

***Your Right to Procedural Safeguards to Resolve Disagreements Over  
What is Appropriate for Your Child***

If there is a disagreement about your child's assessment, or IEP, you have the right to voice your concerns. You always have the option of discussing your concerns with District personnel at your child's school site to resolve any disagreement. You also have the right to use any of the following dispute resolution processes to resolve disagreements.

**Informal Dispute Resolution (IDR)**

Informal Dispute Resolution or "IDR" is an optional dispute resolution process available to parents. IDR is a District process that is designed to be faster, less formal and less adversarial than mediation and due process proceedings. In the IDR process, parents identify their issues and concerns and the District attempts to work with the parent to quickly resolve the issues identified.

If you want to use the IDR process to resolve a disagreement regarding your

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child's IEP, check the box on page 10 (parent consent page) of the IEP next to the statement, "Parent/Student (18-21) wishes to utilize the Los Angeles Unified School District's Informal Dispute Resolution Process." Then ask for a meeting with the IEP administrator/designee to discuss your issues and concerns in more detail.

The meeting with the IEP administrator/designee should take place within one business day of the IEP team meeting whenever possible. During the meeting you will work with the IEP administrator/designee to complete "A Request for Informal Dispute Resolution (IDR) Regarding Individualized Education Program (IEP) Issues – IDR Form A." After IDR Form A is completed, it is submitted to the District's Division of Special Education. Within a few business days you will be contacted by a District administrator to work on resolution of the disagreement.

You will be provided with documentation of the resolution activity during the IDR process. If an agreement is reached during the IDR process, the terms of the agreement may be put into writing and/or an IEP team meeting may be held to incorporate the terms of the agreement. If an agreement is not reached, you may initiate due process proceedings.

**Mediation Only**

"Mediation Only" is a voluntary dispute resolution process where a neutral mediator assists you and the District in discussing and attempting to resolve your disagreement. The mediators are not employees of the District and do not have any personal interest in the disagreement. The mediators are selected on an impartial basis by the State and know the laws and regulations relating to the provision of special education and related services. The Mediation Only process includes a mediation conference attended by you, the assigned mediator, and a District representative who has decision-making authority.

The Office of Administrative Hearings ("OAH") is the State agency who administers the Mediation Only process and due process hearings. To request Mediation Only, you must complete a "Mediation Only Request Form" and mail or fax it to:

Office of Administrative Hearings Attention:  
Special Education Division 2349 Gateway Oaks  
Drive, Suite 200  
Sacramento, CA 95833  
Phone: (916) 263-0880  
Fax: (916) 263-0890

You should also mail or fax a copy of the form to:

Due Process Department Division of  
Special Education  
Los Angeles Unified School District 333 South  
Beaudry Avenue, 17<sup>th</sup> Floor Los Angeles, CA  
90017  
FAX: (213) 241-8917

You can obtain a copy of the Mediation Only Request Form from your child's school or get it online at [www.oah.dgs.ca.gov](http://www.oah.dgs.ca.gov).

After receiving your request for mediation only, OAH will schedule a mediation conference. Attorneys and paid advocates may not attend the mediation conference held during the Mediation Only process. At a mediation conference, the mediator will help you and the District understand each other's point of view. The mediator may also offer options for you and the District to consider. What is said at a mediation conference is confidential and can not be used in any due process hearing or civil proceeding. If you and the District reach an agreement, the terms of the agreement will be put in writing in a settlement agreement. This settlement agreement will then be provided to you and the District representative for approval and signatures. Once the settlement agreement is signed it is enforceable under State and Federal law.

Requesting Mediation Only does not preclude you from subsequently requesting a due process hearing. If the Mediation Only process does not resolve the disagreement, either you or the District may initiate due process proceedings.

### **Due Process Hearing Proceedings**

Due process hearing proceedings are dispute resolution proceedings required to be available to parents and school districts by the Individuals with Disabilities Education Act (IDEA). You or the District may file a due process complaint on any matter relating to a proposal or refusal to initiate or change the identification, evaluation or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child. The proceedings begin with the submission of a complaint notice and include a resolution period with a mandatory resolution session meeting, optional mediation, and a due process hearing before an impartial hearing officer. The District convenes the resolution session meeting. The Office of Administrative Hearings (OAH) conducts the optional mediation and the due process hearing. It may not be necessary to go through all of the due process proceedings to reach resolution. A due process complaint may be resolved by mutual agreement of the parties at any stage of the proceedings.

#### **1. Submission of a Due Process Complaint Notice**

To initiate due process proceedings you must submit a written due process

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complaint notice that contains the following information: (1) the name of the child, (2) the address of the residence of the child or available contact information for the child if the child is homeless, (3) the name of the school the child is attending, (4) a description of the nature of the problem, and (5) a proposed resolution to the problem to the extent known and available at the time. The statute of limitations for due process complaints is two years. This means that your complaint notice must allege a violation that happened no more than two years prior to the date of the complaint notice. This timeline will apply unless you could not file a complaint notice earlier because the District specifically misrepresented that it resolved the issues identified in the complaint or the District withheld information from you that it was required to provide.

OAH has developed a model due process complaint notice form. You may request a copy of the model form from your child's school of attendance or you may obtain a copy of the form online at [www.oah.dgs.ca.gov](http://www.oah.dgs.ca.gov).

After you complete the complaint notice, submit it to your child's school of attendance, with copies sent by mail or facsimile to:

Due Process Department Division of  
Special Education  
Los Angeles Unified School District 333 South  
Beaudry Avenue, 17<sup>th</sup> Floor Los Angeles, CA  
90017  
FAX: (213) 241-8917

and to:

Office of Administrative Hearings Attention: Special Education Division 2349 Gateway Oaks Drive, Suite  
200  
Sacramento, CA 95833  
Phone: (916) 263-0880  
Fax: (916) 263-0890

In order for a complaint to go forward, it must contain the required information described above. Within 15 days of receipt of the complaint notice, the party receiving the complaint notice (i.e., the District if you file) may file an objection to the complaint notice on grounds that the complaint notice does not contain the information required by law. If an objection is filed, the hearing office must render a decision on the sufficiency of the notice within 5 days, and provide both parties with written notification of the determination.

You may make changes to your complaint notice only if: (1) the District approves the changes in writing and is given a chance to resolve the due process complaint through a resolution meeting or (2) a hearing officer grants you permission to amend your complaint no later than five days before the due process hearing begins. You may not change your complaint

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notice after the hearing begins.

If you make changes to your complaint, you will be required to submit an amended complaint notice. Once you submit the amended complaint notice the timelines for the resolution period and resolution session (described in the next section) will start again.

## 2. Resolution Period

The Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004), mandates a 30 day resolution period prior to the commencement of a due process hearing. This resolution period is intended to give parents and schools expanded opportunities to resolve disagreements in positive and constructive ways. With respect to the resolution period, IDEA 2004 includes the following procedures:

If the District has not sent a prior written notice to you regarding the IEP in dispute, the District is required to send you a written response to your complaint within 10 days of its receipt of the due process complaint notice. The District's response will include, among other things, an explanation of why the District proposed or refused to take the action raised in the complaint notice, a discussion of the options considered, and a description of the information the District used to make the determination. The response may also include a proposed resolution or proposed activity (e.g., re-convening the IEP team meeting) to address the issues raised in the complaint notice.

Within 15 days of the District's receipt of the complaint notice, the District will schedule a resolution session unless you and the District agree in writing to waive the meeting or agree to use the mediation process instead. The purpose of the resolution session is to discuss your due process complaint and to provide the District with an opportunity to resolve the dispute. The resolution session will include a relevant member or relevant members of the IEP team, a District representative who has decision-making authority, and you. The District may not have an attorney present unless you have an attorney present. If a resolution is reached at the resolution session, the parties will execute a

legally binding written settlement agreement that is enforceable in a court of law. Either party may void the agreement within three business days of the date on which it was signed.

If your complaint has not been resolved to your satisfaction within 30 days of the date the District received the complaint notice, the due process hearing may occur and all of the applicable timelines for a due process hearing shall commence.

Except in those cases where you and the District have agreed in writing to waive the resolution session, your failure to participate in the resolution session will delay the timelines for the resolution process and due process hearing. Further, if you fail to participate in a resolution session after the

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District has made repeated attempts to schedule the session, the District may request that OAH dismiss your due process complaint.

If the District fails to schedule the resolution session within 15 calendar days of receipt of your complaint notice, or fails to participate in the resolution session, you may ask OAH to order that the due process hearing timelines begin prior to the end of the 30 day resolution period.

### 3. Optional Mediation

Prior to the due process hearing, the parties may elect to participate in a mediation conference. This pre-hearing mediation conference is similar to the conference held during the Mediation Only process except that attorneys and paid advocates may participate in the pre-hearing mediation conference. When a pre-hearing mediation conference is requested, OAH will assign a mediator and schedule a time and date. The role of the mediator is to assist you and the District in resolving the disagreement relating to your child's IEP. If an agreement is reached at the conference, the terms of the agreement will be written into a settlement agreement that is enforceable after it is signed by you and a District representative. If the mediation conference does not result in an agreement, the matter will proceed to hearing.

### 4. Due Process Hearing

A due process hearing is a more formal resolution process. It is conducted by an OAH administrative law judge or "hearing officer." Procedurally the hearing is like a trial. Evidence is presented and witnesses testify and are cross examined. Hearing officers may question witnesses, have experts discuss issues with each other, visit placement sites, call witnesses and order independent evaluations. The role of the hearing officer is to determine whether your child received or was offered a free and appropriate public education (FAPE) under State and Federal law.

Procedural violations do not necessarily result in a denial of FAPE. In matters alleging a procedural violation, the hearing officer may find that your child did not receive FAPE only if: (1) the procedural violation interfered with the child's right to FAPE; (2) significantly interfered with your opportunity to participate in the IEP process; or (3) caused a deprivation of educational benefit.

The due process hearing must be held and a written decision mailed to all parties within forty-five (45) days of the expiration of the 30 day resolution period, unless the hearing officer grants an extension of time at the request of one of the parties. At a due process hearing you and the District have the right to:

- A fair and impartial administrative hearing conducted by a person who is knowledgeable of the laws governing special education and administrative hearings;

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- Be informed of the other party's issues and proposed resolution(s) at least ten (10) calendar days prior to the hearing;
- Receive notice of attorney representation from the other party at least ten (10) days prior to the hearing;
- Receive from the other party a copy of all documents to be used by the other party at hearing, including any evaluations, and a list of witnesses, indicating their general area of testimony, at least five (5) business days before the hearing (failure to provide documents in a timely manner can result in exclusion of the documents);
  - Be accompanied and advised by an attorney and/or individuals who have knowledge about children with disabilities;
  - Present evidence written arguments, and oral arguments;
  - Confront, cross-examine, and require witnesses to be present;
  - Receive a written or electronic copy of findings of fact and decisions.
  - Obtain a written or electronic record of the hearing (at no cost for parents).

In addition, you have the right to request that the hearing be open or closed to the public, have your child present at the hearing, and have an interpreter provided.

Decisions of hearing officers are binding on all parties, but may be appealed to a State or Federal Court within ninety (90) days of the final decision. If you are the prevailing party in the decision, you may be awarded reasonable attorneys' fees either by agreement with the District or by a court. If you are not the prevailing party, a court may award the District its attorneys' fees against your attorney if the due process complaint is found to be frivolous, unreasonable or without foundation. A court may also award the District its attorneys' fees against you or your attorney if the due process complaint was presented or maintained for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.