation to the NMPED Special Education Division by mail or fax.</li> <li>Mediation is available through the NMPED at any time, including before or after the filing of a formal state complaint or due process hearing request.</li> <li>A <a href="#">Model ADR Form to request mediation</a> is on the NMPED website.</li> </ul>	<ul style="list-style-type: none"> <li>Submit a written, signed complaint to the NMPED Special Education Division ADR Coordinator by mail or fax.</li> <li>A <a href="#">Model Complaint Form</a> is on the NMPED website.</li> </ul>	<ul style="list-style-type: none"> <li>Submit a written complaint requesting a due process hearing to other party and to the NMPED Special Education Division by mail or fax.</li> <li>A <a href="#">Model Due Process Hearing Request Form</a> for this purpose is available on the NMPED website.</li> </ul>

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Is there a cost?	<ul style="list-style-type: none"> <li>No cost to families or school.</li> </ul>	<ul style="list-style-type: none"> <li>No cost to the parent. If the FIEP is requested <b>before</b> the filing of a formal state complaint or due process hearing request, the school pays for the facilitator.</li> <li>If the FIEP is requested <b>after</b> the filing of a formal complaint or due process hearing request, the NMPED pays for the facilitator.</li> </ul>	<ul style="list-style-type: none"> <li>No cost to families or school.</li> <li>NMPED pays for the mediator.</li> </ul>	<ul style="list-style-type: none"> <li>No cost to the parent or school.</li> <li>NMPED pays for the investigator.</li> </ul>	<ul style="list-style-type: none"> <li>No cost to parents.</li> <li>The school pays for hearing costs, including for hearing officer, court reporter, transcript and interpretation/translation as needed.</li> <li>Legal counsel is not required but is recommended. Each party bears their own legal costs, unless the prevailing party obtains an award of attorney's fees after the due process hearing.</li> </ul>
What is the process?	<ul style="list-style-type: none"> <li>The Parent Liaison talks with the caller, provides the caller with resources, and provides information about the other options for dispute resolution and about the Parent Training Information Centers and advocacy resources.</li> <li>The Parent Liaison can also act as a neutral person between the parent and school to help solve problems related to special education.</li> </ul>	<ul style="list-style-type: none"> <li>A facilitator is assigned by either the NMPED or the school, depending on who is funding the FIEP.</li> <li>The facilitator is a neutral third party who does not act as advocates for the parent or the school.</li> <li>The facilitator works with the parent and school to clarify the issues in dispute and set an agenda of items to be discussed, convene and conduct an IEP meeting, and develop agreement through the IEP process.</li> </ul>	<ul style="list-style-type: none"> <li>NMPED assigns an impartial, trained mediator after receipt of the request and consent to mediation by both parties.</li> <li>The mediator is a neutral third party who does not act as advocates for either the parent or the school.</li> <li>The mediator convenes a mediation conference with the parent and school at a time and location convenient to the parties.</li> <li>At this conference, the mediator discusses the issues with the parties and assists them with resolution of the issues. The mediator does not make decisions for the parties.</li> </ul>	<ul style="list-style-type: none"> <li>The investigator reviews information and documentation related to the allegation(s), interviews witnesses and can conduct an on-site review as part of the investigation.</li> <li>The investigator issues a Complaint Resolution Report with findings of fact and conclusions.</li> <li>The parties have the option of participating in NMPED-funded mediation or a FIEP before resolution of the complaint.</li> </ul>	<ul style="list-style-type: none"> <li>NMPED appoints a due process hearing officer who conducts an administrative hearing at which documentary and testimonial evidence is heard. The NMPED contracts with independent, qualified due process hearing officers with knowledge of special education to serve as due process hearing officers. The Due Process Hearing Officer issues a final written decision after the conclusion of the hearing.</li> <li>The parties have the option of participating in a resolution meeting, NMPED-funded mediation or a FIEP before the due process hearing.</li> </ul>

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What outcome is possible?	<ul style="list-style-type: none"> <li>The caller is better informed about special education rights and procedures and issues can be resolved.</li> </ul>	<ul style="list-style-type: none"> <li>The goal of the FIEP process is to develop an IEP upon which all parties agree.</li> </ul>	<ul style="list-style-type: none"> <li>If a mediated agreement is reached, it is memorialized in a binding written agreement.</li> <li>If the mediated agreement involves IEP-related issues, the agreement must state that the school will convene an IEP meeting to inform that student’s teachers and service providers of their responsibilities under the agreement and revise the student’s IEP accordingly.</li> </ul>	<ul style="list-style-type: none"> <li>If the investigator finds violations, the Complaint Resolution Report will specify corrective actions the school must take to comply with the law.</li> <li>The corrective actions will be monitored by the NMPED Special Education Division.</li> </ul>	<ul style="list-style-type: none"> <li>The due process hearing officer determines whether violation(s) occurred and, if so, orders equitable relief consisting of remedial action and compensatory education services as appropriate.</li> <li>The hearing officer’s decision can be appealed to state or federal court.</li> </ul>
How long does it take?	<ul style="list-style-type: none"> <li>It varies, depending on the question or needs.</li> </ul>	<ul style="list-style-type: none"> <li>For NMPED-funded FIEPs, the FIEP should be conducted and completed within 14 days from the NMPED assignment of a facilitator. Extensions of time can be granted for exceptional circumstances.</li> <li>For school-funded FIEPs, NMPED recommends that the FIEP take place within the same 14-day time period.</li> </ul>	<ul style="list-style-type: none"> <li>Mediation should be conducted and completed within 14 days from the NMPED assignment of a facilitator.</li> <li>Extensions of time can be granted for exceptional circumstances.</li> </ul>	<ul style="list-style-type: none"> <li>The investigation must be completed and the Complaint Resolution Report issued within 60 calendar days from the NMPED’s receipt of the complaint.</li> <li>Extensions of time can be granted for exceptional circumstances.</li> </ul>	<ul style="list-style-type: none"> <li>The final hearing decision should be issued 75 days from receipt of request for hearing.</li> <li>This is 45 calendar days after the initial 30 day resolution period, unless the timeline is extended by the hearing officer on motion of a party.</li> </ul>
Is information confidential?	<ul style="list-style-type: none"> <li>The Parent Liaison will not voluntarily share information unless there is permission from the parent to share information with the school, or NMPED determines that there is a need to communicate with the school about a systemic issue.</li> </ul>	<ul style="list-style-type: none"> <li>FIEP meetings and any new IEP developed through this process have the same confidentiality as does a regular IEP meeting and IEP.</li> </ul>	<ul style="list-style-type: none"> <li>Mediation is a confidential process.</li> <li>Discussions in mediation are confidential and cannot be used as evidence in any subsequent due process hearings or civil proceedings.</li> </ul>	<ul style="list-style-type: none"> <li>The State Complaint process is a confidential process.</li> <li>Information submitted in connection with the complaint may be provided by NMPED in response to an Inspection of Public Records Act (IPRA) request, and NMPED posts Complaint Resolution Reports on its website.</li> <li>All identifying student information is redacted as necessary and required by law.</li> </ul>	<ul style="list-style-type: none"> <li>A due process hearing is confidential and closed to the public, unless the parent chooses to open the hearing to the public.</li> <li>NMPED posts the Due Process Hearing Officer decisions on its website.</li> <li>All identifying student information is redacted as necessary and required by law.</li> </ul>



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