

DUE PROCESS CHECKLIST

Under the Individuals with Disabilities Education Act, the parent of an eligible child or the school district may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement, or the provision of a free appropriate public education (FAPE). This checklist is intended to guide attorneys in preparing for filing a due process complaint.

(Authority: 20 U.S.C. 1415) See §§300.502 through 300.503, §§300.505 through 300.518, §§300.530 through 300.536 and §§300.610 through 300.625

A. WITH CLIENTS

- CONTRACT FOR DUE PROCESS AND UNDERSTAND PROCEDURE AND COSTS
- HAVE ALL SCHOOL RECORDS
- RELEASE FORMS AND PRIVATE RECORDS
- OBSERVATIONS
- TAPES AND TRANSCRIPTS OF MEETINGS
- IEES AND PRIVATE EVALUATIONS - EXPERT AND LAY WITNESSES
- USE OF OPEN RECORDS ACT
- IS ANOTHER MEETING OR INFORMAL RESOLUTION AVAILABLE

B. FILING FOR DUE PROCESS

- NOTICE UNDER 1412
- MODEL FORM AND NECESSARY INFORMATION INCLUDING RESOLUTION
- DO YOU HAVE A REMEDY AND A RESOLUTION
- RESOLUTION MEETING, MEDIATION OR WAIVER
- ANY EMERGENCY NEEDS OR STAY-PUT ISSUES
- IDEA CLAIMS ON PROCEDURAL, SUBSTANTIVE OR BOTH
- NEED TO EXHAUST ANY POTENTIAL CLAIMS UNDER OTHER STATUTORY CAUSES OF ACTION
- SUFFICIENCY OF COMPLAINT
- PREHEARING MOTIONS FOR RECORDS, ACCESS AND OBSERVATION, SUMMARY JUDGMENT, *IN LIMINE* ON ANY ISSUES
- FILING OR PRE-FILING CONTACTS AND ACTIONS TO SETTLE

Due Date/Comment

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C. HEARING PREPARATION ISSUES AND ACTIONS

- PREPARATION FOR RESOLUTION AND MEDIATION
- FINALIZE ACCESS TO PROGRAM AND RECORDS
- TRANSCRIBE MEETINGS, TAPES, PHONE CALLS
- RECORDS AND PREPARATION OF EXPERTS AND WITNESSES
- RESOLVE STATE PUT ISSUES
- DOCUMENT AND WITNESS LIST PREPARATION FOR 5 DAY EXCHANGE
- RESPONSE TO ANY ISSUES ON SUFFICIENCY
- RESOLVE IF AMENDMENT TO COMPLAINT IS NEEDED AND IMPACT
- PURSUE POST-MEDIATION/RESOLUTION SETTLEMENT
- PREPARE AND SERVE REQUESTS TO PRODUCE AND SUBPOENAS
- PREPARE DOCUMENT NOTEBOOKS
- RESOLVE INTRODUCTION ISSUES AND JOINT DOCUMENTS, STIPULATIONS
- SCHEDULE WITNESS PREPARATION
- DRAFT HEARING MEMOS ON ANTICIPATED ISSUES

D. HEARING MANAGEMENT ISSUES

- EXCHANGE DOCUMENTS AND PREPARATION OF WITNESSES
- ELECT OPEN OR CLOSED HEARING
- MOVE IF ISSUES ON WITNESS OR DOCUMENT AVAILABILITY
- PREPARE DEMONSTRATIVE EVIDENCE
- PREPARE OPENING AND EXAMINATION

NOTES

*Authored for COPAA by :
Mark Martin, Esq.
Jon Zimring, Esq.*

Phone: 410-372-0208
contactus@copaa.org
www.copaa.org