

**§7207-B. Due process hearings**

The following provisions apply to due process hearings. [PL 1985, c. 318, §3 (NEW).]

**1. Rules.** The commissioner shall adopt rules governing the procedures for conducting due process hearings. The rules shall include:

A. A maximum period within which a parent, surrogate parent, guardian or administrative unit may exercise the rights listed in subsection 2; [PL 1985, c. 318, §3 (NEW).]

B. A maximum time within which a final decision must be issued by the hearing officer; [PL 1985, c. 318, §3 (NEW).]

C. The use of mediation; [PL 1999, c. 424, Pt. A, §8 (AMD).]

D. The procedures for conducting the hearings; and [PL 1999, c. 424, Pt. A, §8 (AMD).]

E. The procedures for determining the award of attorney's fees consistent with the requirements of the federal Individuals with Disabilities Education Act. [PL 1999, c. 424, Pt. A, §9 (NEW).]  
[PL 1999, c. 424, Pt. A, §§8, 9 (AMD).]

**2. Request for hearing.** The parent, surrogate parent, guardian or administrative unit may:

A. Request the commissioner to appoint an impartial hearing officer who shall conduct a hearing regarding the identification, evaluation and educational program of the student and shall make findings of fact and issue a decision; and [PL 1985, c. 318, §3 (NEW).]

B. Appeal the decision of the hearing officer to the Superior Court or to a United States District Court. [PL 1985, c. 318, §3 (NEW).]  
[PL 1985, c. 318, §3 (NEW).]

**3. Subpoenas.** The commissioner may issue subpoenas in the name of the department to require the attendance and testimony of the witnesses and the production of any evidence relating to any issue or fact in the due process hearing as requested by any party to the hearing. Any fees for attendance and travel required by the witnesses shall be the responsibility of the party seeking the subpoena. The issuance of subpoenas shall conform in all other ways to the requirements of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

[PL 1989, c. 502, Pt. A, §56 (AMD).]

**3-A. Notice to local school units.**

[PL 2005, c. 662, Pt. A, §28 (RP).]

**4. Hearing officers, immunity.** The State shall ensure that impartial hearing officers meet the criteria contained in the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., as amended. For purposes of the Maine Tort Claims Act only, Title 14, chapter 741, hearing officers, while they are carrying out their official duties as hearing officers, are considered state employees and are entitled to the immunity provided state employees under the Maine Tort Claims Act.

[PL 2005, c. 662, Pt. A, §29 (AMD).]

**SECTION HISTORY**

PL 1985, c. 318, §3 (NEW). PL 1985, c. 797, §41 (AMD). PL 1989, c. 502, §A56 (AMD). PL 1997, c. 441, §1 (AMD). PL 1999, c. 424, §§A8,9 (AMD). PL 2005, c. 662, §§A28,29 (AMD).

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