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Sent: Wednesday, April 28, 2010 11:01 AM

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Subject: Meetings with CHO re: new standard practices

Importance: High

Re: **NOTICE OF MEETINGS—May 11 & 12, 2010 Re: New Standard Practices**

Hello Members of the Special Education Bar,

From the time I assumed the position of Chief Hearing Officer in June 2009, I have had the opportunity to speak with many of you in groups or individually. During these discussions, among other things, I requested advice as to the problems and concerns you had with our Due Process Hearing system, invited you to share your suggestions to improve it, and offered some ideas I had for your reaction. The comment I heard most frequently by far was the need for a more consistent approach among all the Hearing Officers with regard to their handling the entire process, from the prehearing through the decision.

Months ago I met with the Hearing Officers (HO's) and discussed with them at some length this major concern regarding greater consistency. Although some had their preferences with regard to how certain tasks should be handled, they agreed the concern should be addressed believing that it would improve the efficiency and effectiveness of the hearing process for all of the participants, hopefully providing a better result for children with disabilities. Over the last several months, in cooperation with the HO's, I have developed a set of appropriate standard practices, including forms. A copy of them and a "List of Practice Implementation Topics" from my recent HO training are attached.

I want to stress that these practices are guidance, not an OSSE reg or policy and do not have the force of law. Rather, they reflect what I believe are "appropriate standard legal practices" required for due process hearings conducted under IDEA in areas not addressed under IDEA, DC regs or the Consent Decree/SOP. In these unaddressed areas I

believe the law clearly provides that hearing officers have the discretion and responsibility to conduct and manage the process so as to accord the parties a meaningful opportunity to exercise their rights and ensure the hearing serves as an effective mechanism for resolving disputes. See in this regard Letter to Anonymous, 23 IDELR 1073 (OSEP 1995) and its progeny. Accordingly, Hearing Officers will substantially implement these practices in all hearings and members of the Bar appearing before them will be expected to comply with them (including the forms) with this caveat. If in a particular situation a good reason exists to deviate from the standard practice, at the suggestion of either counsel or the HO, the HO would have the discretion to do so noting the reason.

If some of these practices appear to be ones that were previously in effect, you're right. Many are but I wanted to reaffirm them to gain consistency. Most importantly, many of these practices I believe will provide greater assurance that the requirements of the Consent Decree/SOP will be met. While given their nature many of these practices have already been implemented, generally HO's will be expecting compliance as of Monday, May 24, 2010. In order to explain the practices, and respond to any questions you might have concerning them, three meetings have been scheduled. The same information will be presented at all meetings, but I scheduled three meetings given the likelihood some would have conflicts if we held but one. The meetings will be held on Tuesday, May 11 at both 4:00 p.m. and 6:30 p.m., and Wednesday, May 12, 2010, at 6:30 p.m., in the Van Ness Elementary School, 1150 Fifth Street, S.E., where the SHO Office is located, specifically in the Auditorium. We anticipate the meetings might last about an hour to an hour and a half. For any of you who are unable to attend either meeting but would like to discuss, or have a question about any of the practices, please do not hesitate to stop by and see me when you are at the SHO office, drop me a line, or give me a call at (o) 202-481-3448 or (c) 517-290-2555.

Without doubt, implementing these practices will require most of us to change our ways with regard to how we did some things in the past. Further, making changes for most of us is not easy and some might understandably disagree with some of the changes being made. But, to improve the Due Process Hearing system as a whole, as well as our performance in carrying out our respective roles in it, change is imperative. As we implement these practices moving forward, the Hearing Officers and I will be monitoring their effectiveness with an eye toward making possible adjustments in some down the road. I would appreciate your assistance in this regard, for while I believe these practices are sound and appropriate, I recognize the likelihood some adjustments may be needed.

The ultimate goal of the hearing process under IDEA is to assure the right of a child with disabilities to an appropriate education is upheld. Hopefully, the implementation of these practices will help both Hearing Officers and the Bar to better achieve that goal, and provide us all with greater professional satisfaction.

Another item I would like to discuss with you at the meetings is a recent revision in how Hearing Officers will be evaluated. Previously, parties and their representatives could fill

out a survey form (available on the SHO website and in the hall outside the SHO office) regarding the Hearing Officer's performance on each case. While this form will continue to be available, in August of each year you will be provided the opportunity to anonymously fill out a survey to reflect your views as to that Hearing Officer's overall performance.

Finally, some of you have asked how cases are assigned to HO's by the SHO. Attached is the SHO's Assignment Procedure.

I look forward to hopefully seeing you at one of the meetings.

Lyn Beekman, Chief Hearing Officer