

## **Information to Assist Parents in Requesting a Due Process Hearing**

The parents of a child with a disability have the right to file for a due process hearing if they do not agree with school district's identification, evaluation, or educational placement of a child with a disability or the provision of a free appropriate public education or early intervention services to the child.

The due process petition must allege a violation that occurred not more than 2 years before the date the parents knew or should have known about the issues raised in the due process petition. This timeline will not apply to parents if they were prevented from requesting a hearing due to:

- a) Specific misinformation by the school district that it had resolved the issues contained in the due process petition; or
- b) The school district withholding information from the parent that was required to be provided to the parent.

In order to request a due process hearing, the parent must file a petition with the Nebraska Department of Education (NDE) by mailing a copy of the petition to:

Nebraska Department of Education  
P.O. Box 94987  
Lincoln, NE 68509-4987  
Attention: Office of Legal Counsel

The party requesting the due process hearing must also provide a copy of the petition to the other party. The petition must be mailed to the other party by U.S. Mail Return Receipt Requested. Once the Return Receipt is received it must be mailed to the Department of Education. The Return Receipt serves as documentation that the other Party was provided a copy of the Petition.

All of the information regarding the procedures for requesting a due process hearing, as well as the hearing procedures, are contained in 92 NAC 55 (Nebraska's Administrative Regulations for Special Education Hearings). A copy of 92 NAC 55 is available on the NDE website or may be obtained by contacting the Nebraska Department of Education. The following Sample Form is intended to assist parents in requesting a due process hearing. Parents, school districts and other parties are not required to use the Sample Form. They may use any other form or document so long as the form or document that is used meets the content requirements specified in 92 NAC 55. A party may not have a hearing on a due process petition until the party, or the attorney representing the party, files a due process petition that meets the requirements of 34 CFR 300.508(b). Those requirements are included on the following Sample Form in Paragraph 1-6.

Sample Petition Form for Requesting a Special Education Due Process Hearing

BEFORE THE STATE DEPARTMENT OF EDUCATION  
STATE OF NEBRASKA

\_\_\_\_\_) )  
(Name of Petitioner)

\_\_\_\_\_) )  
(Address of Petitioner)  
\_\_\_\_\_) )

\_\_\_\_\_) )  
CASE NO. (LEAVE BLANK)

Petitioner,

vs.

PETITION

\_\_\_\_\_) )  
(Name of Respondent)

\_\_\_\_\_) )  
(Address of Respondent)  
\_\_\_\_\_) )

Petitioner, in accordance with Title 92, Chapter 55, of the Nebraska Administrative Code, states and alleges as follows:

Concisely set forth all material facts upon which the petition or appeal is based including:

1. The name of the child whose special education is the subject of the hearing.
2. the address of the residence of the child,
3. the name of the school the child is attending;
4. In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the school the child is attending.
5. a description of the nature of the problem of the child relating to the proposed or refused initiation of, or change in, the identification, evaluation, or educational placement of the child, or the provision of early intervention services to the child including the facts relating to the problem; and
6. a proposed resolution of the problem to the extent known and available to the party at the time.

Attach as exhibits copies of any documents discussed or referenced above.

WHEREFORE, Petitioner requests that the State Hearing Officer (state remedy sought)

\_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Signature of Petitioner \_\_\_\_\_