



State of New Jersey
DEPARTMENT OF EDUCATION
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Commissioner

January 14, 2020

Ms. Laurie VanderPloeg, Director
Office of Special Education Programs
United States Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-2600

Dear Ms. VanderPloeg:

We write to inform you of additional corrective actions taken by the New Jersey Department of Education (NJDOE) and the Office of Administrative Law (OAL) following the onsite visit conducted by staff from your office and subsequent findings of noncompliance related to New Jersey's special education dispute resolution system.

In addition to the corrective actions taken by our agencies and reported to you in August 2019, our agencies continue to collaborate to ensure special education due process hearings are conducted in compliance with the timelines set forth by the Individuals with Disabilities Education Act (IDEA).

Since your findings of noncompliance were issued in May 2019, working together, our agencies have developed Guidelines governing the conduct of special education due process hearings. The proposed Guidelines and NJDOE Broadcast Memorandum informing stakeholders of the Guidelines are attached for your review. The Guidelines are intended to increase the efficiency and effectiveness of due process hearings in a manner that is more timely and more consistent with the IDEA.

In addition to school districts throughout the state, the Guidelines will be shared with specific stakeholder groups such as New Jersey's Statewide Parent Advocacy Network (SPAN); NJ State Special Education Advisory Council; NJ State Bar Association; NJ School Boards Association; NJ Association of School Administrators, NJ Principal and Supervisors Association; parent advocates; attorneys representing parents of students with disabilities; and attorneys representing school districts. Following stakeholder review and input, and revision if necessary, the Guidelines will go into effect on March 2, 2020. The Guidelines address the scope of claims, the number of hearing dates, the number of witnesses, the amount of evidence, and the decision due dates.

Additionally, each month, the OAL will collect and report to the NJDOE specific due process hearing data, including the number of due process hearings conducted, the number of hearings resolved, the number of hearings pending, and the number of hearings with extended timelines, including the party seeking the extension of time and the reason for the request.

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Moreover, the NJDOE and the OAL have executed a revised interagency Memorandum of Agreement (MOA) that provides the OAL with additional funding to designate additional Administrative Law Judges (ALJs) to preside over special education due process hearings; to establish the position of Special Education Assignment Judge to ensure the greater efficiency and effectiveness of special education due process hearings; to identify and obtain regular and ongoing training and professional development programs for ALJs in special education law and procedures, legal writing, and settlement negotiations.

The corrective action activities described above as well as the revised MOA demonstrate our collective commitment to ensure New Jersey's special education dispute resolution system functions to meet the needs of students with disabilities.

We will continue to keep you apprised of our efforts to ensure compliance with the IDEA and relevant state laws. Please contact us should you have any questions or require additional information. Thank you for your continued support.

Sincerely,

Peggy McDonald, Ed.D
Assistant Commissioner
Department of Education

Ellen S. Bass
Acting Director/Chief Administrative Law Judge
Office of Administrative Law

Enclosures

c: Lamont O. Repollet, Ed.D., Commissioner of Education
The Honorable Barry E. Moscowitz, Special Education Assignment Judge, Office of Administrative Law
Dominic Rota, Director, NJ Office of Special Education Policy and Dispute Resolution
Dwight Thomas, NJ State Lead, USOSEP