

(iv) Require an independent evaluation or call an impartial expert witness in the diagnosis or education of students with disabilities whose testimony shall be on the record and whose costs shall be paid by the State Education Agency; and

(v) Administer oaths to witnesses at the hearing on request of a party.

(2) The provisions of the Family Educational Rights and Privacy Act and 34 C.F.R. Part 99 shall apply to school records sought by the impartial expert witness.

(3) If the parties cannot agree on an impartial expert witness, each party shall be given the opportunity to submit a list of possible experts, and the administrative law judge shall decide which impartial expert witness to call.

[(e)] (F) (1) Any party to the hearing has the right to:

(i) Be accompanied and be advised by counsel and individuals with special knowledge or training with respect to the problems of children with disabilities;

(ii) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(iii) Prohibit the introduction of any evidence at the hearing which has not been disclosed to all parties at least 5 days before the hearing;

(iv) Obtain a written or electronic verbatim record of the hearing; and

(v) Obtain written findings of fact and decisions.

(2) Parents involved in the hearings must be given the right to:

(i) Have the child who is the subject of the hearing present; and

(ii) Open the hearing to the public.

(G) (1) THE DECISION OF THE ADMINISTRATIVE LAW JUDGE SHALL BE MADE ON SUBSTANTIVE GROUNDS BASED ON THE DETERMINATION OF WHETHER THE CHILD RECEIVED A FREE APPROPRIATE PUBLIC EDUCATION.

(2) IN MATTERS ALLEGING A PROCEDURAL VIOLATION, AN ADMINISTRATIVE LAW JUDGE MAY FIND THAT THE CHILD DID NOT RECEIVE A FREE APPROPRIATE PUBLIC EDUCATION ONLY IF THE PROCEDURAL INADEQUACIES MEET THE CONDITIONS ESTABLISHED IN FEDERAL LAW:

(I) IMPEDED THE CHILD'S RIGHT TO A FREE APPROPRIATE PUBLIC EDUCATION;

(II) SIGNIFICANTLY IMPEDED THE PARENTS' OPPORTUNITY TO PARTICIPATE IN THE EDUCATIONAL DECISION-MAKING PROCESS REGARDING THE PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION TO THE PARENTS' CHILD.
OR