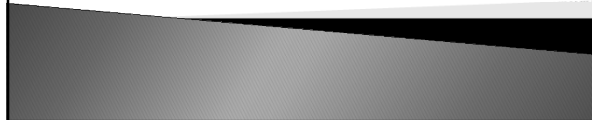


Resolving Special Education Disputes
Parent Summit 5.14.16

Lindsay Brecher, Esq. Acting Supervisor Resolution and Compliance Unit	Michele Thompson Instructional Specialist Resolution and Compliance Unit
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Some Possible Areas of Dispute

- Eligibility/Identification
- Evaluation/Reevaluation
- Present Levels
- Progress/Lack of Progress
- Diploma/Certificate of Completion
- Accommodations
- Related Services
- Placement



Request an IEP Meeting



Request an IEP Meeting

Make a formal request for an IEP meeting to address your concern/issue.

- o In writing to Special Education Chairperson or Resource Teacher for Special Education (RTSE)
- o Provide possible dates for availability
- o Specify any requests
 - o Specific teachers/others present
 - o Reports, records, evaluations, etc.
 - o Provide dates/times available
 - o Recording, legal representation, advocate

Request an IEP Meeting – cont.

- You can a request an IEP meeting *anytime*, not limited to annual IEP meeting.
- Make sure school system personnel needed to solve the problem are invited to the IEP meeting.
- You may want to request a Department of Special Education supervisor.

Request an IEP Meeting – cont.

- Prepare for the Meeting
 - o What are the questions you want answers to?
 - o Do you have specific requests?
 - o What evidence do you have to support your concerns?
 - o Prepare a written statement that identifies your concerns and requests.
 - Bring a copy to give the team
 - Consider giving this to the team before the meeting

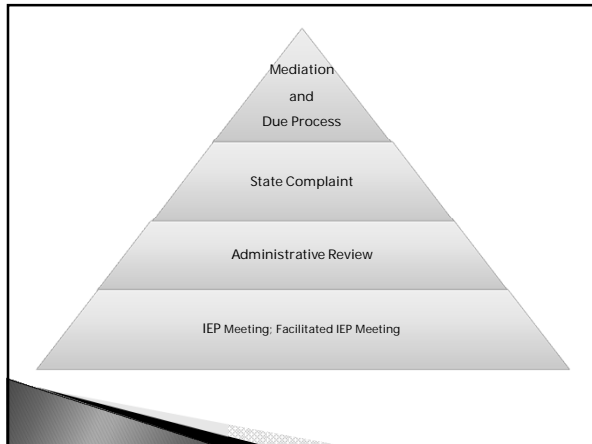
Prior Written Notice

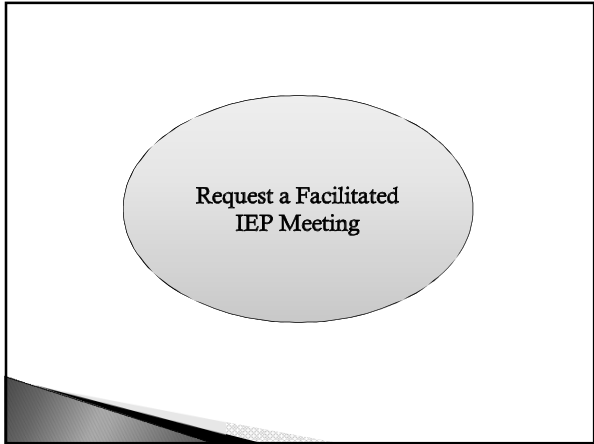
- ▶ The school system must provide notice to the parents prior to the implementation of the IEP when:
 - The school system proposes to initiate or
 - Refuses to initiate or change the identification, evaluation, or educational placement, or the provision of FAPE for the child.

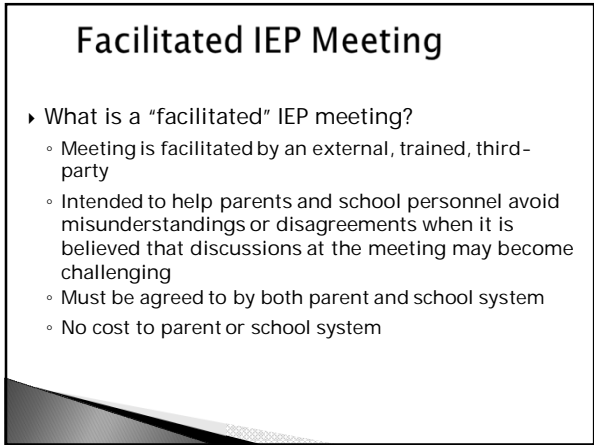
- ▶ Ask that your objections to any part of the process or any team decisions be documented in the PWN or addendum to the IEP.

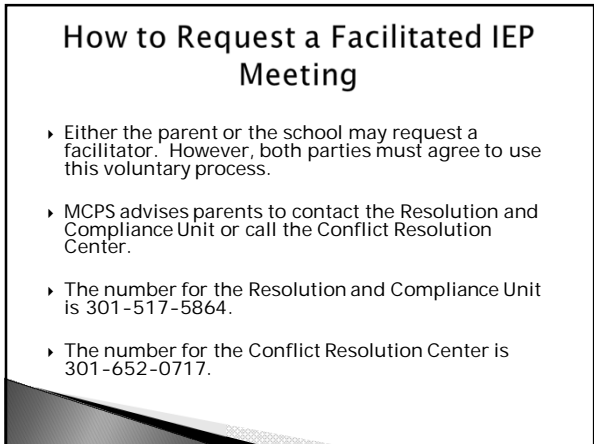
When I need a little more.....

- Facilitated IEP Meeting
- Administrative Review (MCPS)
- Mediation
- Complaint with Maryland State Department of Education
- Due Process hearing











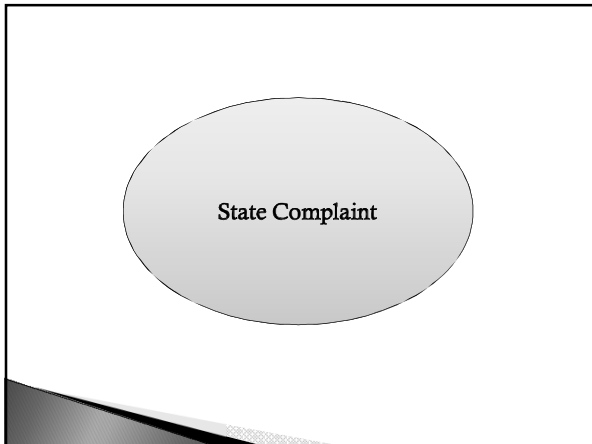
Administrative Review (AR)

What is an AR?

- ▶ When a parent is in disagreement with an IEP team, and has not filed for a mediation or due process, they can request the record be reviewed administratively by the RACU.

What happens with an AR?

- ▶ Parent completes the AR form and submits to the RACU.
- ▶ Staff from the RACU will contact the parent to discuss their concerns.
- ▶ RACU staff will review the records, discuss concerns with relevant staff, and issue a letter of suggested resolution within 20 days.
- ▶ If the parent agrees with the suggested resolution, the letter will be signed and the RACU will oversee implementation.



Complaint to MSDE

- ▶ A formal *written* complaint to the Maryland State Department of Education regarding a violation relating to your child's special education rights.
- ▶ This option is only available if: (1) child previously has been identified as a special education student; and (2) no due process hearing on the issue has occurred.
- ▶ Unless the violation is still occurring, a complaint must be filed within **one year** of the date of the violation.

Complaint to MSDE cont'd...

- ▶ When should you consider filing a Complaint?
 - The complaint process is most effective if there is a procedural violation, a problem with lack of resources, or a system-wide problem.
 - Filing a complaint is generally not a good option when you disagree with the school system about what program is appropriate for your child, although you can file such a complaint if you wish to do so. MSDE will not second-guess an IEP team's decision but it will look at whether the decision making process followed the law.

Complaint to MSDE cont'd...

- Specific Requirements to include:
- ▶ Statement that the school has violated a requirement under the IDEA or Maryland Special Education Laws and Regulations.
 - ▶ Identify the violation
 - ▶ Describe the facts – be as specific and detailed as possible, dates, times, frequency of violation, and any attempts to have school address; submit any evidence/documents to support violations
 - ▶ Name and address of child, school attending
 - ▶ Proposed resolution – what specific action you want taken to address the violation

Complaint to MSDE cont'd...

How do you file the Complaint?

- ▶ Use MSDE Form or submit with letter attached.
- ▶ You should also submit a copy of the child's IEP and any other useful information.
- ▶ Send to MSDE
Assistant State Superintendent
Division of Special Education/Early Intervention Services
Maryland State Department of Education
200 West Baltimore Street, Baltimore, MD 21201
(410) 767-0238 / (410) 333-8165 (fax)
- ▶ Send a copy of the Complaint to the Director of Special Education, Philip Lynch, and keep a copy for your records.

Complaint to MSDE cont'd...

What happens after you file?

- ▶ A reviewer from MSDE must investigate the complaint & issue a decision within 60 days.
- ▶ MSDE can order the school system to fix the problem, provide compensatory education services to make up for the violation and any missed services due to the violation, or other action deemed necessary. MSDE can also find no violation.

Request Mediation

Mediation Request

What is Mediation?

- ▶ A non-adversarial process in which a qualified and impartial mediator, trained in effective mediation techniques, attempts to help a parent and the school resolve a disagreement.
 - Dispute can be about any matter related to the identification, evaluation, placement, or FAPE
- ▶ Either side can make the request.
- ▶ Voluntary – both parties must agree.
- ▶ No cost to parent; the school system bears the cost of mediation.

Mediation Request – cont'd...

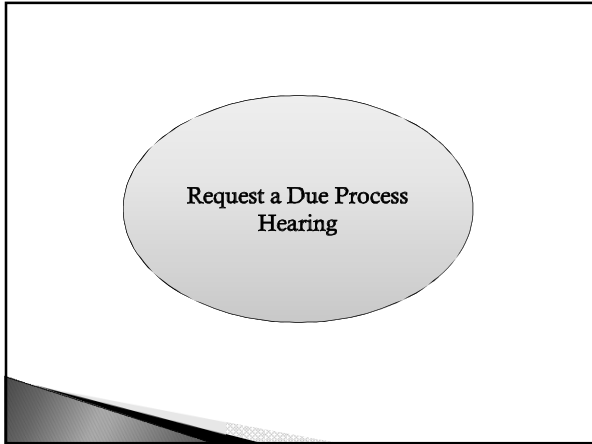
How do you request Mediation?

- ▶ Request must be in writing.
 - Use OAH form. Not limited to space. Submit letter with detailed information of the allegations and requested actions to resolve the dispute or disagreement.
 - Submit copy of the application for mediation to the RACU office and the OAH.
- ▶ STAY PUT: A child stays in his last agreed upon placement until there is a mediation agreement or until the conclusion of the mediation process if mediation is unsuccessful.

Mediation Request – cont'd...

What happens at Mediation?

- ▶ Usually scheduled within 20 days.
- ▶ Informal Process. Back and Forth; Caucusing.
- ▶ Discussions that occur during mediation are **confidential** and may not be used as evidence in subsequent due process hearings or civil proceedings.
- ▶ Any agreement must be set forth in a written mediation agreement to be signed by parent and an authorized representative of the school.



Due Process Hearing (DPH)

What is a Due Process Hearing?

- ▶ DPH is a formal hearing to settle a disagreement between a parent and the school system.
- ▶ An Administrative Law Judge (ALJ) will preside over this hearing.
- ▶ Hearing can address any issue related to special education and related services.
- ▶ **STAY PUT:** A child stays in his last agreed upon placement until a DPH is resolved.

Due Process Hearing (DPH)

How do I request a DPH?

- ▶ Written Request is required. Use form from OAH. Submit to the RACU and provide copy to OAH
 - Space is not limited; Set forth full facts and details in a separate letter.
 - Name and address of student; name of school.
 - Description of the problem.
 - Proposed resolution to the problem.

Violation cannot have occurred more than 2 years from the date of the request.

Due Process Hearings – cont'd...

- ▶ Resolution Session:
 - The school must hold a "resolution session" before a due process hearing to try to resolve the issue.
 - A local educational agency can only be represented by an attorney, if the parent has an attorney.
 - Parents and the school can agree to waive the resolution session.
 - If a resolution is reached, the parents and school must execute a legally binding agreement (signed by both parties).

Due Process Hearings – cont'd...

- ▶ If there is no agreement, the parties may proceed to a DPH.
- ▶ Any party has a right to:
 - Be accompanied and advised by an attorney and by individuals with special knowledge or training with respect to children with disabilities. (SCHOOLS WILL BE REPRESENTED BY AN ATTORNEY.)
 - Present evidence.
 - Confront, cross-examine, and compel attendance of witnesses.

Questions?

For more information contact:
 Resolution and Compliance Unit
 301-517-5864
