

CHAPTER 40

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 11-061

BY SENATOR(S) Spence;
also REPRESENTATIVE(S) Ferrandino, Beezley, Court, Fields, Fischer, Hamner, Labuda, Pabon, Ramirez, Solano, Summers,
Todd, Vigil, Wilson.

AN ACT

CONCERNING THE PROCESS FOR APPEALS UNDER THE "EXCEPTIONAL CHILDREN'S EDUCATION ACT".

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-20-108 (3), Colorado Revised Statutes, is amended to read:

22-20-108. Determination of disability - enrollment. (3) (a) ~~In the event of an appeal of the determination of disability, the determination of eligibility for services, the IEP to be offered, the determination of placement, or the provision of a free appropriate public education for a child with disabilities pursuant to this article, the administrative unit or state-operated program shall utilize the procedures and timetable for impartial due process hearings established by rules promulgated by the state board pursuant to this article~~ A DISPUTE BETWEEN THE PARENTS OF A CHILD WITH A DISABILITY AND AN ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM, THE PARENTS OR THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM SHALL HAVE THE SAME RIGHTS TO AN IMPARTIAL DUE PROCESS HEARING AS ARE PROVIDED IN THE IDEA AND THE FEDERAL REGULATIONS, 34 CFR PART 300, IMPLEMENTING THE ACT. TO REQUEST A DUE PROCESS HEARING, THE PARENTS OF A CHILD WITH A DISABILITY OR THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM SHALL SIMULTANEOUSLY FILE COMPLETE COPIES OF THE DUE PROCESS COMPLAINT WITH THE OPPOSING PARTY AND WITH THE COMMISSIONER OF EDUCATION OR HIS OR HER DESIGNEE TO ENSURE THE TIMELY ASSIGNMENT OF AN IMPARTIAL HEARING OFFICER.

(b) ~~If the administrative unit, state-operated program, or the parent or guardian disagree with the findings of the impartial hearing officer who conducts the due process hearing, either party may appeal to the commissioner of education for review. This review shall be conducted in accordance with procedures and~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~timetables established by rules promulgated by the state board, and a decision concerning the review shall be returned to the administrative unit or state-operated program and the parent or guardian.~~ IF A DUE PROCESS HEARING IS REQUESTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), THE DEPARTMENT SHALL PROVIDE THE HEARING IN COMPLIANCE WITH THE REQUIREMENTS AND PROVISIONS OF IDEA AND THE FEDERAL REGULATIONS, 34 CFR PART 300, IMPLEMENTING THE ACT, INCLUDING BUT NOT LIMITED TO THE REQUIREMENTS GOVERNING DUE PROCESS COMPLAINTS, RESOLUTION MEETINGS, IMPARTIAL DUE PROCESS HEARING PROCEDURES, HEARING RIGHTS, TIMELINES, HEARING DECISIONS, AND CIVIL ACTIONS.

(c) THE FINDINGS AND DECISION MADE BY THE DEPARTMENT SHALL BE FINAL. ANY PARTY AGGRIEVED BY THE DEPARTMENT'S FINDINGS AND DECISION HAS THE RIGHT TO BRING A CIVIL ACTION PURSUANT TO THE PROVISIONS OF IDEA AND THE FEDERAL REGULATIONS, 34 CFR 300.516 (a), IMPLEMENTING THE ACT.

SECTION 2. Effective date - applicability. This act shall take effect July 1, 2011, and shall apply to hearings requested on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 21, 2011