

Hearing Timelines under IDEA 2004¹

Preliminary Time Period	
Filing	<p>Party (“requesting party”) files hearing request on other party and the Oregon Department of Education (ODE). The request must include²:</p> <ul style="list-style-type: none"> ○ The name of the child, child’s address (or contact information in the case of a homeless child) and name of school child attends; ○ A description of the nature of the problem of the child relating to a proposal or refusal to initiate or change the child’s identification, evaluation, or educational placement, or the provision of a free appropriate public education to the child, including facts relating to such problem; and ○ A proposed resolution of the problem to the extent known and available to the party at the time.
Within 1-2 days	ODE acknowledges receipt in writing to requesting and receiving parties, provides Notice of Procedural Safeguards, and refers to the Office of Administrative Hearings (OAH).
Within a week	OAH appoints an administrative law judge (ALJ) & sends confirmation to both parties, including preliminary timelines and sets date/time for pre-hearing conference, and, beginning September 1, 2007, hearing and final order dates. (see Hearing Time Period, next page).
By day 10	<p>(a) If school district did not already send prior written notice to parent regarding the subject matter of the hearing request, the district must send parent a response that includes³:</p> <ul style="list-style-type: none"> ○ An explanation of why the district proposed or refused the action raised in the hearing request; ○ A description of other options the IEP team considered and why rejected; ○ A description of each evaluation procedure, etc., used as basis for proposed or refused action; ○ A description of factors relevant to the district’s proposal or refusal. <p>(b) Except as provided in (a), the receiving party shall send the requesting party a response that specifically addresses the issues raised in the complaint.⁴ This response is not a pleading, should not be sent to the ALJ, and is not a part of the hearing record unless entered as an exhibit by a party.</p>
By day 15 (By day 7 if expedited hearing)	Parties participate in resolution session unless parties agree in writing to waive resolution session or to participate in mediation in lieu of a resolution session ⁵ .

¹ Prepared by Oregon Department of Education in collaboration with the Oregon Office of Administrative Hearings. Revised May 22, 2007.

² 20 USC § 1415(b)(7)(A)(ii); 34 CFR 300.507; OAR 581-015-2345.

³ 20 USC § 1415(c)(2)(B)(i)(1); 34 CFR 300.508(e); OAR 581-015-2345(2).

⁴ 20 USC § 1415(c)(2); 34 CFR 300.508(f); OAR 581-015-2345(2)(b).

⁵ 20 USC § 1415(f)(1)(B); 34 CFR 300.510; OAR 581-015-2355.

By day 15	Deadline for receiving party to notify ALJ and requesting party if receiving party believes the due process hearing request is not sufficient. ⁶ See “Filing”. NOTE: ALJ has 5 days from receipt of this notice to determine the sufficiency of the hearing request and to inform the parties in writing. ⁷
Day 30 (by day 15 if expedited hearing)	If the district has not resolved the complaint to the satisfaction of the parents, the due process hearing time period begins. ⁸
Hearing Time Period	
Within 5-7 days (next day if expedited hearing)	(a) The ALJ holds pre-hearing conference to: <ul style="list-style-type: none"> ○ Determine status of any resolution session, mediation, or settlement process; ○ If no resolution completed: <ul style="list-style-type: none"> ○ Identify issues to be resolved at hearing; ○ Determine whether expedited hearing timelines apply. ○ Resolve any discovery or other prehearing matters and, if appropriate, stipulations of fact; ○ Confirm the date(s) and expected length of hearing; ○ Determine a briefing schedule, if appropriate, and confirm final order date. ○ Determine whether the verbatim record of hearing will be written and/or electronic and, if written, make appropriate arrangements with the LEA to provide a court reporter; ○ Determine whether the hearing will be closed or open to the public; ○ Determine whether the final order will be written and/or an electronic recording; and ○ Review the parties’ rights and procedures for the hearing, and evidentiary requirements. (b) The ALJ issues Notice of Hearing and Hearing Rights.
Day 6 – 45	Completion of pre-hearing matters, briefing schedule according to pre-hearing order, conduct of hearing, and issuance of final order. ⁹ EXCEPTION: Expedited hearings must be conducted within 20 school days (from date of hearing request), and a final order issued within 10 school days after the hearing. ¹⁰ NOTE: At least 5 business days before a hearing, each party must disclose to all other parties all evaluations completed by that date, and recommendations based on the offering party’s evaluations, that the party intends to use at the hearing. An ALJ may bar any party that does not comply with this disclosure requirement from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party. ¹¹

⁶ 20 USC § 1415(c)(2)(B)(i)(1); 34 CFR 300.507(d); OAR 581-015-2350.

⁷ 20 USC § 1415(c)(2)(D), 34 CFR 300.507(d); OAR 581-015-2350(2). If insufficient, the party may amend its hearing request only with the other party’s consent (and new opportunity for resolution session or ALJ grants permission (but must be at least five days before hearing). If so, the preliminary time period starts over again. 20 USC § 1415(c)(2)(E), 34 CFR 300.507(d)(4), OAR 581-015-2350(4).

⁸ 20 USC § 1415(f)(1)(B)(ii); 34 CFR 300.510(b); OAR 581-015-2355(2). The 45 day timeline begins the day after one of the following events: both parties agree in writing to waive the resolution session (and do not agree to try mediation); after either mediation or resolution meeting starts (within the 30 day period), the parties agree in writing that no agreement is possible; both parties agree in writing to continue the mediation at the end of the 30 day resolution period, but later one or both parties withdraw from mediation.

⁹34 CFR 300.515(a); OAR 581-015-2375. An ALJ may grant specific extensions of time beyond this time period at the request of either party. 34 CFR 300.515(c), OAR 581-015-2375(2).

¹⁰ 20 USC § 1415(k)(4)(B); 34 CFR 300.532(c)(2); OAR 581-015-2445.

¹¹ 20 USC § 1415(f)(2); 34 CFR 300.512; OAR 581-015-2360.

