

Regulation 7660R

Students

DUE PROCESS COMPLAINTS; SELECTION AND BOARD APPOINTMENT OF IMPARTIAL HEARING OFFICERS (IHO)

Recordkeeping and Reporting

The Superintendent will designate one or more staff members to be responsible for recording and reporting all required information regarding impartial due process hearings to the State Education Department. Such information will be recorded and reported through the web-based Impartial Hearing Reporting System (IHRS) according to the manner and schedule specified by the State Education Department.

Selection of the IHO

The District will utilize the IHRS to access the alphabetical list of Impartial Hearing Officers (IHOs) certified by the Commissioner of Education and available to serve in the District. The selection of an IHO will be made in the following manner:

1. The Superintendent's Designee must immediately (but not later than two (2) business days after receipt of the due process complaint notice or mailing of the due process complaint notice to the parent) initiate the process to select an IHO.
2. The selection of an IHO will be made on a rotational basis beginning with the first name after the IHO who last served the District. If no IHO on the list has previously served the District, the first IHO on the list must be contacted. The Superintendent's designee will contact the first IHO per the District's rotational list and ask him/her if he/she is available for appointment; able to make a determination of sufficiency of a due process complaint notice within five (5) days of receiving such a request; and able to convene and conduct a hearing within the timelines provided for by law and regulation.
3. If the first IHO selected from the rotational list declines appointment, or within twenty-four (24) hours of the District's documented attempt to contact him/her fails to respond, or is unreachable despite reasonable efforts by the District, the next IHO on the list will be offered appointment until the appointment is accepted by an IHO.
4. IHOs may respond to the District via facsimile, electronic mail, certified overnight mail or telephone contact that is recorded and confirmed in writing.

Appointment of IHO

When the selected IHO indicates availability, the Board of Education will immediately appoint the IHO. To expedite this process the Board may designate one (1) or more of its members to appoint the IHO on behalf of the Board. Along with the appointment letter, the Board will forward:

1. A copy of its compensation rates for IHOs and reimbursement of hearing related expenses including travel;
2. A copy of the date-stamped written request for the hearing or a copy of the written notice to the parent that the District is initiating the request;

3. The name, address and telephone number of the individual representing the School District at the impartial due process hearing;
4. The name, address and telephone number of the individual representing the parent of the student, if available; and
5. Any other information that will facilitate contact between representatives of the parties.

Decision and Appeal

The decision of the IHO shall be binding upon both parties unless appealed to the State Review Officer. Any and all appeals must be made in accordance with timelines prescribed by the Commissioner of Education.

Compensation of Impartial Hearing Officers

The District will be responsible for compensating the IHO for pre-hearing, hearing and posthearing activities at the rate agreed upon at the time of the IHO's appointment. The rate of compensation may not exceed the maximum rate approved by the Assistant Superintendent for Finance. The District will also reimburse the IHO for travel and other hearing-related expenses (e.g., duplication and telephone costs) pursuant to an annually determined schedule.

At the completion of the impartial due process hearing, the IHO should submit an itemized bill of hourly charges and expenses which will be promptly paid by the District.

On an annual basis the District will forward a copy of its compensation rates to each IHO on the District's rotational list.

Established: 1999

Revised: 1-17-02, 5-20-04, 09-04-14, 09-15-2020