

281—41.510(256B,34CFR300) Resolution process.**41.510(1) Resolution meeting.**

a. General. Within 15 days of receiving notice of the parent's due process complaint and prior to the initiation of a due process hearing, the LEA must convene a meeting with the parent and the relevant member or members of the IEP team who have specific knowledge of the facts identified in the due process complaint that:

(1) Includes a representative of the public agency who has decision-making authority on behalf of that agency; and

(2) May not include an attorney of the LEA unless the parent is accompanied by an attorney.

b. Purpose of meeting. The purpose of the meeting is for the parent of the child to discuss the due process complaint and the facts that form the basis of the due process complaint so that the LEA has the opportunity to resolve the dispute that is the basis for the due process complaint.

c. When meeting not necessary. The meeting described in paragraphs 41.510(1) "a" and "b" need not be held if the parent and the LEA agree in writing to waive the meeting, or the parent and the LEA agree to use the mediation process described in rule 281—41.506(256B,34CFR300).

d. Determining relevant members of IEP team. The parent and the LEA determine the relevant members of the IEP team to attend the meeting.

41.510(2) Resolution period.

a. General. If the LEA has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur.

b. Timeline for decision. Except as provided in subrule 41.510(3), the timeline for issuing a final decision under rule 281—41.515(256B,34CFR300) begins at the expiration of this 30-day period.

c. Failure of parent to participate: delay of timeline. Except where the parties have jointly agreed to waive the resolution process or to use mediation, the failure of the parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.

d. Failure of parent to participate: dismissal of complaint. If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented using the procedures in subrule 41.322(4), the LEA may, at the conclusion of the 30-day period, request that the administrative law judge dismiss the parent's due process complaint.

e. Failure of LEA to hold meeting. If the LEA fails to hold the resolution meeting specified in subrule 41.510(1) within 15 days of receiving notice of a parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of the administrative law judge to begin the due process hearing timeline.

41.510(3) Adjustments to 30-day resolution period. The 45-day timeline for the due process hearing in subrule 41.515(1) starts the day after one of the following events:

a. Both parties agree in writing to waive the resolution meeting;

b. After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible;

c. If all parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later the parent or public agency withdraws from the mediation process.

41.510(4) Written settlement agreement. If a resolution to the dispute is reached at the meeting described in paragraphs 41.510(1) "a" and "b," the parties must execute a legally binding agreement that is:

a. Signed by both the parent and a representative of the agency who has the authority to bind the agency; and

b. Enforceable in any state court of competent jurisdiction or in a district court of the United States, or, by the department, including but not limited to through the state complaint process.

41.510(5) Agreement review period. If the parties execute an agreement pursuant to subrule 41.510(4), a party may void the agreement within three business days of the agreement's execution.

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