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Bureau of Special Education FY '10 Memo #8

Date: September 22, 2009

To: Superintendents
Special Education Directors

From: Office of the Commissioner of Education

Division of Instruction
Bureau of Special Education

RE: Special Education Impartial Due Process Hearings; Users' Guide and Scheduling of Proceedings

The New Hampshire Department of Education (NHDoE), Office of Legislation and Hearings has developed a Users' Guide to Administrative Process to assist participants to the Department's administrative processes. This guide was developed based on frequently asked questions from districts, parents, attorneys, advocates and other interested individuals as well as common issues that have been raised as a result of the changes in IDEA. A complete copy of the Users' Guide can be found on the New Hampshire Department of Education website:

<http://www.ed.state.nh.us/education/laws/documents/UserGuidewithIndex.pdf>

IDEA 2004 allows for a statutory 30 day window for local resolution. The law also provides that the parties may elect mediation instead of a local resolution. Since the federal law doesn't specify a resolution session has to occur when a local education agency requests a hearing, the timeframes for the scheduling of LEA requested hearings and parent requested hearings are done differently.

LEA Request for Hearing

The following formula is used in determining hearing dates when a request for hearing has been submitted by the LEA:

11 th or 12 th day	Mediation
14 th or 15 th day	Pre-hearing conference
27 th – 29 th days	Two day hearing
42 nd or 43 rd day	Receipt of Decision by Office of Legislation/Hearings
44 th or 45 th day	Office of Legislation/Hearings mails decision to parties by certified mail

Parental Request for Hearing

The following formula is used in determining hearing dates when a request for hearing has been submitted by the parent:

16 th or 17 th day	Mediation
31 st or 32 nd day	Pre-hearing conference
44 th to 47 th days	Two day hearing
72 nd or 73 rd day	Receipt of Decision by Office of Legislation/Hearings
74 th or 75 th day	Office of Legislation/Hearings mails decision to parties by certified mail

Districts should feel free to contact Stephen Berwick at the Office of Legislation and Hearings (271-2299) if they have any questions about Special Education Impartial Due Process Hearings.