

The hearing shall be an oral, personal hearing and shall be open to the public unless the parents request a closed hearing.

If the hearing is open, the decision issued in the case, and only the decision, shall be available to the public.

If the hearing is closed, the decision shall be treated as a record of the student and may not be available to the public.

The decision of the hearing officer shall include findings of fact, a discussion and conclusions of law. The decision shall be based solely upon the substantial evidence presented at the hearing. The hearing officer shall have the authority to order that additional evidence be presented.

A written transcript of the hearing shall, upon request, be made and provided to parents at no cost.

Parents may be represented by any person, including legal counsel.

A parent or a parent's representative shall be given reasonable access to all educational records, including any tests or reports upon which the proposed action is based.

Any party may prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least 5 days before the hearing.

A parent or a parent's representative has the right to compel the attendance of and question witnesses of the school entity or agency who may have evidence upon which the proposed action might be based.

Any party has the right to present evidence and testimony, including expert medical, psychological or educational testimony.

The Secretary of Education will contract with the Right to Education Office for the services of impartial hearing officers, who preside over initial hearings on behalf of local districts on behalf of the PA Department of Education and may compensate hearing officers for their services. The compensation shall not cause hearing officers to become employees of the Department. The hearing officer may not be an employee or agent of a school entity in which the parents or student resides, or of any agency which is responsible for the education or care of the student.

The following timeline applies to due process hearings:

1. A hearing shall be held within 30 calendar days after a parent's initial request for a hearing.
2. The hearing officer's decision shall be issued within 45 calendar days after the parent's request for a hearing.

Judicial appeals

If the hearing pertains to Chapter 14 and 15 rights, the decision of the impartial hearing officer may be appealed to a panel of 3 appellate hearing officers. The panel's decision may be appealed further to a court of competent jurisdiction. If the hearing pertains to Chapter 15 rights, the decision of the impartial hearing officer may be appealed to a court of competent jurisdiction. Under some circumstances, you may raise these claims directly under section 504 without going through the due process hearing.

If, within 60 calendar days of the completion of the administrative due process proceedings under this chapter, an appeal or original jurisdiction action is filed in State or Federal Court, the administrative order shall be stayed pending the completion of the judicial proceedings, unless the parents and school district agree otherwise.

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