

What are my options when I disagree with the IEP Team?

Pathways for Resolving Special Education Disputes



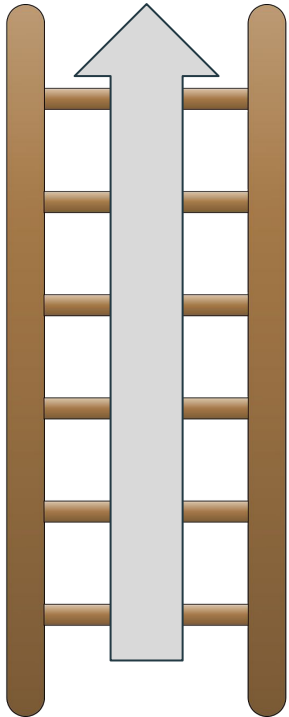
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About Kim Glassman

Kim Glassman has represented parents, legal guardians, appointed education decision makers, and adult students in all phases of special education matters since 2005, including at IEP meetings, student discipline, special education mediations, due process hearings, and federal appeals.

She is a member of the Special Education Attorney, Guardian Ad Litem, and Counsel for Child Abuse and Neglect Panels for the District of Columbia Superior Court. Kim has participated in hundreds of IEP meetings, special education mediations and due process hearings, and has appeared in federal district court in the District of Columbia. Kim serves as a local PTA President in Montgomery County Public Schools.

What steps can I take if I have a concern about special education?



- Formal Dispute Resolution - Mediation, Due Process, State Complaints
- Resolution & Compliance [Unit](#)
 - [Administrative Review](#)
- MCPS Area Special Education [Supervisor](#)
- School Level Administrator (Principal/AP)
- Resource Teacher for Special Education (RTSE, Middle/High School only)
- Case Manager and/or call an IEP meeting

What can I do when there is a disagreement about special education?

- Start with an email to your child's teacher and/or case manager. If you start with an in person or telephone conversation, follow up with a written summary
- If you do not receive a response in a few days, follow up on the status and copy the next level in the chain of command
- If the concern has not yet been discussed in a formal meeting, you can request an IEP meeting at any time
- If you are in disagreement after an IEP meeting, you can contact a special education supervisor or RACU for further assistance, request an administrative review, or utilize formal dispute resolution options

Resolving IEP Disputes

- Informal Dispute Resolution
 - Elevating concern from school level IEP team to special education supervisor, administrative review, and/or Resolution and Compliance Unit
- Formal Dispute Resolution
 - State Complaint
 - Mediation
 - Due Process Complaint

What happens if I disagree with the outcome of an IEP meeting?

- Any disagreement should be documented in the Prior Written Notice (“PWN”)
- The school must send a PWN after the meeting to document actions proposed or refused; an explanation of why the action was proposed or refused; a description of options considered and rejected; a description of each assessment procedure, test, record or other report the public agency relied on; and other factors relevant to the decision
- A parent who disagrees with a decision made by the IEP team can request an administrative review, contact a supervisor, request mediation, file a State complaint, or file a due process complaint
- A due process complaint initiates a legal process similar to a trial

Tips for Parents

- State any point of disagreement and ask that it be documented
- It is ok to end a meeting if it is no longer productive and to agree to disagree

Informal Dispute Resolution

- Special Education Supervisors and Instructional Specialists are assigned by cluster
- Contact information is listed on the MCPS [website](#)
- Current assignments by cluster (on MCPS website as of 11/2/2023)
 - Dr. Cynthia Webb - Einstein, Northwood, Montgomery Blair, Bethesda-Chevy Chase
 - Ms. Lora Johnson - Springbrook, NEC, Poolesville, Gaithersburg, Northwest, Longview School
 - Ms. Sarah Kio - Wheaton, Wootton, Churchill, Richard Montgomery, Montgomery Virtual Academy
 - Ms. Charlene Parilla - Clarksburg, Sherwood, Watkins Mill, Damascus, RICA
 - Ms. Davonna Holmes - Seneca Valley, Rockville, Blake, Paint Branch, Walt Whitman, Rock Terrace, Stephen Knolls
 - Ms. Kelly Jiron - Kennedy, Magruder, Quince Orchard, Walter Johnson
 - Ms. Kris Secan - Carl Sandburg
- Parents can contact a supervisor directly if there are concerns that cannot be resolved at the school level, ask that they attend an IEP meeting

RACU & Administrative Review

- The purpose of an administrative review is establish an alternative to mediation and due process to resolve IDEA disputes and can be requested whenever a parent/guardian/eligible student is dissatisfied with a decision regarding the identification, evaluation, educational placement or provision of FAPE
- A parent, guardian, or eligible student can request an administrative review by filing out [MCPS Form 336-43A](#)
- Administrative Reviews are overseen by RACU and is intended to be a less formal process than mediation or due process. A committee of no less than two MCPS staff members from Equity Assurance and Compliance and/or the Department of Special Education, who had no direct involvement in the decision, obtain relevant records, consider information provided by the parent, and reach a decision within 20 days of filing. The process is fully outlined [Board of Education Policy BLC](#)
- If you disagree with the outcome of an Administrative Review, you can still file a due process complaint or state complaint or seek mediation
- Requesting mediation or filing a due process complaint will end the administrative review process

State Complaints

- Any individual or organization can file a state complaint
- A State complaint can address any violation of state or federal education law that occurred within one year of the filing of the complaint
- After a state complaint is filed, the Maryland State Department of Education investigates and determines whether a legal violation occurred
- MSDE has 60 days to issue a Letter of Finding with its conclusions and will state any corrective action that the school system has to take
- State Complaint findings cannot be directly appealed, but a due process complaint can be filed

Mediation

- A parent or the school may request mediation for any allegation related to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the student
- A mediation request can be a stand alone request or requested with the filing of a due process complaint
- Both parties must agree to mediate
- Mediation is an opportunity to resolve a dispute without the necessity of litigation
- An Administrative Law Judge from the Office of Administrative Hearings presides over the mediation
- Agreements reached at mediation are binding and can be enforced in state court

Due Process Complaint

- Like mediation, a parent or the school may request mediation for any allegation related to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the student
- A due process complaint must be filed within two years of the alleged legal violation
- A due process complaint is an administrative lawsuit filed against the school system. It is assigned to an Administrative Law Judge and the legal proceeding is similar to a bench trial
- Before a due process hearing, parties will engage in either a resolution session or mediation in an effort to resolve the complaint
- A resolution session is a meeting between MCPS and the parents to try to resolve the complaint. A mediation can take the place of a resolution session if both parties agree. Agreements reached are enforceable in state courts

Due Process Complaint

- An Administrative Law Judge from the Office of Administrative Hearings presides over a due process hearing
- Hearings can be lengthy. The parents and school district each present their case to the ALJ through documentary evidence and witnesses
- Each party can enter and object to evidence, subpoena witnesses, call their own witnesses and cross-examine the witnesses from the other party
- The proceedings are similar to a trial, require following rules of evidence, presenting documents and examining witnesses
- The decision of the due process hearing can be appealed to federal court

Special Education Attorney vs. Advocate/Consultant

What Kind of Professional Do I Need?

- Generally, an advocate has a background in special education, was a special educator or administrator (or both) and can provide an expert analysis of the IEP, evaluations, student observation, and other data
- An attorney can act as an advocate at an IEP meeting, but does not necessarily have the same technical background as an advocate/consultant
- An attorney can frame the IEP in terms of the legal requirements of the IDEA, file and litigate a due process complaint, draft and file state complaints or OCR complaints or take the IEP team to the next level if you hit a wall
- Both an attorney and an advocate can take the emotional load off of you as the parent
- There are cases where you may do best with both an advocate/consultant and an attorney, particularly if you are seeking a change in placement or may need an expert witness

Role of an Attorney in the IEP Process

- Bringing an attorney to an the IEP process does not mean that you are creating an adversarial relationship
- Legal representation can be a tool to prevent disputes in the IEP process, remove a source of stress from parents, or to help keep the process moving forward in a positive manner
- Involving an attorney means that the school system will also bring an attorney, which can allow for collaboration between counsel and for problem solving to occur behind the scenes
- An attorney can attend IEP meetings and advocate at the IEP table, file a State complaint, request mediation, communicate with school district counsel, file and litigate at a due process hearing
- A non-attorney advocate can also attend IEP meetings and advocate at the IEP table and communicate with school district staff, but cannot litigate a due process hearing and may or may not qualify as an expert witness.



Questions?

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