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## NOTICE OF CHANGES TO THE STANDARD OPERATING PROCEDURES

Pursuant to section 54 the Blackman/Jones Consent Decree, the Office of the State Superintendent of Education (OSSE) is hereby providing notice of changes to the Standard Operating Procedures Manual (SOP). OSSE has provided notice of these changes to Class Counsel and Class Counsel has not objected to the changes.

### EFFECTIVE DATE

The changes to the provisions for an expedited hearing set forth below will take effect for all due process complaints filed on or after August 18, 2008. However, if all parties to a due process complaint agree to the immediate effectiveness of the provisions for a due process complaint filed on or after August 12, 2008, the changes shall be in effect as of that date for such complaint. The parties shall notify the assigned Hearing Officer of such agreement prior to the Hearing Officer setting the date of the hearing.

## CHANGES

### § 1008 EXPEDITED DUE PROCESS HEARING<sup>1</sup>

#### (A.) Special Rule for Expedited Due Process Hearings

A due process complaint involving a request for an expedited hearing shall be governed by the same rules as are applicable to due process hearings generally, except as set forth below. ~~Special education law authorizes certain issues be heard in an expedited time frame. Expedited hearings generally are required when the dispute is related to discipline, including a proposal to expel a student.~~

Requests for expedited due process hearings must be made in writing, in motion form, and must state the reason why expedited status should be granted.

The hearing officer has no discretion to deny a request for expedited status when the due process complaint concerns certain discipline matters. See 34 C.F.R. 300.532(a), DCMR 2510.13, 2510.18. When the complaint involves such matters; an expedited hearing must be held.

A. \_\_\_\_\_ Discipline:

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<sup>1</sup> Deletions are noted by strikethrough and additions by underlined text.

(1.) An expedited hearing must occur within twenty (20) days after the hearing is requested. A decision must be issued and will result in a determination within ten (10) days after the hearing.

(2.) Resolution Meeting. ~~When an expedited hearing is requested, a~~ resolution meeting concerning a disciplinary matter can be waived. If not waived, a resolution meeting must occur within ten (10) days of the date the hearing is Requested, ~~and the~~ hearing must proceed unless the matter has been resolved to the satisfaction of both parties within fifteen (15) days of the receipt of the request for an expedited hearing.

(3.) Each party must disclose its list of prospective witnesses and documents ~~as specifically described in Rule 305~~ described in Rule 305 no later than three (3) business days before the date of the hearing.

(4.) When a hearing involving a disciplinary matter is expedited, No continuances will be granted ~~for expedited hearings~~ unless the party requesting the continuance was not consulted regarding the date of the hearing or the parties agree. ~~Where parties have no the parent lacks~~ counsel, a hearing officer must determine if the pro se parent's assent to the continuance is knowing and willing.

#### B. Non-Discipline:

##### Bases for an Expedited Non-Discipline Hearing

Requests for expedited non-discipline hearings shall be decided on the face of the request and response(s), if any, but may be granted before a response is filed. The request shall be granted when:

- (1) the physical or emotional health or safety of the student or others would be endangered by a delay in the conduct of the hearing or
- (2) there is other substantial justification for expediting the hearing.

##### Ruling on Request for an Expedited Non-Discipline Hearing

The Hearing Officer assigned to the case shall rule on a request for an expedited hearing as soon as possible after the filing of the request, but not later than 5 business days after the request is made. (This supercedes the timeline in Section 401 for filing responses.) The written request for an expedited hearing and ruling by the Hearing Officer shall preserve the issue for appellate review.

##### Scheduling An Expedited Hearing

If the request is granted, the Hearing Officer shall set the expedited hearing date after consultation with the parties. The Hearing Officer may also modify pre-hearing deadlines as appropriate.

## **§ 400.1 Scheduling the Hearing**

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### C. Exceptions:

1. Waiver of the 30-day resolution period. The parties may jointly waive the resolution session. ~~When the parties have jointly agreed to waive the Resolution Session, the due process hearing will be set for an expedited hearing, not later than 20 days following the date of the waiver.~~ The timeline for issuing the final Hearing Officer's Determination begins the day after both parties agree in writing to waive the Resolution Session.

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### D. General Procedures

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~~2. When the parties have jointly agreed to waive the Resolution Session, the due process hearing will be set for an expedited hearing, not later than 20 calendar days following the date of waiver. See § 10078 for the procedures that govern expedited hearings.~~

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