



STATE OF NEW JERSEY

# DEPARTMENT OF EDUCATION

A Memo from the New Jersey Department of Education

Date: August 6, 2019

To: Chief School Administrators, Charter School and Renaissance School Project Leads, Administrators of Approved Private Schools for Students with Disabilities, Nonpublic School Administrators, Administrative Law Judges

Route To: Directors of Special Education

From: Carolyn J. Marano, Assistant Commissioner  
Division of Student Services

## Revised Procedures for Conducting Special Education Due Process Hearings

In New Jersey, special education due process hearings are conducted by Administrative Law Judges (ALJs) within the Office of Administrative Law (OAL). Under the Individuals with Disabilities Education Act (IDEA) and its implementing regulations, a final decision in a special education due process hearing must be issued and provided to the parties within 45-days after the expiration of the 30-day resolution period. While extensions of the 45-day timeline may be granted at the request of either party, the extension must be limited to a specific period of time.

The purpose of resolving a due process hearing within the 45-day timeline is to ensure the timely resolution of disputes relating to the identification, evaluation, placement or program of a student with a disability. As such, ALJs are strongly encouraged to limit granting of requests to extend the 45-day timeline.

In response to a corrective action plan issued by the United States Department of Education, Office of Special Education Programs (OSEP), beginning September 1, 2019, the OAL will be required to submit documentation on a monthly basis to the Department of Education with the following information:

- Number of due process hearings conducted;
- Number of due process hearings resolved;
- Number of due process hearings pending before all ALJs;
- Number of extensions of the 45-day timeline requested, including the party seeking the extension of time and the reason for the request;
- Number of extensions of the 45-day timeline granted by each ALJ; and
- For each extension of the 45-day timeline granted, the OAL must include the revised due date of the final decision.

Beginning October 1, 2019, and occurring on a monthly basis thereafter, the Department will publish, on its website, all of the above information.

Additionally, the Department and the OAL will implement an Independent Hearing Officer (IHO) pilot program during state fiscal year 2020 that will utilize contracted independent hearing officers (IHOs) to preside over special education due process hearings. The Department will issue a Request for Qualifications (RFQ) in order to contract with individuals who have demonstrated experience in special education, law, and/or dispute resolution. The contracted IHOs will supplement, not supplant, ALJs during the term of the pilot program. The Department and the OAL will organize and deliver specialized training for each contracted IHO. Participation in the pilot program will not constitute any waiver of any rights or protections afforded under federal and state laws, including the right to appeal a final decision in a due process hearing. Additional information about the IHO pilot program will be forthcoming and outlined on the Department's website.

For more information regarding the revised procedures, please contact the Office of Special Education Policy and Dispute Resolution at (609) 376-9060.

c: Members, State Board of Education  
Lamont O. Repollet, Ed.D., Commissioner  
The Honorable Lisa James-Beavers, Acting Director, Office of Administrative Law  
Dwight Thomas, U.S. Department of Education  
NJDOE Staff  
Statewide Parent Advocacy Network  
Garden State Coalition of Schools  
NJ LEE Group