



YOUR RIGHT TO DUE PROCESS

What To Do If the Process Breaks Down

NOTE: At this point it is critical to use good communication skills. The old saying "You can catch more flies with honey..." rings true in these situations. Be prepared to negotiate! Also it is good to have support. Some people you might consider asking for support are: a friend or relative, or an advocate. You may also get advice from a disability organization or support group and/or legal representation.



INFORMAL RESOLUTION

Make sure to follow the chain of command. First, try to work things out with the teacher. Then request that she go with you to the next level – usually the principal. A lot of problems get solved at this level. If not, follow the chain of command: the School District or Charter School, Special Education Director/Supervisor; Superintendent of School District or principal of the charter school; Utah State Office of Education, Special Education Department. Your Local School Board Member (elected official) or Utah State Board of Education School Board Member for your district (elected official) may also be resources.

OBTAINING SUPPORT FOR INFORMAL RESOLUTION

IEP COACHES:

IEP Coaches are uniquely and specially trained by the Utah Parent Center. They have current knowledge regarding the IEP process, Utah's Special Education Rules, and effective advocacy techniques. The IEP Coaches are parent volunteers who support parents and help them advocate for their children in the special education process. IEP coaches help parents to prepare for meetings and may also accompany them to meetings in a supportive role.

PROBLEM SOLVING FACILITATORS:

In Utah there is a program which provides trained impartial Problem Solving Facilitators who are available to give support in the IEP process. The purpose of these Facilitators is to help parties work through problems before they escalate and become more difficult, expensive and time consuming. Problem Solving Facilitation may be requested by a parent or the district at any time. Both parties must agree to the process. The Utah State Office of Education assigns a trained facilitator. The purpose of the facilitator is to act as a neutral person to keep the communication open and to help resolve concerns. This is an informal process that is available at no cost to the parent. More information is available from the Utah Parent Center or from the Utah State Office of Special Education (USOE).

If your child has special needs, so do you! We can help!

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FORMAL RESOLUTION

Several more formal options are also available to help resolve disputes.

STATE COMPLAINT:

A state complaint is an allegation that federal or state law is not being followed. If negotiation doesn't resolve a conflict, you can file a complaint in writing to the local school district special education director or charter school administrator. A copy must also be sent to the State Director of Special Education. If the parents are unable to file in writing, they can contact the local school district or charter school or the Utah State Office of Education (USOE) for assistance. Allegations of substance (substantial claims) may be made by public agencies, private individuals or organizations. For more detailed information on how to file a complaint, please see "Parents as Partners in the IEP Process", the Utah Parent Center's parent handbook on IEPs, or the Utah Special Education Rules. A complaint form is available on the Utah State Office of Education website.

MEDIATION:

Each local school district (LEA) has procedures that are established to allow the opportunity to use mediation to resolve disputes involving a written request for a due process hearing or any matter under this part of the law. Mediation is voluntary. Mediation may not deny or delay the parents' right to a due process hearing or deny any other rights. Mediation is available at any time and can be requested by either a parent or the school district. Both parties must agree to participate in the mediation process. Upon request, the Utah State Office of Education (USOE) assigns a trained mediator from their list. The settlement agreement is binding on both parties. A form to request mediation is available on the USOE website. For more detailed information on mediation, please see "Parents as Partners in the IEP Process", the Utah Parent Center's parent handbook on IEPs, or the Utah Special Education Rules.

DUE PROCESS HEARING:

A due process hearing is a more formal process where parties are generally represented by attorneys. An impartial hearing officer hears both sides of a dispute and issues a written decision which is binding. Parents may request a due process hearing at any time if they are unable to resolve differences. Because the requirements for filing are very specific and detailed, parents should be well informed about the specifics of the process before filing. If you decide to proceed with a due process hearing, it is recommended you have legal help. Because due process is a very formal (and costly for the LEA and often for the parent) legal proceeding, an attorney is usually used. Try all forms of early dispute resolution before considering a due process hearing but do not be afraid to advocate for your own and your child's rights. For more detailed information, please see the Utah Special Education Rules. More information as well as various forms are available at the USOE website (www.usoe.k12.ut.us).

HANDLING PROBLEMS UNDER SECTION 504:

Section 504 falls under the management responsibility of the general education program. Parents should work to resolve differences at the teacher or school level by scheduling a meeting to discuss differences with the school's Section 504 Coordinator. The next step is to set up a meeting with the school district's Section 504 Coordinator. If parents are unsuccessful, they may ask for mediation, which is a free service for parents. A neutral person will work with the parent and the school to resolve differences. If no solution is found, parents may ask the Section 504 Coordinator how to file a grievance. The final step is contacting the Office for Civil Rights, Region VIII, in Denver, Colorado.

THINGS TO REMEMBER AS YOU PURSUE YOUR RIGHTS:

- Proceed carefully!
- Seek to resolve difficulties at the lowest level.
- Remember to use good communication skills and a positive approach. You may wish to attend a workshop on interest-based negotiation such as the one provided by the Utah Parent Center.
- Be prepared to negotiate.
- Have the support of a relative, friend, advocate, or obtain advice from a support group or legal representative.
- Keep the educational/transitional needs of your student as the focus at all times!

STUDENTS WITH DISABILITIES IN ADULT PRISONS

The requirements relating to transition planning and transition services, do not apply with respect to those students whose eligibility under Part B of the IDEA will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

The obligation to make FAPE available to all students with disabilities does not apply with respect to students ages 18 through 21 to the extent that State law does not require that special education and related services under Part B of the IDEA be provided to students with disabilities who, in the last educational placement prior to their incarceration in an adult correctional facility:

- Were not actually identified as being a student with a disability; and
- Did not have an IEP under Part B of the IDEA.

The exception does apply to students with disabilities, ages 18 through 21, who:

- Had been identified as a student with a disability and had received services in accordance with an IEP, but who left school prior to their incarceration; or
- Did not have an IEP in their last educational setting, but who had actually been identified as a student with a disability.

*This content is taken from the Utah Parent Center handbook:
From NO Where to KNOW Where: A Parent Handbook for the Transition to Adult Life.*