

Resolving Issues with IEP Implementation

A strong Individualized Education Program provides a student who has a disability with the supports and accommodations he or she needs to access an education. But there can be a problem with IEP implementation if the strategies and accommodations in the IEP are not used by school staff.

Compensatory Education

One way to remedy a school's failure to implement the IEP is to provide compensatory education for the student. Compensatory education compensates, or makes up for, the services the student missed because the IEP was not implemented.

Compensatory services usually are not decided by the IEP team. Rather, a parent can make a request for compensatory education to the Exceptional Children's Director of the school system. The parent and the EC Director should work together to reach an agreement about the type and amount of services the student will receive.

Often, the services are provided outside of the regular school day, such as after school or during summer vacation or other school breaks. The services should be provided by a certified teacher with the same qualifications as required by the provider specified in the IEP.

The number of hours of compensatory services may be fewer than the total number of hours of instruction missed if the compensatory services are provided at a lower student-to-teacher ratio. For example, if a student's IEP required special education instruction from the inclusion math teacher in the regular education classroom for 30 minutes 5 days per week, with the teacher assisting all students in the classroom who have IEPs during that time. If the inclusion teacher was out for 16 school days, and there was no replacement teacher, the student would be entitled to compensatory math instruction. If the student receives the services after school one-on-one, the total teaching time likely would be less than 8 hours—the total time missed.

Informal Methods for Resolving Issues

The best first step for resolving an IEP implementation issue usually is **direct communication** with the person responsible for providing the special education service,

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accommodation, or modification that is not occurring as described in the IEP.

Perhaps the student's IEP says that big class projects will be chunked into smaller, more manageable parts with several deadlines along the way, and that is not happening in Social Studies class. An email to the Social Studies teacher to remind her that the student's IEP requires this accommodation may resolve the issue. If it does not, then involving the special education staff who attended the student's IEP meeting, the principal, and/or the school district's Exceptional Children's Director are appropriate next steps. Emails are preferable to phone calls or notes because they create a clear record of attempts to resolve the issue and information exchanged between parents and school staff.

Another option is to have a **trained facilitator** oversee an IEP meeting called specifically to address the implementation issue. The NC Department of Public Instruction provides facilitators at no cost to the parent or school. Some school districts also provide facilitators.

The facilitator is a neutral manager of the IEP meeting who creates a mutually agreeable agenda for the meeting, ensures that all team members have the opportunity to be heard during the meeting, and focuses the meeting on constructive conversation, collaboration, and problem-solving. The structure and guidance the facilitator brings to the meeting often help team members resolve the issues in dispute.

If a facilitated IEP meeting is not successful, **mediation** also is an option. Mediators are provided at no cost to the parent and school, and they must be qualified and impartial. Mediators usually engage more in the negotiation process than facilitators do and sometimes offer suggestions for resolving the dispute. A successful mediation usually ends with an agreement signed by the participants stating how the dispute has been settled.

Formal Methods for Resolving Issues

Formal options for resolving IEP disputes include filing a **formal written complaint**, also called a "state complaint," and filing a **petition for a contested case hearing**, also called a "due process complaint."

Information on facilitation, mediation, and formal complaints can be found at <http://ec.ncpublicschools.gov/parent-resources/dispute-resolution>.

Disability Rights North Carolina is a 501(c)(3) nonprofit organization headquartered in Raleigh. It is a federally mandated protection and advocacy system with funding from the U.S. Department of Health and Human Services, the U.S. Department of Education, and the Social Security Administration.

Contact us for assistance or to request this information in an alternate format.

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