

Due Process Hearing Request

Due process hearing requests are related to accusations of the district's refusal to initiate or change the identification, evaluation, or educational placement of a student or the provision of a free and appropriate public education (FAPE) of the child.

Adult students, parents, or public school districts may request a due process hearing. Due process hearing requests are made to the Office of General Counsel (OGC). During the due process hearing the adult student, parent, or school district will present their respective cases to an impartial hearing officer and receive a written decision. Due process hearings are conducted in accordance with the IDEA and federal regulations. If a party does not agree with the hearing officer's decision, the party can appeal to the SCDE, which will conduct an impartial review of the hearing and the hearing officer's decision. If a party does not agree with the SCDE's decision on the appeal, the party can appeal the decision of the SCDE in federal court.

Student Information

Student Name

School District related to due process hearing request

School student attended related to due process hearing request

Student Address

Reason(s) for due process hearing request

Although not required, it would be helpful to include the information in Parts A and B.

A. Check the category of disability listed on the student's IEP:

- ☐ Developmental Delay
- ☐ Intellectual Disability
- ☐ Specific Learning Disability
- ☐ Emotional Disability
- ☐ Speech or Language Impairment
- ☐ Deaf and Hard of Hearing
- ☐ Visual Impairment
- ☐ Deaf-blindness
- ☐ Orthopedic Impairment
- ☐ Other Health Impairment
- ☐ Traumatic Brain Injury
- ☐ Autism
- ☐ Multiple Diseases

B. Check the type of class the student is in:

- ☐ Regular class
 - ☐ Regular class with supportive services (itinerant/resource)
 - ☐ Self-contained class
 - ☐ Special school
 - ☐ Home-based instruction
 - ☐ Hospital/medical homebound instruction
 - ☐ Other program option (please describe):
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The student must remain in his or her current educational placement, as long as the due process claim is filed prior to the implementation of the proposed placement. Unless the parties agree to a different placement whilst waiting for the due process decision. However, if the district believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others and either the parent or the school district has requested an expedited due process hearing, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified in §300.530(c) or (g), whichever occurs first.

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List the rights you believe were violated, the name of the individuals who you believe violated those rights and describe how you believe the school or school district violated you the student's rights to special education. The due process complaint must allege a violation that occurred not more than two years before the date the parent or school district knew or should have known about the alleged action that forms the basis of the due process complaint. The two-year timeline does not apply to a parent if the parent was prevented from filing a due process complaint due to specific misrepresentations by the school district that it had resolved the problem forming the basis of the due process complaint or the school district withheld information from the parent that it was required under the IDEA to provide to the parent.

[illegible]

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What is your proposed resolution? In other words, what should be done to address the situation?

Parent/Guardian Information

Parent/Guardian Name(s)

Phone Number

Email Address

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Street address

City/zip

Parent/Guardian #2 (if parents reside separately and both are filing)

Phone Number

Email Address

Street address

City/zip

In case of a student experiencing homelessness, please include available contact information for the child and the name of the school at the time of alleged violation(s)

We understand that both the school district and the parent/guardian have the right to:

- challenge the sufficiency of the due process hearing request within fifteen calendar days of receiving the request. We understand the person receiving the due process hearing request must, within ten days of receiving the request, send the party requesting the due process hearing a response that specifically addresses the issues raised in the request. A school district must convene a resolution session unless waived in writing by the parents and school district or the parties agree to use mediation. School district attorneys may not participate in a resolution session unless the parents bring an attorney;
- bring an attorney and/or persons with special knowledge or training about the problems of students with disabilities to the hearing;
- seek attorney's fees. Attorney's fees may be sought if a school district/agency believes the parents' attorney or the parents' claim is frivolous or brought for an inappropriate purpose;
- request and obtain a subpoena for the attendance of particular witnesses;
- receive all evaluations and a list of witnesses that the other party plans to use at the hearing;
- present evidence as well as question and cross-examine witnesses;

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- object to letting in evidence at the hearing that has not been shared with the school district and the parent/guardian or his or her attorney at least five days before the hearing;
- get a written, tape-recorded; or electronic transcript of the hearing;
- got a written statement of the findings of fact and the decisions made at the due process hearing; and
- appeal if either the parent guardian or school district disagrees with the decision.

If the family has obtained the services of an attorney for the due process hearing request, please list the attorney's contact information below. As a reminder, you are not required to hire an attorney for due process hearing proceedings.

Attorney's Name

Phone Number

Email Address

Street address

City/zip

Submission Instructions

You may scan and email this form to Ms. Barbara Drayton, Esq. of the Office of General Counsel at BDRAYTON@ed.sc.gov or send via post to: Office of General Counsel, Attn: Barbara Drayton, 849 Learning Lane, West Columbia SC 29172

1. Upon receipt of the due process hearing request Ms. Drayton will confirm that the district special education department has received a copy of the complaint.
2. Ms. Drayton will inform the parent(s) and school district of timelines.

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Parent signature

Parent signature

Date