



ALTERNATIVE DISPUTE RESOLUTION (ADR) AND RESOLUTION SESSIONS

Alternative Dispute Resolution Defined

The term Alternative Dispute Resolution (ADR) describes a range of processes with the singular purpose of supporting parties to resolve disputes before or separate from a more formal arbitration process. According to The Center for Appropriate Dispute Resolution in Special Education (CADRE), these processes differ in formality and may range from informal discussion to facilitated negotiation, with the common expectation that all parties understand and agree to a singular process. Also common to all ADR processes is the concept of creating a settlement event or shared experience that increases the likelihood of resolution. Within the educational setting, one strategy for creating a settlement event or shared experience is referred to as the resolution session, also referred to as a resolution meeting.

The graphic below was adapted from the CADRE Continuum and provides a visual representation of the placement of the resolution session within the dispute and alternative dispute resolution processes:

Adapted from the CADRE Continuum www.cadreworks.org	Continuum of Dispute Resolution Processes and Practices															
	Continuum of Alternative Dispute Resolution Processes															
Stages of Conflict	Stage I			Stage II			Stage III			Stage IV			Stage V			
Levels of Intervention	Prevention			Disagreement			Conflict			Procedural Safeguards			Legal Review			
Assistance/ Intervention Options	Family Engagement	Parent and Staff Training	Staff Collaboration	Consultation with SELPA Program Specialist	Parent/Staff Phone Call	Reconvene an IEP Meeting	SELPA Facilitated IEP	Third Party Consultation	Proactive Resolution Session	Resolution Session	Mediation	State Complaint Procedures	Due Process Hearing	Hearing Appeal	Litigation	Legislation
Dimensions that help clarify placement of options along the continuum	Third Party Assistance ←						→ Third Party Intervention									
	Decision Making by Parties ←						→ Decision Making by Third Party									
	Interest-Based ←						→ Rights-Based									
	Informal and Flexible ←						→ Formal and Fixed									

Resolution Session Defined

As referenced in the previous section, a resolution session is one ADR option afforded to parents/guardians and schools in order to resolve IEP-related disputes. According to the US Department of Education Office of Special Education and Rehabilitative Services (OSERS), the purpose of the resolution session is to allow the parent/guardian to discuss the facts of their complaint and provide the LEA/district with an opportunity to resolve the dispute locally (without third-party decision making). This allows parties to achieve a prompt and early resolution and potentially eliminate the need for a more formal mediation or due process hearing². The resolution session is separate from the IEP process and while some mutually agreeable solutions may impact the IEP, there is also opportunity to present unique and creative solutions to areas of disagreement. A resolution session may also support to rebuild relationship and trust between parties.

Resolution Session: Types

Resolution sessions are offered in the following three scenarios, each of which are explained below in more detail:

1. In response to a **due process filing** with the Office of Administrative Hearings (OAH) by a parent/guardian.

2. In response to a **state complaint filing** with the California Department of Education (CDE).

3. To **proactively resolve a conflict** which cannot be resolved through the IEP process.

1. In Response to a Due Process Filing

It is required that an LEA/district offer a resolution session in response to a due process filing by a parent/guardian; however it is not required if the LEA/district files for due process. The LEA/district must formally offer the resolution session through written letter and arrange for the session to be held within 15 days of receiving the due process complaint.

It is recommended that resolution sessions be scheduled in a timely manner and held at a time and location reasonably convenient to both parties. If parent/guardian cannot attend the proposed resolution session dates, the LEA/district should continue to work with the parent(s)/guardian(s) to determine a mutually agreeable date within the required 15-day timeline. If a mutually agreeable date cannot be found within the 15-day timeline, both parties may agree in writing to extend the timeline to allow the resolution session to be held and resolved within 30 days of receiving the due process complaint.

It should be noted that a resolution session is a voluntary method of resolving a dispute and may not be used to delay the rights of families to a due process hearing. Therefore, if the LEA has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur [34 CFR §300.510(b)(1)].

Under 34 CFR §300.510(a)(3), there are two occasions when a resolution meeting need not occur:

1. When the parent/guardian and LEA agree in writing to waive the meeting; and
2. When the parent/guardian and LEA agree in writing to use the mediation process described in 34 CFR §300.506 to resolve the due process complaint.

If a parent/guardian wishes to waive the resolution session, it is required that the school be notified in writing of this request. The resolution session may be waived if both parties agree to do so. If this is the case, OAH requires that written documentation or a “waiver” of the resolution session be signed by both parties and submitted to OAH.

2. In Response to a State Complaint

A state complaint is a formal request to the CDE to investigate allegations of noncompliance with special education laws, federal or state. The following guidance is provided to parents/guardians and LEAs/districts in response to the filing of a state complaint:

“Complainants and LEA staff are encouraged to resolve this matter at the local level by using an alternative dispute resolution process, alternative resolution method, or any other local resolution option [which may include, but is not limited to, a resolution session]. A successful resolution at the local level may lead to the withdrawal of the complaint, rendering further state investigation unnecessary. If you are interested in a local resolution of this case or any of the allegations in it, please contact your LEA or Special Education Local Plan Area.”

There is no timeline nor is there a requirement to offer a resolution session in response to a state complaint. Per the CDE, the timeline for the complaint investigation process is approximately 60 days. Therefore, if desired, LEAs/districts are encouraged to offer a resolution session as soon as possible upon receipt of the complaint in order to complete the session prior to the end of the investigation period.

3. Proactive Resolution Session

A resolution session may also be offered proactively, without the presence of a due process or state complaint, when attempts to resolve disputes within the IEP process have been unsuccessful. There are no specific timeline requirements for a proactive resolution session, however all other procedural elements are the same as when offered in response to a due process or state complaint.

Additional Information

For additional information, including specific steps and requirements related to the ADR or resolution session processes, or to request a SELPA facilitated resolution session, please contact your assigned SELPA program specialist.