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# **DISPUTE RESOLUTION**

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# AGENDA



- Administrative Reviews
- Mediation
- Facilitation
- Due Process
- IDEA State Complaints
- OCR Complaints
- Settlement Agreements
- Q&A

## Things to do



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The slide features a dark blue background with a vertical teal bar on the left and a grey bar on the right. The text 'ADMINISTRATIVE REVIEWS' is centered in white, bold, uppercase letters.

# ADMINISTRATIVE REVIEWS

# ADMINISTRATIVE REVIEWS



- O.A.C. 3301-51-05(K)(I)
- The child's parent can present complaints to the District superintendent.
- Administrative reviews cannot be used to delay or deny an impartial due process hearing that has been requested in writing or deny any other rights under OAC 3301-51-05.
- Within 20 school days of receipt of a complaint, the superintendent or their designee shall conduct a review, may hold an administrative hearing, and must notify all parties in writing of their decision.
- Every effort should be made to resolve any disagreements.
- All parties have the right to invite others to participate in the administrative review, including legal counsel.



# MEDIATION & FACILITATION

# MEDIATION



- **A meeting where parents and schools agree to have a neutral third party come to a meeting to help them resolve disagreements about the education of a student with a disability.**
- At the meeting, parents and schools will complete a written agreement about the issues are resolved and can go to court to enforce the agreement if either party does not do what the agreement requires.
- Mediation is free through OEC.

# MEDIATION PRACTICAL TIPS



Thoughtfully consider participants- who is your mediation team?

Not an IEP team meeting.

Come to the table with an open mind.

# FACILITATION



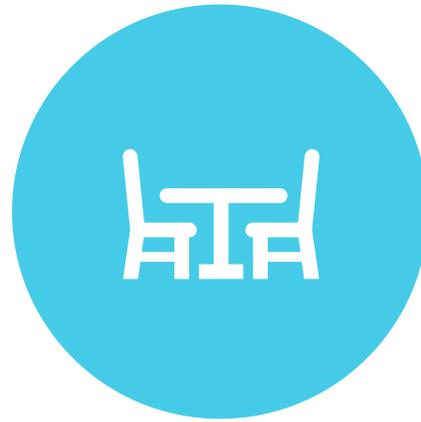
- **Facilitation takes place in a team meeting (IEP team meeting, evaluation planning meeting, or an evaluation team meeting).**
- The facilitator is a neutral third party who assists the team in being productive and keeping the focus on the student. They do not make any team decisions.
- Facilitation is free through OEC.



# FACILITATION PRACTICAL TIPS



PREP WITH TEAM/COUNSEL  
BEFOREHAND.



COME TO THE TABLE WITH AN  
OPEN MIND.



AVOID PRIVATE  
CONVERSATIONS WITH  
FACILITATOR.

# DUE PROCESS

# DUE PROCESS COMPLAINTS OVERVIEW



- Heard by an impartial hearing officer.
- Complaint filed with ODEW and district.
- Very short timeframes.
- District must pay for hearing officer and transcript.
- Decision may be appealed to state level review officer and then to state or federal court.
- Outcome published on <https://dnet01.ode.state.oh.us/OECMS/PublicSearch>

# DUE PROCESS CONSEQUENCES

- Parents and students cannot get money damages under IDEA. Available under Section 504, but rare.
- Findings against District. No individual liability.
- **Hearing officer has flexibility to award a variety of resolutions:** compensatory education, order team to reconvene and develop new goals/objectives, reimbursement for services obtained by parents.
- **Biggest costs:** If a parent prevails, they may get their attorneys' fees paid—**BY THE DISTRICT.**

## PRACTICAL TIPS FOR RESPONDING TO DUE PROCESS COMPLAINTS

- Notify insurer.
- Immediately gather all relevant documents (e.g., IEPs, ETRs, progress reports, grades, relevant emails, etc.).
- Send PR-01 responding to due process request within 10 days.
- Convene IEP meeting to address concerns that have not previously been addressed.
- Consider whether a resolution session could solve the problems.
- Prepare for mediation by alerting your Board and determining what (if anything) you are willing to sacrifice to avoid a hearing.



# WARNING SIGNS

- Records requests from private schools.
- Requests from the student or parent for all education records.
- Multiple requests for an IEP/504 plan.
- Notifying teacher/staff of private evaluation being sought.
- Demands/requests for reimbursement.
- Attorney/advocate attending meeting.
- Marked decrease in attendance.
- Marked decline in grades, participation.
- Short-term hospitalizations.
- Students “in crisis.”



# BIG WALNUT LOCAL SCHOOL DISTRICT: SE 4196-2024 & SE 4197-2024



- There were two due process complaints filed on behalf of two students.
- There were three issues presented by the parents:
  - (1) Post-graduation, students in a [redacted] District program receive less than full-time education in violation of OAC 3301-35-06.
  - (2) One of the students was not provided academic classes or physical education, art, music, or any of the other curricular options in violation of the OAC.
  - (3) One of the students did not receive an adequate amount of education (length of day) in her LRE, such that she was denied a FAPE.

# BIG WALNUT LOCAL SCHOOL DISTRICT: SE 4196-2024 AND SE 4197-2024



- The Impartial Hearing Officer found that the Petitioner's position was misguided due to their lack of understanding of Special Education.
- The IHO found that OAC 3301-51-09(F) was not applicable to the students at issue because they had already met the ODEW academic standards for graduation but deferred graduation. Additionally, the IEPs specifically indicated as to what length of day was needed for each student.
- The IHO found that there was no credible testimony indicating that the Program the students were in was violative of LRE (OAC 3301-51-09(A)). While the Program only had disabled students in it, both students had deferred graduation and continued to receive services, which is only an option for students who are disabled and have an IEP.
- The IHO found that neither student was denied FAPE. The District was required to develop an appropriate IEP for each student, and there was no credible testimony that either IEP or any Amendments were improper for either student. Additionally, the District consulted with the mother regularly: she attended meetings, was consulted, and emails demonstrated the back-and-forth discussions of matters.

# CINCINNATI PUBLIC SCHOOL DISTRICT: SE 4205-2024E



- Parent alleged that Student was entitled to an IEE after a 504-related causation meeting that resulted in suspension and placement in an alternate educational location.
- There are three issues the IHO considered:
  - (1) Whether the District was the correct Respondent in the action? Did the Petitioner follow rules promulgated by the District for notifying the District regarding a change in residency? Is the Petitioner a resident of the District under Ohio law?
  - (2) Whether the District is deemed to have knowledge of the Student's disability? If the District had knowledge of the disability, was the Student's MD appropriate to him?
  - (3) Whether the Student was entitled to an IEE after the District's ETR?

# CINCINNATI PUBLIC SCHOOL DISTRICT: SE 4205-2024E



- The IHO found that the Petitioner was a resident of the District. She provided the necessary documentation establishing that she resided at an address within District boundaries.
- The IHO found that the District did not have a basis to suspect a disability until after the behavioral incident that led to the 504 Causation Determination. The IHO did not review the appropriateness of the Causation Determination because it related to the Student's 504 identification.
- The IHO found that the Student was entitled to an IEE at District expense. The District failed to initiate a due process proceeding to confirm that the ETR was appropriate. Additionally, the IHO previously determined that the Student was a resident of the District.
- Because the District failed to pay for an IEE, the Student has been denied FAPE.

# GENEVA AREA CITY SCHOOL DISTRICT: SE 4186-2024



- The District filed a due process complaint related to the Student's educational placement in the District.
- The IHO considered two issues:
  - (1) Whether the Student's educational placement should be changed?
  - (2) Whether the District's proposed changes to the Student's IEP to reflect the Student's LRE for academics provides FAPE?

# GENEVA AREA CITY SCHOOL DISTRICT: SE 4186-2024



- The IHO found that the District was required to remove the Student from the general education setting in order to provide FAPE.
  - The District had attempted behavior interventions for two years without success.
  - The District had attempted to collaborate with the Parent with minimal success.
  - The District sought an independent qualified expert whose independent observations mirrored and supported concerns reported by the District's staff.
- The District's proposed revisions to the Student's IEP would allow the Student to return to the general education classroom once he obtains behavioral skills that would allow him to access the curriculum.
- The IHO also found that the Parent's lack of transparency and collaboration with the District resulted in unnecessary and unwarranted delays that prevented the Student from receiving FAPE.

# REYNOLDSBURG CITY SCHOOL DISTRICT: SE 4132-2023



- The IHO considered four issues:
  - (1) Whether the Parent had been provided with procedural safeguards?
  - (2) Whether bullying prevented the Student from receiving FAPE?
  - (3) Whether District staff have appropriately implemented Student's IEP?
  - (4) Whether Student has been denied FAPE during the time period of August 11, 2023 through December 4, 2023?

# REYNOLDSBURG CITY SCHOOL DISTRICT: SE 4132-2023



- The IHO found that the District provided the Parent a copy of the procedural safeguards at the due process hearing.
- The IHO was unable to conclude that bullying occurred which denied the Student access to FAPE.
  - There was insufficient testimony about the nature of the bullying, who was involved, and what impact it had on the Student's progress.
- The Parent argued that the Student had been improperly suspended and not received his IEP services during those suspensions.
  - The District removed the suspensions from the Student's record and informally offered compensatory education, though it had not provided it at the time of the hearing.
  - The IHO found that 6 hours of home instruction was appropriate compensatory education for the Student.
- The IHO found that the Student was denied FAPE for 6 days when he was suspended.

# UPPER ARLINGTON CITY SCHOOL DISTRICT: SE 4172-2024 & SE 4180-2024



- The IHO considered eight issues:
  - (1) Whether the Student was expelled from the District?
  - (2) Whether a lack of providing progress reports to the Parent denied Student FAPE?
  - (3) Whether the District provided the Student with the accommodations specified in her IEP during the 2023-2024 school year?
  - (4) Whether the Student was educated in her LRE during the 2023-2024 school year?
  - (5) Whether the Parent was denied the opportunity to participate in the October 10, 2023 IEP meeting?
  - (6) Whether the District provided the Parent with appropriate notice of procedural safeguards?
  - (7) Whether placement in a dance program at the Career Center would be appropriate for the 2024-2025 school year?
  - (8) What is the appropriate placement for the Student for the 2024-2025 school year?

# UPPER ARLINGTON CITY SCHOOL DISTRICT: SE 4172-2024 & SE 4180-2024

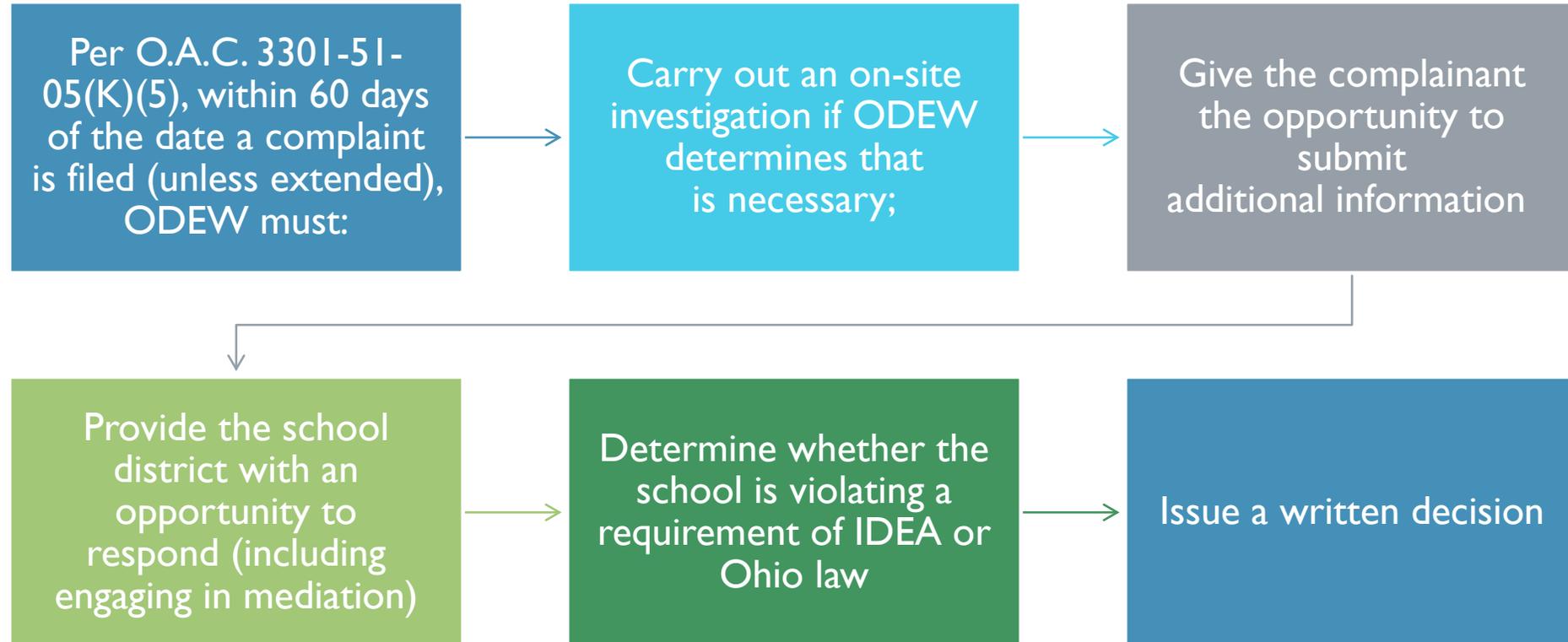


- The IHO dismissed issues 1-7 because there was insufficient evidence presented at the due process hearing. Additionally, the Parent failed to attend the due process hearing.
- The IHO agreed with the District's proposed IEP for the 2024-2025 school year.
- The District had proposed that the Student's placement be changed to UAHS because she was in need of additional services.



# STATE COMPLAINTS

# STATE COMPLAINTS PROCESS AND PROCEDURE



# STATE COMPLAINTS PROCESS AND PROCEDURE



O.R.C. 3323.05(E) – May file a complaint regarding:

- Identification;
- Evaluation;
- Educational Placement; and
- Provision of FAPE.

# STATE COMPLAINTS GENERAL UPDATES



01

Letter of Allegations contains District interview date/time.

02

Many new Complaint Investigators.

03

Major uptick state-wide on Complaints.

04

Extension requests for documentation submission.

# STATE COMPLAINTS GENERAL UPDATES

- OEC will create a formal process for working with a school on voluntary corrective action.
- There will be a new reconsideration process limited to just new facts.
- Potential for a Case Processing Manual like OCR due to variability across consultants and how they handle things.
- Procedure for “Credible Allegations.”

## CP 0239-2023, DAYTON CITY SCHOOL DISTRICT



- The District failed to issue progress reports at the frequency required in the IEP= every 4.5 weeks.
- Prior written notice was issued *6 weeks after* the IEP effective date.
- District did not afford the Parent an opportunity to examine the Student's full educational records despite the Parent's multiple requests.
- The documentation demonstrated that the Parent requested a copy of the Student's cumulative file on January 17, 2023 and October 30, 2023. No documentation was submitted to show the Parent received access to the file either within 45 days from the date of their request(s) or by the date the letter of findings was issued, 2/19/24.
- Corrective Action required= 720 minutes of compensatory education services, among other things.

## CP 0235-2023, BEXLEY CITY SCHOOL DISTRICT



- The District failed to implement the Student's IEP because it provided them special education and related services in a location other than the one described in the IEP.
- Daily SDI was provided in the general education classroom, not a supplemental classroom as required by the IEP.
- The District was required to offer 105 minutes of compensatory education as corrective action.

## CP 0233-2023, CITIZENS ACADEMY SOUTHEAST



- The District violated IDEA by failing to have an IEP in effect for an intradistrict transfer student with SLD.
- Districts must provide intrastate transfer students with comparable services until the previous IEP is adopted, or a new IEP is developed.
- The Student's previous district failed to develop an IEP, and the District failed to act on that information for two months.
- The District adopted the previous district's ETR, but it was unaware of what services the Student was receiving.
- The District will have to provide the Student with two months worth of compensatory education as a corrective action.

# CP 0206-2023, WASHINGTON LOCAL SCHOOL DISTRICT



- The District unilaterally changed a Student's IEP by shortening their day without first obtaining parental consent or providing the Parent the opportunity to give input.
- The District acknowledged the violation. As corrective action, the District offered to:
  - Amend the Student's IEP properly;
  - Offer compensatory services; and
  - Train staff.

## CP 0198-2023, CHILLCOTHE CITY SCHOOL DISTRICT



- The District violated IDEA by predetermining a student with ADHD was not eligible for special education and related services.
- Districts should consider waiting to complete paperwork that indicates the team's final decision prior to the eligibility meeting.
- This District provided a “draft” ETR prior to the eligibility meeting that stated the Student wasn't eligible.



# OCR COMPLAINTS

# OCR COMPLAINTS OVERVIEW

Jurisdiction – Title VI of Civil Rights Act; Title IX; Section 504; Title II of the ADA.

Complaint filed with agency.

OCR will send notice of complaint and demand for information/response.

Mediation is an option.

OCR will investigate, interview witnesses.

OCR may offer to resolve matter.

OCR will issue a letter of findings.

Public record – published nationally.



# SETTLEMENT

# OVERVIEW OF SETTLEMENT AGREEMENTS



- Solution outside the IEP to address a particular issue.
- Benefit can be a release of all claims and agreement about type, duration, level of services or placement going forward.
- Should be drafted by legal counsel.
- Settlement Agreement considerations:
  - Placement at outside facility with parent waiver of all claims related to the outside placement.
  - Determine LRE if there is a future dispute.
  - Confidentiality restrictions.
  - Amend IEP without an IEP team meeting.
  - Specify a minimum level of services, regardless of the IEP team's determination.

# SCHOLARSHIP PLUS AGREEMENTS



- Scholarship plus agreements allow Districts to contract with parents, students, and ASP/JPSN scholarship provider.
- The student elects to receive the ASP/JPSN scholarship and is no longer enrolled in the District.
- The District agrees to directly pay the scholarship provider for services that the scholarship does not cover.



# Q&A



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# THANK YOU!

