

DUE PROCESS – RESOLUTION SESSION – TRACKING FORM

ATTENTION PUBLIC EDUCATION AGENCY (PEA): The Arizona Office of Administrative Hearings (OAH) in conjunction with the Arizona Department of Education/Dispute Resolution (ADE/DR) is required to collect data on resolution session outcomes. You have received a copy of this form because a special education due process hearing has been filed against your school district/charter school. Please note that a resolution session must be held within **15 calendar days** of the receipt of the request for due process unless the parties agree to participate in mediation or agree in writing to waive the resolution session requirements.

A representative of the PEA must complete the first page of this form. The second form may be used to indicate that the parties agree to waive the resolution session requirements or agree to start the hearing timeline because no resolution is possible. Please send a copy of the completed form along with any resolution agreements, mediation agreements, or written waivers to the Administrative Law Judge assigned to your case at the OAH and the ADE/DR prior to your pre-hearing conference. The documents can be mailed or faxed to:

Office of Administrative Hearings
ATTN: [name of Administrative Law Judge]
1400 W. Washington Ave., Suite 101
Phoenix, AZ 85007
Fax: 602-542-9827

Arizona Department of Education – Dispute Resolution
1535 W. Jefferson Ave., Bin #62
Phoenix, AZ 85007
Fax: 602-364-0641

Due Process Hearing No.: _____

Student Name: _____

Public Education Agency: _____

Authorized PEA Representative (Print Name): _____

Signature: _____ Date: _____

1. Was a resolution session held within 15 days of receipt of the request for due process? YES NO
If you answered NO to question #1, please go to question #4.
2. If yes, what was the date of the resolution session? _____
If more than one resolution session was held, list all dates: _____
3. Was an agreement reached? YES NO
If yes, was it a full or partial agreement? _____
Yes, but the agreement was voided within three business days
4. If a resolution session was not held please select one of the following:
 - The parties agreed, in writing, to waive the resolution session.
 - The resolution session was convened but the parent failed to attend (please describe your efforts to obtain parental participation in the Comments Section and attach any relevant documentation).
 - The PEA failed to convene the resolution session within 15 calendar days of receiving the due process complaint (please explain in the Comments section).
 - The parties agreed to participate in mediation:
Date of mediation _____
Was an agreement reached? YES NO

Waiver of Resolution Session Requirements

- We agree to waive the Resolution Session.
- We understand that by waiving the Resolution Session requirements, we are agreeing to start the 45-day due process hearing timeline.

Parent(s) or adult student:

Print Name: _____ Signature: _____ Date: _____

Print Name: _____ Signature: _____ Date: _____

PEA:

Authorized PEA Representative (Print Name): _____

Signature: _____ Date: _____

PROVIDE A COPY OF THIS SIGNED WAIVER TO YOUR ALJ AND ADE/DR IMMEDIATELY AS THIS WILL START YOUR 45-DAY HEARING TIMELINE

End Resolution Period Due to Impasse

- The 30 day resolution period has not expired, but we agree that no agreement is possible.
- We agreed to continue mediation at the end of the 30 day period, but are now withdrawing from the mediation process.

Parent(s) or adult student:

Print Name: _____ Signature: _____ Date: _____

Print Name: _____ Signature: _____ Date: _____

PEA:

Authorized PEA Representative (Print Name): _____

Signature: _____ Date: _____

PROVIDE A COPY OF THIS SIGNED IMPASSE AGREEMENT TO YOUR ALJ AND ADE/DR IMMEDIATELY AS THIS WILL START YOUR 45-DAY HEARING TIMELINE

COMMENTS (attach additional pages if necessary):

DUE PROCESS – RESOLUTION SESSION INFORMATION

What is a resolution session? A resolution session is a dispute resolution process that occurs after a parent has filed a due process hearing request and before the due process hearing timelines begin. It provides parents and public education agencies (PEA) an opportunity to meet to resolve the problems identified in the parent's due process hearing request. Resolution sessions are explained in greater detail in the federal regulations that implement Individuals with Disabilities Education Act (IDEA) at 34 C.F.R. § 300.510.

What are the resolution session timelines? Within **15 days** of receiving notice of a parent's due process complaint, and prior to the initiation of a due process hearing the PEA must convene a meeting – the resolution session – with the parents that filed the complaint, and relevant members of the individualized education program (IEP) team. At this meeting, the parents are given the opportunity to discuss their complaint and the facts that form the basis of the complaint, and the PEA is provided the opportunity to resolve the complaint. The resolution session must be convened unless: (1) the parent and the PEA jointly agree in writing to waive the meeting; or (2) the parent and the PEA agree to participate in mediation in lieu of a resolution session.

What are the resolution timelines for expedited due process hearing requests? When a parent files a request for an expedited due process hearing, the PEA must hold a resolution session within **seven (7) days** of receiving notice of the due process complaint, and attempt to reach resolution within **15 days** of the receipt of the hearing request.

Who are the required participants? Resolution session participants include the parent and the relevant member or members of the IEP team who have knowledge of the facts identified in the due process complaint, including a PEA representative who has decision-making authority.

- ❖ The resolution session **may not** include the PEA's attorney unless the parent is accompanied by an attorney.

What if the parent does not want to participate in a resolution session or the PEA does not convene the resolution session? If a parent files the due process complaint and the PEA does not convene a resolution session within the timelines, the parent may ask the administrative law judge (ALJ) to begin the due process hearing timeline. If the parent files the due process complaint and does not come to the meeting as scheduled, and the PEA documents that it is unable to obtain the participation of the parent, the PEA may, at the conclusion of the 30-day resolution period, request the ALJ to dismiss the parent's due process complaint.

What happens if we reach agreement? If the issues in the due process complaint are resolved at the resolution session, then the parties shall develop a legally binding written agreement that is signed by both the parent and a representative from the PEA with authority to bind the agency. The agreement is enforceable in a state court of competent jurisdiction or in a district court of the United States. Either party may void the resolution agreement within **three (3) business days** of the agreement's execution.

What happens if we do not reach agreement? If, after a resolution session or mediation, the PEA has not resolved the parent's due process complaint within 30 days of receipt of the complaint, the due process hearing may occur. The 45-day due process hearing timeline begins at the end of the 30-day resolution period, or the day after one of the following events:

1. Both parties agree jointly in writing to waive the resolution session; or
 2. After either the mediation or the resolution session starts, but before the end of the 30-day resolution period, the parties agree jointly in writing that no agreement is possible.
- ❖ **If one of the above occurs, the parties must immediately notify the ALJ.**

If you have questions about resolution sessions, please contact the Arizona Department of Education/Dispute Resolution at 602-542-3084.