



Special Education Due Process Complaint Procedures

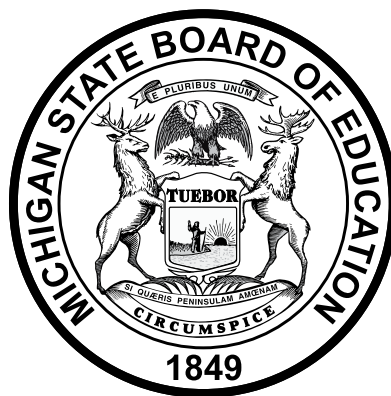
The Michigan Department of Education (MDE) procedures regarding a request for a special education administrative due process hearing.

December 2010



**Michigan Department of Education
Office of Special Education and Early Intervention Services**





State Board of Education

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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 the:
 - i. Other party (or parties), and
 - ii. Office of Special Education-Early Intervention Services (OSE-EIS) of the Michigan Department of Education (MDE).
- c. If the other party (or parties) is a public agency, the due process complaint shall be delivered to the:
 - i. Superintendent, or
 - ii. Special Education Director, or
 - iii. Chief Administrator (such as the principal) of the public agency.

2. Statement of Delivery

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

- a. If by mail, to whom the complaint was addressed and the date it was mailed.
- b. If by fax, to whom the complaint was addressed and the date and time it was sent.
- c. If in person, the date and place the complaint was delivered and to whom it was given.

3. Receipt of a Due Process Complaint

- a. A due process complaint is deemed to be "received" by the MDE and the other party (or parties) on the day it is received, excluding weekends and 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 received on the next business day.

4. Documentation of Date of Receipt

The OSE-EIS and the other party (or parties) 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 (or parties) 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 the *Individuals with Disabilities Education Act* (IDEA) §300.508.
- b. Determinations regarding sufficiency of a due process complaint are made by the Administrative Law Judge (ALJ) assigned to the case.

Due Process Complaint Procedures

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 party (or parties) that are the subject of the complaint;
- c. Is signed by the complainant; and
- d. Contains a statement of delivery.

8. Administrative Law Judge (ALJ) Decision—Implementation and Proof of Compliance

- a. The public agency shall implement the provisions of the final Decision and Order as ordered by the ALJ and provide proof of compliance with those provisions to the OSE-EIS.
- b. Following the issuance of the final decision, the OSE-EIS shall provide a directive identifying 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 OSE-EIS will provide the public agency with 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 by or against the public agency (or agencies).
- b. The Resolution Session Summary Form must be submitted to the OSE-EIS by:
 - i. Mail,
 - ii. Fax [identifying the case by district and Special Education Hearing (SEH) number only], or
 - iii. Email (identifying the case by district and SEH number only).
- c. The district shall submit the Resolution Session Summary Form:
 - i. Within fourteen (14) days after conclusion of the resolution session,
 - ii. Immediately following the resolution of a due process complaint through mediation or other means, or
 - iii. No later than July 31 for any due process complaint filed before July 1 of that year.

Model Due Process Complaint/Request for Hearing Form



Michigan Department of Education
Office of Special Education and
Early Intervention Services
608 West Allegan Street
Lansing, Michigan 48909
Telephone: (517) 373-2979
Toll Free: (888) 320-8384
Fax: (517) 373-7504

Model Due Process Complaint/Request for Hearing Form

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).

INSTRUCTIONS: Complete this form and mail, fax, or hand-deliver it to the Michigan Department of Education (MDE), Office of Special Education and Early Intervention Services (OSE-EIS) at the address above. You must also provide a copy to the school district(s) that the due process complaint is against. The complaint will not be filed until the MDE and the district(s) have received a copy of the complaint. The use of this form is not required; it is provided to assist in filing a state complaint.

Note: The * indicates required information. This information must be provided whether you use this form or any other format. Complaints that do not have all required information will NOT be filed and will be returned to the complainant.

*COMPLAINANT CONTACT INFORMATION			
*Name:			
*Address:	*Telephone Number(s):		
	Email address:		
*STUDENT INFORMATION			
*Name of Student:	Age:	*Date of Birth:	Grade:
*Address of Student (or contact information if student is homeless):			
Name of Parent or Guardian (if other than the person filing the complaint):	Resident District:		
*SCHOOL INFORMATION			
*Name of the School the Student Attends:	*Name of the District(s) the Complaint is Filed Against:		

Model Due Process Complaint/Request for Hearing Form

*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. (Attach additional pages if necessary.)

*PROPOSED RESOLUTION

Briefly explain how you think the issue should be resolved. (Attach additional pages if necessary.)

* STATEMENT OF DELIVERY

Check one of the boxes below and fill-in the information below the selected box.

A copy of this due process complaint was sent to the district(s) by mail:

Addressed To: _____ Date Mailed: _____

A copy of this due process complaint was sent to the district(s) by facsimile:

Addressed to: _____ Date Sent: _____ Time Sent: _____

A copy of this due process complaint was delivered to the district(s) in person:

To: _____ At (place): _____ Date: _____

Printed Name

*Signature

Date

Model Due Process Complaint/Request for Hearing Form

MEDIATION

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 the Michigan Special Education Mediation Program (MSEMP). The MSEMP 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 the MSEMP. The MSEMP will contact you to tell you more about mediation and other alternative dispute resolution options. If you choose to participate in mediation, the MSEMP will contact the district to determine if the district agrees to participate in mediation. If so, the MSEMP 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 State Complaint Procedures or contact the Michigan Special Education Mediation Program (MSEMP) at (800) 8RESOLVE or <http://msemp.cenmi.org>.

Please provide the information below and sign your name if you want the MSEMP to contact you to tell you more about mediation and other informal dispute resolution options.

I am interested in resolving the complaint against the _____ school district/public school academy through mediation or informal resolution.

I give the MDE permission to forward my name and telephone number to the MSEMP.

Name: _____ Telephone number: _____

Signature Date

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FOR MDE USE ONLY: Case # _____ Date Filed _____ Administrative Law Judge _____