



**The Office for
Dispute Resolution (ODR)**



**OFFICE FOR DISPUTE
RESOLUTION**

**The Office for Dispute Resolution (ODR)
Who Are We?**


- Funded by the Department of Education (PDE)
- Meets federal requirement of having due process and mediation available to parents and local education agencies



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Exemplar State

- Pennsylvania is only one of four states selected by CADRE (with approval by OSEP) as an “exemplar state” in the area of special education dispute resolution



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Options for Dispute Resolution

CADRE Continuum of Dispute Resolution Processes & Practices					
Stages of Conflict	Stage I	Stage II	Stage III	Stage IV	Stage V
Levels of Intervention	Prevention	Disagreement	Conflict	Procedural Safeguards	Legal Review
Assistance/ Intervention Options	Parent Engagement	Telephone Intermediary	Facilitation	Resolution Mediation	Litigation
	Participant & Stakeholder Training Stakeholder Council Collaborative Rule Making Parent to Parent Assistance Case Manager	Telephone Intermediary	Facilitation Mediation Basics Ombudsperson	Resolution Mediation Written State Complaints Due Process Hearing	Hearing Appeal (Two-Tier System) Litigation Legislation
Dimensions that help clarify placement of the options along the Continuum	Third-Party Assistance				Third-Party Intervention
	Decision Making by Parties				Decision Making by Third-Party
	Interest-Based				Rights-Based
	Informal & Flexible				Formal & Fixed

Mandated Services

- ODR provides services that are mandated by federal and state law:
- Due Process Hearings
- Mediation



Non-mandated Services

- Alternative Dispute Resolution services through ODR are not mandated by law
- Are available for resolving disputes locally and proactively
- Voluntary




Non-mandated ODR Services

- IEP/GIEP/IFSP Facilitation
- Resolution Meeting Facilitation
- Special Education ConsultLine
- Call Resolution Process (CRP)
- Creating Agreement Training
- Hearing Officer Settlement Conference




IEP/IFSP/GIEP Facilitation



IEP/IFSP/GIEP Facilitation

- Voluntary process when parties agree to the presence/assistance of neutral person when discussing IEP/IFSP/GIEP issues
- Typically used when communication has been hampered or stalled or the relationship between family and school is perceived to be tenuous



IEP/IFSP/GIEP Facilitation is...

- Free for IDEA-related claims
- Completely voluntary
- Provided by ODR facilitators who have satisfied specialized training requirements established by ODR
- Initiated by the parent or the LEA by contacting ODR
- Scheduled relatively quickly
- Parents may contact ConsultLine for information and assistance if needed



IEP/IFSP/GIEP Facilitation...

- All mandatory duties of the LEA and actions associated with the IEP/IFSP/GIEP remain in tact
- Does not usurp the role of the IEP/IFSP team; the LEA continues to lead the meeting
- The team (not ODR) sets a date for the meeting and provides invitation to participate to parents



IEP/IFSP/GIEP Facilitation Prep-Phase

- New to the PA Facilitation Model
- During the prep phase, the facilitator...
- Will attempt to contact the parent and school/IEP team representative
 - Will discuss the purpose of facilitation, answer questions about the process and their role as the facilitator
 - Provides an opportunity to understand concerns or issues that may be relevant to the meeting and the reason the request for the service was made

Role of Facilitator

- Not a member of the team
- Not an advocate for either party (LEA or Parent)
- Supports a balanced and inclusive process
- Facilitator’s role is to enhance communication to help sides address disagreements or conflict relating to IEP/IFSP/GIEP in a productive manner
- Facilitator serves as a guardian of the process and is not a decision maker on matters of FAPE



Role of Facilitator

- Facilitator offers no technical assistance or input regarding content
- Facilitator may offer assistance in terms of process, communication, effectiveness and efficiency
- Facilitator often sits in silence if parties are moving forward and the process is inclusive of participant perspectives



Benefits of IEP/IFSP/GIEP Facilitation

- May improve communication and have a positive impact on the school/family relationship
- Provides expertise in communication and conflict resolution strategies
- Helps participants explore concerns, identify options and resolve disagreements before the dispute results in a due process hearing




Resolution Meeting Facilitation




Resolution Meeting

- IDEA 2004 states that when parents initiate due process the LEA must hold a meeting with the parent within 15 days unless both sides agree to waive the meeting or use mediation



Resolution Meeting Facilitation

- Available for all parent-initiated due process requests involving a child with a disability
- Voluntary and FREE for both sides for IDEA-related claims
- The LEA and parent schedule the meeting; ODR arranges for the facilitator
- If agreement is reached and issues resolved, the parent can ask the Hearing Officer to withdraw the due process request



Resolution Meeting Facilitation

- The LEA and parent may have trouble reaching agreement at the meeting because dispute already exists
- CADRE is the national technical assistance provider for dispute resolution in special education
- CADRE initiated the concept of RM Facilitation
- ODR offers this service as an option for families and schools to reach agreement outside of the due process hearing



Role of the Facilitator

- Helps the parties focus on the child's needs
- Helps to maintain open communication among all parties
- Clarifies points of agreement and disagreement
- Maintains impartiality
- Does not impose a decision for the group
- May help the parties write an agreement



Benefits of Resolution Meeting Facilitation


- Builds and improves relationships
- Provides opportunities for parties to resolve conflicts which could remove the need for due process
- Encourages parents and professionals to identify new options
- Typically less stressful than a due process hearing



ODR

Resources available to assist constituents:


- ODR website
- Dispute Resolution Manual
- Online request submission and activity evaluation
- Informational videos
- Brochures/Fact sheets
- Links to state and federal resources
- Link to CADRE
- Parent Guide



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Video Resources available:


- The Mediation Process
- IEP Facilitation
- Resolution Meeting
- Procedural Safeguards Notice
- Resolution Meeting Facilitation
- Mock Due Process Hearing
- Introduction to Special Education Law
- Motions Practice in a Due Process Hearing
- Procedural Safeguards Notice – audio version




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More Video Resources available on ODR website:

- A Tale of Two Conversations
- Hearing Officer Introductory videos
- 4-Part Video Series on Preparing for Due Process
 - Pre-Hearing Matters
 - Exhibits and Witnesses
 - The Hearing Itself
 - Tips on Participating in Due Process




Special Education ConsultLine



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Special Education ConsultLine

- Toll-free service established in 1995 by PDE
- Became a service of the Office for Dispute Resolution in 2000
- Annually serves more than 3,000 parents and advocates of children with disabilities by providing information and assistance with special education-related issues
- Provides access to the state complaint process and information about special education laws, rights and protections/procedural safeguards
- Vast library of resources
- At times, provides intervention/early dispute resolution between parent and school using the Call Resolution Process (CRP)



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About the Specialists

- ConsultLine is staffed by 3 Specialists who have a master's degree plus field experience in education, special education or a related human services field
- Highly trained in relevant education regulations, policy and dispute resolution services/procedural safeguards
- Possess good listening, analytical ability and research skills
- Regularly participate in ongoing staff development and training



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How ConsultLine Works

- Constituent calls toll-free 800-879-2301
- Caller is prompted to leave a message, providing brief explanation of concern and convenient times for Specialists to return the call between 8:00 AM and 5:00 PM Monday through Friday
- Calls are returned in an equitable manner; interpreter service is used when Specialist is assisting a non-English speaker.
- Specialists attempt to return calls at least 3 times over the course of 3 business days



Types of Calls

- **Compliance:** "My child's IEP calls for speech three times a week and that's not happening."
- **Rights:** "School says my child is ineligible for an IEP and I disagree. Can I get a second opinion?"
- **Clarification:** "My advocate tells me I can choose to not have my child receive special education...is that true?"
- **Process:** "My child is really struggling. How do I ask for an evaluation?"



Types of Calls

- **Disagreement:** "I don't think the proposed IEP is appropriate."
- **Bullying** – "My child has Asperger's Syndrome and is being bullied on the playground."
- **Section 504** - "My child doesn't need an IEP, but has ADHD and it's affecting his/her ability to follow directions and complete assignments on time."



Types of Calls

- **Mental Health** – “What’s the difference between a TSS and classroom aide? How do I find out if my child qualifies for a TSS?”
- **Gifted/Specific Learning Disability (SLD)** – “My son’s IQ is 140 and he’s failing English Lit. class. I’m afraid he might want to drop out if things don’t turn around.”
- **Materials and Resource Requests:** State forms, publications, referrals to Parent Training and Information Center (PTIC) or other public agency



Call Resolution Process (CRP)

- The Call Resolution Process (CRP) facilitates the possibility of early resolution of **compliance**-related concerns when parents provide permission
- CRP is an e-mail notice, sent by the Specialist to the chief special education administrator of the LEA. The message relays the parents’ approved statement of concern and proposed resolution.
- The BSE Regional Advisor and Division Chief are copied on the e-mail notice



CRP Procedures

Before CRP is offered, the Specialist:

- Provides information about state and federal requirements based on the issue reported
- Discusses local efforts and options for addressing concerns
- Explains the process for filing a state complaint
- Determines whether or not the issue meets criteria to offer CRP



CRP Procedures

- Parent verbally approves an email message drafted by the Specialist
- Specialist sends the email to the Special Education lead administrator and copies BSE
- The LEA manages the e-mail information however it deems appropriate; the Specialist's role in CRP is complete once the email has been sent



CRP Procedures

- BSE Advisor contacts the LEA with a follow-up inquiry
- The parent may be contacted by the LEA and/or the BSE Advisor
- Parent receives the state complaint form from ConsultLine Specialist should they choose to file a complaint



CRP: Examples of Issues

- IEP non-implementation
- Timeline violations
- Discipline rule violations
- Child out of school
- Lack of notice provided to the parent
- Lack of consent
- Parent was not informed of student's progress as required by the IEP
- Behavior plan is not being followed




**Hearing Officer
Settlement Conference**




Hearing Officer Settlement Conference

- An evaluative and confidential process available to parties after the due process complaint has been filed
- Provides an objective viewpoint from the perspective of an experienced hearing officer who is not assigned to the case
- Mutually voluntary



Hearing Officer Settlement Conference

- An option parties may engage in at the “11th” hour when they are focused on issues
- Available to all parties whether represented or pro se
- Scheduled by the settlement conference hearing officer based on party availability
- Involves three-party discussion and two-party discussions



Hearing Officer Settlement Conference

- Discussions will focus on the specifics of the particular situation including:
 - how the law intersects with the specifics of the situation rather than just the law itself
 - facts and particulars influence the impact of the law; the Hearing Officer is in a unique position to raise awareness of this fact to the parties



Important to Know

- Will not address attorney's fees
- Statements by Hearing Officer do not constitute legal advice
- Does not result in a written decision
- Not intended to help parties "prepare" for a case



Important to Know

- The settlement conference process is independent of the due process hearing and does not automatically extend the hearing decision due date
- Due process may be withdrawn if settlement conference results in parties reaching agreement



Potential Benefits

- An opportunity to talk about the situation with a knowledgeable and impartial person
- High degree of flexibility in the process
- Possibility for facilitated settlement discussions, creative solutions and proposed resolutions
- Saves time, money and other resources associated with a due process hearing



Creating Agreement in PA

- ODR providing conflict resolution training across the state since 2002
- In 2008, ODR joined the national effort to build capacity for early dispute resolution through Creating Agreement.
- PA has been lead state in nation for delivering Creating Agreement
- Provided at no cost to the participants (parent organizations, schools, related agencies)



Creating Agreement in PA

Key concepts of Creating Agreement Model:

- Value of Conflict
- Conflict style
- Perceptions
- Conflict resolution styles
- Positions and interests
- Listening and communication
- Power imbalance
- Cultural reciprocity



Special Education Dispute Resolution Manual

The **Special Education Dispute Resolution Manual** describes the due process hearing procedures in detail. It outlines the mediation and due process procedures for all age groups. This manual is available on ODR's web page (www.odr-pa.org), or can be mailed to any interested party upon request.



Parent Guide



Stakeholder Council

- Diverse membership that includes parents, advocates, attorneys, educators, constituency groups
- Self sustaining
- Provides functional input on the services of ODR
- Interviews hearing officer candidates and makes recommendations



Consider

- “The strength of a relationship is not to be measured in the frequency or magnitude of the difficulties encountered, but rather in the ability to resolve them.”

-Nicholas Martin



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