

Due Process Screening Committee Meeting  
August 2, 2005  
ISBE – Springfield Office

Members in attendance:

Kathy Lyons, Chairperson  
Jason Speaks  
Amy Abele (by telephone)  
Christina Denman  
Terri Devine  
Dr. Christopher Koch

Others in attendance:

Andy Eulass, Due Process Coordinator  
Ann Breen-Greco, Due Process Hearing Officer  
Carolyn Ann Smaron, Due Process Hearing Officer

The meeting was convened at 3:09 p.m.

Christina Denman of Collinsville Community Unit School District 10 was introduced formally to the Committee. Ms. Denman replaces Dr. Margie Jobe as the Director of Special Education representative on the Committee.

After a review of the draft minutes for the Screening Committee Meeting of June 10, 2005, several modifications were discussed. Dr. Koch motioned and Ms. Denman seconded to accept the minutes as amended. The motion passed unanimously.

Andy Eulass then reported to the Committee on a recent development concerning the new hearing officers. Mr. Eulass stated that one of the new hearing officer candidates, Jeff Plesko, would be unable to accept appointment as an active Hearing Officer due to conflict rules pertaining to recent retirees of state agencies. Mr. Eulass reported that Mr. Plesko's slot would be filled by the first person on the reserve list, Mr. Robert Lehrer. Mr. Eulass stated that Mr. Lehrer had been willing to accept the offer of an appointment to the active Hearing Officer corps and was activated on July 1.

The Committee then turned to a discussion of the Interim Guidance Memorandum that ISBE published on July 12, 2005 concerning new Due Process procedures under IDEA 2004. Committee members discussed the problems created by the new timelines for written responses to hearing requests. Specifically, the Committee noted the need for more clarification in the draft IDEA 2004 regulations by the US Department of Education on the authority of hearing officers to sanction parties for failure to meet timelines on responses and convening resolution sessions. Terri Devine suggested that feedback from the hearing officers would be helpful to guide training on IDEA 2004 requirements. Andy Eulass also reported to the Committee that approximately 26 new hearing requests

had been received since the new procedures went into effect and that a significant number of the parties in these requests had waived the new resolution session procedures required under IDEA 2004.

The Committee then discussed the status of a letter to be drafted to the Attorney General's Office on the Open Meetings Act. Dr. Koch reported that ISBE would not submit a written challenge to the Attorney General's recent oral interpretations of the Open Meetings Act that restricted the ability of the Screening Committee to go into Executive Session concerning the hiring and evaluation of Hearing Officers. Chairperson Kathy Lyons indicated that a draft letter had been composed on behalf of the Screening Committee requesting the Attorney General's written position on the Open Meetings Act. She further requested that Committee members should provide her with comments on the draft so that the Committee could take action on sending the letter at its next meeting.

Next the Committee turned to a recent memorandum, dated July 25, 2005, from State Superintendent Randy Dunn to several Hearing Officers. Dr. Dunn's memorandum was written in response to a memorandum written by several hearing officers raising concerns about Freedom of Information Act requests by outside parties, as well as the process of performance evaluations undertaken by the Hearing Officer Education Network (HOEN). Mr. Eulass provided the Committee of the Hearing Officers' memorandum and Dr. Dunn's response.

The Committee then discussed its schedule of meetings for the 2005-06 school year. Chairperson Lyons proposed dates of October 25, 2005 and February 10, 2006 for the next two regularly scheduled meetings, and proposed deferring the date of the Spring 2006 meeting until the date of the Hearing Officers' Spring training could be ascertained. Dr. Koch motioned and Ms. Denman seconded to accept Chairperson Lyons' proposal. The motion passed unanimously.

In Old Business, Mr. Eulass reported to the Committee about ISBE's efforts to address concerns raised by some Hearing Officers about imbalances in caseloads. Mr. Eulass reported that ISBE would examine some ways to address these concerns and in addition described some possible means of addressing residency rules in the School Code that restricted some hearing officers from taking cases, particularly in Chicago, despite having no former or current professional ties to the Chicago Public Schools. Mr. Eulass indicated that a draft of new due process legislation was being developed and that the draft would be shared with the Committee prior to its next meeting.

In New Business, the Committee reviewed one new feedback form and one new complaint against a hearing officer. The Committee indicated that because the complaint concerned a pending hearing and did not raise a conflict that required immediate intervention by ISBE, it would be held in abeyance and not forwarded to the Hearing Officer until the hearing had ended. In connection with the discussion of these matters, Ms. Amy Abele indicated that the Committee should consider further discussion of Hearing Complaint Procedures at its next meeting.

Finally, Dr. Koch motioned for adjournment of the meeting and Ms. Denman seconded. The motion passed unanimously and the meeting adjourned at 4:20 p.m.