



Connecting DC Families with Their Rights Under  
the Individuals with Disabilities Education Act

# Table of Contents

<b>A Note from ODR Director Tracey Langley .....</b>	<b>1</b>
<b>About ODR .....</b>	<b>2</b>
<b>Special Education in the District of Columbia .....</b>	<b>4</b>
<b>Purpose of Due Process .....</b>	<b>6</b>
<b>Due Process in Brief.....</b>	<b>10</b>
<b>Our Services .....</b>	<b>12</b>
<b>Understanding Special Education Due Process .....</b>	<b>17</b>

# A Note from ODR Director Tracey Langley

Parents and families of students with special education needs are afforded certain rights under the federal Individuals with Disabilities Education Act (IDEA). The Office of Dispute Resolution (ODR) within the Office of the State Superintendent of Education (OSSE) ensures that children with disabilities receive educational services to which they are entitled under federal and District law and helps District of Columbia parents access their rights.

Children with certain disabilities and special needs that impact their educational performance are entitled to a Free Appropriate Public Education (FAPE) under IDEA. From time to time, parents will disagree with their school or local education agency regarding the special education services their child should receive to constitute a FAPE. ODR offers a variety of services to help parents and schools resolve these disagreements, including Mediation, Facilitated Resolution Meetings, Facilitated IEP Meetings, and Due Process Hearings.

ODR staff works directly with families and schools to ensure that they have the resources and support needed to help all students thrive in the District's public

schools. We want to educate parents and schools on these processes and empower them to seek out the best educational services possible for students. Our partners, including parents, teachers, and local education and government leaders, are critical to our success.

The needs of parents, families, and schools vary from case-to-case, but the disputes we handle all have one common thread: our team of impartial mediators, facilitators, hearing officers, and due process administrators empower parents and families to have a voice in how their children are educated.

Thank you for being our partners in this vital work and for your commitment to our city's children, ensuring that they have access to every available opportunity to succeed.

Sincerely,



Tracey Langley  
Director, Office of Dispute Resolution

# About ODR

The Office of Dispute Resolution (ODR) within the Office of the State Superintendent of Education (OSSE) coordinates and manages the District of Columbia's special education dispute resolution options. We are committed to offering a variety of alternative dispute resolution activities and options for parents and schools.

Effective due process is essential for families of children with special education needs to access their rights afforded under the law. There are also steps that can be taken prior to filing a due process complaint. We work with parents and schools to help them access the best options for resolving their disputes when they arise and ultimately reach resolution that helps them move forward from disagreements and provide children with the appropriate public education for their needs.

ODR manages the special education due process hearing system for District of Columbia. We offer Mediation, Facilitated Resolution Meetings, Facilitated IEP Meetings, and Due Process Hearings for all children with special education needs who are residents of the District of Columbia.

## The ODR Team

The ODR team includes educational administrators and Impartial Hearing Officers who also serve as mediators and facilitators.

The ODR director, deputy director, and support staff administer the due process complaint, facilitation, and mediation processes. Contractors serving as mediators, facilitators, and hearing officers are neutral. They are not employees of ODR or the Office of the State Superintendent of Education. They are fully trained in special education law, mediation, and facilitation, as appropriate.

## The ODR Community Review Panel

ODR selects Impartial Hearing Officers in consultation with the Community Review Panel, in accordance with District law.

---

**ODR has developed this document to help parents, school administrators, and city officials learn more about our office, the services we provide, and the people we serve. We hope this information will help parents, schools, and policymakers make informed decisions to help our city's children and families thrive.**

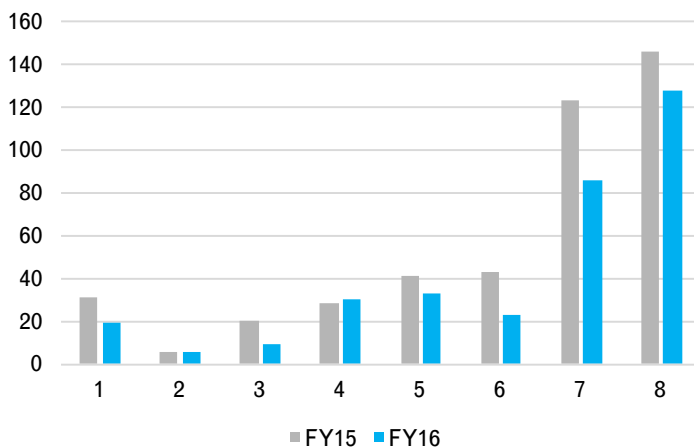
**Data included in this report is aggregated by fiscal year (FY), which runs from October 1 – September 30. For example, FY16 spanned October 1, 2015 – September 30, 2016. Please note, this document has no legal effect and does not include every law or regulation that may apply to a given factual situation and does not constitute a statement of law or legal advice.**

The panel is a seven-member committee that includes:

- ♦ One attorney knowledgeable in the field of special education with experience representing parents and who is admitted to practice law in the District of Columbia.
- ♦ One attorney knowledgeable in the field of special education with experience representing schools and who is admitted to practice law in the District of Columbia.
- ♦ One educator knowledgeable in the field of special education and special education programming.
- ♦ One representative from a charter school local education agency (LEA) who is knowledgeable in the field of special education and special education programming.
- ♦ One representative from DC Public Schools who is knowledgeable in the field of special education and special education programming.
- ♦ Two parents of individuals who are or at one time were eligible to receive special education and related services in the District of Columbia.

For a listing of current Community Review Panel members, visit our website.

#### Due Process Complaints Filed by Ward



\*Source: DC Office of the State Superintendent of Education

### Did You Know?

**No matter where a child lives, or the school they attend, they are entitled to appropriate special education services if they have an Individuals with Disabilities Education Act (IDEA)-covered disability that impacts their educational performance.**

**During FY2018, ODR will take a more targeted approach to outreach by participating in parent and community meetings to help parents and school personnel understand the services we offer. We will prioritize outreach in Wards 7 and 8, the two wards where we see the most due process complaints.**



# Special Education in the District of Columbia

Special Education services in the District of Columbia are determined and provided by local education agencies (LEAs). The largest LEA in the District is DC Public Schools. Additionally, public charter schools operate as their own LEAs or sometimes as a grouping of schools under one LEA.

The process for identifying and determining special education needs is typically straightforward:

- ♦ **Identification:** A child's parents or school will raise a concern that the child may have a disability that impacts his or her educational performance.
- ♦ **Screening and Evaluation:** The child will be assessed by a team of special education professionals. There may be a series of screenings and evaluations, depending on the process at the child's school.
- ♦ **Eligibility:** Depending on the findings of the school's evaluation, the child will be determined eligible (or ineligible) for special education services.
- ♦ **Individualized Education Program (IEP):** If the child is determined eligible for special education

services, the child's parents and the school will work together to develop an Individualized Education Program (IEP) with specific educational goals for the child and plans for services.

- ♦ **Implementation:** The school will provide the child with the services identified in the IEP.

Sometimes a disagreement will arise between a child's parents and the school about whether a child should be eligible for special education services and what those services should be. To help resolve those disagreements, federal and District law provides parents and schools with rights to due process and alternative dispute resolution processes.

The education agencies in each state—including in the District of Columbia—are charged with providing for impartial due process and helping parents and schools access their rights under the law.

To learn more about special education services in your school, contact your local education agency.

### *Did You Know?*

About 11,000 students in the District of Columbia receive special education services—approximately 15 percent of the total student population. Each of these students is provided services under an Individualized Education Program (IEP) in accordance with the Individuals with Disabilities Education Act (IDEA).

Most of the time, IEPs can be developed and disagreements can be settled through open conversation, collaboration, and/or mediation between parents and schools—without needing to file a due process complaint. Less than 4 percent of children who receive special education services in DC are involved with due process complaints each year. While most IEPs are developed and implemented without issue, sometimes disagreements arise between parents and schools regarding the appropriate provision of special education services.

### *Top issues that lead to a special education due process complaint include:*

- × Failure to develop an appropriate Individualized Education Program
- × Failure to provide appropriate placement
- × Failure to implement an appropriate Individualized Education Program
- × Failure to evaluate in all areas of suspected disability
- × Failure to evaluate the child in a timely manner

*\*Source: DC Office of the State Superintendent of Education*



# Purpose of Due Process

Special Education Due Process in the District of Columbia empowers parents with the tools and resources to ensure their children with disabilities receive the services they need to succeed in school and beyond. The right to due process is rooted in the federal Individuals with Disabilities Education Act (IDEA). IDEA provides students with disabilities the right to a Free Appropriate Public Education (FAPE). The due process system managed by ODR is designed to help parents and schools advocate for children when there are differences of opinion about the educational services a child with special education needs should receive.

## Individuals with Disabilities Education Act (IDEA)

IDEA is a federal law that requires schools to serve the educational needs of eligible students with disabilities. It governs how states and public agencies provide early intervention, special education, and related services to eligible infants and toddlers (birth to 2 years old), and children and youth (3 to 22 years old) with disabilities.

Not every child with learning and attention issues is eligible for special education services under IDEA.

---

### *Did You Know?*

**The number of due process complaints filed has dramatically decreased in recent years; however, the length and complexity of special education due process hearings is steadily increasing. About 10 years ago, the average length of due process hearings ranged from 2 to 8 hours. Today, due process hearings last on average 2 to 3 days. The extended length of hearings may be attributed to more complex issues presented at hearings, which require more evidence and more witnesses. Recent changes to DC law regarding special education and the growth of the charter school community in DC may also have an impact.**



First, a child must be found to have one of the 13 kinds of disabilities that IDEA covers. They are:

- ♦ Autism
- ♦ Deaf-blindness
- ♦ Deafness
- ♦ Emotional disturbance
- ♦ Hearing impairment
- ♦ Intellectual disability
- ♦ Multiple disabilities
- ♦ Orthopedic impairment
- ♦ Other health impairment (including ADHD)
- ♦ Specific learning disability (including dyslexia, dyscalculia and dysgraphia, among others)
- ♦ Speech or language impairment
- ♦ Traumatic brain injury
- ♦ Visual impairment, including blindness

However, having one of the 13 disabilities does not automatically qualify a student for special education services under IDEA. To be eligible, a student must have one of the 13 disabilities and, as a result of the disability, need special education services in order to make progress in school.

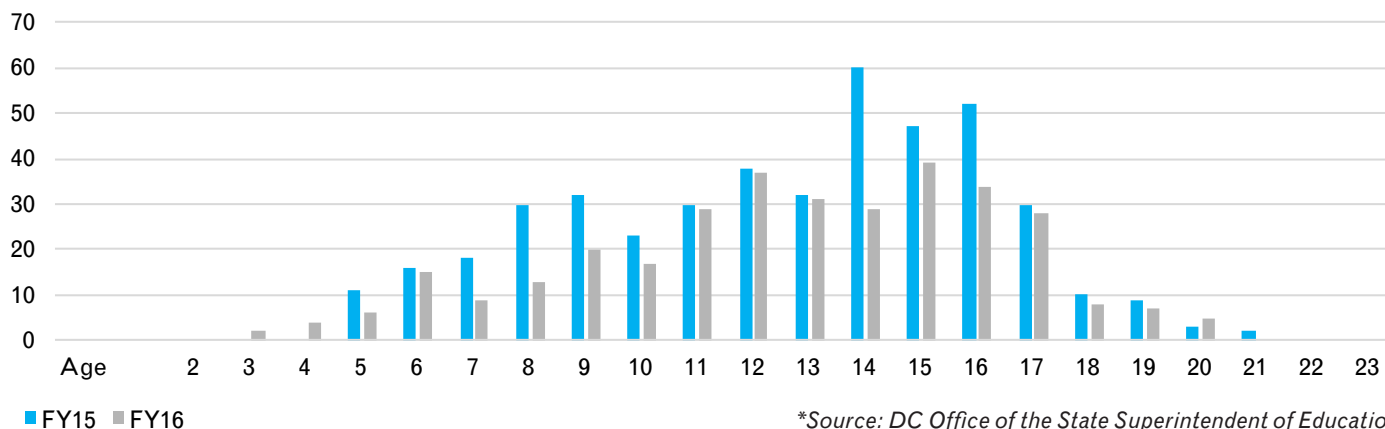




Under IDEA, students are afforded certain rights that must be accommodated by the public school system. These rights are reflected in the six concepts, or principles, of IDEA. They include:

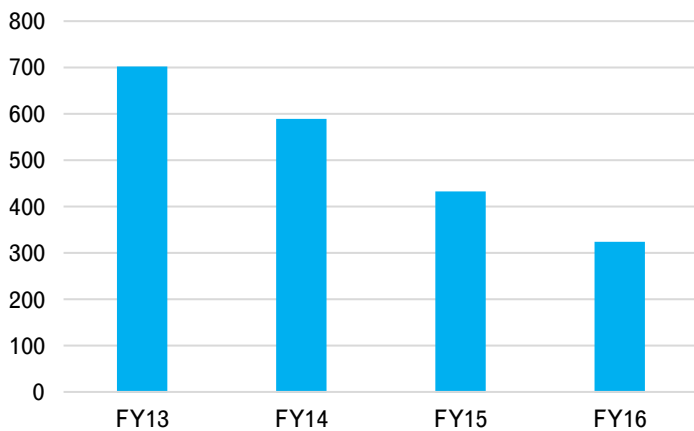
- ◆ Providing a Free Appropriate Public Education (FAPE) that meets the needs of the student. FAPE is further defined on the opposite page.
- ◆ Conducting appropriate evaluation that uses trained evaluators and the right tools to determine the needs of the student.
- ◆ Developing an Individualized Education Program (IEP) in collaboration with parents, if a child is determined to have an IDEA-covered disability.
- ◆ Facilitating effective parent and student participation in decision-making regarding development and implementation of the IEP.
- ◆ Providing a student with an IEP the Least Restrictive Environment (LRE) for learning, including placement in general education classrooms whenever possible.
- ◆ Facilitating procedural due process for solving disagreements between the public school system and parents about the appropriate services for the student.

### Due Process Complaints Filed by Age



*\*Source: DC Office of the State Superintendent of Education*

### Total Due Process Complaints Filed by Fiscal Year



*\*Source: DC Office of the State Superintendent of Education*

### Free Appropriate Public Education (FAPE)

The Individuals with Disabilities Education Act provides students with disabilities the right to a free appropriate public education (FAPE). FAPE is the core principle of IDEA.

- ♦ **Free** means that all eligible students with disabilities will be educated at public expense. There is no cost to the parent. You do, however, have to pay the same incidental fees as for general education students.
- ♦ **Appropriate** means that a child with a disability is entitled to an education that is appropriate for that child. It will be tailored and planned to meet their needs as stated in their Individualized Education Program (IEP).
- ♦ **Public** refers to the public school system. Children with disabilities, whatever the nature or severity of their disabilities, have the right to be educated under public guidance. Many children will be educated in the public school. In some cases, they might be educated in a private school.
- ♦ **Education** must be provided to every eligible child with a disability. FAPE ensures that every eligible child will receive a public education that includes the services outlined in his/her IEP. The education should prepare your child for further education, employment, and independent living.

### Did You Know?

Children don't have to wait until grade school to receive special education services. Services can begin shortly after birth—at the first sign of an IDEA-covered disability. IDEA provides children and families from birth to age 22 with the right to a Free Appropriate Public Education.

In the District of Columbia, most special education due process complaints concern students between the ages of 8-17.



# Due Process in Brief

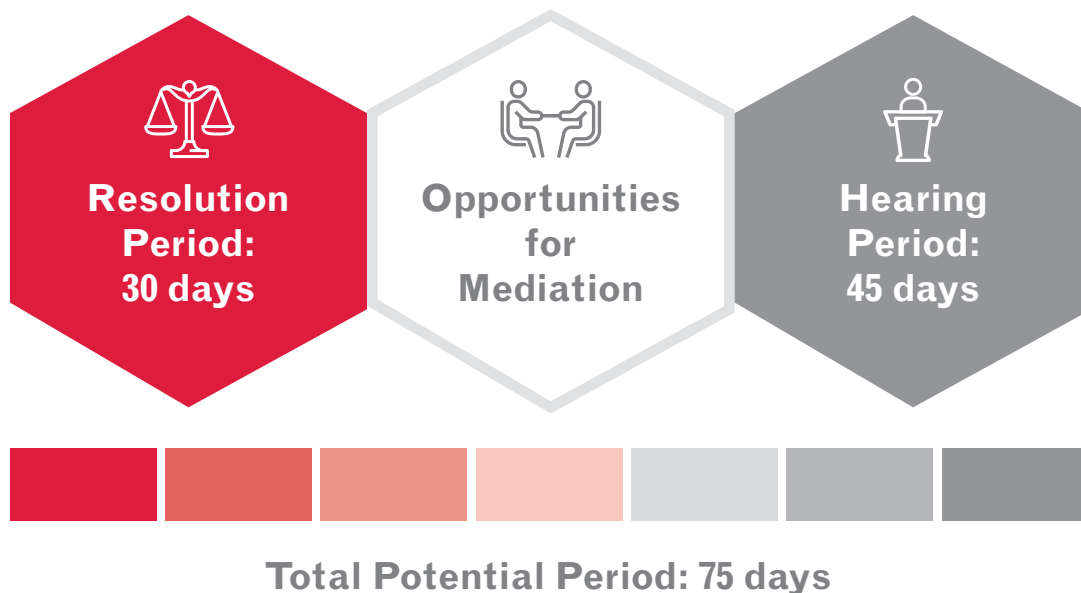
Due process begins with the filing of a due process complaint by a parent on behalf of his or her child. The due process complaint provides a detailed description of a disagreement between the parent and the public school system regarding the appropriate services for the child. A due process complaint must relate to the identification, evaluation, or educational placement of a child with one of the 13 disabilities covered by IDEA.

The due process timeline is broken up into two parts: the 30-day resolution period and the 45-day hearing period, totaling 75 days. At certain points in the process, before the 45-day hearing period, families and schools have

opportunities for mediation, instead of a formal due process hearing.

The timeline begins on the day after the school district receives a parent's due process complaint, or if the school files the complaint, the timeline begins on the day after the parent receives the school's complaint.

ODR provides a free, comprehensive guide to due process hearings available to District of Columbia parents. Access the guide by visiting [osse.dc.gov](https://osse.dc.gov) or by contacting ODR directly at (202) 698-3819 or [hearing.office@dc.gov](mailto:hearing.office@dc.gov).



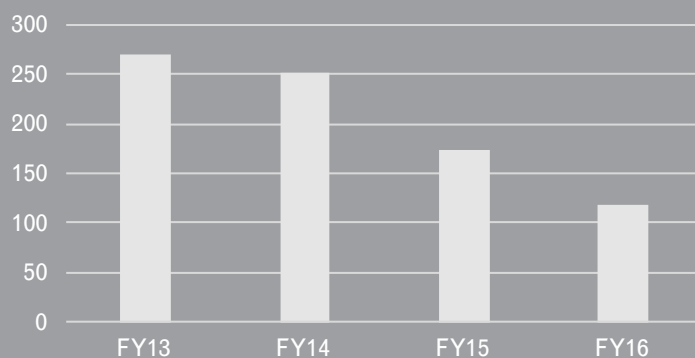
## Did You Know?

The **Hearing Officer Determination (HOD)** is the final decision in any due process case that reaches a hearing officer. Hearing officers are attorneys specially trained in special education law and hearing procedures and preside over due process hearings like a judge. Parents and schools present supporting information and evidence during the hearing period and may call witnesses who testify under oath during the hearing. HODs may be appealed in federal court and they are enforceable in court.

The number of HODs issued each year has steadily declined since FY13, which mirrors a similar decrease in the number of due process complaints filed as more disagreements are settled through mediation and other means that avoid a formal due process hearing. Additionally, the length and complexity of hearings has increased in recent years.

The **Individuals with Disabilities Education Act (IDEA)** requires that **OSSE** ensures that a final decision is reached and issued to the parties no later than 75 days after the filing of a due process complaint unless one of the parties to the complaint has requested an extension of the timeline, as permitted by law. From FY13 – FY16, ODR's Hearing Officer decision timeliness did not fall below 99 percent.

**Hearing Officer Determinations (HODs)  
Issued by Fiscal Year**



*\*Source: DC Office of the State Superintendent of Education*



# Our Services

ODR's services and processes are designed to maximize efficiency and resolve all disputes as quickly as possible so families and schools can move forward and provide children with the educational services they need. We empower parents, families, and schools to take advantage of these resources when necessary to ensure students are provided with the best possible public education services.

Families and schools are encouraged to resolve disputes over the identification, evaluation, educational placement or the provision of a Free Appropriate Public Education (FAPE) to a child with a disability through mediation, facilitated meetings, or other alternative dispute resolution processes. All of ODR's services are provided free of charge and may be requested by a parent, adult student, or school; however, mediation and facilitation services are voluntary and require the agreement of both parties to move forward.



## Mediation

Parents and families have the option to use mediation before or after filing a due process complaint, instead of a formal resolution meeting or due process hearing. Special education mediation is a process that brings families and schools together with a neutral third party to discuss the issues listed in the due process complaint, with the goal of resolving the disputes in a binding written agreement.

Mediation provides a confidential, time-saving, collaborative opportunity to resolve disputes at low financial and emotional costs, as compared to the formal due process hearing. People tend to be more satisfied and follow through with the terms of mediated agreements because they are developed in collaboration between a parent and their child's school in an environment where they can speak freely and confidentially. Relationships are often strengthened during the process of mediation, which may not be as easily achieved through a formal process like a due process hearing.





## Facilitated Resolution Meetings

Facilitated Resolution Meetings are a voluntary process mandated by the Individuals with Disabilities Education Act (IDEA) for due process complaints initiated by parents, unless the parties agree to waive the meeting. Resolution meetings occur within the 30-day resolution period after a due process complaint is filed by a parent or school.

The purpose of a facilitated resolution meeting is for the parent to discuss the basis of the due process complaint and supporting facts to provide the school with an opportunity to resolve the dispute prior to the hearing. Typically, the resolution meetings are facilitated by the school. Having a neutral facilitator present may maximize the potential for settlement at the meeting.



## Due Process Hearing

A Due Process Hearing is a dispute resolution option under the Individuals with Disabilities Education Act (IDEA). Parents or Schools may choose this option when they have been unsuccessful in other attempts to resolve special education disputes. ODR provides a neutral, hearing officer with expertise in special education law to hear the evidence and issue a hearing decision. The due process hearing is the final option available to families and schools to resolve a special education dispute. Hearing Officer Determinations (HODs) are final. The school and family are responsible for effectively implementing an HOD once it is issued.



## Facilitated IEP Meeting

When IEP teams reach an impasse or conflict is expected at the meeting, it may be helpful to have an independent, trained facilitator guide the process. ODR's hearing officers act as facilitators in IEP meetings, and they are trained in effective meeting facilitation techniques. The facilitator's job is to keep the IEP team members focused on developing the IEP while addressing conflicts and disagreements that may arise during the meeting. Either the parent or the school may request a facilitator from ODR.

Resources are available on our website and by visiting our office to help parents, schools, and the general public understand special education and due process in the District of Columbia. For additional information, please visit [osse.dc.gov/service/office-dispute-resolution-odr](https://osse.dc.gov/service/office-dispute-resolution-odr)

## Comparing the Services

ODR services are available to parents and schools at different points in the special education due process. The chart below compares ODR services to help with understanding how they differ from one another and when each service is the appropriate next step in resolving a special education dispute.

	What is the format?	How is a decision made?	When does it take place?
<b>Mediation</b>	Parents and school meet with a mediator in a convenient setting, either at the school or ODR's offices.	Parents and school come to mutual agreement after listening to one another's point of view with assistance from a mediator.	Before or after filing a due process complaint, anytime before the 45-day hearing period.
<b>Facilitated Meeting</b>	Parents and school meet with a facilitator in a convenient setting, either at the school or ODR's offices.	Parents and school come to mutual agreement after listening to one another's point of view and working together to develop an IEP or resolve the issues in the due process complaint.	A Facilitated Resolution Meeting (FRM) is required by law unless the parties agree to waive it. The FRM will occur in the 30-day period after the complaint is filed. A Facilitated IEP (FIEP) meeting should be requested at least one week before the IEP meeting is scheduled.
<b>Due Process Hearing</b>	Parents and school meet with a hearing officer who presides over the hearing, similar to a courtroom setting.	A hearing officer makes a decision after hearing from both sides and reviewing evidence.	The 45-day hearing period starts after the 30-day resolution period. The 45-day hearing period includes a prehearing conference, due process hearing, and the issuance of a hearing officer decision.



The process for filing a due process complaint and using each of these services is explained in a comprehensive guide to due process hearings provided by ODR for the District of Columbia community. To receive a free copy of the guide, which includes a listing of free and low-cost legal services for DC families, please contact our office or visit our website.

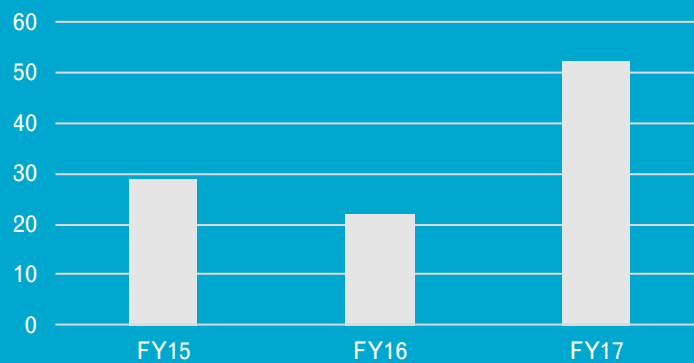
<b>What type of agreement is made?</b>	<b>Who facilitates or presides?</b>	<b>How is information provided?</b>	<b>Is legal representation allowed?</b>
Written, binding settlement agreement between the parties.	A neutral mediator trained in effective mediation techniques and special education law.	School and parents bring supporting information with them to the meeting.	Yes, legal representation is allowed at mediation. However, mediation tends to be more effective when the parties don't bring attorneys.
If FRM, a written, binding settlement agreement enforceable in court. If FIEP, a mutually acceptable IEP that supports the student's academic progress.	A neutral facilitator trained in special education law and effective meeting facilitation techniques.	If FRM, the school and parents provide essential and sufficient information with the due process claim and formally present that information during the meeting. If FIEP, an IEP meeting should consist of the members of the IEP team. Parents may also bring an advocate or other people who have knowledge or expertise regarding the child. Both the parents and school should bring any relevant documentation that supports their position.	Parents may bring legal representation. The school may only bring an attorney if the parent brings one.
The hearing officer issues a final decision that is only appealable in court.	A specially-selected hearing officer trained in special education law who acts as a judge.	School and parents provide essential and sufficient information with the due process claim; both parties may also call witnesses who testify under oath.	Legal representation is encouraged; the school will likely bring an attorney. Free and low-cost options are available to DC families from community organizations.

## Did You Know?

Special education disputes may be solved via open communication and collaboration at a mediation session hosted by an OSSE-trained mediator—before or after filing a due process complaint. Mediation can save parents and schools time and money and allow the parties to strengthen relationships and move forward to providing children with the special education services they need.

Nationally, mediation is consistently on the rise. Since 2006, requests for mediation in special education disputes have increased by 22 percent across the country. In 2015 and 2016, ODR launched mediation and Facilitated IEP pilots with the help of many of our stakeholders, including DC Public Schools and the Children's Law Center. Both pilots were very successful and have resulted in small, but steady growth of the alternative dispute resolution program at ODR. We look forward to growing these numbers through community outreach and engagement.

Successful Mediations by Fiscal Year



*\*Sources: Office of the State Superintendent of Education and Center for Appropriate Dispute Resolution in Special Education*

# Understanding Special Education Due Process

We can work with you and your stakeholders and constituents to help you understand the Individuals with Disabilities Education Act (IDEA) and rights to special education services afforded under the law.

- ♦ **Parents:** You have the right to advocate for your child. Contact us to learn more about your options for resolving disagreements between you and your school regarding the special education needs of your child.
- ♦ **School and Special Education Administrators:** Due process hearings should be a parent's last resort to advocate for their child. Consult with us to understand the options and approaches available to avoid a due process hearing.
- ♦ **City Leaders:** Contact us to learn about your constituents' rights under the law and how we can help the families you work with resolve their special education disputes.



**Tracey Langley, Director**

[tracey.langley@dc.gov](mailto:tracey.langley@dc.gov)

**Pamela Brown, Deputy Director**

[pamela.brown4@dc.gov](mailto:pamela.brown4@dc.gov)

**Office of the State Superintendent of Education  
Office of Dispute Resolution**

1050 First Street, NE  
4th Floor, Suite 401  
Washington, DC 20002  
(202) 698-3819 | [hearing.office@dc.gov](mailto:hearing.office@dc.gov)  
[osse.dc.gov](http://osse.dc.gov)



**Office of the State Superintendent of Education  
Office of Dispute Resolution  
1050 First Street, NE, 4th Floor, Suite 401  
Washington, DC 20002**