

Basic Rights in Special Education

Overview of Laws
Special Education
Process

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Individuals with Disabilities Education Act IDEA 2004

***Intended to assist children with disabilities to
achieve to high standards by:***

- Promoting accountability for results
- Enhancing parental involvement
- Using proven practices and materials
- Providing more flexibility

(Above information from Federal Register/Vol.70, No. 118 Proposed Rules Page #35783)

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Steps in the Special Education Process


Procedural Safeguards

Individualized Education Program

Eligibility

Evaluation

Referral




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Referral for Evaluation

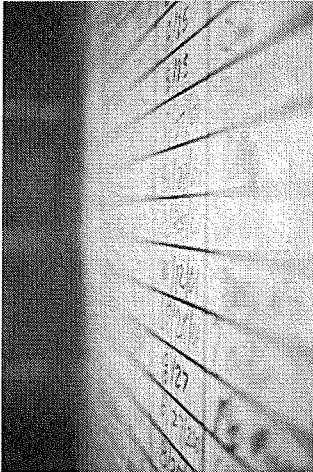
***What do you do, if you feel
that your child needs
Special Education?***

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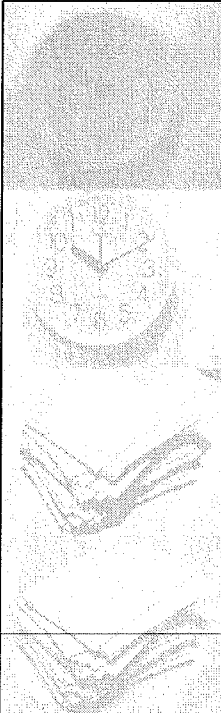


Timelines- **Referral/Evaluation**

- Must review referral within 10 school days of receiving it
- Referral reviewed by a team of qualified professionals & parents
- If evaluation is needed, must start no later than 10 school days after the receipt of parental consent to evaluate
- Timelines are same for re-evaluations



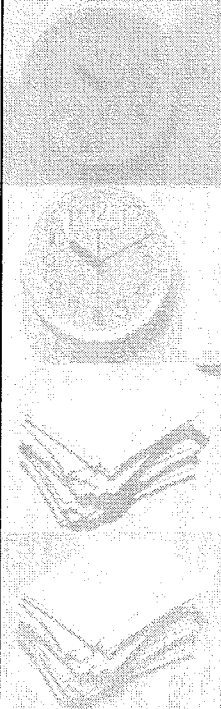
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Timelines- **Parent Consent to Evaluate**

- When must evaluation begin?
- What if the parent doesn't respond with consent within (5) school days?
- What if consent isn't obtained within (15) school days of request to evaluate?

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Timelines – Evaluation / Eligibility

Within 60 calendar days from receipt of parent consent to evaluate:

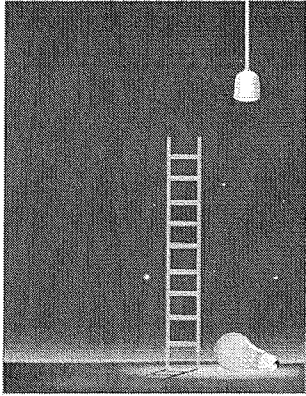
1. Child must be evaluated
2. Written report from evaluation team made available to the public agency, parents & IEP Team *(if child is eligible for special education)*
3. Eligibility determination meeting must be conducted

If determined eligible, IEP developed and made available to student within 15 school days

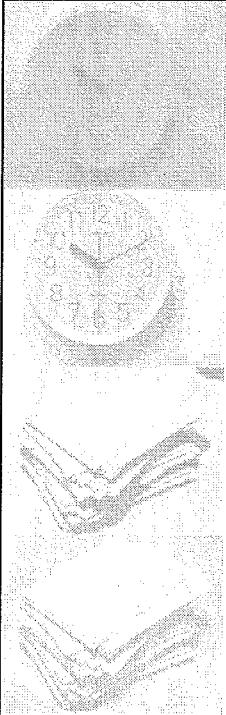
Following development of IEP, special education and related services must be available no later than 10 school days.



Not every student needs special education! What if NOT determined eligible ...




- *“What interventions will be put in place to support my child’s progress?”*
- *Response to Intervention (RTI) procedures*
- *Data collection*
- *Independent Educational Evaluation*

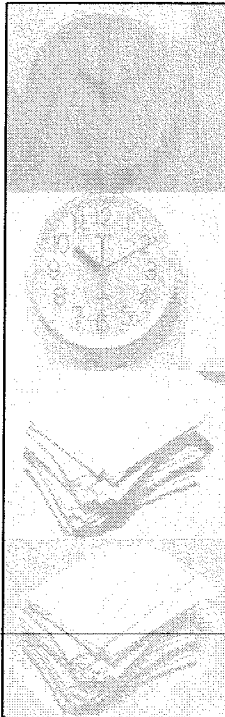


REVIEW - Timelines

- **Referral** – 10 school days to review (*Evaluation Team includes professionals AND parents*)
- **Evaluation** – 10 school days from written consent
- **Eligibility Determination**- 60 days from consent to eligibility determination
- **IEP developed** – 15 school days from eligibility determination
- **IEP implemented** – no later than 10 school days after IEP developed



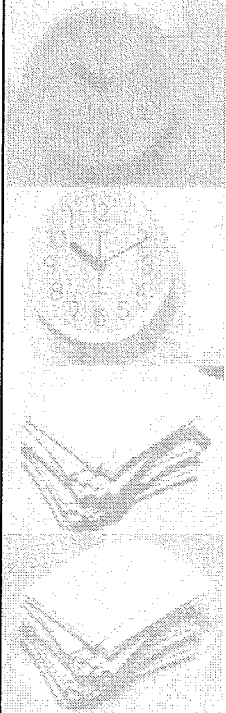
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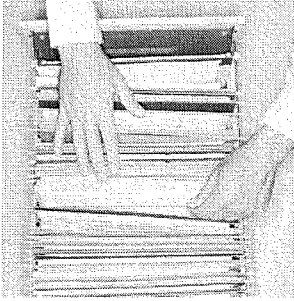
Members of Evaluation Team

1. **Parents of the child**
2. **Not less than one regular education teacher of the child**
3. **Not less than one special education teacher or if appropriate provider of the child**
4. **Representative of public agency**
 - Individual who can interpret evaluation results
 - Others with knowledge/expertise (*objective*)
 - Child when appropriate (*by age 14*)

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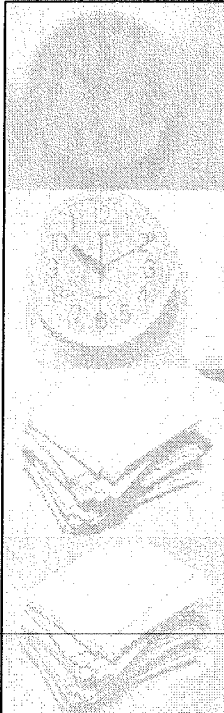


Role of Evaluation Team



1. Review referral
2. Determine if evaluation(s) required
3. Determine type of evaluation(s) needed
4. Determine eligibility
5. Develop written report
6. Share information with IEP team
7. *Does NOT determine services and placement*

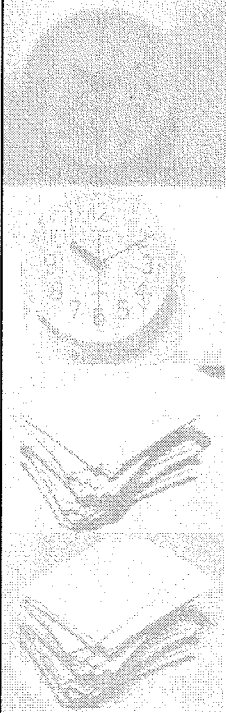
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Identification – Disability Categories


- Mental Retardation
- Hearing Impairments (including deafness)
- Speech/Language Impairments
- Visual Impairments (including blindness)
- Serious Emotional Disturbance
- Orthopedic Impairments
- Autism Spectrum Disorder
- Traumatic Brain Injury
- Other Health Impairments
- Specific Learning Disabilities
- Deaf – Blindness
- Multiple Disabilities
- Developmental Delay (age 3-8)

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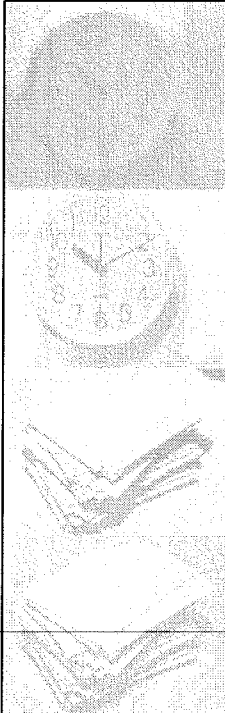
Evaluation Procedures

- Not discriminate on basis of race/culture
- Provided in child's native language or other mode of communication
- Materials used for child with LEP* must measure disability and need for special education NOT English language skills
- Include a variety of assessment tools/strategies



**LEP – Limited English Proficiency*

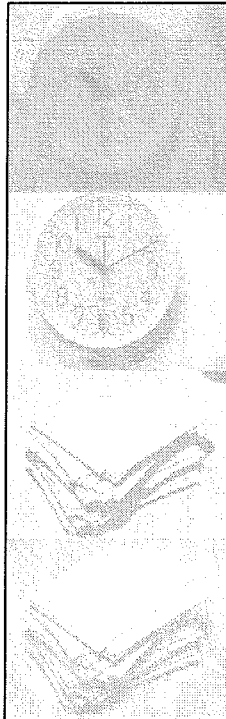
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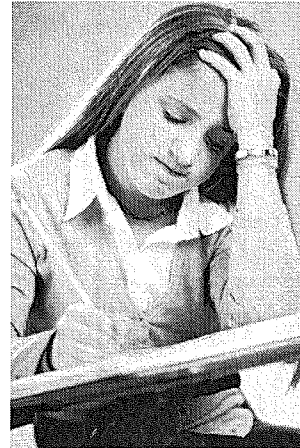
Reevaluation

- Not to be conducted more than one time a year unless parent/public agency agree otherwise
- Conducted **at least every three years** unless parent/public agency agree unnecessary
- Timelines same as initial evaluation

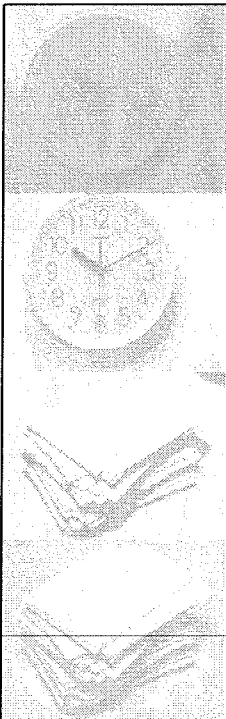
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Does the data being used to develop this IEP, accurately reflect the CURRENT needs of the student?



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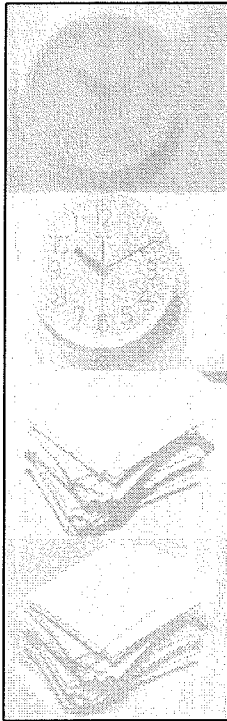
Recommendations from Evaluation Team to IEP Team

Training

*Knowledge
useful abilities
backbone of core
required for a tr
today*

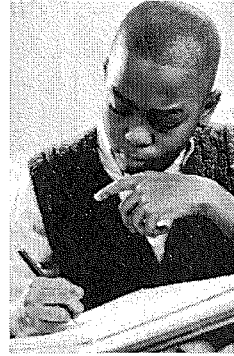
- Specific strengths *
- Specific areas of need *
- Present levels of performance
- Effect of disability on functioning in the general education setting
- Modifications needed to function in the general education setting

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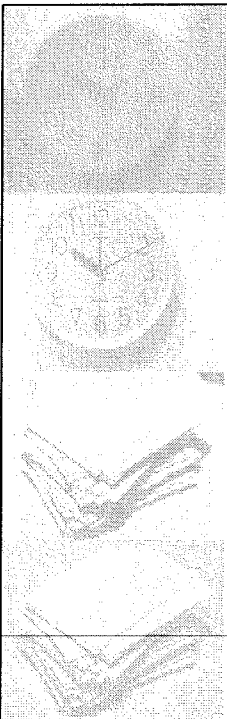


REVIEW - Evaluation

- Minimally four (4) members of evaluation team
- Requires written parental consent
- Evaluation required to determine eligibility
- Reflects current needs of student
- Data used to develop IEP



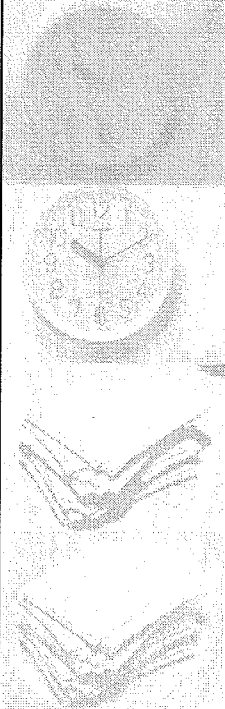
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Individualized Education Plan (IEP)

- Specific written program
- Developed by a team
- Includes special education and related services
- Designed to meet individual needs of child with disability

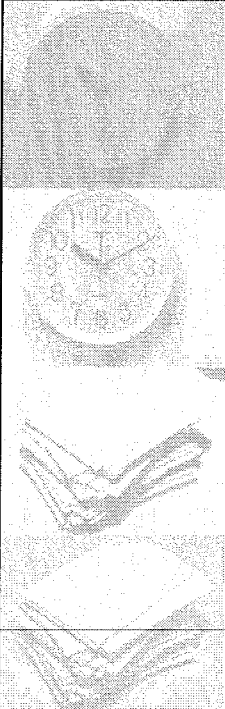
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Role of IEP Team

- Review evaluation information
(*Identify additional data, if needed*)
- Develop goals & objectives
- Determine accommodations, modifications and related services needed to meet goals
- Make decisions to determine placement
- Participate in IEP reviews annually or as needed
- Excusal from IEP meetings

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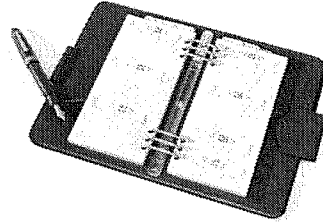


Members of IEP Team



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Timelines – IEP



*IEP Meeting - 15 School Days
from eligibility determination*

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Evaluation vs. IEP Team Roles

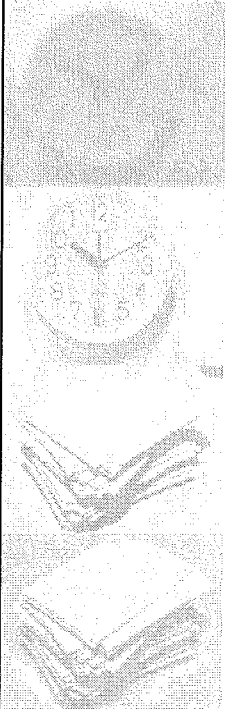
Evaluation Team Roles

- Review referral
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- Determine eligibility
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IEP Team Roles

- Review evaluation information (*Identify additional data, if any*)
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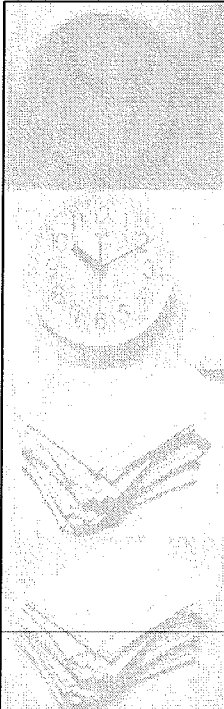
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PROCEDURAL SAFEGUARDS

- *Parent Consent/Absence of Consent*
- *Examination of Records*
- *Parent Participation in Meetings*
- *Independent Educational Evaluation (IEE)*
- *Prior Notice/Content*
- *Procedural Safeguards Notice*
- *Mediation*
- *Due Process Complaint*
- *Resolution Session*
- *Due Process Hearing*
- *Special Education Complaint*

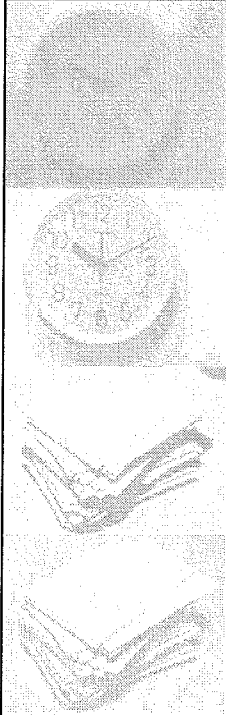
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Parental Consent *(written)*

Required for:	Not Required for:
<ul style="list-style-type: none"> ■ <i>Initial evaluation</i> ■ <i>Reevaluations</i> ■ <i>Initial provision of special education & related services</i> 	<ul style="list-style-type: none"> ■ <i>Reviewing existing data</i> ■ <i>Administering test for all children</i> ■ <i>Annual IEP's</i>

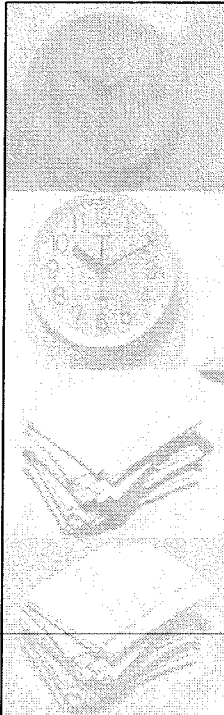
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What if parent refuses consent?

- **Without consent for initial evaluation or reevaluation** – school district may, *but is not required to*, pursue initial evaluation.
- **Without consent for special education services** – district **cannot** provide services or pursue due process
 - District **not** considered in violation of FAPE
 - District **not** required to meet or develop IEP
- District cannot use parent's ***refusal of consent to one service to deny any other service***

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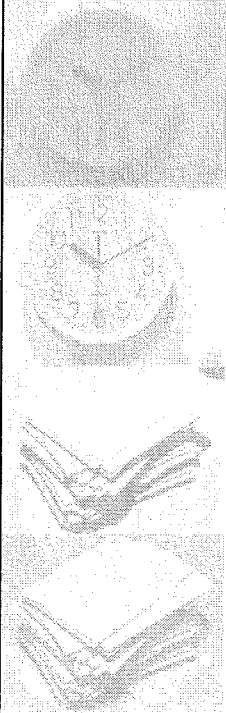
Examination of Records

Parent Participation in Meetings

Districts must afford parents the opportunity to:

- Inspect educational records
- Participate in meeting (*does not include informal discussions*)
- Receive notice of meetings
- Participate in placement decisions

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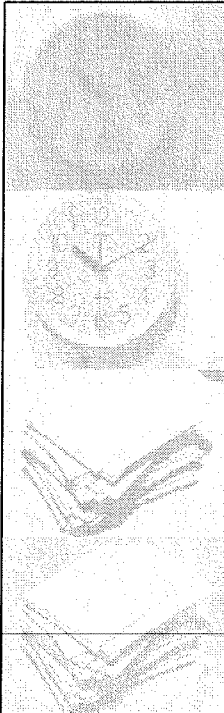


Parent Participation

Public agency must take steps to ensure parent participation by providing:

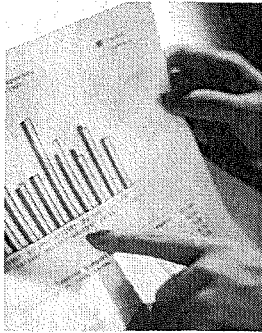
- Meeting Notification (*in writing 10 days prior*)
- Schedule (*mutually agreed upon time/place*)
- Content of Notice (*who, what, where, when & why*)
- Other methods to ensure participation (*conference calls, video conferencing, etc.*)
- Conducting meeting without parent (*must have record of attempts*)
- Interpreters (*District provides*)
- Parent copy of IEP (*within 10 calendar days*)

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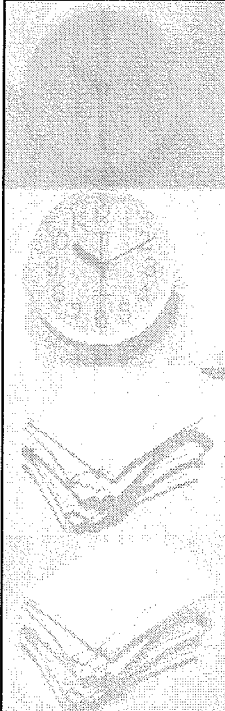


Independent Educational Evaluation (IEE)

1. Right to disagree with district evaluation
2. Right to IEE at public expense
3. District must respond within 15 calendar days
4. Only one IEE for each evaluation provided by agency
5. District must provide Information where to obtain IEE
6. Results must be **considered**



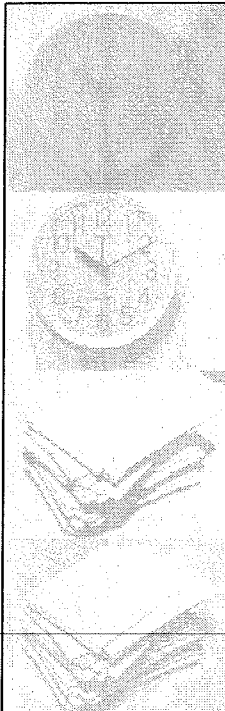
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Prior Written Notice & Content

- When is Prior Written Notice required?
 - 10 days before proposal or refusal to initiate/change identification, evaluation or placement
- What are the requirements for Content of Notice?
 - Description of the action
 - Explanation of why action
 - Description of evaluation procedures/assessments used
 - Statement of *Procedural Safeguards*
- Sources for parent to obtain assistance in understanding (*RIPIN*)
- Notice must be in understandable language.
 - Language understandable to general public
 - Native language or other mode of communication

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Procedural Safeguards Notice

Must be given to Parents:

- **Once a Year ~ PLUS:**
 - Initial referral
 - Parent request for evaluation
 - Upon receipt of 1st State complaint or due process complaint in that school year
 - In accordance with discipline procedures
 - Upon request of parent
 - Can be posted on website
 - Can use email
- **Content of Notice**
 - Full explanation of all procedural safeguards

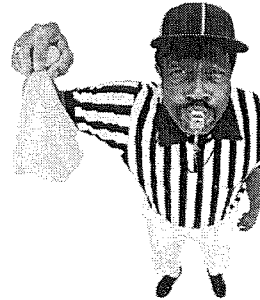
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Dispute Resolution Process

What can you do if you disagree with the district's decisions?

1. **Mediation**
2. **Due process complaint**
3. **Resolution session**
4. **Due process hearing**



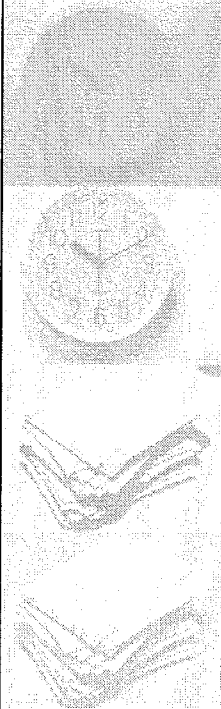
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Mediation

- Dispute resolution process (*state responsible for cost*)
- **Voluntary** on part of both parties
- Not used to deny/delay parent's right to a due process complaint
- Conducted by a qualified/**impartial** mediator
- May meet with disinterested party instead
- Scheduled in timely manner & location convenient to parties
- Legally binding written agreements

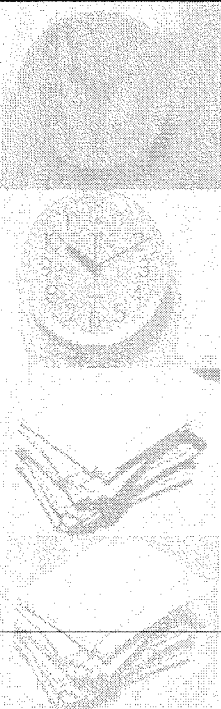
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Due Process Complaint (form)

- General – formalization onto state form
- Information for parents – free or low-cost legal services
- Content of complaint – child information, nature of problem and proposed resolution
- Notice required – no hearing until complaint form filed
- Sufficiency determined – 15 days to determine if complaint meets requirements
- Amendments – only if other party consents in writing
- Model forms – state developed model forms (website)

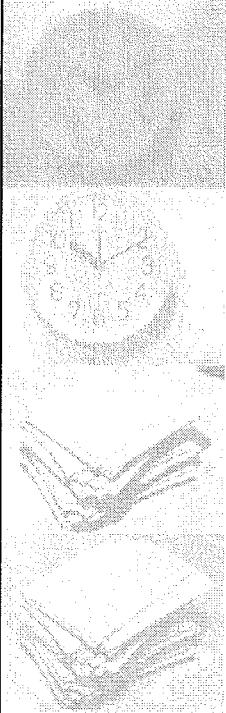
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Resolution Session (meeting)

- Purpose
 - Opportunity to discuss request for due process hearing
 - LEA provides opportunity to resolve the request
 - Meeting can be waived or use Mediation process
- Participants
 - LEA convenes meeting with parents and IEP team
 - Includes representative with decision making authority
 - *May not include attorney unless parent brings attorney*
- Process
 - 15 days from request, LEA convenes meeting
 - If no resolution, 30 days from request hearing may take place
 - *If resolution reached, legally binding agreement signed by both parties*
 - May be voided within 3 business days of agreement

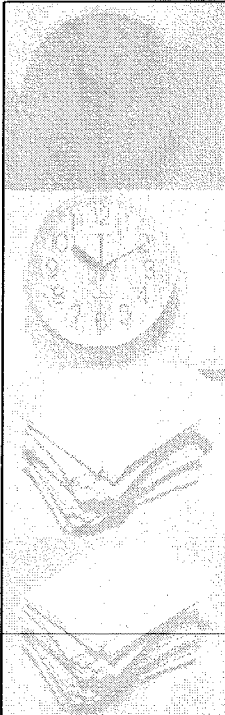
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Impartial Due Process Hearing

- Impartial Hearing Officer
- Subject of Due Process – cannot raise new issues
- Timeline for requesting hearing – within 2 years of complaint
- Hearing rights – may be accompanied by counsel
- Parents rights – have child present, hearing open to public, record of findings at no cost
- Hearing Decisions – impede child's right to FAPE, parent's opportunity to participate in decision making or caused deprivation of educational benefit
- Timelines of hearing – no later than 45 days after 30 day complaint period
- Attorney's fees – may be awarded to either party
- Child's status during proceedings – child must remain in current placement

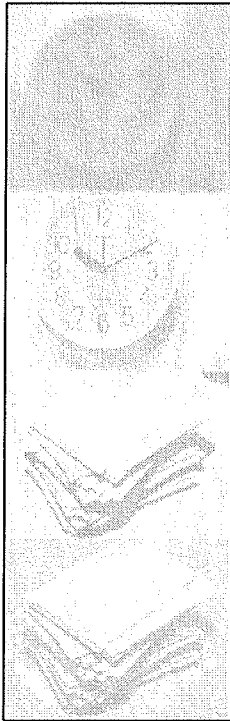
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State Complaint Procedures (60 day):

- Administrative complaint
- Filed with *RI Department of Education (RIDE)* and school district
- *RIDE* will:
 - Investigate
 - Issue findings & written decision
- Must be resolved 60 calendar days from the receipt of complaint

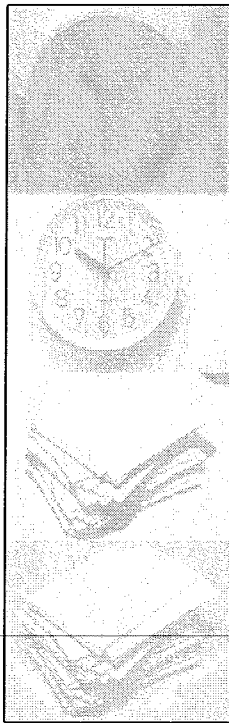
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*A journey of a thousand miles
begins with a single step.*


- Confucius

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For more information about RIPIN and the other workshops we offer, please contact our Resource Center at:

*Rhode Island Parent Information Network
1210 Pontiac Avenue
Cranston, RI 02920
401-270-0101
800-464-3399
www.ripin.org
Email us at: info@ripin.org*



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