



Guidance on special education conflicts

The most common conflicts related to special education include:

- (1) a child is determined not eligible at an IEP eligibility meeting
- (2) there is disagreement over the proposed services and educational placement
- (3) services written into the IEP are not being provided to the child

Below are some guidelines that you as the education decision maker (EDM) can take to address the concerns above.

Conflict 1: My child is determined not eligible at an IEP eligibility meeting

At this point, you have requested testing, your child has completed testing, and a decision has been made that you may disagree with. You may be feeling discouraged, but know that our education navigator and her team are ready and here to support you. Read on to learn more about what steps you can take.

First, a Notice of School District Refusal to Act (Form N2) needs to be completed by the school and submitted to you. You can also request the school for the decision to be documented in a prior written notice (PWN) if it has not done so already. This notice will be sent to you accompanied with the Notice of Procedural Safeguards which outlines your rights as the EDM.

As you consider your next steps, you can request a response to intervention (RTI) or a 504 plan, both of which ensures that your child is receiving some type of support. A RTI is a plan developed by teachers that implements interventions to help a child with a specific learning difficulty (e.g. extra math practice, peer group to work on phonics). These interventions help supplement a child's learning. Candidates for RTI are students who do not qualify for an IEP or 504 plan. The efficacy of the interventions will be monitored closely and evaluated, and if the child does not show progress, more intense interventions will be offered.

Section 504 broadly defines disability and therefore a child who does not qualify for an IEP may qualify for a 504 plan. The goal of this law is to provide an accommodation in the classroom that helps level the playing field for a child with a physical or learning disability that affects their ability to participate in the general curriculum. Examples of accommodations include extended time for tests and small breaks throughout the school day. These accommodations can be trauma informed and implemented quickly.

You may also consider going through mediation or due process. Mediation involves using a neutral mediator who is an expert on special education that will help reconcile disputes between you and the school. Note that mediation is a voluntary process, so both parties must be willing to meet. There is no cost associated with mediation. To set up mediation you can contact the Bureau of Special Education Appeals (BSEA) of



Massachusetts at 781-397-4750. If no agreement can be reached, a due process hearing may be considered. The hearing officer who is trained on special education will listen to both parties, evaluate the evidence, and make a decision.

You may seek out an Independent Education Evaluation (IEE), which is completed by an outside and qualified examiner. Upon your request, the school must provide you with information about where your child can receive an IEE. Depending on whether you meet income eligibility requirements, you (private expense) or the school (public expense) will need to pay for the IEE. Results of the IEE must be considered within 10 work days by the school district, and a team meeting must be held to determine if changes need to be made. An IEE can strengthen your case if you need to go through mediation or due process.

Other options may include seeking out private tutoring, moving to a different school district, or enrolling your child in a private or charter school.

Conflict 2: There is disagreement over the proposed services and placement in the IEP

What to do when you disagree with parts of a proposed IEP?

The EDM has 30 days to review and to make a decision about the proposed IEP. The EDM can accept, reject, or partially reject the IEP.

If you disagree with some sections of the IEP, you should check the box indicating you would like changes to portions of the proposed IEP. Next, list each section you would like changed. Once the school receives the signed IEP from you, all supports and services in the IEP will start **EXCEPT** the portions with which you disagreed. Often these differences can be remedied by requesting a meeting to discuss your concerns. If you would like to schedule a meeting with your school, it is important to check the box indicating your request for a meeting, and to follow up this request by **writing a letter**. Your letter to the school should explain why you disagree and outline your concerns.

*** If it's not documented, you can't act on it.

What should I do if I disagree with the proposed IEP in total?

If you disagree with the IEP in total, you should check the box on the proposed IEP indicating you reject the IEP as developed. If you would like to schedule a meeting with your school, it is important to check the box indicating your request for a meeting, and to follow up this request by writing a letter explaining why you disagree with the proposed IEP.

Important reminder: If this is your child's first IEP and you choose to reject the IEP in full, **no** supports or services will be provided until the problem is resolved. In this



instance, it is best to accept some portion of the IEP so special education services can begin while your concerns are being resolved.

What happens after I reject parts or the IEP in total and return the IEP to the school?
Many times it can be to your advantage to work out disputes with the school collaboratively during a team meeting. By creating this positive relationship, you and your school approach the dispute as a team that is committed to creating the best learning space for your child possible.

However, if no compromises can be reached at this or subsequent team meetings, the school or you can then forward the rejected IEP to the Bureau of Special Education Appeals (BSEA) of Massachusetts to start the due process.

Conflict 3: Services written into the IEP are not being provided to the child

Directly contact your child's special education office, and request a team meeting to discuss your concerns. If you find that after the team meeting, services are still not being provided contact the Massachusetts Problem Resolution System Office at 781-338-3700.

The Problem Resolution System Office (PRS) has a liaison for each town who will accept and investigate written concerns within 60 days. When you call, the liaison will send you a form in the mail. From the time you receive the form, you have 30 calendar days to submit it. If the written concern is not submitted within 30 calendar days PRS will assume the problem has been resolved and they will NOT continue the investigation.

Information was gathered from the resources below. If you want to learn more, check out the following:

MA Department of Elementary and Secondary Education: Parent's Notice of Procedural Safeguards; Section 1: What is "prior written notice" and when do you receive it?; Section 4: What is an "independent education evaluation"? Section 6: How can parents and schools resolve disputes?

- <http://www.doe.mass.edu/sped/prb/>