



# NEGOTIATION SKILLS FOR PARENTS

How to Get the Special Education  
Your Child with Disabilities Needs

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**Disability  
Rights** OHIO



A close-up photograph of a woman and a young boy smiling warmly. The woman is on the left, wearing a blue top, and the boy is on the right, wearing a blue and white striped shirt. They are both looking towards the camera with bright, happy expressions.

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## INTRODUCTION

This booklet contains suggestions to help you negotiate for appropriate services for your child. This booklet was written for parents of children with disabilities to help them be more successful with the IEP team process. The suggestions can also work well in all situations where teams are responsible for decisions about services for your child.

The **Individuals with Disabilities Education Improvement Act (IDEA)** is a federal law which requires schools to provide services to children with disabilities. That law requires schools to provide a **Free and Appropriate Public Education (FAPE)** to your child in the **Least Restrictive Environment (LRE)**. A team of individuals with knowledge of your child and special education is required to decide eligibility for services and what services your child needs. You are an important member of that team.

If your child is found eligible for special education services, the team must write a plan called an **Individualized Education Program (IEP)**. The IEP team members must work together to reach agreement on what the IEP will provide. The team process allows individual members to hold different opinions about what is appropriate for your child. It is also the responsibility of the team to reach agreement in spite of those differences.

Using the suggestions in this booklet can help you resolve your problems with your school district quickly and informally. Issues which are complex can require more time and effort for resolution and may require the use of several of the methods described in this book. There is no substitute for being prepared. Being prepared to make the best argument for your position will help you get a better outcome for your child. If you cannot resolve your problem using the suggestions in this booklet, seek assistance.



## **PREPARE TO NEGOTIATE**

### **KNOW WHAT YOU WANT AND WHO TO ASK**

The first step in getting services for your child is being prepared to explain what you want for your child and having information that supports your request. After you decide what your child needs, you must be able to clearly communicate to the appropriate person what you are requesting. Communicating with the appropriate person is the quickest, simplest way to resolve or address issues.

#### **Identify the Problem and What You Want**

Understand the nature of the problem and the position of both sides. Determine whether there is a simple solution to the issue or whether additional work is necessary for resolution. Determine if there is more than one way to resolve the issue and remember that it is easiest to implement a solution that all team members support. If there are many ways to resolve an issue, generally the school has the final say in which option will be used as long as it is an appropriate option for your child. If the teacher and other school personnel agree with an option, it is more likely that it will be implemented well and be successful for your child.

#### **Communicate with the Right Person**

Talk with the person who has the information you need or has the authority to make the changes that you want. If there is an individual in the school setting with authority with whom you have established a good relationship, it can be helpful to communicate problems with that person first. Avoid communicating with people with whom you have a bad relationship if it is possible. Try to limit the number of people

trying to resolve your concerns. Identify the person who will follow-up on the issues and respond to you and agree upon a timeline for communication. Make sure that everyone understands her role and responsibility in resolving the issue. It is helpful to write an outline that everyone signs that indicates who will do what and when it will be done. Be a role model and be sure that you complete what you agree to do.

### Determine Who Has the Information You Need

A very important step in successful negotiation with your school is to know the facts of your situation. The ease of getting the information and facts that you need depends on knowing who has that information. People appreciate the opportunity to work problems out at the lowest level possible. How many times have you had someone say, “if you had let me know, I would have been happy to change that.” Generally the person who is working with your child on a regular basis has the most information about your child. In many cases, the superintendent will have no idea about the everyday issues regarding your child. This can also be true for the special education administrator and the principal, unless a specific issue has been brought to their attention.

### WHO HAS THE INFORMATION YOU NEED?

Special Education Professional	What the Person Should Have
<b>Teacher</b>	Has information about the IEP and the general curriculum for your child’s grade level as well as the classroom schedule and environment.
<b>Principal</b>	Has information about building schedules and transportation, staff availability (aides, teachers) and special building projects and themes.
<b>Special Education Administrator</b>	Has information about district resources for services for children with disabilities, whether additional services can be provided, location of programs and services, and can generally determine what the superintendent is willing to do.
<b>Superintendent</b>	Has the ultimate decision-making authority together with the school board regarding resource allocation and location of service.

# COMMUNICATE EFFECTIVELY

## ESTABLISH GOOD RAPPORT

It is always best to try to resolve any issue at the lowest possible level with the simplest means of communication available. If you think you can resolve an issue by talking with the teacher, do it. If it doesn't work, go to the next level.

It is good practice to ask people how they prefer to be contacted. Some teachers are comfortable with parents contacting them in person (unscheduled) for minor matters. Some prefer telephone or e-mail contact, and others prefer a scheduled conference to discuss matters. Determine the preferred method and try to use it whenever possible. You should also make your own preferences for contact known. Many parents establish a regular communication notebook or pattern with the teacher to communicate about the child's daily/weekly progress or problems that arise. Determine if the teacher is willing to communicate in this way. If so, you can request that a communication notebook be added as a service to your child's IEP. This is particularly helpful in situations where children are unable to communicate or where children have regular problems in the classroom.

### Personal Contact

Good communication with the person working with your child can prevent many problems at school. Establish rapport with your child's teacher before problems arise. Make yourself available to volunteer in class and to receive regular feedback. This will help create an atmosphere of open communication.

Try to work out problems with the teacher first and as they arise. You can ask to talk with your child's teacher or for a parent/teacher conference. You can offer suggestions to the teacher or provide helpful materials. Information should be offered in a manner that is careful not to suggest that the teacher lacks knowledge, and should not be so voluminous as to overwhelm the teacher.

Communicating with someone in person allows you to interpret a person's body language and demeanor and may provide some insight into a person's feelings about your requests, and willingness to follow through with them.

Proceed to the next level if you cannot resolve the issue with the teacher. Determine who is the next person who can help you. If one person stands in the way of what you need, go to another person who can help you.

### Telephone Contact

If it is inconvenient for you to get to the school to talk with the teacher or other staff, a telephone call can be made to resolve issues. It helps to ask when it is best to call. Telephone contact should be initiated for brief conversations and questions that can be answered simply. If the issue is more complex, a face-to-face contact or meeting to discuss the issue is probably necessary.

### NEGOTIATION TIP

Keep notes of every communication. Write down the date and time, with whom you spoke and what was said.



## Written Communication

There are two kinds of written communication that you can have with your school. The first is written documentation of all of your communications with the school. You should keep written notes of all discussions, telephone calls, meetings, and other communication you have with the school. It is helpful to have a notebook (three ring binders work well) where you can document the date, time, content of the discussion, and name of the person. All paperwork relating to your child's education can be stored in the same binder (this can include your child's IEP, evaluations, progress reports, classwork, etc.). This type of documentation is necessary to develop a record of all interactions with the school. This information may become necessary for a more formal negotiation with the school.

The second type of written communication is to inform the school of your concerns about your child or to request specific information or action from the school. If informal methods of negotiation fail, you can proceed with more formal methods. The first step in the process is to send a letter to the school making a specific request with a timeline for a response. You should send the letter in a manner which will verify its receipt (certified, registered mail). You can also deliver it by hand and ask someone to initial a copy as received. Always keep a copy of all correspondence for your records and never give anyone your only copy of a record.

## DOs AND DON'Ts OF WRITTEN COMMUNICATION

DOs	DON'Ts
<b>DO share routine information.</b> For example, use a communication book which goes from school to home and back on a regular basis to share information about your child's day or issues of concern.	<b>DON'T try to share complex information</b> that requires significant explanation and clarification. However, a letter could be used to request a meeting to discuss this complex issue in person.
<b>DO make specific requests of the school</b> regarding your child's program or to object to specific proposals made by the district, especially when timelines are involved and you need to document when you made the request.	<b>DON'T try to solve a very complex problem.</b> A letter can be used to state the problem as you see it, but the actual problem solving process is usually best conducted by phone or in person, depending upon the complexity.
<b>DO summarize past communication</b> from meetings or phone calls where commitments have been made for action.	<b>DON'T send the school your only copy of a record.</b> Make another copy for team members.
<b>DO say thank you.</b> A card or note can go a long way to demonstrate your appreciation and support for the work the school is doing with your child.	<b>DON'T send a letter to the school that you wrote when you were angry.</b> Take time to cool off so that your letter is written in a calm and clear way.

# GET POSITIVE RESULTS AT MEETINGS

## DO YOUR HOMEWORK

Sometimes it becomes necessary to request a meeting to resolve an issue. Meetings can be requested by a telephone call, but the call should be followed by a letter of confirmation. A meeting may be necessary to resolve a conflict that is complex or that involves a request for services that may be expensive or time consuming for a school to provide.

There are certain steps that you should take to prepare for the meeting process. The more prepared you are going into the meeting, the better your chance of leaving the meeting with the resolution you want.

### Communicate with Experts to Seek Support for Your Position

An expert is someone who has specialized education and experience in a specific area. Experts often have a license or certificate or other credentials to provide professional services. Experts can include, but are not limited to, physicians, psychologists, educators, speech therapists, occupational therapists, and physical therapists.

Having expert or professional support for your position will greatly increase your chance of a successful outcome at any meeting. During the meeting, you should refer to documents from experts or professionals that support your position.

If possible, have the expert or professional participate in the meeting. It is much easier for a school to ignore a document than it is to ignore a person sitting in the meeting.

You can ask the school to pay for this expert if you are requesting an independent educational evaluation (IEE) of your child. You can ask your school to pay for an IEE if you disagree with an evaluation the school conducted of your child.

The school must either agree to pay for the IEE or request an impartial due process hearing to show that its evaluation was appropriate. If you want to pursue an IEE at the school's expense, it is best to reach agreement with your school about the qualifications of the evaluator, what tests will be used, and who will pay prior to scheduling the IEE. You can also get an IEE at your own expense at any time.

Many experts and professionals are busy and cannot come to your meeting. Explore whether the person can participate in the meeting using a conference telephone. This would limit the amount of time that the individual has to set aside to assist you. If your expert or professional can assist you in this manner, make sure to set up a time and place for the meeting that is convenient to this person and make sure that there is a conference telephone at the meeting. Determine who will place the telephone call prior to the meeting.

### Legal Standards

In order to effectively advocate for services for your child, you must be familiar with the law and standards which are in effect that cover your issue. The law does not require your school to provide your child with the best possible education or to maximize your child's educational potential in school. Your child's IEP must provide your child with an education that provides more than minimal benefit. This usually means that your child is making reasonable progress towards the agreed upon goals and objectives in one year.



Be careful to advocate for services to which your child is entitled under the law and for which you have the expert or professional support. Be sure to use language that is compatible with the law and avoid using terms describing your emotions, such as “I feel that,” or “I want this.” Instead, use language such as “it is necessary for my child to have physical therapy because...,” or “the evaluation supports the need for occupational therapy for my child because...”

The legal standards used in special education are not the same as the standards used in other disciplines such as psychology, medicine, and related therapies. Because of the different standards, disagreements between parents and schools can arise when medical or mental health professionals recommend services for a child in the school setting. These services can include psychotherapy, counseling, occupational therapy, physical therapy and other types of services.

Frequently a family’s first contact with these services is through their doctor or medical/mental health specialist who prescribes the service based on a medical model of necessity. This model focuses on all domains of a child’s functioning and development and provides services based on a model of recovery or maximizing rehabilitation potential. These services can be prescribed for needs that are beyond what is necessary to address the adverse effect of a child’s disability in school.

In education, related services are also provided to children, but the provision is based on educational necessity, which focuses on skills and functioning necessary for the child to benefit from his education. All domains of the child’s functioning are not required to be addressed by the school. Often, parents will expect the school to comply with recommendations of medical/mental health providers with regard to eligibility, frequency, and duration of service. Sometimes, the level of service recommended by the medical provider exceeds what the school would be responsible for providing.

In order to be able to successfully negotiate for appropriate services for your child, you must determine with the medical/mental health professional what level of service is necessary in the school setting. If possible, any prescriptions written for a related service should specify that the frequency and duration of service is being recommended for the school setting, and is based on educational needs. If you cannot determine what legal standard applies to your situation, you should seek the assistance of an advocate or other professional who can provide you with this information.

## LEGAL STANDARDS FOR SPECIAL EDUCATION SERVICES

Service	Standard
<b>Special Education</b>	Specially designed instruction that meets your child’s needs and provides more than minimal educational benefit.
<b>Related Services</b>	Services your child needs to benefit from special education, such as transportation and speech/language, physical and occupational therapies.
<b>Medical/Mental Health Services</b>	What your child needs to restore healthy physical or mental functioning and to reach his maximum rehabilitation potential. (Schools are not required to provide this level of service unless necessary to benefit from education.)



## PREPARING FOR THE MEETING

### Before the Meeting

Prior to any meeting, you should identify the persons with authority to resolve your dispute and request that they attend the meeting. Clearly identify the issue(s) and gather as many facts about your problem as possible. Be sure to seek expert support for your position.

Explain clearly to the school what you think would resolve your concerns. You may be asking to review your child's IEP because the goals are not appropriate, or you may be asking that a service be added to the IEP to address unmet needs. Come to the meeting prepared with one or more possible resolutions to your concerns.

Request written notice from the school about its position on the issue. If school personnel refuse to do something that you have asked them to do, or if the school is proposing to do something with which you disagree, ask the school to provide written notice of its reasons for the action or lack of action. This notice, which is required by the law, should clearly explain the basis for the school's action or inaction.

### At the Meeting

Take a prepared outline or notes to the meeting. The outline or notes can help you remember the issues and cover all topics for discussion. Remember to discuss current issues and not to dwell on mistakes of the past. Dwelling on the past can inhibit the team's ability to focus on ways to resolve the current dispute, can waste time, and can create an uncomfortable environment.

#### NEGOTIATION TIP

Remain calm. Take a break before your emotions get the best of you and hurt your child's cause.



Try not to start conversations with yes-or-no questions. For example, if your child needs more support for transition, do not begin by asking for an aide. Ask the team what can be done to provide support for your child during transitions from one activity to another. Allow the conversation to develop, including multiple ideas about possible solutions to your concern. Yes-or-no questions limit options particularly when the response to your request is no. You are left with an answer but not a solution.

If you are requesting that the school change your child's IEP or write a new IEP, you can prepare your own draft goals, objectives, and services to take to the meeting. This can be helpful in guiding the team process to your desired outcome, and can save time at the meeting that would otherwise be used to draft the IEP. It is acceptable for the school to come to the meeting with a prepared draft IEP as long as there is open discussion about the draft, participation in the IEP process by all team members including the parent, and the ability to change and modify the draft as necessary. Remember that you have the ability to make changes to the draft IEP even if it is presented to you in typed format.

All meetings should be documented in some way. Decide prior to the meeting whether to audiotape the meeting or to take a friend or advocate as support. If making an audiotape of a meeting will create an uncomfortable situation for the participants, then you may choose to take a friend to the meeting instead. People can be less forthcoming while being taped because they are afraid that the tape may be used against them at a later time.

One way to document a meeting without taping it is to have a friend or advocate for support at meetings. This person can take notes so that you can focus on discussing the issues at the meeting. The friend or advocate can also serve as a witness to discussions that occurred at the meeting and can provide emotional support in a setting where you are discussing emotionally charged issues.

It is normal to feel emotional during these meetings. After all, it is your child who is the topic of conversation and you want the best for your child. Emotional outbursts can make team members uncomfortable. If necessary, take breaks to keep your control. All discussion should occur in a courteous manner without emotional outbursts.

However, you must remember to be reasonable in your requests for services for your child. Negotiate for the things to which your child is entitled under the law, and for which you have supporting data (e.g. evaluations, medical/psychological recommendations, progress notes) if you hope to be successful in the process.

## After the Meeting

If agreement is reached at the meeting make sure that there is written documentation of the agreement. If the agreement is for services for your child, make sure that the services are written on the IEP. Any document can be attached as part of the IEP if the team agrees to attach it. Make sure that any attachments include the signatures of the team members and date of agreement. If full agreement is not reached at the meeting, make a list of the next steps to take and who is responsible for them. Create a timeline for the completion of the meeting process. Remember that some issues take more than one meeting to resolve. Do not sign an IEP unless you agree with it. The school cannot refuse to serve your child because you do not sign the IEP, unless it is your child's first IEP.

Remember to thank people for their participation in the process and for their efforts in serving your child. This can be done in person or with a thank you note or card. A thank you note or card demonstrates your appreciation and support for the work the school is doing with your child, even when things may be somewhat tense.

# KNOW WHEN YOUR TEAM IS IN TROUBLE

## AND WHAT TO DO ABOUT IT

Problem	Solution
<p><b>No one has spoken your child's name in thirty minutes.</b></p>	<p>Remember that your goal is to advocate successfully for your child. If the team gets off track, try to bring the focus back on your child by specifically discussing the unique needs of your child. It can be helpful to use "team" language such as "we need to determine what supports will help my child," instead of "I want an aide for my child."</p>
<p><b>A tape recorder is the table centerpiece.</b></p>	<p>The introduction of a tape recorder at a meeting can create tension and may send a negative message to other team members that you don't trust them. There are non-threatening reasons for taping a meeting such as for a spouse who cannot attend a meeting or for a parent who has learning difficulties. If you want to tape record a meeting, call the school and let them know. It is helpful if you tell them why you want to record the meeting.</p>
<p><b>Team members begin to compare your child in a negative way to other children in school.</b></p>	<p>If this happens, try to bring the focus back to your child. All decisions in special education are based on the unique needs of your child. If some team members believe that your child interferes with the learning of others, ask the team to discuss options for strategies and services to address the concern.</p>
<p><b>Team members are looking at their watches.</b></p>	<p>If team members are looking at their watches they are not focusing on the issues to resolve. It may be helpful to end the meeting and reschedule when everyone has enough time to commit to resolving your issues. Try to schedule the next meeting while everyone is still present. Remember that it is not always possible to resolve your issues at one meeting. If you know ahead of time that you have complicated issues to resolve, call the school and ask that the meeting be scheduled with sufficient time.</p>
<p><b>Someone refers to the union rules.</b></p>	<p>Frequently educators are members of unions. Sometimes an educator might think that you are asking her to perform a function or job that violates her union rules. This can occur when a teacher or aide is asked to perform a job that she doesn't usually perform such as toileting or simple healthcare procedures, such as checking blood glucose levels for children with diabetes. This can also occur if you are asking a school employee to work during a time that she doesn't usually work such as before or after school or during lunch or if you are asking an employee to get training that is held outside of school hours. This is best addressed by remembering that your child is entitled to services that are necessary for her to benefit from her education. If an educator refuses to provide a necessary service, you should request that your school find other options to provide the service.</p>



Problem	Solution
<p><b>The budget or money in general is mentioned.</b></p>	<p>A lack of money or financial hardship is never a reason why a school can deny your child a necessary educational service. However, there is nothing that prevents the team from looking for other sources of funding for services if that funding is available and the parent agrees to using it. Sometimes children need assistive technology (e.g. an augmentative communication device) that is expensive. While the school is responsible for making sure your child has a recommended assistive technology device, the team can look to other sources of funding for the device such as Medicaid and private insurance. Parents cannot be required to use private insurance or Medicaid to fund a device.</p>
<p><b>Someone is stuck in the past, talking about failures and disappointments.</b></p>	<p>This is one of the biggest mistakes parents and schools make that prevents the team from making progress in serving the child. Talking about past mistakes can be appropriate if the information is helpful in avoiding additional mistakes. However, the team should stay focused as much as possible on the present and what can be done to serve the child today.</p>
<p><b>Unannounced people show up (e.g. the school's attorney comes to the meeting).</b></p>	<p>While there is nothing that prevents this from happening, it can make people uncomfortable when someone unexpected shows up at the meeting. Both parents and schools should advise each other about who is coming to a meeting. If you plan to bring an advocate, expert, or attorney to a meeting, you should contact the school before the meeting to let them know.</p>
<p><b>The location of the meeting to discuss placement is the same as the school's desired placement for your child.</b></p>	<p>It is generally up to the school where a meeting will be held. Usually, meetings are held at the school where the child is currently attending. If there is conflict between you and the school regarding building placement for your child, ask for the meeting to be held in a neutral location.</p>



## **KNOW WHAT MAKES YOUR TEAM WORK CONSIDER STRENGTHS AND NEEDS**

Like your child, team members have unique personalities, skills, and levels of experience which will impact your ability to work together on behalf of your child. Understanding the abilities and skills individuals bring to the team process will enable you to work more effectively with each team member as well as the team as a whole. The strengths and needs of the team will influence the strategies you choose to use in the process.

If you are working with a team with members who are working well together toward an appropriate outcome for your child, negotiation will usually be an effective tool to reach agreement. When your team is not working well together, more formal negotiation techniques may be required to reach consensus.

### **Thinking Out of the Box and Taking Risks**

You may be asking the team to consider new ideas and approaches to teaching or learning. Many of us have difficulty with change or the unknown, and educational teams are no exception. If you encounter a team that is having difficulty thinking out of the box or trying a new idea, try to support the team members with models of success and support resources. You can access information and support resources from Parent Training and Information

#### **NEGOTIATION TIP**

Support your team with examples where your idea has been tried in practice and succeeded.



Centers (PTICs). The Internet can also be a good source of information. See the Resources section for a list of recommended resources.

It is helpful if you can provide an example of a successful program in another school setting, especially if that program is close enough for your team members to visit.

## Knowledge and Understanding

The IEP team is multi-disciplinary by its very nature, and members have varying levels of understanding and knowledge of a particular child, disability, or issue. In addition, some team members may know a lot about the IEP process and some may not. Some members may have specific information about your child, while others may have information about the process or the service requested. Sometimes the team needs to reach out for additional expertise because necessary information is not available from the existing team members.

There may be situations where a need is identified for your child which extends beyond the knowledge and understanding of the core team members (parent, teacher(s), school representative). When this happens, do not hesitate to request the participation of others who possess the knowledge necessary to move forward.

The need for additional expertise can arise in cases where children have exceptional behaviors or a disability that has not been encountered before by the staff working with the child, and in cases where the child requires assistive technology or devices that staff have not worked with before.

If you request the participation of another individual with a special expertise, it will be more successful if all team members agree with that person's participation in the process. Remember that a school will be much more likely to listen to that person's recommendations if the school respects that person's credentials. If the person has an understanding of the educational process and legal standards in addition to the expertise of her field, it will significantly enhance her credibility with all team members.

Remember that children often act differently in school than they do at home. Children often exhibit different behaviors or skills in the two environments. This can create problems in the team process when the school and you have very different opinions of what your child can do. For example, the school may report to you that your child is exhibiting behaviors in school that you never see at home. Or, you might report to the school that your child knows how to read, but your child has never exhibited that skill at school. The school's perception of your child's skill level influences the school's decisions about placement and services. Therefore, it is very important that all team members have an accurate understanding of your child's skills.

If you agree with the professional judgment of the school, you can simply rely on the reports of the school and its recommendations to determine what services should be provided to your child. If there is a lack of agreement between you and the school you should

### NEGOTIATION TIP

If you need an expert to support you, try to choose a person the IEP team knows and respects.

### NEGOTIATION TIP

If you disagree with the school's views of your child, ask for documentation or an independent evaluator.

request documentation of the behavior or skills that the school is reporting and that you do not see at home. You can also request an independent evaluator to observe the behavior or skill in question.

Likewise, an IEE would be helpful if you feel that the skill level of your child is different than what is seen in school. You should also provide work samples or some other form of documentation of the skill to the school to support your position. This documentation is important if the team hopes to succeed in developing a program that is appropriate for your child. It is also important in fostering an overall consensus of understanding of your child among team members.

## Experience

Experience can be a double-edged sword. Frequently, it is assumed that the more years of experience an individual has, the higher the quality of service provision. This is true in many cases; however, it is not always true. Many teachers and educators with years of experience are enthusiastic participants in the IEP process and in the classroom, while others have become less enthusiastic participants in the educational process. Parents, too, can become tired of and disillusioned by the IEP process.

There are team members with little direct experience who bring enthusiasm and fresh ideas to the process. Their recent training and exposure to new techniques may more than compensate for their lack of experience or longevity.

Credit should be given to team members for what they actually bring to the IEP process. The opinion of an individual with thirty years of experience need not always outweigh the ideas of someone new to the field. The best teams have a mix of experience levels and a respect for all contributions.

## Supports and Resources

All teams need resources and supports to effectively educate children. Both children and team members will need support. This is especially critical when the team is trying to implement something new. Traditionally, IEP teams focus on determining the services and supports necessary to serve the child. It is also necessary to support the team members who are serving the child, e.g. with teacher training and technology support. You should ask that the school provide necessary services and supports to your child and the team.

It can be difficult for you to suggest or request a specific support for an educator without risking offense to that educator. Some teachers or team members may feel that you are somehow suggesting that the educator lacks experience or the ability to effectively work with your child. The fear of being perceived as lacking skills and the openness of the environment in the school to allow staff to experiment with new ideas and make mistakes, impact the educator's ability to receive your request in the spirit in which it is given.

Be aware of this tension and be diplomatic and sensitive in how you request assistance for the team or a specific member. Initially, this type of request might be more appropriately made to the special education administrator outside of the IEP meeting. It is important to recognize that teachers and other educators want to be successful and feel good about what they do. An initial unwillingness to serve your child can be based in fear and lack of understanding and support. You must identify the basis of the resistance in order to determine the best method of support.



Sometimes, you and the school will not be able to agree on an issue that strikes at core values. One such example is where a parent believes that inclusion of the child in the regular education environment is the only appropriate placement for the child. The school and community believe that children with disabilities are best served in separate environments with specialized staff and services. Both sides truly believe that they are right. Issues are difficult to resolve when a core value is at stake. Parents need to thoroughly consider their strategies and options in such situations and the strength of support for their position. Often, it is difficult to change or influence a person's attitude about such issues.

## **KNOW WHEN MORE FORMAL ACTION IS NEEDED**

### **CONTEMPLATE YOUR OPTIONS**

If you are unable to resolve your concerns with the school in the IEP process, and you wish to pursue the issue further, there are additional avenues of conflict resolution available to you. There are three steps that are available to you under the special education law: case conference, administrative review and mediation. These methods of resolution are optional for both the parent and the school and do not have to be pursued before requesting an impartial due process hearing or filing a complaint.

It is not necessary to have an attorney or advocate for any of these methods. It might be better if the team can resolve issues without the participation of an attorney. However, in certain cases, attorneys generally get involved. These include cases where



a request for due process has already been made, where the dispute is complicated or requires the expenditure of significant funds, and when you are asking for a service that the school has not provided before.

If the school involves an attorney at any point in the process, you should have one as well, if possible. To effectively proceed through the dispute resolution process, your attorney should have a thorough understanding of special education law. The Ohio Department of Education and Disability Rights Ohio maintain lists of attorneys who have indicated a willingness to represent parents in special education matters.

## **Case Conference**

A case conference is usually an informal meeting where you and the school review the evaluation, IEP or placement and attempt to settle problems. A case conference can be requested verbally or in writing at any time, and a written summary of the results of the conference should be placed in your child's file.

## **Administrative Review**

You may also request an administrative review with the superintendent or his or her designee to discuss your concerns and how to resolve problems with your child's education. This review can consist of a meeting with the superintendent where you discuss your concerns and try to reach a resolution or a documented hearing with the superintendent where you state your case and wait for the written decision of the superintendent. How the review is conducted is generally determined by the school. In either case, the superintendent must respond to you in writing within twenty days of the review.

The Ohio Department of Education encourages resolution of the issues during the review. The administrative review can be helpful where the superintendent has not been a part of the previous team, and once made aware of the situation, chooses to resolve the dispute. It can also be helpful in situations where the school representative at the IEP meeting did not feel comfortable making a final decision on an issue.

## **Ohio Department of Education Mediation**

You may ask the Ohio Department of Education for a mediation of your concerns. Mediation can be requested before or after a request for an impartial due process hearing or filing a complaint. Mediation is voluntary. Both you and the school must agree to mediation in order to proceed. Sometimes mediation is more effective if it is requested in conjunction with an impartial due process hearing or filing a complaint. Schools may take a mediation more seriously when the resolution of a pending due process issue or complaint is at stake.

If the mediation involves an issue where the parties are far apart, the entire mediation may be conducted with the parties separated. In situations where the mediation involves an issue that is likely to get resolved, or where the parties are making fast progress towards resolution, it may be helpful to bring the parents and school together at some point during the process. You should discuss bringing the parties together with the mediator if you think it will be helpful in resolving the dispute.

If agreement is reached in the mediation, it must be written down in a mediation agreement that is signed by the school and parents. The terms of the agreement are determined by the school and parents. All parties in the mediation should receive a copy of the agreement. This agreement becomes a part of your child's educational record and is confidential.

Generally, if mediation is successful and there has been a request for an impartial due process hearing or a complaint filed with the Ohio Department of Education, the school or parent will request the withdrawal of the complaint or hearing request. Often, there is no longer a need for the hearing or complaint because the mediation agreement resolved all the issues. In such cases, it may be acceptable to withdraw the complaint or hearing request. In some cases, a mediation agreement might only resolve some of the issues. In such cases, it might not be appropriate to withdraw the complaint or request for hearing. In all cases, if you are represented by an attorney for the hearing, complaint or mediation, you should consult with your attorney before withdrawing any request for hearing or complaint.

It is important to maintain consistency in your negotiations during this process. It is not appropriate to increase your demands as the process moves forward. To avoid this problem, make sure that you have clearly defined what you want for your child at the beginning of the negotiation process. Remember that negotiation involves compromise and that you do not always get everything that you want using this process. Therefore, you may want to set priorities for things that you want for your child and determine the issues on which you are willing to compromise.

Keep an open mind during the mediation process and focus on the future. Focusing on the school's past mistakes will inhibit your ability to reach agreement at mediation. The school personnel at mediation may not be the individuals working with your child when past mistakes occurred. Too much discussion of the past also can annoy and anger school staff and can discourage a cooperative atmosphere. Being at mediation signals the participant's willingness to forget the past and move forward to serve the child appropriately. Mediation is a cooperative rather than a competitive approach to resolving disputes. As such, mediation encourages parents and schools to work together to solve the problems they share.

## FIVE STAGES OF MEDIATION

Stage	Mediation Activity
<b>Introduction</b>	Introduction of the participants and overview of the mediation process. This is done by the mediator.
<b>Presentation</b>	The parents and the school will tell their story and explain what they want for the child.
<b>Negotiation</b>	The parents and school may go to separate rooms. Usually the person who requested the mediation is first to suggest solutions to the dispute in the form of a proposal that is shared with the other party by the mediator. The mediator may travel back and forth between the parties until agreement is reached or the parties agree that they cannot resolve the dispute through mediation.
<b>Agreement</b>	In the event agreement is reached, the parties develop a written agreement that specifies what the parties determined would resolve the dispute.
<b>Closing</b>	The agreement is signed and copies are provided to the participants. A closing statement is generally made by the mediator thanking the parties for their participation and hard work on behalf of the child.



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