

SUGAR VALLEY RURAL CHARTER SCHOOL

POLICY NUMBER: 113.4
SECTION: PUPILS
TITLE: **DISPUTE RESOLUTION**
DATE ADOPTED: JANUARY 2009
DATE LAST REVISED:

DISPUTE RESOLUTION

PURPOSE

The Department of education supports resolving disputes in a collaborative manner that is respectful of differences and in the best interests of preserving an open and effective relationship between families, students, staff, and administrators.

DEFINITIONS

Collaborative dispute resolution means that the process must be open, fair and timely. It must include procedural fairness which is the right to be heard and the right to an unbiased decision. All relevant information must be shared with all parties and anyone involved in the appeal. Each step must also be completed in a timely manner so that parties have time to prepare, but the process must not be delayed unnecessarily.

An **Individualized Education Plan** is a document which outlines the educational program for a student as determined by a school based team, containing a description of the student's present level of functioning; long term or annual goals; short term goals or specific behavioral objectives; special resources required; suggested instructional materials, methods and strategies; IEP review dates; persons responsible for the implementation of the IEP, including parents; and parents' written, informed consent for implementation.

Mediation is a negotiation to resolve differences that is conducted by some impartial party or the act of intervening for the purpose of bringing about a settlement.

A **IEP team** is an on-going team of school based personnel which has a formal role to play as a problem-solving unit in assisting classroom teachers to develop and implement instructional and/or management strategies and to coordinate support resources for students with special needs within the school

PROCEDURES

1. It is expected that SVRCS school administrators will make every reasonable effort to practice collaborative dispute resolution at the school level. At the same time, the PA

- Department of Education recognizes that there will be times when one or both of the parties express a need to bring another party to assist in the resolution.
2. When parents do not agree with a decision related to a child's educational programming, the first step is for the parents/ legal guardian and the teacher to meet in attempt to resolve the concern together.
 3. In the event that the issue is not resolved between the parents and the teacher, the next step is for the parents / legal guardian to talk to the school administrator.
 4. The administrator shall convene the IEP team to assist in resolving the matter.
 5. If resolution is unable to be met, mediation will occur. If there remains to be no resolution, a due process hearing request can be made.

GUIDELINES

1. Mediation

Mediation is a voluntary process in which the parent and Charter School involved in a dispute regarding special education both agree to obtain the assistance of an impartial mediator to resolve the conflict. Mediation is available for parties to special education disputes involving any special education matter, including matters arising prior to the filing of a Due Process Hearing Request. Mediation can be requested alone, or in conjunction with due process. Mediation cannot be used to deny or delay the parent's right to a due process hearing or to deny any other rights of the parent.

The Pennsylvania Department of Education's Bureau of Special Education, through the Office for Dispute Resolution, maintains a list of individuals who are qualified mediators and knowledgeable in laws and regulations regarding the provision of special education and related services. Mediators are not employed by any local or state agency providing direct services to the child, and the mediator must not have a personal conflict of interest. The mediator's services are paid for by the Pennsylvania Department of Education.

Mediations are scheduled in a timely manner and are held in a location that is convenient for the parties to the dispute. Discussions that occur during the mediation process are confidential and may not be used as evidence in any subsequent due process hearing or court proceeding. The mediator may not be called as a witness in future proceedings.

In the event the parties resolve the dispute through mediation, they are required to execute a legally-binding agreement that sets forth the resolution terms; states that all discussions that occurred during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceedings; and is signed by both the parent and a representative of the Charter School who has the authority to bind the school. This agreement is enforceable by a court.

2. Due Process Hearings

The parent or Charter School may request a due process hearing with respect to any matter relating to the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education (FAPE) by filing a "Due Process Hearing Request". A due process hearing will not proceed until all required information is provided and procedures followed.

Timeline for requesting Due Process.

The parent or Charter School must request a due process hearing through the filing of a Due Process Hearing Request within two (2) years of the date the parent or the Charter School knew or should have known about the alleged action that forms the basis of the Due Process Hearing Request.

There are limited exceptions to this timeline. This timeline will not apply to the parent if the parent was prevented from requesting the due process hearing due to the specific misrepresentations by the Charter School that it had resolved the problem forming the basis of the Due Process Hearing Request; or if the Charter School withheld information from the parent which was required to be provided to the parent.

Service of Due Process Hearing Request.

A copy of the Due Process Hearing Request must be sent to the other party and, at the same time, to the Office for Dispute Resolution.

Contents of Due Process Hearing Request.

The Due Process Hearing Request must contain the following information:

1. The name of the child; the address where the child lives, and the name of the school the child is attending;
2. If the child or youth is homeless, available contact information for the child and the name of the school the child is attending;
3. A description of the nature of the problem, including facts relating to such problem; and
4. A proposed resolution of the problem to the extent known and available to the party filing the Request.

Challenging Sufficiency of the Due Process Hearing Request.

The Due Process Hearing Request will be considered to be sufficient unless the party receiving it notifies the Hearing Officer and the other party in writing within fifteen (15) days of receipt that the receiving party believes the Request does not meet the requirements listed above.

Response to Request.

If the Charter School has not sent a prior written notice (NOREP) to the parent regarding the subject matter contained in the parent's Due Process Hearing Request, the Charter School must send to the parent, within ten (10) days of receiving the Due Process Hearing Request, a response including the following information:

1. An explanation of why the Charter School proposed or refused to take the action raised in the parent's Due Process Hearing Request;
2. A description of other options the Individualized Education Program (IEP) Team considered and the reasons why those options were rejected;
3. A description of each evaluation procedure, assessment, record, or report the Charter School used as the basis for the proposed or refused action; and

4. A description of the factors that are relevant to the Charter School's proposal or refusal

Filing this response to the parent's Due Process Hearing Request does not prevent the Charter School from challenging the sufficiency of the Due Process Hearing Request. If the Charter School has already sent prior notice (NOREP) to the parent, or it is the parent receiving the Due Process Hearing Request, then a response to the Due Process Hearing Request must be sent to the other side within ten (10) days of receipt of the request. The response should specifically address the issues raised in the Due Process Hearing Request.

Hearing Officer Determination of Sufficiency of Due Process Hearing Request.

Within five (5) days of receiving a party's challenge to the sufficiency of the Due Process Hearing Request, the Hearing Officer must make a determination based solely on the information contained within the Request, whether the Request meets requirements. The Hearing Officer must immediately notify both parties in writing of his or her determination.

Amended Due Process Hearing Request.

Either the parent or a Charter School may amend its Due Process Hearing Request only if:

1. The other party consents in writing to the amendment and is given the opportunity to resolve the issues raised in the Due Process Hearing Request through a preliminary meeting/resolution session; or
2. The Hearing Officer grants permission for the party to amend the Due Process