

Contract with Division of Hearings and Appeals (Wisconsin Department of Administration) --

**INTERAGENCY AGREEMENT  
SPECIAL EDUCATION DUE PROCESS HEARINGS**

**Agency:** The Department of Administration, Division of Hearings and Appeals

**Effective Date:** July 1, 2007

**Period of Performance:** July 1, 2007 through June 30, 2009

**Sole Source Authority:** Wisconsin Administrative Code 8.08(2)

**Synopsis of the Requirement:**

**I. Preamble.**

State and federal special education laws create certain due process rights for parents which permit them to challenge a school district's decision relating to the identification, evaluation, educational placement or the provision of a free appropriate public education program to their disabled child, including requesting an administrative hearing. School districts are permitted to request an administrative hearing on these issues if they are unable to obtain parental consent to carry out proposed actions. The Department of Public Instruction (DPI) is the state agency responsible for ensuring that a due process hearing system is available to parents and school districts. DPI's responsibilities are set forth in § 115.80, Wis. Stats. and 20 USC § 1415 and applicable state rule and federal regulation. Under both federal and state law, DPI is prohibited from using its employees to conduct any required administrative hearings. In order to ensure that an effective hearing system is available to parents and school districts, and based on previous experience in having the Wisconsin Division of Hearings and Appeals (DHA) carry out the required hearing functions, DPI has determined that it is appropriate to enter into this agreement with DHA.

**II. Agreement.**

DPI and DHA agree that DHA shall conduct all "Special Education" due process hearings for DPI arising under § 115.80 and 20 USC § 1415 for the period beginning July 1, 2007 and ending June 30, 2009. No less than quarterly, DPI agrees to pay DHA the actual costs incurred by DHA under this agreement, at a minimum of \$196,100 for FY08 and \$202,800 for FY09. In addition to these amounts, DPI agrees to pay for one subscription per year to the Individuals with Disabilities Education Law Report (IDELR) to permit research of all special education decisions reports by that service. DHA shall inform DPI whether it chooses the IDELR on-line service, or printed decisions. The subscription will be based at DHA offices.

**III. Decisions.**

Following the close of the record in each contested hearing, the Administrative Law Judge provided by DHA shall prepare a final administrative decision, including findings of fact, conclusions of law, an opinion and an order. The decision shall be served by mail on all parties to the proceeding and upon DPI. It is the understanding of DHA and DPI that the only available avenue for review of the administrative decision is an appeal to either state or federal court.

**IV. Responsibilities of the Parties.**

Other miscellaneous costs and expenses, such as subpoena and witness fees, are the separate responsibility of the parties.

**V. Records.**

Following the completion of any case closed under this agreement, any files and records generated by DHA in that case will be considered the files and records of DPI and will be returned to DPI within a reasonable time following the expiration of any controlling appeal period. DHA shall be responsible for assembling the record for judicial return in matters which are appealed by one of the parties.

**VI. Application of Administrative Rules.**

Hearings conducted under this agreement shall be consistent with federal and state special education laws and shall be held in accordance with applicable administrative rule promulgated by DPI. In the event that DPI rules do not apply to issues before an administrative law judge conducting a hearing pursuant to this agreement, DHA may apply rules contained in Chapter HA 1, Wis. Admin. Code, to the extent consistent with special education law.

**VI. Litigation.**

DPI agrees to be responsible for the management of all disputes and suits at law or in equity arising out of this agreement.

**Pricing:**

At the conclusion of every case covered by this agreement, DHA shall submit a report of work performed and expenses incurred in that case to DPI using the following fee schedule:

Filing/Docketing	\$350.00 per case
Prehearing conference, Hearing Research/Writing and Travel	\$135.00 per hour
Late Cancellations/Reschedules (Cancellation/reschedules requested 10 or fewer working days prior to scheduled hearing)	\$300.00 per event
Hearing site fees	Actual cost
Speech/Language Interpretation	Actual cost
Travel/Lodging (state rate)	Actual cost
Stenographic/Transcription fees	Actual cost

Guaranteed minimum for FY08 is \$196,100.

Guaranteed minimum for FY09 is \$202,800.

If the reported costs and expenses of the "Special Education" cases are not expected to equal the guaranteed minimum payments required by DPI, DHA agrees to conduct other DPI hearings as may be required to offset the payments to DHA.

It is agreed by both parties that if DHA receives authority to hire additional staff to conduct "Special Education" hearings, the billing charges set out above may be revised to reflect the additional costs to the DHA.