

53A-15-305 Resolution of disputes in special education -- Hearing request -- Timelines -- Levels -- Appeal process -- Recovery of costs.

- (1) The Legislature finds that it is in the best interest of students with disabilities to provide for a prompt and fair final resolution of disputes which may arise over educational programs and rights and responsibilities of students with disabilities, their parents, and the public schools.
- (2) Therefore, the State Board of Education shall adopt rules meeting the requirements of 20 U.S.C. Section 1415 governing the establishment and maintenance of procedural safeguards for students with disabilities and their parents or guardians as to the provision of free, appropriate public education to those students.
- (3) The timelines established by the board shall provide adequate time to address and resolve disputes without unnecessarily disrupting or delaying the provision of free, appropriate public education for students with disabilities.
- (4) Prior to seeking a hearing or other formal proceedings, the parties to a dispute under this section shall make a good faith effort to resolve the dispute informally at the school building level.
- (5)
 - (a) If the dispute is not resolved under Subsection (4), a party may request a due process hearing.
 - (b) The hearing shall be conducted under rules adopted by the board in accordance with 20 U.S.C. Section 1415.
- (6)
 - (a) A party to the hearing may appeal the decision issued under Subsection (5) to a court of competent jurisdiction under 20 U.S.C. Section 1415(i).
 - (b) The party must file the judicial appeal within 30 days after issuance of the due process hearing decision.
- (7) If the parties fail to reach agreement on payment of attorney fees, then a party seeking recovery of attorney fees under 20 U.S.C. Section 1415(i) for a special education administrative action shall file a court action within 30 days after issuance of a decision under Subsection (5).

Amended by Chapter 9, 2001 General Session