



A parent has filed for Due Process. Now what???

Every child with a disability has federal and state protections under the IDEA and Chapter 14. Procedural Due Process is a system that is statutorily required in every state. While most parents can partner with school districts to resolve problems, litigation may be necessary in a few cases.

Due Process is a formal and complex procedure that is overseen by a Hearing Officer. Hearing officers are typically attorneys, but some are prior educators. Much like court, there is a stenographer and all witnesses present sworn testimony. Due process is time consuming, expensive for the parties, and emotionally challenging for staff, families, and students. For that reason, the following recommendations are provided if you find that a due process hearing has been filed on behalf of a student with whom you work.

Do: Speak to your LEA's (building principals, special education administrators) as soon as practical to understand the position of the district.

Do: Organize your educational records that pertain to the student. Think about special education paperwork, lesson plans, formative assessments, progress monitoring data, parent/staff communication, etc. The district will need evidence that a Free and Appropriate Public Education (FAPE) has been provided. What documents do you possess that help tell that story (remember FERPA)?

Do: Document your responsibility, as defined by the Individual Education Plan (IEP). How have you fulfilled your responsibilities regarding goals, specially designed instruction (SDI), etc.? Provide supporting documentation.

Do: Document timelines and requests for information from the District in order to be timely.

Do: Know how you should respond if there is outreach by the parent.

Do: Ask questions so that you understand the direction of your employer.

Do: Request to be prepped prior to any testimony by the District's attorney.

DO NOT have conversations, including email exchanges, with parents/guardians once a complaint has been filed without the input of a supervisor or the District's attorney. The District's attorney will guide communications and conversations once a hearing has been requested.

DO NOT correspond about the situation to outside parties, including other parents or colleagues.