

Special Education Advocacy: Due Process Hearings & ARD Meetings

Due to their experience advocating for students with disabilities, parents and other disability advocates often become very knowledgeable about special education law. These parents and other advocates are allowed to participate in special education due process hearings on behalf of a student, a parent, or even a school district. Also, in addition to parents, advocates can participate in Admission, Review, and Dismissal (ARD) committee meetings.

Due Process Hearings

Recent regulatory changesⁱ made it clear that non-attorneys who meet certain qualifications may represent parties in special education due process hearings. Disability advocates believe these changes will help to level the playing field in due process hearings. While school districts are almost always represented by an attorney, some parents and students may not be able to afford an attorney, which may put them at a disadvantage. These recent changes allow parents and students to enlist the help of someone else who can advocate for the needs of a student with a disability.

What is a due process hearing?

A due process hearing is similar to going to court. It is a formal legal process that may be requested when a parent and the child's school district have a dispute about an issue related to the child's special education services. The dispute could be about identification, evaluation, educational placement, or services for the student with a disability.

Who are the parties in a due process hearing?

The parties are the people and entities involved in the dispute. In a special education dispute, a party could be the parent of a student, an adult student (18 years or older, not under guardianship), or the school district.

Who can represent parties at a due process hearing?

A party can represent him- or herself or choose to be represented by an attorney with a license from the State Bar of Texas. Alternatively, a party can choose to be represented by a non-attorney advocate, if that advocate is considered an "expert" in special education issues.

Do advocates need special qualifications to represent a party at due process hearings?

Yes. The hearing officer assigned to the dispute will determine whether the non-attorney advocate qualifies as an "expert" after reviewing the advocate's qualifications. The hearing officer will review the following information about the potential non-attorney advocate:

- relevant special knowledge and training;
- knowledge of state and federal rules and procedures that apply in due process hearings;

- knowledge of state and federal special education laws, regulations, and rules; and
- a description of the advocate’s educational background.

The hearing officer will notify the parties in writing regarding whether the non-attorney advocate qualifies as an “expert.” The hearing officer’s determination is final.

What does a party have to do to be represented by a non-attorney advocate?

If a party wishes to be represented by a non-attorney advocate, then the party must complete the [Authorization of Non-Attorney Representative](#) form and submit the form to the hearing officer assigned to the dispute. The party must also forward a copy of the authorization form to the “other side” (for example, a parent must forward the authorization form to the school district).

What can a non-attorney advocate do in a due process hearing?

Once a hearing officer has determined that a non-attorney advocate is qualified to represent the party in a hearing, then the advocate may start representing the party, including:

- filing pleadings and other documents on behalf of the party,
- presenting statements and arguments on behalf of the party,
- examining and cross-examining witnesses,
- offering and introducing evidence, and
- objecting to the introduction of evidence and testimony.

ARD Committee Meetings

The rules about non-attorney advocates participating in ARD committee meetings are less complex than the rules for due process hearings. If advocates are invited, they can participate.

What is an ARD committee meeting?

The ARD committee meets at least once a year to reach a consensus regarding the development, review, and revision of the Individualized Education Program (IEP) of a student in special education.

Who can participate in an ARD committee meeting?

While participation in an ARD committee meeting is mandatory for some people, like parents and representatives of the school district, other people may choose to participate, if invited.

Parents, adult students, and schools are all allowed to invite anyone with “knowledge or special expertise regarding the student.” Almost anyone in a student’s life could be considered someone with “knowledge” regarding the student, including a friend, a pastor, or a family member other than a parent. A person with “special expertise” could be a former teacher or an outside service provider.

Do non-attorney advocates need special training to participate in ARD committee meetings?

No. Although advocates do not have to go through any particular training to participate in an ARD committee meeting, it may be helpful to do so. Some parent organizations provide training for parents and others who wish to participate in ARD committee meetings.

What does a parent or student have to do to bring a non-attorney advocate to an ARD committee meeting?

The only thing that a parent or student must do in order to bring a non-attorney advocate to an ARD committee meeting is invite the advocate. The invitation does not have to be formal and it does not have to be in writing. As a courtesy, parents or students should inform the school ahead of time if an advocate is planning to participate in the meeting.

What can a non-attorney advocate do in an ARD committee meeting?

An advocate can participate by asking questions and offering insights about the student as the group works together to develop, review, or revise the student's IEP.

Additional Resources:

The IDEA Manual

[“IDEA, The Manual for Parents and Students about Special Education Services in Texas,”](#) also known as “The IDEA Manual,” provides information to help families navigate the special education system in Texas. This publication is produced by The Arc of Texas and Disability Rights Texas and is available in English and Spanish.

Texas Project FIRST

[Texas Project FIRST](#) (Families, Information, Resources, Supports & Training) strives to provide accurate and consistent information to parents and families of students with disabilities. The website, which was created by parents, for parents, is a project of the Texas Education Agency.

ⁱ [Tex. Admin. Code § 89.1175](#)