

**The Michigan Department of Education**

**Special Education  
Due Process Complaint Procedures**

February 2010

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*Office of Special Education and Early Intervention Services*

## DUE PROCESS COMPLAINT PROCEDURES

### 1. DELIVERY:

- a. A due process complaint shall be delivered by hand, by mail, or by facsimile transmission ("fax").
- b. A due process complaint must be delivered to:
  - i. the other party, and
  - ii. the Office of Special Education-Early Intervention Services (OSE-EIS) of the Michigan Department of Education.
- c. If the other party is a public agency, the due process complaint shall be delivered to:
  - i. the Superintendent,
  - ii. the Special Education Director, or
  - iii. the Chief Administrator (such as Principal) of the public agency.

### 2. STATEMENT OF DELIVERY:

The due process complaint delivered to OSE-EIS must include a statement describing the facts of delivery to the other party, including:

- a. the manner,
- b. the time,
- c. the date, and
- d. the place of delivery.

### 3. RECEIPT OF A DUE PROCESS COMPLAINT

- a. A due process complaint is deemed to be "received" by the MDE and the other party on the day it is received by the MDE and the other party before 5:00 p.m., Monday through Friday, (excluding federal and state holidays)
- b. If the last page of the complaint is received after 5:00 p.m., it will be deemed to be filed on the next business day.

### 4. DOCUMENTATION OF DATE OF RECEIPT

The OSE-EIS and the other party shall record the date that the due process complaint is received on the first page of the complaint.

5. NOTIFICATION OF RECEIPT OF COMPLAINT:

- a. The OSE-EIS and the other party shall notify each other that a due process complaint has been received.
- b. The notification shall be done immediately, but no later than the next business day.

6. DATE FILED and SUFFICIENCY OF DUE PROCESS COMPLAINTS

- a. The due process complaint is properly filed and due process timelines begin the day after the OSE-EIS and the other party receive a due process complaint that meets all the requirements of IDEA § 300.508.
- b. Determinations regarding sufficiency of a due process complaint are by the Administrative Law Judge (ALJ) assigned to the case.

7. MINIMUM INFORMATION REQUIRED and REFERRAL TO THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES:

The OSE-EIS shall file the due process complaint and promptly forward it to the State Office of Administrative Hearings and Rules (SOAHR) when the due process complaint, at a minimum:

- a. Identifies the student's name;
- b. Identifies the school district that is the subject of the complaint;
- c. Is signed by the complainant; and
- d. Contains a statement of delivery.

8. ADMINISTRATIVE LAW JUDGE DECISION – IMPLEMENTATION AND PROOF OF COMPLIANCE:

- a. The public agency shall implement the provisions of the final decision of the ALJ as provided in the final decision and provide proof of compliance with those provisions to OSE-EIS.
- b. Following the issuance of the final decision, the OSE-EIS shall provide a directive containing the required form and content of the proof of compliance to be provided by the public agency.
- c. The form and content of the proof of compliance directed by the OSE-EIS shall be consistent with the requirements of the final decision.

## 9. RESOLUTION SESSION SUMMARY FORM

When a due process complaint is filed the MDE will provide the public agency a Resolution Session Summary Form.

- a. A representative of the public agency shall complete and submit a Resolution Session Summary Form for each due process complaint filed against the public agency in each fiscal year.
- b. The Resolution Session Summary Form must be submitted to the OSE-EIS by mail, fax, or electronic submission:
  - i. within fourteen (14) days after conclusion of the resolution session, or
  - ii. immediately following the resolution of a due process complaint through mediation other means, or
  - iii. no later than July 31 of each fiscal year, if a due process complaint is not yet resolved.

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