

IMPARTIAL HEARING OFFICER APPOINTMENT AND COMPENSATION

The Board of Education will appoint impartial hearing officers (IHO), as needed, to hear complaints regarding the identification, evaluation, or placement of students with disabilities, or the provision of a free appropriate public education to such a student in accordance with the rotational selection process and other applicable procedures described in Commissioner's regulations.

Selection

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.

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 District Clerk or designee, such efforts will be documented through independently verifiable efforts. The District representative shall then proceed through the list to determine availability of the next successive IHO.

The District Clerk or other person so designated, 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 District Clerk or 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 or to permit the new complaint to proceed separately as an individual complaint before the same IHO. Additionally, if a party subsequently files a due process complaint within one year of the withdrawal of a complaint that is based on or includes the same or substantially similar claims as made in prior due process complaint that was previously withdrawn by the party, the District shall appoint the same IHO appointed to the prior complaint, unless the IHO is not available to serve.

An IHO on the District's rotational list may not accept appointment unless he or she is available to:

1. Make a determination on the sufficiency of the due process complaint that will be heard at the hearing within five days of receiving such a request; and
2. Initiate the hearing within the first 14 days after either:
 - The date on which he or she receives written notice that the parents and the District waived their right to hold a resolution meeting to resolve their differences

- prior to commencement of the hearing, or met but were unable to reach agreement; or
- The expiration of the 30-day period beginning with the receipt of the due process complaint, whichever occurs first.

Appointment

The Board President, or in his or her absence or inability the Vice President, 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 his or her services at the maximum rate established for such purpose by the Director of the Division of the Budget. Currently, this rate is \$100.00 per hour for pre-hearing, hearing, and post-hearing activities. In addition, impartial hearing officers may be reimbursed for reasonable, actual and necessary expenses for automobile travel, meals and overnight lodging in accordance with the current District reimbursement rate set for District employees. 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 Office of Special Education of SED as required by Commissioner's regulations.

Ref: 8 NYCRR §§200.2; 200.5; 200.21

First Read: April 9, 2019

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