

Kern County Consortium SELPA Alternative Dispute Resolution



Procedural Handbook and Parent Guide

Alternative Dispute Resolution (ADR)
Procedural Handbook Contents

Definition of Alternative Dispute Resolution (ADR).....	1
Formal State Process.....	2
ADR vs. Due Process Complaint	4
Kern County Consortium SELPA ADR Process	5
Suggestions for Parents to Minimize Disagreements	7
Effective Strategies for when Disagreements Do Occur	10
Appendix A: Kern County Consortium SELPA Educational Agency Member Representatives	I
Appendix B: Education Acronyms	III
Appendix C: Disability Categories	III
Appendix D: Program Data Collection, Evaluation and Reporting	IV
Appendix E: ADR Resources	V
Appendix F: “Parent Planning Form for IEP Meetings”	VI

Definition of Alternative Dispute Resolution (ADR)

Alternative Dispute Resolution (ADR) is a **local, no-cost** process for resolving conflicts which may arise during the course of identifying, developing and/or implementing special education programming for a student with a disability. ADR works to resolve disagreements and conflicts by focusing on communication, collaboration, negotiation, and mediation to achieve agreements that meet the interests of all the parties involved. It is a process that respects the dignity of individuals while creating mutually satisfying solutions.

Because communication is so important in the development of a child's educational program, the Kern County Consortium SELPA has embraced the concept of Alternative Dispute Resolution and has become one of many SELPAs in California to begin using its principles to attempt to resolve conflict prior to moving to more formal levels. Informal conversation often resolves the problem and helps maintain open and positive communication. While disagreement is normal and a natural part of life, how it is approached and dealt determines everyone's level of comfort with decisions made. ADR provides a variety of options for districts and families seeking to work to resolution at the local level and allows all involved to maintain a positive relationship focused on the best interest of the child.

Parents concerned about their child's education are encouraged to contact the child's teacher, school principal, or district's special education administrator to discuss their concerns. If concerns cannot be resolved through this avenue, the SELPA ADR Lead Coordinator can be contacted to facilitate finding the option that best fits the need at the time.

Formal State Process

Federal and state special education law makes provision for a due process complaint which is designed to protect the rights of parents when there is a concern that certain principles or practices have not been followed for children with special educational services. There are two broad types of complaints, each resolved in a different manner:

- **Procedural (Compliance) Complaint:**
A compliance complaint may be filed by a parent when they allege that the LEA has violated education code. The CDE must review all relevant information, including an on-site investigation if necessary, and make an independent determination about the alleged violation within 60 days. A written decision will be provided to the complainant. If corrective action is ordered, the CDE's Focused Monitoring and Technical Assistance Unit follows up to confirm the complaint has been resolved.
- **Substantive Complaint:**
This type of complaint deals with the student's right to a free appropriate public education (FAPE) which include disagreements about the child's identification, assessment, educational placement, or specialized instruction. Either the parent or the school can request due process proceeding.

There are three possible steps to this proceeding, typically involving attorneys:

- 1) **Resolution Session/Meeting:** When a parent files a due process hearing request, the district is required to schedule a resolution meeting with the parents and the relevant members of the IEP team within 15 days of receipt to attempt to reach an agreement at an early stage.
- 2) **Mediation Conference:** If the resolution session is not successful or is waived by either party, a mediation conference is conducted. This is an informal meeting between the district, parent, and an administrative law judge. The mediation conference must be scheduled by the state within 15 days of receiving the request for due process hearing.
- 3) **Formal Administrative Fair Hearing:** If the mediation conference is not successful or is waived by either party, an administrative fair hearing is scheduled. This is a formal hearing conducted by an administrative judge from the Office of Administrative Hearings at which both sides present evidence through submitting documents and by calling witnesses. The administrative law judge evaluates the evidence, determines the prevailing party, and directs corrective action, if any. The hearing must be held and a decision reached within 45 days of receipt of the request for a hearing.

- Instead of requesting a Due Process procedure, a parent or school district can also request state mediation with an Administrative Law Judge, provided by the Office of Administrative Hearing, with the goal of reaching a mutually agreeable settlement. Typically, attorneys are involved at this point and attend the mediation

It is important to note that disputes at this level are outside of the ADR continuum and are administered by state level agencies.

ADR vs. Due Process Complaint

Alternative Dispute Resolution: a voluntary, confidential process in which the parties agree to communicate and cooperate in a non-adversarial atmosphere. It may take a variety of forms, all organized so that attorneys do not need to be involved. Essentially, it involves supported or facilitated conversations to help resolve issues before the parties reach a point of impasse.

Due Process: As described in the previous section, there are 3 distinct stages connected with a Due Process filing. Due Process proceedings can be both lengthy and expensive for all involved. Such proceedings often damage the relationship between the parent and the district, potentially reducing trust and making future interactions more challenging. ADR is in place to minimize the use of this option and to encourage parents and LEAs to come to agreement before the issues escalate to this level.

Kern County Consortium SELPA ADR Process

Use of the ADR process is strongly encouraged by SELPA and the California Department of Education (CDE). ADR requests can come in the form of a phone call, written letter, written notice from Procedural Safeguards Referral Service with CDE, or a potential due process filing. The ADR process allows for all involved to maintain or restore relationships, with the goal being to reach a positive resolution for both the parent and the local education agency (LEA) so that matters do not escalate. The SELPA Coordinator is available to both parents and LEA staff to assist in implementing the ADR process. Once dispute resolution options are discussed, selected, and implemented, the SELPA Coordinator will follow up to assess the success of the process.

Informal Strategies

- SELPA Coordinator Consultative Support
 - Parents or LEA staff can reach out to SELPA ADR Lead Coordinator to troubleshoot potential issues or concerns as they occur. This may involve counseling the family on the IEP process as well as reviewing the current IEP. This includes explaining exactly what the IEP says and what it may mean for the student. Consultative support for districts may mean assisting and guiding one or more members of the IEP team with questions about substantive issues in the IEP. The goal is to be proactive and clarify any potential areas of confusion or miscommunication. If this does not resolve the conflict, other ADR options should be explored.
- Mobilizing Internal District Resources
 1. Identification and implementation of prevention strategies that build and strengthen parent connections to service providers and the school community as a whole.
 2. Develop frontline staff skills in communicating with parents and conducting inclusive, collaborative meetings designed to reach consensus. **See “Formal Facilitated IEP.”
 3. Hold IEP planning meetings led by a skilled and experienced educator/coach in which the internal team has the opportunity to discuss sticking points, critically examine IEP questions and data, brainstorm options, and practice positive strategies for reaching consensus.
 4. Identify and request the support of a district staff member who may have a positive, previous relationship with the parent or student, or is especially skilled in communicating with parents. This could be a teacher or administrator who is not directly involved in the current situation who can take on the role of an “internal neutral.”

- Informational Interviewing and Intervention
As implied, this strategy involves the SELPA Coordinator gathering information through interviews with both the parent and district. The purpose is to identify the crux of the disagreement by exploring the position of both parties. With permission, the SELPA Coordinator will share the differing viewpoints with each party and then assist them in finding common ground to achieve a resolution.
- File Review
A SELPA File Review is a review of the issue in conflict (i.e. speech minutes) by a third party who may offer a fresh perspective or opinion. The purpose of the file review is to gather information and offer analysis to the current area of conflict. The file review is specifically **not** a compliance review.
- Student/Environmental Observation
This process provides the opportunity for a neutral third-party exploration of the issue at conflict. The observation may be utilized to support discussion of IEP implementation, continuum of services, environmental issues and/or examining student needs. A Student/Environmental Observation is not a teacher evaluation and **does not** include evaluation of the teacher performance.

Formal ADR Strategies

If the level of conflict is too significant for informal resolution, parties may agree to initiate formal ADR strategies.

- Formal Facilitated IEP
The KCC SELPA provides recurring opportunities for educators to be trained as an IEP Facilitator. IEP meetings are led by a neutral facilitator using specific strategies to help build and improve relationships among team members. Strategies include pre-meeting preparation, clarifying the agenda and meeting outcomes, enforcing working agreements, focusing on the IEP process, managing time, and ensuring participation by all team members. The goal is to achieve a signed IEP that all team members feel represents all the issues needed to educate that student. Please note** similar strategies can be used by IEP teams without a formal facilitator to conduct a collaborative IEP meeting.
- Local Mediation
Parents and districts may choose to participate in no-cost, impartial local mediation if desired. Local mediation uses an effective problem-solving method through a trained mediator who will discuss possible solutions and develop agreements that are mutually acceptable to both parties. It is a safe, low-pressure process. The final agreements will be committed to writing in the finalized IEP.

Suggestions for Parents to Minimize Disagreements

- **Prepare for Your Student's IEP**

- Be sure to respond to the IEP notification that was sent to you. You are invited and encouraged to attend as a member of the team to develop, review, and/or revise your child's IEP
- You may reschedule the meeting or ask to attend via phone conference. If you need to reschedule, notify the school as soon as possible and have a couple of alternative dates ready when you call.
- Be clear on the purpose of the IEP meeting (example – initial, annual, triennial, or addendum) as this will help you prepare and enter with confidence.
- Sit down with your child and others involved in his/her education, brainstorm strengths, needs, and challenge areas. List some of the areas you would like to share with the IEP team.
- Write down your questions and concerns. This will help the IEP meeting move smoothly as well as address your concerns.
- Review copies of your child's previous IEP prior to your meeting. (If you cannot find it, you may make a written request for a copy from the school. Remember, it may take up to 5 business days to get a copy).
- If you have specific areas or goals in mind, contact the case manager prior to the team meeting to discuss your ideas so they may be included in the meeting conversation.
- If one purpose of the meeting is to address a change in program or transition to a new school, you may want more information or to visit that program. Contact your child's special education teacher for help to schedule a visit.
- If you wish to tape record the IEP team meeting, notify the IEP team at least 24 hours before the meeting. You may indicate this on the IEP conference notice if returned within the timeline above and/or via fax or email.

- **Understand Your Role**

- Be introduced to everyone at the meeting and ask in what capacity they serve your child
- Actively listen
- Share your child's needs, strengths, what motivates him/her
- Give input and feedback
- Ask questions, especially if the team is referring to terms with which you are not familiar
- Take notes
- Be an equal partner in the decision-making process

- **Communicate Effectively**
 - Have a positive attitude
 - Give and expect respect
 - Acknowledge that everyone on the team has feelings
 - Keep your child as the focus of the IEP process
 - Involve your child whenever possible
 - Let the team know what goals you have in mind, in advance if possible
 - Remember the whole team shares a common goal; to make your child successful
 - Keep the lines of communication open
 - Be fair and be willing to compromise

- **Understand IEP Implementation**
 - If you consent with the IEP as written, it will be fully implemented.
 - If you do not agree with all the parts of the IEP, you may sign consent only for those portions of the program with which you agree.
 - Those portions you agreed upon will be implemented without delay.
 - It is important to continue to work with the IEP team to reach full agreement.
 - If you consent with the IEP and later decide you disagree with any part of it, you may request, in writing, an IEP meeting to discuss this concern.
 - Even if you consent with the IEP, at any time you may **revoke consent**, in writing. This action is not retroactive. The student will exit from special education. If, in the future, you seek re enrollment in special education, the request will be treated as an initial assessment.

- **After the IEP**
 - Review the results of the meeting with your child, as appropriate.
 - Maintain communication and visit your child's program on a regular basis.
 - Verify that new services or resources were put in place and that related service providers have the current IEP (if appropriate).
 - Monitor progress and support your child as needed:
 - Are you receiving periodic reports from school on progress or concerns?
 - How does your child feel he/she is doing?
 - Is your child happy at school?
 - Do you think the program is working and your child is learning as expected?
 - Are there some changes you would like to make? If so, can they be done informally, or do you think they require a more formal agreement or new IEP?

- **Keep Accurate Records**

- Background Information
- Developmental History
- Medical History and Medical Records
- Family Health History
- Educational History
- Educational, Psychological, and Therapy Reports
- IEP, including Long Term Goals (with or without short term objectives)
- Samples of past and present work
- Records from outside agencies (e.g., Regional Center, etc.)
- Correspondence – Letters you have written and received
- A record of your contacts with school agencies (e.g., personal visits, phone calls)
- School Report Cards and IEP Progress Reports

- **Working with The School Program**

A well developed, successful IEP requires the active participation of everyone on the team – parents, teachers, administrators, related service providers and any other person working with the student who may have an impact on the school program. A strong IEP team ensures each member of the team is involved.

- The IEP is developed by a collaborative team whose members share responsibility for the meeting process and results
- The process builds and improves relationships among team members
- Decision making is arrived to by true consensus based upon effective communication and reflective listening
- The needs of the student are the focus of the IEP content and process

Please keep in mind that the schools care about your child and try very hard to provide a high quality, effective program. Your cooperation, understanding, and support are important.

At times, both the school staff and parents/guardians face constraints such as geography, limited resources, time restrictions, etc., but if everyone approaches the situation with a reasonable and realistic mindset, a program can be designed that will provide what each child needs!

Effective Strategies for when Disagreements Do Occur

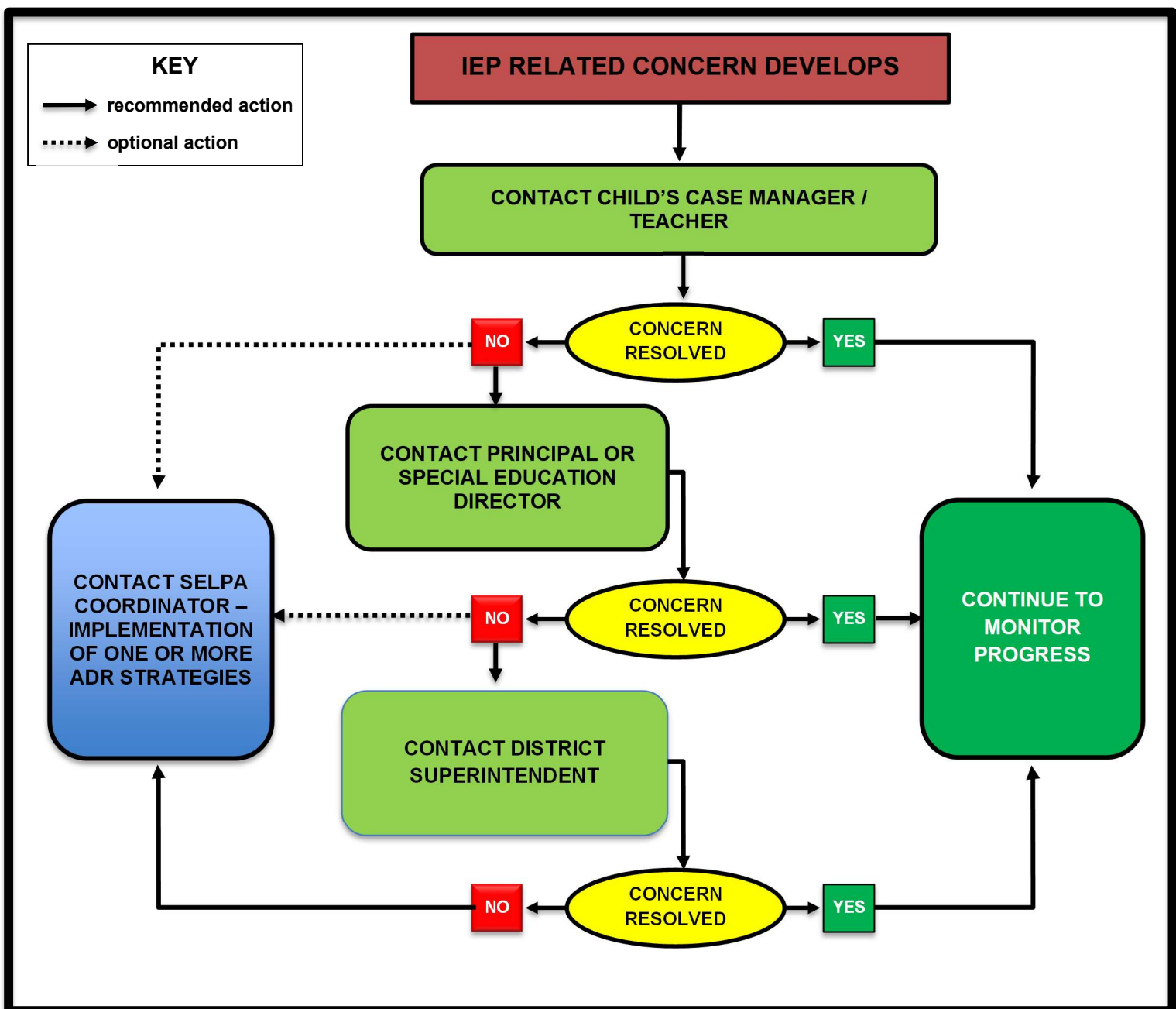
During the course of the special education process, you and the school personnel might disagree about some aspect of your child's education. Conflict is not only normal, it can be beneficial if managed effectively. Listed below are examples of simple strategies to open discussion and gain agreement.

- **Have a conversation**
If you have a concern with the school, make an appointment with the person most closely connected with the area of concern. For example, if you are concerned about a situation in a classroom, meet with the teacher and if appropriate, the school principal. The hierarchy to follow when resolving conflicts provides more examples.
- **Request an IEP *before* the annual IEP review**
At any time, you can request, in writing, that another IEP meeting be held. In your request, explain what your specific concerns and/or desired outcomes are. This information can help the school ensure that the right people attend the IEP meeting. The LEA has thirty days from the date of request in which to schedule the IEP meeting.
- **Request an evaluation prior to the triennial evaluation**
If you think that your child's educational program is inappropriate due to outdated information in his/her records, you can request a re-evaluation before its scheduled time. Although best practice does **not** support a re-evaluation in the same areas within 12 months of a previous assessment, it may be appropriate to reassess if additional areas of suspected disability arise which could impact educational success.
- **Request an Independent Educational Evaluation**
The parent/guardian also has the right to request an Independent Educational Evaluation (IEE) at public expense if the parent disagrees with the assessment conducted by the LEA. However, the LEA may initiate a due process hearing to show that its evaluation is appropriate. If the LEA initiates a hearing and the final decision is that the LEA's assessment is appropriate, the parent has the right to an IEE, but not at public expense.
Note: The LEA is not responsible for providing or reimbursing an IEE if parents simply want additional information about their child. Additionally, when the parent disagrees with an assessment previously conducted by the LEA and then obtains multiple IEE reports in the same assessment areas, the LEA will not reimburse the cost of more than one IEE per area assessed.

- **File a Uniform Complaint**
If a parent suspects the school is in non-compliance with state laws or regulations, and the matter cannot be resolved by one of the above strategies, the parent may choose to file a complaint in writing with the LEA's superintendent using the LEA's uniform complaint procedures.

Families and school districts are encouraged to work to solve differences at the lowest level possible in order to preserve collaboration and foster long term relationships which benefits the student as well as all other parties involved.

Flow Chart for Resolving IEP Related Concerns



Appendix A: Kern County Consortium SELPA Educational Agency Member Representatives

A current list of district contacts for special education can be found at the end of the Procedural Safeguards document on the KCC SELPA Website.

[District Special Education Contacts](#)

Appendix B: Education Acronyms

- AAC - Augmentative Alternative Communication
- ABA - Applied Behavioral Analysis
- ADA - American with Disabilities Act
- ADR - Alternative Dispute Resolution
- ALJ - Administrative Law Judge
- APE - Adapted Physical Education
- AT - Assistive Technology
- BCBA - Board Certified Behavioral Analyst
- BER - Behavior Emergency Report
- BIP - Behavior Intervention Plan
- CAA - California Alternate Assessments
- CAASPP - California Assessment of Student Performance & Progress
- CAC - Community Advisory Committee
- CBI - Community Based Instruction
- CDE - California Department of Education
- COTA - Certified Occupational Therapy Assistant
- DBH - Department of Behavioral Health
- DDS - Department of Developmental Services
- DHH - Deaf/Hard of Hearing
- DHS - Department of Health Services
- ECE - Early Childhood Education
- EL - English Learner
- ELA - English/Language Arts
- ERMHS - Educationally Related Mental Health Services
- ESY - Extended School Year
- FAPE - Free and Appropriate Public Education
- FBA - Functional Behavioral Assessment
- FERPA - Family Educational Rights and Privacy Act
- IAES - Interim Alternative Educational Setting
- IDEA – Individuals with Disabilities Education Act
- IEE - Independent Educational Evaluation
- IEP - Individualized Educational Program
- IFSP - Individual Family Service Plan
- ISP - Individual Service Plan (for parentally placed private school students)
- LEA - Local Educational Agency
- LRE - Least Restrictive Environment
- O&M - Orientation and Mobility
- OT - Occupational Therapy
- PECS - Picture Exchange Communication System
- PT - Physical Therapy
- PWN - Prior Written Notice
- RSP - Resource Specialist Program
- RS - Related Services
- Rtl - Response to Instruction and Intervention
- SAI - Specialized Academic Instruction
- SDC - Special Day Class
- SELPA - Special Education Local Plan Area
- SLP - Speech/Language Pathologist
- SOP - Summary of Performance

Appendix C: Disability Categories

1. A – Autism
2. DB – Deaf-Blindness
3. D – Deafness
4. ED - Emotional Disturbance
5. HI – Hearing Impairment
6. ID – Intellectual Disability
7. MD – Multiple Disabilities
8. OHI - Other Health Impairment
9. OI - Orthopedic Impairment
10. SLD - Specific Learning Disability
11. SLI - Speech/Language Impairment
12. TBI - Traumatic Brain Injury
13. VI - Visual Impairment

Appendix D: Program Data Collection, Evaluation and Reporting

Pending CDE Directives and Guidelines

Appendix E: ADR Resources

Center for Appropriate Dispute Resolution in Special Education (CADRE)

<https://www.cadeworks.org/>

H.E.A.R.T.S. Connection

<http://www.heartsfrc.org/>

Kern County Consortium ADR website

<https://kern.org/selpa/adr/>

[ADR Flyer - English](#)

[ADR Flyer - Spanish](#)

Appendix F: “Parent Planning Form for IEP Meetings”

The document on the next two pages is intended to help parents prepare for their child’s IEP meeting. Parent are encouraged to print the document, record their thoughts, and take to their child’s IEP meeting to refer to throughout the meeting.

Parent Planning Form for IEP Meetings

This form is intended to help parents prepare for their child's IEP meeting

IEP Team Invitation/Notice	
Received on:	Returned on:
Meeting Date and Time:	Location:
Individuals you want in attendance:	
Review Relevant Information	
Prior IEP/s (if any)	Report Cards/Progress Reports/Teacher Notes
Notes/Email/Phone call logs	Work samples
Evaluation/Assessment results	Medical information
Attendance and Disciplinary records	Other Sources of Information
Write down any questions/concerns you have about the records and reports: <i>(take any new documents and reports with you to share with the district)</i>	

- **AS YOU COMPLETE THE REMAINING SECTIONS, DO NOT FOCUS JUST ON ACADEMIC AREAS. THINK ABOUT ALL ASPECTS OF YOUR CHILD INCLUDING CREATIVITY, PERSONALITY, SOCIAL SKILLS AND BEHAVIOR.**

Learn Your Child's Perspective	
Likes	Dislikes
Easy	Difficult
Things that help me are:	
My dream is:	

Consider Your Perspective

My child's interests are:

My child's strengths and abilities are:

My child's needs are: *(prioritize)*

My Wish or Goal(s) for My Child

This year:

As an adult: