



ADMINISTRATIVE RULES OF MONTANA



10.16.3508 INITIATING SPECIAL EDUCATION DUE PROCESS

- (1) A parent as defined in 34 CFR 300.30 or public agency as defined in 34 CFR 300.33 may request an impartial due process hearing involving the educational placement, evaluation, possible identification of a student with disabilities, or the provision of FAPE to the child. The request shall be made in writing to the Superintendent of Public Instruction, P.O. Box 202501, Helena, MT 59620-2501. A copy of the request shall be mailed to the other party.
- (2) The Superintendent of Public Instruction shall develop a model form to assist the complainant in filing a request for due process. The request shall include:
 - (a) the name of the student;
 - (b) the address of the residence of the student;
 - (c) the name of the school the student attends;
 - (d) in the case of a homeless child or youth, available contact information for the child or youth;
 - (e) a description of the nature of the problem of the student relating to the proposed or refused initiation or change, including facts relating to the problem; and
 - (f) a proposed resolution of the problem to the extent known and available to the complainant at the time.
- (3) The due process request must be deemed sufficient unless the party receiving the request notifies the hearing officer and the other party in writing within 15 days of receipt of request that the receiving party believes the due process request does not meet the requirements in (2). In this event, the Superintendent of Public Instruction will implement procedures in accordance with 34 CFR 300.508(d).
- (4) Pursuant to 34 CFR 300.508 (e) and (f), the party receiving a due process complaint has ten days to file a response, and if required, the LEA must send prior written notice.
- (5) All pleadings shall be filed with the OPI and served both electronically and by U.S. mail. The time period for any response shall begin on the next business day following electronic service.

Authorizing statute(s): 20-7-402, MCA

Implementing statute(s): 20-7-402, MCA

History: NEW, 1990 MAR p. 934, Eff. 5/18/90; AMD, 1993 MAR p. 1913, Eff. 8/13/93; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00; AMD, 2007 MAR p. 678, Eff. 5/25/07; AMD, 2015 MAR p. 2257, Eff. 12/25/15.