

SECOND REGULAR SESSION

SENATE BILL NO. 595

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KRAUS.

Pre-filed January 3, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

4939S.011

AN ACT

To repeal section 162.961, RSMo, and to enact in lieu thereof one new section relating to due process hearing panel members.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 162.961, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 162.961, to read as follows:

162.961. 1. A parent, guardian or the responsible educational agency may
2 request a due process hearing by the state board of education with respect to any
3 matter relating to identification, evaluation, educational placement, or the
4 provision of a free appropriate public education of the child. Such request shall
5 include the child's name, address, school, issue, and suggested resolution of
6 dispute if known. Except as provided in subsection 4 of this section, the board
7 or its delegated representative shall within fifteen days after receiving notice
8 empower a hearing panel of three persons who are not directly connected with the
9 original decision and who are not employees of the board to which the appeal has
10 been made. All of the panel members shall have some knowledge or training
11 involving children with disabilities, none shall have a personal or professional
12 interest which would conflict with his or her objectivity in the hearing, and all
13 shall meet the department of elementary and secondary education's training and
14 assessment requirements pursuant to state regulations and federal law and
15 regulation requirements of the Individuals With Disabilities Education Act. **No**
16 **panel member shall have been employed within the last five years by**
17 **a school district or performed work for a school district within the last**
18 **five years as an independent contractor or consultant.** One person shall
19 be chosen by the local school district board or its delegated representative or the
20 responsible educational agency, and one person shall be chosen at the

21 recommendation of the parent or guardian. If either party has not chosen a panel
22 member ten days after the receipt by the department of elementary and
23 secondary education of the request for a due process hearing, such panel member
24 shall be chosen instead by the department of elementary and secondary
25 education. Each of these two panel members shall be compensated pursuant to
26 a rate set by the department of elementary and secondary education. The third
27 person shall be appointed by the state board of education and shall serve as the
28 chairperson of the panel. The chairperson shall be an attorney licensed to
29 practice law in this state. During the pendency of any three-member panel
30 hearing, or prior to the empowerment of the panel, the parties may, by mutual
31 agreement, submit their dispute to a mediator pursuant to section 162.959.

32 2. The parent or guardian, school official, and other persons affected by
33 the action in question shall present to the hearing panel all pertinent evidence
34 relative to the matter under appeal. All rights and privileges as described in
35 section 162.963 shall be permitted.

36 3. After review of all evidence presented and a proper deliberation, the
37 hearing panel, within the time lines required by the Individuals With Disabilities
38 Education Act, 20 U.S.C. Section 1415 and any amendments thereto, shall by
39 majority vote determine its findings, conclusions, and decision in the matter in
40 question and forward the written decision to the parents or guardian of the child
41 and to the president of the appropriate local board of education or responsible
42 educational agency and to the department of elementary and secondary education.
43 A specific extension of the time line may be made by the chairman at the request
44 of either party, except in the case of an expedited hearing as provided in
45 subsection 4 of this section.

46 4. An expedited due process hearing by the state board of education may
47 be requested by a parent to challenge a disciplinary change of placement or to
48 challenge a manifestation determination in connection with a disciplinary change
49 of placement or by a responsible educational agency to seek a forty-five school day
50 alternative educational placement for a dangerous or violent student. The board
51 or its delegated representative shall appoint a hearing officer to hear the case and
52 render a decision within the time line required by federal law and state
53 regulations implementing federal law. The hearing officer shall be an attorney
54 licensed to practice law in this state. The hearing officer shall have some
55 knowledge or training involving children with disabilities, shall not have a
56 personal or professional interest which would conflict with his or her objectivity

57 in the hearing, and shall meet the department of elementary and secondary
58 education's training and assessment requirements pursuant to state regulations
59 and federal law and regulation requirements of the Individuals With Disabilities
60 Education Act. A specific extension of the time line is only permissible to the
61 extent consistent with federal law and pursuant to state regulations.

62 5. If the responsible public agency requests a due process hearing to seek
63 a forty-five school day alternative educational placement for a dangerous or
64 violent student, the agency shall show by substantial evidence that there is a
65 substantial likelihood the student will injure himself or others and that the
66 agency made reasonable efforts to minimize that risk, and shall show that the
67 forty-five school day alternative educational placement will provide a free
68 appropriate public education which includes services and modifications to address
69 the behavior so that it does not reoccur, and continue to allow progress in the
70 general education curriculum.

71 6. Any due process hearing request and responses to the request shall
72 conform to the requirements of the Individuals With Disabilities Education Act
73 (IDEA). Determination of the sufficiency shall be made by the chairperson of the
74 three-member hearing panel, or in the case of an expedited due process hearing,
75 by the hearing officer. The chairperson or hearing officer shall implement the
76 process and procedures, including time lines, required by the IDEA, related to
77 sufficiency of notice, response to notice, determination of sufficiency dispute, and
78 amendments of the notice.

79 7. A preliminary meeting, known as a resolution session, shall be
80 convened by the responsible public agency, under the requirements of the
81 IDEA. The process and procedures required by the IDEA in connection to the
82 resolution session and any resulting written settlement agreement shall be
83 implemented. The responsible public agency or its designee shall sign the
84 agreement. The designee identified by the responsible public agency shall have
85 the authority to bind the agency. A local board of education, as a responsible
86 public agency, shall identify a designee with authority to bind the school district.

✓