

**281—41.1003 (17A,256B) Procedures concerning due process complaints.**

**41.1003(1)** *AEA as a party.* The appropriate AEA serving the individual shall be deemed to be a party with the LEA whether or not specifically named by the parent or agency filing the appeal.

**41.1003(2)** *Individual served by contract with another agency.* In instances where the individual is served through a contract with another agency, the school district of residence of the individual shall be deemed a party.

**41.1003(3)** *Notice.* The director of education or designee shall, within five business days after the receipt of the appeal, notify the proper officials with the LEA and the AEA of the filing of the due process complaint and shall request in writing that the proper school officials file with the department all records relevant to the due process complaint. The officials shall, within 20 business days after receipt of the request, file with the department all records relevant to the decision appealed.

**41.1003(4)** *Free or low-cost legal services.* The department shall inform the parent of any free or low-cost legal and other relevant services available in the area if the parent requests the information or the parent or the agency initiates a hearing.

**41.1003(5)** *Written notice.* The director of education or designee shall provide notice in writing delivered by fax, personal service as in civil actions, or by certified mail, return receipt requested, to all parties at least ten calendar days prior to the hearing unless the ten-day period is waived by both parties. Such notice shall include the time and the place where the matter of appeal shall be heard. A copy of the appeal hearing rules shall be included with the notice.

**41.1003(6)** *Mediation conference.* The department shall contact the parties to determine whether they wish to participate in a mediation conference under rule 281—41.506(256B,34CFR300). Discussions that occur during the mediation process must be confidential, except as may be provided in Iowa Code chapter 679C, and may not be used as evidence in any subsequent due process hearings or civil proceedings; however, the parties may stipulate to agreements reached in mediation. Prior to the start of the mediation, the parties to the mediation conference and the mediator will be required to sign an Agreement to Mediate form containing a confidentiality provision.

**41.1003(7)** *Dismissal.* The appellant may make a request for dismissal by the administrative law judge at any time. A request or motion to dismiss made by the appellee shall be granted upon a determination by the administrative law judge that any of the following circumstances apply:

*a.* The appeal relates to an issue that does not reasonably fall under any of the appealable issues of identification, evaluation, placement, or the provision of a free appropriate public education.

*b.* The issue(s) raised is moot.

*c.* The individual is no longer a resident of the LEA or AEA against whom the appeal was filed.

*d.* The relief sought by the appellant is beyond the scope and authority of the administrative law judge to provide.

*e.* Circumstances are such that no case or controversy exists between the parties.

*f.* An appeal may be dismissed administratively when an appeal has been in continued status for more than one school year. Prior to an administrative dismissal, the administrative law judge shall notify the appellant at the last known address and give the appellant an opportunity to give good cause as to why an extended continuance shall be granted. An administrative dismissal issued by the administrative law judge shall be without prejudice to the appellant.