**Section 226.655 Expedited Due Process Hearing**

Requests for expedited due process hearings shall be made in accordance with 34 CFR 300.532 and 300.533 and Section 14-8.02b of the School Code [105 ILCS 5/14-8.02b].

a) The hearing officer shall determine:

1) whether the child shall be placed in the proposed alternative educational setting; or

2) whether the local school district has demonstrated that the child's behavior was not a manifestation of the child's disability.

b) The hearing officer shall consider the following factors in determining whether an interim alternative placement is appropriate:

1) Whether the local school district has demonstrated by substantial evidence (i.e., beyond a preponderance of the evidence) that maintaining the current placement of the child is substantially likely to result in injury to the child or to others;

2) Whether the child's current placement is appropriate;

3) Whether the district has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and

4) Whether the interim alternative educational setting will permit full implementation of the student's IEP and includes services and modifications designed to prevent the undesired behavior from recurring.

c) If all the conditions set forth in subsection (b) of this Section are met, the hearing officer shall order a change in the child's placement to an appropriate interim alternative educational setting for not more than 45 school days. If the district demonstrates that the student is substantially likely to injure himself or herself or others if returned to the placement that was used prior to the student's removal, the hearing officer may order that the student remain in the interim setting for subsequent periods of up to 45 school days each.

(Source: Amended at 31 Ill. Reg. 9915, effective June 28, 2007)