



ADMINISTRATIVE RULES OF MONTANA



10.16.3523 FINAL ORDER ON SPECIAL EDUCATION DUE PROCESS HEARING DECISIONS

- (1) The impartial due process hearing officer shall render, in writing, findings of fact and conclusions of law separately stated and an order concerning all matters at issue in the hearing within the 45-day time frame delineated in 34 CFR 300.515, unless an extension of time has been granted by the impartial hearing officer. The impartial hearing officer may grant a request by either party for a specific extension of the 45-day period allowed for rendering a final order. The hearing officer shall mail, or personally deliver, a written copy of the findings of fact, conclusions of law and order to each of the parties and to the Superintendent of Public Instruction. The hearing officer shall also mail or deliver the record as defined in ARM 10.16.3522 to the Superintendent of Public Instruction.
- (2) In the event the impartial hearing officer has granted a written request from a party to extend the 45-day period in which to render a final decision, the impartial hearing officer shall notify the Superintendent of Public Instruction, in writing, when the decision will be issued, providing justification for the extension and including consideration of the impact on the student at issue in the matter. In the event the decision is not rendered within 90 days from the date the request for impartial due process hearing was filed with the Superintendent of Public Instruction, the Superintendent of Public Instruction may remove the impartial hearing officer and appoint another impartial hearing officer.
- (3) The impartial hearing officer may order reimbursement for parents for the unilateral placement of their child if the LEA's placement is determined to be inappropriate and the parent's placement is deemed appropriate.
- (4) The decision of the impartial hearing officer shall be binding upon both parties unless the decision is appealed.
- (5) Any party who feels aggrieved by the findings and decision of the impartial hearing officer may appeal to a district court or may bring a civil action under 34 CFR 300.516.
- (6) The Superintendent of Public Instruction shall be responsible for paying only administrative costs related to the hearing, including necessary expenses incurred by the impartial hearing officer and court reporter services. The parties involved shall each be responsible for any legal or other fees that occur.
- (7) The Superintendent of Public Instruction, after deleting any personally identifiable information, shall transmit those findings and decisions to the state special education advisory panel and make those findings and decisions available to the public.

Authorizing statute(s): 20-7-402, MCA

Implementing statute(s): 20-7-402, MCA

History: NEW, 1990 MAR p. 934, Eff. 5/18/90; AMD, 1993 MAR p. 1913, Eff. 8/13/93; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00; AMD, 2007 MAR p. 678, Eff. 5/25/07; AMD, 2015 MAR p. 2257, Eff. 12/25/15.