

paragraph (d) of this section, a party may void the agreement within 3 business days of the agreement's execution.

(Authority: 20 U.S.C. 1415(f)(1)(B))

[71 FR 46753, Aug. 14, 2006, as amended at 72 FR 61307, Oct. 30, 2007]

§ 300.511 Impartial due process hearing.

(a) *General.* Whenever a due process complaint is received under § 300.507 or § 300.532, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing, consistent with the procedures in §§ 300.507, 300.508, and 300.510.

(b) *Agency responsible for conducting the due process hearing.* The hearing described in paragraph (a) of this section must be conducted by the SEA or the public agency directly responsible for the education of the child, as determined under State statute, State regulation, or a written policy of the SEA.

(c) *Impartial hearing officer.* (1) At a minimum, a hearing officer—

- (i) Must not be—
 - (A) An employee of the SEA or the LEA that is involved in the education or care of the child; or
 - (B) A person having a personal or professional interest that conflicts with the person's objectivity in the hearing;
- (ii) Must possess knowledge of, and the ability to understand, the provisions of the Act, Federal and State regulations pertaining to the Act, and legal interpretations of the Act by Federal and State courts;
- (iii) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and
- (iv) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

(2) A person who otherwise qualifies to conduct a hearing under paragraph (c)(1) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

(3) Each public agency must keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

(d) *Subject matter of due process hearings.* The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed under § 300.508(b), unless the other party agrees otherwise.

(e) *Timeline for requesting a hearing.* A parent or agency must request an impartial hearing on their due process complaint within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the due process complaint, or if the State has an explicit time limitation for requesting such a due process hearing under this part, in the time allowed by that State law.

(f) *Exceptions to the timeline.* The timeline described in paragraph (e) of this section does not apply to a parent if the parent was prevented from filing a due process complaint due to—

- (1) Specific misrepresentations by the LEA that it had resolved the problem forming the basis of the due process complaint; or
- (2) The LEA's withholding of information from the parent that was required under this part to be provided to the parent.

(Approved by the Office of Management and Budget under control number 1820-0600)

(Authority: 20 U.S.C. 1415(f)(1)(A), 1415(f)(3)(A)-(D))

§ 300.512 Hearing rights.

(a) *General.* Any party to a hearing conducted pursuant to §§ 300.507 through 300.513 or §§ 300.530 through 300.534, or an appeal conducted pursuant to § 300.514, has the right to—

- (1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities, except that whether parties have the right to be represented by non-attorneys at due process hearings is determined under State law;
- (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;
- (3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;