



ADMINISTRATIVE RULES OF MONTANA



10.16.3510 SCHEDULING CONFERENCE AND NOTICE OF HEARING

- (1) The impartial hearing officer shall, within five business days of the filing of the response or the completion of the resolution process, whichever comes first, conduct a prehearing scheduling conference. Following the prehearing scheduling conference, the impartial hearing officer shall issue a notice of hearing. The notice of hearing shall include, at a minimum:
 - (a) a statement of the date, time, place, location, and nature of the hearing;
 - (b) a schedule for discovery;
 - (c) a schedule for identification of expert and lay witnesses and exchange of proposed exhibits;
 - (d) the extent to which prehearing motions will be allowed, and if allowed, a schedule ensuring such motions do not unnecessarily delay the hearing;
 - (e) the extent to which post-hearing legal briefs and/or proposed findings of fact, conclusions of law and order will be required;
 - (f) references to the specific applicable statutes and rules;
 - (g) a provision advising the parties of their right to be represented by counsel at the hearing;
 - (h) a provision informing the parent of any free or low-cost legal and other relevant services available in the area;
 - (i) a statement of whether or not the parent wants an electronic verbatim record of the hearing and/or the findings of facts and decision; and
 - (j) consideration of such other matters as may aid in the disposition of the action.
- (2) The notice of hearing shall be sent by certified mail to any party not represented by counsel. Any party represented by counsel shall be served by regular and electronic mail addressed to the attorney representing the party.
- (3) The notice of hearing as well as all communications conducted in the hearing shall be written in language understandable to the general public and in the native language of the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication is not written language, the impartial hearing officer shall direct the notice to be translated orally or by other means to the parent in his/her native language or other means of communication.
- (4) The dates scheduled by the impartial hearing officer in the notice of hearing may be continued at the hearing officer's discretion after stipulation by all parties or upon motion of a party showing reasonable necessity for the continuance, but in no event beyond 12 months from the date of filing of the due process action. In determining whether to grant a request for continuance or

approve a stipulation for continuance, or approve any action which may unduly delay the hearing, the hearing officer shall consider the potential negative impact on the student who is the subject of the hearing, including the impact to the student's right to FAPE due to a delay of the hearing process, and the complexity of the case.

- (5) The impartial hearing officer shall conduct the hearing at a time and place reasonably convenient to the parent and student. If the parties cannot agree on such time and place, the hearing will be held in the county in which the named public agency is located.

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 & 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.