

3525.4770 EXPEDITED HEARINGS, TIMELINES.

Subpart 1. **When parents request hearing.** When requesting an expedited hearing the parents shall provide the district and department with:

- A. a statement indicating the parents request an expedited hearing;
- B. the name and address of the child involved;
- C. the name, address, and telephone number, if available, of the parent;
- D. the name of the school the child is attending at the time of the request;
- E. the name or number of the school district of the parent's residence;
- F. a description of the nature of the problem of the child relating to the manifestation determination, interim placement, or proposed interim placement, including facts relating to the problem; and
- G. a proposed resolution of the problem to the extent known and available to the parents at the time.

The parent's right to an expedited hearing must not be denied or delayed for failure to provide the notice required here.

Immediately upon the district's receipt of the request for an expedited hearing or upon the initiation of an expedited hearing, the district shall serve the parents with a written notice of rights and procedures relative to the hearing, including the availability of free or low-cost legal services.

Subp. 2. **When district requests hearing.** When the district requests an expedited hearing it shall provide the parents and department with a written notice of:

- A. a description of the nature of the problem including the behavior for which the change of placement is requested;
- B. a description of the interim placement or proposed interim placement; and
- C. a proposed resolution of the problem to the extent known at the time.

Subp. 3. **Hearing officer appointment.** Within two business days of receipt of the notice, the commissioner shall appoint a hearing officer.

Subp. 4. [Repealed, 28 SR 1292]

Subp. 5. **Disclosure of data.** At least three business days prior to an expedited hearing, or longer, if ordered by the hearing officer, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. A hearing officer may bar any party who fails to comply with this subpart from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

Subp. 6. **Prehearing conference.** Within two business days of appointment, the hearing officer shall hold a prehearing conference, which may be by telephone. At that conference, or later, the hearing officer may take any appropriate action relating to scheduling, jurisdiction, and listing witnesses, including expert witnesses. Issues not raised in an expedited due process hearing are not waived in subsequent proceedings. Any exchange of witness lists, evidence, and any other information deemed necessary by the hearing officer shall be exchanged based on the timeline ordered by the hearing officer as required to allow the hearing officer to render a written decision within ten calendar days of the request for the hearing. At the prehearing conference, and subsequently, the hearing officer may order either party to submit educational records, evaluations, and any other information to the hearing officer for prehearing review. The hearing officer may establish procedures necessary to ensure the timely and fair resolution of the dispute.

Subp. 7. [Repealed, 28 SR 1292]

Subp. 8. **Decision.** A written decision for an expedited hearing shall be rendered by the hearing officer in ten calendar days from the date the hearing was requested. An extension of up to five calendar days may be granted by the hearing officer for good cause shown on the record. The decision is effective upon issuance consistent with Code of Federal Regulations, title 34, section 300.514. All regulations in this chapter apply to expedited due process hearings to the extent not modified by this part.

Statutory Authority: *MS s 14.389; L 1999 c 123 s 19,20; L 2003 1Sp9 art 3 s 19*

History: *24 SR 1799; 26 SR 657; 28 SR 1292*

Published Electronically: *October 12, 2007*