**Agenda Topic:** Special Education Due Process Review: Findings of Study

**Materials:** Study of the Illinois Due Process Procedures

**Staff Contacts:** Gordon Riffel
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**Purpose of Agenda Item**

- To review with the Board the findings of the “Study of the Illinois Due Process Procedures.”

**Expected Outcomes of Agenda Item**

- Awareness and understanding of the Illinois due process system and its impact on districts and families.

**Background Information**

The Illinois School Code, Article 5/14-8.02a, outlines the parameters for implementing impartial due process. In addition, it authorizes the State Board of Education to establish an impartial due process hearing system, and, with the advice and approval of the Advisory Council on Education of Children with Disabilities, develop rules and regulations which, among other things, outline the rules and procedures for due process hearings.

On November 16, 2000, the Illinois State Board of Education received external input concerning the high cost and extensive time involved in an impartial due process hearing. At that time, staff was asked to review the existing statutory requirements, related rules, and implementation experiences pertaining to the impartial hearing process and to report its findings at the February 2001 Board meeting.

**Analysis and Implications for Policy, Budget, Legislative Action and Communications**

- **Rule Amendment:** One improvement strategy being recommended as a result of the Study will require an amendment to 23 Illinois Administrative Code 226.640 c)1). Illinois regulations currently require hearing officers to grant specific extensions of time when continuances are jointly requested.
This regulation promotes unnecessary delays, which is thought to contribute to the increasing cost of due process. It is being proposed that hearing officers be given the authority to determine the appropriateness of all requests for continuances even those jointly submitted by the parties. This change is consistent with IDEA 97.

- **Statute Amendment:** While not an outcome of this Study, the School Code needs to be amended removing 5/14-8.02 (h). This section describes the former two-tier system that was in place prior to the enactment of Public Act 89-652 and is now obsolete. The current single level system is described at 105 ILCS 514-8.02a.

**Superintendent’s Recommendation**

Direct staff to begin the initiation of the improvement strategies identified in the Study.