

Due Process Hearings FY 2013-2014 Special Education Advisory Panel (SEAP/PL 94-142 Advisory Panel) Disclosure December 2014

64 due process hearing requests filed during the school year (some of these led to decisions, some were withdrawn, and others are still pending)

- 2 of the 64 were expedited due process hearing requests

21 due process hearing decisions were issued during the school year (some of these cases were filed in prior fiscal years):

- 7 decisions after hearing
- 13 dismissals
- 1 settlement order

31 mediations were requested during the school year: 20 filed prior to a due process or child complaint being filed (and of those 12 lead to a settlement); 8 mediations occurred after the filing of the due process complaint (and of those 7 came to an agreement resulting in the withdrawal of due process hearing request); 2 mediations were requested after the filing of a child complaint but were not held; 1 request was withdrawn.

Copies of the due process hearing decisions are posted on the web site at: <http://dese.mo.gov/special-education/due-processchild-complaint/2013-2014-due-process-decisions>

The issues in the cases that went to hearing, included whether the Individualized Education Program (IEP) provided a free and appropriate public education (FAPE), the appropriateness of the evaluation, whether the AHC had jurisdiction and the appropriateness of a manifestation determination.

Time-lines: 6 exceeded 45 days and 1 was resolved within 45 days.

Time-lines were properly extended in 5 cases.

Time-lines ranged from one case of 31 days to one case 164 days. The average time line was 54 days (just under 2 months). Cases that went to a full hearing averaged 103 days from filing to decision.

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 parties have settled the case, the issues being non-IDEA issues or the parties failed to follow orders of the Administrative Hearing Commission.

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.

Statistics since the Administrative Hearing Commission started hearing the cases in 2012

Due Process complaint resolution

	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014
Complaints filed	88	109	62	67	64
Hearings Decisions	6	8	5	4	7
Withdrawn	36	45	25	37	28
Dismissals	3	4	0	4	13
Settlements	19	19	17	0	1
Resolution successful	Data not tracked	Data not tracked	Data not tracked	14	11

Total cost related to due process complaints

- FY 2010 \$743,331.03
- FY 2011 \$497,872.60
- FY 2012 \$286,456.48
- FY 2013 \$203,811.96 (panel \$180,590.36; AHC \$51,718.42)
- FY 2014 \$151,033.13

Average cost per due process complaint

Caveat this is a mathematical calculation based on total costs and total complaints filed and does not reflect a comparison or average of the costs actually incurred in each case.

- 2009 \$8446.94
- 2010 \$4567.63
- 2011 \$4620.26
- 2012 \$3041.96
- 2013 \$2359.90

Data from 2010 to present

	Pre AHC	AHC
Resolution held w/in 15 days	66	58
Resolution held between 15 and 30 days	17	20
Resolution held after 30 days	3	5
Resolution meeting waived	11	29
*****	*****	*****
Resolved	30	29
No resolution reached	55	47
Success rate	55%	62%

Mediation

When filed and results	2009-10	2010-11	2011-12	2012-13	2013-14
Prior to dp complaint	18	21	21	17	13
% resolved	95%	91%	76%	100%	92%
After dp complaint filed	6	5	8	16	8
% resolved	17%	100%	75%	75%	88%