Office of Dispute Resolution and Administrative Services (ODRAS)

Division of Special Education and Student Services

ASPIRING LEADERS ACADEMY
RICHMOND, VIRGINIA
SEPTEMBER 21, 2016
ODRAS is comprised of 4 systems:

- Mediation
- Complaints
- Due Process
- Regulatory Management
The Focus for These Systems Is Always the Children!
Who We Are Not...
Who We Are...
MEDIATION
What is mediation?

- Voluntary and non-adversarial process
- Facilitated by impartial, trained mediator
- Focused on needs of child
- Where parents and school personnel meet to negotiate
  - Confidential and informal setting
  - No cost to parent or school division
What is mediation?

- May not be used to delay or deny right to due process or other rights

- If applicable, concludes with written, legally binding agreement

- Effective for maintaining/rebuilding relationships
How do I request mediation?

- Both parties must agree to mediate
- You may inform the school division that you wish to mediate, and it should assist with providing the necessary forms
- You may contact VDOE and we will reach out to the school division
- You may send a written request to VDOE and we will reach out to the school division
COMPLAINTS
What is a complaint?

- A disagreement with a procedure or a process regarding special education programs, procedures or services
Complaint Procedure

- A complaint may be filed by individual, organization, or individual from another state – if filed on behalf of an individual child by an advocate, must include a release

- ODRAS notifies parties regarding issues to be investigated; requests information from LEA

- Issues Letter of Findings (LOF) within 60 calendar days of receipt of the complaint. Includes Corrective Action Plan (CAP) to remedy noncompliance findings

- Either party may appeal findings

- Appeal decision FINAL
A complaint must:

- Be in writing
- Include the signature and contact information of the complainant
- Contain a statement that a school division has violated special education laws and regulations
- Include facts upon which the complaint is based
- Address an action that occurred not more than one year prior to the date the complaint is received
- Contain all relevant documents
- Be provided simultaneously to the school division
For complaints involving an individual student, the complaint must include:

- The name and address of the child
- The name of the school the child is attending
- In the case of a child who is homeless, available contact information and the name of the school the child is attending
- A description of the nature of the problem and including facts related to the problem
- A proposed resolution, to the extent known and available to the party at the time the complaint is filed.
What We Cannot Do

- Investigate claims of disability discrimination (vs. disability harassment)
- Investigate personnel issues or administrative matters strictly under domain of local school board
- Investigate issues already determined under due process proceedings
DUE PROCESS
What is due process?

- Impartial procedure used to resolve disagreements over issues related to special education and related services.

- Federal and state laws governing education of children with disabilities mandate right of parent and school divisions to request due process.
Types of Due Process

**Expedited**
- 20-day timeline

**Non-expedited**
- 45-day timeline
Common Due Process Issues

- Identification of child with a disability
- Evaluation of child with disability (including disagreements regarding payment for independent educational evaluation (IEE))
Common Due Process Issues

- Educational placement and services
- Provision of free appropriate public education (FAPE)
How to request a due process hearing

- Two year statute of limitations
- Request is provided in writing to VDOE and the school division
- Can only be filed by a parent (or through the child’s advocate or attorney) on behalf of an individual student
- School division contacts the Supreme Court of Virginia to request that a hearing officer be appointed within five business days after the receipt of the request (three business days for expedited due process)
Content of the Request

- Name of the child
- Address of the child (or available contact information for a child who is homeless)
- Name of the school the child is attending
- A description of the problem, including the facts related to the problem
- A proposed resolution if known and available to the parents at the time of the hearing
- Name and contact information of person filing the request
What to expect

- One or more prehearing conferences between the parties and the hearing officer to establish timelines and other administrative matters, including date of the hearing and whether the hearing will be open or closed
- A resolution session
- Exchange of information including witness lists
What you may encounter

- Prehearing motions, such as a challenge to the sufficiency of the request. These motions are very similar to those that might be seen in court.
- Requests for subpoenas and production of documents.
- Determination of stay-put placement.
At the hearing

- Witnesses are under oath
- A court reporter prepares a transcript
- Evidentiary rules are generally followed, including objections, requests for admission, qualification of expert witnesses, etc., although the hearing officer does have some discretion in this regard
Regulatory Management

- Revision of Special Education Regulations
- Drafting Restraint and Seclusion Regulations
- Provide support on other SESS initiatives, such as the Statewide IEP system
- Respond to inquiries and FOIA Requests
Regulatory Management

- Section 504
- Management of the Student Record
- Prepare briefing documents on legislation, and provide information and presentations for legislative committees and commissions
- Provide support to SSEAC
- Represent VDOE on the State and Local Advisory Team and State Executive Council for the Children’s Services Act
In the Works

- Facilitated IEP Meeting System
- Back to Basics Initiative
ODRAS Work Products

- Extended School Year Services ~ Technical Assistance Resource Document
- Parents’ Guide to Special Education Dispute Resolution (2008)
- Guidelines for School Division Policy Regarding Service Dogs in Virginia’s Public Schools
- Navigating the Maze of New Due Process Requirements
- Procedural Safeguards
- Managing the Timeline in Due Process Hearings
ODRAS Work Products

- Guidance for Military Families with Students in Special Education (2014)