



## State of New Jersey

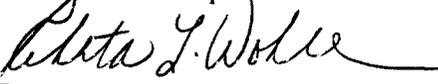
DEPARTMENT OF EDUCATION  
PO Box 500  
TRENTON, NJ 08625-0500

JON S. CORZINE  
Governor

LUCILLE E. DAVY  
Commissioner

January 28, 2008

**TO:** Chief School Administrator  
Director of Special Education  
Administrator of a State Facility  
Administrator of a Charter School  
Administrator of an Approved Private School for the Disabled  
Administrator of a College-Operated Program  
Statewide Special Education Advisory Council  
Agencies or Organizations Concerned with Special Education

**FROM:** Roberta L. Wohle, Director   
Office of Special Education Programs

**SUBJECT:** Updates with Respect to Due Process Procedures

I am writing to clarify the procedures regarding the transmittal of parental requests for a due process hearing to the New Jersey Office of Administrative Law. As you are aware, upon receipt of a parental request for a due process hearing, the school district must, within 15 days, schedule and hold a resolution meeting unless the parties agree to use mediation in lieu of the resolution meeting or agree in writing to waive the entire resolution process and proceed directly to a hearing.

Pursuant to N.J.A.C. 6A:14-2.7(h)4, "[i]f a request for a due process hearing is not resolved to the satisfaction of the parents within 30 days of the receipt of the petition, the Office of Special Education Programs (OSEP) shall transmit the case to the Office of Administrative Law for a due process hearing." This timeframe is 15 days for an expedited due process hearing. See N.J.A.C. 6A:14-2.7(h)5. A recent clarification from the United States Department of Education requires that all parental requests for a due process hearing be transmitted for hearing on day 31 (or day 16 for an expedited due process hearing) unless the parties are engaged in mediation activities in accordance with State and Federal regulations. Therefore, unless the parties have resolved their dispute through the resolution meeting or are engaged in ongoing mediation activities, the OSEP will transmit parental requests for a due process hearing on day 31.

[www.nj.gov/education](http://www.nj.gov/education)

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In addition, I wish to advise you that, on January 13, 2008, Governor Jon S. Corzine signed legislation placing the burden of proof and production in all requests for a due process hearing, whether filed by the parent or the school district, on the school district. The legislation applies to all requests for a due process hearing received on or after January 13, 2008.

If you have any questions regarding these updates, please contact the Office of Special Education Programs at (609) 984-1286.

RW/CK/JW

c: Members, State Board of Education  
Commissioner Lucille E. Davy  
Willa Spicer  
John Hart  
Senior Staff  
Barbara Gantwerk  
County Superintendent  
County Supervisor of Child Study  
Office of Administrative Law  
LRC Managers and Consultants  
Receiving Schools  
Regional Day Schools  
Members, NJ LEE Group  
Garden State Coalition of Schools