

DUE PROCESS: A Checklist of What to Expect from the Department

Complainant – party who files complaint (Parent or Parent Attorney/School District or School District Attorney)	Respondent – party who complaint is filed against (Parent/School District)
<input type="checkbox"/> Consider mediation prior to the filing of a due process complaint. The Department provides mediation, at no cost, to allow parents and school districts the opportunity to resolve disagreements involving any matter under Part B of the Individuals with Disabilities Education Act (IDEA). The mediation process is voluntary. If both parties agree to mediation they will need to mutually agree upon a mediator from a list of qualified mediators provided by the Department. To request mediation, send a written request (or use the model form on the Department website) to the Department.	<input type="checkbox"/> Consider mediation prior to the filing of a due process complaint. The Department provides mediation, at no cost, to allow parents and school districts the opportunity to resolve disagreements involving any matter under Part B of the Individuals with Disabilities Education Act (IDEA). The mediation process is voluntary. If both parties agree to mediation they will need to mutually agree upon a mediator from a list of qualified mediators provided by the Department. To request mediation, send a written request (or use the model form on the Department website) to the Department.
<input type="checkbox"/> A written complaint is sent to the Department (model form on the Department website can be used for guidance). <input type="checkbox"/> A copy of the written complaint is sent to the school district or parent.	<input type="checkbox"/> Review copy of the written complaint from the complainant.
<input type="checkbox"/> Review letters sent from the Department acknowledging receipt of complaint, the party the complaint is filed against, and the chairperson assigned to the case. This letter also notifies the parties of the opportunity for mediation. A copy of the Procedural Safeguards, Hearing Officer list, Mediator list, Mediation booklet, and a list of free and low cost legal services are enclosed with the letter.	<input type="checkbox"/> Review letters sent from the Department acknowledging receipt of complaint, the party the complaint is filed against, and the chairperson assigned to the case. This letter also notifies the parties of the opportunity for mediation. A copy of the Procedural Safeguards, Hearing Officer list, Mediator list, and Mediation booklet are enclosed with the letter.
<input type="checkbox"/> Review the letter from the Department identifying the hearing chairperson.	<input type="checkbox"/> Review the letter from the Department identifying the hearing chairperson.
<input type="checkbox"/> Within two days of receipt of the notice identifying the chairperson, either party may request a substitution by contacting the Department.	<input type="checkbox"/> Within two days of receipt of the notice identifying the chairperson, either party may request a substitution by contacting the Department.
<input type="checkbox"/> Within 10 days of the Department receiving the due process complaint, the complainant must select a hearing officer from the hearing officer list provided by the Department to serve on the three-member due process hearing panel (see following steps).	<input type="checkbox"/> Within 10 days of the Department receiving the due process complaint, the respondent must select a hearing officer from the hearing officer list provided by the Department to serve on the three-member due process hearing panel (see following steps).

<p><input type="checkbox"/> The complainant must call the selected hearing officer to confirm their willingness to serve on the panel.</p> <p><input type="checkbox"/> The complainant must notify the Department of their hearing officer selection. If the complainant does not choose a panel member by day 10, the Department will choose one for them.</p>	<p><input type="checkbox"/> The respondent must call the selected hearing officer to confirm their willingness to serve on the panel.</p> <p><input type="checkbox"/> The respondent must notify the Department of their hearing officer selection. If the respondent does not choose a panel member by day 10, the Department will choose one for them.</p>
<p><input type="checkbox"/> Within two days of receipt of the notice identifying the other two panel members each party may request a substitution of the member chosen by the other party by contacting the Department.</p> <p><input type="checkbox"/> If a party has already requested substitution of the chairperson, then that party may not request substitution of a panel member.</p>	<p><input type="checkbox"/> Within two days of receipt of the notice identifying the other two panel members each party may request a substitution of the member chosen by the other party by contacting the Department.</p> <p><input type="checkbox"/> If a party has already requested substitution of the chairperson, then that party may not request substitution of a panel member.</p>
<p><input type="checkbox"/> Resolution Process: When a complaint is filed against the school district, within 15 calendar days of receiving notice of the due process complaint, the school district must convene a resolution meeting with the complainant and the relevant member or members of the IEP team, who have specific knowledge of the facts identified in the due process complaint. The resolution meeting is not necessary if the complainant and the school district agree in writing to waive the meeting or the complainant and the school district agree to engage in mediation. If complainant fails to participate in the resolution meeting, the respondent may request that the complaint be dismissed.</p> <p><input type="checkbox"/> When the district is the party who initiated the due process complaint, no resolution meeting is held.</p> <p><input type="checkbox"/> If parties reach an agreement through the resolution process, the person filing the complaint must notify the Department that he/she wishes to withdraw his/her complaint.</p> <p><input type="checkbox"/> If the school district fails to hold the resolution meeting within 15 calendar days of receiving notice of the complaint or fails to participate in the resolution meeting, the complainant may ask the hearing chairperson to begin the 45-calendar-day due process hearing timeline. If the complainant and the district agree in writing to waive the resolution meeting, then the 45-calendar-day timeline for the hearing begins the day following the waiver.</p>	<p><input type="checkbox"/> Resolution Process: School District: arranges the Resolution meeting and prepares for it.</p> <p>Parent: Prepares to attend the Resolution meeting.</p> <p><input type="checkbox"/> If parties reach an agreement through the resolution process, the person filing the complaint must notify the Department that he/she wishes to withdraw his/her complaint.</p>

<p><input type="checkbox"/> Mediation: If both parties agree to mediation, the hearing timeline is extended for 30 calendar days from the date the Department notifies the agreed upon mediator of the assignment. If the parties have not reached agreement by the end of the 30 calendar-day period, the mediation process may be continued until an agreement is reached, if both parties agree to the continuation in writing. However, if either party withdraws from the mediation process, the 45 calendar-day timeline for the hearing starts the next day.</p> <p><input type="checkbox"/> If mediation is successful, the complainant must notify the Department and withdraw the due process complaint.</p>	<p><input type="checkbox"/> Mediation: If both parties agree to mediation, the hearing timeline is extended for 30 calendar days from the date the Department notifies the agreed upon mediator of the assignment. If the parties have not reached agreement by the end of the 30 calendar-day period, the mediation process may be continued until an agreement is reached, if both parties agree to the continuation in writing. However, if either party withdraws from the mediation process, the 45 calendar-day timeline for the hearing starts the next day.</p> <p><input type="checkbox"/> If mediation is successful, the complainant must notify the Department and withdraw the due process complaint.</p>
<p><input type="checkbox"/> By day 15 of the Department receiving the due process complaint, the Department will notify all parties of the names of the three member-hearing panel.</p>	<p><input type="checkbox"/> By day 15 of the Department receiving the due process complaint, the Department will notify all parties of the names of the three member-hearing panel.</p>
<p><input type="checkbox"/> Prepare for the hearing before the three-member panel. The chairperson and the panel are independent of the Department. The chairperson coordinates the due process proceeding and all prehearing matters. The chairperson will hold a prehearing conference. The chairperson sets the date, time and location of the hearing. The complainant has the burden of proof and puts on evidence first. There will be live testimony with an opportunity for cross-examination of witnesses. Any questions concerning the hearing should be addressed to the chairperson.</p>	<p><input type="checkbox"/> Prepare for the hearing before the three-member panel. The chairperson and the panel are independent of the Department. The chairperson coordinates the due process proceeding and all prehearing matters. The chairperson will hold a prehearing conference. The chairperson sets the date, time and location of the hearing. The complainant has the burden of proof and puts on evidence first. There will be live testimony with an opportunity for cross-examination of witnesses. Any questions concerning the hearing should be addressed to the chairperson.</p>
<p><input type="checkbox"/> By day 45 of the Department receiving the due process complaint, the chairperson will issue the final decision of the three-member panel unless extensions have been granted to that 45-day timeline. Note: most hearings are extended and <u>not</u> concluded within 45 days.</p>	<p><input type="checkbox"/> By day 45 of the Department receiving the due process complaint, the chairperson will issue the final decision of the three-member panel unless extensions have been granted to that 45-day timeline. Note: most hearings are extended and <u>not</u> concluded within 45 days.</p>