(X) Required
( ) Local
( ) Notice

IMPARTIAL HEARING OFFICER APPOINTMENT AND COMPENSATION

The Board of Education recognizes the need to govern the appointment and compensation of impartial hearing officers (IHOs) for special education related impartial hearing officers pursuant to Part 200 of the Regulations of the Commissioner of Education.

Pursuant to the Education Law and the regulations of the Commissioner of Education, only a duly qualified hearing officer may preside over an appeal concerning a child with a disability. The Board of Education of the Hewlett-Woodmere Union Free School District will employ such hearing officers in accordance with the procedure set forth in the Commissioner's Regulations.

The updated list of certified IHOs for this county promulgated by the New York State Education Department will be used in connection with requests for impartial hearings. The list shall also include the names of those other certified IHOs whose names appear on the state list and who have indicated to the District their interest in serving as an IHO in the district. The name of any newly certified impartial hearing officer who is available to serve in the District shall be inserted into the list in alphabetical order.

Upon receipt of a request for an impartial hearing, the rotational selection process for the IHO shall be initiated immediately and always within two (2) business days after receipt by the District of such written request. Should an IHO decline appointment, or if within 24 hours, the IHO fails to respond or is unreachable after reasonable efforts by the Executive Director for Special Education Services' designee, such efforts will be documented through independently verifiable efforts. The Executive Director for Special Education Services' designee shall then proceed through the list to determine availability of the next successive IHO.

The Executive Director for Special Education Services' designee, under the direction of the Board President, shall initiate the selection process by contacting the impartial hearing officer whose name first appears after the impartial hearing officer who last served. The Executive Director for Special Education Services' designee shall canvass the list in alphabetical order as prescribed by the Regulations of the Commissioner of Education until an appointment is accepted. Pursuant to the Regulations of the Commissioner of Education, if an impartial hearing is currently pending for the same student when a new hearing request is received, the district will appoint the same IHO, if available, who will determine whether or not to consolidate the hearings. Additionally, if the new hearing request concerns an issue which had been previously withdrawn in the 12 months prior, the district shall appoint the same IHO, if available.

If the IHO is unable to: (1) make a determination of sufficiency of a due process complaint notice within five days of receiving such a request; or initiate the hearing within 14 days the

earlier of the following: (a) the date on which the impartial hearing officer receives notice that the parties waived their right to hold a resolution meeting or met but were unable to reach agreement; or (b) the expiration of the 30-day period beginning with the receipt of the due process complaint, IHO cannot accept the appointment. The Executive Director for Special Education Services' designee shall then proceed through such list to determine availability of the next successive IHO.

Appointment

The Board President, or their designee, will appoint an IHO immediately after the IHO selected from the rotational list indicates he or she is available.

The Board will rescind the appointment of an IHO and appoint a new one if, the parties to the hearing mutually agree that the IHO is either incapacitated or otherwise unavailable or unwilling to continue the hearing or issue a decision. The appointment of a new IHO in such an instance will be made in accordance with the selection and appointment procedures established by this policy.

Compensation

The District shall compensate an impartial hearing officer for services at the maximum hourly rate established for such purpose by the Director of the Division of the Budget. This rate applies for pre-hearing, hearing, and post-hearing activities. Impartial hearing officers shall not be paid by the hour for travel to and from hearings. However, upon review and approval of properly submitted receipts, impartial hearing officers may be reimbursed for reasonable, actual and necessary expenses for automobile travel at the prevailing mileage rate published by the Internal Revenue Service. The School District will not reimburse for meals, lodging, airfare and/or train fare (unless the total expense is less than or equal to reimbursable automobile travel). Mailing costs associated with the hearing will also be reimbursed. The District will not reimburse impartial hearing officers for administrative assistance, secretarial or other overhead expenses.

Cancellation

The District shall attempt to provide an Impartial Hearing Officer with two (2) business days' advance notice of the cancellation or re-scheduling of an impartial hearing. Should the District request the cancellation or re-scheduling of a hearing date and fail to provide an Impartial Hearing Officer with two (2) days notice, the District agrees to pay the Impartial Hearing Officer a fee of $100.00. The District shall not be responsible for costs associated with a parent or guardian's cancellation or adjournment of a hearing.

A copy of this policy will be forwarded to the impartial hearing officer at the time of appointment.

Records relating to the IHO process including, but not limited to, the request for initiation and completion of each impartial hearing will be maintained by the District and such information will be reported to the State Education Department as required by Commissioner's Regulations.

Ref: 8 NYCRR §§200.2; 200.5; 200.21

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