

Working Guidelines for Requesting and Preparing Record of Due Process Hearing for Appeal

Oregon Department of Education, Office of Student Learning & Partnerships

- A. To request preparation of the administrative record of the due process hearing, the filing party should give written notice to the Department of Education (ODE) within 20 days after filing the complaint (appeal) in court. This request should be directed to the attention of the special education legal specialist, requesting that ODE forward the record of the administrative hearing to the court. The notice of filing and request should include:
- (1) A copy of the complaint filed in court;
 - (2) The name and address of the assigned judge and court;
 - (3) The name and case number on appeal;
 - (4) The names and addresses of the parties and any legal representatives; and
 - (5) The name and case number of the administrative hearing.
- B. The ODE will forward this information to the Office of Administrative Hearings (OAH), pursuant to the Interagency Agreement, and the OAH will prepare the record in accordance with these guidelines.
- C. The hearing record will include the transcript or recording of the administrative proceedings, the briefs of the parties, the exhibits and any motions and rulings upon motions, any findings of fact, conclusions of law, interlocutory and final orders, and any other dispositive rulings of the hearing officer. Exhibits from the hearing will retain their original numbering, order and format.
- D. The OAH will prepare the record and a chronological index of the record. Example:

Volume 1

May 10, 1999	Notice of Filing of Appeal
April 15, 1999	Final Order
March 1, 1999	Student's Closing Statement
March 1, 1999	District's Post-hearing Brief
February 15, 1999	Student's Pre-Hearing Statement
February 15, 1999	District's Pre-Hearing Brief
February 1, 1999	Pre-hearing Order
January 15, 1999	Letter from Assigned Hearings Officer
December 24, 1998	Letter from the Department
December 20, 1998	Request for Due Process Hearing

Volume 2

Parents' exhibits B1-50

Volume 3
District's exhibits A1-95

Volume 4
Transcripts (or recordings)

- E. Within 30 days of receiving a request for a record from ODE, OAH will notify the parties (or, if represented, their attorneys) by letter and copy of the proposed record (excluding recordings or written transcripts of the hearing). Based on experience, ODE has found that the Federal District Court will only accept the record if stipulated to by the parties. The ODE suggests the following procedures for obtaining a stipulated record:
- (1) The parties (or, if represented, their attorneys) will review the proposed record and notify the Deputy Chief Administrative Law Judge and the other party in writing within ten days of any corrections to be made before the record is filed with the court.
 - (2) The parties (or, if represented, their attorneys) will notify the Deputy Chief Administrative Law Judge and the other party immediately of any objections to the corrections of the other party. If either party has objections to the record, this matter will be resolved between the parties and the parties will notify the Deputy Chief Administrative Law Judge in writing of the resolution. If the parties cannot agree, the Deputy Chief Administrative Law Judge (or designee) will make a final decision about the disputed correction.
 - (3) The party filing the appeal will submit a written stipulation of record signed by both parties to the attention of the Deputy Administrative Law Judge
- F. The OAH will send the hearing record, with the stipulation and a transmittal letter, to the court, with a copy of the stipulation and transmittal letter to the parties (or, if represented, their attorneys). The OAH will not send a second copy of the record to the parties; parties are responsible for making the corrections to their copy of the proposed record.
- G. Any questions or suggestions for revisions to this procedure should be directed to the ODE Legal Specialist, Office of Special Education, (503) 947-5674.