

## **New Chapter 14 Has Changed The Appeal Process For IDEA Cases**

*By Jennifer Donaldson*

Until recently, in Pennsylvania, there were two levels of administrative proceedings available in an Individuals With Disabilities Education Act (“IDEA”) case. Initially, the matter was heard by a Hearing Officer at an administrative due process hearing. Then, if a party was aggrieved by the decision of the Hearing Officer, administrative appellate review was available before a Special Education Appeals Panel, commonly referred to as an Appeals Panel, consisting of three administrative officers. Thereafter, if a party was aggrieved by the decision of an Appeals Panel, appellate review was available before a judge in either state or federal court. However, with the adoption of Pennsylvania’s new Chapter 14 regulations, which went into effect on July 1, 2008, the state has eliminated the Appeals Panels in their entirety.

Now, any party aggrieved by the decision of a Hearing Officer must take their appeal directly to a judge in either state or federal court. Thus, an entire level of appellate review has been eliminated from the process of adjudicating IDEA cases. Still, as before this change, IDEA cases may be further appealed to higher appellate courts, such as the Third Circuit Court of Appeals and the United States Supreme Court if the matter is pursued in the federal court system. Only time will tell whether the elimination of the Appeals Panels will truly help expedite the resolution of matters and lower litigation costs or whether the opposite will occur.

Without the option of appeal to an Appeals Panel, if an aggrieved party wishes to appeal the decision of a Hearing Officer, the aggrieved party must file their appeal in either state or federal court within ninety (90) calendar days of the date of the Hearing Officer’s decision.

The Office of Dispute Resolution (“ODR”) has provided some guidance as to whether or not a pending due process matter would be appealable to an Appeals Panel. ODR has determined that any due process request that was made prior to June 15, 2008 is appealable to an Appeals Panel, while any due process request made on or after June 15, 2008 shall only be appealed to state or federal court. However, ODR’s selection of this cut-off date has been subject to litigation and perhaps may continue to be in the future.

Clients who have questions regarding issues discussed in this article, or any education law matter, should feel free to call us at 215-345-9111.