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DISABILITY RIGHTS EDUCATION & DEFENSE FUND

A GUIDE FOR CALIFORNIA PARENTS:

Special Education Due Process and the Resolution Meeting

ACKNOWLEDGMENTS

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GETTING STARTED

PURPOSE OF THIS BOOKLET

In 2004, Congress reauthorized the *Individuals with Disabilities Education Act (IDEA)* and changed some of its provisions. In light of these changes and additional changes at the state level in California, this booklet is intended to help you—California parents, guardians, caregivers, and education surrogates (“parents”)—navigate through the *Special Education Due Process* procedure.

Our goal is to help you work with your school to ensure that your child receives the services and supports he or she needs to succeed academically and socially.

PRELIMINARIES

IDEA concerns the provision of special education services to students with disabilities, from birth up to their 22nd birthday, and is the most important civil rights law for children with disabilities ever passed in the United States.

Congress enacted IDEA to provide students with disabilities the right to a *free and appropriate public education (FAPE)* in the *least restrictive environment (LRE)* through the development and implementation of an *Individualized Education Program (IEP)* setting forth goals for each eligible student.

IDEA is a good law, but it is complex and can be confusing. When school personnel and families work well together, students receive services and accommodations that enable them to make progress on their IEP goals. When there are differences of opinion among the members of a student’s IEP team over the contents or implementation of the IEP, the law sets out a series of procedures for trying to come to agreement. Often, the burden of enforcement falls on parents, who then have to resort to *Due Process Complaint* procedures, or other complaint resolution strategies.

In order to access services and supports for your child, it is important to understand the basic principles of IDEA and the systems and procedures the law has put into place for handling assessments, eligibility determinations, placements, services, and potential disputes.

6 PRINCIPLES OF IDEA



SIX PRINCIPLES OF IDEA

Six central concepts underpin IDEA. In addition to FAPE and LRE, these principles include rights to an appropriate evaluation, an individualized education program, meaningful parental and student participation in all aspects of the process, and procedural Due Process.

1 FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE)

- Provided at no cost to parents.
- Meets the individual needs of the student in the least restrictive environment (LRE).

2 APPROPRIATE EVALUATION

- Uses knowledgeable and trained evaluators.
- Employs a variety of instruments and procedures to gather information about the student.
- Selects and administers evaluation instruments that are non-discriminatory.

3 INDIVIDUALIZED EDUCATION PROGRAM (IEP)

An IEP is a written statement that details the education program for a particular child. The IEP team consists of the student's parents and relevant school personnel, and the team develops an IEP that includes the following components:

- Description of the student's current level of functioning.
- Objectives for the year.
- Services that the student will receive.
- Location where the student will receive services.

4 PARENT AND STUDENT PARTICIPATION IN DECISION-MAKING

- Parents and students have the right to meaningful participation in the IEP process.
- Parents and students have the right to have all the materials presented at an IEP meeting explained to them in a way that they can understand.
- Parents and students have the right to have the information presented at the IEP meeting translated into their primary language.



6 PRINCIPLES OF IDEA

5 LEAST RESTRICTIVE ENVIRONMENT (LRE)

- IDEA has a strong predisposition for the education of students with disabilities with their non-disabled peers, in general education classrooms, whenever possible. Students should be provided with the services, supports, and accommodations that enable them to succeed in these settings.
- Decisions about the most suitable environment for each student are made by the IEP team.
- Self-contained classrooms, separate schools, and/or homebound or hospital services continue to be available when the nature or severity of a student's disability is such that a less restrictive placement cannot be achieved satisfactorily, even with the assistance of special education, related services, modifications, and accommodations.

6 PROCEDURAL DUE PROCESS

- School districts must obtain parental consent before conducting an initial evaluation of a student, or before exiting a student from special education.
- School districts must provide written notice to parents before initiating, changing, or refusing to change the identification, evaluation, or educational placement of a student.
- School districts must provide parents, upon request by parents, with information about independent educational evaluations, including where they can be obtained. School districts must consider any independent educational evaluation presented by a parent at an IEP meeting.
- Parental consent is required before an IEP can be implemented.
- Parents have the right to file Compliance Complaints when school districts do not provide services and supports as agreed to in an IEP, or otherwise violate IDEA.
- Parents have a right to a formal legal process, the Due Process Hearing, to resolve disputes about IEP eligibility, supports, and services or placement.

TIP:
USE THE SIX PRINCIPLES OF IDEA AS A CHECKLIST TO SEE "AT A GLANCE" WHETHER YOUR STUDENT'S MOST BASIC RIGHTS UNDER IDEA HAVE BEEN PROTECTED.



CHANGES IN IDEA 2004 RELATED TO DUE PROCESS COMPLAINTS

IDEA 2004 introduced some changes in the Due Process Complaint procedures. One of these is a new procedural step added when a complaint has been filed: the **Resolution Meeting**.

At the same time, the **California Department of Education (CDE)** moved the Due Process Hearing and Mediation procedures from the McGeorge School of Law, with whom CDE had contracted in the past, to the state **Office of Administrative Hearings (OAH)**.

The changes in the Due Process Complaint procedure, and in the means that California employs to conduct Due Process Hearings, may cause confusion for parents. We hope that this guide will help you to navigate this new system more effectively on behalf of your children.

RESOLUTION MEETING

The Resolution Meeting was a step added to the Due Process Complaint procedure in IDEA 2004. It is intended to create an early opportunity for parents and school district officials to come to an agreement about the issues that have led up to or resulted in a Due Process Complaint. The meeting convenes at least the parent and a representative of the school district, and often the entire IEP team attends. The parent explains the reason for the complaint and proposes a solution, and school personnel have the opportunity to respond and resolve the conflict.

OFFICE OF ADMINISTRATIVE HEARING (OAH)

As of July 2005, OAH conducts Mediations and Due Process Hearings in California. The OAH is a California state agency that provides **Administrative Law Judges (ALJs)** to over 150 state and over 800 local agencies. Administrative Law Judges conduct Due Process Hearings in a manner similar to civil court trials. Each party makes an opening statement, calls witnesses, offers other relevant evidence, and makes closing arguments. The ALJs are neutral fact-finders who are fully independent of the agencies whose attorneys appear before them.

SPECIAL EDUCATION MEDIATION

OAH also provides mediators to aid in the resolution of disputes between parents and school districts. **Mediation** is a voluntary process in which the parent of a student with a disability and a school district representative meet with an independent mediator. By asking questions and discussing all information with both parties, the mediator can help the parent and the school district representative resolve disagreements, reach a more complete understanding of each other's concerns, and agree in a cooperative and timely manner upon the appropriate special education program for the student.



SPED GUIDELINES

GUIDELINES FOR THE SPECIAL EDUCATION PROCESS

This booklet focuses on new procedures, but we need to present basic information about the overall special education process in order to place the new procedures into their context.

More detailed information is available in “*Special Education Rights and Responsibilities*” (SERR) prepared by the *Community Alliance for Special Education (CASE)* and *Protection and Advocacy, Inc. (PAI)*. To request this book, you may call PAI, toll-free, at 800-776-5746, or view and/or download chapters at www.pai-ca.org/PUBS/504001SpecEdIndex.htm.

ELIGIBILITY AND ASSESSMENT

Your student is eligible for special education services under IDEA if he or she has one of thirteen eligible disabilities, and if that disability creates a need for special education and related services in order for the student to benefit from their education. Eligible disabilities include: autism; hearing impairment, including deafness; deaf-blindness; mental retardation; multiple disabilities; orthopedic impairment; other health impairment; serious emotional disturbance; specific learning disability; speech and language impairment; traumatic brain injury; and visual impairment, including blindness.

Related services, called *Designated Instruction and Services (DIS)* in California, include, but are not limited to, occupational, speech and physical therapy, health services, transportation, psychological and behavioral services, assistive technology, adaptive physical education, and specialized services for low incidence disabilities.

The process of determining eligibility for IDEA services starts with a parent writing a letter to the school district’s special education department making a Request for **Assessment** (an evaluation) in all areas of suspected disability. The school district has fifteen (15) days to either refuse (in writing) to assess your child or to provide you with an **Assessment Plan**. You have fifteen (15) days to consent to the plan by signing it and returning it to the district.

The district then has sixty (60) days to complete the assessment and to hold an IEP eligibility meeting. The decision of whether your child is eligible for supports and services takes place at that meeting.

ASSESSMENT TIMELINE



TO INITIATE A SCHOOL DISTRICT ASSESSMENT, PARENT/GUARDIAN MUST:

SEND A LETTER TO THE SCHOOL DISTRICT SPECIAL EDUCATION DEPARTMENT REQUESTING ASSESSMENT OF THE CHILD "IN ALL AREAS OF SUSPECTED DISABILITY."



WITHIN 15 DAYS OF RECEIVING THE REQUEST, SCHOOL DISTRICT MUST EITHER:

1. REFUSE, IN WRITING, TO ASSESS THE CHILD.

[OR]

2. PROVIDE A WRITTEN ASSESSMENT PLAN FOR PARENT/GUARDIAN REVIEW AND CONSENT.



PARENT/GUARDIAN HAS OPTION TO FILE A DUE PROCESS COMPLAINT



WITHIN 15 DAYS OF RECEIVING THE PLAN, PARENT/GUARDIAN MUST:

SIGN THE ASSESSMENT PLAN TO ALLOW THE SCHOOL DISTRICT TO PROCEED WITH THE ASSESSMENT, IF THE PARENT/GUARDIAN IS IN AGREEMENT WITH THE PLAN.



WITHIN 60 DAYS OF PARENT/GUARDIAN CONSENT, SCHOOL DISTRICT MUST:

COMPLETE THE ASSESSMENT.
[AND]
HOLD AN INDIVIDUALIZED EDUCATION PROGRAM (IEP) ELIGIBILITY MEETING.



THE IEP & YOUR ROLE

DEVELOPING AN IEP

The **IEP team** consists of regular education teachers, special education teachers, an administrator, district decision maker or representative, any relevant related service providers and therapists, parent(s) and, where appropriate, your student. Under IDEA 2004, parents have the right to waive (in writing) the participation of some team members in the IEP meeting.

The IEP team reviews the student's assessments to determine the student's needs and to decide eligibility for service under IDEA.

If your student is deemed eligible, then the team develops annual measurable **goals and objectives**, setting out your student's participation in various classroom activities, evaluates the need for **assistive technology**, supplementary aids, and **accommodations**, and determines how services will be provided and by whom.

An appropriate **placement** for your student is one in which she or he has a reasonable chance of achieving those IEP goals.

MONITORING AND YOUR ROLE

Many agencies have responsibility for ensuring that schools comply with laws that protect students with disabilities: by providing appropriate special education services under IDEA, for example, and/or providing reasonable accommodations to prevent discrimination under Section 504 of the Rehabilitation Act. They are:

- The school district (also referred to as the **Local Education Agency** or **LEA**)
- The **Special Education Local Plan Area (SELPA)**
- The California Department of Education (CDE)
- The **Office of Special Education Programs (OSEP)** of the U.S. Department of Education (DOE)
- The **Office for Civil Rights (OCR)**
- The **Office of Equal Opportunity (OEO)**

However, because IDEA law mandates an *individualized* program for each qualifying child with a disability, it usually falls to the parent to track a school's compliance with procedures and provision of services. For this reason, complaints brought by parents have become a critical enforcement mechanism for IDEA. Parents have the right to file a **Compliance Complaint** for non-compliance with an agreed upon IEP, or any other violation of IDEA. (More information regarding Compliance Complaint procedures can be found on page 9 of this booklet.)

DISAGREEMENTS



WHAT HAPPENS WHEN THERE IS A DISAGREEMENT?

Sometimes, parents and school districts hold divergent views of how to serve the needs of a student. In these cases, you may be unable to come to an agreement with the school district on the content of the IEP because you cannot agree on what represents a free and appropriate public education (FAPE) for your student.

COMMUNICATION

It is less expensive and less stressful for parents to try to work out differences with the school district directly rather than by filing a Due Process Complaint.

For example, if IEP discussions have not been fruitful, you can try to resolve differences by:

- Describing the IEP changes you desire in a letter and requesting that the district's response be in writing as well.
- Bringing in additional information in the form of an **Independent Educational Evaluation (IEE)** at public expense, or by asking for a no-cost referral to one of the **California Diagnostic Centers (CDCs)** for an assessment (there is one in Fremont, one in Fresno, and one in Los Angeles). Better information may help to focus the IEP discussion or clarify the view of your student and bring about a mutually acceptable solution.
- Bringing additional stakeholders into the IEP discussion. If you are not having success persuading the Program Specialist in charge of your student's case, then you might ask for a meeting with the Special Education Director or school district Superintendent. Officials with greater resources and decision-making authority may be able to resolve a problem that a Program Specialist cannot resolve.



ALTERNATIVE DISPUTE RESOLUTION

Many school districts and Special Education Local Plan Areas (SELPA) also offer informal, voluntary, less adversarial methods of resolving differences when direct parent/school district discussions fail to produce an agreed upon IEP. These processes may enable parents and school districts to reach a mutually acceptable solution. **Alternative Dispute Resolution (ADR)** techniques include a variety of strategies, for instance:

- **Facilitated IEP** can be requested. This is a group leadership process in which a neutral trained individual helps keep the IEP discussion focused on your student and the education issues.
- **Mediation-Only** can be requested prior to filing a Due Process Complaint. A neutral mediator or a solution team is brought in to help resolve issues relating to identification, assessment, educational placement, or to a free, appropriate public education (FAPE) of a child.

A form for this purpose, “MEDIATION ONLY REQUEST FORM” can be found in Appendix A of this booklet.

If the issues fail to be resolved, the party who requested the conference has the option of filing for a Due Process Hearing.

COMPLIANCE COMPLAINT PROCEDURES

You may also initiate a formal Compliance Complaint to resolve other types of disputes. A Compliance Complaint is your assertion in writing that services and supports in an agreed upon IEP have not been delivered, or that the school district has violated IDEA mandates. You can file Compliance Complaints directly with the:

California Department of Education (CDE)

Procedural Safeguards and Referral Services (PSRS)

toll free 800-926-0648

fax 916-327-3704

web www.cde.ca.gov/sp/se/fp

It can be helpful to contact the CDE Procedural Safeguards office prior to making a formal Compliance Complaint. The CDE can sometimes make phone calls to school district personnel to review and resolve your complaints before a Compliance Complaint is made.

DUE PROCESS



WHAT IS A DUE PROCESS HEARING?

A Due Process Hearing is the formal, legal procedure that resolves differences about special education services for your student with the goal to ensure a free and appropriate public education (FAPE) tailored to your student's unique needs is ensured. Disputes can arise concerning eligibility, placement, services, and/or supports for your student. Both the parent and the school district have the right to file for a Due Process Hearing to resolve a dispute. In 2005, the U.S. Supreme Court decided (*Schaffer v. Weast*) that the party who files the Due Process Complaint has the burden of proving whether the child's rights are being protected or whether the individualized educational program (IEP) is appropriate.

IMPORTANT:
IN 2005, THE
U.S. SUPREME
COURT DECIDED
THAT THE PARTY
SEEKING RELIEF
IN A DUE PROCESS
HEARING IS THE
PARTY WHO BEARS
THE "BURDEN OF
PROOF."

HOW DO I REQUEST A DUE PROCESS HEARING?

You write a letter (the Due Process Complaint notice) and send it to the state. You must also provide a copy of the written request to the school district.

A form for this purpose, "REQUEST FOR MEDIATION AND DUE PROCESS HEARING," is included in Appendix B of this booklet. Send your Due Process Complaint to the:

Office of Administrative Hearings (OAH)

| | | |
|------------------------------------|-------|--|
| Special Education Division | voice | 916-263-0880 |
| 2349 Gateway Oaks Drive, Suite 200 | fax | 916-376-6319 (as of 9/1/07) |
| Sacramento, California 95833 | web | www.oah.dgs.ca.gov |

Under IDEA, you must include, at a minimum, the following information about your student in your Due Process Complaint:

- Name and Address of residence of your student;
- Name of the school your student is attending;
- Parent contact information;
- Description of the nature of your concern about the proposed or refused initiation or change in your student's education, including facts relating to the problem(s); and
- The solution you propose to resolve each problem alleged in the complaint (to the extent known and available to you at the time).

In this letter, it is helpful but not required, for you to cite the relevant sections of federal and state codes or regulations that you believe the school district has violated. By citing the law directly, you show the district the specific violations that cause you concern.



HOW MUCH DETAIL DO I NEED TO INCLUDE IN THE DUE PROCESS COMPLAINT?

It is very important to be both specific and detailed in describing the issues in your request for a Due Process Hearing. All requests must meet the legal requirement for **sufficiency** under IDEA. Therefore, you must raise all relevant issues in the Due Process Complaint letter. You also need to present the evidence or facts that support your position.

The “REQUEST FOR MEDIATION AND DUE PROCESS HEARING” form for California is available from OAH:

- by phone at 916-263-0880
- on the web at www.oah.dgs.ca.gov/Special+Education/Default.htm
- in Appendix B of this booklet.

WHAT HAPPENS TO MY STUDENT WHILE THE DUE PROCESS PROCEDURE IS TAKING PLACE?

After you file a Due Process Complaint, your student has the right to **stay put**. This means that the student remains in his or her current placement and has the current IEP (the last one that you consented to) implemented from the time a hearing is requested until the Due Process Hearing proceedings (and any judicial proceedings) are completed.

WHAT HAPPENS AFTER I MAKE A REQUEST FOR DUE PROCESS?

Once the school district and OAH have received your letter requesting a Due Process Hearing, the school district is required to respond to it within the allowable timeframe set by the law. There are three possible responses:

- File a response within ten (10) days and schedule a Resolution Meeting; or
- File a response within ten (10) days and agree to let the Due Process Hearing be scheduled without holding a prior Resolution Meeting; or
- Notify you and OAH within fifteen (15) days that the school district is challenging the **sufficiency** of your complaint.



PRIOR WRITTEN NOTICE

If the school district had not sent **Prior Written Notice (PWN)** to you explaining how and why they reached the decisions that became the subject matter of your Due Process Complaint, the school district must:

- Respond to you in writing, within ten (10) days of receiving the Due Process Complaint, and include, among other specific requirements, an explanation of why the school district proposed or refused to take the action you raised in the complaint.

WHAT IS THE STANDARD OF SUFFICIENCY?

IDEA 2004 sets out legal requirements that must be met in a request for a Due Process Hearing. Sometimes, you may file a Due Process Complaint notice and be told that the school district has made a motion to dismiss the complaint because it has been deemed **insufficient**. What does this mean?

In this case, your student's school district is arguing that you have not met the legal requirements of IDEA because you failed to provide enough detailed information and evidence. In order to make an argument of insufficiency, the district must formally declare that the complaint notice is insufficient, within fifteen (15) days of receiving the Due Process Complaint. The OAH hearing officer then has five (5) days to review your Request for Due Process and the district's response of insufficiency and issue a decision as to whether your complaint meets the IDEA 2004 standard of sufficiency.

If OAH determines that your Due Process Complaint notice is **insufficient**, then you must rewrite the complaint and resubmit it to OAH and the school district. The timeline then starts all over again.

If OAH finds your Due Process Complaint notice to be **sufficient**, then the district must respond in ten (10) days and offer you a Resolution Meeting, or agree to proceed with **Formal (Due Process) Mediation** or with the Due Process Hearing without a prior Resolution Meeting if both parties (parent and school district) agree to waive the Resolution Meeting.



RESOLUTION MEETING

WHAT IS THE NEW RESOLUTION MEETING?

The Resolution Meeting was added to IDEA Due Process Complaint procedures with the intent of providing an early opportunity to resolve disagreements that have resulted in a Due Process Complaint. The Resolution Meeting involves you and one or several representatives of the school district with the authority to commit the school district to action. It is likely to include the entire IEP team. At the Resolution Meeting, you are required to explain the reason for your complaint and present a proposal for resolving it, and the school will have an opportunity to respond and offer their own resolution proposal.

CAN THE RESOLUTION MEETING BE WAIVED?

There are instances in which all parties agree that a Resolution Meeting would not be productive. In such cases, both you and the district may agree either to go immediately to a Formal Mediation or to proceed directly to a Due Process Hearing.

MUST I ATTEND THE RESOLUTION MEETING?

If you file a Due Process Complaint letter, you must attend a Resolution Meeting unless both you and the school district agree to waive the meeting. If the district does not agree to waive the Resolution Meeting, then you must attend it.

MAY ATTORNEYS BE PRESENT AT THE RESOLUTION MEETING?

Yes, but if you do not bring an attorney to the Resolution Meeting, then the district may not bring an attorney. Note: Under IDEA 2004, you are not required to be reimbursed for attorney fees accrued with respect to a Resolution Meeting.

WHAT IS THE PURPOSE OF THE RESOLUTION MEETING?

If a Resolution Meeting is to be held, the district will call a meeting of the IEP team members within fifteen (15) days of receiving your Due Process Complaint. The purpose of this meeting is for you to work together with district officials to try to resolve the problems raised in your complaint notice. The school district has thirty (30) days from the time that you file the complaint to resolve it to your satisfaction in the Resolution Meeting process.

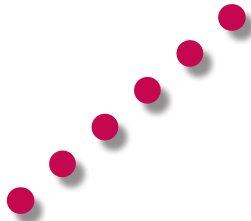
IMPORTANT!
IDEA 2004
STATES THAT
YOU ARE NOT
REQUIRED TO BE
REIMBURSED FOR
ATTORNEY FEES
ACCRUED WITH
RESPECT TO A
RESOLUTION
MEETING.

RESOLUTION MEETING TIMELINE



**TO INITIATE A DUE PROCESS COMPLAINT,
PARENT/GUARDIAN MUST:**

SEND A DETAILED WRITTEN REQUEST TO OAH FOR A DUE PROCESS HEARING: "REQUEST FOR MEDIATION AND DUE PROCESS" FORM.
SEND A COPY TO THE SCHOOL DISTRICT.



**WITHIN 15 DAYS, IF CHALLENGING
SUFFICIENCY, SCHOOL DISTRICT MUST:**

NOTIFY PARENT/GUARDIAN AND OAH THAT THE DISTRICT IS CHALLENGING THE DUE PROCESS COMPLAINT AS INSUFFICIENT.



**WITHIN 5 DAYS, IF SCHOOL DISTRICT
CHALLENGES SUFFICIENCY, OAH MUST:**

REVIEW PARENT/GUARDIAN REQUEST FOR DUE PROCESS AND SCHOOL DISTRICT RESPONSE AND DECIDE SUFFICIENCY.



**IF SUFFICIENCY IS NOT MET,
PARENT/GUARDIAN MAY:**

REWRITE AND RESUBMIT THE COMPLAINT TO OAH AND THE SCHOOL DISTRICT. TIMELINE STARTS OVER.



**WITHIN 10 DAYS OF PARENT FLING A SUFFICIENT
COMPLAINT, SCHOOL DISTRICT MUST:**

OFFER A RESOLUTION MEETING.
[OR]
AGREE TO PROCEED WITH FORMAL (DUE PROCESS) MEDIATION OR THE DUE PROCESS HEARING, IF BOTH PARTIES (PARENT AND SCHOOL DISTRICT) AGREE TO WAIVE THE RESOLUTION MEETING.



**WITHIN 10 DAYS OF AN OAH DECISION THAT
SUFFICIENCY IS MET, SCHOOL DISTRICT MUST:**

OFFER A RESOLUTION MEETING.
[OR]
AGREE TO PROCEED WITH FORMAL (DUE PROCESS) MEDIATION OR THE DUE PROCESS HEARING, IF BOTH PARTIES (PARENT AND SCHOOL DISTRICT) AGREE TO WAIVE THE RESOLUTION MEETING.

NOTE:
IF A COMPLAINT PROCEEDS TO A DUE PROCESS HEARING AT ANY POINT, OAH MUST REACH A DECISION THAT IS BINDING ON BOTH PARTIES WITHIN 45 DAYS OF HEARING COMPLETION.

WITHIN 15 DAYS OF PARENT FLING A SUFFICIENT COMPLAINT, SCHOOL DISTRICT MUST:

HOLD THE RESOLUTION MEETING TO RESOLVE PROBLEMS RAISED IN THE DUE PROCESS COMPLAINT, UNLESS BOTH PARTIES WAIVED THE RESOLUTION MEETING.

WITHIN 30 DAYS OF PARENT FLING A SUFFICIENT COMPLAINT, IEP TEAM:

WORKS WITHIN THE RESOLUTION MEETING PROCESS TO RESOLVE THE PROBLEMS RAISED IN THE DUE PROCESS COMPLAINT TO PARENT/ GUARDIAN SATISFACTION BY REACHING A WRITTEN AGREEMENT.

WITHIN 3 DAYS OF SIGNING A RESOLUTION MEETING AGREEMENT, EITHER PARTY MAY:

CHANGE THEIR MIND AND PROCEED WITH FORMAL (DUE PROCESS) MEDIATION OR THE DUE PROCESS HEARING.

RESOLUTION MEETING



HOW DO I PREPARE FOR THE RESOLUTION MEETING?

The Resolution Meeting is intended to be an opportunity for you to negotiate with your district and reach a mutually satisfactory solution. You will be expected to present your Due Process Complaint at the Resolution Meeting and to propose possible solutions.

- 1** Start out stating positively what your student's IEP requires, or what you believe that your student needs, for a free, appropriate public education (FAPE). Make sure that you discuss any evidence or documentation that you have to support your statements, including any Independent Educational Evaluations (IEEs) that you may have obtained.
- 2** State what is actually happening at your school with your student and present the evidence you have for your view of these events.
- 3** Identify the sections of law that you believe the school has violated and provide any evidence you have of violations.
- 4** Close with your proposed solution.

WHAT ARE THE POSSIBLE OUTCOMES OF THE RESOLUTION MEETING?

As with any negotiation, some Resolution Meetings will successfully resolve disputes and others will not. For Resolution Meetings to be fruitful, it is important that both parties enter into the meeting in good faith to seek a solution.

If the two sides reach agreement in the Resolution Meeting, the agreement is written and signed by both you and the school district. Either side has the right to change their minds within three (3) days of signing a Resolution Meeting agreement.

If you do not come to an agreement, or if you change your mind within three days of reaching an agreement, you can proceed with Formal (Due Process) Mediation or the Due Process Hearing. The Office of Administrative Hearings (OAH) must reach a decision, which is binding on both parties, within forty-five (45) days after completion of the Due Process Hearing.



COMMON ACRONYMS USED IN CALIFORNIA SPECIAL EDUCATION

| | |
|--------|--|
| 504 | Section 504 of the Rehabilitation Act |
| ADA | Americans with Disabilities Act |
| ADR | Alternative Dispute Resolution |
| ALJ | Administrative Law Judge |
| AT | Assistive Technology |
| CAC | Community Advisory Committee on Special Education |
| CASE | Community Alliance for Special Education |
| CCS | California Children’s Services |
| CDE | California Department of Education |
| CDC | California Diagnostic Centers |
| CAHSEE | California High School Exit Exam |
| DIS | Designated Instruction and Services |
| DOE | U.S. Department of Education |
| DOR | Department of Rehabilitation |
| DREDF | Disability Rights Education and Defense Fund |
| FAPE | Free and Appropriate Public Education |
| FERPA | Family Educational Rights and Privacy Act |
| IDEA | Individuals with Disabilities Education Act |
| IEE | Independent Educational Evaluation |
| IEP | Individualized Educational Program |
| IFSP | Individualized Family Service Plan |
| IPP | Individual Program Plan (Regional Center) |
| LEA | Local Education Agency |
| LRE | Least Restrictive Environment |
| NCLB | No Child Left Behind |
| OAH | Office of Administrative Hearings |
| OCR | U.S. Office for Civil Rights |
| OEO | Office of Equal Opportunity / CDE |
| OSEP | U.S. Office of Special Education Programs / DOE |
| OSERS | U.S. Office of Special Education and Rehabilitation Programs |
| OT/PT | Occupational Therapy/Physical Therapy |
| PAI | Protection and Advocacy, Inc. |
| PSRS | Procedural Safeguards and Referral Services / CDE |
| PTI | Parent Training and Information Center |
| PWN | Prior Written Notice |
| RSP | Resource Specialist Program |
| SDC | Special Day Class |
| SELPA | Special Education Local Plan Area |
| SERR | <i>“Special Education Rights and Responsibilities”</i> book |
| SLP | Speech Language Pathologist |
| SPED | Special Education |

GLOSSARY



GLOSSARY OF TERMS

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|---|--|
| Accommodation | A change in curriculum or instruction that does not substantially modify the requirements of the class or alter the content standards or benchmarks. |
| Adapted Physical Education (APE) | A diversified program of developmental activities, games, sports, and rhythms suited to the interests, capabilities and needs of students with disabilities who may not successfully engage in a regular physical education program. |
| Administrative Law Judges (ALJs) | Judges provided by OAH to conduct Due Process Hearings in a manner similar to civil court trials. They are neutral fact-finders, fully independent of the agencies whose attorneys appear before them. |
| Alternative Dispute Resolution (ADR) | Alternative opportunities for parties to resolve disputes collaboratively and avoid litigation, typically through negotiation, mediation, or arbitration. |
| Assessment | Any systematic method of obtaining information from tests and other sources; used to draw inferences about characteristics of people, objects, or programs. An initial evaluation (or periodic re-evaluation) to determine whether a child is a child with a disability and to determine the educational needs of this child. |
| Assistive Technology (AT) Device | Any piece of equipment used to increase, maintain, or improve functional capabilities of individuals with disabilities. |
| Assistive Technology (AT) Service | Any service that directly assists an eligible individual in selecting, acquiring, or using an assistive technology device. |
| California Diagnostic Center (CDC) | California Diagnostic Centers in Fremont, Fresno and Los Angeles serve northern, central and southern CA to provide no cost assessment and educational planning services. Requests for services must be generated by referral from the school district. |
| Compliance Complaint | A formal assertion in writing that agreed upon services and supports in an IEP have not been delivered, or that the school district has violated IDEA mandates. |
| Curriculum | The subject matter that is to be learned, usually described in terms of scope and sequence. |
| Curriculum-based Assessment | A methodology in special education in which a child's progress in the curriculum is measured at frequent intervals. |
| Due Process | In general, a course of legal proceedings according to rules and principles established for enforcement and protection of private rights. Essential components of due process are "notice" and "a meaningful opportunity to be heard." |
| Due Process Hearing | The formal, legal procedure guaranteed by federal law to resolve disputes relating to the education of IDEA-eligible children with disabilities to ensure that each receives a free and appropriate public education (FAPE) tailored to his/her unique needs. |
| Extended School Day | A provision for a special education student to receive instruction for a period longer than the standard school day. |
| Extended School Year (ESY) | A provision for a special education student to receive instruction during ordinary school vacation periods. |
| Facilitated IEP | A group leadership process in which a trained individual helps keep the IEP discussion focused on your student and the education issues. |
| Family Educational Rights and Privacy Act (FERPA) | A federal law that regulates the management of student records and disclosure of information from those records, with its own administrative enforcement mechanism. |



GLOSSARY

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| Free Appropriate Public Education (FAPE) | Special education and related services are provided to students with disabilities at public expense and under public supervision and direction at no cost to the student's parents. |
| Functional Analysis Assessment (FAA) | An evaluation process to understand the purpose, motivation, and correlates of challenging behavior(s) in order to develop a positive and appropriate Behavior Intervention Plan (BIP), instructional supports and services. |
| Functional Curriculum (Life Skills Curriculum) | A curriculum focused on practical life skills and usually taught in community-based settings with concrete materials that are a regular part of everyday life. |
| Goals and Objectives | A written component of an IEP: skills the student is expected to reasonably achieve in one year maximum (reviewed and re-evaluated by the IEP team at least annually). |
| Inclusion [or] Inclusive Education | A belief that every student is entitled to an instructional program that meets his or her individual needs and learning characteristics; a commitment to build and maintain an assured sense of belonging for all students, regardless of strengths or challenges. |
| Independent Educational Evaluation (IEE) | An independent evaluation of a student from a qualified person. Parents have the right to ask for and obtain an IEE if they disagree with the results of an assessment conducted by the school district. Any IEE must be considered at the IEP. |
| Individuals with Disabilities Education Act (IDEA) | Federal law that entitles students with disabilities to special education services. |
| Individualized Education Program (IEP) | The annually written record of an eligible individual's special education and related services, describing the unique educational needs of the student and the manner in which those educational needs will be met. |
| IEP Meeting | A gathering required at least annually under IDEA in which an IEP is developed for a student receiving special education. |
| IEP Team (Minimum Required Members) | Parent or legal Surrogate; Student, when necessary; one general education and one special education teacher both responsible for implementing the IEP; school district representative qualified to provide/supervise provision of specialized instruction, knowledgeable about the general curriculum and the resources of the district. (CA law requires this be someone other than the child's teacher); Person(s) who conducted assessment(s) or knowledgeable enough to explain/interpret the results; People with specific expertise or knowledge of the student. (Optional: Attorneys or advocates) |
| Individualized Family Service Plan (IFSP) | A written plan for providing early intervention services to an eligible child with a disability (from birth to 3rd birthday) and to the child's family. |
| Insufficient | Not meeting the legal requirement of IDEA by failing to provide the necessary detailed information and evidence to support a Due Process Complaint. |
| Least Restrictive Environment (LRE) | A federal mandate stipulating that, to the maximum extent possible, students with disabilities be educated with their non-disabled peers. |
| Local Education Area (LEA) | A school district. |
| Mainstreaming | This lay term doesn't appear in law. It refers to IDEA's preference for the education of every child in the least restrictive environment (LRE); most widely refers to placement of students with disabilities in general education, rather than segregated, classrooms. |
| Mediation (Mediation-Only) | A voluntary alternative dispute resolution (ADR) process that may be requested PRIOR to filing a Due Process Complaint. It is not a prerequisite to filing. |
| Mediation (Formal Due Process) | A voluntary alternative dispute resolution (ADR) process that may occur AFTER a Due Process Complaint is filed. Office of Administrative Hearing (OAH) provides mediators. |

GLOSSARY



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| Modification | A change in curriculum or instruction that substantially alters the requirements of the class or its content standards or benchmarks. |
| Office for Civil Rights (OCR) | An agency of the federal government’s executive branch within the Department of Education that is charged with enforcing a number of civil rights statutes. |
| Office of Equal Opportunity (OEO) | An office within the CA Dept. of Education to advise the State Superintendent of Public Instruction, CDE staff, and the State Board of Education on legal matters to ensure equal, fair, and meaningful access to its employment and program services. |
| Office of Special Education Programs (OSEP) | An office within OSERS (<i>see below</i>) charged with assuring that the various states comply with IDEA. |
| Office of Special Education and Rehabilitative Services (OSERS) | An agency of the federal government’s executive branch within the Department of Education (DOE). |
| Parent Training and Information Center (PTI) | The designated agency that offers workshops and training on special education rights and responsibilities in a parent’s locale. |
| Placement | The unique combination of facilities, personnel, location or equipment necessary to provide instructional services to meet the goals as specified in the student’s IEP. Placement is a set of services, not a location. |
| Prior Written Notice (PWN) | A notice supplied to the other party that includes a description of the action proposed or refused by the school district or by the parent. |
| Procedural Safeguards and Referral Services (PSRS) | An office of the CA Dept. of Education (CDE) that provides technical assistance and resources about procedural safeguards and educational rights of students with disabilities, from ages 3 up to 22nd birthday. Compliance Complaints are filed here. |
| Related Services [aka] Designated Instruction and Services (DIS) in CA | Services required to assist an individual with disabilities to benefit from special education, including but not limited to: transportation, occupational therapy, physical therapy, speech and language therapy, mental health services, and medical care. |
| Resolution Meeting | A meeting mandated in IDEA 2004 as part of the Due Process Complaint process where parties attempt to resolve a dispute prior to proceeding to a Due Process Hearing. |
| Special Education (SPED) | Specially designed instruction, at no cost to parents, to meet the unique needs of an eligible individual, including the specially designed instruction conducted in schools, in the home, in hospitals and institutions, and in other settings. Special education provides a continuum of services in order to provide for the education needs of each eligible individual regardless of the nature or severity of the educational needs. |
| Special Education Local Plan Area (SELPA) | A consortium of school districts, within a geographical service area, responsible for ensuring that every child eligible for special education receives appropriate services. Each SELPA’s Local Plan, based on Federal and California law and regulations, describes how special education services are provided. |
| Sufficiency | Meeting the legal requirement of IDEA in providing the necessary detailed information and evidence to support a due process complaint. |
| Stay Put | The ruling that permits a student to remain in their current placement during any dispute concerning special education services. |
| Transition Plan | A plan to coordinate a set of activities that promote movement from school to post-school education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. Transition goals are determined by the IEP team beginning at least by age 16 and are based on student and family vision, preferences, and interests. |



PARENT CENTERS

CALIFORNIA PARENT TRAINING AND INFORMATION CENTERS (PTIs) and COMMUNITY PARENT RESOURCE CENTERS (CPRCs)

Disability Rights Education & Defense Fund (DREDF)

2212 Sixth Street
Berkeley, CA 94710

v/tty 510-644-2555
fax 510-841-8645
toll free 800-348-4232
email info@dredf.org
web www.dredf.org

counties Alameda, Contra Costa, Yolo

Foster Youth Resources for Education (FYRE)

at DREDF

email rmiller@dredf.org

county Alameda

Exceptional Parents Unlimited

4440 N. First Street
Fresno, CA 93726

voice 559-229-2000
tty 559-225-6059
fax 559-229-2956
email info@exceptionalparents.org
web www.exceptionalparents.org

counties Fresno, Kern, Kings, Madera, Mariposa, Mercer, Monterey,
San Benito, Stanislaus, Tulare

Fiesta Educativa

163 S. Avenue 24, Suite 201
Los Angeles, CA 90031

voice 323-221-6696
fax 323-221-6699
email info@fiestaeducativa.org
web www.fiestaeducativa.org

PARENT CENTERS



Loving Your Disabled Child

3407 - 7th Avenue
Los Angeles, CA 90018

voice 323-373-0323
fax 323-373-1213 FAX
email lydcprc@sbcglobal.net
web www.lydc.org

Matrix Parent Network & Resource Center

94 Galli Drive, Suite C
Novato, CA 94949

voice 415-884-3535
fax 415-884-3555
toll free 800-578-2592
email norat@matrixparents.org
web www.matrixparents.org

counties Marin, Napa, Solano, Sonoma

Parents Helping Parents of Santa Clara

3041 Olcott Street
Santa Clara, CA 95054-3222

voice 408-727-5775
tdd 408-727-7655
fax 408-727-0182
email info@php.com
web www.php.com

counties Santa Clara, Santa Cruz, San Joaquin, San Mateo

Parents of Watts

10828 Lou Dillon Avenue
Los Angeles, CA 90059

voice 323-566-7556
fax 323-569-3982 FAX
email pow90059@sbcglobal.net



PARENT CENTERS

Rowell Family Empowerment of Northern CA (RFENC)

RFENC Administration Office

3830 Rancho Road
Redding, CA 96002

voice 530-226-5129
fax 530-226-5141
toll free 877-227-3471
web www.rfenc.org

RFENC Paradise Office

5910 Clark Rd. , Ste. D
Paradise, CA 95969

voice 530-876-8321
fax 530-876-0346
toll free 888-263-1311

counties Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Mendocino, Modoc, Nevada, Placer, Sacramento, Shasta, Sierra, Siskiyou, Sutter, Plumas, Tehama, Trinity, Tuolumne, Yuba

Support for Families of Children with Disabilities

2601 Mission Street #606
San Francisco, CA 94110-3111

voice 415-282-7494
fax 415-282-1226
email info@supportforfamilies.org
web www.supportforfamilies.org

county San Francisco

Team of Advocates for Special Kids (TASK)

TASK Anaheim - Main Office

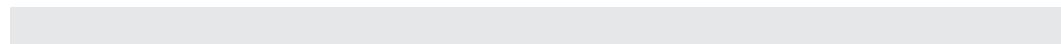
100 West Cerritos Avenue
Anaheim, CA 92805

voice 714-533-8275
fax 714-533-2533
toll free 866-828-8275
email taskca@yahoo.com
web www.taskca.org

PARENT CENTERS



| | |
|----------|--|
| | TASK San Diego 4550 Kearny Villa Road, Suite 102 San Diego, CA 92123 |
| voice | 858-874-2386 |
| fax | 858-874-0123 |
| | TASK Alhambra Family Resource Center: Partnership in Early Education |
| voice | 626-300-1043 |
| | TASK Inyo & Mono Counties |
| voice | 760-386-1400 |
| | TASK Mission Viejo South Orange County Family Resource Center |
| voice | 949-364-0500 – Ext. 107 |
| | TASK San Bernardino Inland Regional Center |
| voice | 909-890-9560 |
| | TASK San Luis Obispo |
| voice | 805-462-1717 |
| | TASK Westminster (Vietnamese) Vietnamese Parents with Disabled Children Association |
| voice | 714-530-3836 |
| counties | Imperial, Inyo, Los Angeles, Mono, Riverside, Santa Barbara, San Bernadino, San Diego, San Luis Obispo, Orange, Ventura |



| | |
|-------|--|
| | Vietnamese Parents With Disabled Children Association (VPDCA) 7526 Syracuse Ave Stanton, CA 90680 |
| voice | 714-527-9216 |
| email | hgnguyen@vpdca.org |
| web | www.vpdca.org |



MEDIATION ONLY REQUEST

USE: MEDIATION ONLY REQUEST FORM

OAH Form 63 (revised 10/06), 3 pages

<http://www.oah.dgs.ca.gov/Special+Education/Default.htm>

The following form is used to make a request for “Mediation Only” to resolve special education disputes concerning issues related to identification, assessment, educational placement of a child, or the provision of a free and appropriate public education (FAPE) to a child.

A Mediation Only is not a request for a Due Process Hearing and can only be requested before filing of a Due Process Complaint. This type of mediation is also referred to as a Prehearing Request Mediation Conference.

Mediation is a voluntary process of resolving a dispute. You and the school district must both voluntarily agree to participate, and neither party is required to participate. Mediation Only may not be used to delay your right to a Due Process Hearing.

Mediation Only is intended to be non-adversarial. In a Mediation Only conference, you or the school district may be accompanied and advised by non-attorney representatives but not by contracted legal advocates or attorneys. However, you or the school district may consult with an attorney prior to or following a Mediation Only conference.

Requests for Mediation Only are filed with the Office of Administrative Hearings (OAH). A copy of your request must be provided to the school district at the same time the request is filed with OAH.

A Mediation Only conference is scheduled by an OAH Administrative Law Judge (ALJ) within fifteen (15) days of receipt of the request, and at a time and place reasonably convenient to both parties. The conference is completed within thirty (30) days of receipt of the request, unless both parties agree to extend the time. If a resolution is reached, both parties execute a legally binding written agreement, which also states that conference discussions are confidential and may not be used in any subsequent Due Process Hearing. If the issues fail to be resolved to the satisfaction of all parties, the party who requested the Mediation Only conference has the option of filing for a Due Process Hearing.

For more information, see California Education Code 56500.3

NOTE!

EFFECTIVE
9/1/2007,
THE FAX NUMBER
FOR OAH HAS
CHANGED TO
916-376-6319
DREDF HAS
MODIFIED THE FAX
NUMBER ON THE
FOLLOWING OAH
FORM

Mediation Only Request Form

Important information you need to know before requesting a Mediation Only:

- Participation in a prehearing request mediation is voluntary. If one of the parties declines the opportunity to participate, the mediation cannot occur. However, either party still has the option of requesting a state level hearing.
- The law provides that attorneys and other independent contractors who provide legal advocacy services shall not attend or otherwise participate in a "prehearing request mediation." However, they may participate during all stages of the hearing process. This means that by requesting a mediation only you may not have an attorney or advocate present at mediation.
- The Special Education Hearing Office will assign your request to a specific mediator. All mediators are under contract with the Special Education Hearing Office and are experienced in the area of Special Education Mediation.

If you wish to file a request for Mediation only, complete and print a copy of this Mediation Only Request Form (NOTE: The required information must be provided for request to be processed.) and mail or fax to:

Office of Administrative Hearings, Special Education Unit
2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833

Phone: (916) 263-0880 - Fax: (916)376-6319 *(new fax effective 9/1/2007)*

As soon as the completed request has been processed you will be notified by mail.

STUDENT INFORMATION:

NAME, First and Last (Required) _____

ADDRESS (Required) _____

DATE OF BIRTH _____

GRADE LEVEL _____

SCHOOL OF ATTENDANCE
(Required) _____

DISTRICT OF RESIDENCE
(Required) _____

Mediation Only Request Form

PARENT INFORMATION:

NAME, First and Last (Required) _____

ADDRESS (Required) _____

HOME PHONE () _____

WORK PHONE () _____

FAX () _____

LANGUAGE _____

PARTIES TO BE NAMED:

DISTRICT OF RESIDENCE
(Required) _____

ADDITIONAL PARTIES
(Required) _____

(Any other school district, including school of attendance, or public agency that is responsible for providing services that should be a party in the mediation and hearing.)

REQUESTING PARTY (Circle) (Required)

PARENT
SCHOOL DISTRICT
OTHER AGENCY

PARENT REPRESENTATIVE
SCHOOL DISTRICT REPRESENTATIVE

If the requesting party is not the parent, please complete the following:

NAME _____

ADDRESS _____

ORGANIZATION _____

PHONE () _____

FAX () _____

Mediation Only Request Form

BRIEF SUMMARY OF REASON FOR REQUEST (Describe the nature of the problem including all relating facts.)

PROPOSED RESOLUTION OF PROBLEM STATED ABOVE



DUE PROCESS HEARING REQUEST

USE: “REQUEST FOR MEDIATION AND DUE PROCESS HEARING” FORM

OAH Form 64 (revised 07/07), 5 pages: instructions + 4-page form

<http://www.oah.dgs.ca.gov/Special+Education/Default.htm>

You may use the following form to file a Due Process Complaint, also known as a Request for Due Process. This form can take the place of writing a “letter” requesting a Due Process Hearing as discussed on pages 9–11.

DUE PROCESS RIGHTS

You have a right to:

1. Have a fair and impartial administrative hearing at the state level before a person who is knowledgeable of the laws governing special education and administrative hearings
(20 USC 1415[f][1][A], 1415[f][3][A]-[D]; 34 CFR 300.511; EC 56501[b][4]);
2. Be accompanied and advised by an attorney and/or individuals who have knowledge about children with disabilities (EC 56505 [e][1]);
3. Present evidence, written arguments, and oral arguments (EC 56505[e][2]);
4. Confront, cross-examine, and require witnesses to be present (EC 56505[e][3]);
5. Receive a written or, at the option of the parent, an electronic verbatim record of the hearing, including findings of fact and decisions (EC 56505[e][4]);
6. Have your child present at the hearing (EC 56501[c][1]);
7. Have the hearing be open or closed to the public (EC 56501[c][2]);
8. Receive a copy of all documents, including assessments completed by that date and recommendations, and a list of witnesses and their general area of testimony within five (5) business days before a hearing (EC 56505[e][7] and 56043[v]);
9. Be informed by the other parties of the issues and their proposed resolution of the issues at least ten (10) calendar days prior to the hearing (EC 56505[e][6]);
10. Have an interpreter provided (CCR 3082[d]);
11. Request an extension of the hearing timeline (EC 56505[f][3]);
12. Have a mediation conference at any point during the due process hearing (EC 56501[b][2]); and
13. Receive notice from the other party at least ten days prior to the hearing that the other party intends to be represented by an attorney (EC 56507[a]).
(20 USC 1415[e]; 34 CFR 300.506, 300.508, 300.512 and 300.515)

NOTE!

EFFECTIVE

9/1/2007,

THE FAX NUMBER

FOR OAH HAS

CHANGED TO

916-376-6319

DREDF HAS

MODIFIED THE FAX

NUMBER ON THE

FOLLOWING OAH

FORM

Source of described rights: www.cde.ca.gov/sp/se/qa/documents/psenglsh.pdf

CA Department of Education, “Notice of Procedural Safeguards,” revised Jan. 2007

**MEDIATION AND DUE PROCESS HEARINGS UNDER THE INDIVIDUALS WITH DISABILITIES
EDUCATION IMPROVEMENT ACT OF 2004(IDEA)**

IDEA provides for mediation and due process hearings to resolve disputes relating to the education of children with disabilities to ensure that each child receives a Free and Appropriate Public Education (FAPE) tailored to his/her unique needs. The process is initiated by serving a completed Request for Due Process Hearing and Mediation (generally called a Complaint) on the persons or entities you name as parties to the proceeding. Attached is a form that you should use to request a due process hearing and mediation on behalf of a particular child. You should be aware that the IDEA has very specific requirements regarding the information to be included on the request. If the information requested is incorrect, incomplete or not provided, your request for a due process hearing may be delayed until the request meets legal requirements. Once completed your request must be properly served on **all** of the named parties you have identified and a copy provided to the Office of Administrative Hearings.

BEFORE FILLING OUT THIS REQUEST PLEASE TAKE THE TIME TO READ THE FOLLOWING EXCERPTS FROM APPLICABLE FEDERAL STATUTES:

The Request for Due Process Hearing and Mediation (Complaint) **shall** include:

“the name of the child, the address of the residence of the child (or available contact information in the case of a homeless child), and the name of the school the child is attending...” (20 U.S.C. § 1415 (b)(7)(A)(ii)(I));

“a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem....”(20 U.S.C. § 1415 (b)(7)(A)(ii)(III)) and

“a proposed resolution of the problem to the extent known and available to the party at the time.” (20 U.S.C. § 1415 (b)(7)(A)(ii)(IV))

Either party now has the right to challenge the sufficiency of any Complaint. (20 U.S.C. § 1415 (c)(2)(A))

The party filing the Complaint is not entitled to a due process hearing if the Complaint does not comply with 20 U.S.C. § 1415 (b)(7)(A). (20 U.S.C. § 1415 (b)(7)(B))

The determination of whether a Complaint is sufficient and in compliance with the requirements of 20 U.S.C. § 1415 (b)(7)(A), shall be made by an administrative law judge solely on the content of the Complaint. (20 U.S.C. § 1415 (c)(2)(D))

A party may amend its Complaint only if: (I) the other party consents in writing and a Resolution Session is held; or (II) if permitted by the Administrative Law Judge. (20 U.S.C. § 1415 (c)(2)(E)(i))

All timelines, including those for a Resolution Session, start over upon the filing of an amended Complaint. (20 U.S.C. § 1415 (c)(2)(E)(ii))

Office of Administrative Hearings
 Special Education Division
 2349 Gateway Oaks Drive, Suite 200
 Sacramento, CA 95833

Tel. (916) 263-0880
 Fax (916) 376-6319
 (New Fax effective 9/1/2007)

REQUEST FOR MEDIATION AND DUE PROCESS HEARING

IMPORTANT: This form is designed to assist parties in requesting mediation services and a due process hearing. Provide all information requested. Failure to provide all information may result in delay or dismissal of your hearing request. The Special Education Division will contact you regarding your hearing request.

This Request is being initiated by the Parent School District (or other LEA)

| STUDENT INFORMATION | PARENT INFORMATION |
|--|---------------------------|
| | |
| First and Last Name (Required) | First and Last Name |
| | |
| Street Address (Required) | Street Address |
| | |
| City, Zip Code (Required) | City, Zip Code |
| | |
| Date of Birth | Home Phone |
| | |
| Grade Level | Work Phone |
| | |
| Student's Primary Language (Required) | Cell Phone |
| | |
| School of Attendance (Required) | Fax |
| | |
| District of Residence (Required) | |
| Is the Student a person of color? Please check the appropriate box. (California Department of Education requirement) | |
| <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decline to State | |

PARTIES TO BE NAMED

INSTRUCTIONS; Below, please list the Parties to be named in the Due Process Hearing Request. This includes any school district, county office of education or other public agencies responsible for providing services you feel should be a party in the hearing. (Use additional sheets if necessary)

| |
|------------------------------|
| |
| Additional Party and Address |
| |
| Additional Party and Address |
| |
| Additional Party and Address |

STATEMENT OF REASON(S) FOR REQUEST: Federal and state law require you describe with specificity the nature of the problem(s)/complaint(s). Simply describing a problem as "Student denied FAPE for school year 2005-2006" is insufficient. Include facts, dates, references to specific IEP provisions, etc. Lack of specificity in identifying problem(s)/complaint(s) may result in the dismissal of this Due Process Hearing Request.

PROPOSED RESOLUTION FOR EACH PROBLEM/COMPLAINT: Federal law requires that you provide a proposed resolution to each identified problem/complaint to the extent known. Again, please be as specific as possible. A proposed resolution that the District "provide a Free Appropriate Public Education (FAPE)" is insufficient. In the space below please identify specific problem(s)/complaint(s) and a proposed resolution for each to the extent known. All that is required and recommended is a simple, clear, concise statement of the problem/complaint. If you run out of space, use additional sheets with the same format. Lengthy narratives often create more confusion than clarity and are not a substitute for a clear statement of the dispute. If a narrative is included, attach it to your Request.

Problem/Complaint #1: _____

Proposed Resolution #1: _____

Problem/Complaint #2: _____

Proposed Resolution #2: _____

Problem/Complaint #3: _____

Proposed Resolution #3: _____

Problem/Complaint #4: _____

Proposed Resolution #4: _____

Problem/Complaint #5: _____

Proposed Resolution #5: _____

Problem/Complaint #6: _____

Proposed Resolution #6: _____

NECESSITY OF INTERPRETER

Person(s) needing interpreter services:

Language:

| | |
|--|--|
| | |
| | |
| | |

SIGNATURE OF PARTY REQUESTING DUE PROCESS HEARING

| | |
|---------------------------------|------|
| Please Print Name in this block | |
| Please Sign Name in this block | Date |

STATEMENT OF SERVICE

INSTRUCTIONS: Federal and state law require you to send or deliver a copy of this Request to each of the named parties. Additionally, you must send or deliver a copy to the Special Education Division. Retain a copy for yourself. Please indicate your compliance with this requirement by checking the appropriate box below. In the event a legal representative makes service, please attach a copy of the proof of service.

I have provided a copy of this Request for Due Process Hearing and Mediation to all the named parties and to the Special Education Division by:

- First Class Mail**
- Facsimile Transmission**
- Messenger Service (UPS, FedEx, Other courier service) Please attach proof of service**
- Personal Delivery (If other than requestor please name person who made service)**

Signature of person completing this Statement of Service



Advocating for
disability civil rights
since 1979

DISABILITY RIGHTS EDUCATION & DEFENSE FUND

DREDF MAIN OFFICE

2216 Sixth Street

Berkeley, CA 94710

Voice/TTY 510.644.2555

Facsimile 510.841.8645

Email info@dredf.org

Website www.dredf.org

GOVERNMENT AFFAIRS

1730 M Street NW, Suite 801

Washington, DC 20006

Toll Free 800.348.4232