

**APPROPRIATE STANDARD PRACTICES
FOR ILLINOIS SPECIAL EDUCATION
DUE PROCESS PROCEEDINGS**

With Accompanying Forms and
Certification Procedures

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INTRODUCTION

Over the years, the Illinois State Board of Education (ISBE) Office of Special Education and Support Services (SESS) has sought feedback from stakeholders of the due process hearing system – including Hearing Officers, members of the special education Illinois Bar, members of the Screening Committee, members of the Attorney General’s Committee on Due Process, and persons involved in the hearing process in other states – on how the hearing process might be improved. While various facets of the process have been mentioned, many spoke about the benefit of, and need for, a more consistent approach among the state’s Hearing Officers with respect to their handling of the process, from prehearing through the final decision.

The Individuals with Disabilities Education Act (IDEA) states that Hearing Officers must conduct hearings and render and write decisions in accordance with “appropriate, standard legal practice.” IDEA, however, does not define this term. Accordingly, in an effort to improve the hearing process, and to identify appropriate standard practices that would provide for consistency of approach, in early 2012, SESS began working with Hearing Officers and, thereafter, the members of the Screening Committee and the Attorney General’s Committee on Due Process, to develop a set of appropriate standard practices (ASP) with accompanying forms and record certification procedures. This document – entitled Appropriate Standard Practices (ASP) – is the result of that collaboration.

The ASP provide guidance and *do not have the force of law*. However, there is nothing in the IDEA or its implementing regulations that would prohibit hearing officers from making discretionary determinations on procedural matters not addressed in the IDEA, so long as such determinations are made in a manner that is consistent with the hearing rights of the parties and basic principles of due process. The ASP, therefore, reflect how many aspects of the hearing process should generally be conducted in areas not specifically addressed under the IDEA or Illinois law.

Hearing Officers must provide the parties a meaningful opportunity to exercise the hearing rights afforded to them under the IDEA and Illinois law, and ensure that the hearing process serves as an effective mechanism for resolving disputes between parents and school districts. Moreover, decisions regarding the conduct of due process hearings are left to the discretion of the Hearing Officer, subject to review by the courts. *See Letter to Anonymous*, 23 IDELR 1073 (OSEP 1995); *Analysis and Comments to the Regulations*, Federal Register, Vol. 71, No. 156, Pages 46704-46706. Accordingly, Hearing Officers are expected to substantially implement these practices, including the use of the forms, in all hearings.¹ Likewise, members of the Illinois Bar, as well as parties, appearing before the Hearing Officers are expected to comply with these practices, unless the Hearing Officer determines, at the suggestion of either a party, counsel, or the Hearing Officer, that good cause exists in a particular situation to depart from a standard practice (e.g., where a parent lacks legal representation).

¹ In fact, the Evaluation Entity considers these practices when evaluating the performance of each Hearing Officer.

Additional information about due process may be found at:
<http://www.isbe.net/spec-ed/html/dueprocess.htm>. Should you have any questions or are in need of assistance, please contact the SESS at (217) 782-5589.

APPROPRIATE STANDARD PRACTICES

I. CORRESPONDENCE, PLEADINGS, AND OTHER DOCUMENTS

A. Correspondence and Pleadings.

1. **Correspondence.** All correspondence to and from the Hearing Officer and the parties must include the Student's name or initials, the case number, and the date on which the correspondence is sent. When the communication is by email, the Student's name or initials, as well as the case number, must be included in the subject line of the email.

2. **Caption.** All pleadings subsequent to the initial due process complaint notice must contain a caption setting forth the name of the Illinois State Board of Education (ISBE), the names or initials of the parties, the case number, and the name of the Hearing Officer assigned to the case. The caption must conform to Form 1 (Caption).

3. Filing Party Information and Signature.

a. All pleadings and motions must identify the filing party's mailing address, telephone number, and email address, if any, and the date on which the pleading or motion is sent. All pleadings and motions must be signed by the attorney of record or, if the party is not represented by an attorney, by the party itself.

b. Hearing Officers may allow documents to be signed by electronic means that are consistent with any technical standards established by the Judicial Conference of the United States (as per Fed. R. Civ. P. 5.2(d)(3)). For example, the Hearing Officer may permit a party to sign his/her signature as, "/s/John A. Smith."

4. **Rejected Pleadings.** Hearing Officers may accept or reject any pleading, motion, or other document other than the initial due process complaint notice that does not comply with these practices. The Hearing Officer must issue a written decision setting forth his/her determination and the reasons for accepting or rejecting a pleading, motion or other document that does not comply with these practices. The Hearing Officer may render an oral decision if the discussions are conducted on the record, but must subsequently provide that decision in writing and include it as part of the record.

B. Filings.

1. **Filing with the Hearing Officer.** The Hearing Officer may permit any pleading, motion, or other document other than the initial due process complaint notice to be transmitted to him/her by mail, fax, or email. The Hearing Officer must note on the pleading, motion, or other document itself the date it was received, if the date is not otherwise indicated.

2. Resolution Process.

a. The attorney or administrator for the school district must provide to the Hearing Officer and the ISBE a copy of the fully executed and dated ISBE Resolution Session Tracking Form indicating whether the parties are holding a resolution meeting, participating in mediation, or waiving the resolution process, as soon as the form is executed by the parties. The Hearing Officer must document all of the information included in the form in the initial prehearing order issued in the case.

b. If the parties choose to continue the mediation at the end of the 30-day resolution period, the parties must provide to the Hearing Officer a copy of the signed written agreement to that effect.

c. If the parties request that the Hearing Officer extend the resolution period by order due to the dilatory or non-cooperative conduct of one or both parties pursuant to 105 ILCS 5/14-8.02a(g-5), one or both parties must submit a written request to the Hearing Officer that also identifies a date certain for an extension of the 45-day timeline for rendering a decision under the IDEA.

3. Subpoenas.

a. A request for the issuance of a subpoena, or to quash a subpoena, must be filed with the Hearing Officer.

b. A party may seek to secure the presence of a witness who refuses to appear at the hearing voluntarily by requesting of the Hearing Officer that s/he issue a subpoena. The request must identify the witness who is the subject of the subpoena, state the relevance of the requested testimony to the pending case, and affirm that the witness declined to appear at the hearing voluntarily. If a party is represented by an attorney, the attorney must draft the subpoena and provide it to the Hearing Officer. The subpoena must conform to Form 2 (Subpoena). The Hearing Officer has the discretion to deny the request or modify the subpoena.

c. A party may seek to compel the production of documents by requesting of the Hearing Officer that s/he issue a subpoena. The request must state the relevance of the requested document(s) to the pending case, and must affirm that the custodian of the document(s) declined to voluntarily provide the document(s) to the party. If a party is represented by an attorney, the attorney must draft the subpoena and provide it to the Hearing Officer. The subpoena must conform to Form 2 (Subpoena). The Hearing Officer has the discretion to deny the request or modify the subpoena.

II. REPRESENTATION

A. Appearance by Attorney.

1. Only an attorney admitted to the Bar of the State of Illinois may appear before the Hearing Officers, except where the Supreme Court Rules provide otherwise.

2. Attorneys desiring to appear *pro hac vice* must apply to a court in accordance with Supreme Court Rule 707.

B. Attorney Withdrawal.

1. If an attorney is no longer able to represent a party, the attorney must immediately notify the Hearing Officer and the opposing party or its attorney in writing of his/her decision to withdraw from representation.

C. Without Attorney.

1. Hearing Officers must ask any parent appearing without an attorney whether s/he has received, and is aware of, sources s/he could contact to obtain assistance in understanding the IDEA, including her/his rights regarding due process hearings, and to possibly obtain legal representation.

2. Hearing Officers must advise the parent of the “Parent’s Rights Manual” and other information regarding due process hearings and mediation, all of which is available on the ISBE website and can be found at [here](#) (English) or [here](#) (Spanish).

3. Hearing Officers must provide any unrepresented party (with a copy to the opposing, represented party) with a copy of the document entitled: “Hearing Process Guidelines,” (Form 5, Appendix C). Hearing Officers may direct an unrepresented party to the ISBE for further guidance on obtaining legal assistance.

D. Non-attorney Advocates.

An individual accompanying and advising a party pursuant to 34 C.F.R. § 300.512(a)(1) must –

1. have special training and expertise regarding children with disabilities in accordance with the IDEA and its regulations. An individual appearing as a non-attorney advocate must identify him/herself as such to the Hearing Officer.
2. adhere to the attached Standards of Conduct, as if a party;
3. follow the expectations in paragraphs 1 and 2 of the Hearing Process Guidelines (Form 5, Appendix C);

4. not file any pleadings, motions, or other documents on behalf of a party;
5. not speak or correspond on behalf of the party at prehearing conferences or the hearing unless granted permission by the Hearing Officer to do so;
6. confer with the party during a prehearing conference or the hearing, or during breaks in a prehearing or hearing, provided that any said discussion does not unreasonably disrupt or unduly delay the process;
7. adhere to the prohibitions in the Hearing Process Guidelines (Form 5, Appendix C); and,
8. abide by such other directives as the Hearing Officer may issue.

III. DUE PROCESS COMPLAINT NOTICE, RESPONSE, AND OTHER PLEADINGS

A. In General.

1. Requirements.

a. All allegations and arguments included in any pleading, motion, or other document other than in the initial due process complaint notice, must be simple, concise, and direct.

b. Each pleading, notice of insufficiency, or motion must be in a separate document.

2. Extraneous Allegations or Arguments. Hearing Officers may penalize any party who files, subsequent to the initial due process complaint notice, a form pleading, motion, or other document that contains extraneous factual allegations or legal arguments not applicable to the pending case. Hearing Officers may exercise discretion in assessing sanctions that are consistent with the IDEA and the inherent authority of the Hearing Officer, including rejecting the pleading, motion, or other document under Practice I-A-4, above.

3. Motions.

a. Before filing any motion with the Hearing Officer, the moving party must advise the non-moving party of the basis of the motion. The non-moving party must advise the moving party of factual matters and legal authority that it believes would defeat the motion. The parties must make a good faith attempt to resolve the need for the motion. Should the parties not be able to resolve the need for the motion, the moving party must include with the motion a statement indicating that the parties were not able to resolve the need for the motion despite a good faith attempt. The foregoing does not apply to a notice of insufficiency.

b. The non-moving party may respond to a motion within three (3) business days, unless the Hearing Officer establishes a different timeline for good cause shown.

c. Whenever the moving party needs the requested relief in less time than subparagraph (a) and (b) permits, the moving party may file an expedited motion, but the moving party must make reasonable efforts to resolve the need for the motion with the non-moving party and must include with the motion a statement indicating that the parties were not able to resolve the need for the expedited motion despite a good faith attempt.

d. The factual allegation(s) in a motion must be supported by a sworn affidavit or verification.

4. Court Rules. The federal or state rules of civil procedure do not apply in these proceedings, except by way of analogy or as prescribed in the IDEA.

B. Response.

1. Hearing Officers may consider the failure of a Respondent to file and serve on the Complainant, a response in accordance with 34 C.F.R. § 300.508(e) or (f), within 10 days of receiving the due process complaint notice as an admission of the allegations in the Complaint. The aforementioned does not apply where the parent is the Complainant and the school district has sent prior written notice under 34 C.F.R. § 300.503 to the parent regarding the subject matter contained in the parent's the due process complaint notice. If the school district sent the parent prior written notice regarding the subject matter contained in the parent's the due process complaint notice, it must provide a copy of the prior written notice to the Hearing Officer within 10 days of receiving the due process complaint notice.

2. Hearing Officers may consider a Respondent's failure to comply with 34 C.F.R § 300.508(e) or (f), or otherwise specifically address the allegations in the due process complaint notice, in determining how to proceed with the hearing process. A response stating that the Respondent has complied with applicable law at all times does not meet the standard set out in IDEA and its regulations.

3. Hearing Officers may consider sanctioning the Respondent for its failure to file and serve on the Complainant, a response in accordance with 34 C.F.R. § 300.508(e) or (f). Said sanctions include, but are not limited to, directing the Respondent to file a response by a set date or shifting the burden of production to the Respondent.

IV. CONSOLIDATION

A. Permissible.

Hearing Officers may consolidate multiple due process complaint notices.

B. Appointment of Hearing Officer.

1. Parent Files Multiple Complaints for the Same Student Against the Same School District. When a due process complaint notice is pending before a Hearing Officer and the parent files a subsequent due process complaint notice involving the same parties and student with a disability, ISBE will appoint the same Hearing Officer of the pending due process complaint notice to the subsequent due process complaint notice. The Hearing Officer may consolidate the subsequent due process complaint notice with the pending complaint or provide that the subsequent complaint proceed separately as an individual complaint before the same Hearing Officer.

2. Parent Files Multiple Complaints for the Same Student Against Multiple School Districts. When a parent files a subsequent due process complaint notice involving the same student but a different school district, ISBE will appoint a new Hearing Officer to the subsequent due process complaint notice, and notify each Hearing Officer of the other due process complaint notice.

a. When considering whether to consolidate multiple complaints under subparagraph B-2, the Hearing Officer appointed to the first due process complaint notice determines whether to consolidate the multiple complaints.

3. School District Files A Separate Complaint Against the Same Parent and Student Involved in a Pending Complaint in which the District is a Party. When a school district files a separate due process complaint notice against the same parent and student involved in a pending due process complaint notice in which the district is a party, ISBE will appoint a new Hearing Officer to the subsequent due process complaint notice, and will notify each Hearing Officer of the other due process complaint notice.

a. When considering whether to consolidate multiple complaints under subparagraph B-3, the Hearing Officer appointed to the first due process complaint notice determines whether to consolidate the multiple complaints.

C. Timeline.

1. The timeline for the issuance of the decision is the timeline applicable to the first due process complaint notice into which the subsequent due process complaint notice is consolidated.

2. The Hearing Officer may extend the timeline for the issuance of the decision at the request of either the school district or the parent for good cause shown.

D. Written Order.

1. Consolidation of multiple complaints or the denial of such consolidation must be by written order that conforms to Form 3 – Order of Consolidation. The written order must be issued to the parties and made a part of the hearing record.

2. The written order must include the applicable timeline for the issuance of the decision.

3. The written order must include a discussion of the relevant factors and facts considered by the Hearing Officer.

4. The written order must be provided to the Hearing Officer assigned to the subsequent due process complaint notice, when applicable.

E. Case Number.

1. The case number assigned to the first due process complaint notice into which the subsequent due process complaint notice is consolidated is the case number for the consolidated due process complaint notices.

2. If the due process complaint notices are not consolidated, the case number assigned to each due process complaint notice is maintained.

3. Should the due process complaint notices be consolidated, the written order required by subparagraph D-1 must identify the correct case number and the parties must include the correct case number on any subsequent written submission relating to the pending case.

V. STANDARDS OF CONDUCT

A. In General.

1. The attached Standards of Conduct govern the conduct of everyone involved during the hearing process.²

2. Conduct that may be characterized as uncivil, abusive, hostile, or obstructive impedes the fundamental goal of resolving these educational disputes rationally, peacefully, and efficiently, and such conduct is, therefore, not permitted.

² The Standards of Conduct are modeled after the Standards for Professional Conduct within the Seventh Federal Judicial Circuit.

B. Sanctions.

1. The Hearing Officer has the authority to impose appropriate sanctions as necessary to maintain an orderly hearing process.

2. A party, the party's attorney or other authorized representative, or both, who breach(es) the Standards of Conduct is/are subject to sanctions at the discretion of the Hearing Officer.

VI. SECURITY

A. In General.

1. When a security concern arises, the Hearing Officer must take such steps as deemed reasonably necessary to maintain the safety of everyone involved in the hearing process and the orderliness of the hearing.

B. Procedures.

1. The Hearing Officer has the authority to order a school district to provide security services when an attorney or party raises any security concerns, and the Hearing Officer finds there is reasonable cause to believe a security concern does, in fact, exist.

2. The Hearing Officer must discuss with the attorneys and/or parties the type(s) of security services that must be provided by the school district and when they are to be provided. On the day security services are required, the Hearing Officer must confirm that said security services are present, will remain readily available during the time the services are needed, and the manner in which the security services are to be provided (e.g. if a security officer is needed during the hearing, the Hearing Officer must confirm whether the security officer will remain inside or outside the hearing room).

3. Whenever security personnel is needed in the hearing room, the Hearing Officer must instruct said security personnel of the confidentiality requirements under the Family Educational Rights and Privacy Act (FERPA).

VII. STATUS AND PREHEARING CONFERENCES

A. Scheduling and Planning.

1. Mandatory Status Conference Call.

a. No later than five (5) calendar days from the date of appointment, the Hearing Officer must send a letter of introduction (consistent with Form 4 – Introductory/Status Call Letter) to the parties or, if represented, to their attorneys. The Hearing Officer must enclose with the introductory letter a Notice of the Rights of Parties Related to Hearings (Form 5, Appendix A), a Preliminary Order (Form 5,

Appendix B), and the Hearing Process Guidelines (Form 5, Appendix C).

b. The Hearing Officer must hold an initial status conference call soon after date of appointment to discuss the hearing process.

c. The Hearing Officer must set the date(s) for the prehearing conference during the initial status conference.

2. Prehearings Mandatory.

a. Hearing Officers must conduct a prehearing conference, either in person or by telephone, in each case, unless the case is withdrawn prior to the prehearing conference. Absent approval of the Hearing Officer, parties or their attorneys are required to participate in the prehearing conference notwithstanding the provisions of 105 ILCS 5/14-8.02a(g)(40).

b. In non-expedited cases, the Hearing Officers must hold the prehearing conference within one week of the termination of the resolution period. If the Hearing Officer is not able to hold the prehearing conference within one week of the termination of the resolution period, s/he must set it for soon thereafter and explain in the Prehearing Report and Order (Form 8) why the prehearing conference did not take place within one week of the termination of the resolution period.

c. In expedited, disciplinary cases, the Hearing Officers must hold the prehearing conference as soon as possible after being appointed.

3. Discretion to Call Additional Conferences. Hearing Officers have the discretion to call additional prehearing or status conferences as deemed necessary to manage the hearing process.

4. Obligation to Request Hearing Officer Intervention. A party or its attorney must immediately contact the Hearing Officer when a problem or dispute arises that cannot be mutually resolved between the parties or their attorneys and the problem or dispute necessitates the involvement of the Hearing Officer. The party or its attorney must inform the opposing party or its attorney of the problem before contacting the Hearing Officer and advise the opposing party or its attorney of its intention to contact the Hearing Officer. The party or its attorney must affirm in writing or on the record to the Hearing Officer that it advised the opposing party or its attorney of the problem and of the party's or the party's attorney's intention to contact the Hearing Officer.

B. Subjects for Consideration.

1. Notice of Prehearing Conference/Subjects. Upon confirmation of the date and time for the prehearing conference, Hearing Officers must send Form 6 – Notice of Prehearing Conference, and Form 7 – Prehearing Conference—Subjects To Be Considered, to the parties or, if represented, to their attorneys. Each party or attorney who participates in any prehearing conference must have authority to enter into

stipulations, make admissions of fact, identify claims and defenses that the party will not be contesting, and settle all or part of the claims in the case, or have reasonable access by telephone to the party or the party representative having such authority.

2. Interpreting and Translation Services.

a. The school district must provide interpreting services, as requested by a party or the Hearing Officer, for conference calls, prehearing conference(s), and the due process hearing at no cost to the parent or his/her attorney.

b. The ISBE must provide at no cost to the parent or his/her attorney translation services to translate notices, reports, orders, rulings, decisions and similar documents prepared by the Hearing Officer that are a part of the hearing record.

3. Parental Request of Independent Evaluation. Pursuant to 23 Ill. Admin. Code 226.625(a)(2), the parent may ask the Hearing Officer to determine whether an independent evaluation is needed. Said request should be made before or at the prehearing conference. If a parent submits his/her request after the prehearing conference, the Hearing Officer must determine whether an independent evaluation can be done fairly and within the timeline in which to render a decision under the IDEA. A Hearing Officer must not grant a specific extension of time in which to render a decision to allow for an independent evaluation unless requested by a party and good cause exists.

4. Hearing Officer Requiring Additional Information. A Hearing Officer may, pursuant to 105 ILSC 5/14-8.02a(g-55), require additional information from a party or order an independent evaluation. The Hearing Officer should require the additional information or independent evaluation as soon as it becomes apparent to the Hearing Officer of the need for said additional information or independent evaluation, and provided that it can done fairly and within the timeline in which to render a decision under the IDEA.

5. Five-Day Disclosures—Witnesses.

a. Each party must disclose in the prehearing disclosure letter, as well as the five-business day disclosure letter, the name and title of the witness and a brief, but informative, description of the nature of the witness's testimony.

b. Each party must distinguish the witnesses the party expects to testify in the party's case in chief from the witnesses the party will call only as necessary.

c. It is within the discretion of the Hearing Officer to allow telephonic testimony. If telephonic testimony is allowed, each party is required, to the extent possible, to identify in the five-business days disclosure letter, all witnesses who will testify by telephone.

d. A party must not reserve the right to call witnesses listed on the opposing party's disclosure letter.

e. It is within the discretion of the Hearing Officer to grant a request for rebuttal witnesses. A party must not reserve the right to call rebuttal witnesses in its five-business day disclosure letter, since the party must make this request at the due process hearing.

f. Each party must provide the curriculum vitae for each proposed expert witness in its five-business day disclosure, unless the parties stipulate to the proposed expert witness's credentials.

6. Five-Day Disclosures—Exhibits.

a. Each party must mark all proposed exhibits for the purpose of identification as directed by the Hearing Officer, and each exhibit must have sequential page numbers.

b. Each party must distinguish the exhibits that the party expects to offer from the exhibits that the party may offer only if necessary.

c. A party cannot reserve the right to offer as exhibits any documents listed on the opposing party's five-business day disclosure letter.

7. Exhibit Books—To the Hearing Officer.

a. Hearing Officers may require each party or its attorney to send to the Hearing Officer a copy of its proposed exhibit book prior to the hearing in such manner as the Hearing Officer directs.

b. The Hearing Officer may require that each party's exhibit book is divided by tabs.

8. Scheduling the Due Process Hearing. During the prehearing conference, Hearing Officers must determine the amount of time needed to complete a timely hearing. Hearing Officers must resolve all doubts in favor of scheduling more time than estimated necessary to ensure meeting the requirements of 105 ILCS 5/14.8.02a(g-55) and avoiding the possible need to continue the hearing to a later date, thereby delaying issuance of the decision.

C. Prehearing Report and Order.

1. Hearing Officers must issue a Prehearing Report and Order that substantially conforms to Form 8 within five (5) business days after the prehearing conference.

2. The Prehearing Report and Order must set forth the actions taken or to be taken with regard to any matter addressed at the prehearing conference.

D. Failures.

1. A party or its attorney, or both, may be subject to sanctions if the party or its attorney, or both, fail(s) to appear at a conference, fail(s) to participate in good faith or is unprepared to participate, or fail(s) to obey a prehearing conference order.

VIII. CONTINUANCES

A. In Writing.

1. Mandatory. Each Motion for Continuance must be submitted in writing and conform to Form 9, unless the request for a continuance is made on the record during the prehearing conference or the hearing. A party who makes a verbal request for a continuance other than during the prehearing conference or the hearing, must file a written Motion for Continuance that conforms to Form 9 within two (2) business days of the verbal request, unless additional time is granted by the Hearing Officer. If the party fails to file a written Motion for Continuance after the verbal request, the Hearing Officer must proceed with the hearing as originally scheduled absent extraordinary circumstances.

2. Parties Jointly Propose Delay. When the parties jointly propose a delay in holding a prehearing conference or the hearing, pursuant to 23 Ill. Admin. Code 226.640(b)(1), the Hearing Officer must grant a continuance. The Hearing Officer has the discretion to determine the length of the continuance after considering the good cause submitted, if any, and the timeline for rendering the decision under the IDEA.

B. Order.

1. Hearing Officers must use Form 10 – Order Granting/Denying Continuance when granting or denying continuances. The Order Granting/Denying Continuance must include the detailed reasons that served as the basis for good cause.

IX. DUE PROCESS HEARINGS

A. Documents and Other Tangible, Non-documentary Items Hearing Officer Proposes to be Admitted.

1. Hearing Officers must use one of the following two options to admit documents and other tangible, non-documentary into the record:

a. On or before the five-business day disclosure deadline, the Hearing Officer must submit to the parties a proposed Hearing Officer Exhibit List and request of the parties to advise the Hearing Officer if they have any objections to any of the proposed exhibits or suggested additional hearing officer exhibits. At the

commencement of the hearing, the Hearing Officer must consider and rule on any objections or suggested additional exhibits and admit the hearing officer exhibits. The Hearing Officer must note the admission of any subsequent hearing officer exhibits on the record during the hearing or in the Final Determination and Order. The final Hearing Officer Exhibit List must be attached to the hearing officer exhibits and included in the record; or,

b. At, or preferably before, the close of the hearing, the Hearing Officer must submit to the parties a proposed Index of Correspondence, Documents and Pleadings and request of the parties to advise the hearing officer of any objections to items listed in the Index or suggested additional hearing officer exhibits. Before the hearing is closed, the Hearing Officer must consider and rule on any objections or suggested additional exhibits and admit the items listed in the Index. The Hearing Officer must note the admission of any subsequent items in the Final Determination and Order. The final Index of Correspondence, Documents and Pleadings must be attached to the items listed and included in the record.

B. Opening Statement.

1. Hearing Officers must use the opening statement in Form 11 – Hearing Officer Opening Statement, or a substantially similar opening statement, at the start of each hearing and on the record, and an abbreviated version of the opening statement at the start of any prehearing or status conference held on the record.

C. Qualification of Expert.

1. The hearing Officer has discretion to determine whether a witness is qualified as an expert. When the Hearing Officer qualifies a witness as an expert, the Hearing Officer must state on the record the area(s) of expertise in which the witness is being qualified. Parties may stipulate that a witness is qualified as an expert.

D. Rules of Evidence.

1. The federal or state rules of evidence do not apply to the IDEA hearing process.

2. Hearing Officers may cite to the federal or state rules of evidence by analogy.

3. Hearing Officers may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

4. Hearing Officers may exclude irrelevant, immaterial, and unduly repetitious evidence. Hearing Officers may also exclude privileged information. Hearing Officers may take judicial or official notice of matters but must inform the parties of such official notice either before or during the hearing and afford the parties the opportunity to contest the matters noticed.

E. Testimony by Telephone.

1. Witnesses permitted to testify by telephone must testify from a landline and a setting that protects confidentiality and is free from other individuals, and must not refer to any documents without identifying the document(s) and obtaining permission from the Hearing Officer.

2. A witness permitted to testify by telephone must be provided with a courtesy copy of all proposed exhibits, inclusive of the opposing party's proposed exhibits, in advance of his/her testimony. It is the responsibility of the party calling the witness to provide the courtesy copy of the proposed exhibits to the witness. The Hearing Officer may exclude the witness from testifying if the party fails to provide the courtesy copy of the proposed exhibits to the witness in advance of his/her testimony.

3. A party that provides a witness permitted to testify by telephone with any document that is not included in its five-business day disclosures must bring copies of the document(s) to the hearing for the Hearing Officer and the opposing party.

F. Communication Devices.

1. Hearing Officers may implement their own policies regarding the use of electronic devices in the hearing room.

2. Hearing Officers have the discretion to prohibit the use of cellular phones, mobile devices, and/or laptop computers during any prehearing or status conference, or the hearing.

G. Written Briefs/Closing Arguments.

1. Hearing Officers may require the parties to submit written briefs and/or present closing arguments at the conclusion of the due process hearing. Hearing Officers may deny a request by a party to submit written briefs and/or closing arguments for good cause or upon a showing of prejudice to the other party.

2. A party may seek to file a Motion for Continuance to extend the decision timeline to allow for the filing of a written brief and/or closing argument with its request to submit a written brief and/or closing argument. It is within the discretion of the Hearing Officer whether to grant a party leave to file a Motion for Continuance in order to extend the decision timeline to allow for the filing of a written brief and/or closing argument.

X. ORDER OF WITHDRAWAL, ORDER OF DISMISSAL AND FINAL DETERMINATION AND ORDER

A. Order of Withdrawal.

1. An Order of Withdrawal is required when the complainant withdraws the due process complaint notice. The Order of Withdrawal must conform to Form 12.

2. The Order of Withdrawal must specify whether the withdrawal is based on a settlement reached between the parties.

3. Hearing Officers retain jurisdiction over a case for one (1) calendar year of the withdrawal of the due process complaint notice.

B. Order of Dismissal.

1. Hearing Officers must issue an Order of Dismissal when the dismissal is for reasons other than withdrawal or settlement.

2. The Order of Dismissal must conform to Form 13 and include a Notice of Right to Request Clarification and a Notice of Right to Appeal.

C. Final Determination and Order.

1. Format. The Final Determination and Order must conform to Form 14, inclusive of the identified sections. The Hearing Officer may organize the Final Determination and Order in a manner different to Form 14, provided it includes the sections identified in Form 14.

2. Orders. Any order by the Hearing Officer that directs a party to take action must be specific and establish a timeline for each required action.

3. Request for Clarification. Pursuant to 105 ILSC 5/14-8.02a(h), the Hearing Officer must acknowledge and address any request for clarification filed by either party.

STANDARDS OF CONDUCT

A. Introduction.

These standards are designed to encourage everyone involved in due process proceedings to meet our obligations to each other in resolving these important educational disputes on behalf of students with disabilities. Everyone – hearing officers, attorneys, advocates and parents – is expected to make a mutual and firm commitment to these standards.

These standards do not supersede or detract from other existing disciplinary codes for attorneys involved in these proceedings. Everyone participating in any part of a due process proceeding is expected to review and follow these standards.

B. Hearing Officer's Duties to Parties and Attorneys.

1. The Hearing Officer must maintain control of all proceedings, from status conferences through the due process hearing.

2. The Hearing Officer must be courteous and respectful to parties, attorneys and witnesses in both oral and written communications.

3. The Hearing Officer must be punctual in all conferences, prehearing matters, and the due process hearing. If a Hearing Officer is delayed, s/he must notify the parties as soon as possible. In an emergency, the Hearing Officer may contact one party or attorney to advise of the emergency and request that the party or attorney notify the opposing party or attorney of the delay.

4. The Hearing Officer should consider the schedules of parties, attorneys and witnesses in scheduling all matters. A party or attorney will be required to show good cause for prolonged unavailability or extensive continuances that delay the prompt scheduling of matters.

5. The Hearing Officer must give the issues presented in each matter deliberate, impartial, and careful analysis and consideration.

6. The Hearing Officer should recognize an attorney's duty, and a party's right, to present her/his case fully and properly in a manner consistent with the IDEA.

7. The Hearing Officer must bring to the attention of the attorney or party any observed uncivil conduct, and request that such uncivil conduct be corrected.

C. Parties' and Attorneys' Duties to the Hearing Officer.

1. Each party and attorney must speak and write civilly and respectfully in all communications with the Hearing Officer.

2. Each party and attorney must be punctual and prepared for all status conferences, prehearing conferences, and the due process hearing. If a party or attorney is delayed, the party or attorney must notify the Hearing Officer and the opposing party or attorney as soon as possible.

3. Each party and attorney must be considerate of the time pressures and constraints placed on the Hearing Officer by the IDEA and Illinois law.

4. Each party and attorney must not engage in any conduct that is disorderly or disruptive to the hearing process, including status conferences, prehearings, and the due process hearing. To the best of an attorney's ability, s/he will prevent his or her client and witnesses from disorderly and disruptive conduct.

5. Each party and attorney must not knowingly misrepresent, mischaracterize, misquote, or miscite facts or law in any oral or written communication to the Hearing Officer.

6. Each party and attorney must comply with the rule against ex parte communications to the Hearing Officer. All written communications to the Hearing Officer, including emails, must be copied to the opposing party, and all oral communications to the Hearing Officer must be done in the presence of the opposing party. Pursuant to the Illinois School Code, 105 ILCS 5/14-8.02a(g-45), an exception may be made to schedule conferences and hearing dates. Parties and attorneys may communicate orally or through writing with each other, outside of the Hearing Officer's presence and without copying the Hearing Officer on the communication.

7. Each party and attorney must verify the availability of its witnesses before the hearing dates and immediately notify the Hearing Officer and the opposing party of any likely scheduling problems.

D. Parties' and Attorneys' Duties to Each Other.

1. The parties and attorneys must treat each other, and all witnesses and others involved in the hearing process, in a civil and courteous manner throughout the proceedings and in all written and oral communications.

2. The parties and attorneys must refrain from acting in an abusive or offensive manner to each other and to witnesses. The parties and attorneys must refrain from making disparaging remarks to each other and to witnesses. The parties and attorneys must treat each other and witnesses with fair consideration.

3. The parties and attorneys must, absent good cause, refrain from attributing bad motives or improper conduct to each other.

4. The parties and attorneys must adhere to all express promises and agreements made with the opposing party, whether oral or in writing, and adhere in good faith to all agreements.

5. The parties and attorneys must discuss the factual and legal basis of any motion or other pleading with each other before filing a motion or pleading with the Hearing Officer.

6. The parties and attorneys must make good faith efforts to resolve by agreement any objections contained in motions or other pleadings.

7. The parties and attorneys must consult each other regarding scheduling matters in a good faith effort to avoid scheduling conflicts.

8. The parties and attorneys must not ascribe a position to each other that a party has not taken or otherwise seek to create an unjustified inference based on a party's statement or conduct.

9. Unless specifically permitted by the Hearing Officer, a party or attorney must not send copies of correspondence between the parties to the Hearing Officer.

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT, a minor, by and through
his/her Parent(s), _____

Petitioners,

- against -

Case No. _____

Hearing Officer

Respondent.

[INSERT NAME OF PLEADING]

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT, a minor, by and through
his/her Parent(s), _____

Petitioners,

- against -

Case No. _____

Hearing Officer

Respondent.

SUBPOENA

(For Testimony and/or Documents)

TO: _____

You are commanded, pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. § 1415(h), its implementing regulations, 34 C.F.R § 300.512(a)(2), the Illinois School Code, 105 ILCS 5/14-8.02(g-55), and the Illinois State Administrative Code, 23 Ill. Admin. Code 226.660(c), to appear and testify in the above matter, at _____, on the _____ day of _____, at _____ o'clock in the morning/afternoon, and bring with you and there produce _____

now in your custody, or under your control. You may be required to appear from time to time and day to day until you are excused.

If you refuse to appear, testify, and produce such records, the party who requested this subpoena may seek the Order of an appropriate court with jurisdiction, pursuant to the Illinois School Code, 105 ILSC 5/14-8.02a(g-55), to force your

attendance and compliance. If you have any questions or objections to appearing or producing such records, please call _____, representing the _____ (at _____) who requested this Subpoena.

Dated: _____

Impartial Hearing Officer

[Insert address, phone, fax, and email address of IHO]

PROOF OF SERVICE

This will certify that a true and correct copy of this subpoena was served on:

Name of Witness: _____

Date: _____

Time: _____

Manner of Service: _____

By: _____

Date: _____

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT, a minor, by and through
his/her Parent(s), _____

Petitioners,

- against -

Case No. _____

Hearing Officer

Respondent.

ORDER OF CONSOLIDATION

On _____, 2016, Parent/District filed a request for a due process hearing to commence the above-captioned matter. Thereafter, on _____, Parent/District filed [another] request for a due process hearing, which has been assigned Case No. _____.

[The parties have agreed that these cases should be consolidated.] [The Parent/School District on _____, 2016, filed a motion to consolidate these cases on the grounds that to do so would _____. The opposing party on _____, 2016, filed a response in which it takes no position regarding the motion/opposes the motion on the basis that to do so would _____.]

Although neither state nor federal court rules apply to this hearing, it is appropriate to draw upon them by way of analogy. The Illinois Code of Civil Procedures, 735 ILCS 5/2-1006, provide that actions may be consolidated “as an aid to convenience whenever it can be done without prejudice to substantial rights.” Applying this standard to the present situation, it is found that consolidation of these cases would _____.

Based on the foregoing reasons, the request/motion to consolidate Case No. _____ and Case No. _____ is granted [denied]. [The timeline for the issuance of the decision is the timeline applicable to the first due process complaint notice into which the subsequent due process complaint notice is consolidated.]

Accordingly, the resolution period is set to end on _____, 2016, unless adjusted in accordance with the IDEA, and the 45-day is set to end on _____, 2016, unless properly extended.]

Dated: _____

_____,
Hearing Officer

[Insert address, phone, fax and email address
of IHO]

[Hearing Officer Letterhead]

[Date]

Re:

Dear Parties:

I have been appointed as the Hearing Officer in the above-referenced matter. Please be advised that I have no personal, professional, or financial relationship with either party to this matter that would affect my ability to render an impartial decision in this matter [with the possible exception of _____]. If you have any questions or concerns about this, please let me know immediately in writing with a copy to the other party.

[Pursuant to the IDEA, if the school district has not sent a prior written notice to the parents regarding the subject matter in the parents' due process complaint notice, the school district must send the parents a written response to the complaint that meets the requirements of the IDEA within ten (10) calendar days of its receipt of the due process complaint notice. The written response must be sent by _____, 201_. The school district must also send a copy of the written response to the Hearing Officer. If the school district sent a prior written notice before the due process complaint notice at issue was filed, the school district must send a copy of that notice to the Hearing Officer and the Parents.]

[Pursuant to the IDEA, the parents must send the school district a written response specifically addressing the issues raised in the school district's due process complaint notice within ten (10) calendar days of the parents' receipt of the due process complaint notice. The written response must be sent by _____, 201_. The Parent must send a copy of the response to the Hearing Officer.]

The due process complaint notice is deemed sufficient unless the school district [parent] notifies this Hearing Officer and the school district [parent] within fifteen (15) calendar days of the parents' [school district's] receipt of the due process complaint notice that they [it] does not believe the complaint meets the statutory requirements. The school district [parent] must send such written notification of insufficiency to this Hearing Officer and the parents [school district] by _____, 201_. This Hearing Officer must issue a written determination to both parties as to the sufficiency of the due process complaint notice within five (5) calendar days of receipt of the school district's [parents'] notice of insufficiency. The determination of sufficiency will be made on the face of the due process complaint notice.

[The school district must convene a meeting with the parents within 15 calendar days of receipt of the parents' due process complaint notice to discuss and resolve, if feasible, the matters raised in the due process complaint notice. If the school district does not resolve the due process complaint to the satisfaction of the parents within 30 calendar days after its receipt of the parents' due process complaint notice, the hearing timeline must begin. This is known as the resolution process. The 30 calendar days ends on _____, 201_.] The 45-day timeline for this Hearing Officer to issue a decision begins on _____, 201_ [31 calendar days after the school district's receipt of the due process complaint notice].

Enclosed please find:

1. Rights of Parties Related to Hearings (Form 5, Appendix A).
2. Preliminary Order (Form 5, Appendix B).
3. Hearing Process Guidelines (Form 5, Appendix C).

Please read and review the important information in each of these documents closely. If you have any questions about this information, raise your questions during the initial status conference.

I will be contacting both of you to set up an initial status telephone conference call. [I am scheduling an initial status telephone conference call on _____, 201_ at ___ a.m./p.m. Unless you promptly notify me that this date and time is not convenient, I will assume it is.] During our conference call, the parties must provide me with an update on the resolution process. In addition, during this status conference, I plan on setting dates for a prehearing conference, and also answering any questions you may have regarding this due process proceeding.

Finally, in the appointment packet that you received from the ISBE, there are forms each party must sign indicating whether the parties are participating in a resolution meeting or mediation. The parents must sign the appropriate form and return it to the school district. The school district is responsible for returning the completed forms to the ISBE in a timely manner. The school district must also send a copy of the signed forms to the Hearing Officer.

I look forward to speaking with you both.

Very truly yours,

[Insert IHO Name]

cc: Andrew Eulass

[Hearing Officer Letterhead]

[Date]

Re:

Dear Parties:

I have been appointed as the Hearing Officer in the above-referenced matter. Please be advised that I have no personal, professional, or financial relationship with either party to this matter that would affect my ability to render an impartial decision in this matter [with the possible exception of _____]. If you have any questions or concerns about this, please let me know immediately with a copy to the other party.

[The school district must convene a meeting with the parents within (seven) 7 calendar days of receipt of the parents' due process complaint notice to discuss and resolve, if feasible, the matters raised in the due process complaint notice. If the school district does not resolve the due process complaint to the satisfaction of the parents within 15 calendar days after its receipt of the parents' due process complaint notice, the hearing timeline must begin. This is known as the resolution process. The 15 calendar days ends on _____, 201_.] An expedited due process hearing must occur no earlier than fifteen (15) calendar days following the school district's receipt of the expedited hearing request and no later than twenty (20) school days after the date the school district received the expedited hearing request. The school district received the expedited request on _____, 201_. The Hearing Officer must render and mail a decision to the parties within 10 school days after the hearing. **Under the IDEA, these timelines can neither be waived nor extended.**

Enclosed please find:

1. Rights of Parties Related to Expedited Hearings (Form 5, Appendix A).
2. Preliminary Order (Form 5, Appendix B).
3. Hearing Process Guidelines (Form 5, Appendix C).

Please read and review the important information in each of these documents closely. If you have any questions about this information, raise your questions during the initial status conference.

I will be contacting both of you to set up an initial status telephone conference call. [I am scheduling an initial status telephone conference call on _____, 201_ at ___ a.m./p.m. Unless you promptly notify me that this date and time is not convenient, I

will assume it is.] During our conference call, the parties must provide me with an update on the resolution process. In addition, during this status conference, I plan on setting dates for a prehearing conference, and also answering any questions you may have regarding this due process proceeding.

Finally, in the appointment packet that you received from the ISBE, there are forms each party must sign indicating whether the parties are participating in a resolution meeting or mediation. The parents must sign the appropriate form and return it to the school district. The school district is responsible for returning the completed forms to the ISBE in a timely manner. The school district must also send a copy of the signed forms to the Hearing Officer.

I look forward to speaking with you both.

Very truly yours,

[Insert IHO Name]

cc: Andrew Eulass

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT, a minor, by and through
his/her Parent(s), _____

Petitioners,

- against -

Case No. _____

Hearing Officer

Respondent.

RIGHTS OF PARTIES RELATED TO HEARINGS

In conformance with 34 C.F.R. § 300.512, 105 ILCS 5/14-8.02a, and 23 Ill. Adm. Code § 226.625:

1. Any party to the hearing has the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities, at the party's own expense.
2. Any party to the hearing has the right to present evidence and confront, cross-examine, and compel attendance of witnesses.
3. Any party to the hearing has the right to request that the Hearing Officer issue a subpoena to compel the testimony of a witness or the production of documents relevant to the resolution of the hearing.
4. Any party to the hearing has the right to move for the exclusion of witnesses from the hearing until they are called to testify, provided that this provision may not be invoked to exclude the individual designated by a party to assist its counsel in the presentation of its case.
5. Any party to the hearing has the right to prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five (5) business days before the hearing.

6. The Parents have a right to obtain a written or electronic, verbatim record of the hearing within thirty (30) days of receipt of a written request from the Parents to the School District.

7. The Parents involved in the hearing have a right to have the child who is the subject of the hearing present; to open the hearing to the public; and to have the record of the hearing and findings of fact and decision described above provided at no cost to them.

8. The hearing must be held at a time and place reasonably convenient to the Parents and child involved. Upon request of a party, the Hearing Officer must hold the hearing at a location neutral to the parties if the Hearing Officer determines that there is no cost for securing the use of the neutral location.

9. At least five (5) business days prior to the hearing, each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. The Hearing Officer may bar any party that fails to comply with this rule from introducing the relevant evaluation or recommendations at the hearing without the consent of the other party.

10. The Student's educational placement, eligibility status, and special education and related services, if any, must not be changed pending completion of the hearing unless the School District and the Parents or the Student, if at least 18 years of age or emancipated, otherwise agree.

11. The Hearing Officer must conduct the hearing in a fair, impartial, and orderly manner. Each party will be afforded an opportunity to present the evidence, testimony, and arguments each party believes necessary to support and/or clarify the issues in dispute and the relief the party is requesting. The Hearing Officer must regulate the course of the hearing and the conduct of the parties and their counsel.

12. The Parents must have access to the School District's list of independent evaluators and may obtain an independent evaluation of their child at their own expense.

A. If the Parents believe that acquisition of a completed independent evaluation will require a delay in convening the hearing, the Parents must request a delay as provided for in 23 Ill. Adm. Code § 226.640(b).

B. The Parents may ask the Hearing Officer to determine whether an independent evaluation is needed. If the Hearing Officer concludes after reviewing the available information that an independent evaluation is necessary to inform the Hearing Officer concerning services to which the student may be entitled, it must be so ordered and provided at the School District's expense, if the Hearing Officer grants a request to delay the hearing as provided for in 23 Ill. Adm. Code § 226.640(b).

C. The above (12-A and B) do not apply to expedited hearings.

13. Either party, or any other person participating in the hearing, may request that an interpreter be available during the hearing because one of the participants is hearing impaired and/or uses a primary language other than English. Interpreters must be provided at the School District's expense.

Dated: _____

Hearing Officer

[Insert address, phone, fax and email address
of IHO]

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT, a minor, by and through
his/her Parent(s), _____

Petitioners,

- against -

Case No. _____

Hearing Officer

Respondent.

RIGHTS OF PARTIES RELATED TO EXPEDITED HEARINGS

In conformance with 34 C.F.R. § 300.512, 105 ILCS 5/14-8.02a, 105 ILCS 5/14-8.02b(h) and (i), and 23 Ill. Adm. Code § 226.625:

1. Any party to the hearing has the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities, at the party's own expense.
2. Any party to the hearing has the right to present evidence and confront, cross-examine, and compel attendance of witnesses.
3. Any party to the hearing has the right to request that the Hearing Officer issue a subpoena to compel the testimony of a witness or the production of documents relevant to the resolution of the hearing.
4. Any party to the hearing has the right to move for the exclusion of witnesses from the hearing until they are called to testify, provided that this provision may not be invoked to exclude the individual designated by a party to assist its counsel in the presentation of its case.
5. Any party to the hearing has the right to prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five (5) business days before the hearing.

6. The Parents have a right to obtain a written or electronic, verbatim record of the hearing within 30 days of receipt of a written request from the Parents to the School District.

7. The Parents involved in the hearing have a right to have the child who is the subject of the hearing present; to open the hearing to the public; and to have the record of the hearing and findings of fact and decision described above provided at no cost to them.

8. The hearing must be held at a time and place reasonably convenient to the Parents and child involved. Upon request of a party, the Hearing Officer must hold the hearing at a location neutral to the parties if the Hearing Officer determines that there is no cost for securing the use of the neutral location.

9. At least five (5) business days prior to the hearing, each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. The Hearing Officer may bar any party that fails to comply with this rule from introducing the relevant evaluation or recommendations at the hearing without the consent of the other party.

10. The Student's educational placement, eligibility status, and special education and related services, if any, must not be changed pending completion of the hearing unless the School District and the Parents or the Student, if at least 18 years of age or emancipated, otherwise agree.

11. The Hearing Officer must conduct the hearing in a fair, impartial, and orderly manner. Each party will be afforded an opportunity to present the evidence, testimony, and arguments each party believes necessary to support and/or clarify the issues in dispute and the relief the party is requesting. The Hearing Officer must regulate the course of the hearing and the conduct of the parties and their counsel.

12. Either party, or any other person participating in the hearing, may request that an interpreter be available during the hearing because one of the participants is hearing impaired and/or uses a primary language other than English. Interpreters must be provided at the School District's expense.

13. All parties have the right to receive a written decision, including finding of facts and conclusions of law, within ten (10) school days after the conclusion of the hearing.

Dated: _____

Hearing Officer

[Insert address, phone, fax and email address
of IHO]

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT, a minor, by and through
his/her Parent(s), _____

Petitioners,

- against -

Case No. _____

Hearing Officer

Respondent.

PRELIMINARY ORDER

I have been appointed to hear the above-captioned matter.

Pursuant to federal law, the parties have 30 days from the date on which the district receives the due process complaint to resolve this matter. A hearing officer must hold a hearing and issue a decision no later than 45 days after the expiration of this 30 day resolution period or the adjusted time periods described in 34 CFR § 300.510(c). This regulation provides that the 45-day timeline starts the day after one of the following events: (1) both parties agree in writing to waive the resolution meeting; (2) the parties engage in either mediation or a resolution meeting but then agree in writing before the end of the 30-day period that no agreement is possible; or (3) both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or public agency withdraws from the mediation process.

Pursuant to 34 C.F.R. § 300.515(c), the undersigned may grant specific extensions of time beyond the periods set out in 34 C.F.R. § 300.515(a) at the request of either party.

IT IS HEREBY ORDERED:

1. Should the parties participate in a resolution meeting pursuant 34 C.F.R. § 300.510(a) and reach an agreement consistent with 34 C.F.R. § 300.510(d), the parties must notify the undersigned within five (5) business days of the agreement's execution that the matter has been resolved. The party that filed the due process complaint notice must also provide a written request to withdraw its complaint.

2. If the parties reach an agreement in mediation or otherwise settle this matter within the 30-day resolution period, they must immediately inform the hearing officer of their agreement. The party who filed the complaint must file a withdrawal request with the Hearing Officer as soon as a mediation/settlement agreement is executed.

3. Should any of the events under 34 C.F.R. § 300.510(c) occur, the parties must notify the undersigned of the occurrence within two (2) business days. The 45-day timeline begins on the day after any of the events occur.

IT IS SO ORDERED.

Dated: _____

Hearing Officer

[Insert address, phone, fax and email address
of IHO]

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT, a minor, by and through
his/her Parent(s), _____

Petitioners,

- against -

Case No. _____

Hearing Officer

Respondent.

PRELIMINARY ORDER

I have been appointed to hear the above-captioned matter.

Pursuant to 34 C.F.R. § 300.532(c), an expedited due process hearing must occur within twenty (20) school days of the date the complaint requesting this hearing was filed. Also, pursuant to 105 ILCS 5/14-8.02b(h), the hearing cannot occur earlier than 15 calendar days after the district receives the expedited due process complaint notice. The Hearing Officer must issue a Final Decision and Order within ten (10) school days after the hearing.

The undersigned may not grant specific extensions of time beyond the periods set out in 34 C.F.R. § 300.532(c)(2).

IT IS HEREBY ORDERED:

1. Should the parties participate in a resolution meeting pursuant 34 C.F.R. § 300.532(c)(3), and reach an agreement that resolves this dispute, the parties must notify the undersigned immediately and provide a written request to withdraw the complaint at the end of the three day rescission period. Should the parties resolve this dispute through a mediation or settlement agreement, the parties must immediately notify the undersigned and provide a written request to withdraw the complaint.

IT IS SO ORDERED.

Dated: _____

Hearing Officer

[Insert address, phone, fax and email address
of IHO]

HEARING PROCESS GUIDELINES

The following guidelines explain what is expected of parties during the course of the hearing process. This document is not a description or explanation of the parties' rights relating to the hearing. A discussion of the hearing rights and related information can be found on the Illinois State Board of Education's website <http://www.isbe.net/spec-ed/html/dueprocess.htm>. Rather, the purpose of these guidelines is to assist parties to effectively participate in the hearing process.

It is expected that each party will:

1. Treat other participants respectfully, e.g., not carry on side conversations during the hearing, interrupt others when they are talking, or be rude or discourteous.
2. Be reasonably available, on time, prepared, and ready to participate in status conferences, prehearing conferences, and hearings.
3. Be prepared regarding the witnesses it will call, the questions it will ask the witnesses, and the exhibits or documents it wants to discuss with the witnesses and have the Hearing Officer consider. Often it helps to write down the questions or points a party wants to ask a witness, especially if the party is going to testify.
4. Direct questions about the process – what something means (such as when legal jargon is used) or why you are being asked to do something – to the Hearing Officer. Also, any arguments or objections to something must be made to the Hearing Officer.
5. Not take a lot of time or breaks during the hearing to get organized. A reasonable number of breaks are allowed. If one is needed, a party must ask the Hearing Officer.
6. Understand that in rendering a decision, a Hearing Officer may only consider what witnesses say while testifying on the record, or documents (called exhibits) that are made a part of the record.
7. Put requests (also known as motions) that the Hearing Officer do or allow something to be done (e.g., such as reschedule a hearing date, dismiss an issue or allow a witness to testify by telephone), or responses to such requests, in writing. These requests do not need to be typed, but they must be readable.
8. After the Hearing Officer has heard what the parties have to say about something, such as a request (or a motion), and ruled, the parties must read and obey the directives and rulings of the Hearing Officer, even if the parties disagree with them.

A party cannot:

1. Receive advice on legal questions, strategy, or what to do in presenting its case from the Hearing Officer.

2. Talk to the Hearing Officer about anything except scheduling matters when the other party is not on the phone or present. If a party sends any written communication (letter, email, etc.) to the hearing officer, the party must also send a copy of that communication to the opposing party. If the party does not do this, it is an *ex parte* communication with the Hearing Officer, which is prohibited by law. A party can request of the Hearing Officer that s/he schedule a conference call so both parties can participate.

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT, a minor, by and through
his/her Parent(s), _____

Petitioners,

- against -

Case No. _____

Hearing Officer

Respondent.

NOTICE OF PREHEARING CONFERENCE

A prehearing conference by telephone is scheduled for ___a.m./p.m. on_____. You must provide copies of your preliminary document and witness lists to the opposing party and me by _____, 201_.

The purpose of this Notice is two-fold. The first purpose of this notice is to advise you of the various matters that I will discuss with you during the prehearing conference. The second purpose is to provide you with an opportunity to confer with your client prior to the prehearing conference and take such other steps as may be necessary in order to meaningfully address these matters and otherwise participate in the prehearing conference.

The attorney for each party participating in any conference must have the authority to enter into stipulations, make admissions of fact, identify claims and defenses that the party will not be contesting, and settle all or part of the claims in this case, or have reasonable access by telephone to the party or the party’s representative having such authority.

At the time of the prehearing conference, it is my expectation that the parties will be in a position to discuss and address all of the items on the enclosed Subjects To Be Considered. Within five (5) business days of the prehearing conference, I will issue a detailed prehearing order that includes all stipulations, admissions of fact, agreements

reached, and rulings made during the prehearing conference. If either party believes that the prehearing order contains omissions or misstatements, the party must bring them to my attention within three (3) business days of the date of this Order (with a copy to opposing party). I will address your concerns promptly.

Dated: _____

_____,
Hearing Officer

[Insert address, phone, fax and email address
of IHO]

PREHEARING CONFERENCE – SUBJECTS TO BE CONSIDERED

1. If a party is not represented by an attorney, does the party plan to retain an attorney before the due process hearing? If so, the party or new attorney must immediately advise the Hearing Officer and opposing attorney of the attorney's appearance in the case.

If not represented by an attorney, did the parent receive a list of sources to contact to obtain assistance in understanding the IDEA, including rights regarding a hearing and possible legal representation? Is the parent aware of the "Parent's Rights Manual" and other information regarding hearings and mediation on the ISBE website?

2. When did the resolution meeting process conclude? Who was with the party at the table? What was the agreement reached by the parties, if any? Was it written and signed by the parties? Are the parties willing to pursue/considering pursuing in good faith mediation or further settlement discussions? When does the 20-school/45-calendar day timeline start to run?
3. What are the specific issues to be determined (e.g., what aspects of the IEP are alleged to be inappropriate?) and what is the specific proposed relief (e.g., what type/amount of compensatory education is sought?) During the prehearing the Hearing Officer may require the parties to provide further clarification of their claims, defenses and requested relief.
4. Did the school district file a response? If not, how will the Hearing Officer address the school district's failure to file the required response?
5. Are there any admissions of fact or stipulations? Did the parties reach an agreement on any of the claims in the complaint? The Hearing Officer may ask the parties to certify in the 5-business day disclosures or start of the due process hearing that they have attempted in good faith to stipulate to facts that are not in dispute.
6. If this is an expedited hearing in the context of discipline, are there other issues presented that require bifurcation (given the different timelines)?
7. What witnesses does each party plan to call at the due process hearing? What documents does each party intend to introduce? Are there any additional evaluations a party intends to introduce (not previously disclosed)? See attached forms to be completed and submitted to me (with a copy to opposing counsel) at least one (1) business day prior to the prehearing conference. How much time is needed to hear the case? What additional time, if any, should be scheduled to deal with unanticipated problems/delays?

8. When and where will the hearing be held (i.e., dates and times)? Who will be responsible to get a court reporter (e.g., the school district's attorney or an administrator)?
9. Is any continuance of the 45-day timeline anticipated? If so, how might it be avoided?
10. What is the due date for the five-business day disclosures of proposed exhibits, witness lists (including a name, role/position, address, phone number, and general thrust of the testimony), and evaluations/written recommendations that may be used at the due process hearing?

Note: (1) The disclosure must separately identify those witnesses whom, and exhibits which, the party expects to present/offer and those whom/which the party may call/offer if the need arises; (2) the disclosure must designate witnesses expected to be presented by telephone if allowed in the discretion of the Hearing Officer; (3) copies of all proposed exhibits must be marked (Parent's as PD-1, School District's as SD-1 and Joint as J-1); (4) each party may be directed to send to the Hearing Officer a copy of the exhibit book with the exhibits divided by tabs prior to the hearing, in such manner as the Hearing Officers directs; (5) in their five-business day disclosures, each party must provide a curriculum vitae for all proposed expert witnesses; (6) each party must have available four sets of exhibit books, i.e., one for each party, one for witnesses and one for the Hearing Officer.

Hearing Officers may require the parties to provide written objections to the opposing party's exhibits within two (2) business days of their receipt of the five-business day disclosures. Hearing Officers may also encourage the parties to submit joint exhibits when possible.

11. Has either party had/anticipates having a problem accessing or obtaining witnesses or records, and the need to compel witnesses or the production of documents? The requesting party should be prepared to explain the relevance of the witness testimony or records requested.

If yes, the party that refuses to produce the witness or records must explain, to the extent known, why it will not voluntarily ensure the appearance of the witness or production of the documents. Will the school district make current employees voluntarily available at the due process hearing?

12. Does either party anticipate any witness scheduling or other logistical problems? How does the party propose to resolve them?
13. Do the parties anticipate any requests/motions or other disputes that should be addressed during the prehearing conference? If so, how will they be addressed, i.e., the dates on which motions must be filed and the timeline for decisions on the motions?

14. Should a date and time be set for a status conference, and if so, when?
15. Any other matters that the Hearing Officer deems appropriate or the parties want to raise.

NOTE: When the parties are represented by an attorney, it will be presumed (and included in the Prehearing Order), unless an attorney objects at the prehearing conference or the Hearing Officer chooses to address each matter, that:

- The school district will provide a court reporter.
- The parent opts for a hearing to be closed.
- The parent will participate in the due process hearing.
- The student will not be present at the due process hearing.
- Neither party requires interpreter services, the translation of documents or other accommodations.
- The Petitioner will proceed first at the hearing.
- The Petitioner will carry the burden of persuasion.
- The parties will be prepared to present oral closing argument
- The Parent elects to be provided written findings of fact and decision.

DIRECTIVE: Attorneys are directed that if any problem or dispute arises between the time of the prehearing conference and the time the decision is issued and the parties are unable to mutually resolve the dispute, thereby necessitating the involvement of the Hearing Officer, the attorneys must immediately contact the Hearing Officer. The Hearing Officer must address the matter by scheduling a telephone conference call or in such other manner as is deemed appropriate under the circumstances.

**PREHEARING CONFERENCE
Party Document List**

RE:

DATE:

Directions: List all documents you will be introducing as evidence. The documents should be numbered and identified by originator, date, and short description. Attach extra pages if needed.

Doc. No	Originator/ Author	Date Generated	Title/Short Description	No. of Pages
P/D				
P/D				
P/D				
P/D				
P/D				

**PREHEARING CONFERENCE
Party Witness List**

RE:

DATE:

Directions: List all individuals who will present testimony at your request. List them in the order you wish to have them appear during the hearing. Complete all information for each witness. Attach extra pages if needed.

Witness Name/ Title:	Relationship to Student	Nature of Expected Testimony/Issue
	Address and Phone #	Est. Length of Testimony
Witness Name/ Title:	Relationship to Student	Nature of Expected Testimony/Issue
	Address and Phone #	Est. Length of Testimony
Witness Name/ Title:	Relationship to Student	Nature of Expected Testimony/Issue
	Address and Phone #	Est. Length of Testimony
Witness Name/ Title:	Relationship to Student	Nature of Expected Testimony/Issue
	Address and Phone #	Est. Length of Testimony
Witness Name/ Title:	Relationship to Student	Nature of Expected Testimony/Issue
	Address and Phone #	Est. Length of Testimony

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT, a minor, by and through
his/her Parent(s), _____

Petitioners,

- against -

Case No. _____

Hearing Officer

Respondent.

PREHEARING REPORT AND ORDER

Petitioner is the parent of _____ (“Student”), a _____-year-old student [with a disability]. On _____, Petitioner filed a Due Process Complaint (“Complaint”) against the _____ pursuant to the Individuals with Disabilities Education Act (“IDEA”). This Hearing Officer was appointed to preside over this case on _____.

On _____, a prehearing conference was held in the above matter. The conference was conducted by telephone from _____ p.m. to _____ p.m. Participating in the conference were: _____, Hearing Officer; _____ for Petitioners; and, _____ for Respondent. The parties discussed the following matters:

The following matters were addressed:

1. Neither party objected to the appointment of the undersigned as the hearing officer.

2. Each side is represented by counsel. Neither side expressed an interest in engaging in mediation. [Both sides waived the mandatory resolution meeting.] [A resolution meeting was held on _____. The parties, however, did not reach an agreement.] The parties are free to enter into settlement discussions and an agreement

at any time and nothing in this order should be interpreted as prohibiting any settlement discussions.

It was agreed that the 45-day timeline started to run on _____. The hearing decision is due on _____.

3. The issues are limited to those raised in the Complaint, and agreed upon during the prehearing conference. The undersigned has determined that s/he has the authority to hear the issues listed below and grant the relief sought by Petitioners. [State: (A) If no response, or it was unresponsive, how you addressed it; (B) the issues and relief, specifically and fairly, including the position of the opposing party as to each; (C) the disposition of all other issues, defenses and relief raised in the complaint and response; (D) any further requested clarification of claims, defenses or relief requested (e.g., the ways the IEP is inappropriate or the details of the compensatory education requested) and the timeline to do so; and (E) any admissions, stipulations or resolution of claims.]

The issues, requested relief, and defenses being presented for determination are as follows:

- a. Issue One
- b. Issue Two
- c. Petitioner seeks the following remedies: _____.
- d. Respondent raises the following defenses: _____.

4. After discussing the time necessary to hear this matter, the hearing will be conducted at _____, located at _____, on _____, 20____, at _____ a.m. / p.m. to _____ a.m. / p.m. [A second pre-hearing conference will be conducted on _____, 20____, at _____ a.m. / p.m., at which time the parties should be prepared to discuss _____.] Should any problem arise prior to the hearing that might adversely affect the hearing process, counsel is directed to notify the undersigned and request an immediate prehearing conference call. In addition, either party must immediately advise the Hearing Officer whether a request for continuance will be made or it is anticipated that the complaint will be withdrawn.

Inasmuch as this is not a matter involving discipline so as to require an expedited hearing, it will be handled as a regular hearing.

5. Disclosure will occur on or before _____, 20____ [by ____ a.m./p.m.]. [A courtesy copy of each party's exhibit book is to be provided to the Hearing Officer by _____. (See Hearing Officer contact information below.)]

[At least three (3) business days prior to the due process hearing, both parties must exchange all objections to any portion of the opposing party's five-day-disclosures in writing. At least two (2) business days prior to the due process hearing, the parties must jointly discuss all objections and attempt in good faith to resolve them. At least

one (1) day prior to the due process hearing, each party must provide this Hearing Officer a joint list of objections that they were unable to resolve. Counsel for each party must certify in a letter that s/he made good-faith efforts to resolve all objections.

A party's failure to provide all objections in writing three (3) days prior to the hearing may result in a waiver of the objection. A party's failure to attempt to resolve an objection in advance of the due process hearing may result in the objection being sustained.]

a. All exhibits must be marked prior to the hearing date and an exhibit list generated. Parents' exhibits should be identified as ["P" followed by the exhibit number. Each page of the exhibit should be numbered as well. For example, if the IEP is to be the parents' first exhibit and it consists of seven pages, each page should be marked as follows: P 1-1, P 1-2, P 1-3, etc. The school district's exhibits should be identified as "R" followed by the exhibit number. Again, each page of the exhibit should be numbered as in the example above. Joint exhibits should be identified as "JE" followed by the exhibit number. Each page of the exhibit should also be numbered.]

The parties are encouraged to prepare joint exhibits.

b. The witness list must include the name and title of the witness and a brief, but informative, description of the nature of the witness's testimony. The Hearing Officer may exclude any irrelevant, immaterial, unreliable or unduly repetitious testimony during the hearing.

[Witnesses participating through teleconference on the day of hearing are to be provided with courtesy copies of the proposed evidence packets (i.e., Petitioners and Respondent's) prior to the hearing day. Failure to do so might result in the undersigned excluding the witness(es) from participation in the hearing.]

The parties are expected to work cooperatively on scheduling witnesses and/or making witnesses available to one another. Should either party anticipate a problem in gaining a witness' participation, counsel is directed to address it by contacting opposing counsel where appropriate, seeking a subpoena, or requesting an immediate prehearing conference call.

6. [Here the Hearing Officer should record the result of any discussion regarding records and witnesses (e.g., the school district will provide to the parent records by _____; the school district will make available _____ at the time of hearing; or, the parent/school district will file a request for a Subpoena with the Hearing Officer by _____.]

7. [After discussing the presumptions regarding the various procedural items listed in the "Note" in the "Prehearing Conference—Subjects To Be Considered" form, and making any agreed upon changes, the Hearing Officer should set forth below the agreement of the parties on the presumptions.] The parties agreed to the following matters:

- The school district will provide a court reporter.
- The parent opts for a hearing to be closed.
- The parent will participate in the due process hearing.
- The student will not be present at the due process hearing.
- Neither party requires interpreter services, translation of documents or other accommodations.
- The [parent/school district] will proceed first at the hearing.
- The [parent/school district] will carry the burden of persuasion.
- The parties must be prepared to present oral closing argument
- The Parent elects to be provided a written decision.

[If a party made an objection to any item, record the objection and how the objection was addressed.]

8. With regard to any motions or other problems to be addressed or anticipated, the parties advised: [record the results of the discussion, including dates for any motions to be filed and when they will be ruled upon].

9. The parties are encouraged to stipulate to as many facts as can be agreed upon in order to facilitate and expedite the taking of testimony on the day of the hearing. [Each party must provide the Hearing Officer a list of joint stipulations of fact and material admissions three days prior to the due process hearing.³ Each party must stipulate and admit only those facts that are material, i.e., “significant to the issue or matter at hand.”⁴ Each party’s counsel must certify in a letter, submitted at least one (1) day prior to the due process hearing, that s/he has attempted in good faith to stipulate to material facts that are not in dispute.]

10. [The Hearing Officer should record any other matters discussed, agreed upon or ruled on which should be placed on the record.]

11. The parties understand that there are to be no *ex parte* communication with the Hearing Officer. Any written communications with the Hearing Officer, whether by mail, electronic mail, or facsimile transmission must be simultaneously copied / delivered to the other party. The Hearing Officer may be reached as follows:

[PROVIDE CONTACT INFORMATION.]

12. Attorneys are directed that if any problem or dispute arises between the time of the prehearing conference and the time the decision is issued and the parties are unable to mutually resolve the dispute, thereby necessitating the involvement of the Hearing Officer, the attorneys must immediately contact the Hearing Officer. The

³ Material stipulations will streamline the presentation of evidence and testimony in the interest of a more efficient due process hearing.

⁴ Black’s Law Dictionary, 7th ed. Evidence is material if it has a logical connection to a fact of consequence to the outcome of the case.

Hearing Officer will address the matter by scheduling a telephone conference call or in such other manner as is deemed appropriate under the circumstances.

13. The parties will be held to the matters agreed upon, ordered, or otherwise set forth in this Order. If either party believes this Hearing Officer has overlooked or misstated any item, the party is directed to advise this Hearing Officer of the omission or misstatement within three (3) business days of the date of this Order (and provide a copy to opposing counsel). The Hearing Officer will address the party's concern promptly.

IT IS SO ORDERED.

Dated: _____

Hearing Officer

[Insert address, phone, fax and email address
of IHO]

Copies to: All Parties

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT, a minor, by and through
his/her Parent(s), _____

Petitioners,

- against -

Case No. _____

Hearing Officer

Respondent.

PREHEARING REPORT AND ORDER

Petitioner is the parent of _____ (“Student”), a _____-year-old student [with a disability]. On _____, Petitioner filed a Due Process Complaint (“Complaint”) against the _____ pursuant to the Individuals with Disabilities Education Act (“IDEA”). This Hearing Officer was appointed to preside over this case on _____.

On _____, a prehearing conference was held in the above matter. The conference was conducted by telephone from _____ p.m. to _____ p.m. Participating in the conference were: _____, Hearing Officer; _____ for Petitioners; and, _____ for Respondent. The parties discussed the following matters:

The following matters were addressed:

1. Neither party objected to the appointment of the undersigned as the hearing officer.

2. Each side is represented by counsel. Neither side expressed an interest in engaging in mediation. [Both sides waived the mandatory resolution meeting.] [A resolution meeting was held on _____. The parties, however, did not reach an agreement.] The parties are free to enter into settlement discussions and an agreement

at any time and nothing in this order should be interpreted as prohibiting any settlement discussions.

It was agreed that the 20-school day timeline started to run on _____. The hearing decision is due on _____.

3. The issues are limited to those raised in the Complaint, and agreed upon during the prehearing conference. The undersigned has determined that s/he has the authority to hear the issues listed below and grant the relief sought by Petitioners. [State: (A) If no response, or it was unresponsive, how you addressed it; (B) the issues and relief, specifically and fairly, including the position of the opposing party as to each; (C) the disposition of all other issues, defenses and relief raised in the complaint and response; (D) any further requested clarification of claims, defenses or relief requested (e.g., the ways the IAES is allegedly inappropriate or the details as to why the manifestation determination is alleged to be erroneous) and the timeline to do so; and (E) any admissions, stipulations or resolution of claims.]

The issues, requested relief, and defenses being presented for determination are as follows:

- a. Issue One
- b. Issue Two
- c. Petitioner seeks the following remedies: _____.
- d. Respondent raises the following defenses: _____.

4. After discussing the time necessary to hear this matter, the hearing will be conducted at _____, located at _____, on _____, 20____, at _____ a.m. / p.m. to _____ a.m. / p.m. [A second pre-hearing conference will be conducted on _____, 20____, at _____ a.m. / p.m., at which time the parties should be prepared to discuss _____.] Should any problem arise prior to the hearing that might adversely affect the hearing process, counsel is directed to notify the undersigned and request an immediate prehearing conference call. In addition, either party must immediately advise the Hearing Officer whether it is anticipated that the complaint will be withdrawn.

5. Disclosure will occur on or before _____, 20____ [by _____ a.m./p.m.]. [A courtesy copy of each party's exhibit book is to be provided to the Hearing Officer by _____. (See Hearing Officer contact information below.)]

a. All exhibits must be marked prior to the hearing date and an exhibit list generated. Parents' exhibits should be identified as ["P" followed by the exhibit number. Each page of the exhibit should be numbered as well. For example, if the IEP is to be the parents' first exhibit and it consists of seven pages, each page should be marked as follows: P 1-1, P 1-2, P 1-3, etc. The school district's exhibits should be identified as "R" followed by the exhibit number. Again, each page of the exhibit should be numbered as in the example above. Joint exhibits should be identified as "JE" followed by the exhibit number. Each page of the exhibit should also be numbered.]

The parties are encouraged to prepare joint exhibits.

b. The witness list must include the name and title of the witness and a brief, but informative, description of the nature of the witness's testimony. The Hearing Officer may exclude any irrelevant, immaterial, unreliable or unduly repetitious testimony during the hearing.

[Witnesses participating through teleconference on the day of hearing are to be provided with courtesy copies of the proposed evidence packets (i.e., Petitioners and Respondent's) prior to the hearing day. Failure to do so might result in the undersigned excluding the witness(es) from participation in the hearing.]

The parties are expected to work cooperatively on scheduling witnesses and/or making witnesses available to one another. Should either party anticipate a problem in gaining a witness' participation, counsel is directed to address it by contacting opposing counsel where appropriate, seeking a subpoena, or requesting an immediate prehearing conference call.

6. [Here the Hearing Officer should record the result of any discussion regarding records and witnesses (e.g., the school district will provide to the parent records by _____; the school district will make available _____ at the time of hearing; or, the parent/school district will file a request for a Subpoena with the Hearing Officer by _____.)]

7. [After discussing the presumptions regarding the various procedural items listed in the "Note" in the "Prehearing Conference—Subjects To Be Considered" form, and making any agreed upon changes, the Hearing Officer should set forth below the agreement of the parties on the presumptions.] The parties agreed to the following matters:

- The school district will provide a court reporter.
- The parent opts for a hearing to be closed.
- The parent will participate in the due process hearing.
- The student will not be present at the due process hearing.
- Neither party requires interpreter services, translation of documents or other accommodations.
- The [parent/school district] will proceed first at the hearing.
- The [parent/school district] will carry the burden of persuasion.
- The parties must be prepared to present oral closing argument
- The Parent elects to be provided a written decision.

[If a party made an objection to any item, record the objection and how the objection was addressed.]

8. With regard to any motions or other problems to be addressed or anticipated, the parties advised: [record the results of the discussion, including dates for any motions to be filed and when they will be ruled upon].

9. The parties are encouraged to stipulate to as many facts as can be agreed upon in order to facilitate and expedite the taking of testimony on the day of the hearing. [Each party must provide the Hearing Officer a list of joint stipulations of fact and material admissions three days prior to the due process hearing.⁵ Each party must stipulate and admit only those facts that are material, i.e., “significant to the issue or matter at hand.”⁶ Each party’s counsel must certify in a letter, submitted at least one (1) day prior to the due process hearing, that s/he has attempted in good faith to stipulate to material facts that are not in dispute.]

10. [The Hearing Officer should record any other matters discussed, agreed upon or ruled on which should be placed on the record.]

11. The parties understand that there are to be no *ex parte* communication with the Hearing Officer. Any written communications with the Hearing Officer, whether by mail, electronic mail, or facsimile transmission must be simultaneously copied / delivered to the other party. The Hearing Officer may be reached as follows:

[PROVIDE CONTACT INFORMATION.]

12. Attorneys are directed that if any problem or dispute arises between the time of the prehearing conference and the time the decision is issued and the parties are unable to mutually resolve the dispute, thereby necessitating the involvement of the Hearing Officer, the attorneys must immediately contact the Hearing Officer. The Hearing Officer will address the matter by scheduling a telephone conference call or in such other manner as is deemed appropriate under the circumstances.

13. The parties will be held to the matters agreed upon, ordered, or otherwise set forth in this Order. If either party believes this Hearing Officer has overlooked or misstated any item, the party is directed to advise this Hearing Officer of the omission or misstatement within three (3) business days of the date of this Order (and provide a copy to opposing counsel). The Hearing Officer will address the party’s concern promptly.

IT IS SO ORDERED.

⁵ Material stipulations will streamline the presentation of evidence and testimony in the interest of a more efficient due process hearing.

⁶ Black’s Law Dictionary, 7th ed. Evidence is material if it has a logical connection to a fact of consequence to the outcome of the case.[same as before]

Dated: _____

Hearing Officer

[Insert address, phone, fax and email address
of IHO]

Copies to: All Parties

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT, a minor, by and through
his/her Parent(s), _____

Petitioners,

- against -

Case No. _____

Hearing Officer

Respondent.

MOTION FOR CONTINUANCE

This [joint] Motion [by the Petitioner/Respondent] [strike one or both] is to request a continuance of the [prehearing conference] due process hearing currently scheduled to take place on _____ for _____ days, and, accordingly, request an extension of the 45-day timeline in this matter to _____ or such date as the Hearing Officer sets.

The reason for the continuance is:

I have contacted the opposing party/attorney who [does] [does not] object to the continuance requested.

By my signature below, I certify that I have provided the opposing party/attorney with a copy of this Motion.

Date: _____

[Print Name and affiliation to party.]
[Insert address, phone, fax, and email address]

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT, a minor, by and through
his/her Parent(s), _____
_____ ,

Petitioners,

- against -

Case No. _____

_____ ,

Hearing Officer

Respondent.

ORDER GRANTING/DENYING CONTINUANCE

On _____ , 20____, [Petitioner/Respondent] [jointly] requested a continuance of the [prehearing conference] hearing currently scheduled to take place on _____ for _____ days, and, accordingly, requested an extension of the current 45-day timeline in this matter to _____ or such date as this Hearing Officer sets. The reason(s) for the continuance are _____.

[The opposing party takes no position/does not object.] [The opposing party objects to the requested continuance on the grounds that _____.]

Under the IDEA, the 45-day timeline for rendering a decision may only be extended for good cause. Applying this standard to the present situation, it is found good cause does/does not exist for the following reason(s). [First, _____. Second, _____.]

The request for continuance is hereby [denied/granted] [for the reason(s) set forth above or _____]. Accordingly, [the hearing will go forward on _____, as previously scheduled, and as specified in the Prehearing Order and Report dated _____.] [the hearing is rescheduled to _____, from _____ a.m./p.m. to _____ a.m./p.m. The hearing officer’s decision is now due on _____, unless a subsequent continuance is granted.]

IT IS SO ORDERED.

Dated: _____

_____,
Hearing Officer

[Insert address, phone, fax and email address
of IHO]

HEARING OFFICER OPENING STATEMENT

This is the matter of _____, a student [suspected of being disabled] [with a disability], v. _____ School District. My name is _____ and I am the Hearing Officer who has been appointed to hear this matter. This hearing is being held on this date, _____, pursuant to the provisions of the Individuals with Disabilities Education Act and its regulations, as well as the applicable laws of the State of Illinois.

This hearing arises out of [briefly describe what prompted the hearing, e.g., on _____, an IEPT meeting for the Student was held. The Parent disagreed with certain portions of the IEP proposed as a result of that meeting (or whatever gave rise to the due process complaint notice) and filed a due process complaint notice requesting this hearing on _____.] The Parent has elected that this hearing be open/closed. I would ask the attorneys to introduce themselves as well as those with them here today.

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT,⁷

Petitioners,

- against -

Case No. _____

_____ ,

Hearing Officer

Respondent.

ORDER OF WITHDRAWAL

OPTION 1 – AS A RESULT OF WITHDRAWAL WITHOUT SETTLEMENT:

This Hearing Officer has been advised that Petitioner has withdrawn the due process complaint notice in this matter on _____. Accordingly, the case is withdrawn.

Pursuant to 105 ILCS 5/14-8.02a(f), this Hearing Officer retains jurisdiction over a subsequent request for a due process hearing that involves the same parties and is requested within one year from the date of the withdrawn request, unless the Hearing Officer is unavailable.

IT IS SO ORDERED.

OPTION 2 – AS A RESULT OF WITHDRAWAL DUE TO SETTLEMENT:

⁷ Personal identification information is provided in Appendix A.

This Hearing Officer has been advised that the parties have settled this matter [as a result of the resolution meeting] and, therefore, the Petitioner has withdrawn its due process complaint notice. Accordingly, the case is withdrawn.

Pursuant to 105 ILCS 5/14-8.02a(f), this Hearing Officer retains jurisdiction over a subsequent request for a due process hearing that involves the same parties and is requested within one year from the date of the withdrawn request, unless the Hearing Officer is unavailable.

IT IS SO ORDERED.

Dated: _____

Hearing Officer
[Insert address, phone, fax and email address of IHO]

Copies to: Counsel

[NOTE: Do not put any notice of right to appeal on any order terminating a matter due to a withdrawal and/or settlement, unless in the discretion of the Hearing Officer the specific circumstance warrants such.]

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT,⁸

Petitioners,

- against -

Case No. _____

Hearing Officer

Respondent.

ORDER [OF DISMISSAL]

BACKGROUND

[Include the following: (1) the motion or event that prompted the consideration of dismissal and grounds; (2) the opposing party’s response and grounds; (3) any stipulations; (4) if any factual disputes, how and when a record was made to determine such (e.g., hearing, affidavits), who testified/submitted testimony, and the exhibits (e.g., P-1 thru 5) which each party entered into evidence; and (5) whether arguments or briefs were submitted.]

ISSUE(S)

The issue(s) to be determined are as follows:

⁸ Personal identification information is provided in Appendix A.

FINDINGS OF FACT (if necessary)

[After considering all the evidence, as well as the arguments of both counsel, this Hearing Officer's Findings of Fact are as follows:]

CONCLUSIONS OF LAW

[Based upon the above Findings of Fact (if any), the arguments of counsel, as well as this Hearing Officer's own legal research, the Conclusions of Law of this Hearing Officer are as follows:]

ORDER

Based upon the above Findings of Fact and Conclusions of Law, the Motion to Dismiss is [granted/denied]. [Accordingly, the matter is hereby dismissed with/without prejudice.]

NOTICE OF RIGHT TO REQUEST CLARIFICATION

Pursuant to 105 ILSC 5/14-8.02a(h), either party may request clarification of this decision by submitting a written request to the Hearing Officer within five (5) days of receipt of the decision. The request for clarification must specify the portions of the decision for which clarification is sought. A copy of the request must be mailed to all other parties and the Illinois State Board of Education, Program Compliance Division, 100 North First Street, Springfield, IL 62777. The right to request clarification does not permit a party to request reconsideration of the decision itself and the Hearing Officer is not authorized to entertain a request for reconsideration.

NOTICE OF RIGHT TO APPEAL

This is the final administrative decision in this matter. Pursuant to 105 ILCS 5/14-8.02a(i), any party aggrieved by this Hearing Officer Determination may bring a civil action in any state court of competent jurisdiction or in a District Court of the United States without regard to the amount in controversy within one hundred and twenty (120) days from the date the decision is mailed to the party.

Dated: _____

_____,
Hearing Officer
[Insert address, phone, fax and email address
of IHO]

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT,⁹

Petitioners,

- against -

Case No. _____

Hearing Officer

Respondent.

FINAL DETERMINATION AND ORDER

BACKGROUND

[Include the following: (1) the student's sex, age, grade,¹⁰ disability category, and current IEP programs, services, and accommodations; (2) the circumstances which prompted the due process complaint notice; (3) when the complaint was filed and you were appointed as hearing officer; (4) the basis for jurisdiction under IDEA and Illinois laws; (5) when a prehearing conference was held; (6) any significant agreements or rulings;¹¹ (7) when the hearing was held, whether it was open/closed, who represented

⁹ Personal identification information is provided in Appendix A.

¹⁰ To comply with IDEA and FERPA requirements, consider whether, under certain circumstances, a list of personal characteristics or other information would make the student's identity easily traceable or it possible to identify the student. In general, the factors to consider include, but are not limited to, the size of the district, school and grade, and the prevalence and knowledge of the student's personal characteristics and other information (e.g., disability, initials, parent's advocacy work) within the school community at large. In individually weighing these factors, you should determine the information or combination of information that would constitute personally identifiable information and remove it from the decision, possibly placing it in the appendix.

¹¹ At the prehearing conference and prior to or at the due process hearing.

each party, who testified, and the exhibits (e.g., P-1 thru 5) which each party entered into evidence; (8) any extension(s) to get to the 45-day deadline; and (9) whether closing arguments or briefs were submitted.]

ISSUES

The issues to be determined are as follows:

FINDINGS OF FACT

[After considering all the evidence, as well as the arguments of both counsel, this Hearing Officer's Findings of Fact are as follows:]

CONCLUSIONS OF LAW

[Based upon the above Findings of Fact, the arguments of counsel, as well as this Hearing Officer's own legal research, the Conclusions of Law of this Hearing Officer are as follows:]

ORDER

Based upon the above Findings of Fact and Conclusions of Law, it is hereby ordered:

[Include what must be done by each party, where applicable, to carry out the decision, including the establishment of timelines for each step or action, and by whom i.e., make sure it is enforceable.]

[In accordance with 105 ILCS 5/14-8.02a(h), within _____ school days of receipt of this Order, the school district must submit proof of compliance to:]

Illinois State Board of Education
Program Compliance Division
100 North First Street
Springfield, IL 62777-0001

NOTICE OF RIGHT TO REQUEST CLARIFICATION

Pursuant to 105 ILSC 5/14-8.02a(h), either party may request clarification of this decision by submitting a written request to the Hearing Officer within five (5) days of receipt of the decision. The request for clarification must specify the portions of the decision for which clarification is sought. A copy of the request must be mailed to all other parties and the Illinois State Board of Education, Program Compliance Division, 100 North First Street, Springfield, IL 62777. The right to request clarification does not permit a party to request reconsideration of the decision itself and the Hearing Officer is not authorized to entertain a request for reconsideration.

NOTICE OF RIGHT TO APPEAL

This is the final administrative decision in this matter. Pursuant to 105 ILCS 5/14-8.02a(i), any party aggrieved by this Hearing Officer Determination may bring a civil action in any state court of competent jurisdiction or in a District Court of the United States without regard to the amount in controversy within one hundred and twenty (120) days from the date the decision is mailed to the party.

Dated: _____

Hearing Officer

[Insert address, phone, fax and email address
of IHO]

APPENDIX A

[Student] v. [School District]

Case No:

Child	
Attending School	
Child's Parent(s) (specific relationship)/Petitioner	

**CERTIFICATION OF THE RECORD –
HEARING OFFICER RESPONSIBILITIES**

A. RESPONSIBILITY.

1. Hearing Officer. The Hearing Officer has the sole responsibility for certifying the record for all cases to which the Hearing Officer is assigned.

2. Timing. After issuance of an Order of Withdrawal, Order of Dismissal or Final Determination and Order, Hearing Officers must certify and return the organized record to the ISBE. Hearing Officers must provide the ISBE a record certification, along with the complete record within thirty (30) calendar days of the issuance of the Order of Withdrawal/Dismissal or Decision, as the case may be.

3. Form. The Hearing Officer must certify the record using the attached Form, "Certification of the Record."

B. THE COMPLETE RECORD.

1. Content. The complete record should consist of the following, as appropriate and as determined by the facts and circumstances of each case:

- a. The due process complaint;
- b. The notice of hearing officer appointment;
- c. The district or other party response to the due process complaint;
- d. Notice of Insufficiency;
- e. All notices of proceedings;
- f. All correspondence filed with or by the Hearing Officer, including email correspondence;
- g. Prehearing orders;
- h. Motions, briefs, and orders;
- i. All documents or other tangible, non-documentary items (e.g., photographs, videotapes, sound recording) admitted into evidence at the hearing;
- j. Any written or electronic, verbatim record of prehearing conferences and other on-the-record discussions;
- k. A written or electronic, verbatim record of the due process hearing, if available; and,
- l. Any final order, i.e., Order of Withdrawal, Order of Dismissal or Final Determination and Order.

2. Evidence Excluded From the Record.

a. Any exhibits, or portions of the verbatim record, that the Hearing Officer during the course of the hearing allowed as a separate record for the purposes of appeal, must be so marked or identified, noted in the certification, and accompany the record.

b. Any other proposed exhibits, documents, or tangible non-documentary items not admitted into the record must be destroyed or returned to the party who provided the proposed exhibit or document.

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT,

Petitioners,

- against -

Case No. _____

_____ ,

Hearing Officer

Respondent.

CERTIFICATION OF THE RECORD

The enclosed record made before me as the Hearing Officer in this matter includes the following [items as set forth in the attached Index of Correspondence, Documents and Pleadings]:

1. A packet of correspondence, documents and pleadings with an Index* or as Hearing Officer Exhibits 1 through __. **
2. A packet of Parent’s Exhibits 1 through __.
3. A packet of District Exhibits 1 through __.
4. The Order of Withdrawal, Order of Dismissal or Final Determination and Order.

[Also attached in a separately marked envelope is/are proposed exhibit(s) _____ - _____ /transcript which constitute a separate record granted solely for the purpose of appeal.]

I, _____, Impartial Due Process Hearing Officer for the Illinois State Board of Education (ISBE), hereby certify that the attached record is an accurate and complete copy of the record maintained by me in the above-referenced matter [excluding the transcript of proceedings in this matter***].

Dated: _____

Hearing Officer
[Insert address, phone, fax and email address
of IHO]

- * See attached sample Index of Correspondence, Documents and Pleadings.
- ** See attached sample of Hearing Officer Exhibits.
- *** Delete this portion if a copy of the transcript is available to you, add it as Item 5 above (e.g., Transcript of Proceedings of Hearing held on _____, 201__) and enclose the transcript as part of the record.

INDEX OF CORRESPONDENCE, DOCUMENTS AND PLEADINGS

NO.	DATE RECEIVED/SENT	DOCUMENT
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

STUDENT,

Petitioners,

- against -

Case No. _____

_____ ,

Hearing Officer

Respondent.

HEARING OFFICER EXHIBIT LIST

The following is a list of Hearing Officer Exhibits in this matter:

1.