

Due Process Hearings FY2010-2011 Special Education Advisory Panel (SEAP/PL 94-142 Advisory Panel) Disclosure December 2011

81 due process hearing requests filed (some of these led to decisions, some were withdrawn, and others are still pending)

- 5 of the 81 were expedited due process hearing requests

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

- 9 decisions after hearing
- 0 dismissals
- 19 settlement orders

29 mediations: 22 filed prior to a due process complaint being filed and 21 lead to a settlement; 7 mediations occurred after the filing of the due process complaint and 7 resulted in withdrawal of due process hearing request because the cases settled

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 procedural violations denied the student FAPE or the parents an opportunity to participate, whether the placement was the least restrictive environment, whether a manifestation determination was required, whether the provisions of the IEP were implemented, whether the choice of program (not placement) was appropriate and whether a student was a danger to himself and others.

Time-lines: 21 exceeded 45 days and 7 were resolved within 45 days.

Time-lines were properly extended in all cases.

Time-lines ranged from one case of 15 days to one case over 3.5 years (which was protracted litigation back and forth in the appellate courts). The average time line was just under 7 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.