

QUICK GUIDE TO SPECIAL EDUCATION DISPUTE RESOLUTION PROCESSES IN TENNESSEE

	Administrative Complaint	Mediation	Due Process Complaint
What is this process?	A written complaint submitted to TDOE alleging that the LEA has not followed IDEA requirements and requesting that TDOE investigate the issues identified in the complaint.	A meeting that allows the student's parents* and the LEA to discuss their disagreements with a trained, neutral mediator who guides a discussion about identification and resolution of the issues.	A hearing before an administrative law judge in which the student's parents and the LEA present evidence through witnesses and the judge makes a written determination on the issues detailed in the due process complaint.
What issues can be addressed through this process?	An administrative complaint can address alleged violations of any federal or state special education laws or rules.	A mediation can address any disagreement between the student's parents and the LEA about special education and/or related services.	A due process complaint can address the identification, evaluation, or educational placement of a child with a disability, or the provision of a free appropriate education to the child.
Who can request this process?	Any person, including the student's parent or an advocate for the student, or organization may file an administrative complaint.	Either the student's parents or the LEA may suggest a mediation, but both the student's parents and the LEA must agree to attend mediation.	Either the student's parents or the LEA may file a due process complaint.
How long do I have to request this process?	An administrative complaint must be filed within one calendar year of the alleged violation of federal or state special education laws or rules.	A mediation request may be filed at any time, but mediation is generally only useful for issues in the current school year.	A due process complaint must be filed within two calendar years of the date that the complainant knew or should have known of the alleged violation.
What is the outcome of this process?	TDOE will issue a written decision with findings, conclusions, and reasons for the final decision. If there is a violation, TDOE will require the LEA to correct the violation to address the needs of the student within 10 calendar days and may require the LEA to enter a corrective action plan moving forward.	The student's parents and the LEA will determine whether to enter a signed, legally enforceable written agreement resolving their issues.	The administrative law judge will issue a written decision with findings of fact and conclusions of law, which may order the LEA to carry out specific activities if the judge determines the LEA committed a violation. At any point prior to the judge issuing a written decision, the parties may agree to formally settle their dispute through a signed, legally enforceable written agreement.
What is the approximate timeline for making the final decision in this process?	TDOE must investigate and resolve the administrative complaint within 60 calendar days of receiving the complaint, unless there are exceptional circumstances.	Mediations must be scheduled "in a timely manner," but the timeline depends on the complexity of the issues and the availability of the student's parents, the LEA's representatives, and the mediator. Mediations are generally scheduled within 30-60 days of TDOE receiving the mediation request.	Due process hearings can be completed as quickly as 60 calendar days of the complaint being filed, but often take longer for complex issues. The parties must participate in a resolution session within 15 calendar days of the due process complaint being filed, unless the parties waive the resolution session or agree to attend mediation in lieu of the resolution session.

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			The final written decision must be issued within 45 calendar days of the resolution session taking place, unless one of the parties files a written motion to extend the timeline. It is not uncommon for the parties to file a written motion to extend the timeline to engage in written discovery, to take depositions, to hire expert witnesses, or to file pre-trial motions.
Who makes the final decision in this process?	TDOE Office of General Counsel	The student's parents and the LEA	The administrative law judge
What are the possible benefits of this process?	<p>The student's parents or other concerned individual can easily file an administrative complaint and receive a written determination without other significant involvement in the process.</p> <p>An administrative complaint can be filed by an advocate or advocacy group on behalf of a student.</p>	<p>The student's parents and the LEA can engage in a collaborative discussion, guided by the mediator, in which they can clearly communicate their issues, their differing points of view, and their desired results.</p> <p>The student's parents and the LEA are in control of the process and the outcome. The parties can craft solutions together that are acceptable to both the student's parents and the LEA.</p>	Filing a due process complaint invokes a "stay-put"—from the date that the complaint is filed until the date that there is a final decision, the student must remain in his or her current educational placement, unless the student's parent and the LEA agree otherwise.
What are the possible drawbacks of this process?	<p>Unlike mediation, the student's parents and the LEA are not in control of the outcome.</p> <p>Unlike a due process complaint, an administrative complaint does not invoke "stay-put".</p>	Unlike an administrative complaint or a due process complaint, mediation does not necessarily resolve the issues if the student's parents and the LEA cannot reach an agreement. It may be necessary to file an administrative complaint or a due process complaint to resolve the issues fully and finally.	Due process hearings can be adversarial, time-consuming, and potentially expensive.
Are there costs associated with this process?	No. There is no cost associated with the filing, investigating, or resolving of an administrative complaint.	Possibly. There is no cost associated with requesting or participating in a mediation, but the parties are responsible for paying their own attorney's fees if they choose to be represented by an attorney during mediation. The student's parents may represent the student at mediation without an attorney.	Possibly. There is no cost associated with filing a due process request or scheduling a due process hearing, but the parties are responsible for paying their own costs, which could include attorney's fees, witness fees, and court reporter's fees. The student's parents may represent the student at a due process hearing without an attorney.

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<p>What if I have already initiated another dispute resolution process about the same issue?</p>	<p>If an administrative complaint is filed after a mediation is requested, the administrative complaint will be temporarily set aside until the mediation is held. If the mediation resolves the issue, the administrative complaint will not be investigated. If the mediation does not resolve the issue, the administrative complaint will be investigated.</p> <p>If an administrative complaint is filed after a due process complaint is filed, the administrative complaint will be permanently set aside, and the issue will be resolved through the due process proceeding.</p>	<p>If a mediation is requested after an administrative complaint is filed, the administrative complaint will be temporarily set aside until the mediation is held. If the mediation resolves the issue, the administrative complaint will not be investigated. If the mediation does not resolve the issue, the administrative complaint will be investigated.</p> <p>If mediation is requested after a due process complaint is filed, the due process complaint will be temporarily stayed until the mediation is held. If the mediation resolves the issue, the due process proceeding will be closed. If the mediation does not resolve the issue, the due process proceeding will continue.</p>	<p>If an administrative complaint is filed after a mediation is requested, the administrative complaint will be set aside until the mediation is held. If the mediation resolves the issue, the administrative complaint will not be investigated. If the mediation does not resolve the issue, the administrative complaint will be investigated.</p> <p>If an administrative complaint is filed after a due process complaint is filed, the administrative complaint will be set aside, and the due process hearing will resolve the issue.</p>
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* When a student turns 18-years-old, the right to make educational decisions, including filing a due process complaint or mediation request, transfers from the student's parents to the student, unless a conservatorship or power of attorney states otherwise.

Legal References:

- Individuals with Disabilities Education Act, 20 U.S.C. §§ 1401 *et seq.*
 - Implementing regulations, 34 C.F.R. §§ 300.1 *et seq.*
- Tennessee special education statutes, Tenn. Code Ann. §§ 49-10-101 *et seq.*
 - Implementing rules, State Board of Education Rule 0520-01-09