

(K) Request for Mediation and Due Process Hearing

OFFICE OF ADMINISTRATIVE HEARINGS STATE OF CALIFORNIA

SPECIAL EDUCATION DIVISION

INFORMATION SHEET FOR THE OPTIONAL FORM: REQUEST FOR DUE PROCESS HEARING AND MEDIATION REQUESTED ON BEHALF OF STUDENT

Attached is a form that you may use to request the Office of Administrative Hearings, also referred to as “OAH,” to schedule a due process hearing with the ability to request a mediation on behalf of a student. This request is also called a “complaint.” If you wish to request only a hearing please use the form “Request for Hearing Only.”

Please provide correct and complete information. Failure to provide complete and correct information may delay the opening of the case or cause your request to be returned.

As soon as the completed complaint has been processed you will be notified of the due process hearing date by OAH in the form of a Scheduling Order. A mediation date may be requested after receipt of the initial Scheduling Order by submitting a Request to Set Mediation. [SFT](https://www.applications.dgs.ca.gov/oah/oahsftweb) may be accessed at <https://www.applications.dgs.ca.gov/oah/oahsftweb>.

Mediation and Due Process Hearings Under the Individuals with Disabilities Education Improvement Act of 2004

The Individuals with Disabilities Education Improvement Act of 2004, which is known as “IDEA,” provides for mediation and due process hearings to resolve special education disputes. The purpose of the IDEA is to help ensure that children with disabilities receive a free and appropriate public education that fits each child’s unique needs. A “free and appropriate public education” is usually referred to as a “FAPE”.

To have a due process hearing scheduled you must complete a complaint with all of the appropriate information provided. The IDEA has very specific requirements regarding the information which must be included in a complaint. The attached optional Request for Due Process Hearing and Mediation lists all of the necessary information.

If the information is incomplete, your request for a due process hearing may be delayed until the all of the necessary information has been provided, or the complaint will be returned to you.

Your request must be sent to all parties.

It is recommended that service of documents to OAH be made through the Secure e- File Transfer system, which is referred to as “SFT.” Additional

information, and the SFT system, may be accessed through [OAH's website](https://www.dgs.ca.gov/OAH/Case-Types/Special-Education) at <https://www.dgs.ca.gov/OAH/Case-Types/Special-Education>.

Please Read Before Filling Out Request for Due Process Hearing and Mediation – Excerpts From Applicable Federal Statutes

The Request for Mediation and Due Process Hearing (Complaint) shall include:

- “the name of the child, the address of the residence of the child (or available contact information in the case of a homeless child), and the name of the school the child is attending” (20 U.S.C. § 1415 (b)(7)(A)(i)(I));”
- “a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem.” (20

U.S.C. § 1415(b)(7)(A)(ii)(III)) and

- “a proposed resolution of the problem to the extent known and available to the party at the time.” (20 U.S.C. § 1415 (b)(7)(A)(ii)(IV))
- “a party may not have a due process hearing until the party, or the attorney representing the party, files a notice that meets the requirements of subparagraph (A)(ii).” (20 U.S.C. § 1415 (b)(7)(B))”
- “[The complaint] shall be deemed to be sufficient unless the party receiving the notice notifies the hearing officer and the other party in writing that the receiving party believes the notice has not met the requirements of subsection (b)(7)(A).” (20 U.S.C. § 1415 (c)(2)(A))

- “...the hearing officer shall make a determination on the face of the notice whether the notification meets the requirements...and shall immediately notify the parties in writing of such determination.” (20 U.S.C. § 1415 (c)(2)(D))
- A party may amend its Complaint only if: (I) the other party consents in writing and a Resolution Session is held; or (II) if permitted by the Administrative Law Judge. (20 U.S.C. § 1415 (c)(2)(E)(i))
- “The applicable timeline for a due process hearing under this subchapter shall recommence at the time the party files an amended notice...” (20 U.S.C. § 1415(c)(2)(E)(ii))