

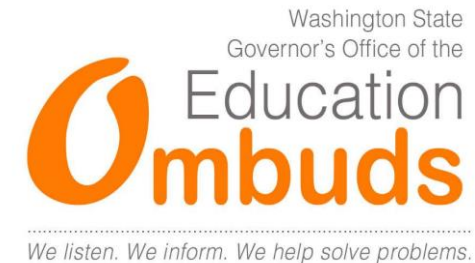
Fostering Together & OEO

Part 1: Navigating IEPs and 504 Plans

Presented by: Rose Spidell, Senior Education Ombuds,
Hosted by: Fostering Together
November 13, 2018, 6-7pm

www.oeo.wa.gov

1-866-297-2597



History of the OEO

Tackling the Opportunity Gap in k-12 Washington State Public Schools

Founded by the state legislature in 2006

OEO's Mission: We work with families, communities, and schools to navigate educational challenges and increase collaborative problem-solving so that every student can fully participate in and benefit from public education in Washington.



What OEO Does

We listen. We inform. We help solve problems.

CASEWORK

TRAININGS & OUTREACH

POLICY

Read more about how we work with families, educators and community professionals on our website: www.oeo.wa.gov/contact.

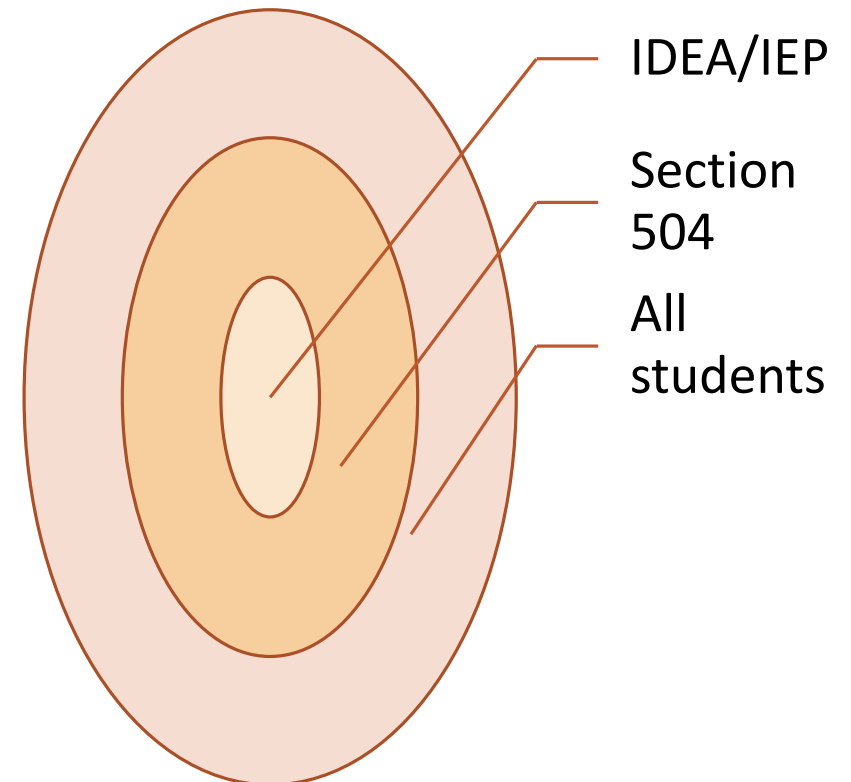
Disability Protections in Schools

Section 504 (of the Rehabilitation Act)

- Anti-discrimination law
- Definition of student with a disability is broad (any mental or physical impairment that substantially limits a major life activity)
- Section 504 Plans generally list accommodations a student needs in school.

Individuals with Disabilities Education Act (“IDEA”)

- Special education law
- Definition of child with a disability is more specific
- IEPs (Individualized Education Programs) include areas of “Specially Designed Instruction” in addition to accommodations, related services, etc..



Getting Started with Special Education

How a student can get an IEP

“CHILD FIND”

Steps school districts take to identify students with disabilities, and offer evaluation.

A teacher, a school counselor or other person raises a concern and makes a referral for special education evaluation.

PARENT REQUEST

If a parent suspects that a child might have a disability and needs special education, **a parent can request an evaluation.**

The request should be **IN WRITING.**

GETTING STARTED: REQUEST FOR EVALUATION

1. A parent makes a **request in writing**, or a referral is made by another person who knows the child, and the parents are informed
2. The school **reviews records and parent input**;
3. The district responds ***in writing***, not more than **25 school days** after receiving the request, saying “Yes” we want to evaluate, or “No” we will not do an evaluation.
 - a. If **yes** – the district will **ask** for the **parent’s written consent** to evaluate, and will complete the evaluation within **35 school days**.
 - b. If **no** – the district will explain **why (in writing)** and tell parents (in writing) about their **right to challenge** that decision.

*Quick tips: in writing, email is fine; include clear subject line: “Request for Special Education Evaluation”; note areas of concern (reading, writing, math, social skills, communication, etc.), set a reminder to check in if you don’t hear back. The district’s 35 school day timeline to complete an evaluation **does not start until the district receives the parent’s signed consent**. If the district agrees to evaluate, make sure you complete the CONSENT PAPERWORK without delay.*

Sample Request for a Special Education Evaluation

To: (no specific rule re who to send it to) (e.g., School Counselor, Principal, Teacher)

Cc: Teacher, Principal (District Special Education Supervisor/Director, School Psychologist)

RE: Request for IEP Evaluation for M. C. (my child).

Dear _____,

I am writing to request that the school evaluate my child, _____, for special education services.

I am concerned that even with extra support, my child is struggling with **[brief description, e.g. reading and writing especially. Also, I am concerned that my child has a hard time understanding and remembering the teacher's instructions.]**

Please confirm you received this request, and let me know what the next steps will be. I can be available for a meeting to discuss an evaluation **[your availability: e.g., in the early mornings or Tuesday afternoons.]**.

Parent's Informed Consent for Evaluation

Under special education rules, “parent” means:

(a) A biological or adoptive parent of a child;

(b) A foster parent;

(c) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the student, but not the state, if the student is a ward of the state;

(d) An individual acting in the place of a biological or adoptive parent including a grandparent, stepparent, or other relative with whom the student lives, or an individual who is legally responsible for the student's welfare; or

(e) A surrogate parent who has been appointed in accordance with WAC 392-172A-05130.

(2)(a) Except as provided in (b) of this subsection, if the biological or adoptive parent is attempting to act as the parent under this chapter, and when more than one party meets the qualifications to act as a parent, the biological or adoptive parent must be presumed to be the parent unless he or she does not have legal authority to make educational decisions for the student.

(b) If a judicial decree or order identifies a specific person or persons under subsection (1)(a) through (d) of this section to act as the "parent" of a child or to make educational decisions on behalf of a child, then that person or persons shall be determined to be the "parent" for purposes of this section.

(3) The use of the term, "parent," includes adult students whose rights have transferred to them pursuant to WAC 392-172A-05135.

ELIGIBILITY FOR AN IEP – 3 PARTS

1. Does my child have a **disability *as defined by* one or more of the categories of disability in the IDEA?**
2. Does my child experience “**adverse educational impact?**”
3. **Because of the disability** and its adverse impact, does my child **need “special education”?**

If a student needs accommodations, but not special education, the student would be eligible for a 504 plan, but not an IEP.

Section 504 Evaluations

- Starts with a referral, or request from a Parent;
- Parent Consent is required for a Section 504 Evaluation;
- Evaluations must be completed *in a timely manner* (check district procedures for possible specific timelines).

Evaluations should be thorough enough to determine:

- Whether the child has a disability (a mental or physical impairment that substantially limits a major life activity); and
- Whether the student needs aids, services, accommodations in school because of the disability.

For detailed guidance and examples, see US Department of Education's Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools: <https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>.

Sample Request for a Section 504 Evaluation

To: (no specific rule re who to send it to), generally School Counselor/Assistant Principal

Cc: Teacher, Principal (District Section 504 Coordinator)

RE: Request for Section 504 Evaluation for M. C. (my child).

Dear _____,

I am writing to request that the school evaluate my child, _____, for a Section 504 plan.

My child is [**brief description of concerns, information you have about possible disability, e.g.: showing signs of increasing anxiety and possibly depression. We are working on connecting with counseling outside of school.**] I'm concerned that this *anxiety* is causing problems at school with classwork and with peers. I'd like to talk about whether there are some supports that would help him cope when he is at school.

Please confirm you received this request, and let me know what the next steps will be. I can be available for a meeting to discuss an evaluation [**your availability: e.g., in the early mornings or Tuesday afternoons.**]

RE-EVALUATIONS

- **At least every 3 years** unless the district and parent agree it is unnecessary;
- When a student's needs change and the current evaluation does not provide enough information for the IEP team;
- or if the child's parent or teacher requests it; but
- **Not more than once a year unless the parent and district agree.**

Note: re-evaluations are often proposed/requested if someone believes a "change in placement" may be needed (from more or less restrictive/inclusive settings, or other significant change).

IEP Development, Review, Revision: Team Responsibilities



- Meet **at least once a year and more often as needed**
- Determine Annual Measurable Goals (based on Present Levels of Performance)
- Track Progress on Goals
- Decide Accommodations, Supports, Related Services
- Decide on Services (Specially Designed Instruction and related services)
- Determine Placement
- Develop Transition Plan (as age-appropriate)

Present Levels of Performance & Measurable Annual Goals

Present levels of performance: describe the student's **current** abilities and challenges in each academic and functional area affected by disability;

Where are we now?

Measurable Annual Goals: identify particular skills that will be targeted with specially designed instruction to enable the student to be involved in and make progress in the general education curriculum.

Where do we want to be in one year?

Accommodations/Modifications

Can include changes to the:

- Physical learning environment (classroom, library, gym);
- Timing of instruction or responses;
- Scheduling;
- Methods of presenting information; and/or
- Methods for the student to respond or communicate

Accommodations/504 Plans/IEPs

If a student is able to participate in class and in the general education curriculum with accommodations, those accommodations can be written out in a Section 504 Plan.

If a student needs accommodations *and* specially designed instruction, **the student's IEP would include the accommodations**. The student would not need a separate 504 plan.

Special Education “Services Matrix”:

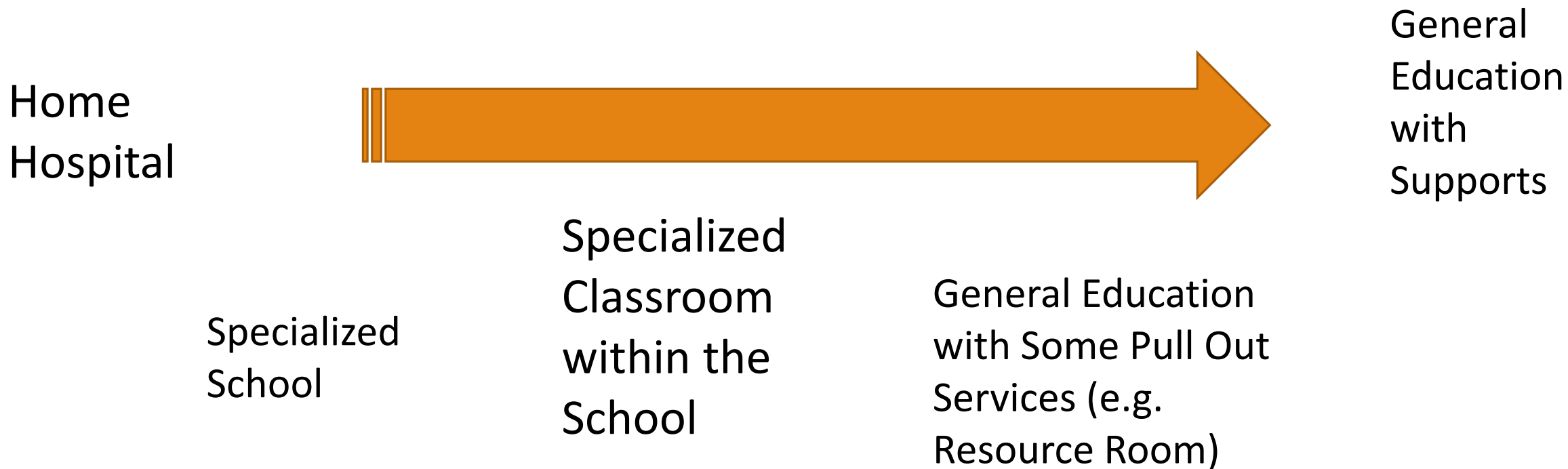
Chart showing areas and amounts of Specially Designed Instruction

- Who will provide it;
- Who will supervise it;
- Where it will be provided;
- For how many minutes; and
- How frequently.

EXAMPLE

Concurrent	Service	Service Provider	Monitor	Frequency	Location	Start Date	End Date
No	Math	Special education teacher	Special Education Teacher	50 min/5 times weekly	Special education	11/1/15	10/31/16
No	Reading	Special education teacher	Special education teacher	30 min/5 times weekly	Special education	11/1/15	10/31/16
No	Social skills	Special education teacher	Special education teacher	10 min/4 times weekly	General education	11/1/15	10/31/16

PLACEMENT: LEAST RESTRICTIVE ENVIRONMENT (LRE)



Special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Transition Planning & Services

Planning Ahead for Adult Life

By at least age 16, every IEP must include a plan that looks ahead and sets goals for what the student wants to do **after high school** in relation to:

- Post-Secondary Education
- Employment
- Independent Living

Transition Planning starts with Transition Assessments: what are the student's strengths, interests and dreams? What will the student need in order to reach those goals?

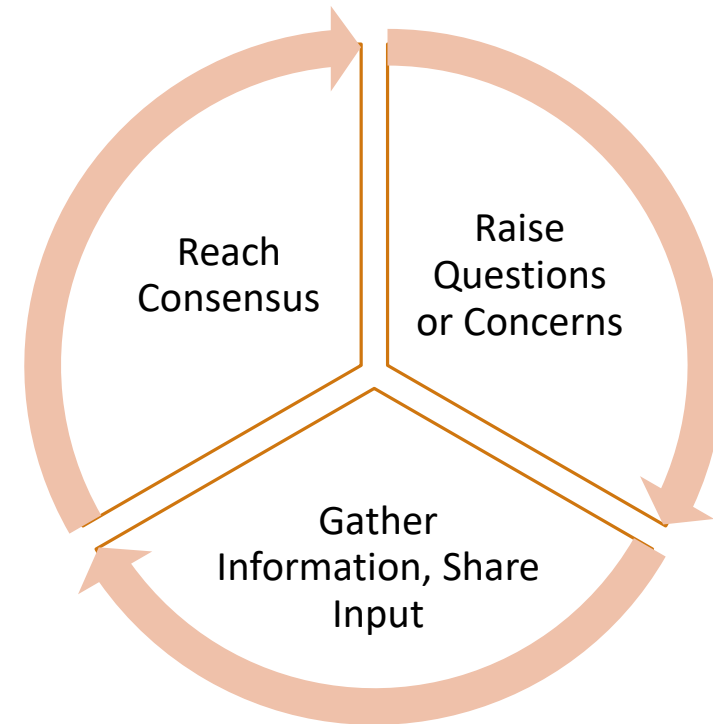
Person Centered Planning – going beyond pen/paper or computer assessments, it is a process that gathers a group of people who know and care about the student to help identify strengths, interests and dreams.

Engaging with the IEP Team

Team members:

- The parents;
- The student, whenever appropriate;
- At least one general education teacher;
- At least one special education teacher (or provider);
- A district representative (someone qualified to provide or supervise special education, is knowledgeable about the general education curriculum and the available resources in the district;*)
- Someone who can interpret the evaluation results;
- Others with knowledge or special expertise re the student (as determined and invited by the parent or the school district).

*one of teachers or the person who can interpret evaluation results can be designated as the district representative.



Sample request for an IEP Meeting

To: IEP Case Manager/Special Education Teacher;

RE: Request for IEP Meeting

Dear _____,

I'm writing to request that we schedule an IEP meeting sometime in the next few weeks. I'm concerned that **[brief explanation of concerns: e.g., I am hearing more frequently about behaviors in his general education classes. Also, when I am working with him on his homework, he seems to be really struggling with the reading.]** **[request for opportunity to discuss and consider changes: I know he has been getting reading supports and I'd like to understand how that is going, and talk about what else he might need.]**

I can meet **[your availability: e.g. any day after 3pm or on Friday mornings before 10.]** I'd like to be sure **[particular team members you think are essential to have at this meeting: e.g. his history teacher]** can attend the meeting because that seems to be the class he's having the most trouble with. Please let me know when the team can meet.

Thank you,

What if an IEP Team does not Agree?

If the IEP team cannot reach consensus (does not agree), then:

- The DISTRICT must make a decision; and
- Inform the Parents in writing, with a prior written notice, “PWN.”

Prior Written Notice (PWN)

A district must give a parent written notice (PWN) when a decision is made about eligibility, evaluation, placement or services.

The PWN is required **when:**

- **a district proposes an action or change, or**
- **a parent makes a request**

The PWN must explain the action requested or proposed, the decision made, and the reasons for it.

The PWN must be translated into a parent's native language if the parent does not read English.

Sample request for Clarification

To: IEP Case Manager/Special Education Teacher;

Cc:

RE: Request for Follow Up/Clarification re I Pad

Dear _____,

In our last IEP meeting, we talked about how _____ (my child) has not been able to *keep up with taking notes in her classes because she has a hard time listening and writing at the same time*. I asked if the school could *try out some different devices*, like an I Pad or smartphone that she could use to write some notes and take pictures of the board. You agreed to look into it.

I did some research and I think we should start with an Assistive Technology Evaluation, to see what might work for her. **Can you please follow up on this by the end of the week, and include a Written Notice (PWN) with the response?**

Thank you,

Options for Resolving Disagreements relating to Special Education

Informal:

- **Ask the team to reconsider** or **postpone a change** until it has a chance to gather more information or have further discussion;
- Work out a plan to **take data** that the team can review to consider the possible need for a change, or effect of a change;
- **Seek help** in resolving the disagreement from another person (e.g., district supervisor, parent advocate, family liaison, education ombuds);
- **Request a Facilitated IEP team meeting**
- **Request Mediation** with the District;

Formal:

- **File a Citizen's Complaint** with OSPI;
- **Request a Due Process Hearing;**
- File a **complaint** with the US Department of Education **Office for Civil Rights (OCR)**.

Options for Resolving Disagreements relating to Section 504

Informal:

- Ask the teacher and/or 504 team to reconsider, gather more information and/or have further discussion;
- Work out a plan to try something for a short period of time, track how it is working, and meet again to review.
- Seek help in resolving the disagreement from another person (e.g., school or district supervisor, parent advocate, family liaison, education ombuds);

Formal:

- Request a Due Process Hearing (check your District's 504 Procedures for details);
- Follow your School District's Nondiscrimination complaint procedure (with an option to appeal to OSPI Equity & Civil Rights if it is not resolved);
- File a complaint with the US Department of Education Office for Civil Rights (OCR).

Tips for Resolving Disagreements: Working toward Understanding

Three Challenges for Communicating in Difficult Situations:

Self-Awareness: understanding your own feelings and how they are impacting the interaction. Noticing, “What am I feeling?” “What am I expecting from this meeting, this person?”

Listening to Understand: holding back judgment to try to understand another person’s perspective. Accepting, “Maybe I still won’t agree, but I can try to understand where they are coming from.”

Interests over Positions: trying to identify your core interests, hopes for an outcome and accepting there may be more than one way to satisfy those interests. Considering, “Ultimately I want to see _____. I think the right way to get there is _____, but I’m open to other options.”

Dispute Resolution – Formal and Informal



The screenshot shows the OSPI (Office of Superintendent of Public Instruction) website. The header includes the OSPI logo and the text "State of Washington Office of Superintendent of Public Instruction". Below the header is a navigation bar with links: Home | Certification | Offices & Programs | Learning & Teaching | Assessment | Finance & iGrants | Data. The main content area is titled "Special Education" and "Dispute Resolution". It includes a sidebar with links: Special Education Home, Laws & Procedures, Guidance for Families, Data & Reporting, Dispute Resolution, Funding & Finance, Program Review, Resource Library, and Contact Us. The main content area has a heading "Dispute Resolution" and a paragraph: "We encourage parents and school districts to work together to resolve times when additional support is needed to resolve a disagreement. There are three dispute resolution options available under the Individualized Education Program (IEP) process: identification, evaluation, educational placement, and provision of Free and Appropriate Public Education (FAPE). The three options are: Request Facilitation, Request Mediation, and File a Citizen Complaint." Below this are three links: "Request Facilitation", "Request Mediation", and "File a Citizen Complaint". Each link has a brief description of the process.

State of Washington
Office of Superintendent of Public Instruction
OSPI

Home | Certification | Offices & Programs | Learning & Teaching | Assessment | Finance & iGrants | Data

Special Education Home

Laws & Procedures

Guidance for Families

Data & Reporting

Dispute Resolution

Funding & Finance

Program Review

Resource Library

Contact Us

Special Education

Special Education > Dispute Resolution

Dispute Resolution

We encourage parents and school districts to work together to resolve times when additional support is needed to resolve a disagreement.

There are three dispute resolution options available under the Individualized Education Program (IEP) process: identification, evaluation, educational placement, and provision of Free and Appropriate Public Education (FAPE). The three options are: Request Facilitation, Request Mediation, and File a Citizen Complaint.

[Request Facilitation](#)

Facilitation is a voluntary process for parents and districts to meet to facilitation services.

[Request Mediation](#)

Mediation is a voluntary process for parents and districts to meet to

[File a Citizen Complaint](#)

Any citizen can file a complaint alleging that a federal or state special education law was violated in the past year.

[Request a Due Process Hearing](#)

In a hearing, parents and districts appear before an independent adjudicator and a judge can reach a decision.

Two Informal Options:

Facilitation for IEP Meetings

Mediation

Available through Sound Options Group:

<http://sometg.com/our-services/conflict-engagement/mediation/>

Stay in Touch with OEO

Contact Us:

Online: www.oeo.wa.gov

Email: oeoinfo@gov.wa.gov

Toll free phone: 1-866-297-2597
(interpreter services available)

Find webinars, guides and toolkits:

<http://oeo.wa.gov/publications-reports/webinars/>

<http://oeo.wa.gov/publications-reports/publications/>

Receive Updates and News:

OEO Newsletter Sign Up:

https://public.govdelivery.com/accounts/WAGOV/s/ubscriber/new?category_id=WAGOV_C5

Facebook:

<https://www.facebook.com/WAEducationOmbuds/>

Facebook en Español (Spanish):

<https://www.facebook.com/OmbudsdeEducacion/>

Twitter: @EdOmbuds