

Sec. 10-76h-8. Motion practice

(a) A party may request that a hearing officer rule on a motion or take any action consistent with relevant statutes or regulations. Motions shall not be used to delay or protract any proceeding. Dilatory motions are prohibited.

(b) After a party files a hearing request, written motions may be filed with the hearing officer. Each motion shall set forth the reasons for the desired ruling or action and shall also state whether a hearing on the motion is requested.

(c) Written motions may be sent by certified mail, overnight mail, facsimile transmission, other courier or recognized package or delivery service, to all parties and the hearing officer simultaneously. Except as provided in subdivisions (1), (2) and (4) of subsection (f) of this section, not later than seven days after the hearing officer receives a written motion, any party may file written objections to the allowance of the motion and may request a hearing on the motion.

(d) If, in the discretion of the hearing officer, a hearing on a motion is warranted, the hearing officer shall give all parties at least three days notice of the time and place for hearing. The hearing officer may rule on a motion without holding a hearing if a delay would seriously injure a party; if testimony or oral argument would not advance the hearing officer's understanding of the issues involved; or if a ruling without a hearing would best serve the public interest.

(e) At a hearing on a motion, the hearing officer may allow such evidence as, in the discretion of the hearing officer, is relevant to the particular motion. This evidence may consist of facts that are supported by an affidavit; appear in the documentary evidence submitted for the hearing; or, are presented by sworn testimony.

(f) Motions properly before the hearing officer include, but are not limited to, the following:

(1) Motion to recuse: A party to a hearing may file a motion to recuse. A motion to recuse shall be based on an assertion of bias, or a personal or professional interest that may conflict with the objectivity of the hearing officer in the conduct or disposition of the hearing. The hearing officer shall respond to the motion within five business days of its receipt. If the hearing officer grants the motion, or otherwise recuses himself, the hearing officer shall immediately notify the due process unit and the parties. In such a case the due process unit shall appoint a new hearing officer within one business day of the receipt of the notice of the granted motion.

(2) Motion to dismiss: A party to a hearing may file a motion to dismiss in order to contest the jurisdiction of the hearing officer. The motion shall be accompanied by a memorandum of law and filed with the hearing officer, and with the other party. The party opposing the motion to dismiss shall be allowed seven business days after the hearing officer receives the motion to dismiss to file an amended hearing request prior to the hearing officer's consideration of the motion to dismiss, provided all other requirements contained in Sections 10-76h-3 and 10-76h-4 of the Regulations of Connecticut State Agencies are met.

(3) Motion to consolidate: When hearings involving the same child are pending, the hearing officer, upon motion of either party and after consultation with and agreement by any other hearing officer involved with the same child in hearings involving common

questions of law or fact, may order a single hearing of any or all matters at issue in the hearings. The hearing officer may order all the hearings consolidated and may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

(4) Motion to clarify the findings or decision of the hearing officer: A party may file a motion for clarification of the findings or decision of the hearing officer no later than 20 business days after the decision is issued, after which no such motion shall be considered by the hearing officer. The hearing officer shall have 10 business days to mail a written response to the motion. The motion to clarify shall not serve to stay the implementation of the hearing officer's decision. A motion for clarification shall serve to toll the time for appeal of the hearing officer's final decision. The time to appeal shall run from the date of mailing of the decision of the hearing officer on the motion to clarify.

(g) Strict adherence to the formal motion practice shall not create unfair surprise or injustice. The hearing officer shall have the authority to waive any requirement in the interest of a fair and expedient resolution of the issues presented.

(Adopted effective July 1, 2000; Amended July 1, 2013)