

DUE PROCESS COMPLAINTS

A Quick Reference Guide

Due process complaint: A due process hearing or an expedited due process hearing is requested by filing a written due process complaint.

Refer to the relevant sections of *Procedures and Guidance for Ohio Educational Agencies Serving Children with Disabilities* for the specific requirements and for additional information on due process complaints, resolution meetings, due process hearings and expedited due process hearings. This reference provides only an overview and does not address specific exceptions and extensions of timelines.

| Due Process Hearing | | | | Expedited Due Process Hearing | |
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| Requested by: | Parents | School District | Other Public Agency | Parents | School District |
| Timeline for filing: | Within two years of the date the parents knew or should have known about the alleged violation, with limited exceptions. ^{1,2} | Within two years of the date the school district knew or should have known about the alleged violation, with limited exceptions. ^{1,2} | Within two years of the date the public agency knew or should have known about the alleged violation, with limited exceptions. ² | When the parents disagree with a change in placement for disciplinary reasons or the manifestation determination. | When the district believes that maintaining the current placement of the child is likely to result in injury to the child or to others. |
| File with: | <ul style="list-style-type: none"> •Superintendent of the child’s district of residence; and •Ohio Department of Education, Office for Exceptional Children (ODE/OEC). | <ul style="list-style-type: none"> •Parents (Provide parents with <i>Whose IDEA Is This?</i> and information on free or low-cost legal and other relevant services);³ and •ODE/OEC. | <ul style="list-style-type: none"> •Superintendent of the child’s district of residence; and •ODE/OEC. | <ul style="list-style-type: none"> •Superintendent of the child’s district of residence; and •ODE/OEC. | <ul style="list-style-type: none"> •ODE/OEC; and •Parents (Provide parents with <i>Whose IDEA Is This?</i> and information on free or low-cost legal and other relevant services).³ |

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| Requested by: | Parents | School District | Other Public Agency | Parents | School District |
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| Response to the complaint: | Will receive: <ul style="list-style-type: none"> •<i>Whose IDEA Is This?</i>² •Information on free or low-cost legal and other relevant services; and •A response to the complaint from the district within 10 calendar days of receipt if the district has not sent a prior written notice regarding the issues in the complaint. | Will receive: <ul style="list-style-type: none"> •A response to its complaint from the parents or other public agency within 10 calendar days of receipt. | Will receive: <ul style="list-style-type: none"> •A response to its complaint from the school district of residence within 10 calendar days of receipt. | Does not apply to a due process complaint regarding a disciplinary issue. | Does not apply to a due process complaint regarding a disciplinary issue. |
| Appointment of a hearing officer: | Will be notified by the ODE/OEC of the appointment. | Will be notified by the ODE/OEC of the appointment. | Will be notified by the ODE/OEC of the appointment. | Will be notified by the ODE/OEC of the appointment. | Will be notified by the ODE/OEC of the appointment. |

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| <p>Sufficiency of complaint (sufficient complaint must contain all the information required by rules):</p> | <p>Will receive:</p> <ul style="list-style-type: none"> •Written notice from the school district within 15 calendar days if the district believes the parents' complaint is not sufficient; and •Notice from the hearing officer regarding his or her determination about the complaint's sufficiency.⁴ | <p>Will receive:</p> <ul style="list-style-type: none"> •Written notice from the parents or other public agency within 15 calendar days if the parents or other public agency believes the district's complaint is not sufficient; and •Notice from the hearing officer regarding his or her determination about complaint's sufficiency.⁴ | <p>Will receive:</p> <ul style="list-style-type: none"> •Written notice from the school district if the district believes the other public agency's complaint is not sufficient; and •Notice from the hearing officer regarding his or her determination about the complaint's sufficiency.⁴ | <p>Does not apply to a due process complaint regarding a disciplinary issue.</p> | <p>Does not apply to a due process complaint regarding a disciplinary issue.</p> |
| <p>Requested by:</p> | <p>Parents</p> | <p>School District</p> | <p>Other Public Agency</p> | <p>Parents</p> | <p>School District</p> |
| <p>Resolution meeting:</p> | <p>Must participate in a meeting within 15 days of filing the complaint, unless both agree to waive the meeting or to participate in mediation.</p> | <p>Not required to hold a resolution meeting.</p> | <p>Not required to participate in a resolution meeting.</p> | <p>Must participate in a meeting within seven days of filing a due process complaint, unless parents agree to waive the meeting or to participate in mediation. Meeting discussions are confidential.</p> | <p>Not required to hold a resolution meeting.</p> |

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| Resolution period: | If the complaint cannot be resolved within 30 days, the due process hearing may occur. If the complaint is resolved, the parents enter into a binding settlement agreement with the district. ⁵ | The 30-day resolution period does not apply. | The 30-day resolution period does not apply. | If the complaint cannot be resolved within 15 days, the expedited hearing may occur. If the complaint is resolved, the parents enter into a binding settlement agreement with the district. ⁵ | The 15-day resolution period does not apply. |
| Due process hearing timelines: | Unless the complaint has been resolved, a hearing must be held and a final decision issued and mailed to all parties within 45 calendar days after the 30-day resolution period expires, unless an extension of time is granted. ⁶ | Unless the complaint has been resolved, a hearing must be held and a final decision issued and mailed to all parties within 45 calendar days after the parents receive the due process complaint, unless an extension of time is granted. ⁶ | Unless the complaint has been resolved, a hearing must be held and a final decision mailed to all parties within 45 calendar days after the parents receive the due process complaint, unless an extension of time is granted. ⁶ | A hearing must be held within 20 school days from the date the due process complaint is filed. <i>No timer extensions shall be granted.</i> The hearing officer must make a determination within 10 school days after the hearing. | A hearing must be held within 20 school days from the date the due process complaint is filed. <i>No time extensions shall be granted.</i> The hearing officer must make a determination within 10 school days after the hearing. |
| Requested by: | Parents | School District | Other Public Agency | Parents | School District |
| Appeal of the hearing officer's decision: | If parents disagree with the decision, they may appeal to the ODE within 45 calendar days of receipt of the decision. | If the district disagrees with the decision, it may appeal to the ODE within 45 calendar days of receipt of the decision. | If the agency disagrees with the decision, it may appeal to the ODE within 45 calendar days of receipt of the decision. | If parents disagree with the decision, they may appeal to the ODE within 45 calendar days of notification of the decision. | If the district disagrees with the decision, it may appeal to the ODE within 45 calendar days of notification of the decision. |

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¹The time limit does not apply to a parent if the parent was prevented from filing a due process complaint due to: (1) specific misrepresentations by the school district that it had resolved the problem forming the basis of the due process complaint; or (2) the school district's withholding of information that was required under Part 300 of IDEA to be provided to the parent. (34 CFR 300.511(f) and (OAC 3301-51-05(K)(10)(f))

² *Whose IDEA Is This?* must be provided to parents upon receipt of the first due process complaint in a school year.

³ See Procedures and Guidance, Topic: 5:13 – Due Process Complaints, *What is the time limit for filing a complaint?*

⁴ See Procedures and Guidance, Topic: 5:13 – Due Process Complaints, *Who decides whether the information in the due process complaint is sufficient?*

⁵ See Procedures and Guidance, Topic: 5-14 – Resolution Process, Written settlement agreement.

⁶ See Procedures and Guidance, Topic: 5:15 – Impartial Due Process Hearing, Timelines and adjustments.