

To: OSE/EIS Public Comment, Michigan Department of Education
P. O. Box 30008, Lansing, MI 48909
MDE-OSE@mi.gov or fax: 517-373-7504

Comments on Special Education Due Process Procedures (2006-O55ED)

- The timeline for providing public comments to the due process rules is not sufficient to gather full public input. It is very difficult to get information out to parents in such a short period of time during the summer.
- Terms contained in the Interagency Agreement between the Department and SOAHR need to be added to the rules. These terms discuss: statement of hearing rights, ¶ 2(A)(8)(a)(iii); evidentiary hearing, ¶ 2(A)(8)(e); state level review, ¶¶ 2(A)(9)(a) and (b); and initiation of hearing, ¶¶ 3(B)(4)(b) - (d). The additions should clarify that non-attorney advocates can represent either party in a hearing.
- Section 1724f(3)(j) should be added to reflect the applicability of due process procedures to students not yet identified as eligible students but who have rights under IDEA. In addition, the rules should require appointment of an independent hearing officer in situations when the department itself is a party.
- IDEA 2004 provides a 90 day timeline for appealing a final decision to court. The 60 day timeline borrowed from the state Administrative Procedures Act is far from the explicit time limitation described in the new law and should be discarded in favor of the IDEA timeline. The law should also recognize established legal precedent for tolling such statutes.
- The special education hearings unit should be required to notify the parties of the district's responsibilities to provide proof of implementation of any decision or order issued to resolve a due process hearing request initiated under this rule.
- Reference to "administrative law, administrative procedure" in Rule 1724h must clarify that APA standards are not necessarily applicable to IDEA cases. Hearing process should be as simple as possible without adding more levels of complexity. The Department should draw upon examples set forth in other rules to not only ensure that IDEA requirements are met but also to make the hearing process simple, fast, and inexpensive for all parties.
- The current due process system has a different cost structure than the prior system, and the methodology for determining the costs of each individual hearing should be laid out for everyone to see.

Thank you for considering these comments.