

## **Special Education Update**

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The IDEA provides parents and school districts with the right to file a due process complaint for “any matter relating to the identification, evaluation or educational placement of the child, or the provision of FAPE to the child.” 34 CFR 300.507; 34 CFR 300.508. The IDEA also requires implementation of dispute resolution procedures that encourages problem solving between parents and school districts in an effort to reach a solution and avoid proceeding to a due process hearing. 34 CFR 300.510. Due process hearings can be extremely costly for both parents and school districts, and often result in further damage to an already difficult relationship between the involved parents and school; a partnership which often has to go on for years after the due process hearing ends. Despite such considerations, Illinois continues to see a large number of due process complaints proceeding to hearing each year.

While there are “two sides to every story” entering into hearing; there is only one story coming out of hearing. Parents and school districts rely on their special education attorneys to guide them regarding their likelihood of success at hearing, the time, cost and liabilities of proceeding to hearing, and the possible outcomes at the conclusion of hearing. This presentation will examine the trends over the last couple years in Illinois due process decisions, including trends in who is prevailing at hearings—parents or school districts, and will review recent Illinois due process hearing officer decisions.

### **I. Relevant Federal Regulations**

34 CFR § 300.507 Filing a due process complaint.

34 CFR § 300.508 Due process complaint.

34 CFR § 300.510 Resolution process.

34 CFR § 300.506 Mediation.

34 CFR § 300.511 Impartial due process hearing.

34 CFR § 300.512 Hearing rights.

### **II. Relevant Illinois School Code Provisions**

105 ILCS 5/14-8.02a Impartial Due Process Hearing.

### **IV. Illinois Hearing Officer Decisions**

See

<https://sec1.isbe.net/sedsinquiry/dueproc/essdecisions.aspx>

Examples of same:

Case No. 2019-0189

Case No: 2018-0494

Case No. 2018-0391

Case No. 2017-0471

Although the information contained herein is considered accurate, it is not, nor should it be construed to be legal advice. If you have an individual problem or incident that involves a topic covered in this document, please seek a legal opinion that is based upon the facts of your particular case.