



# **RESOLUTION SESSIONS**

**Monitoring Compliance with the Resolution Session  
Requirements in Arizona**

## COLLECTING RESOLUTION SESSION DATA

The Individuals with Disabilities Education Act (IDEA) requires States to monitor local educational agencies in their use of resolution sessions, among other things. [20 U.S.C. § 1416(3)]



# COLLECTING RESOLUTION SESSION DATA:

## Arizona

- Arizona utilizes a one-tier due process hearing system, with hearings conducted by the Arizona Office of Administrative Hearings (OAH);
- Upon the filing of a due process complaint, the Arizona Department of Education/Dispute Resolution issues a Notice of Hearing, which includes information about resolution sessions (among other things);
- Included with the Notice of Hearing is a Resolution Session Tracking Form.



# COLLECTING RESOLUTION SESSION DATA: Arizona

The Director of Dispute Resolution sends a reminder email to the school district or charter school's special education director prior to the 15<sup>th</sup> day:

I am writing to follow-up on your pending due process matter, reference number 12C-DP-00X-ADE, filed on August 10, 2011. As you know, the IDEA requires that the school convene a resolution session with the complainant within 15 calendar days of receiving the due process request, unless the school and the complainant agree to waive the resolution session requirements, or the school and the complainant agree to participate in mediation. Along with the notice of hearing in this matter, you should have received a resolution session tracking form (copied on yellow paper). This form enables the Arizona Department of Education to track the resolution session timelines and their outcomes. In case you misplaced the original, I am attaching an electronic version to this email. Please complete the form and fax or mail it to my office and to your assigned administrative law judge. Thank you for your prompt attention to this matter.



## 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? <input type="checkbox"/> YES <input type="checkbox"/> 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? <input type="checkbox"/> YES <input type="checkbox"/> NO If yes, was it a full or partial agreement? _____ Yes, but the agreement was voided within three business days <input type="checkbox"/>
4. If a resolution session was not held please select one of the following: <input type="checkbox"/> The parties agreed, in writing, to waive the resolution session. <input type="checkbox"/> 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). <input type="checkbox"/> The PEA failed to convene the resolution session within 15 calendar days of receiving the due process complaint (please explain in the Comments section). <input type="checkbox"/> The parties agreed to participate in mediation: Date of mediation _____ Was an agreement reached? <input type="checkbox"/> YES <input type="checkbox"/> 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):**

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## 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.*



**EXPEDITED 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 the resolution session outcomes. You have received a copy of this form because a special education expedited due process hearing has been filed against your school district/charter school. Please note that a resolution session must be held within seven (7) calendar days of the receipt of the request for expedited 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 7 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 within 7 days of the request for due process, 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 (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 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 HEARING TIMELINE**

**End Resolution Period Due to Impasse**

- The 15 day resolution period has not expired, but we agree that no agreement is possible.
- We agreed to continue mediation at the end of the 15 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 HEARING TIMELINE**

**COMMENTS (attach additional pages if necessary):**

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## EXPEDITED 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 for an expedited due process?** Within seven (7) days of receiving notice of a parent's expedited due process complaint, and prior to the initiation of an expedited 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.

**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 expedited 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 15-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 expedited 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 15 days of receipt of the complaint, the due process hearing may occur. An expedited due process hearing must be conducted within 20 school days of the date the complaint requesting the hearing is filed, 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 15-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.*



# COLLECTING RESOLUTION SESSION DATA:

## Arizona

A school district or charter school's failure to convene a resolution session within the 15-day timeline will result in a written finding of noncompliance by the Arizona Department of Education and corrective action, unless the parties participated in mediation or waived the resolution session requirements in writing.



# COLLECTING RESOLUTION SESSION DATA:

## Arizona

Dear Mr. Doe:

The Individuals with Disabilities Education Act (IDEA) requires States to monitor local educational agencies in their use of resolution sessions, among other things. [20 U.S.C. § 1416(3)] A resolution session is a dispute resolution process that must occur after a parent has filed a due process hearing request and before the due process hearing timelines begin. It provides parents and local educational agencies an opportunity to meet to resolve the problems identified in the parent's due process hearing request.

The IDEA states that within **15 days** of receiving notice of a parent's due process complaint, and prior to the initiation of a due process hearing, the local educational agency must convene a resolution session with the parents that filed the complaint, and relevant members of the individualized education program team. [1] [20 U.S.C. § 1415(f)(1)(B)] Our records indicate that the Arizona Unified School District did not hold a resolution session within 15 days of receiving notice of the parent's due process complaint in regard to matter number 11C-DP-009-ADE.

Based on the foregoing, the Arizona Unified School District is in noncompliance with the requirements set forth in IDEA regarding the timeliness of resolution sessions. In order to correct the noncompliance, the following corrective action is ordered:

The Arizona Unified School District must develop a written action plan that **delineates in detail** the steps school personnel shall take to ensure that resolution sessions are convened within 15 days of receiving notice of a parent's due process complaint, and must distribute the written action plan to all District administrators, and all special education staff. A copy of the written action plan and a list of the staff who received it (including their job titles/positions) must be sent to Ms. Kacey Gregson, the Director of Dispute Resolution, Arizona Department of Education, Exceptional Student Services, 1535 West Jefferson Street, Bin 62, Phoenix, Arizona 85007, **by November 19, 2011.**

I appreciate your prompt attention to this matter. Please let me know if you have any questions regarding the corrective action.

[1] The resolution session must be convened unless: (1) the parent and the local education agency jointly agree in writing to waive the meeting; or (2) the parent and the local education agency agree to participate in mediation in lieu of a resolution session.



# COLLECTING RESOLUTION SESSION DATA:

## Arizona

The Arizona Department of Education/Dispute Resolution has provided numerous statewide trainings on the resolution session requirements for school districts and charter schools.



# RESOLUTION SESSION TRAINING:

- Training includes the legal requirements for resolution sessions and tips for staying in compliance, including:
  - Be prepared to schedule your resolution meeting as soon as possible following receipt of the due process complaint;
  - The resolution meeting must occur (not just scheduled) within 15 days of receiving the request unless waived in writing by both parties, or the parties agree to participate in mediation.
  - Ensure the appropriate people are available to participate in the meeting.
  - Be prepared to inform both ADE and your administrative law judge (ALJ) of the outcome of the resolution session.



# COLLECTING RESOLUTION SESSION DATA:

## Arizona

	Due Process Requests	Resolution Sessions	Resolution Sessions held within 15-day timeline	Resolution Agreements
FFY 2010	56	34	33	19
FFY 2009	56	38	37	17
FFY 2008	67	31	19	26

