

**PUBLIC NOTICE**

**EDUCATION**

**STATE BOARD OF EDUCATION**

**Notice of Receipt and Action on Petition for Rulemaking**

**Special Education**

**Due Process Hearings**

**N.J.A.C. 6A:14-2.7**

Petitioner: Mary Kalapatapu.

**Take notice** that on January 9, 2017, the New Jersey State Board of Education (State Board) received a petition for rulemaking from the above petitioner requesting the State Board to amend N.J.A.C. 6A:14-2.7 to alter regulations governing due process hearings for disagreements regarding special education services provided or denied to students. The proposed amendments requested by the petitioner would prohibit school districts from suing parents for the legal fees and costs school districts incur related to due process hearings. Due process hearings can be requested when there is a disagreement regarding the identification; evaluation; reevaluation; classification; educational placement; the provision of a free, appropriate public education; or disciplinary action of a student between three and 21 years old. For students above the age of 21, a due process hearing may be requested while the student is receiving compensatory educational or related services. The petitioner's request indicates the proposed amendments would stop school districts from suing parents for legal fees and costs, which the petitioner asserts currently undermines the weak implementation and enforcement mechanism of the Federal Individuals with Disabilities Education Act (IDEA) and New Jersey's special education laws.

After reviewing the petition, the State Department of Education (Department) has concluded the State Board does not have the authority to adopt the amendment requested by the

petitioner because the awarding of legal fees in due process cases is governed by Federal statute and regulations (20 U.S.C. § 1415(i)(3) and 34 CFR 300.517).

Therefore, the petitioner's request is denied.