

Amendment to have the Administrative Hearing Commission but using generic terms Ex. D

Due process hearing before panel, members and chairman chosen, how--written report--expedited hearing--forty-five day placement--hearing requirements--preliminary meeting.

162.961. 1. A parent, guardian or the responsible educational agency may request a due process hearing by the state board of education with respect to any matter relating to identification, evaluation, educational placement, or the provision of a free appropriate public education of the child. Such request shall include the child's name, address, school, issue, and suggested resolution of dispute if known. Except as provided in subsection 4 of this section, the board or its delegated representative shall within fifteen days after receiving notice empower a hearing ~~panel of three persons~~ *officer* who are not directly connected with the original decision and ~~who are not an employees of the state board of education to which the appeal has been made~~ shall be assigned to hear the case. ~~All of the panel members~~ Hearing officers shall have some knowledge or training involving children with disabilities, ~~none~~ shall *not* have a personal or professional interest which would conflict with his or her objectivity in the hearing, and ~~all~~ shall meet the department of elementary and secondary education's training and assessment requirements pursuant to state regulations and federal law and regulation requirements of the Individuals With Disabilities Education Act. ~~One person shall be chosen by the local school district board or its delegated representative or the responsible educational agency, and one person shall be chosen at the recommendation of the parent or guardian. If either party has not chosen a panel member ten days after the receipt by the department of elementary and secondary education of the request for a due process hearing, such panel member shall be chosen instead by the department of elementary and secondary education. Each of these two panel members shall be compensated pursuant to a rate set by the department of elementary and secondary education. The third person shall be appointed by the state board of education and shall serve as the chairperson of the panel. The chairperson shall be an attorney licensed to practice law in this state. During the pendency of any three member panel hearing, or prior to the empowerment assignment of the panel hearing officer, the parties may, by mutual agreement, submit their dispute to a mediator pursuant to section 162.959.~~

2. The parent or guardian, school official, and other persons affected by the action in question shall present ~~to~~ at the hearing ~~panel~~ all pertinent evidence relative to the matter under appeal. All rights and privileges as described in section 162.963 shall be permitted.

3. After review of all evidence presented and a proper deliberation, the hearing ~~officer~~ *panel* within the time lines required by the Individuals With Disabilities Education Act, 20 U.S.C. Section 1415 and any amendments thereto, shall ~~by majority vote~~ determine its findings, conclusions, and decision in the matter in question and forward the written decision to the parents or guardian of the child and to the president of the appropriate local board of education or responsible educational agency and to the department of elementary and secondary education. A specific extension of the time line may be made by the ~~chairman~~ *hearing officer* at the request of either party, except in the case of an expedited hearing as provided in subsection 4 of this section.

4. An expedited due process hearing by the state board of education may be requested by a parent to challenge a disciplinary change of placement or to challenge a manifestation determination in connection with a disciplinary change of placement or by a responsible educational agency to seek a forty-five school day alternative educational placement for a dangerous or violent student. The board or its delegated representative shall appoint a hearing officer to hear the case and render a decision within the time line required by federal law and state regulations implementing federal law. The hearing officer shall be an attorney licensed to practice law in this state. The hearing officer shall have some knowledge or training involving children with disabilities, shall not have a personal or professional interest which would conflict with his or her objectivity in the hearing, and shall meet the department of elementary and secondary education's training and assessment requirements pursuant to state regulations and federal law and regulation requirements of the Individuals With Disabilities Education Act. A specific extension of the time line is only permissible to the extent consistent with federal law and pursuant to state regulations.

5. If the responsible public agency requests a due process hearing to seek a forty-five school day alternative educational placement for a dangerous or violent student, the agency shall show by substantial evidence that there is a substantial likelihood the student will injure himself or others and that the agency made reasonable efforts to minimize that risk, and shall show that the forty-five school day alternative educational placement will provide a free appropriate public education which includes services and modifications to address the behavior so that it does not reoccur, and continue to allow progress in the general education curriculum.

6. Any due process hearing request and responses to the request shall conform to the requirements of the Individuals With Disabilities Education Act (IDEA). Determination of the sufficiency shall be made by the ~~chairperson of the three member hearing panel or in the case of an expedited due process hearing, by the~~ hearing officer. The ~~chairperson or~~ hearing officer shall implement the process and procedures, including time lines, required by the IDEA, related to sufficiency of notice, response to notice, determination of sufficiency dispute, and amendments of the notice.

7. A preliminary meeting, known as a resolution session, shall be convened by the responsible public agency, under the requirements of the IDEA. The process and procedures required by the IDEA in connection to the resolution session and any resulting written settlement agreement shall be implemented. The responsible public agency or its designee shall sign the agreement. The designee identified by the responsible public agency shall have the authority to bind the agency. A local board of education, as a responsible public agency, shall identify a designee with authority to bind the school district.