

Who can file a Due Process Hearing Request?

Parties on either side of a special education dispute may file a due process hearing request. A parent, guardian, or School Administrative Unit must file a written complaint by mail, e-mail, fax, or hand-delivery to both the Maine Department of Education (MDOE) and the opposing party. Once MDOE has confirmed the opposing party has received the hearing request, the timelines for the hearing will begin and a Hearing Officer will be assigned.

When both parties agree to participate in voluntary mediation, the mediation will be scheduled prior to the hearing and a mediator will be assigned.

What issues can be addressed?

A due process hearing request can address any alleged violation of the Individuals with Disabilities Act (IDEA) or Maine Unified Special Education Regulations (MUSER). A due process hearing request may be filed for disputes concerning the identification, evaluation or educational placement of a child with a disability or the provision of a free appropriate public education (FAPE). The Maine Department of Education cannot give legal advice; however, you may choose to contact an attorney or advocate.

How does it work?

When parties do not agree to mediation, the SAU is required to conduct a resolution meeting in an attempt to resolve the dispute. The SAU must convene a resolution meeting within 15 days of the filed due process hearing request. The resolution period may continue for up to 30 days. In cases where both parties are agreeable, mediation may take place in lieu of this resolution meeting. If the issues remain unresolved after mediation, the case will proceed to the hearing. A hearing officer presides over the hearing; and much like a formal court proceeding, the parties may present evidence, give testimony, and cross-examine witnesses. The hearing officer then issues a written decision. Typically, due process hearing requests are scheduled within 30 calendar days of the request.

Due process expedited hearing request

When the due process hearing request concerns allegations involving disciplinary removals for greater than 10 days (i.e. suspension or expulsion) or disagreements with a manifestation determination that occurred as a result of a disciplinary removal, the parties must file a due process expedited hearing request. In these limited cases, a hearing must take place within 20 school days of the filed due process expedited hearing request, and a decision must be issued within 10 school days of that hearing.

Who decides the outcomes?

Following the hearing, the Hearing Officer will issue a written decision. If the Hearing Officer determines that there were IDEA or MUSER violations, remedies may be ordered, and the violations must be corrected. If the Hearing Officer determines that no IDEA/MUSER violations occurred, no remedies are ordered.

What does it cost?

There is no cost to either party to file a due process hearing request. Either party may retain an advocate or attorney at their own expense.

Is there an appeal process?

The Hearing Officer's decision may be appealed in state or federal district court within 90 days of the date of the decision.