

Special Education Resolution Center

To: All Parties

From: Jo Anne Pool, Program Manager

Re: Overview of the Early Due Process Procedures

As a recipient of a Due Process Hearing request, this office provides general technical assistance to all parties to assist in understanding the requirements of the due process hearing system. This memo serves as a basic overview of the beginning of the process so that parties will generally understand what to expect.

When a due process complaint notice is filed, the parties enter into an initial resolution period which lasts approximately 30 days. The IDEA requires the parties to take certain steps during this time period. The party receiving the complaint notice must respond to each and every allegation in the complaint within 10 calendar days. The complaint will be deemed sufficient unless a named party objects to the sufficiency of the complaint within 15 calendar days. A resolution session must be scheduled within 15 calendar days.

The resolution session is a meeting between the parties. If the parent does not bring an attorney, then the other party may not bring an attorney. A third party neutral facilitator may be arranged to assist the parties in discussing the issues as the parties work toward a resolution. Parties may also agree to mediation in lieu of the resolution session.

Upon receiving a due process request, the matter is assigned to a trained impartial hearing officer. The hearing officer will take steps to assist the parties in moving the parties through the initial 30 day resolution time period. **The hearing officer will schedule a pre-hearing conference to assure that the process is moving along statutory requirements.**

The hearing officer will make inquiry, among all other things discussed: 1) whether or not any party intends to object to sufficiency of the written complaint, 2) whether the parties have been able to schedule the resolution session or if there is a joint written agreement to waive the session, 3) when the parties anticipate the response will be provided to the filing party 4) whether any party anticipates the filing of any pre-hearing motions, 5) address any concerns of the hearing officer regarding jurisdiction over the controversy, proper parties to the matter, or authority of the hearing officer to grant requested relief, and 6) how to make proper contact with the hearing officer (no party may speak directly to the hearing officer without the other parties present). **A hearing officer may ask the parties to provide legal authority to address concerns regarding jurisdiction, proper parties to the due process request or the authority of the hearing officer to grant requested relief.** During this conference, the hearing officer will also set the time for a second pre-hearing conference prior to the due process hearing in the event the matter does not settle during the resolution time period.

The second pre-hearing conference will address issues directly related to the actual hearing, including, but not limited to 1) further clarification of the issues, 2) issuance of subpoenas, and 3) any other matter related specifically to the matter. **A hearing officer may ask the parties to provide legal authority regarding the issues presented at the hearing.**

Settlement of the matter is encouraged, if possible, at every stage of the due process .