

IOWA DEPARTMENT OF EDUCATION



Parental Rights in Special Education

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Department of Education
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Parental Rights in Special Education

Introduction

As parents of infants, toddlers, children, or young adults who are receiving or who might receive special education, you have certain rights that are guaranteed by state and federal law. A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents, at a minimum:

- upon initial referral for evaluation,
- upon each notification of an Individualized Education Program (IEP) meeting,
- upon reevaluation of the child, and
- upon receipt of a request for a due process hearing.

[IDEA Section 615(d) and 34 CFR 300.504, and Iowa Administrative Rules of Special Education (Chapter 41)].

These rights and procedural safeguards are listed in this brochure.

If you would like further explanation of your rights, contact any of the following.

- Your local school district Superintendent
- Your Area Education Agency (AEA) Director of Special Education
- Your local AEA Parent-Educator Connection program
- Bureau of Special Education, Iowa Department of Education
Grimes State Office Building, Des Moines, Iowa 50319-0146
phone 515/281-3176, fax 515/242-6019
- Parent Training & Information Center
3015 Merle Hay Rd, Des Moines, IA 50310
phone 515/251-7323 or 800-450-8667
- Other advocacy organizations, such as Iowa Protection and Advocacy, Inc.
phone 515/278-2502

Both you and the school district share in the education of your child. If you or the school have concerns about the education of your child, you and your child's teacher should hold early and open discussions about the issues. If your child has a disability, you are urged to become actively involved in the development of your child's Individualized Education Program (IEP).

Note: Legal citations refer to:

- the Individuals with Disabilities Education Act (IDEA), and
- Title 34, Code of Federal Regulations (34 CFR), Part 300, Assistance to States for Education of Children with Disabilities.

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Parental Rights in Special Education

Independent educational evaluation

Parents must have an opportunity to obtain an independent educational evaluation of their child with a disability at public expense, if the parent disagrees with an evaluation obtained by the public agency. Each public agency must provide to parents, on request, information about where an independent educational evaluation may be obtained.

An "independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the public agency (school district or AEA) responsible for the education of the child in question. "Public expense" means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is provided at no cost to the parent. If at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation. Outside of these, a public agency may not impose other conditions or timelines related to obtaining an independent educational evaluation at public expense.

If a parent requests an independent educational evaluation at public expense, the agency must, without unnecessary delay, either initiate a hearing to show that its evaluation is appropriate or ensure an independent educational evaluation is provided at public expense unless the agency demonstrates in a hearing before an administrative law judge that the evaluation obtained by the parent did not meet agency criteria. If the agency initiates a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation but not at public expense. The results of the evaluation must be considered by the agency, if the evaluation meets agency criteria, in any decision made with respect to the provision of a free, appropriate public education (FAPE) to the child, and the results may be presented as evidence at a hearing. [615(b)(1); 34 CFR 300.502(a)-(c)]

If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation. [34 CFR 500.502(e)]

If a parent requests an independent educational evaluation at public expense, there is no requirement under Part B of IDEA that the parent specify areas of disagreement with the public agency's evaluation as a prior condition to obtaining the independent educational evaluation. Thus, unless a public agency chooses to initiate a due process hearing, the agency must respond to the parent's request by ensuring an independent educational evaluation is provided at public expense in a timely manner. A public agency may not impose conditions on obtaining an independent educational evaluation, other than the agency criteria described previously. [34 CFR 300.502, Note 1]

Prior written notice

The agency must provide written notice to the parents of the child within a reasonable time before the agency proposes to initiate or change or refuses to initiate or change the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child. [615(b)(3)] The agency must ensure that the notice is written in language understandable to the general public and in the parents' native language or other mode of communication, unless it is clearly not feasible to do so. If the parent's native language or other mode of communication is not a written language, the agency must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication, so that the parent understands the content of the notice.

There must be written evidence that the requirements in this paragraph have been met. [615(b)(4); 300.503]

The notice must include:

1. a description of the action proposed or refused by the agency;
2. an explanation of why the agency proposes or refuses to take the action;
3. a description of any other options that the agency considered and the reasons why those options were rejected;
4. a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;
5. a description of any other factors that are relevant to the agency's proposal or refusal;
6. a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
7. sources for parents to contact to obtain assistance in understanding the provisions of this part; and
8. a statement informing the parents about three possible options to resolve differences:
 - a. complaint procedures, including a description of how to file a complaint and the timelines under those procedures (see the "Opportunity to present complaints" section of this brochure),
 - b. preappeal procedures (see the "Opportunity to present preappeals" section of this brochure), and
 - c. due process hearings (see the "Due process hearings" section of this brochure).

2. the parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and
3. the consent describes that activity and lists the records (if any) that will be released and to whom, and
4. that the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked by the parent at any time. [34 CFR 300.500]

However, a parent's revocation of consent is not retroactive in effect. [34 CFR 300.500, Note] For example, if the parent grants consent for an evaluation, and after the evaluation is completed, the parent revokes consent for evaluation, the IEP Team would still be able to consider the results of that evaluation in making decisions about the child's program and placement. [34 CFR "Regulation Summary," p. 55043]

"Evaluation" means procedures used to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. The term means procedures used selectively with an individual child and does not include basic tests administered to or procedures used with all children in a school, grade, or class. [34 CFR 300.500]

Each local educational agency must obtain informed parental consent prior to conducting any reevaluation of a child with a disability, except that such informed parent consent need not be obtained if the local educational agency can demonstrate that it has taken reasonable measures to obtain such consent and the parent has failed to respond. Parent consent is required only before conducting a new test as a part of a reevaluation. Consent is not required before reviewing existing data about the child. [614(c)(3); 34 CFR "Regulation Summary," p. 55045 and 300.505]

Parental consent

The agency proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability must obtain an informed consent from the parent before the evaluation is conducted. Parental consent for initial evaluation shall not be construed as consent for initial placement or receipt of special education and related services. If the parents of the child refuse consent for initial evaluation, the agency may continue to pursue those evaluations by using Iowa's mediation and due process procedures. [614(a)(1)(C); 34 CFR 300.505]

"Consent" means:

1. that the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language or other mode of communication, and

Access to educational records

Parents of a child with a disability shall have an opportunity to examine all records relating to the child. This includes inspection and review of all education records with respect to the identification, evaluation, and educational placement of the child, and the provision of a free, appropriate public education to the child. [615(b)(1); 34 CFR 300.501 (a)(1)]

Parents have the right to give or withhold consent to the sharing of their child's records with persons not involved in the education of their child, to inspect and review only information relating to their child, to request that information in their child's special education records be destroyed and to be informed if the school district or AEA proposes to destroy information in their child's special education records. [34 CFR 300.571, 300.564, 300.573]

The agency must comply with a request to inspect and review all education records without unnecessary delay and before any meeting regarding an IEP or any hearing relating to the identification, evaluation, or educational placement of the child, or the provision of a free, appropriate public education to the child, and in no case more than 45 calendar days after the request has been made. The parent has the right to a response from the participating agency to reasonable requests for explanations and interpretations of the records, the right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records, and the right to have a representative of the parent inspect and review the records. An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce. [34 CFR 300.562(a)-(c)] Each participating agency must provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency. [34 CFR 300.565] Each participating agency may charge a fee for copies of records if the fee does not effectively prevent the parents from exercising their right to inspect and review the records. [34 CFR 300.566(a)] A participating agency may not charge a fee to search for or to retrieve information. [34 CFR 300.566(b)]

A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the agency that maintains the information to amend the

information. The agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing conducted by the agency. The agency must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child. The hearing would be provided by the district or AEA and not by the State, in accordance with Family Educational Rights and Privacy Act (FERPA). [34 CFR 99.22, and 300.567-300.568]

Opportunity to present request for a preappeal conference, a mediation, a due process hearing, or for complaint investigation by the Iowa Department of Education

Under federal and Iowa law, the parents of a child with a disability, as well as other agencies and parties, have the opportunity to:

- *request a preappeal conference,*
- *request a mediation,*
- *request a due process hearing, or*
- *file a complaint that will be investigated by the Department of Education (DE).*

In federal law or in the regulations, both the request for the DE to arrange a due process hearing and the request for DE to investigate a complaint are defined as "complaints." For the sake of clarity, the word "complaint" will be used here only in reference to a request for the DE to investigate a complaint, and will not be used in reference to a request for a due process hearing.

REQUEST FOR A PREAPPEAL CONFERENCE

A preappeal conference is a proven beneficial way to resolve differences between parents and the district or AEA. It is a process that promotes communication, mutual respect, and identification of common ground. The desired

outcome of the preappeal conference is a written agreement that is appropriate for the child's individual needs, and is acceptable to all parties. A preappeal is conducted the same as a mediation, except that a mediation is offered after a party requests a due process hearing. For that reason, a preappeal may be less adversarial and less confrontational than a mediation since, with a mediation, a due process hearing date is looming.

A parent, a district, or an area education agency may request a special education preappeal conference on any decision relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education. Participation is voluntary. A letter requesting a preappeal conference must be mailed to the Iowa Department of Education. The letter must identify the student, district, and AEA, and describe the issues or concerns. The conference will be scheduled and held at a time and place reasonably convenient to all parties involved. A mediator for the preappeal will be provided by the Department. If the results are not satisfactory, a party may still request a mediation, request a due process hearing, or request the DE investigate a complaint.

REQUEST FOR A MEDIATION

A mediation process shall be available whenever a hearing is requested in an attempt to resolve disputes. The mediation process is voluntary on the part of the parties, will not be used to deny or delay a parent's right to a due process hearing or to deny any other rights under Part B of IDEA, and will be conducted by a qualified and impartial mediator who is trained in effective mediation techniques. Parents who choose not to use the mediation process will be given the opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with a parent training and information center or community parent resource center, or with an appropriate alternative dispute resolution entity, to encourage the use and explain the benefits of the mediation process to the parents. Each session in the mediation process must be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute. An agreement reached by the parties must be set forth in a written

mediation agreement. Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings. The parties to the mediation process may be required to sign a confidentiality pledge prior to the beginning of the mediation process. [615(e); 34 CFR 300.506]

REQUEST FOR A DUE PROCESS HEARING

A parent or public agency may initiate a hearing on any of the matters described under the "Prior written notice" section of this brochure and relating to the identification, evaluation, or educational placement of a child with a disability, or the provision of a free, appropriate public education to the child.

When a hearing is initiated, the Iowa Department of Education (DE) must inform the parents of the availability of mediation, of any free or low-cost legal and other relevant services available in the area, either if the parent requests the information, or if the parent or the agency initiates the hearing.

The request for a state-level hearing must include the following information:

1. The name and address of the residence of the child;
2. The name of the school the child attends;
3. A description of the nature of the problem of the child relating to the proposed initiation or change, including facts relating to the problem; and
4. A proposed resolution of the problem to the extent known and available to the parents at the time.

[615(b)(6); 34 CFR 300.507]

A hearing may not be conducted by a person who is an employee of the Iowa Department of Education, or of the AEA or school district that is involved in the education or care of the child, or by any person having a personal or professional interest that would conflict with his or her objectivity in the hearing. However, a person who otherwise qualifies to conduct a hearing is not considered an employee of the agency solely because she or he is paid by the DE to serve as an administrative law judge. The DE must keep a list of the persons who conduct hearings as administrative law judges, and the list must include a statement of the

qualifications of each of those persons.
[34 CFR 300.508]

Any party to the hearing has the right to:

1. be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;
2. present evidence and confront, cross-examine, and compel the attendance of witnesses;
3. prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least 5 days before the hearing; and
4. a written, or, at the option of the parents, electronic verbatim record of the hearing.

At least five business days prior to a hearing, each party must disclose to all other parties all evaluations completed by that date and recommendations based on the evaluations that the party intends to use at the hearing.

Parents involved in hearings must be given the right to have the child who is the subject of the hearing present, and to open the hearing to the public.

The record of the hearing and the findings of fact and decisions must be provided at no cost to parents. The public agency must, after deleting any personally identifiable information, make the findings and decisions available to the public. [615(f), (h), and (i)(1)(B), 617(c); 34 CFR 300.509]

Not later than 45 calendar days after the receipt of a request for a hearing, a final decision is reached in the hearing, and a copy of the decision is mailed to each of the parties. An administrative law judge may grant specific extensions of time beyond this, at the request of either party. Each hearing involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved. [34 CFR 300.511]

REQUEST FOR INVESTIGATION OF A COMPLAINT

An organization or individual may file a signed written complaint with the State Department of Education (DE). The complaint must include a statement that a public agency has violated a requirement of Part B of IDEA or of 34 CFR 300, and the facts on which the statement is based. The complaint must allege a violation occurred not more than one year prior to the date that the complaint is received

by the DE, unless a longer period is reasonable because the violation is continuing or the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the complaint is received. [34 CFR 300.662]

Within 60 calendar days after a complaint is filed, the State must carry out an independent on-site investigation if the DE determines that such an investigation is necessary; give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of IDEA or 34 CFR 300. The DE must issue a written decision to the complainant that addresses each allegation in the complaint and includes findings of fact and conclusions, and the reasons for the DE's final decision. The time limit may be extended only if exceptional circumstances exist. [34 CFR 300.661]

The child's placement during pendency of preappeals, mediations, and hearings

During the pendency of any proceedings (preappeals, mediations, and hearings), unless the State or local educational agency and the parents otherwise agree, the child must remain in the then-current educational placement of such child, or, if applying for initial admission to a public school, must, with the consent of the parents, be placed in the public school program until all such proceedings have been completed. Unless the parents and agency agree otherwise, a child's placement must not be changed during a proceeding. [615(j); 34 CFR 300.514, 300.524, 300.526]

If a parent requests a hearing regarding a disciplinary action to challenge the interim alternative educational setting or the manifestation determination, the child must remain in the interim alternative educational setting pending the decision of the administrative law judge or until the expiration of the time period provided for in 34 CFR 300.520-300.521 (described in the "Procedures for interim alternative educational setting," below), whichever occurs first, unless the parent and the State or local educational

agency agree otherwise. If a child is placed in an interim alternative educational setting, and school personnel propose to change the child's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement the child must remain in the current placement (the child's placement prior to the interim alternative educational setting), except in the case of an expedited hearing, which is also described below under "Procedures for interim alternative educational setting." [34 CFR 300.526(a)-(b)]

Procedures for students who are subject to placement in an interim alternative educational setting

School personnel may order the removal of a child with a disability from the child's current educational placement to an appropriate interim alternative educational setting, another setting, or suspension, including a suspension without the provision of educational services, for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities); and may order a change in placement of a child with a disability to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 calendar days if (1) the child carries a weapon to school or to a school function under the jurisdiction of a State or local educational agency, or (2) the child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of a State or local educational agency. [34 CFR 300.520]

Either before or not later than 10 business days after taking such disciplinary action, if the local educational agency did not conduct a functional behavioral assessment and implement a behavioral intervention plan for the child before the behavior that resulted in the suspension, the agency must convene an IEP meeting to develop an assessment plan and appropriate behavioral interventions to address that behavior. If the child already has a behavioral intervention plan, the IEP Team must review the plan and modify it, as necessary, to address the behavior. If the child with a disability is removed from the child's

current educational placement for 10 school days or fewer in a given school year, and no further removal or disciplinary action is contemplated, these activities need not be conducted. [34 CFR 300.520]

The alternative educational setting must be determined by the IEP Team, and must be selected so as to enable the child to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP, and will include services and modifications designed to address the behavior (or any other behavior that results in the child being removed from the child's current educational placement for more than 10 school days in a school year) so that it does not recur. [34 CFR 300.522]

If a disciplinary action is contemplated for a behavior of a child with a disability, or if a disciplinary action involving a removal of a child from the child's current educational placement for more than 10 school days in a given school year is contemplated for a child with a disability who has engaged in other behavior that violated any rule or code of conduct of the local educational agency that applies to all children, not later than the date on which the decision to take that action is made, the parents must be notified of that decision and of all procedural safeguards accorded under this section, and immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, a review must be conducted by the IEP Team and other qualified personnel of the relationship between the child's disability and the behavior subject to the disciplinary action. [34 CFR 300.523]

[615(k); 34 CFR 300.520, 300.521, 300.522, 300.523, 300.526]

The IEP team may determine that the behavior of the child was not a manifestation of the child's disability only if:

(1) the IEP Team first considers, in terms of the behavior subject to disciplinary action, all relevant information, including evaluation and diagnostic results, including the results or other relevant information supplied by the

parents, observations of the child, and the child's IEP and placement; and

(2) then determines that in relationship to the behavior subject to disciplinary action,

- the child's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement;
- the child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action;
- and the child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.

If the IEP Team determines that any of the standards in (2) above were not met, the behavior must be considered a manifestation of the child's disability. This review may be conducted at the same IEP meeting at which the alternative interim placement is determined. [34 CFR 300.523]

If the result of the review is a determination that the behavior of the child with a disability was not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which they would be applied to children without disabilities. If the public agency initiates disciplinary procedures applicable to all children, the agency shall ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action. [34 CFR 300.524(a)-(b)]

If the child's parent disagrees with a determination that the child's behavior was not a manifestation of the child's disability or with any decision regarding placement, the parent may request a hearing. The State must arrange for an expedited hearing in any case if requested by a parent. In reviewing a decision with respect to the manifestation determination, the administrative law judge must determine whether the public agency has demonstrated that the child's behavior was not a manifestation of the child's disability, using

the standards described above. [34 CFR 300.525]

Expedited due process hearings must result in a decision within ten business days of the request for the hearing, unless the parents and school officials otherwise agree; meet all other requirements for due process hearing, with the exception that DE may reduce to two days the timeline of five days prior to hearing for introduction of evidence and other information; are conducted by an impartial due process administrative law judge; and are appealable under the State's normal due process appeal procedures. [34 CFR 300.528]

An administrative law judge may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 calendar days if the administrative law judge, in an expedited due process hearing, determines that the public agency has demonstrated by substantial evidence that maintaining the current placement of the child is substantially likely to result in injury to the child or to others; considers the appropriateness of the child's current placement; considers whether the public agency has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and determines that the interim alternative educational setting meets the requirements of 34 CFR 300.522, described above. [34 CFR 300.521]

Requirements for unilateral placement by parents of children in private schools at public expense

A local educational agency is not required to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents made a unilateral decision and elected to place the child in the private school or facility. [34 CFR 300.403(a)]

If the parents of a child with a disability who previously received special education and related services under the authority of a public agency enroll the child in a private elementary

or secondary school without the consent of or referral by the public agency, a court or an administrative law judge may require the agency to reimburse the parents for the cost of that enrollment if the court or an administrative law judge finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment. [612(a)(10)(C), 34 CFR 300.403(c)]

The cost of reimbursement may be reduced or denied if:

1. the parents did not inform the IEP Team at the most recent IEP meeting, or give written notice 10 business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense, or
2. prior to the parents' removal of the child from the public school, the public agency informed the parents through prior written notice requirements of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation [notice described in section 615(b)(7) and 34 CFR 300.503], or
3. upon a judicial finding of unreasonableness with respect to actions taken by the parents.

Reimbursement to parents may not be reduced or denied for failure to provide notice to the school if: the parent is illiterate and cannot write in English, continued placement in public school would be likely to result in physical or serious emotional harm to the child, the school prevented the parent from providing notice, or the parents had not received written notice of their responsibility to provide notice to the school district.

Disagreements between a parent and a public agency regarding the availability of a program appropriate for the child, and the question of financial responsibility, are subject to the due process procedures described below. [34 CFR 300.403]

Civil actions

Any party aggrieved by the findings and decision in a hearing shall have the right to bring a civil action with respect to the issues presented, in any State court or in a district court of the United States. In any action brought, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of one of the parties; and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate. [615(i)(2); 34 CFR 300.512]

The decisions rendered by an administrative law judge on expedited due process hearings are appealable under the DE's normal due process appeal procedures. [34 CFR 300.528]

Attorneys' fees

In any action or proceeding, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parents of a child with a disability who is the prevailing party. [34 CFR 300.513] Fees awarded shall be based on rates prevailing in the community for the kind and quality of services furnished. Attorneys' fees may not be awarded and related costs may not be reimbursed for services performed subsequent to the time of a written offer of settlement to a parent if the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, if the offer is made at any time more than 10 calendar days before the proceeding begins, the offer is not accepted within 10 calendar days, and the court or administrative law judge finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement. Attorney's fees may not be awarded relating to any meeting of the IEP Team unless such meeting is convened as a result of an administrative proceeding or judicial action. [615(i)(3)(B)-(G)]

Sample form for filing a request for a preappeal under IDEA, Part B

I, _____, am requesting a preappeal conference.
(your name)

Child's name

Parent's name

Address of the residence of the child

Parent's address

Child's resident district, school, and AEA
(and district and/or AEA child attends if different)

Parent's phone number

This problem results from the:

proposal to initiate or change:

- ☐ the child's identification
- ☐ the child's evaluation
- ☐ the child's educational placement
- ☐ provision of a free appropriate public education to the child

refusal to initiate or change:

- ☐ the child's identification
- ☐ the child's evaluation
- ☐ the child's educational placement
- ☐ provision of a free appropriate public education to the child

Describe the following (use additional sheets of paper if more space is needed)

The nature of the problem relating to the proposal or refusal indicated above:

The facts of this case relating to the above problem:

Your proposed resolution of the problem:

I hereby swear that the foregoing is the full truth as I know it.

Address and phone number of person filing request, if not parent

Position/role of person filing request, if not parent
(for example: superintendent, principal, attorney)

Send the completed form to:

Director, Iowa Department of Education
Grimes State Office Building
Des Moines, IA 50319-0146

Sample form for filing a request for a due process hearing under IDEA, Part B

I, _____, am requesting a hearing before a State Administrative Law Judge.
(your name)

Child's name_____
Parent's name_____
Address of the residence of the child_____
Parent's address_____
Child's resident district, school, and AEA
(and district and/or AEA child attends if different)_____
Parent's phone number

This problem results from the:

proposal to initiate or change:

- ___ the child's identification
- ___ the child's evaluation
- ___ the child's educational placement
- ___ provision of a free appropriate
public education to the child

refusal to initiate or change:

- ___ the child's identification
- ___ the child's evaluation
- ___ the child's educational placement
- ___ provision of a free appropriate
public education to the child

Describe the following (use additional sheets of paper if more space is needed)

The nature of the problem relating to the proposal or refusal indicated above:

The facts of this case relating to the above problem:

Your proposed resolution of the problem:

I hereby swear that the foregoing is the full truth as I know it.

I/we agree to participate in a mediation process:
(This will not delay or deny the opportunity for a hearing.)

___ YES ___ NO

Address and phone number of person filing request, if
not parent_____
Position/role of person filing request, if not parent
(for example: superintendent, principal, attorney)**Send the completed form to:**Director, Iowa Department of Education
Grimes State Office Building
Des Moines, IA 50319-0146

**Sample form for filing a complaint**

A complaint process can be used when you believe a district or area education agency *violated a requirement* of Part B of the Individuals with Disabilities Education Act (IDEA). (The complaint process is not the avenue to use when you are having differences of opinion with educators, such as the type of reading program to use or the amount of support services you believe should be provided for a child. For information resolving differences of opinion, see the "Opportunity to present preappeals" and "Due process hearings" sections of this brochure.)

Identify the agency or agencies that you believe have violated a requirement of Part B of the Individuals with Disabilities Education Act: _____.

If child-specific, name of child: _____.

The facts on which the statement is based: (Use additional sheets of paper if more space is needed.)

This alleged violation occurred not more than one year prior to the date that the complaint is received by the Department of Education: _____ YES _____ NO

If the alleged violation occurred more than a year prior to the date that the complaint is received by the Department of Education:

_____ I believe a longer period is reasonable because I believe the violation is continuing,

OR

_____ I am seeking compensatory services for a violation that occurred not more than three years prior to the date the complaint is received.

Organization or person filing the complaint

Address

Contact person, if organization

Telephone number or other method of contact

Send the completed form to:

Director, Iowa Department of Education
Grimes State Office Building
Des Moines, IA 50319-0146