

August 2024

TO: BOCES District Superintendents
 School District Superintendents
 Public School Administrators
 Special Education Directors
 Chairpersons of Committees on Special Education
 Administrators of Religious and Independent Schools

At their July 2024 meeting, the [Board of Regents](#) adopted as an emergency rule the proposed amendment of section 200.5 of the Regulations of the Commissioner of Education relating to special education due process hearings. The regulatory language was amended to clarify the types of disputes that fall outside the scope of the State entitlement to an impartial due process hearing. The Frequently Asked Questions are provided as guidance and will continue to be updated as needed.

Special Education Due Process Hearings: Rate Disputes

**Frequently Asked Questions
Released August 2024
Updated September 2024**

**The University of the State of New York
The State Education Department
Office of Special Education**



Introduction

At their July 2024 meeting, the [Board of Regents](#) adopted as an emergency rule the proposed amendment of section 200.5 of the Regulations of the Commissioner of Education relating to special education due process hearings. The regulatory language was amended to clarify the types of disputes that fall outside the scope of the State entitlement to an impartial due process hearing. The Frequently Asked Questions are provided as guidance and will continue to be updated as needed.

Public comment on the proposed amendment can be submitted to Christopher Suriano, Associate Commissioner, New York State Education Department (NYSED), Office of Special Education, Room 301M, Education Building, 89 Washington Avenue, Albany, NY 12234 and/or email to REGCOMMENTS@nysed.gov. Comments must be received by NYSED on or before October 21, 2024.

Resources for Further Information

For further information, parents residing in New York City may direct questions regarding requests for an enhanced rate or rate dispute for equitable services to the New York City (NYCDOE) Enhanced Rate Equitable Services Unit (ERES Unit) at EquitableServicesAssistance@schools.nyc.gov.

Other questions regarding this memorandum may be directed to the Office of Special Education at RateDisputeQuestions@nysed.gov.

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B-5) Once a parent submits a request for an enhanced rate for equitable services to the NYCDOE ERES Unit, when will a determination be issued?

charged by a licensed provider is consistent with the program in a student's IESP or aligned with the current market rate for such services

an IESP for the 2023-2024 school year and the district has not held an annual review Committee on Special Education (CSE) meeting for the 2024-2025 school year.

D-4) What is the process for filing a State complaint?

The State complaint procedures are outlined in [8 NYCRR 200.5](#). For additional assistance in filing a State complaint, see the [New York State Complaint Procedures Question and Answer](#) guidance. Any further questions regarding this process may be directed to the NYSED [regional offices](#). See question B-9 for more information about State complaints involving requests for enhanced rates for equitable services or rate disputes.

D-5) Can a parent resolve a request for an enhanced rate for equitable services through special education mediation?

Mediation offers parents and school districts an opportunity to resolve disagreements about any matter relating to the education of a student with a disability or who is suspected of having a disability. However, mediation may only be requested for an enhanced rate for equitable services or rate disputes after a parent has made a good faith effort to resolve the matter with the NYCDOE ERES Unit. Therefore, any [request for mediation](#) regarding a request for an enhanced rate for equitable services or rate dispute must include supporting documentation that a parent first attempted to resolve the dispute with the NYCDOE ERES Unit. Failure to provide this documentation with a request for mediation will result in the mediation request being set aside and the parent being redirected to the NYCDOE ERES Unit.