



Family Engagement and Dispute Prevention

SELDA

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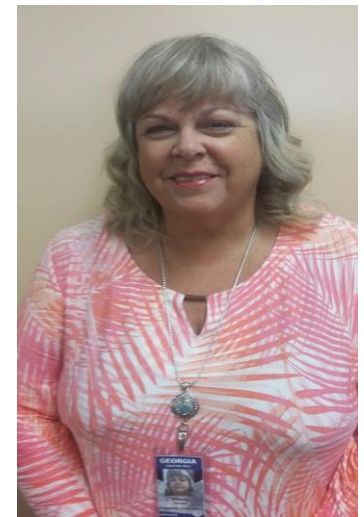
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What Does Authentic Family Engagement Look Like?

- Parents are Partners with Schools
- Parents and Schools have Effective Communication
- Parents Feel Welcome at Schools
- Students are successful!

Family Engagement



Georgia
Parent Mentor
Partnership

GPMP Led by the Georgia Department of Education Division for Special Education Services and Supports

- **Mission: To Build Effective Family, School and Community Partnerships that Lead to Greater Achievement for All Students, Especially those with Disabilities.**
- **Vision: Parent Mentors and special education administrators will lead the way in Georgia to bridge the gap between home, school and community partnerships.**

www.parentmentors.org



What do Parent Mentors do?

- Build connections for families in the community
- Provide training sessions for parents and educators
- Serve on community boards and stakeholders' groups
- Create family engagement activities in schools

What do Parent Mentors do?

- Collaborate with district personnel
- Listen to the concerns of families of students with disabilities
- Provide resources to help families navigate supports for their children

Fostering Family Engagement

- **Parent to Parent of Georgia** – Georgia's federally funded Parent Information and Training Center.

www.p2pga.org 1-800-229-2038

- Bright from the Start - Georgia Department of Early Care and Learning, Childcare
- Babies Can't Wait- Early Intervention
- Georgia Council on Developmental Disabilities

Fostering Family Engagement

- Georgia Department of Behavioral Health & Developmental Disabilities (DBHDD)
- Georgia Family Connection Partnership
- Leadership Institute on Developmental Disabilities, Georgia State University
- Statewide PTA

GaDOE State Plan/Federal Indicator

- Increase the percentage of parents of children receiving special education services who report that schools encouraged parent involvement to improve results for students with disabilities.
(State Performance Plan 8)

The GaDOE Parent Survey

- The GaDOE distributes an **online** Parent Survey annually to parents to measure the percentage of parents of children receiving special education services who report effective family engagement.
- This data is used to assist local school districts to more effectively partner with families in their district.

Special Education Help Desk



Special Education Help Desk

- Staff is available to answer questions concerning IDEA and Parent Rights
- Staff can direct parents to resources that are available to support their children
- Staff can help callers understand the dispute resolution resources that are available

SPEDHelpDesk@doe.k12.ga.us

404-657-9968



Questions?

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Prior Written Notice

Jamila Pollard, Program Manager
Senior/Legal Officer

5 W's of Prior Written Notice (PWN)

- What is PWN and what must PWN include?
- Who must receive PWN?
- How must PWN be provided?
- Why is PWN required?
- When must PWN be provided?

Prior notice by the public agency; content of notice (34 C.F.R. § 300.503(a))

- Written notice
- Meets requirements of 34 C.F.R. § 300.503(b)
- Given to parents of a child with a disability

Prior notice by the public agency; content of notice (34 C.F.R. § 300.503(a))

- A reasonable time before the public agency:
 - Proposes or Refuses to initiate or change:
 - the identification of the child
 - the evaluation of the child
 - the educational placement of the child
 - the provision of a free appropriate public education (FAPE) to the child

Notice in understandable language (34 C.F.R. § 300.503(c))

1. The notice must be:
 - i. Written in language understandable to the general public; and
 - ii. Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

Notice in understandable language (34 C.F.R. § 300.503(c))

2. If native language or other mode of communication is not a written language, the LEA must ensure:
 - i. The notice is translated orally or by other means;
 - ii. The parent understands the content of the notice; and
 - iii. There is written evidence that sections 2i and 2ii have been met

Electronic Mail (34 C.F.R. § 300.505)

- A parent of a child with a disability may “elect” to receive PWN by an electronic mail communication if the public agency makes that option available.
- This is not automatic. Parent must agree to receive notices by email.
- Whatever mode is used, be sure to document when and how PWN was provided to the parent.

What does provide notice a “reasonable time” before the proposal or refusal mean?

- “There is no requirement in the [IDEA] regarding the point at which the written notice must be provided as long as it is provided a reasonable time *before* the LEA actually implements [or refuses to implement] the action.”
- “This provides parents, in the case of a proposal or refusal to take action, a reasonable time to fully consider the change and respond to the action before it is implemented.”
- [OSEP Letter to Chandler, April 26, 2012](#)

Please note....

- Providing PWN in advance of an IEP Team meeting could suggest the LEA's proposal or refusal was determined before the meeting.
- PWN must be provided “irrespective of whether or not the proposal or refusal is made during the course of an IEP Team meeting. . .”
- OSEP Letter to Chandler, April 26, 2012.

Please note...

- PWN must also be provided “in the circumstances where a public agency is not proposing a change, but rather agreeing with a change that has been proposed by a parent. . . . Nothing in the statute or regulations indicates that the notice is related to a parent’s attitude toward any changes proposed or refused by the public agency.” [OSEP Letter to Leiberman, August 15, 2008.](#)

The Why

- “Providing [PWN] following an IEP Team meeting where [] a change is proposed – or refused – allows the parent time to fully consider the change and determine if he/she has additional suggestions, concerns, questions, and so forth.” OSEP Letter to Leiberman, August 15, 2008.
- Making sure parents are informed participants through the special education process

Content of Notice (34 C.F.R. § 300.503(b))

1. A description of the action proposed or refused by the agency;
 - Should be “specific” and not vague or implied
2. An explanation of why the agency proposes or refuses to take the action;
 - Should be “child-specific” and connect to the child’s needs that result from child’s disability

Content of Notice (34 C.F.R. § 300.503(b))

3. A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
 - Must include “each” - meaning “ALL”
 - Examples:
 - Evaluation reports
 - IEP progress reports
 - Discipline records
 - Report cards
 - MTSS/RTI data
 - Teacher observations

Content of Notice (34 C.F.R. § 300.503(b))

4. A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
 - Only requires the “statement” that parents have rights under IDEA and “how” they can obtain a copy of those rights unless the PWN is related to a referral for initial evaluation

Content of Notice (34 C.F.R. § 300.503(b))

5. Sources for parents to contact to obtain assistance in understanding the provisions of this part;
 - Could include name and contact information for district-level staff
 - Could also include outside resources such as GaDOE Special Education Help Desk, Parent to Parent of Georgia, local advocacy groups

Content of Notice (34 C.F.R. § 300.503(b))

6. A description of other options that the IEP Team considered and the reasons why those options were rejected; and
 - Should be “specific” and not vague or implied
 - Should be “child-specific” and connect to the child’s needs that result from the child’s disability
 - Just saying that it is not “appropriate” or not the student’s least restrictive environment (LRE), is NOT enough

Content of Notice (34 C.F.R. § 300.503(b))

7. A description of other factors that are relevant to the agency's proposal or refusal.
 - This is not optional
 - Include other “child-specific” information that is relevant to the decision

Identification of the child

- Examples
 - Child found eligible for special education
 - Child found ineligible for special education
 - Child continues to be eligible for special education after reevaluation
 - Change in child's eligibility category after reevaluation

** Not an exhaustive list*

Identification of the child

- Non-examples
 - Child receiving interventions in general education
 - Child eligible or ineligible for Section 504 plan

**Not an exhaustive list*

Evaluation of the child

- Examples
 - Consent for initial evaluation or reevaluation
 - Decision to not conduct evaluation
 - Decision to grant request for independent educational evaluation (IEE)
 - Change in accommodations for schoolwide assessments

**Not an exhaustive list*

Evaluation of the child

- Non-examples
 - Administering districtwide or statewide assessments
 - Progress monitoring on annual goals and objectives

**Not an exhaustive list*

Educational placement of the child

- Examples
 - Consent for initial provision of special education services
 - Change in placement along continuum of alternative placements
 - Refusal to change placement along continuum of alternative placements
 - Change in instructional delivery model that substantially or materially alters the child's educational program

**Not an exhaustive list*

Educational placement of the child

- Examples
 - Graduation from high school with regular education diploma
 - Student “ages out” of special education eligibility at 22 years old
 - Disciplinary removal that results in change of placement (more than 10 consecutive days or series of removals that constitute a pattern)
 - Disciplinary removal to an interim alternative educational setting
 - Parent places student in residential facility

**Not an exhaustive list*

Educational placement of the child

- Non-examples
 - Relocation of program to another location/building
 - Change in instructional delivery model that does not substantially or materially alter the student's educational program
 - Transitioning from elementary school to middle school or middle school to high school
 - Student receives state-defined alternate diploma
 - Disciplinary removal that does not result in a change of placement (10 or fewer consecutive days or series of removals that do not constitute a pattern)

**Not an exhaustive list*

Provision of FAPE

- Examples
 - Change or refusal to change the type, amount, or location of the special education and related services
 - Change or refusal to change the specially designed instruction to provide to the child (e.g., adapting of content, methodology, or delivery of instruction)
 - Child not attending home school
 - Change or refusal to change an annual goal
 - Development of behavior intervention plan (BIP)
 - Proposal or rejection of compensatory services to provide to the child

**Not an exhaustive list*

Provision of FAPE

- Examples
 - Revocation of parental consent
 - Refusal to convene an IEP Team meeting
 - Refusal to adopt outside provider's recommendations

**Not an exhaustive list*

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*

Tips

- Make sure the PWN is easy to read and understand. No “legalese” or “education-lese”
- Don’t use Individuals with Disabilities Education Act (IDEA) acronyms without writing them out first
- Use factual, objective statements.
- Avoid emotional, speculative, and judgmental language
- Be specific and detailed
- Proofread

IEP as PWN

- “[N]othing in the IDEA or the regulations would prohibit a public agency from *using* the IEP as *part of* the prior written notice so long as the document(s) the parent receives meets all the requirements in 34 C.F.R. §300.503.” OSEP Letter to Lieberman, August 15, 2008.

IEP and other documents as PWN (Ga. Bd. of Educ. 160-4-7-.09(c))

- “In most cases,” the PWN requirements can be addressed by providing the parent(s) with a copy of documents such as:
 - Consent to evaluate
 - Consent for initial provision of special education services
 - Consent for accessing a child’s or parent’s public benefits or insurance
 - Evaluation report

IEP and other documents as PWN (Ga. Bd. of Educ. 160-4-7-.09(c))

- “In most cases,” the PWN requirements can be addressed by providing the parent(s) with a copy of documents such as:
 - Invitation to a meeting
 - Full IEP with minutes, if taken and/or
 - Other relevant documents, as appropriate
- BUT all required sections of PWN must be addressed

Identification Example - Child found eligible/ineligible for special education

1. A description of the action proposed or refused by the agency;
 - The eligibility team has determined the student is eligible for special education services under the category of Other Health Impairment (OHI).
2. An explanation of why the agency proposes or refuses to take the action;
 - Explain why the student is eligible for special education services under the category of OHI

Identification Example - Child found eligible/ineligible for special education

3. A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
 - Describe each assessment and other evaluation materials used in determining eligibility

Identification Example - Child found eligible/ineligible for special education

4. A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and the means by which a copy of a description of the procedural safeguards can be obtained
 - Required IN or WITH the PWN
5. Sources for parents to contact to obtain assistance in understanding the provisions of this part
 - Required IN or WITH the PWN

Identification Example - Child found eligible/ineligible for special education

6. A description of other options that the IEP Team considered and the reasons why those options were rejected;
 - Describe other eligibility categories considered and why those categories were rejected
7. A description of other factors that are relevant to the agency's proposal or refusal.
 - E.g., Review eligibility report and minutes, if applicable, to include other relevant child-specific information related to eligibility decision

Remember...

- PWN must be in writing and must include all required information.
- Robust discussions during IEP Team meetings where issues and reasons were discussed at length CANNOT substitute for the written requirements of PWN.
- PWN is not a “nicety” but a “requirement”



ANY
QUESTIONS



Dispute Prevention and Dispute Resolution

Jamila Pollard, Program Manager
Senior/Legal Officer

IEP Facilitation



- A voluntary, **collaborative** dispute prevention and resolution process used when members of an IEP Team agree that the presence of a **neutral third party** would help facilitate **communication** and **problem solving**.
- Access the FIEP Team meeting request form the GaDOE's website at www.gadoe.org/IEP-Facilitation.

IEP Facilitation



- Complete with the parent and submit the FIEP Team meeting request form and the fully executed meeting notice to the GaDOE via email at SPEDhelpdesk@doe.k12.ga.us or fax at (770) 344-4458.
- For questions, contact the Special Education Help Desk at (404) 657-9968.

Dispute Resolution Processes under the IDEA

- Mediation (34 C.F.R. § 300.506)
- Formal Written Complaints (34 C.F.R. §§ 300.151-300.153)
- Due Process Hearing Requests (34 C.F.R. §§ 300.507-300.518)
 - Resolution Sessions (34 C.F.R. § 300.510)

Mediation

- **What is it?**
 - A voluntary process that brings parents and school districts together to resolve their disagreements using a skilled, impartial mediator
- **Who can request it?**
 - Parents or school districts
- **What is the time limit for requesting?**
 - None specified

Mediation

- **What issues can be resolved?**
 - Any matter under IDEA and the state special education rules
- **Who resolves the issues?**
 - Parents and school districts with assistance of a mediator
- **How are the issues resolved?**
 - Through a legally binding, written mediation agreement signed by both parties



Mediation

- **What are the types of mediations that can be held?**
 - General mediation requests
 - Mediations associated with a formal complaint
 - Mediations associated with a due process hearing

Formal Complaints

- **What is it?**
 - A written complaint to the GaDOE alleging violations by the district that need to be investigated
- **Who can initiate it?**
 - Any person or organization
- **What is the time limit for filing?**
 - One year from the date of the alleged violation

Formal Complaints

- **What issues can be resolved?**
 - Alleged violations of IDEA and state special education rules
- **Who can the issues be related to?**
 - An individual student or a group of students
- **Who resolves the issues?**
 - GaDOE Division for Special Education Services and Supports

The complaint process...

- The complaint is submitted to the GaDOE via email, fax, or U.S. mail.
- The allegations in the complaint must be something that occurred within one year from receipt of the complaint.
- The GaDOE must review and determine sufficiency before the complaint is initiated.

GaDOE's Sufficiency Process

- Reviews the complaint to look for allegations of violations/non-compliance with IDEA or state special education rules
- Writes these areas down and the reason for it
- Checks to see if the parent and/or complainant has signed the form
- Checks to see if there is documentation that the district was served with the complaint

GaDOE's Sufficiency Process

- Checks to see if the complainant is willing to participate in mediation
- A complaint can be sufficient without being on the GaDOE form—but the required components must be included
- If something is missing, we contact the complainant for confirmation or clarification

Caveats to the complaint sufficiency:

- If the complainant has not documented that they have served the district with the complaint
- If the complainant has not signed the complaint
- If the complainant has filed for a due process hearing on the same issue/s at the same time or during the time frame
- If there are no IDEA or State special education rules violations alleged

Caveats to complaint sufficiency

- If the complainant is alleging discrimination or retaliation—will refer them to OCR
- If the complainant is alleging improper behavior on the part of a teacher/administrator, etc., will refer them to the Professional Standards Commission
- If the student is not identified as a student receiving special education services—unless it is a Child Find or evaluation allegation

The Initiation Letter....once sufficiency is determined:

- A letter is emailed in the GaDOE portal to the district superintendent outlining the allegations;
- The letter requests a written district response in 10 business days of receipt;
- A copy of the complaint and supporting documentation is included;

The Initiation Letter....once sufficiency is determined:

- A copy of the letter and complaint is emailed in the GaDOE portal to the district special education director;
- A copy of the letter is emailed to the complainant and/or parent;
- If the parent has agreed to mediation, an agreement to mediate form is also sent to the district special education director.

The district response to the complaint:

- *First—be sure to document you have given the parent his/her procedural rights for the first complaint of the school year.*
- The response is requested to be submitted within 10 days from the date the initiation letter and complaint were emailed in the portal.
- The response should be submitted to the investigator, the GaDOE, the complainant and the parent if the complainant is not the parent.

The district response to the complaint:

- 3rd party complainants should not be sent personally identifiable information in the response unless you have a signed release from the parent.
- If an attorney working for the parent has submitted the complaint, you can send all documentation to them without a separate release.
- When working on the district response—tell the story using facts.

The district response to the complaint:

- This is the response of the district—not your personal response. It is a record of the district’s perspective.
- Present the district’s facts—not opinions.
- Don’t do it alone—get help!

Tips for submitting the district response.....

- If, through the course of developing the district response, you see that the district is out of compliance on an issue, it may be best to acknowledge it and even start correcting the issue before receiving a finding of noncompliance.
- Respond to each issue. Provide the necessary documentation based on the issue. For example, if an issue is regarding personnel qualifications, include a printout of the teacher's certification, schedules, etc.

Tips for submitting the district response.....

- Include as much documentation as necessary to state your position.
- Be objective and remember the complainant will be reading this and has the right to respond to the district's response.

Tips for submitting the district response.....

- **DO NOT** wait to submit a response until after mediation. Some districts want to do this but a timely response to the complaint is critical.
- If you wait, there may not be time to address the district's position prior to the end of the 60-day requirement for the complaint resolution.

Investigator Assignment

- The GaDOE appoints an investigator to gather facts, conduct interviews, and implement onsite visits, if needed.
- Investigators work under contract for the GaDOE.

Investigator Assignment

- Many are former special education administrators but not all.
- They cannot investigate a complaint if they have a conflict of interest with a particular district (or party to a complaint). This means if they ever worked in a district, they cannot investigate a case there.

Investigator Assignment

- An assignment letter informing the parties of the name of the investigator is sent out via email to the complainant and the parent if it is a 3rd party complaint with copies to the district superintendent and the special education director via the GaDOE portal.
- The documentation, along with phone interviews with the complainant/parent and district representatives, generally is all that is needed.



- There are times, through the course of the investigation, that it is appropriate to investigate additional issues.
- Issues for a particular student can turn into systemic issues.

What is 'tolling' the case?

- In the initiation letter, there is the following statement: “An extension of the 60 calendar-day time limit for resolution may be made by the GaDOE only when exceptional circumstances exist with respect to a particular complaint or **if the parent or other complainant and the LEA involved agree to extend the time to engage in mediation,** or to engage in other alternative means of dispute resolution. [34 C.F.R. § 300.152(b)]”

What is 'tolling' the case?

- The GaDOE cannot recommend you do this, but if both parties wish to delay the timeline due to mediation, they can both request to 'toll' the complaint.
- If approved, the complaint 'clock' stops on that particular day.
- If an agreement is reached and the complainant withdraws the case, the case is closed.

- However, if no agreement is reached, the complaint clock starts back on the ‘next’ day.
- For example, the parent files a complaint on March 1st. On March 14, both parties request to toll the complaint to engage in mediation which is scheduled for March 20. No agreement is reached at that mediation, so the investigation starts back on March 21 and is considered to be starting back on day 15.
- Tolling cannot be used for convenience of either party— “It’s FTE time and I just don’t have time to get the response together....” or “I’m out of town on vacation and won’t be back for two weeks.”

The Resolution Letter

- The Resolution Letter is a report of the findings of the investigation.
- It is a review of the allegations of the IDEA/Special Education Rules that were violated.
- It contains a list of facts of the case based on the evidence submitted by the complainant and the district.
- After the facts are listed in the letter, the relevant law is cited, and findings of compliance or noncompliance are determined for each allegation.

The Resolution Letter

- The letter must be sent out by day 60 of the complaint (with the exception of the case having been tolled).
- It is addressed to the district superintendent with copies to the district special education director, district's attorney, if applicable, parent and/or complainant, investigator, and GaDOE district liaison.
- All are sent via email.

If the district is found to be in compliance in all allegations...the case is closed. No further action is required.



If the district is found to be out of compliance on any or all issues:

- Corrective action is required.
- The corrective action is based on the issue(s) found to be out of compliance.
- Timelines are established for documentation to be submitted to the GaDOE.
- All corrective action(s) must be completed, and the case formally closed within one year of the date of the resolution letter.



- **Keep paper trails;**
- **Pay attention to instances in which the IEP Team has struggled with consensus;**
- **Documentation is critical—if it hasn't been documented—it hasn't been done!**



- **Make sure your staff and teachers understand the law!**
- **Always be willing to talk to the parent and listen!**
- **FIEPs and Mediation can be your friends!**

Due Process Hearing and Expedited Due Process Requests

Defined in the IDEA:

**Due Process Complaint, Impartial Due
Process Hearing, and Appeal of Discipline
Procedures**

34 C.F.R. §§ 300.507-300.518, 300.532-300.533

Due Process Hearing Request (34 C.F.R. §§ 300.507-300.518)

- What is it?
 - A written document used to request a formal hearing before an administrative law judge (ALJ)
- Who can initiate it?
 - Parents or local educational agencies (LEAs)
- What issues can be addressed in a due process hearing?
 - Any matters related to the identification, evaluation, or educational placement of a student with a disability or the provision of FAPE to the student

Due Process Hearing Request (34 C.F.R. §§ 300.507-300.518)

- What is the timeline for requesting a due process hearing?
 - Alleged violation must have occurred not more than 2 years before the date the parent or LEA knew or should have known about the alleged action
 - UNLESS the parent did not know of the action due to specific misrepresentations by the LEA that it had resolved the problem forming the basis of the due process complaint or the LEA's withholding of information from the parent that was required under IDEA to be provided to the parent

Due Process Hearing Request (34 C.F.R. §§ 300.507-300.518)

- How does someone request a due process hearing?
 - Parties **MAY** use the due process hearing request form on the GaDOE's website
 - Parties **MUST** provide the completed due process hearing request to the other party **AND** the GaDOE

Due Process Hearing Request (34 C.F.R. §§ 300.507-300.518)

- What happens once the request is made?
 - The GaDOE forwards the request on the same day that it is received to the Office of State Administrative Hearings (OSAH)
 - The GaDOE provides a Early Resolution Session (ERS) Form to the LEA to indicate when the ERS is required
 - The LEA and parent will receive a “Notice of Filing and Order” with docket number from their assigned ALJ

Due Process Hearing Request (34 C.F.R. §§ 300.507-300.518)

- What happens to the student when a due process hearing request is made?
 - The student must remain in his/her current educational placement (“Stay Put”)
 - UNLESS the LEA and parents agree otherwise



Due Process Hearing Request (34 C.F.R. §§ 300.507-300.518)

- What actions **MUST** an LEA take when a parent files a due process hearing request?
 - The LEA must inform the parent of any free or low-cost legal and other relevant services in the area
 - **Within 10 days** of receiving the due process complaint, the LEA must send a response to the parent and ALJ specifically addressing the issues raised in the complaint.
 - If the LEA had not provided PWN to the parent regarding the subject matter in the complaint, the LEA's response must include the content of a PWN. (34 C.F.R. § 300.503(b)(1)-(3), (7)).

Due Process Hearing Request (34 C.F.R. §§ 300.507-300.518)

- **Within 15 days** of receiving notice of the parent's request, the LEA **MUST** hold an Early Resolution Session (ERS) meeting with the parent and relevant members of the IEP Team, unless parent and LEA waive in writing.
 - An ERS **MUST** include a LEA representative who has decision-making authority on behalf of the LEA
 - An ERS **MAY NOT** include an attorney for the LEA unless the parent is accompanied by an attorney
 - Discussions in an ERS are **NOT** confidential and may be used as evidence in the due process hearing



Due Process Hearing Request (34 C.F.R. §§ 300.507-300.518)

- If a resolution to the dispute is reached at ERS, the parties must execute a legally binding agreement that is signed by the parent and LEA.
- After signing the agreement, either party may void the agreement within 3 days of the agreement's execution.
- Once the 3-day review period has passed, the agreement is enforceable in state or federal district court, or through the state formal complaint process.
- The parties may request to participate in mediation in lieu of ERS or after ERS is unsuccessful.



Due Process Hearing Request (34 C.F.R. §§ 300.507-300.518)

- **Within 15 days** of receiving the due process complaint, the LEA may challenge the sufficiency of the request based on the following required information
 - Name of the student
 - Address of the residence of the student
 - Name of the school the student is attending
 - Description of the nature of the problem related to the proposed or refused action, including facts relating to the problem
 - A proposed resolution of the problem to the extent known and available to the party at the time
- ALJ must rule on sufficiency challenge within 5 days

Due Process Hearing Request (34 C.F.R. §§ 300.507-300.518)

- How long does it take for a due process hearing to be held, and a final decision reached?
 - No later than 45 days after the expiration of the 30-day resolution period or another adjusted time period.
 - The 45-day timeline can start:
 - When both parties agree in writing to waive ERS
 - After either mediation or ERS starts but before the end of the 30-day resolution period if parties agree in writing that no agreement is possible
 - If both parties agree in writing to continue mediation at the end of the 30-day resolution period, but later, the parent or LEA withdraws from the mediation process
 - Note: if a party files an amended due process complaint, the timelines start over again



Due Process Hearing Request (34 C.F.R. §§ 300.507-300.518)

- What are the due process hearing procedures?
 - ALJ will send an order of date, time, and location of hearing.
 - Party who filed the hearing bears the burden of proof by a preponderance of the evidence.
 - Limited to issues raised in the complaint unless other party agrees
 - Both parties have right to be represented by legal counsel, to respond and present evidence, to confront and cross-examine witness, and to subpoena witnesses and documentary evidence.
 - Parents have right to the record of the hearing and the findings of fact and decisions provided at no cost

Due Process Hearing Request (34 C.F.R. §§ 300.507-300.518)

- What are some rulings that may take place before a hearing is held?
 - Dismissal with or without prejudice
 - Rulings granting or denying any motions

Due Process Hearing Request (34 C.F.R. §§ 300.507-300.518)

- What are some rulings that may take place after a hearing is held?
 - Whether the IDEA has been violated as alleged in the request (for FAPE claims, must be “Procedural Plus” See 34 C.F.R. § 300.513)
 - Whether the evaluation conducted by the LEA was appropriate and in compliance with the IDEA
 - Whether a parent must allow an evaluation or reevaluation of a child

Expedited Due Process Hearing Requests (34 C.F.R. §§ 300.532-300.533)

- Who can request an **expedited due process hearing**?
 - Parent or LEA
- What issues can be addressed in an **expedited due process hearing**?
 - For parents – any decision regarding the placement of a student who violated the code of conduct or the manifestation determination decision
 - For LEAs – whether the current placement of the student or returning the student to the original placement is substantially likely to result in injury to the student or others

Expedited Due Process Hearing Requests (34 C.F.R. §§ 300.532-300.533)

- What is the timeline for requesting an **expedited due process hearing**?
 - Same as due process hearing
- How does someone request an **expedited due process hearing**?
 - Same procedure as due process hearing

Expedited Due Process Hearing Requests (34 C.F.R. §§ 300.532-300.533)

- What happens to the student when an **expedited due process hearing request** is made?
 - The student must remain in the interim alternative educational setting
 - UNLESS the LEA and parents agree otherwise

Expedited Due Process Hearing Requests (34 C.F.R. §§ 300.532-300.533)

- What actions **MUST** an LEA take when a parent files an **expedited due process hearing request**?
 - The LEA must inform the parent of any free or low-cost legal and other relevant services in the area
 - Unlike in regular due process hearings, a response is not required within a specific timeline. Check with your ALJ for any pleadings that may be required.
 - **Within 7 days** of receiving notice of the parent's request, the LEA must convene an Early Resolution Session (ERS) unless parent and LEA agree in writing to waive or agree to use the mediation process.

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- How long does it take for an **expedited due process hearing** to be held?
 - No later than 20 days after the expiration of the 15-day resolution period or another adjusted time period
 - The 20-day timeline can start:
 - When both parties agree in writing to waive ERS
 - After either mediation or ERS starts but before the end of the 15-day resolution period if parties agree writing that no agreement is possible
 - If both parties agree in writing to continue mediation at the end of the 15-day resolution period, but later, the parent or LEA withdraws from the mediation process

Expedited Due Process Hearing Requests (34 C.F.R. §§ 300.532-300.533)

- What are the expedited due process hearing procedures?
 - Same as due process hearings
- What are some rulings that may take place before a hearing is held?
 - Dismissal with or without prejudice
 - Rulings granting or denying any motions

Expedited Due Process Hearing Requests (34 C.F.R. §§ 300.532-300.533)

- What are some rulings that may take place after a hearing is held?
 - Whether the IDEA discipline procedures were violated
 - A determination that the student's behavior was a manifestation of his disability
 - A determination that the placement of the student is likely to result in injury to the student or others

Appeals (34 C.F.R. § 300.516)

- Any party may appeal the ALJ's decision to the State superior court or Federal district court.
- Appeals must be filed within 90 days from the date of the ALJ's decision.
- A copy of the notice of appeal should be filed with the GaDOE.

Attorney's Fees (34 C.F.R. § 300.517)

- A court may award reasonable attorney's fees to:
 - A prevailing party who is the parent of a child with a disability
 - A prevailing party who is an SEA or LEA against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation

Attorney's Fees (34 C.F.R. § 300.517)

- A court may award reasonable attorney's fees to:
 - A prevailing SEA or LEA against the attorney of a parent, or against the parent, if the parent's request for a hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

What is available on the GaDOE website?

- IEP Facilitation, Mediation, Formal Complaint, and Due Process Hearing Links
 - Forms and FAQs
- Due Process Hearing Decisions (FY 2001-2022 YTD)
- Dispute Resolution Parent Guides and Videos
 - English and Spanish
- Dispute Resolution Comparison Guide
- Dispute Resolution Implementation Manual Chapter

Any Questions???

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