

281—120.435(34CFR303) Appointment of an administrative law judge.

120.435(1) *Qualifications and duties.* Whenever a due process complaint is received under subrule 120.430(4), the department will appoint an impartial administrative law judge (ALJ) to implement the complaint resolution process in this chapter. The person must:

a. Have knowledge about the provisions of Part C of the Act and of this chapter and the needs of, and early intervention services available for, infants and toddlers with disabilities and their families; and

b. Perform the following duties:

- (1) Listen to the presentation of relevant viewpoints about the due process complaint;
- (2) Examine all information relevant to the issues;
- (3) Seek to reach a timely resolution of the due process complaint; and
- (4) Provide a record of the proceedings, including a written decision.

120.435(2) *Definition of “impartial.”*

a. “Impartial” means that the administrative law judge appointed to implement the due process hearing under this chapter:

(1) Is not an employee of the department or other agency or EIS provider involved in the provision of early intervention services or care of the child; and

(2) Does not have a personal or professional interest that would conflict with the ALJ’s objectivity in implementing the process.

b. A person who otherwise qualifies under this subrule is not an employee of an agency solely because the person is paid by the agency to implement the due process hearing procedures or mediation procedures under this chapter.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]