

Due Process Filing Guide

What to Do When the School District Won't Listen

When your child's school district refuses to provide what the law requires, you have a powerful legal tool available: due process. This guide walks you through what it is, when to use it, and what to expect at each stage in California.

What Is Due Process?

Due process is a formal legal hearing where a neutral judge — called an Administrative Law Judge (ALJ) — reviews the dispute between you and the school district and makes a binding decision. In California, these hearings are run by the **Office of Administrative Hearings (OAH)**.

It is not a complaint or a conversation. It is a legal proceeding with rules, deadlines, and real consequences for the district if they lose. Most parents who go through due process have an attorney representing them.

When Should You Consider Filing?

- The district says your child doesn't qualify for special education — and you believe they do.
- The district refuses to provide services your child's IEP requires.
- The district wants to change your child's placement and you disagree.
- The IEP your child has isn't giving them a meaningful education.
- The district is ignoring an IEP that's already been agreed to.
- The district denied your request for an Independent Educational Evaluation (IEE).
- You've tried everything informally and nothing has changed.

TIP: Before filing, consider requesting mediation — it's free, confidential, and doesn't give up your right to file for due process later. Many disputes settle faster through mediation.

The 5 Stages of Due Process in California

Stage 1: File Your Complaint

Submit a written due process complaint to the California OAH. You can file online at oah.dgs.ca.gov. Your complaint must describe the problem, the facts behind it, and what you want the district to do. The district is notified immediately.

Stage 2: The Resolution Meeting (within 15 days)

The district must schedule a meeting within 15 days of receiving your complaint. They must send someone with authority to settle — not just a teacher. You can bring your attorney. If you resolve it here, you get a binding written agreement.

Stage 3: The Resolution Period (30 days)

If the case isn't resolved in the resolution meeting, both sides have up to 30 days to reach a settlement. If no settlement is reached, the hearing is scheduled.

Stage 4: The OAH Hearing

Both sides present their case before an Administrative Law Judge. You and the district each submit evidence, call witnesses, and make legal arguments. Hearings typically run 1–5 days. This is where having an attorney makes the biggest difference.

Stage 5: The Decision

The ALJ issues a written decision within 45 days of the hearing. The district can be ordered to change your child's IEP, change placement, provide compensatory services, or reimburse you for private services you paid for out of pocket.

Deadlines You Cannot Miss

2 Years to File	You must file within 2 years of when you knew about the problem.
15-Day Resolution Meeting	District must schedule within 15 days of your complaint.
30-Day Resolution Period	If unresolved at 30 days, your hearing gets scheduled.
45-Day Hearing Window	Hearing must start within 45 days of the resolution period ending.
90-Day Appeal Deadline	If you want to appeal the decision, you have 90 days to go to court.

Thinking about filing? Talk to us first.

Due process is a powerful tool — but it's also complex and adversarial. Attorney Phillip Sparks has represented California parents in due process hearings for over 25 years. We'll tell you honestly whether you have a case and what your best options

are. The call is free.

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