

Dispute Resolution

Director's Webinar
December 13, 2022

Mediation Data

	FY2019	FY2020	FY2021	FY2022
Mediation Withdrawn	29 (20%)	22 (20%)	17 (14%)	28 (22%)
No Mediation Agreements	44 (31%)	31 (27%)	60 (49%)	50 (38%)
Mediation Agreements	69 (49%)	59 (52%)	45 (37%)	52 (40%)
Total	142	112	122	130

Formal Complaint Data

	FY2019	FY2020	FY2021	FY2022
Complaints Denied	34 (17%)	15 (11%)	22 (14%)	32 (15%)
Complaints Withdrawn	70 (34%)	66 (45%)	44 (28%)	51 (23%)
Complaints with Resolution Letters Issued with one or more finding of non-compliance	55 (27%)	42 (29%)	40 (26%)	78 (36%)
Complaints with Resolution Letters Issued with no findings of non-compliance	45 (22%)	21 (15%)	50 (32%)	57 (26%)
Total Complaints Filed	204	144	156	218

Due Process Hearing (DPH) Data

	FY2019	FY2020	FY2021	FY2022
DPHs Withdrawn	20	12	15	13
DPHs Dismissed	74	69	50	77
DPHs Held in Favor of Parent	6	3	0	3
DPHs Held In Favor of District	7	2	1	6
Pending	0	9*	7*	16*
Total	107	95	73	115

FY19 Findings of Non-Compliance in Formal Complaints (122 Findings against 33 districts)

- **Development, review, and revision of IEP (30)**
- **Implementation of IEP (23)**
- **Free, Appropriate Public Education (19)**
- **Evaluations and Reevaluations (13)**
- Least Restrictive Environment (8)
- Discipline Procedures (7)
- Independent Educational Evaluation (4)
- Related Services (3)
- Prior Written Notice (3)
- Parent Participation (2)
- Personnel Qualifications (2)
- IEP Team (2)
- When IEPs must be in effect (1)
- Child Find (1)
- Extended School Year (1)
- Assistive Technology Services (1)
- Mediation agreement (1)
- Complaint Process (1)

FY20 Findings of Non-Compliance in Formal Complaints (100 Findings against 21 districts)

- **Implementation of IEP (21)**
- **Development, review, and revision of IEP (16)**
- **Free, Appropriate Public Education (14)**
- **Evaluations and Reevaluations (6)**
- Parent Participation (6)
- Personnel Qualifications (4)
- IEP Team (4)
- Access Rights (4)
- Least Restrictive Environment (3)
- Discipline Procedures (3)
- Child Find (3)
- Prior Written Notice (3)
- Mediation agreement (3)
- Special Education (2)
- When IEPs must be in effect (2)
- Extended School Year (2)
- Assistive Technology Services (1)
- Transition Services (1)
- State Monitoring (1)
- Class Size (1)

FY21 Findings of Non-Compliance in Formal Complaints (68 Findings against 18 districts)

- **Implementation of IEP (13)**
- **Development, review, and revision of IEP (12)**
- **Evaluations and Reevaluations (10)**
- **Free, Appropriate Public Education (8)**
- Child Find (6)
- Prior Notice by public agency (5)
- Least Restrictive Environment (4)
- Parent Participation (3)
- Access Rights (3)
- Parental Consent (1)
- IEP Team (1)
- Procedural Safeguards Notice (2)

FY22 Findings of Non-Compliance in Formal Complaints (121 Findings against 28 districts)

- **Implementation of IEP (29)**
- **Development, Review and Revision of IEP (16)**
- **Evaluations and Reevaluations (12)**
- **Free, Appropriate Public Education (20)**
- Personnel Qualifications (8)
- Least Restrictive Environment (10)
- Prior Notice by Public Agency (4)
- Child Find (3)
- Procedural Safeguards Notice (2)
- Access Rights (2)
- IEP Team (1)
- Parent Participation (3)
- Confidentiality (3)
- Related Services (2)
- Discipline Procedures (1)
- Amendment of Records at Parent Request (1)
- When IEPs must be in effect (1)
- Physical Education (1)
- Equitable Services (1)
- Dispute Resolution (1)

From Prior Written Notice Presentation

- Provision of FAPE Non-examples
 - Refusal to provide a specific program to a child unless such program is required for the student to receive a FAPE (e.g., Wilson Reading Program)
 - Change in course schedule
 - **After a parent-teacher conference**
 - Minor or typographical changes

**Not an exhaustive list*

Parent-Teacher Conferences vs. IEP Team meetings

- IEP Team meetings must follow IDEA's requirements, including:
 - **Notifying parents** of the meeting **early enough** to ensure that they will have an opportunity to attend
 - Scheduling the meeting at a **mutually agreed on time and place**
 - Ensuring the **notice of meeting** indicates the purpose, time, and location of the meeting and who will be in attendance (34 C.F.R. § 300.322)

Parent-Teacher Conferences vs. IEP Team meetings

- IEP Team meetings must follow IDEA's requirements, including:
 - Ensuring the parent **understands the proceedings** of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English (34 C.F.R. § 300.322)
 - Ensuring the **required IEP Team members** are in attendance for the **duration of the meeting** unless a written excusal is provided (34 C.F.R. § 300.321)

Parent-Teacher Conferences vs. IEP Team meetings

- IEP Teams are required to:
 - Develop, review, and revise a student's IEP (34 C.F.R. § 300.324)
 - Review existing data as part of initial evaluations, if appropriate, and reevaluations (34 C.F.R. § 300.305)
 - Determine if a student's conduct that led to a change of placement because of a violation of a code of student conduct was a manifestation of the student's disability (34 C.F.R. § 300.530)

**Not an exhaustive list*

Example

- A parent was invited to a parent-teacher conference and when she arrived the student's entire IEP Team was present and the student's occupational therapy goals and services were revised.
- The district stated that whenever an IEP needs to be addressed during a parent-teacher conference, IEP Teams will do so at that time.
- The state found the district violated IDEA because districts must notify parents of an IEP Team meeting early enough to ensure they will have an opportunity to attend. Further, the notice must indicate the purpose, time, and location of the meeting, and who will participate.

Example

- Here, the district never provided the parent an invitation to an IEP Team meeting. Instead, it invited her to a “parent-teacher conference” with a 20-minute time slot. The parent was informed on at least three occasions that the purpose of the meeting was a “Parent-Teacher Conference.”
- The district did not inform the parent that the student’s IEP Team members would be present and that the Team would revise the IEP. As a result, the parent was in the dark about the nature of the meeting and didn't have an opportunity to prepare for it.

Example

- **Takeaway:** Educators should avoid using parent-teacher conferences as an “ad-hoc opportunity” to convene the IEP Team and revise the IEP.
- Here, the district could have met its notice obligations by informing the parent ahead of time that the conference would incorporate an IEP Team meeting, the topics that would be discussed, and the team members who would be present.

Remember. . .

- 34 C.F.R. § 300.324(b)(1)(ii) says that each **public agency must ensure** that the IEP Team **revises the IEP**, as appropriate, to address:
 - Any lack of expected progress toward the annual goals. . .and in the general education curriculum, if appropriate;
 - The results of any reevaluation;
 - Information about the child provided to and by the parents, as described in 34 C.F.R. 300.305(a);
 - The child's anticipated needs; or
 - Other matters

Reminder about Reevaluations....

- ***Requirements if additional data are not needed.***
- (1) If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, and to determine the child's educational needs, the public agency **must notify the child's parents of -**
 - (i) That determination and the reasons for the determination; and
 - (ii) The right of the parents to request an assessment to determine whether the child continues to be a child with a disability, and to determine the child's educational needs.
- (2) The public agency is not required to conduct the assessment described in [paragraph \(d\)\(1\)\(ii\)](#) of this section unless requested to do so by the child's parents. (34 C.F.R. 300.305(d))