

General Due Process Hearing Timelines When the Parent Files a Complaint



1

A parent files a due process* complaint with other party and copies the Office for Dispute Resolution.

*The term due process refers to a legal proceeding presided over by a hearing officer who makes determinations about a child's educational program.

The complaint notice must contain the following specific information:

- The name of the child
- The address of the residence of the child
- The name of the school the child is attending (in the case of a homeless child or youth, available contact information for the child and the name of the school the child is attending)
- A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem
- A proposed resolution of the problem to the extent known and available to the party at the time

The notice may be amended under certain conditions, which may start the timeline over again.

2

If the LEA (school) has not yet sent a Notice of Recommended Educational Placement/Prior Written Notice (NOREP/PWN) to the parent regarding the subject matter contained in the parent's due process complaint, the LEA must, within 10 days of receiving the due process complaint, send a response to the parent.

Contents of this response must include:

- An explanation of why the LEA proposed or refused to take the action raised in the due process complaint
- A description of other options that the IEP team considered and the reasons why those options were rejected
- A description of each evaluation procedure, assessment, record, or report used by the LEA as a basis for the proposed or refused action
- A description of the factors that are relevant to the LEA's proposed or refused action

3

Within 15 calendar days of receiving notice of parent's due process complaint, and prior to initiation of a due process hearing, the LEA must convene a resolution meeting with the parent and the relevant member(s) of the IEP team who have specific knowledge of the facts identified in the due process complaint (within 7 calendar days for expedited hearing).

The parent and LEA determine the relevant members of the IEP team to attend the resolution meeting.

A representative of the public agency that has decision-making authority on behalf of the LEA should be included.

An attorney for the LEA may not be included unless the parent has an attorney.

4

If the LEA has not resolved the due process complaint to the satisfaction of the parents within 30 calendar days of the receipt of the due process complaint, the due process hearing may occur (15 calendar days for expedited hearing).

If the LEA resolves the due process complaint to the satisfaction of the parents within 30 calendar days of the receipt of the complaint, then the timelines end.

If the parent fails to participate in the resolution meeting, the timelines for a due process hearing will be delayed until the meeting is held. If the LEA is unable to obtain the participation of the parents after reasonable efforts have been made, the LEA may request that a hearing officer dismiss the parent's complaint (at the end of the 30-day period).

If the LEA fails to hold the resolution meeting within 15 calendar days of receiving notice of a parent's due process complaint or fails to participate in the resolution meeting, the parents may seek the intervention of a hearing officer to begin the due process hearing timeline.

No more than 10 calendar days (steps 1 and 2)

No more than 15 calendar days (steps 1 through 3)

No more than 30 calendar days (steps 1 through 4)

No more than 75 calendar days (steps 1 through 7)

NOTE:

The parent and the LEA (school) can agree in writing to waive the resolution meeting.

The parent and the LEA can agree to use the mediation process rather than hold the resolution meeting.

5

Due process hearing timelines begin the day after one of the events below:

- Both parties agree in writing to waive the resolution meeting.
- Both parties agree in writing that no agreement is possible after mediation or resolution meeting starts, but before the end of the 30-day period.
- Both parties agree in writing to continue the mediation at the end of the 30 day resolution period, but later either party withdraws from the mediation process.
- The 30-day period after the LEA receives the complaint notice ends.

6

Due process hearing must be held within 30 calendar days after the start of the timelines described in step 5 (within 20 school days for expedited hearing).

7

The decision of the hearing officer must be issued within 45 calendar days of the start of the due process hearing timelines unless extensions are given (within 30 school days for expedited hearing).

30 calendar days (steps 5 and 6)

45 calendar days (steps 5 through 7)

If parents are unhappy with their child's special education program, a due process hearing is not the only way to solve the issue. For more information about the free services offered by the Office for Dispute Resolution (ODR), contact:

ODR: 800-222-3353 (PA only)
ConsultLine: 800-879-2301/717-541-4960
TTY users: PA Relay 711
<http://odr-pa.org>

Commonwealth of Pennsylvania

Josh Shapiro, Governor

