

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 11-0581.01 Julie Pelegrin

SENATE BILL 11-061

SENATE SPONSORSHIP

Spence,

HOUSE SPONSORSHIP

Ferrandino,

Senate Committees
Education

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE PROCESS FOR APPEALS UNDER THE "EXCEPTIONAL**
102 **CHILDREN'S EDUCATION ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, if a parent of a child with a disability disagrees with the administrative unit or state-operated program concerning the determination of the child's disability or some other aspect of providing services, the parent must go through a two-step appeal process that includes a review by a hearing officer at the local level and a subsequent

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
February 15, 2011

opportunity to appeal to the commissioner of education.

The bill changes the appeal process to a single due process hearing at the state level that complies with the federal "Individuals with Disabilities Education Act" and the regulations implementing the act. The parent, the administrative unit, or the state program may file a request for a due process hearing with the commissioner of education, and the department of education shall provide the hearing in compliance with the federal law.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 22-20-108 (3), Colorado Revised Statutes, is
3 amended to read:

4 **22-20-108. Determination of disability - enrollment.** (3) (a) In
5 ~~the event of an appeal of the determination of disability, the determination~~
6 ~~of eligibility for services, the IEP to be offered, the determination of~~
7 ~~placement, or the provision of a free appropriate public education for a~~
8 ~~child with disabilities pursuant to this article, the administrative unit or~~
9 ~~state-operated program shall utilize the procedures and timetable for~~
10 ~~impartial due process hearings established by rules promulgated by the~~
11 ~~state board pursuant to this article~~ A DISPUTE BETWEEN THE PARENTS OF
12 A CHILD WITH A DISABILITY AND AN ADMINISTRATIVE UNIT OR
13 STATE-OPERATED PROGRAM, THE PARENTS OR THE ADMINISTRATIVE UNIT
14 OR STATE-OPERATED PROGRAM SHALL HAVE THE SAME RIGHTS TO AN
15 IMPARTIAL DUE PROCESS HEARING AS ARE PROVIDED IN THE IDEA AND
16 THE FEDERAL REGULATIONS, 34 CFR PART 300, IMPLEMENTING THE ACT.
17 TO REQUEST A DUE PROCESS HEARING, THE PARENTS OF A CHILD WITH A
18 DISABILITY OR THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM
19 SHALL SIMULTANEOUSLY FILE COMPLETE COPIES OF THE DUE PROCESS
20 COMPLAINT WITH THE OPPOSING PARTY AND WITH THE COMMISSIONER OF
21 EDUCATION OR HIS OR HER DESIGNEE TO ENSURE THE TIMELY ASSIGNMENT

1 OF AN IMPARTIAL HEARING OFFICER.

2 (b) ~~If the administrative unit, state-operated program, or the parent~~
3 ~~or guardian disagree with the findings of the impartial hearing officer~~
4 ~~who conducts the due process hearing, either party may appeal to the~~
5 ~~commissioner of education for review. This review shall be conducted~~
6 ~~in accordance with procedures and timetables established by rules~~
7 ~~promulgated by the state board, and a decision concerning the review~~
8 ~~shall be returned to the administrative unit or state-operated program and~~
9 ~~the parent or guardian.~~ IF A DUE PROCESS HEARING IS REQUESTED
10 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), THE DEPARTMENT
11 SHALL PROVIDE THE HEARING IN COMPLIANCE WITH THE REQUIREMENTS
12 AND PROVISIONS OF IDEA AND THE FEDERAL REGULATIONS, 34 CFR PART
13 300, IMPLEMENTING THE ACT, INCLUDING BUT NOT LIMITED TO THE
14 REQUIREMENTS GOVERNING DUE PROCESS COMPLAINTS, RESOLUTION
15 MEETINGS, IMPARTIAL DUE PROCESS HEARING PROCEDURES, HEARING
16 RIGHTS, TIMELINES, HEARING DECISIONS, AND CIVIL ACTIONS.

17 (c) THE FINDINGS AND DECISION MADE BY THE DEPARTMENT SHALL
18 BE FINAL. ANY PARTY AGGRIEVED BY THE DEPARTMENT'S FINDINGS AND
19 DECISION HAS THE RIGHT TO BRING A CIVIL ACTION PURSUANT TO THE
20 PROVISIONS OF IDEA AND THE FEDERAL REGULATIONS, 34 CFR 300.516
21 (a), IMPLEMENTING THE ACT.

22 **SECTION 2. Effective date - applicability.** This act shall take
23 effect July 1, 2011, and shall apply to hearings requested on or after said
24 date.

25 **SECTION 3. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.