

Other Options



Due Process is not the only way to resolve disputes. You can:

- Ask DPI to clarify your rights with the school.
- Seek help with early dispute resolution from the Pathfinder Parent Center.
- Continue to negotiate. Don't give up.
- Ask for a Facilitated IEP
- Request a Complaint Investigation from NDDPI
- Request Mediation.

Early Dispute Resolution

If you

- Have read one thing about parent rights but are told another
- Believe the IEP is not working but aren't sure how to get what you need.
- Need a service for your child and are told they are not eligible.
- Tried to resolve the problem locally and can't get a meeting or a solution.
- Have questions or are unclear about what steps to take next.

Contact Pathfinder

1600 2nd Ave SW, Ste. 30
Minot, ND 58701-3459
Phone: 1.800.245.5840 or
701.837.7500

E-mail: info@pathfinder-nd.org
<http://pathfinder-nd.org>



Dispute Resolution

Using Due Process to Resolve Disputes



*Help children with
special needs to reach
their goals*

Phone: 1.800.245.5840 or
701.837.7500

What is a Due Process Hearing?

Does Due Process Help?

Sometimes parents and schools don't agree on whether a district's efforts to provide a free and appropriate public education have been adequate. A due process hearing is a trial with an impartial hearing officer in which both sides present their position with supporting evidence. Advocates or lawyers may assist to present each case. Access to due process is a fundamental right of parents under IDEA.

Due Process May Help When . . .

- Parents have made significant efforts with the district to resolve a serious problem and have not been successful.
- The point of disagreement is so significant that it requires an impartial hearing officer (IHO) to resolve it.

Due Process Hearings . . .

- Do not necessarily bring about improved student achievement no matter what the outcome is.
- Are costly and expensive for parents and schools.
- Typically involve significant stress for both parties and lead to a sense of animosity that is difficult to overcome.

Contact NDDPI at 1.866.741.3519 or 701.328.2277 for more information

How Do I Arrange for a Hearing?

Follow These Steps

The parent or the school may request a due process hearing.

- Parents can initiate the process on their own but seeking the advice of an experienced advocate or lawyer is recommended. Why?
- Ask a knowledgeable person to help you decide if due process is appropriate and to write the due process request. The IDEA 2004 amendments allow schools to file a motion to dismiss a due process request that is not completed appropriately.

A due process complaint must be submitted in writing and include:

- The name and address of where the child lives.
- The name of the school the child is attending.
- A description of the alleged violation of IDEA; one that occurred not more than two years before the date the complaint is received.
- The person making the complaint must sign and should date the form and send it to.

<http://www.dpi.state.nd.us/speced1/laws/conflict/dueprocess.pdf>

**Director of Special Education
ND Department of Public Instruction
600 E. Boulevard Ave. Dept. 201
Bismarck, ND 58505-0440**

Be aware that this brochure does not contain all of the details needed to make a good decision or file an appropriate complaint

What Happens Next?

Know What to Expect

- A **Due Process Procedures** manual, will be sent to both parties by NDDPI when a due process hearing request is received.
- The parent or school has 10 days to respond in writing to a due process complaint. The response must meet all ND requirements.
- The parents and the school district **must** participate in a **resolution meeting** before a hearing can take place. The school has 15 days to hold the meeting.
- A neutral facilitator can be provided by the NDDPI to assist in the resolution meeting at no cost to you or the school if requested.
- The school has 30 days to resolve the complaint to the satisfaction of the parent. The school/parent may agree jointly to waive the resolution hearing or use mediation.
- If those options are not used the hearing will take place. The 45-day timeline associated with the due process hearing begins at the expiration of the 30-day resolution period.
- Parents and schools may bring attorneys and experts to the hearing. They may present evidence and cross-examine witnesses. The decision by the law judge is binding and each party receives a copy of the results.