



Special Education Due Process Complaint Procedures

Michigan Department of Education

Office of Special Education

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Special Education Due Process Complaint Procedures

This document includes the Michigan Department of Education procedures regarding special education administrative due process hearings.

Commonly Used Abbreviations, Acronyms, Symbols, and Terms

| | |
|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ALJ | Administrative Law Judge |
| ESA | Educational Service Agency |
| FAPE | Free Appropriate Public Education |
| FERPA | Family Educational Rights to Privacy Act |
| IDEA | <i>Individuals with Disabilities Education Act</i> |
| IEP | Individualized Education Program |
| IFSP | Individualized Family Service Plan |
| ISD | Intermediate School District; may also be called an educational service agency (ESA), a regional educational service agency (RESA), or a regional educational service district (RESD). |
| LEA | Local Educational Agency |
| MARSE | <i>Michigan Administrative Rules for Special Education</i> |
| MDE | Michigan Department of Education |
| MOAHR | Michigan Office of Administrative Hearings and Rules |
| OSE | Office of Special Education |
| OSEP | Office of Special Education Programs |

| | |
|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Parent | <p>According to R 340.1701b(e) a parent includes:</p> <p>A biological or adoptive parent; a foster parent (unless otherwise prohibited from acting as a parent).</p> <p>A guardian (including a grandparent, stepparent, or other relative with whom the child lives) authorized to make general or educational decisions (but not the state if the child is a ward of the state).</p> <p>A surrogate parent who has been appointed in accordance with R 340.1725f.</p> <p>A person(s) identified by a judicial decree.</p> <p>The student when he or she reaches the age of 18 (if a legal guardian has not been appointed).</p> |
| PSA | Public School Academy (includes charter schools) |
| Public Agency | As defined by 34 CFR § 300.33 public agency includes: the SEA, LEAs, ESAs, non-profit public charter schools, and any other political subdivisions of the state responsible for providing education to children with disabilities. |
| R | Rule |
| RESA | Regional Educational Service Area |
| RESD | Regional Educational Service District |
| SEA | State Educational Agency; an SEA is defined at 34 CFR § 300.41 as the State board of education other agency or officer primarily responsible for the State supervision of Public elementary schools and secondary schools. The MDE is the SEA for Michigan. |
| § | Section |

Procedures

1. Delivery and Receipt

- a. A due process complaint shall be delivered by hand, by mail, or electronically (fax or email). The MDE will provide a copy of the complaint to the parent, district, and intermediate school district by mail or electronically.
- b. A due process complaint is deemed received on the day the complaint is delivered to the MDE, excluding weekends, federal and state holidays, and days the MDE office is closed. In the case of a complaint received electronically (fax, email), when the last page of the complaint is received after 5:00 p.m., the complaint will be deemed received on the next day the MDE office is open.

2. Timelines and Sufficiency of Due Process Complaint

- a. Due process timelines begin the day a complaint is received by the MDE consistent with section one above.
- b. An Administrative Law Judge (ALJ) determines whether a complaint is sufficient and is considered properly filed.

3. Minimum Information Required

The MDE shall promptly forward the due process complaint to Michigan Office of Administrative Hearings and Rule (MOAHR) when the due process complaint, at a minimum, includes:

- a. Identifies the student's name;
- b. The address of the residence of the student;
- c. The name of the school the student is attending.
- d. In the case of a homeless student or youth; available contact information for the student and the name of the school the student is attending;
- e. A description of the nature of the problem;
- f. A proposed resolution to the extent known and available to the complainant; and
- g. Signature of the complainant.

4. Administrative Law Judge (ALJ) Decision - Implementation and Proof of Compliance

Following the issuance of the Final Decision, the public agency shall implement the provisions of the Final Decision and Order, as ordered by the ALJ.

5. Closure of the Due Process Complaint

The MDE will close the due process case when final proof of compliance, meeting the requirements in the ALJ order, is received and verified. The MDE will notify all the parties, and the ISD, the proof of compliance has been received and verified, received and the complaint is closed.

Resolution Meeting

A mandatory resolution meeting must be held when a parent files a due process complaint requesting a hearing. The school district will contact the parent to schedule this meeting. The purpose of the Resolution Meeting is to provide the parent and the district an opportunity to discuss the parent's complaint and to attempt to reach a prompt and early resolution of the dispute without going to a hearing.

In the case of a standard due process complaint, the resolution meeting must be held within 15 days of the district receiving notice of the parent's due process complaint and prior to the initiation of a due process hearing.

In the case of an expedited due process complaint, a resolution meeting must occur within seven days of the district receiving notice of the due process complaint requesting a hearing.

A resolution meeting is always required, with exception of when:

- The parent and district agree, in writing to waive the resolution meeting and move forward with the hearing process; or
- The parent and the district agree, in writing, to waive the resolution meeting and agree to use mediation.

Appendix A: Model Due Process Complaint/Request for Hearing Form (Page 1 of 4)

Model Due Process Complaint/Request for Hearing Form

Michigan Department of Education Office of Special Education
June 2022

Purpose

This model form may be used to submit a request for a due process hearing to resolve a disagreement about the identification, evaluation, eligibility, educational placement, or manifestation determination of a student, or regarding the provision of a free appropriate public education for a student under the Individuals with Disabilities Education Act (IDEA). For any complaint that involves a child with an Individualized Family Service Plan (IFSP), the Michigan Department of Education (MDE) Office of Great Start/Early Childhood Development and Family Education is notified by the Office of Special Education (OSE) to ensure coordination and involvement of IDEA Part C staff in the process.

Instructions

Complete this form and deliver by mail, electronically (email or fax), or hand-deliver it to the MDE OSE using the contact information on page 4. The use of this form is not required; it is provided to assist in filing a due process complaint. **Note: The * indicates required information.**

Complainant Contact Information

Name*: _____

Address*: _____

City*: _____ State*: _____ Zip Code*: _____

Email: _____ Phone Number: _____

Student Information

Name*: _____ Age: _____ DOB: _____ Grade: _____

Address*: _____

(provide contact information if student is homeless)

City*: _____ State*: _____ Zip Code*: _____

Parent/Guardian Information (if other than the person filing the complaint)

Name: _____

Email: _____ Phone Number: _____

School Information

Name of the school the student attends*: _____

Name of the district(s) the complaint is filed against: _____

Appendix A: Model Due Process Complaint/Request for Hearing Form (Page 2 of 4)

Problem and Facts *

What is the nature of the problem that relates to the student's special education program and what are the facts that relate to the problem? Include dates, if known. (1,000 character limit. Attach additional pages if necessary.)

Proposed Resolution (to the extent known) *

Briefly explain how you think the issue could be resolved. (2,600 character limit. Attach additional pages if necessary.)

Appendix A: Model Due Process Complaint/Request for Hearing Form (Page 3 of 4)

Mediation: Release of Contact Information to SEMS

The Michigan Department of Education (MDE) encourages parents and districts to resolve disputes through informal dispute resolution processes, including mediation.

Mediation is a voluntary process. A trained, impartial mediator assists the parties in reaching a mutually acceptable resolution of the dispute between the parties. Mediators are not affiliated with any local school district nor do they represent any of the parties in a complaint. Discussions during mediation are confidential.

The MDE provides mediation services at no cost to the complainant or the district if they use [Special Education Mediation Services \(SEMS\)](#). SEMS is funded by an MDE grant.

If you are interested in resolving a complaint through mediation or informal resolution, the MDE will, with your consent, forward your name and telephone number to SEMS. SEMS will contact you to tell you more about mediation and other alternative dispute resolution options. If you choose to participate in mediation, SEMS will contact the district to determine if the district agrees to participate in mediation. If so, SEMS will make the arrangements and schedule the mediation meeting(s).

If you and the district agree to participate in mediation after a due process complaint has been filed, the hearing timeline may be extended until the mediation process is completed. If the issue is resolved through mediation, the complaint will be withdrawn or dismissed. If the issue is not resolved, the MDE will proceed with the due process hearing.

For more information about mediation and informal dispute resolution, see the MDE Special Education Due Process Complaint Procedures or contact Special Education Mediation Services (SEMS) at 833-KIDSIST (833-543-7178) or the [SEMS website](#) (<http://MiKidsIst.org>).

- Yes, I am interested in mediation and authorize the OSE to forward my name and contact information to SEMS. I understand SEMS will contact me directly.
- No, I am not interested in mediation. I understand SEMS will not contact me, and at any point, I can contact the public agency or SEMS to request mediation. Visit the [SEMS website](#) or call 833-543-7178 for more information.

Appendix A: Model Due Process Complaint/Request for Hearing Form (Page 4 of 4)

Submit Due Process Complaint/Request for Hearing

The due process complaint/request for hearing must be signed and mailed, hand delivered, or electronically (fax, email) to submit to the MDE.

Signature*

Printed Name

Date

Michigan Department of Education
Office of Special Education – Due Process Complaints
608 West Allegan
P.O. Box 30008
Lansing, MI 48909
Fax: 517-241-7141
Email: MDE-MIComplaints@michigan.gov