

4 AAC 52.030 is amended to read:

**4 AAC 52.030. Advisory panel.** The Governor's Council on Disabilities and Special Education, established under AS 47.80.030 – 47.80.090, [AS 47.80.030 – AS 47.80.090] is the advisory panel under **20 U.S.C. 1400 – 1482** 20 U.S.C. 1400 – 1487] (Individuals with Disabilities Education Act), as revised as of **December 3, 2004** [JUNE 4, 1997], and AS 14.30.231. (Eff. 7/1/83, Register 86; am 11/26/93, Register 128; am 8/22/2001, Register 159; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:**      AS 14.07.060                      AS 14.30.231                      AS 14.30.335

4 AAC 52.140 is amended by adding a new subsection to read:

(g) In describing how the child's progress toward meeting annual goals is measured and reported, as required under 34 C.F.R. 300.320(a)(3), as revised of October 13, 2006, and adopted by reference, an IEP team shall include in the IEP for the child, a statement of benchmarks or short-term objectives designed to facilitate progress toward meeting the annual goals.

(Eff. 7/1/83, Register 86; am 7/16/89, Register 111; am 11/26/93, Register 128; am 8/22/2001, Register 159; am 8/ 3/2007, Register 183; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:**                      AS 14.07.060                      AS 14.30.278                      AS 14.30.335

4 AAC 52.145(e) is amended to read:

(e) **With the consent of the parents of the child or the consent of a child who has reached the age of 18 years, and to the extent appropriate, a district shall invite a representative of a participating agency to an IEP meeting regarding the child's transition services.** If **the** [AN] **participating** agency [SPECIFIED IN 4 AAC 52.140(b) (2)] does not

send a representative to **the** [AN] IEP meeting, the district shall take other steps to obtain the participation of the agency in the planning for transition services.

(Eff. 11/26/93, Register 128; am 8/22/2001, Register 159; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:**    AS 14.07.060                      AS 14.30.285                      AS 14.30.335  
                    AS 14.30.278

4 AAC 52.250(c) and (d) are amended to read:

(c) Each special education aide employed by the district to assist in providing special education to a child must be supervised on-site [AT LEAST MONTHLY] by the certificated special education teacher responsible for the child's program. **The child's IEP team shall make an individualized determination of the frequency of on-site supervision for each program. A district must provide for on-site supervision at least once every month unless the IEP team, after consideration of all the evidence, determines that less frequent on-site supervision for that program is sufficient to provide a FAPE to the child. However, a district may not provide on-site supervision under this subsection less frequently than once every three months.**

(d) Each special education aide employed by the district to assist in providing related services to a child must be supervised on-site [AT LEAST MONTHLY] by the certificated or licensed related services provider responsible for the child's program. **The child's IEP team shall make an individualized determination of the frequency of on-site supervision for each related service. A district must provide for on-site supervision at least once every month unless the IEP team, after consideration of all the evidence, determines that less frequent on-site supervision for that related service is sufficient to provide a FAPE to the child.**

**However, a district may not provide on-site supervision under this subsection less frequently than once every three months.** (Eff. 7/1/83, Register 86; am 6/9/85, Register 94; am 7/16/89, Register 111; am 8/22/2001, Register 159; am 9/29/2005, Register 175; am \_\_/\_\_/2007, Register \_\_)

**Authority:** AS 14.07.060 AS 14.30.180 AS 14.30.250

4 AAC 52.252 is amended to read:

**4 AAC 52.252. Program supervision.** (a) Each special education program provided to a child through the assistance of a certificated regular education teacher must be reviewed on-site [AT LEAST MONTHLY] by the certificated special education teacher responsible for the child's program. **The child's IEP team shall make an individualized determination of the frequency of on-site supervision for each program. A district must provide for on-site supervision at least once every month unless the IEP team, after consideration of all the evidence, determines that less frequent on-site supervision for that program is sufficient to provide a FAPE to the child. However, a district may not provide on-site supervision under this subsection less frequently than once every three months.**

(b) Each related services program provided to a child through the assistance of a certificated regular or special education teacher must be reviewed on-site [AT LEAST MONTHLY] by the certificated or licensed related services provider responsible for the child's program. **The child's IEP team shall make an individualized determination of the frequency of on-site supervision for each related service. A district must provide for on-site supervision at least once every month unless the IEP team, after consideration of all the evidence, determines that less frequent on-site supervision for that related service is**

**sufficient to provide a FAPE to the child. However, a district may not provide on-site supervision less frequently than once every three months.** (Eff. 7/16/89, Register 111;

am \_\_/\_\_/2007, Register \_\_)

**Authority:**    AS 14.07.060            AS 14.30.180            AS 14.30.350  
[AS 14.30.180 –  
AS 14.30.350]

4 AAC 52.260 is repealed and readopted to read:

**4 AAC 52.260. Personnel development.** Each district shall ensure that all personnel necessary to implement this chapter and 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act), as revised as of December 3, 2004, or a regulation adopted under 20 U.S.C. 1400 - 1482, are appropriately and adequately prepared, subject to the requirements of 4 AAC 04.210(j) and 34 C.F.R. 300.156, as revised as of October 13, 2006, and adopted by reference. (Eff. 7/1/83, Register 86; am 11/26/93, Register 128; am 8/22/2001, Register 159;

am \_\_/\_\_/\_\_, Register \_\_)

**Authority:**            AS 14.07.060            AS 14.30.250            AS 14.30.255

4 AAC 52.480 is amended to read:

**4 AAC 52.480. Procedural safeguards notice.** Each district shall comply with the requirements of 34 C.F.R. 300.504, as revised as of October 13, 2006, and adopted by reference, regarding the provision of notice of procedural safeguards to the parents of a child with a disability. **The notice must inform the parent of any free or low-cost legal or other relevant services available in the area if the parent**

**(1) requests the information; or**

**(2) is a party to a due process hearing under AS 14.30.193 or an administrative complaint under 4 AAC 52.500.** (Eff. 8/22/2001, Register 159; am 8/30/183,

Register \_\_\_\_; am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 14.07.060 AS 14.30.272 AS 14.30.335  
AS 14.30.193

4 AAC 52.500 is repealed and readopted to read:

**4 AAC 52.500. Administrative complaint procedure.** (a) An organization or parent or other individual may file with the department an administrative complaint alleging that a district or other public agency has violated a requirement of AS 14.30.180 – 14.30.350, this chapter, 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act), or a regulation adopted under 20 U.S.C. 1400 - 1482. However, only a parent may file a complaint alleging that a district has failed to implement a due process hearing decision issued under AS 14.30.193. The violation alleged in the administrative complaint must have occurred not more than one year before the date that the administrative complaint is received by the department. An administrative complaint may allege a systemic violation, a violation of the rights of a specific child, or both. A separate administrative complaint must be filed for each specific child whose specific rights are at issue. The department may consolidate two or more related administrative complaints for purposes of investigation, but will issue separate decisions if necessary to preserve confidentiality.

(b) An administrative complaint filed under (a) of this section must be in writing, signed by the complainant, and dated. It must be sent to the department, division of teaching and learning support, and, at the same time, to the respondent and the district that provides services

to the child who is the subject of the administrative complaint. It must include the following information:

- (1) the name, address, and telephone number of the complainant, and, if applicable, of the person filing the administrative complaint on the complainant's behalf;
- (2) a statement alleging that a district or other public agency has violated a requirement of one or more of the laws listed in (a) of this section;
- (3) a statement of the facts that form the basis for the alleged violation of law;
- (4) the name of the district or other public agency listed in the statement made under (2) of this subsection the department will consider the district or other public agency named as the respondent to the complaint;
- (5) the date of each alleged violation or, in the case of an alleged continuing or alleged systemic violation, the date that the first alleged violation took place and the history of the alleged violation up to the date of the complaint;
- (6) if the complaint concerns an alleged violation of the rights of a specific child,
  - (A) the name, residence address, and telephone number of the child or, in the case of a homeless child or youth within the meaning of (42 U.S.C. 11434a(2) (McKinney - Vento Homeless Assistance Act), available contact information for the child;
  - (B) the name of the school that the child is attending;
  - (C) a description of the nature of the problem of the child, including facts relating to the problem; and
  - (D) a proposed resolution of the problem to the extent known and available to the complainant at the time the complaint is filed.

(c) If the department receives a communication that appears to be intended to be an administrative complaint under this section, the department will determine whether the department may accept the complaint as submitted as meeting the procedural requirements of this section. The department will notify the complainant if the complaint does not meet those requirements, and will inform the complainant of the procedural deficiencies of the complaint. If the department accepts the complaint as meeting the procedural requirements of this section, the department will

(1) assist the complainant to clarify the allegations in the complaint, and give the complainant the opportunity to submit additional information; and

(2) advise the complainant and the respondent of the opportunity to resolve the issues in a non-adversarial manner, including an opportunity for the

(A) respondent to offer a proposal to resolve the complaint; and

(B) complainant and respondent to voluntarily resolve the complaint through mediation under 4 AAC 52.490.

(d) The department will conduct an independent investigation of an unresolved administrative complaint. The investigation may include

(1) interviews of the complainant and respondent, including their employees, if any;

(2) a review of relevant documentation as determined by the department; and

(3) an on-site investigation.

(e) Unless the complainant and the respondent resolve the allegations identified in the administrative complaint, within 60 days after a complaint was accepted under (c) of this section, the department will issue to the complainant and respondent a written decision. The department

will extend the 60-day period if it determines that exceptional circumstances exist, or if the complainant and respondent have agreed to mediate the dispute under 4 AAC 52.490. The department will document the reasons for extending the 60-day period. The decision issued by the department will include

- (1) a summary of the administrative complaint;
- (2) a summary of the investigation;
- (3) findings of fact;
- (4) conclusions that address each allegation in the administrative complaint,

including the reasons for the decision; and

(5) if a violation has been found, an order requiring cessation and remediation of the violation. Under this paragraph, “remediation” may include compensatory education, monetary reimbursement, or corrective action, including corrective action and future provision of services for a systemic violation discovered in the investigation of a complaint regarding a specific child.

(f) If the department issues an order under (e) (5) of this section, the department will require the district or other public agency to document that it has complied with the order.

(g) If an administrative complaint contains allegations that are the subject of a pending due process hearing under AS 14.30.193 or 4 AAC 52.550, the department will set aside any part of the administrative complaint that is being addressed in the due process hearing, until the conclusion of that hearing. An allegation that is not the subject of a due process hearing will be resolved within the time limit and under the procedures specified in this section. If an issue raised in an administrative complaint has previously been decided in a due process hearing



involving the same complainant and respondent, the department will inform the complainant that that hearing decision is binding on that issue, and will not investigate that issue.

(h) A decision in an administrative complaint regarding an issue that may be considered in a due process hearing under AS 14.30.193 or 4AAC 52.550 is not a final decision and the non-prevailing complainant or respondent may request a due process hearing on that issue. If the issue may not be considered in a due process hearing, then the decision on the administrative complaint on that issue is a final decision of the department, which may be appealed to the superior court under the Alaska Rules of Appellate Procedure. (Eff. 7/1/83, Register 86; am 11/26/93, Register 128; am 12/2/2000, Register 156; am 8/22/2001, Register 159; am 3/31/2002, Register 161; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 14.07.060 AS 14.30.180 AS 14.30.335

**Editor's note:** The address for filing a complaint under 4 AAC 52.500 is Department of Education and Early Development, Division of Teaching and Learning Support, 801 W. 10th Street, Suite 200, PO Box 110500, Juneau, Alaska 99811 - 0500.

4 AAC 52.550 is repealed and readopted to read:

**4 AAC 52.550. Due process hearing.** (a) The department will make available to the public an optional model form for filing a complaint for a due process hearing under AS 14.30.193. A parent must file a complaint for a due process hearing in the timelines established in AS 14.30.193(a); a district must file a complaint for a due process hearing within 60 days after a parent takes the action or inaction that is the subject of the complaint. The department may not be joined as a party to a due process hearing unless the department is

directly providing services to the child or the department consents. The complaint for a due process hearing is confidential. A complaint must include

(1) the name, residence address and telephone number of the child, or, in the case of a homeless child or youth within the meaning of 42 U.S.C. 11434a(2) (McKinney -Vento Homeless Assistance Act), available contact information for the child;

(2) the name of the school that the child is attending;

(3) a description of the nature of the problem of the child relating to the proposed or refused initiation or change that is the basis for the complaint, including facts relating to the problem;

(4) the signature of the person filing the complaint; and

(5) a proposed resolution of the problem to the extent known and available to the complainant at the time the complaint is filed.

(b) A respondent to a complaint for a due process hearing may file with the hearing officer an objection that the complaint is not sufficient. The objection must be filed within 15 days of the respondent's receipt of the complaint. Within five days of receipt by the hearing officer of an objection, the hearing officer shall determine whether the complaint is sufficient, and shall immediately notify the parties of the determination.

(c) The hearing officer may not consider a complaint as untimely requested under AS 14.90.1936 if a parent was prevented from filing a complaint because the district

(1) made specific misrepresentations that it had resolved the problem forming the basis for the complaint; or

(2) withheld information from the parent that was required to be provided to the parent by AS 14.30.180 – 14.30.350, this chapter, 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act), or a regulation adopted under 20 U.S.C. 1400 - 1482.

(d) A complainant may amend a complaint for a due process hearing only with the consent in writing of the respondent or by order of the hearing officer. A hearing officer will not grant a request to amend a complaint if five or fewer days remain before the due process hearing begins. An amended complaint restarts the timelines for resolution under this section and the respondent must be given an opportunity to resolve the issue that is the subject of the amendment in a resolution meeting under (f) of this section.

(e) Within 10 days of receipt of the due process complaint, the respondent must send to the complainant a response that specifically addresses the problems raised in the complaint. The response is confidential. If the respondent is a district, and the district has not sent to the parent a written notice under 4 AAC 52.190 regarding the subject matter of the complaint, the response must include

- (1) an explanation of why the district proposed or refused to take the action;
- (2) a description of other options that the IEP team considered and the reasons why those options were rejected;
- (3) a description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and
- (4) a description of the other factors that are relevant to the district's proposed or refused action.

(f) Within 15 days after receiving a due process complaint, a district shall hold a resolution meeting under 4 AAC 52.555, unless the complainant and district agree in writing to

waive the resolution meeting, or the complainant and district agree to mediate the complaint as provided in 4 AAC 52.490.

(g) A hearing officer appointed under AS 14.30.193 shall conduct the due process hearing at a time and place determined by the hearing officer to be reasonably convenient to the parent and the district. The hearing officer may hold a pre-hearing conference for the purpose of determining scheduling, requirements for briefing and exchange of exhibits, and other administrative matters specific to the hearing. The hearing officer may hold a settlement conference if requested by complainant and respondent, but the hearing officer may not act as a mediator under AS 14.30.194 and 4 AAC 52.490. The hearing officer shall deliver or mail a notice of the hearing to the parent at least 10 days before the hearing. The notice must be worded substantially as follows:

You are notified that a hearing will be held before (insert name of hearing officer) at (insert place of hearing) on (insert date) at (insert time), in response to the request of \_\_\_\_\_ for a hearing on the following issue:

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You may be represented by counsel, may present any relevant evidence, and may cross-examine any witnesses testifying against you.

(h) At least five business days before the hearing, each party must disclose to all other parties all evidence, including evaluations and recommendations based on the evaluations, that the party intends to use at the hearing.

(i) A hearing officer may supplement the procedures in this subsection as necessary to conduct a fair and efficient hearing. The following procedures apply to all due process hearings:

- (1) the hearing must be recorded;

(2) oral testimony must be under oath or affirmation;

(3) each party may

(A) be represented by counsel;

(B) be accompanied and advised by individuals with special knowledge or training with respect to the problems of children with disabilities or of the child about whom the request for a hearing was filed;

(C) call and examine witnesses;

(D) introduce exhibits;

(E) cross-examine opposing witnesses on all relevant matters;

(F) impeach a witness regardless of who first called the witness to testify;

(G) request the hearing officer to compel the attendance of witnesses;

(H) prohibit the introduction of evidence that has not been disclosed by; the other party at least five business days before the hearing;

(4) relevant evidence may be admitted if it is the sort of evidence on which responsible people rely in the conduct of serious affairs, without regard to whether the evidence would be admissible in a civil action;

(5) hearsay evidence may be used to supplement or explain non-hearsay evidence, but is not sufficient by itself to support a finding unless it would be admissible in a civil action;

(6) the rules of privilege are effective to the same extent that they are recognized in a civil action;

(7) evidence may be excluded if it would cause undue delay, waste time, or be a needless presentation of cumulative evidence;

(8) an employee of the district may be called as a witness by any party;

(9) a parent may have that parent's child present and may open the hearing to the public;

(10) the complainant may not raise problems that were not raised in the complaint unless the other party agrees; and

(11) the party that requests the hearing has the burden of proving the party's claim by a preponderance of the evidence.

(j) The hearing officer may proceed with a due process hearing if a district has not resolved a complaint for a due process hearing in the resolution meeting under (f) of this section to the satisfaction of the complainant within 30 days of the district's receipt of the request for a due process hearing under (a) of this section, or within 15 days of the district's receipt of the request for an expedited due process hearing under (l) of this section.

(k) The hearing officer shall issue a final written decision within the timelines provided by this subsection. The decision must include a statement of the facts on which it is based. Except as provided in (l) of this section, upon the request of the complainant or respondent, the hearing officer may extend the time for issuing a final decision by issuing a written order stating the reasons for the extension. An extension may be granted only for good cause and may be ordered only for a specified time to respond to the circumstances for which it is granted. Unless an extension is granted, and except as provided in (l) of this section, the hearing officer shall issue a final written decision and mail a copy to the complainant and respondent, and the department not later than 45 days after one of the following events:

(1) the complainant and the district agree in writing to waive the resolution meeting;

(2) during either the mediation or resolution meeting process, the complainant and the district agree in writing that an agreement is not possible;

(3) the complainant or the district withdraws from the mediation process after the district and the complainant had agreed in writing to continue the mediation at the end of the 30-day resolution period; or

(4) the thirty-day timeline for the resolution meeting has expired without the complainant and respondent resolving the complaint or agreeing in writing to continue mediation.

(l) The provisions of 34 C.F.R. 300.530 – 300.536, as revised as of October 13, 2006, relating to discipline procedures applicable to children with disabilities, are adopted by reference. If a parent or district requests an expedited hearing on a disciplinary issue for which an expedited hearing is provided under the federal provisions adopted in this subsection, the hearing officer must hold an expedited due process hearing within 20 school days after the request for a hearing is filed, and issue a final written decision. The hearing officer shall mail a copy of the decision to the complainant and respondent within 10 school days after the hearing. Within seven days after receiving a request for an expedited due process hearing, the district shall attempt to resolve the complaint with the complainant by holding a resolution meeting under 4 AAC 52.555, unless the complainant and the district agree in writing to waive the resolution meeting, or the complainant and district agree to resolve the complaint in mediation as provided in 4 AAC 52.490. The hearing officer may proceed with the expedited due process hearing within 15 calendar days of the receipt of the request for an expedited due process hearing if the complaint for a due process hearing is not resolved.

(m) The department will mail a copy of the findings and the decision of the hearing officer, within 30 days after issuance and after deleting any personally identifiable information, to the advisory panel established under AS 47.80.030 and 4 AAC 52.030. The department will provide a written, or, at the option of the parent, electronic, verbatim record of the hearing, findings of fact and decision to any party to the hearing upon request. This record will be provided at no cost to the parent.

(n) To be treated as a parent under AS 14.30.193(h), a student may not have been adjudicated incompetent by a court.

(o) A hearing officer shall determine whether a district provided a FAPE to a child as set out in 34 C.F.R. 300.513, as amended as of October 13, 2006, and adopted by reference. A due process hearing under this section will not address the application of any statutes or regulations other than AS 14.30.180 – 14.30.350, this chapter, 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act), or a regulation adopted under 20 U.S.C. 1400 - 1482, except that if a district is also required to conduct a hearing under 29 U.S.C. 794 (Rehabilitation Act of 1973) regarding the same child and substantially the same facts, the district may, with the consent of the hearing officer, elect to consolidate the hearing under 29 U.S.C. 794 with the due process hearing. The consolidation of the hearing under 29 U.S.C. 794 with the due process hearing does not give the department any responsibility for involvement in or enforcement of a decision under 29 U.S.C. 794. If the hearings are consolidated, the hearing officer must separate the decision regarding the due process hearing from the decision regarding the hearing under 29 U.S.C. 794.

(p) The district shall pay all costs of the due process hearing. If the complainant or respondent appeals the decision to the superior court under the Alaska Rules of Appellate Procedure, costs of preparation of the record will be as provided under those rules other than the



cost of furnishing to the parent the items that are required to be furnished at no cost under this section. (Eff. 7/1/83, Register 86; am 7/16/89, Register 111; am 11/26/93, Register 128; am 11/23/94, Register 132; am 12/2/2000, Register 156; am 8/22/2001, Register 159; am 3/31/2002, Register 161; am 8/9/2002, Register 163; am 8/24/2002, Register 163; am 12/4/2002, Register 164; am 5/20/2006, Register 178; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:**    AS 14.07.060            AS 14.30.193            AS 14.30.335

**Editor's note:** The address for filing a due process hearing request under 4 AAC 52.550 is Department of Education and Early Development, Division of Teaching and Learning Support, 801 W. 10th Street, Suite 200, PO Box 110500, Juneau, Alaska 99811 - 0500.

4 AAC 52 is amended by adding a new section to read:

**4 AAC 52.555. Resolution meeting.** (a) The resolution meeting required under 4 AAC 52.550(f) must provide the

(1) parent the opportunity to discuss the issues raised in the due process complaint for a due process hearing with the IEP team; and

(2) district the opportunity to resolve the problems that are the basis for the complaint.

(b) A resolution meeting convened by a district under 4 AAC 52.550 must include the relevant members of the IEP team who have knowledge of the facts identified in the due process complaint, as determined by the parent and the district. The meeting must include a representative of the district who has authority to make legally binding decisions on behalf of the district. The meeting may not include an attorney of the district unless the parent is accompanied by an attorney. The district must make reasonable efforts to obtain the participation of a

complainant in a resolution meeting and document the efforts using the procedures in 34 C.F.R. 300.322(d).

(c) Unless the complainant and the district have agreed jointly in writing to waive the resolution process or to use mediation, a parent's failure to participate in a resolution meeting will result in a delay of the due process hearing until the resolution meeting is held. If a district is unable to obtain the participation of a parent in a resolution meeting, the district may, after thirty days, request a hearing officer to dismiss the parent's complaint for a due process hearing.

(d) The complainant may ask the hearing officer to begin the due process hearing timeline if the district fails to participate in the resolution meeting or fails to hold the resolution meeting specified in this section within 15 days of receiving notice of a complainant's complaint for a due process hearing, or within seven days of receiving notice of a complainant's complaint for an expedited due process hearing in 4 AAC 52.550(*l*).

(e) If a resolution of a complaint for a due process hearing, in 4 AAC 52.550 is reached as a result of a resolution meeting held in conformance with this section, the complainant and the district must execute a legally binding agreement that is signed by the complainant and a representative of the district who has the authority to bind the district. The agreement is enforceable as set out in 34 C.F.R 300.510(d), as revised as of October 13, 2006, and adopted by reference.

(f) By written statement, the complainant or district may void an agreement made under (e) of this section within three school days of the agreement's execution. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 14.07.060 AS 14.30.193 AS 14.30.335

4 AAC 52.560(a) is amended to read:

(a) A hearing officer

(1) may not have a personal or professional interest that an independent third party could reasonably expect would conflict with the officer's objectivity in a hearing;

(2) may not, during the course of the 12 months immediately preceding appointment, have been employed by

(A) a district that is involved in the education or care of children with disabilities;

(B) a parent of a child as a representative or consultant in a due process hearing under this section or a complaint process under 4 AAC 52.500;

(3) must have participated in a training program for hearing officers developed by the department and conducted by the department or the district; [AND]

(4) must be at least 21 years of age; [.]

**(5) must possess knowledge of, and the ability to understand**

**(A) AS 14.30.180 – 14.30.350, this chapter, 20 U.S.C. 1400 - 1482 (Individuals with Disabilities Education Act), or a regulation adopted under**

**20 U.S.C. 1400 - 1482; and**

**(B) legal decisions and interpretations of special education laws;**

**(6) must be able to conduct hearings in accordance with appropriate standard legal practice; and**

**(7) must possess the knowledge and ability to issue and write decisions in accordance with appropriate standard legal practice.**

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(Eff. 7/1/83, Register 86; 11/26/93, Register 128; am 8/22/2001, Register 159; am 8/9/2002, Register 163; \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:**      AS 14.07.060      AS 14.30.193      AS 14.30.335

4 AAC 52.580(a) is amended to read:

(a) Except as provided in **4 AAC 52.550(l)** [4 AAC 52.550(g)], and as provided in (b) - (d) of this section, during the pendency of an administrative or judicial proceeding concerning the identification, evaluation, or educational placement of a child, unless the parties agree otherwise, the child shall remain in the educational placement that preceded the placement change that gave rise to the administrative or judicial proceeding.

4 AAC 52.580(c) is amended to read:

(c) If a parent **or a district** requests a hearing or appeal regarding a disciplinary action taken under the provisions of **34 C.F.R. 300.530 – 300.536, as revised as of October 13, 2006, and adopted by reference** [34 C.F.R. 300.520(a)(2) OR 34 C.F.R. 300.521], to challenge the placement of a child in an interim alternative educational setting or to challenge a manifestation determination, the child shall remain in that placement during the pendency of the proceeding or until the expiration of the time for the placement, whichever occurs first, unless the parties agree otherwise.

(Eff. 7/1/83, Register 86; am 11/26/93, Register 128; am 8/22/2001, Register 159; am 3/31/2002, Register 161; am 2/20/2004, Register 169; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:**      AS 14.07.060      AS 14.30.193      AS 14.30.335

4 AAC 52 is amended by adding a new section to read:

**4 AAC 52.630. Medication.** Districts shall comply with the medication standards contained in 34 C.F.R. 300.174, as revised as of October 13, 2006, which is adopted by reference. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 14.07.060 AS 14.30.180 AS 14.30.335  
AS 14.30.171

4 AAC 52.785 is amended to read:

**4 AAC 52.785. Relation to other laws.** The regulations contained in 4 AAC 52.090 - 4 AAC 52.790 must be construed, as far as practicable under AS 14.30.180 - AS 14.30.350, in accordance with **20 U.S.C. 1400 – 1482** [20 U.S.C. 1400 – 1487] (Individuals with Disabilities Education Act), **as revised as of December 3, 2004** [AS REVISED AS OF JUNE 4, 1997,] and the regulations adopted under it. (Eff. 8/22/2001, Register 159; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 14.07.060 AS 14.30.335

4 AAC 52.790(12) is amended to read:

(12) "interim alternative educational setting" means a change of placement determined through disciplinary proceedings carried out under **4 AAC 52.550(l)** [4 AAC 52.550(g)] procedures and requirements in 34 C.F.R. 300.531, as revised as of October 13, 2006, and adopted by reference.

(Eff. 8/22/2001, Register 159; am 8/29/2004, Register 171, am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

<b>Authority:</b>	AS 14.07.060	AS 14.30.194	AS 14.30.285
	AS 14.30.180	AS 14.30.250	AS 14.30.325
	AS 14.30.186	AS 14.30.255	AS 14.30.350
	AS 14.30.193	AS 14.30.272	