

WAC 392-172A-05160 Appeal of placement decisions and manifestation determinations. (1) The parent of a student eligible for special education who disagrees with any decision regarding placement under WAC 392-172A-05145 and 392-172A-05155, or the manifestation determination under WAC 392-172A-05146, or a school district that believes that maintaining the current placement of the student is substantially likely to result in injury to the student or others, may appeal the decision by requesting a due process hearing. The hearing is requested by filing a due process hearing request pursuant to WAC 392-172A-05080 and 392-172A-05085.

(2)(a) An administrative law judge under WAC 392-172A-05095 hears, and makes a determination regarding an appeal under subsection (1) of this section.

(b) In making the determination under (a) of this subsection, the administrative law judge may:

(i) Return the student to the placement from which the student was removed if the administrative law judge determines that the removal was a violation of WAC 392-172A-05145 through 392-172A-05155 or that the student's behavior was a manifestation of the student's disability; or

(ii) Order a change of placement of the student to an appropriate interim alternative educational setting for not more than forty-five school days if the administrative law judge determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

(c) The procedures under subsection (1) of this section and (b) of this subsection may be repeated, if the school district believes that returning the student to the original placement is substantially likely to result in injury to the student or to others.

(3) Whenever a hearing is requested under subsection (1) of this section, the parents and the school district involved in the dispute must have an opportunity for an impartial due process hearing consistent with the requirements of WAC 392-172A-05080 through 392-172A-05090 and 392-172A-05100 through 392-172A-05110, except:

(a) The due process hearing must be expedited, and must occur within twenty school days of the date the due process hearing request is filed. The administrative law judge must make a determination within ten school days after the hearing.

(b) Unless the parents and school district agree in writing to waive the resolution meeting described in (b)(i) of this subsection, or agree to use the mediation process:

(i) A resolution meeting must occur within seven days of receiving notice of the due process hearing request; and

(ii) The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within fifteen days of the receipt of the due process hearing request.

(4) The administrative hearing decisions on expedited due process hearings may be appealed, by initiating a civil action consistent with WAC 392-172A-05115.

[Statutory Authority: RCW 28A.155.090. WSR 17-23-054, § 392-172A-05160, filed 11/9/17, effective 12/10/17. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. WSR 07-14-078, § 392-172A-05160, filed 6/29/07, effective 7/30/07.]