

Request for a Due Process Hearing

****Do not use this form to file a formal complaint. ***

Complaint forms are available at education.ohio.gov/DisputeResolution.

A parent can make a request for a due process hearing related to the identification, evaluation or educational placement of a student with a disability or the provision of a Free Appropriate Public Education (FAPE) to a student. A school district, county board of developmental disabilities, community school or other educational agency (all referred to as "schools") also may file a request for a due process hearing.

The party requesting the hearing is (check one):

Only the following may request a due process hearing.

_____ Parent/legal guardian of the student on whose behalf the hearing is being requested.

_____ School district of residence or community school (superintendent).

_____ Other education agency: _____

_____ Student with a disability who is at least 18 years old.

PARENT/LEGAL GUARDIAN INFORMATION

Name of the parent or legal guardian requesting the due process hearing:

Address: _____

City, state and Zip code: _____

Phone number (Home): _____

Phone number (Work): _____

Phone number (Cell): _____

Email: _____

The preferred method of contact:

By phone (please note which of the numbers above): _____

Best time during normal business hours to call: _____

By email: _____

A bilingual or sign language interpreter is requested:

Yes _____ No _____ If "yes," specify language and mode of communication: _____

Will the party filing this request need any accommodations for a disability during any in-person or telephone meetings related to this due process request? ___ Yes ___ No

If "yes," please list accommodations needed: _____

STUDENT INFORMATION

Name of the student who is the subject of the hearing: _____

Student's birthdate: (Date, month and year) _____ Student's grade _____

Identified or suspected disability category (check one):

- | | | |
|-------------------------------------------------------|--------------------------------------------------------|--------------------------------------------------|
| <input type="checkbox"/> Autism | <input type="checkbox"/> Intellectual Disability | <input type="checkbox"/> Deaf-blindness |
| <input type="checkbox"/> Deafness | <input type="checkbox"/> Emotional Disturbance | <input type="checkbox"/> Hearing Impairment |
| <input type="checkbox"/> Multiple Disabilities | <input type="checkbox"/> Orthopedic Impairment | <input type="checkbox"/> Other Health Impairment |
| <input type="checkbox"/> Specific Learning Disability | <input type="checkbox"/> Speech or Language Impairment | |
| <input type="checkbox"/> Traumatic Brain Injury | <input type="checkbox"/> Visual Impairment | |

Address of the residence of the student. In the case of a homeless student, list available contact information.

Street address: _____

City, state and Zip code: _____

SCHOOL DISTRICT OR COMMUNITY SCHOOL INFORMATION

A parent or legal guardian can ask for a due process hearing only against the student's district of residence. If the student attends another school through open enrollment or because the district of residence placed the student there, the district of residence is responsible. A community school is considered the district of residence.

Student's school district of residence: _____

Address of the school district of residence (Board office):

City, state, Zip code: _____

Name of superintendent of district of residence: _____

School building the student attends: _____

OR

Community/charter school (if applicable): _____

Name of superintendent: _____

Street address: _____

City, state, Zip code: _____

MEDIATION

Mediation is available to parents and schools at no cost. Mediation can start with the agreement of both parties. A neutral official, called a mediator, who is trained in special education law and conflict resolution, will meet with the parent or guardian and school to discuss solutions to the dispute. Participation in mediation is voluntary.

Please check one statement.

I am requesting mediation and authorizing the school to share information with the mediator about my child's identity, educational needs and other factors related to the mediation. I understand the mediator will keep this information confidential.

I am requesting more information about mediation.

I am not interested in mediation at this time.

Description of the problem (attach additional pages if necessary)

Write a description of the problem, which is the reason you are asking for a due process hearing. Example of a problem: The school district is not following my child's individualized education program (IEP) as it is written.

Facts (attach additional pages if necessary)

Give facts that relate to the problem described above. Example of facts: My child is not receiving the speech-language services that are on my child's IEP.

Description of a suggested resolution (solution) to the problem you would like to see (attach additional pages if necessary)

Write down what you would like to see happen. Example solution: I would like for my child to start receiving the speech-language services on the IEP right away and receive make-up sessions for the services missed.

NAME AND ADDRESS OF ATTORNEY REPRESENTING PARTY FILING THIS REQUEST (if applicable)

If you have an attorney who is representing you in this request for a due process hearing, please fill out the contact information below. If this section is filled out, the Ohio Department of Education will send all due process information to the attorney and **not the parent or school**.

Attorney name: _____

Address: _____

City, state, Zip code: _____

Email: _____

Telephone number: _____

Request for Due Process Hearing Related to Discipline Issues

A parent can ask for an “expedited” due process hearing only if the parent disagrees with a decision about the child’s placement for disciplinary reasons or if the parent disagrees with the “manifestation determination” held for a disciplinary removal. (A manifestation determination is a review and decision about whether your child’s behavior was caused by his or her disability.) This means a parent can ask for a due process hearing to be scheduled right away only if the parent disagrees with the district’s decision.

I am requesting an expedited due process hearing because (check one):

_____ I disagree with a decision concerning placement for a **disciplinary** removal.

_____ I disagree with the manifestation determination review held for a **disciplinary** removal. A manifestation determination review is for **discipline** only. It is not the same as the determination of a disability.

For the school: As the school, we are requesting an expedited due process hearing because:

_____ We believe maintaining the current placement of the student is substantially likely to result in injury to the student or others.

Signature of the party requesting the due process hearing

An attorney may sign on behalf of the party he or she is representing.

Date of signature _____

Send or give the original completed request to the other party. If you are a parent, send or give it to the superintendent of the school district of residence or the community/charter school. This is called filing a due process request.

Send a copy by USPS mail to:

Ohio Department of Education
Dispute Resolution, Mail Stop 409
25 South Front Street
Columbus, OH 43215-4183

Or

E-mail a copy to:

oeedueprocess@education.ohio.gov

Please note, you are not required to use this form. Instead, you can submit your own written due process request. If you do this, your request must include this information:

1. The name of the student.
2. The street address of the student.
3. The name of the student’s school district of residence.
4. In the case of a homeless student, available contact information.

5. A description of the problem.
6. Facts relating to the problem.
7. A proposed resolution to the problem.

For Parents: What happens after you file your request for a due process hearing?

You have given your request for a due process hearing to the superintendent and the Ohio Department of Education. This is called “filing a request for a due process hearing.” Now what happens?

1. The impartial hearing officer is assigned.

- The Ohio Department of Education will assign a case number to your request for a due process hearing and an impartial hearing officer (IHO), who is a neutral party, to preside over the hearing. Do not try to contact the impartial hearing officer by telephone unless you have the school district’s attorney on the line too. If you email the impartial hearing officer, copy the school district’s attorney on the email. The impartial hearing officer is not allowed to communicate with either you or members of the school district individually about the due process hearing. Both you and the school district must be a part of any communication with the impartial hearing officer.
- Why can’t the parent communicate with the impartial hearing officer individually? The impartial hearing officer is neutral and must stay neutral throughout the entire process. If the impartial hearing officer communicates with one party and not the other at the same time, this may be seen as showing favor to that party.

2. The resolution period - the first 30 days.

- The first 30 days after the school district or community school receives the request for a due process hearing is called the “resolution period.” This 30-day period starts when the district of residence receives your request for a due process hearing. The hearing cannot take place during the first 30 days. This is a time the parties can try to resolve the dispute before going to a hearing. State and federal law require this 30-day resolution period.
- Someone from the school will contact you after the superintendent receives your request for a due process hearing to arrange a resolution meeting with you.
- The resolution meeting must be held within 15 days after the school receives your request for a due process hearing. The school district must arrange the resolution meeting at a convenient time and place for all. You must attend. If you do not, the school may ask the hearing officer to dismiss your case.
- There are two exceptions to a required resolution meeting. This meeting does not have to take place:
 1. If the parent and school district agree to go to mediation; *or*
 2. If the parent and school district agree in writing not to have a resolution meeting.
- The purpose of the resolution meeting is to try to resolve the dispute without having a hearing. The school cannot have an attorney present if *you* do not have an attorney present. The school will include relevant members of the student’s IEP team.
- The reason for the resolution period is that due process brings a lot of conflict and this may damage the working relationship between educators and families. Most requests for a due process hearing are resolved without going to a hearing.
- If you are concerned about meeting with school staff members for the resolution meeting, consider asking for a facilitator from the Ohio Department of Education to attend the meeting. The school also would have to agree to have an Ohio Department of Education facilitator attend the resolution meeting.
- If you reach an agreement in the resolution meeting, the school will put the agreement in writing and you will withdraw your request for a due process hearing. If you withdraw your request for a due process hearing, you have three business days to change your mind.
- If you do not reach an agreement, you still have the rest of the 30-day resolution period to resolve the dispute. You and the school may want to consider mediation at this point.
- If you and the school do not resolve the dispute during the 30-day resolution period, your case will go to a hearing.

3. The hearing.

Here are some important things to know about hearings:

- The hearing must take place and the impartial hearing officer must issue a decision within 45 days, but the 45 days may be extended.
- A due process hearing is more formal than some other types of hearings. Due process hearings usually take several days.
- The impartial hearing officer will contact the parent or guardian and school district to arrange for a telephone call to discuss the schedule for the hearing, where it will take place and the number of witnesses the parent or guardian and district plan to bring to the hearing. In this call, the participants also will clarify the issues for the hearing. Some hearing officers will contact the parent and district immediately to schedule this telephone conference so it can take place as soon as the resolution period ends. If the case is resolved during the resolution period, this telephone conference will be canceled.
- The impartial hearing officer also will arrange a disclosure conference that will take place by telephone or in person. The disclosure conference is for the parties to say what witnesses they are bringing to the hearing and to share the documents they will be using as evidence in the hearing. This conference must be held at least five days before the due process hearing begins. You must provide the impartial hearing officer and the school's attorney a list of the witnesses you plan to call and copies of the documents you plan to use as evidence in the hearing. The school must do the same for you.
- In the hearing, you must follow the rules the impartial hearing officer states, and speak only when the impartial hearing officer gives you permission. You will be allowed to make an opening statement, ask the witnesses questions, present your evidence and make a closing statement.
- If you have a specific request for the impartial hearing officer, you must put it in writing and give a copy to the school's attorney. This is called "filing a motion." Example of a motion: *You have an unexpected schedule conflict and would like to change the dates for the hearing. Put this request in writing to the impartial hearing officer, send it to the impartial hearing officer and send a copy to the school's attorney. The hearing officer will either grant the request or deny it. This is called issuing a ruling or an order.*

4. The decision.

- After the hearing, the impartial hearing officer will issue a decision in writing. If you do not agree with the decision, you may appeal. The impartial hearing officer will include information at the end of the written decision about how to appeal.
- At the next IEP team meeting after a due process decision, consider asking for an Ohio Department of Education facilitator. This can happen only if the school agrees to it. It may help to rebuild the relationship between the parent and the school.

Please note, the above timelines do not apply to an expedited request for a due process hearing. Expedited requests have shorter timelines. See page 25 of "A Guide to Parent Rights in Special Education" for information about expedited requests.