

# Office of Inclusive Education Dispute Resolution



**Special Education . Gifted and Talented Education . Indian Education**

## DUE PROCESS/COMPLAINT/MEDIATION REPORT

Reporting Period FY22 (July 1, 2021 – June 30, 2022)  
Reporting Period FY23 (July 1, 2022- October 11, 2022)

### Summary of Due Process Activity

	Total # of Students Enrolled in Nevada Schools	October 1, 2021, Special Education Child Count	Requests for Due Process Received	Hearings Conducted	Reviews
<b>Reporting Period FY22</b>	492,338	61,639	81	6	1
<b>Reporting Period FY23</b>			21	0	0

### Summary of Complaint/Mediation Activity

**Complaint requests received:**

Reporting Period FY22 10  
Reporting Period FY23 3

**Mediation requests received:**

Reporting Period FY22 9  
Reporting Period FY23 2

**Facilitation requests received:**

Reporting Period FY22 13  
Reporting Period FY23 1

### Trends to Date for Reporting Period FY22:

**State Complaints:**

- IEP Implementation
- Parent Participation
- Placement

**Due Process:**

- Placement
- Evaluation
- IEP Implementation

**Mediation:**

- IEP Implementation
- IEP Accommodations/Services

HISTORICAL DATA	FY13	FY14	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22
Due Process Requests Received:	81	98	83	102	109	99	139	97	63	81
Due Process Requests Settled/Withdrawn:	76	93	80	95	107	96	134	94	60	72
Hearings Conducted:	5	2	2	3	2	3	4	3	3	6
Reviews Conducted:	4	1	0	2	2	2	3	2	1	1
Complaints Investigated:	22	3	12	9	21	8	9	7	9	10
Mediation Requests Received:	2	4	1	7	10	8	7	6	13	9

10/11/22



# Dispute Resolution Options



# Opportunities for Conflict

- Approximately 62,000 students with disabilities in Nevada
- Every eligible student has an IEP
- Each student has at least one IEP meeting per year
- Numerous topics for potential disagreement

# What Types of Conflict Come to Mind?



# Associated Costs

## *Tangible*

- Monetary
  - Attorneys
  - Expert witnesses
  - Transcripts
  - Substitutes
- Time
  - Staff preparation
  - Depositions & defense

## *Intangible*

- Delayed service delivery to students
- Delayed student progress, achievement
- Tenuous school-parent relationships
  - Trust
  - Parent involvement
  - Credibility

# Policy and Practice Trends

“Before pursuing a due process hearing, a public agency should attempt to engage parents in mediation or other informal dispute resolution procedures, as appropriate.”

*OSEP Dear Colleague Letter, April 2015.*

# Dispute Resolution and Schools

- We encourage parents and school districts to work together to resolve disagreements about a student's special education program. However, we understand there are times when additional support is needed to resolve a disagreement.
- There are dispute resolution options available under the Individuals with Disabilities Education Act. These options can address concerns about the identification, evaluation, educational placement, and provision of a Free Appropriate Public Education to a student (age 3–21).



# IDEA 2004 Regulations - Dispute

- [Sec. 300.506 — Mediation](#)
- [Sec. 300.507 — Filing a due process complaint](#)
- [Sec. 300.508 — Due process complaint](#)
- [Sec. 300.509 — Model forms](#)
- [Sec. 300.510 — Resolution process](#)
- [Sec. 300.511 — Impartial due process hearing](#)
- [Sec. 300.512 — Hearing rights](#)
- [Sec. 300.513 — Hearing decisions](#)
- [Sec. 300.514 — Finality of decision; appeal; impartial review](#)
- [Sec. 300.515 — Timelines and convenience of hearings and reviews](#)
- [Sec. 300.516 — Civil action](#)
- [Sec. 300.517 — Attorneys' fees](#)
- [Sec. 300.518 — Child's status during proceedings](#)

# Dispute Resolution Options

- In accordance with IDEA, the OIE ensures establishment, maintenance, and evaluation of a state mediation and state complaint investigation system including evaluation surveys from system users.
- Each resolution option is offered in adherence to requirements and timelines established in the IDEA
- Along with mediation and state complaint options, the OIE offers a continuum of dispute resolutions options available to parents and LEA'S



# Technical Assistance

- OIE offers technical assistance materials to the public and parents through the NDE website (including model forms and procedural safeguards)
- OIE offers technical assistance training to LEAs, parents, advocates, and others regarding due process hearing procedures as well as all other dispute resolution options
- OIE provides ongoing training of hearing and review officers, IEP facilitators and mediators
- OIE tracks and analyzes issues to identify training and technical assistance needs for LEAs

# IEP Facilitation

- Not Required under IDEA
- An optional resolution process that is initiated by a parent or school district where an impartial facilitator assists the IEP team with communication and problem solving with the final outcome of developing an IEP that is supported by all team members that benefits the student
- Must be agreed upon by both parties
- Provided at public expense

# IEP Facilitation Benefits

- Builds and improves relationships among the IEP team members and between parents and schools.
- Serves as a more cost-efficient mechanism for resolving disputes than more formal proceedings such as due process hearings. Average cost to state \$500 - \$1000 with no cost to district or parent.
- NDE provides the trained facilitator and that facilitator works with parent and district to arrange meetings.
- Is typically a less stressful mechanism for resolving disputes.
- Provides opportunities for IEP team members to resolve conflicts if they arise.
- Supports all parties in participating fully.



# IEP Facilitation True or False

IEP Facilitation is our most underutilized dispute resolution option?



# IEP Facilitation

IEP Facilitation is our most underutilized dispute resolution option?



# Mediation

- Initiated by parent or school district and must be agreed upon by both parties.
- A voluntary process that brings people together with a mediator.
- Mediator helps communication between people to resolve disagreements. The final outcome of mediation is a signed legally enforceable written agreement.
- Provided at public expense.



# Role of Mediator

A mediator who is trained in effective mediation techniques...

- Facilitates open communication between mediation participants.
- Creates a safe environment.
- Encourages participants to be respectful and understand other points of view.
- Clarifies points of disagreement, may help identify options, and assists with writing down any agreement.

# Benefits of Mediation

- Mediation can help everyone better understand differing points of view.
- Participants work on solutions together and are in control of the outcome, rather than someone who doesn't know the child making a decision.
- Parties tend to be more satisfied and follow through with the terms of mediated agreements because they are developed together.
- Disagreements may be resolved more quickly than with other dispute resolution options.

# State Complaint

- This process is used to *communicate that* a public agency has not followed the IDEA, and to request an investigation. ***This is the only dispute resolution process that can be initiated by anyone.***
- The outcome of the State Complaint is a written decision that includes findings and conclusions listing reasons for the final decision. The final decision might include corrective actions that are student specific and/or system-wide issues.
- Timeline: A written decision must be issued no later than 60 calendar days after the complaint was received, unless the timeline is extended.
- Filed within 1 year of the date when the individual knew or should have known of the problem.
- Provided at public expense.

# Due Process

- Initiated by a parent or school district.
- This process is used to *resolve* a formal complaint regarding disagreements relating to the identification, evaluation, educational placement or provision of a free appropriate public education to a child who needs or is suspected of needing special education and related services. The outcome of Due Process is a written decision with findings of fact and conclusions of law that is legally binding.
- Timeline:
  - A **resolution meeting** must take place within 15 calendar days of the filing of a due process complaint. Can have up to 30 calendar days to work on a resolution prior to the hearing timeline.
  - A written decision must be issued within 45 calendar days from the end of the resolution period, unless a hearing officer grants a specific extension of the timeline at the request of both parties.

# Due Process Continued

- Must be filed within 2 years of the date when a party knew of or should have known of the problem.
- The LEA is responsible for all expenses related to the due process hearing, including the hearing officer, interpreter, verbatim record. (NAC 388.310(14))
- Each party pays its own expenses to put on its case
- The decision can be appealed:
  - 1) To the Superintendent for an impartial review by a State Review Officer
  - 2) The State Review Officer's decision can be appealed through State or Federal Court.

# Expedited Due Process Hearing

An expedited due process hearing is a very special type of due process hearing that may be requested only in certain situations that relate to discipline.

An expedited request may be filed when:

- Parents disagree with a school district's decision about placement for disciplinary removals
- Parents disagree with a school district's decision about whether a child's behavior is related to the disability. This decision is called a manifestation determination.

# Constituent Concern Inspection (CCI)

- A process in effect as of July 1, 2017 that is an addition to the existing alternative dispute resolution process, under IDEA, including due process hearings and the state complaint process.
- Can be initiated by the Superintendent at his/her own initiative or by a person, including an organization, or government agency filing a request for the Superintendent to inspect the believed non-compliant provider.
- A Constituent can file a CCI Request concerning compliance with special education laws and regulations regarding an individual child with a disability or systemic compliance with special education laws and regulations regarding multiple or all children with **disabilities** in the school.
- The NDE must conclude the inspection of the Provider within 30 days of the determination of good cause.
- Within 30 days of the completion of the inspection and finding of noncompliance, the NDE will meet with the Provider of special education to determine the most efficient and expeditious manner to bring the Provider into compliance with the identified law or regulation; and will request the board of trustees of the school district or the governing board of the charter school, as applicable, establish a plan of corrective action to ensure compliance with the law or regulation.

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# Nevada Dispute Data Continued

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# Trends to Date for Reporting Period FY22:

## State Complaints:

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- Parent Participation
- Placement

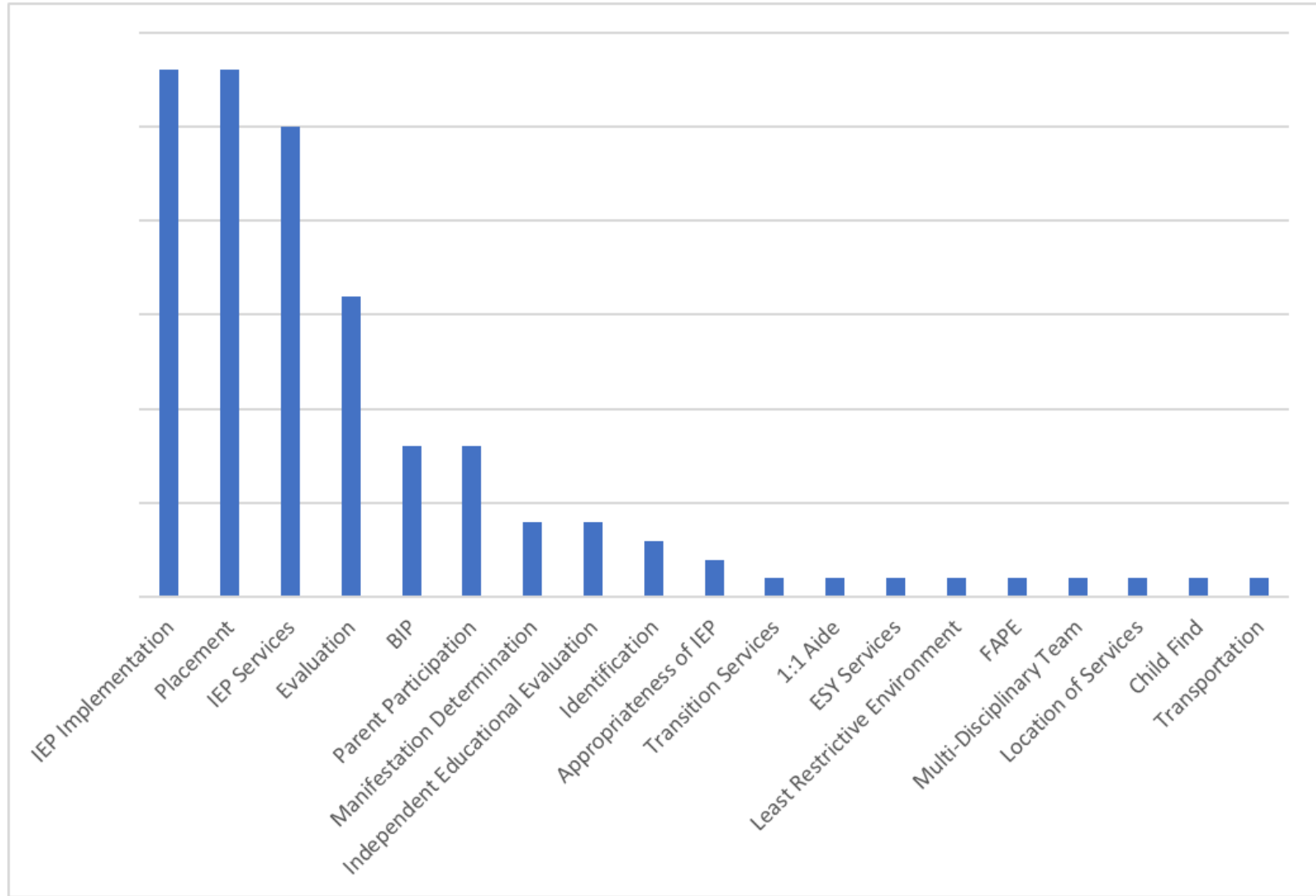
## Due Process:

- Placement
- Evaluation
- IEP Implementation

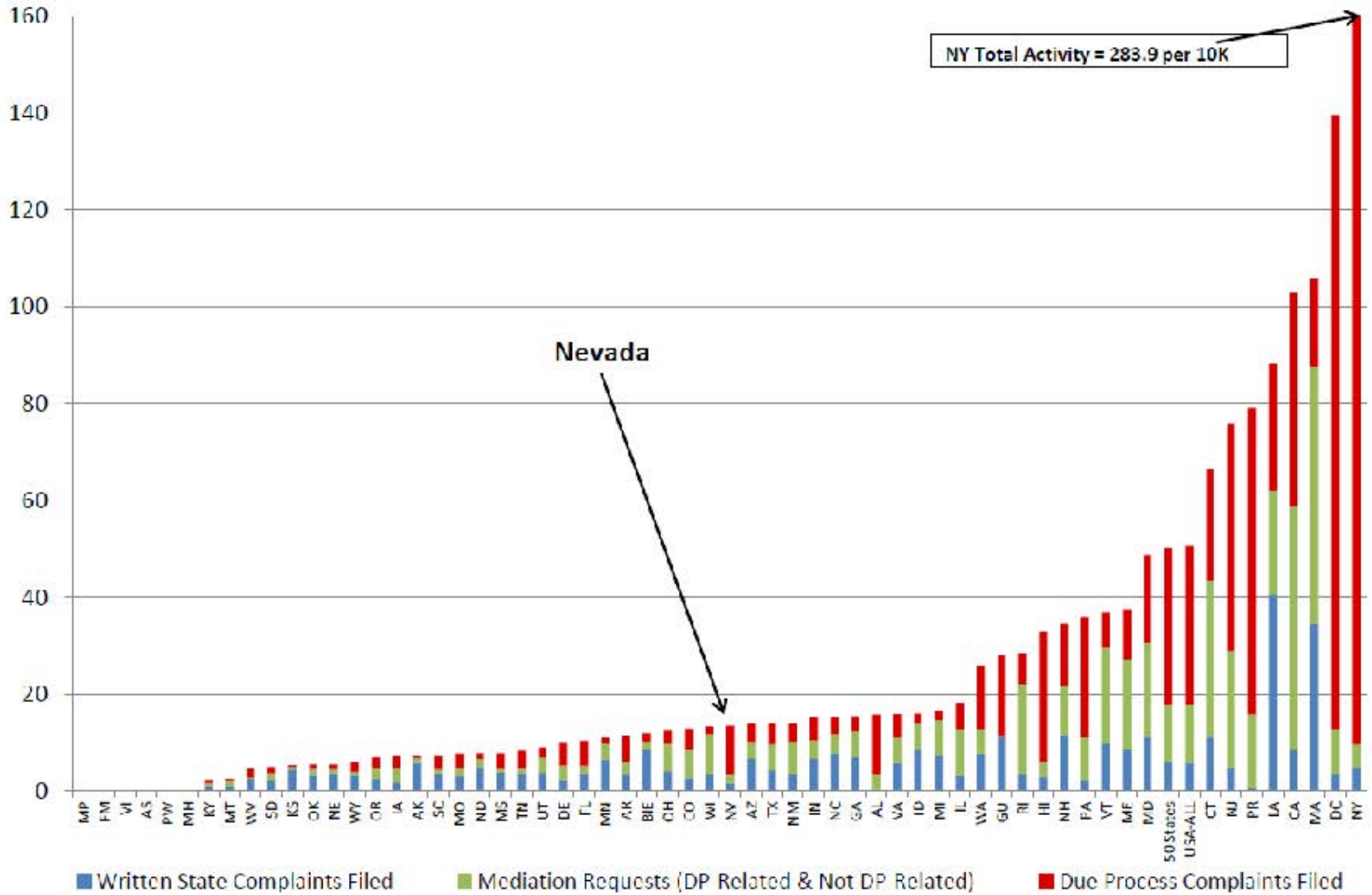
## Mediation:

- IEP Implementation
- IEP Accommodations/Service

# FY 22 Nevada Due Process Issues



# Total Dispute Resolution Activity by State/Entity per 10K Child Count: 2020-21



# Department of Education Website



To review copies of complete Due Process reports, please go to:  
[http://www.doe.nv.gov/Inclusive Education/Dispute Resolution/](http://www.doe.nv.gov/Inclusive_Education/Dispute_Resolution/)

## Dispute Resolution

### IDEA Dispute Resolution

The sections in NAC Chapter 388 for due process hearings and appeal from the decision of the Hearing Officer can be found in NAC §388.306 to 388.315.

- [NAC §388.306 to 388.315](#)

The sections in NRS Chapter 388 for due process hearings and appeal from the decision of the Hearing Officer can be found in NRS §388.463 to 388.469.

- [NRS §388.463 to 388.469](#)
- [OSEP IDEA Dispute Resolution Process Comparison Chart](#)
- [IDEA Dispute Resolution Parent Guides in English and Spanish in the areas of IEP Facilitation, Mediation, Written State Complaints, Due Process, and Resolution Meetings](#)
- [CADRE: The Center for Appropriate Dispute Resolution in Special Education Supporting the prevention and resolution of disputes through partnership and collaboration](#)

### IEP Facilitation

- [Request for IEP Facilitation Form](#)

### IEP Facilitator and Mediator Directory

- [IEP Facilitator and Mediator Directory](#)

### Mediation

- [Request for Mediation Form](#)

### Complaint

- [Model Complaint Form -English](#)
- [Model Complaint Form - Spanish](#)
- [Model Form for Withdrawal of a State Complaint](#)

### Due Process

- [Notice of Insufficiency](#)
- [Non Filing Party Model Form](#)
- [Model Due Process Request Form](#)
- [Due Process Hearing Officer and Review Officer Directory](#)
- [Model Due Process Request Form - Spanish](#)

### Reports

To request archived report information click the link below.

- [Request archived information](#)

### Complaint Reports

- [2020-2021 Complaint Reports](#)
- [2019-2020 Complaint Reports](#)
- [2018-2019 Complaint Reports](#)
- [2017-2018 Complaint Reports](#)
- [2016-2017 Complaint Reports](#)

### Due Process Hearing Decisions

- [2020-2021 Due Process Hearing Decisions](#)
- [2019-2020 Due Process Hearing Decisions](#)
- [2018-2019 Due Process Hearing Decisions](#)
- [2017-2018 Due Process Hearing Decisions](#)
- [2016-2017 Due Process Hearing Decisions](#)

### Due Process Review Decisions

- [2019-2020 Due Process Review Decisions](#)
- [2018-2019 Due Process Review Decisions](#)
- [2017-2018 Due Process Review Decisions](#)
- [2016-2017 Due Process Review Decisions](#)

### Constituent Concern Inspection

[NDE Constituent Concern Inspection](#)

[Guidance](#)

[Constituent Concern Inspection Request Form](#)

# Future of Dispute Resolution

## ACCESS System

- Will allow people to file all complaints on-line
- Be the point of access for all parties
- Will track timelines and send out reminders to all parties
- All data will be stored in one place
- Ease of reporting
- Transparency