

Due Process Hearings FY2009-2010 Special Education Advisory Panel (SEAP/PL 94-142 Advisory Panel) Disclosure December 2010

65 due process hearing requests filed (some of these led to decisions, some were withdrawn, and others are still pending)

- 5 of the 65 were expedited due process hearing requests

37 due process hearing decisions (some of these cases were filed in prior fiscal years):

- 11 decisions after hearing
- 5 dismissals
- 21 settlement orders

27 mediations: 20 filed prior to a due process complaint being filed and 17 lead to a settlement, 7 mediations occurred after the filing of the due process complaint and 2 resulted in withdrawal of due process hearing request

Copies of the due process hearing decisions are posted on the web site at: (click on Compliance, and then click on complaint system, and then click on due process hearing system).

The issues in the cases that went to hearing, included whether placement and services were appropriate, whether the Individualized Education Program provided a free and appropriate public education (FAPE), whether a student was timely enrolled, duty of the school district to evaluate after a child has been withdrawn from school, whether procedural violations denied the student FAPE or the parents an opportunity to participate and whether a student was a danger to himself and others.

Time-lines for all cases but 1 exceeded 45 days.

Time-lines were properly extended in all cases.

Time-lines ranged from one case of 41 days to one case over 5.8 years (which was protracted litigation back and forth in the appellate courts) and includes a case which was a consolidation of 8 complaints that took over 2.5 years. The average time line was 1 year (excluding the case that had numerous appeals). If you also exclude the consolidated case the average time line was 9.1 months.

Dismissals: These are Orders of the chairperson which reflect that the case is being dismissed contrary to the desire of the complainant. Examples of the reasons for such dismissals include, but are not limited to: the issue being moot, the parent having changed residence, the parent losing educational decision-making rights, and thus having no standing to pursue case, the issues being non-IDEA issues.

Settlement Orders: These are Orders of the chairperson which reflect the fact that the parties entered into a settlement agreement and that the case is being dismissed with prejudice based on that agreement. These Orders then can serve as the basis for a prevailing party to seek attorney fee reimbursement from the court if this issue has not been resolved as part of the settlement agreement. These are technically hearing decisions even though no hearing took place.