



Due Process Timelines

Prior to the filing of any complaint, it is best practice to try to work the dispute out at the local level. Work with your child’s teacher and educational team to try to resolve any disagreements you may have with their identification, evaluation, provision of a free and appropriate public education or placement. This can be accomplished through the IEP meetings or through less formal team meetings. Document your concerns in writing to your child’s team and try to work with them to come to an agreeable resolution. Once you have tried these activities, to no avail, you may consider filing a Due Process Complaint. The following is an example of steps that are involved. Please note that the timelines do not match the activity exactly. **Some timelines refer to calendar days, while others refer to business days. For ease of information, calendar days have been used in this timeline.**

Due Process Complaint Filed		Parent files a Due Process Complaint alleging a violation that took place not more than 2 years from the date the complaint was filed. The written complaint is sent to the Department of Elementary and Secondary Education (DESE). A copy of the written complaint must also be sent to the responsible public agency.
30 Day Resolution Period	DESE Receives Complaint	Within 2 Business Days of receiving the complaint, DESE will forward the complaint to the Administrative Hearing Commission. A Commissioner is then assigned to the complaint. DESE will also send a letter to the parent informing them about the option of Mediation. A copy of the Procedural Safeguards, Hearing Officer List, Mediator List, Mediation Booklet, and a list of free / low cost legal services are enclosed with the letter.
	Response to Complaint Required	Within 10 Calendar Days of receiving the Complaint: the responsible public agency (or the parent if the public agency filed the complaint) must, within 10 calendar days of receiving the complaint send the parent and the Administrative Hearing Commission a response that specifically addresses the issues in the complaint.
	Resolution Meeting	Within 15 Calendar Days of receiving the due process complaint, the responsible public agency must convene a Resolution Meeting with the parent and relevant members of the IEP Team who have specific knowledge of the facts identified in the complaint. The Resolution Meeting can be waived if both parties agree, or if both parties agree to engage in Mediation. The responsible public agency shall notify the Department of Elementary and Secondary Education and the Administrative Hearing Commission of the date of the resolution meeting and the result or that a decision was made not to hold a resolution meeting.
	Sufficiency of Complaint	In order for a Due Process Complaint to move forward it must be considered Sufficient (it must have met content requirements). The Complaint will be considered Sufficient unless the public agency (or the parent if the district filed the complaint) notifies the Administrative Hearing Commission and the other party, in writing, within 15 Calendar Days of receiving the complaint, that they feel the complaint does not meet content requirements.



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30 Day Resolution Period	Ruling on Sufficiency	Within 5 Calendar Days of receiving a notification of insufficiency, the Administrative Hearing Commission must decide if the complaint meets the requirements and notify the parent and the public agency, in writing of their decision.
	Pre-Hearing Conference	The Administrative Hearing Commission has the option to conduct a prehearing conference.
	End of Resolution Period	If, within 30 Calendar Days of the receipt of the Due Process Complaint, the public agency has not resolved the complaint to the satisfaction of the parent, the Due Process Hearing may occur. If after making reasonable and documenting such efforts, the public agency is not able to obtain the parent’s participation in the resolution meeting, the public agency may, at the end of the (30) day resolution period, request that the Administrative Hearing commission dismiss the due process complaint.
	Agreement Reached	<p>If an agreement is reached during the Resolution Meeting the parties must execute a legally binding agreement that is:</p> <ul style="list-style-type: none"> • Signed by both the parent and the public agency representative; and • Enforceable in any State court of competent jurisdiction or a district court of the United States. <p><i>(see resolution agreement review period)</i></p>
	Resolution Reached, Continued, or Move to Hearing	<p>The 45 Calendar Day timeline for the Due Process Hearing starts the day after one of the following events:</p> <ul style="list-style-type: none"> • Both parties agree, in writing, to waive the resolution meeting; • After either the mediation or the resolution meeting starts but before the end of the thirty (30) calendar day resolution period, the parties agree, in writing, that no agreement is possible; or, • Both parties agree, in writing, to continue the mediation process at the end of the thirty (30) calendar day resolution period, but later, either party withdraws from the mediation process.
	Resolution Agreement Review Period	If the parties reach an agreement and a legally binding agreement is reached, either party can void the agreement within 3 business days of the agreements execution.



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45 Day Hearing Period	Hearing Conducted	<p>Hearing Rights</p> <ul style="list-style-type: none"> • Advised by counselor – others with knowledge / expertise • Represent themselves or be represented by lawyer • Present evidence, cross-examine, compel attendance, • Prohibit introduction of evidence at the trial that was not disclosed 5 Business Days before the hearing • Electronic or written verbatim record at no cost • Electronic or written findings of fact at no cost • Open hearing / Closed hearing • Party that requested the due process cannot raise issues not addressed in complaint unless other party agrees <p>Subpoenas – Parties can request subpoenas for a witness from the Commissioner, Commissioner can refuse</p> <p>Hearing Procedures – Commissioner presides over and conducts hearing & shall rule on procedural evidentiary matters.</p> <p>Issues to be Addressed – Commissioner may narrow scope of hearing at any time prior to the presentation of the first witness at the hearing.</p> <p>Length of Presentation – Any hearing lasting more than 2 days requires good cause and must be documented in the record</p> <p>Exclusions – when evidence & testimony should be excluded</p> <p>Responding to Orders – Parties must comply with Commissioner’s orders, can dismiss case if don’t</p> <p>Communication w/ Administrative Hearing Commissioner – cannot communicate with the Commissioner unless all parties have opportunity to participate</p> <p>Witnesses – Commissioner may exclude witnesses from room so they cannot hear other witness testimony</p> <p>Limitations - # of witnesses may be limited by Commissioner</p>
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45 Day Hearing Period	Render and Mail Written Decision	<p>The Hearing must be held and a written decision rendered and mailed within 45 calendar days of the expiration of the 30 day Resolution Period or the adjusted time period specified. The decision timeline may be extended upon request of the party/ parties and agreement by the Administrative Hearing Commission. The Administrative Hearing Commissioner cannot grant an extension without a request from one or both parties.</p> <p>An Administrative Hearing Commissioner’s decision on whether a child received a free appropriate public education (FAPE) must be based on substantive grounds.</p> <p>In matters alleging a procedural violation, a Commissioner may find that a child did not receive FAPE only if the procedural inadequacies:</p> <ul style="list-style-type: none"> • Impeded the child’s right to FAPE; • Significantly impeded the parent’s opportunity to participate in the decision-making process regarding the provision of FAPE to their child; or • Caused a deprivation of educational benefit. <p>Verbatim record – findings of fact.</p>
APPEAL	Finality of Decision	<p>Jurisdiction of the Administrative Hearing Commission ends when the final decision is rendered. There are no amendments to the decision permitted.</p> <p>Any party aggrieved by the findings and decisions made in a hearing may appeal the decision within 45 Calendar Days to the State courts as provided in Chapter 536, RSMo., or in Federal court.</p>