

##, 2009

, District Administrator
School District

, Wisconsin

Parent

, Wisconsin

RE: In the matter of the due process hearing request for ## by his/her
mother/father/parents, ##[names], v. ### School District
DPI Case No. LEA-09-0##

Dear ##:

This is to advise you that on ##, 2009, the Department of Public Instruction received a request for a due process hearing under Subchapter V, Chapter 115, Wis. Stats., and the Individuals with Disabilities Education Act (IDEA) from ##, on behalf of ##, mother/father/parents of ##.

A copy of the letter requesting the due process hearing is enclosed to the school district. A list of free or low cost legal services and a complete statement of the procedural safeguards available to parents under the IDEA and state law is being sent to the parent.

If the school district has not sent a prior written notice to the parent regarding the subject of the parent's due process request, the district must, within 10 days of receiving the request for a hearing, send to the parent a response that includes:

- An explanation of why the LEA proposed or refused to take the action raised in the hearing request;
- A description of other options that the IEP team considered and the reasons why those options were rejected;
- A description of each evaluation procedure, assessment, record or report the LEA used as the basis for the proposed or refused action; and
- A description of the factors that are relevant to the LEA's proposal or refusal.

Prior to the due process hearing, the school district must convene a resolution session where the parents of the child discuss their due process hearing request and the school district has an opportunity to resolve the hearing request. Within 15 days of receiving notice of the parents' hearing request, the school district must schedule a meeting with the parents and relevant

members of the IEP team who have specific knowledge of the facts identified in the due process hearing request. A school district representative who has decision-making authority for the district must participate in the resolution session. The school district may not have an attorney at the resolution session unless the parent is accompanied by an attorney. The resolution session process must be used unless the parents and school district agree in writing to waive the resolution session or agree to use the mediation process.

When the school district and parents resolve the request for the due process hearing during a resolution session, they must execute a legally binding agreement that is signed by both the parent and a representative of the district who has the authority to bind the district. The agreement must be enforceable in a state court or a district court of the United States.

If the school district has not resolved the request for the due process hearing to the satisfaction of the parents within 30 days of the receipt of the parents' hearing request, the due process hearing may proceed and all of the applicable timelines for a due process hearing begin. Except where the hearing relates to certain discipline requirements, the hearing officer must issue a written decision based solely upon the evidence presented at the hearing within 45 days of completion of the resolution session or waiving of the resolution session requirement. The hearing officer may extend the 45-day timeline, for cause, if the parent or the school district requests an extension.

The procedural safeguards include mediation, which is an alternative to the due process hearing for resolving special education disputes. Mediation is a voluntary process in which an impartial person or "mediator" helps the parties try to reach an agreement by focusing on key issues, exchanging information, and exploring options for settlement. It is available to resolve disputes relating to identification, evaluation, educational placement of a child, or the provision of a free appropriate public education to the child. Mediation may not be used to deny or delay a parent's right to a due process hearing or to deny any other rights afforded to the parent under special education law.

The DPI maintains a list of qualified mediators who are trained in effective mediation techniques and are knowledgeable in laws and regulations relating to special education and related services. The DPI bears the cost of the mediation, including the costs of meetings. Each session in the mediation process will be scheduled in a timely manner and be held in a location convenient to the parties. Discussions that occur during the mediation process are confidential and may not be used as evidence in any subsequent due process hearing or civil proceedings. An agreement reached by the parties must be set out in writing. If either party is interested in pursuing mediation as an option, please contact the Wisconsin Special Education Mediation System at (888) 298-3857.

Pursuant to an interagency agreement between the Department of Public Instruction and the Department of Administration, this request for a due process hearing has been forwarded to the Division of Hearings and Appeals (DHA). An administrative law judge from the DHA will be appointed to serve as the hearing officer in this case. We expect the hearing officer appointed by the DHA to issue a decision pursuant to the time period set out at sec. 115.80 (6), Wis. Stats.

Addressee

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The Division of Hearings and Appeals will be contacting you to set up the details of the proceedings.

Pursuant to sec. 115.80(6), Wis. Stats., the school board will pay for the costs of the hearing. Therefore, the department will invoice the school district for the costs of the hearing as payments are made to the DHA.

If you have any questions regarding the hearing procedures, please feel free to contact Diane Norman, Deputy Administrator, at the Division of Hearings and Appeals, 5005 University Avenue #201, Madison, Wisconsin 53705-5400 (608) 266-7668.

Sincerely,

DIVISION FOR LEARNING SUPPORT
EQUITY AND ADVOCACY

Sherri A. Honaker, Office Operations Associate
Special Education Team

001A/sah

Enclosures

cc: Diane Norman, DHA
, Director of Special Education, XXX School District
Parent's attorney
District's attorney