

Effective 5/4/2022

53E-7-208 Special education dispute resolution -- Rulemaking -- Due process hearing -- Right to appeal.

- (1) In accordance with this section, the state board shall make rules that:
 - (a) allow for a prompt, fair, and final resolution of a dispute that arises over the provision of special education to an eligible student;
 - (b) establish and maintain procedural safeguards that meet the requirements of 20 U.S.C. Sec. 1415; and
 - (c) establish timelines that provide adequate time to address and resolve a dispute described in Subsection (1)(a) without unnecessarily disrupting or delaying an eligible student's free appropriate public education.
- (2) A party to a dispute described in Subsection (1)(a), including an LEA, shall make a diligent and good faith effort to resolve the dispute informally at the LEA level before seeking a due process hearing under state board rule.
- (3)
 - (a) If a dispute is not resolved informally as described in Subsection (2), a party to the dispute may request a due process hearing in accordance with state board rule.
 - (b) Upon request of a party to a dispute described in Subsection (2), the state board shall, in accordance with state board rule and 20 U.S.C. Sec. 1415:
 - (i) conduct a due process hearing; and
 - (ii) issue a decision on the due process hearing.
- (4)
 - (a) A party to a due process hearing may appeal the decision resulting from the due process hearing by filing a civil action with a court described in 20 U.S.C. Sec. 1415(i), if the party files the action within 30 days after the day on which the due process hearing decision was issued.
 - (b) If parties to a due process hearing fail to reach agreement on the payment of attorney fees for the due process hearing, a party may seek to recover attorney fees in accordance with 20 U.S.C. Sec. 1415(i) by filing a court action within 30 days after the day on which the due process hearing decision was issued.

Amended by Chapter 431, 2022 General Session