Disability Rights WISCONSIN

Phau Ntawv Qhia: Cov Kev Hais Plaub Ntug Txog Kev Kawm Tswv Yim Tshwj Xeeb

(Guide: Special Education Due Process Hearings)

Qhov kev pab cuam no yog siv los ua qhov kev qhia rau cov tib neeg nrog kev xiam hoob khab puas tes puas taw, tsis yog los sib hais plaub ntug (legal advice). Rau kev pab rau kev hais plaub ntug txog koj li teeb meem, thov tham rau ib tug kws lij choj (attorney).

Kev Qhia Tawm

Kev taug qab txoj cai tiv thaiv kev ncaj ncees (Due Process Hearing) rau qib kawm tshwj xeeb (special education) yog ib yam uas nyuaj heev. Lub koom haum Disability Rights Wisconsin (DRW) tau tsim cov phau ntawv qhia no los pab cov tub ntxhais kawm ntawv uas muaj kev tsis taus thiab lawv cov tsev neeg kom nkag siab txog Cov Kev Hais Plaub Ntsuas (Due Process Hearings) uas yog ib txoj hauv kev daws cov teeb meem nrog lub tsev kawm ntawv.

Daim Ntawv Tsis Txaus Siab thiab Kev Hais Plaub Raws Li Txoj Cai (Due Process Complaint and Hearing) yog dab tsi?

Daim ntawv tsis txaus siab raws li txheej txheem kev cai (Due Process Complaint) txhawm rau thov kom muaj ib lub rooj sib rhais plaub, yog ib txoj kev uas ntxhov, nyuaj, thiab yog ib txoj cai tsim nyog tshaj plaws uas cov tsev neeg yuav siv tau los daws cov teeb meem tsis sib haum xeeb txog kev kawm ntawv ntawm ib tug tub kawm ntawv uas muaj khw hlwb tsis txhij txhua lossis tsis tsis xwb (disability). Yuav luag txhua lub sijhawm, yuav muaj ib tug kws lij choj sawv

cev rau lub tsev kawm ntawv (school district) nyob rau lub sij hawm ua txheej txheem no.

Ib tug kws txiav txim plaub ntug ntawm sab tswv chaw (ALJ) los ntawm Wisconsin lub chaw tswj hwm kev hnov lus thiab hais plaub (DHA) yuauv tuaj tshuaj xyuas rooj plaub no raws li tus kws hnov lus txiav txim (Hearing Officer). Cov tswv cuab saib xyuas kev tso cai ua hauj lwm rau Wisconsin tsoom fwv, tsis yog rau cheeb tsam tsev kawm ntawv. Lub rooj sib tham yuav muaj nyob rau hauv chav tswj fwm (los yog qee zaum virtual) raws li lub sij hawm thiab qhov chaw uas tau pom zoo ua ke. Nws yuav raug kaw cia.

Cov txheej txheem Mloog Txim / Txiav Txim (Due Process Hearing) siv tau rau cov tub ntxhais kawm ntawv uas muaj Tswv Yim Kev Kawm Ntawv Tshwj Xeeb (IEP). Cov tub ntxhais kawm uas muaj phiaj xwm 504 (504 plan) siv tsis tau txoj kev no. Ob leeg, xws li tsev kawm ntawv cheeb tsam thiab niam txiv, tuaj yeem thov kom muaj qhov mloog txim no, tab sis tsev kawm ntawv tsis thov li.

Kawm ntau ntxiv txog Lub Tuam Tsev Hais Plaub thiab Kev Thov Rov Hais Dua:
doa.wi.gov/Pages/LicensesHearings/DHAGeneralGovernmentUnit.aspx

Kawm ntxiv txog Cov Lus Tsis Txaus Siab Txog Kev Tswj Hwm Raws Cai:
dpi.wi.gov/sped/dispute-resolution/due-process

Tswv Yim Pab Txhawb Nqa

Lub tsev hais plaub (Due Process Hearing) yog ib txoj hauv kev nyuaj heev. Nws yuav tsim teeb meem rau kev ntxhov siab thiab kuj yuav raug nyiaj txiag ntau heev. Koj yuav xav sim lwm txoj hauv kev los daws teeb meem uas yooj yim dua uas tsis tau mus txog lub tsev hais plaub.

Kawm ntxiv txog lwm yam kev xaiv los daws teeb meem:
dpi.wi.gov/sped/dispute-resolution

Kev taug txoj cai yuav yog ib qho kev xaiv zoo yog tias koj tsis tab tom nce qib nrog IEP pab neeg thiab pom tsis tau kev mus tom ntej tsis yog los ntawm kev mus ua plaub ua ntug raws li kev cai. Tham nrog ib tug kws lij choj txog koj rooj plaub ua ntej thov kev taug txoj cai, yog tias koj ua tau.

Kauj Ruam 1: Thov Kev Nug Tsim Nyog Raws Txoj Cai

Feem ntau, koj yuav tsum tau thov hais plaub (Due Process Hearing) tsis pub dhau ib xyoos ntawm qhov teeb meem uas koj tsis txaus siab ntawd.[1] Koj tuaj yeem thov hais plaub tau los ntawm kev xa ib tsab ntawv lossis daim ntawv Thov Hais Plaub (Due Process Hearing Request form) uas sau tiav lawm mus rau Fab Kev Kawm Pej Xeem (Department of Public Instruction / DPI).

Nrhiav daim ntawv thov Hais Plaub Raws Li Cai (Due Process Hearing Request form) ntawm no: dpi.wi.gov/media/48690/

Nyob rau hauv koj qhov kev thov, koj yuav tsum suav nrog:

- koj tus me nyuam npe thiab chaw nyob.
- npe ntawm lub tsev kawm ntawv koj tus me nyuam mus ntawd.
- kev piav qhia txog qhov teeb meem uas koj tab tom foob txog.
- lub tswv yim daws rau qhov teeb meem uas koj tab tom foob txog.[2]

Koj yuav tsum tau xa ib daim ntawv nrog ntawm koj daim ntawv thov mus rau ob lub koom haum (Department of Public Instruction) thiab lub tsev kawm ntawv hauv paus (school district).[3] Thaum lawv tau txais koj daim ntawv thov, DPI yuav xa ib daim ntawv muab luam qhia txog koj cov cai tiv thaiv raws li txoj cai tswj fwm,[4] thiab yuav nrhiav ib tug kws txiav txim plaub rau koj lub rooj txiav txim plaub (Due Process Hearing).[5]

1 Wis. Stat. §115.80(1)(a)(1).

2 Wis. Stat. §115.80(1)(a)(2).

3 Wis. Stat. §115.80(1)(d).

4 Id.

5 Wis. Stat. §115.80(2).

Tswv Yim Pab Txhawb Nqa

Xyuas kom tseeb tias koj daim ntawv thov Hais Plaub (Due Process Hearing) sau tiav lias thiab tau raws li cov ntsiab lus uas tau hais tseg saum toj no! Kev txiav txim plaub ntug yuav mus tsis tau teb chaws tshaj li ntxiv yog tias koj tsis sau daim ntawv ceeb toom kom raug raws li txoj cai, uas suav nrog kev xa ib daim qauv ntawv mus rau cheeb tsam tsev kawm ntawv (district) thiab Lub Tsev Hauj lwm Saib Xyuas Kev Kawm Rau Pej Xeem (Department of Public Instruction). Nws kuj yuav nyuaj heev rau kev hloov pauv daim ntawv thov txiav txim plaub ntug tom qab no thaum lub sijhawm ua cov txheej txheem lawm.

Kauj Ruam 2: Koog Tsev Kawm Ntawv Teb Lus

Tom qab koj thov tsav tswv yim daws teeb meem (Due Process Hearing), lub nroog tsev kawm ntawv muaj 10 hnub xa daim ntawv piav qhia txog lawv sab teeb meem tuaj rau koj, yog tias lawv tsis tau muab rau koj yav thov uas dhau los.[6] Txawm tias lawv twb muab ib tsab rau koj ua ntej koj thov kev mloog lus hais plaub los xij, lub nroog tsev kawm ntawv muaj caij 10 hnub tom qab tau txais koj Tsab Ntawv Thov Kev Hais Plaub (Due Process Request) txhawm rau teb rau koj tsab ntawv tsis txaus siab.[7]

Nyob rau 15 hnub tom qab tau txais koj tsab ntawv, lub tsev kawm ntawv suab tuaj yeem qhia rau tus neeg txiav txim plaub yog tias lawv xav tias koj tsab ntawv ceeb toom ua tsis yog. Yog tias lub hauv paus tsev kawm ntawv ua li no, tus Tim Khawv muaj 5 hnub los txiav txim siab tias tsab ntawv ceeb toom puas tstim nyog thiab qhia rau txhua tog paub.[8]

Kauj Ruam 3: Kev Sib Tham nrog Cheeb Tsam Tsev Kawm Ntawv

Nyob rau 15 hnub tom qab tau txais koj tsab ntawv thov rooj sib hais, tsev kawm ntawv (district) yuav ntsib nrog koj thiab cov tswv cuab ntawm pab pawg IEP uas muaj feem xyuam nrog los tham txog cov teeb meem uas nyob hauv koj tsab ntawv tsis txaus siab. Koj yuav kho tau teeb meem nrog rau lub hauv paus

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6 Wis. Stat. §115.80(1)(e)(1).

7 Wis. Stat. §115.80(1)(f).

8 Wis. Stat. §115.80(1)(e)(2).

(district) nyob rau ntawm lub rooj sib tham no.[9] Lub hauv paus (district) tsev kawm ntawv yuav tsum tau coj ib tug neeg uas tuaj yeem txiav txim siab sawv cev rau lub hauv paus tsev kawm ntawv. Lub tsev kawm ntawv cheeb tsam tsis tau coj tus kws lij choj tuaj rau lub rooj sib tham no, tsuas yog tias koj coj ib tug tuaj thiab xwb.[10] Koj thiab koog tsev kawm ntawv tuaj yeem pom zoo tseg lub rooj sib tham no lossis siv kev daws teeb meem sib tham es tsis txhob ua, yog tias koj xav tau li ntawd.[11]

Tswv Yim Pab Txhawb Nqa

Koj yuav tsum sim qhib siab daws cov teeb meem nrog lub nroog / koog tsev kawm ntawv ntawm lub rooj sib tham no. Nws yuav nyuaj rau mloog lawv hais — tab sis yog tias koj daws tau teeb meem ntawm lub caij no, koj yuav tsis tau mus txog lub rooj plaub (hearing), uas yog ib yam nyuaj thiab muaj kev ntxhov siab heev.

Kev pom zoo khoov sab daws teeb meem (mediation) nyob rau lub sij hawm sib tham ua ntej rooj plaub (pre-hearing) yuav ua rau tau raws li lub hom phiaj — tsis muaj rooj plaub (hearing) thiab yuav daws tau qhov teeb meem kom txaus siab.

Yog tias koj thiab hauv paus tsev kawm ntawv pom zoo rau ib qho kev daws teeb meem ntawm lub rooj sib tham no, neb yuav tau sau thiab kos npe rau ib daim ntawv cog lus uas tuaj yeem muab siv tau raws li txoj cai lij choj hauv tsev txiav txim plaub ntug.[12] Yog tias koj thiab lub tsev kawm ntawv (district) tsis tuaj yeem daws qhov teeb meem tsis pub dhau 30 hnub ntawm qhov kev thov lub rooj sib tham (hearing), ib lub Rooj Sib Tham Txog Txoj Cai Tswj Kev Ncaj Ncees (Due Process Hearing) yuav tshwm sim.[13]

[9] Wis. Stat. §115.80(2m)(a).

[10] Wis. Stat. §115.80(2m)(b).

[11] Wis. Stat. §115.80(2m)(c).

[12] Nco ntsoov tias cov niam txiv lossis lub nroog tsev kawm ntawv tuaj yeem tso tseg ib tsab ntawv cog tseg tsis pub dhau peb hnub ua haujlwm tom qab kos npe. Wis. Stat. §115.80(2m)(d).

[13] Wis. Stat. §115.80(2m)(e).

Kauj Ruam 4: *Lub Rooj Sib Hloov Plaub Ntug Raws Li Cai*

Yog tsawg kawg li 5 hnub ua hauj lwm ua ntej lub rooj sib luv, lub nroog kawm ntawv yuav tsum tau xa txhua cov ntaub ntawv tshuaj ntsuam xyuas uas lawv tau ua rau koj tus me nyuam txij li hnub ntawd los txog rau tam sim no, thiab txhua cov lus qhia uas tsim los ntawm cov kev tshuaj ntsuam xyuas no, uas lawv npaj siab yuav muab coj los siv rau hauv lub rooj sib luv rau koj. Koj yuav tsum tau xa cov no mus rau lub hauv paus tsev kawm ntawv thiab, yog tias koj muaj. Yog tias koj muaj cov ntaub ntawv ntsuam xyuas tab sis koj tsis xa lawv mus ua ntej, koj yuav tsis muaj cai muab lawv coj los siv nrog lub rooj sib rhais plaub ntug tsuas yog tias lub nroog tsev kawm ntawv (district) pom zoo xwb.[14]

Koj tuaj yeem coj ib tug kws lij choj los sis tus neeg tiv thaiv nrog koj tuaj rau ntawm lub rooj sib rhais plaub, txawm tias qhov no tsis tas yuav muaj. Nyob rau ntawm lub rooj sib rhais (theej plaub), koj thiab lub hauv paub (district) muaj peev xwm coj tau pov thawj los txhawb nqa koj cov ntsiab lus cam. Yog koj coj ib tug tim khawv tuaj, tsoom cheeb tsam muaj cai nug lawv tom qab koj nug tag. Koj kuj muaj cai nug cov tim khawv ntawm lub (district) thiab.[15]

Tswv Yim Pab Txhawb Nqa

Lub sijhawm hais plaub, yog koj xav tias ib yam dab tsi uas tsev kawm ntawv (district) lossis lawv cov khw tes khw taw (tim khawv) tab tom hais tsis muaj feem xam nrog lub hom phiaj ntawm kev hais plaub, koj tuaj yeem qhia rau Tus Thawj Coj Hais Plaub (Hearing Officer) paub tau. Tus Tub Coj Hais Plaub (officer) yuav txiav txim siab tias puas yuav cia lawv tham ntxiv.

Lub tsev kawm ntawv (The district) kuj tuaj yeem tawm tsam tau yog tias lawv yuav tsum ntseeg tias ib yam dab tsi uas koj los yog koj tus thwj khwb (tim khawv) hais tsis muaj feem xyuam nrog. Yuav tsum npaj txhij los piav qhia tias txhua nqe lus qhia uas koj coj los muab rau peb ntawd tseem ceeb li cas rau qhov teeb meem no.

[14] Wis. Stat. §115.80(4).

[15] Wis. Stat. §115.80(3).

Kauj Ruam 5: Kev Txiav Txim Siab Txog Rooj Plaub

Tom qab mloog cov lus tim khawv tag, Tus Neeg Txiav Txim Muaj 45 hnub xa lawv qhov kev txiav txim rau koj thiab cheeb tsam (the district).[16] Daim ntawv txiav txim siab yuav tsum tau muab sau tseg cia, uas yuav muaj cov ntaub ntawv tshawb fawb pom tseeb thiab cov lus xaus ntawm sab cai choj. Kev txiav txim siab yuav tsum tau raws li "qhov hnyav ntawm cov pov thawj" — uas txhais tau tias yog **cov pov thawj feem ntau** — los ntawm lub rooj mloog.[17]

Kauj Ruam 6: Cai Rov Hais Dua

Yog koj los sis lub hauv paus tsev kawm ntawv tsis pom zoo nrog tus nom tswv txiav txim plaub ntug (Hearing Officer) qhov kev txiav txim, koj tuaj yeem rov hais dua (appeal) nyob rau hauv lub nroog (county) lossis tsoom fwv (federal) tsev hais plaub. Koj muaj 45 hnub tom qab tau txais tus Tub Ceev Xwm qhov kev txiav txim siab txhawm rau thov hais plaub dua. Yog tias koj lossis lub koos haum kawm ntawv thov rov hais dua, lub tsev txiav txim plaub ntug tshiab yuav tau txais cov ntaub ntawv los ntawm Lub Rooj Tswj Plaub Ntug (Due Process Hearing) thiab tuaj yeem mloog cov pov thawj ntxiv.[18]

"Nyob Twj Ywm"

Ib feem tshwj xeeb ntawm cov txheej txheem Hnov Lus Ntawm Kev Hloov Tshiab (Due Process Hearing) yog tias nws ua rau pib muaj ib yam hu ua **"Nyob Twj Ywm" (Stay Put)**. Qhov no txhais tau tias, tsuas yog muaj qee thaj tsam uas tsis tshua muaj xwb, ib cheeb tsam tsev kawm ntawv (district) tsis muaj cai pauv hloov qhov chaw kawm ntawv ntawm koj tus me nyuam nrog rau lub sijhawm uas tseem tab tom tos txiav txim hauv tsev hais plaub (Due Process Hearing) — tsuas yog tias koj pom zoo xwb. Saib tsab cai Wis. Stat. §115.80(8).

[16] Wis. Stat. §115.80(6).

[17] Wis. Stat. §115.80(5)(b).

[18] Wis. Stat. §115.80(7).