

PREHEARING CONFERENCE – SUBJECTS TO BE CONSIDERED

1. If a party is not represented by an attorney, does the party plan to retain an attorney before the due process hearing? If so, the party or new attorney must immediately advise the Hearing Officer and opposing attorney of the attorney's appearance in the case.

If not represented by an attorney, did the parent receive a list of sources to contact to obtain assistance in understanding IDEA, including rights regarding a hearing and possible legal representation?

2. When did the Resolution Meeting process conclude? Who was with the party at the table? What was the agreement reached by the parties, if any? Was it written and signed by the parties? Are the parties willing to pursue/considering pursuing in good faith mediation or further settlement discussions? When does the 20/45-day deadline start running?
3. What are the specific issues to be determined (e.g., what aspects of the IEP are alleged to be inappropriate?) and what is the specific proposed relief (e.g., what type/amount of comp ed is sought?) During the prehearing conference the Hearing Officer may require the parties to provide further clarification of their claims, defenses and requested relief.
4. Did the District file a response? If not, how will the Hearing Officer address District's failure to file the required response?
5. Are there any admissions of fact or stipulations? Did the parties reach an agreement on any of the claims in the complaint?
6. What witnesses does each party intend to call at the hearing and how much time will be needed to hear them all? What additional time, if any, should be scheduled to deal with unanticipated problems/delays?
7. When and where will the hearing be held (i.e., dates and times)? Who will be responsible to get a court reporter?
8. Is any continuance of the 45-day timeline anticipated? If so, how might it be avoided?
9. What is the due date for the five-day [2 day if it is an expedited hearing] disclosures of proposed exhibits, witness lists (including a name, role/position, address, phone number, and general thrust of the testimony), and evaluations/written recommendations that may be used at the due process hearing?

Note: (1) The disclosure must separately identify those witnesses whom, and exhibits which, the party expects to present/offer and those whom/which the party may call/offer if the need arises; (2) the disclosure must designate witnesses expected to be presented by

telephone if allowed in the discretion of the Hearing Officer; (3) copies of all proposed exhibits shall be marked (Parent's as PD-1, District's as SD-1 and Joint as J-1); (4) each party may at the 5-day [2 day if it is an expedited hearing] deadline be directed to send the Hearing Officer a copy of the disclosure with the exhibits divided by tabs, in such manner as the Hearing Officers directs; (5) in their five [2 day] day disclosures, each party must provide a curriculum vitae for all proposed expert witnesses; (6) each party shall have available four sets of disclosures, i.e., one for each party, one for witnesses and one for the Hearing Officer.

Hearing Officers may also encourage the parties to submit joint exhibits when possible.

10. Has either party had/anticipates having a problem accessing or obtaining witnesses or records (e.g., the need to compel witnesses or the production of documents)? The requesting party should be prepared to explain the relevance of the witness testimony or records requested.

If yes, the party that refuses to produce the witness or records should explain why they will not voluntarily ensure the appearance of the witness or production of the documents. Will the District make current employees voluntarily available at the due process hearing?

11. Does either party anticipate any witness scheduling or other logistical problems? How does the party propose to resolve them?
12. Do the parties anticipate any motions or other disputes that should be addressed during the prehearing conference? If so, how will they be addressed, i.e., the dates on which motions must be filed and the timeline for decisions on the motions?
13. Any other matters that the Hearing Officer deems appropriate or the parties want to raise.

NOTE: The following matters will also be addressed:

- Confirm the District will provide a court reporter.
- Whether the Parent opts for a hearing to be open or closed.
- Whether either party requires interpreter services, the translation of documents or other accommodations.
- Confirm the Petitioner shall proceed first at the hearing.
- Confirm the Petitioner shall carry the burden of persuasion.
- Whether the parties shall be prepared to present oral closing argument
- Whether the Parent elects to be provided a written or electronic decision

DIRECTIVE: The parties are directed that if any problem or dispute arises between the time of the prehearing conference and the time the decision is issued and the parties are unable to mutually resolve the dispute, there by necessitating the involvement of the Hearing Officer, they shall immediately contact the Hearing Officer. The Hearing Officer shall address the matter by

scheduling a telephone conference call or in such other manner as is deemed appropriate under the circumstances.