

House _____ Amendment NO. _____

Offered By

1 AMEND House Bill No. 2010, Page 3, Section 162.091, Line 20, by inserting after all of said
2 section and line the following:

3
4 "162.961. 1. A parent, guardian or the responsible educational agency may request a due
5 process hearing before the administrative hearing commission with respect to any matter relating to
6 identification, evaluation, educational placement, or the provision of a free appropriate public
7 education of the child. Such request shall include the child's name, address, school, issue, and
8 suggested resolution of dispute if known. Except as provided in subsection 4 of this section, the
9 administrative hearing commission shall within fifteen days after receiving notice assign a
10 commissioner who is not an employee of the state board of education or department of elementary
11 and secondary education to hear the case. Commissioners shall have some knowledge or training
12 involving children with disabilities, shall not have a personal or professional interest which would
13 conflict with ~~his or her~~ such commissioner's objectivity in the hearing, and shall meet the training
14 and assessment requirements pursuant to state regulations, federal law and regulation requirements
15 of the Individuals With Disabilities Education Act, and the requirements in section 621.253. No
16 commissioner who conducts a due process hearing shall have been employed within the last five
17 years by a school district or by an organization engaged in special education parent and student
18 advocacy, performed work for a school district or for a parent or student as a special education
19 advocate within the last five years as an independent contractor or consultant, been employed within
20 the last five years by the state board of education or department of elementary and secondary
21 education, or performed work for the state board of education or department of elementary and
22 secondary education within the last five years as an independent contractor or consultant, or been
23 party to a special education proceeding as an attorney, parent, or child. During the pendency of any
24 hearing, or prior to the assignment of the commissioner, the parties may, by mutual agreement,
25 submit their dispute to a mediator pursuant to section 162.959.

26 2. The parent or guardian, school official, and other persons affected by the action in
27 question shall present at the hearing all pertinent evidence relative to the matter under appeal. All
28 rights and privileges as described in section 162.963 shall be permitted. In hearings relating to a
29 child with a disability that are held under the Individuals with Disabilities Act (20 U.S.C. Section
30 1400 et seq.), applicable state law, or rules or regulations promulgated under such federal or state

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1 law, the burden of proof and the burden of production shall be on the school district in any due
2 process hearing regarding any matter related to the identification, evaluation, reevaluation,
3 classification, educational placement, disciplinary action, or the provision of a free appropriate
4 public education of the child.

5 3. After review of all evidence presented and a proper deliberation, the commissioner,
6 within the ~~[time-lines]~~ timelines required by the Individuals With Disabilities Education Act, 20
7 U.S.C. Section 1415 and any amendments thereto, shall determine its findings, conclusions, and
8 decision in the matter in question and forward the written decision to the parents or guardian of the
9 child and to the president of the appropriate local board of education or responsible educational
10 agency and to the department of elementary and secondary education. A specific extension of the
11 ~~[time-line]~~ timeline may be made by the commissioner assigned to the matter at the request of either
12 party, except in the case of an expedited hearing as provided in subsection 4 of this section.

13 4. An expedited due process hearing by the administrative hearing commission may be
14 requested by a parent to challenge a disciplinary change of placement or to challenge a
15 manifestation determination in connection with a disciplinary change of placement or by a
16 responsible educational agency to seek a forty-five school day alternative educational placement for
17 a dangerous or violent student. The administrative hearing commission shall assign a commissioner
18 to hear the case and render a decision within the ~~[time-line]~~ timeline required by federal law and
19 state regulations implementing federal law. A specific extension of the ~~[time-line]~~ timeline is only
20 permissible to the extent consistent with federal law and pursuant to state regulations.

21 5. If the responsible public agency requests a due process hearing to seek a forty-five school
22 day alternative educational placement for a dangerous or violent student, the agency shall show by
23 substantial evidence that there is a substantial likelihood the student will injure ~~[himself]~~ the student
24 or others and that the agency made reasonable efforts to minimize that risk, and shall show that the
25 forty-five school day alternative educational placement will provide a free appropriate public
26 education which includes services and modifications to address the behavior so that ~~[it]~~ such
27 behavior does not reoccur, and continue to allow progress in the general education curriculum.

28 6. Any due process hearing request and responses to the request shall conform to the
29 requirements of the Individuals With Disabilities Education Act (IDEA). Determination of the
30 sufficiency shall be made by the commissioner. The commissioner shall enforce the process and
31 procedures, including ~~[time-lines]~~ timelines, required by the IDEA, related to sufficiency of notice,
32 response to notice, determination of sufficiency dispute, and amendments of the notice.

33 7. A preliminary meeting, known as a resolution session, shall be convened by the
34 responsible public agency, under the requirements of the IDEA. The process and procedures
35 required by the IDEA in connection to the resolution session and any resulting written settlement
36 agreement shall be implemented. The responsible public agency or its designee shall sign the
37 agreement. The designee identified by the responsible public agency shall have the authority to
38 bind the agency. A local board of education, as a responsible public agency, shall identify a
39 designee with authority to bind the school district.

1 8. Notwithstanding any provision of law to the contrary, when conducting a due process
2 hearing, the administrative hearing commission shall conform all of its practices, procedures, filing
3 deadlines, and response times to the requirements of the Individuals With Disabilities Education Act
4 (IDEA)."; and
5
6 Further amend said bill by amending the title, enacting clause, and intersectional references
7 accordingly.