

## QUICK GUIDE TO SPECIAL EDUCATION DISPUTE RESOLUTION PROCESSES IN TENNESSEE

	Administrative Complaint	Mediation	Due Process Complaint
<b>What is this process?</b>	A written complaint submitted to Tennessee Department of Education (TDOE) alleging that the local education agency (LEA) has not followed the Individuals with Disabilities Education Act (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.
<b>What issues can be addressed through this process?</b>	An administrative complaint can address alleged violations of any federal or state special education laws or rules.	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.
<b>Who can request this process?</b>	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 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.
<b>How long do I have to request this process?</b>	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.
<b>What is the outcome of this process?</b>	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.
<b>What is the approximate timeline for making the final decision in this process?</b>	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 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 final written decision must be issued within 45 calendar days of the resolution period ending, unless the administrative law judge grants an extension. It is not uncommon for the administrative law judge to

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			grant a party's request to extend the timeline to allow the parties to engage in written discovery, to take depositions, to hire expert witnesses, or to file pre-trial motions.
<b>Who makes the final decision in this process?</b>	The TDOE Office of General Counsel.	The student's parents and the LEA.	The administrative law judge.
<b>What are the possible benefits of this process?</b>	<p>The student's parents or other concerned individual can 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.
<b>What are the possible drawbacks of this process?</b>	<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.
<b>Are there costs associated with this process?</b>	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 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.
<b>What if I have already initiated another dispute resolution</b>	If an administrative complaint is filed after mediation is requested, the administrative complaint can be temporarily set aside by written agreement of the parties until the mediation is held. If the parties enter	If mediation is requested after an administrative complaint is filed, the administrative complaint can be temporarily set aside by written agreement of the parties until the mediation is held. If the parties enter	If a due process complaint is filed after an administrative complaint is filed, the overlapping issues in the administrative complaint will be set aside until the issue has an opportunity to be resolved through the

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<p><b>process about the same issue?</b></p>	<p>into a settlement agreement at mediation, the settlement agreement may include a provision requiring the complainant to dismiss the administrative complaint. If it does not, the administrative complaint will be investigated. The timeline for the administrative complaint will operate in accordance with the written agreement of the parties.</p> <p>If an administrative complaint is filed after a due process complaint is filed, the overlapping issues in the administrative complaint will be set aside until the issues have an opportunity to be resolved through the due process proceeding. If the issues are resolved by the due process proceeding, the administrative complaint will not be investigated. If the issues are not resolved by the due process proceeding (e.g., the due process complaint is withdrawn), the administrative complaint will be investigated, and the 60-day timeline will begin when the due process proceeding is officially closed by the Administrative Procedures Division.</p>	<p>into a settlement agreement at mediation, the settlement agreement may include a provision requiring the complainant to dismiss the administrative complaint. If it does not, the administrative complaint will be investigated. The timeline for the administrative complaint will operate in accordance with the written agreement of the parties.</p> <p>If mediation is requested after a due process complaint is filed, the due process proceeding will generally 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>due process proceeding. If the issue is resolved by the due process proceedings, the administrative complaint will not be investigated. If the issues are not resolved by the due process proceeding (e.g., the due process complaint is withdrawn), the administrative complaint will be investigated, and the 60-day timeline will begin when the due process proceeding is officially closed by the Administrative Procedures Division.</p> <p>If a due process complaint is filed after mediation is requested, the due process proceeding will generally 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>

**Note:** Please note that all special education related rights, including the right to file due process or request mediation, vest in the student when the student turns 18 years old, unless the student's parent or guardian has a valid power of attorney or conservatorship in place. See State Board of Education Rule 0520-01-09-.21.

**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