

WAC 392-172A-05115 Civil action. (1) Any party aggrieved by the findings and decision made under WAC 392-172A-05105 through 392-172A-05110 or 392-172A-05165 has the right to bring a civil action with respect to the due process hearing request. The action may be brought in any state court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

(2) The party bringing the action shall have ninety days from the date of the decision of the administrative law judge to file a civil action in federal or state court.

(3) In any action brought under subsection (1) of this section, the court:

(a) Receives the records of the administrative proceedings;

(b) Hears additional evidence at the request of a party; and

(c) Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.

(4) The district courts of the United States have jurisdiction of actions brought under section 615 of the act without regard to the amount in controversy.

(5) Nothing in this part restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, or other federal laws protecting the rights of students with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the act, the due process procedures under WAC 392-172A-05085 and 392-172A-05165 must be exhausted to the same extent as would be required had the action been brought under section 615 of the act.

[Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. WSR 07-14-078, § 392-172A-05115, filed 6/29/07, effective 7/30/07.]