

IMPARTIAL HEARINGS/SELECTION OF IMPARTIAL HEARING OFFICERS

The school district is committed to making every effort to amicably resolve differences involving the educational programs for students with disabilities. When outside assistance is needed to aid in resolving a disagreement about the identification, evaluation, educational placement or provision of a free appropriate education for a student with a disability, mediation is encouraged. For those exceptional circumstances where a more formal method is required, the impartial hearing process will be utilized. The Impartial Hearing Officer (IHO) renders a written decision after the parties present and refute evidence before them. The decision of the IHO is final and binding on both parties unless appealed to the State Review Officer (SRO).

Impartial Hearing Process

The following is an overview of the Impartial Hearing process:

1. Either the parent or the school district may request an impartial hearing for any matter relating to the identification, evaluation, or educational placement of a child with a disability. If a parent makes the request, it must be in writing and hand-delivered to the District's General Counsel, Department of Law (or their representative), and the President of the Board of Education (or their representative) at the Rochester City School District Central Offices, 131 West Broad Street, Rochester, New York, 14614 describing the nature of the dispute and a proposed resolution of the problem, as required by the IDEA and the Commissioner's Regulations. Alternatively, the request and description of the dispute and resolution sought may be delivered via email to Legal@rcsdk12.org.

If the District is the party initiating an impartial hearing, the District will serve the parent with a copy of the due process complaint, including a statement of the action proposed and an explanation of why the District proposes to take such action.

To ensure expediency in the IHO's election and appointment process, and pursuant to 8 NYCRR 200.5, and 8 NYCRR 200.2, the Board of Education has delegated its authority to select and appoint an IHO to the District's Designee, in lieu of the convocation of a regularly scheduled or special meeting. The Designee shall be the General Counsel, a member of the Department of Law, or the District Clerk authorized with the appropriate sign-in credentials for the limited purpose of accessing the New York State Education Department Impartial Hearing Reporting System in order to effectuate the election and appointment of an IHO.

2. Upon receipt of or initiation of a request for an impartial hearing, the District will inform the parent of the availability of mediation, of any free or low-cost legal and other relevant services available in the area, and provide them with a copy of the District's Procedural Safeguards Notice.
3. The District's Designee shall be responsible for contacting impartial hearing officers. Upon receipt of a request for an impartial hearing, the District's Designee not involved in the hearing process shall canvass the list in alphabetical order as prescribed by the Commissioner's Regulations to ascertain the willingness and availability of the next listed individual to serve as an IHO for the particular matter. The District's Designee shall initiate the rotational selection process immediately, but no later than two business days after receipt, or initiation, by the District of a hearing request.

4. The District selects the IHO through a rotational selection process in accordance with regulatory timelines. The Department of Law will be responsible for contacting IHOs and maintaining appropriate records.
5. The IHO must be certified by the Commissioner of Education, be independent and have access to the support and equipment necessary to perform the duties of an IHO. When the selected IHO indicates availability, the Board of Education or its Designee must immediately appoint the IHO.
6. The impartial hearing will be conducted at a location that is reasonable and convenient to the parent and the student involved, which can include an electronic remote location, unless either Party shall object, and the IHO makes a determination on where the hearing shall be held. The hearing shall be closed to the public unless the parent requests an open hearing.
7. The IHO presides over the hearing at which the parties have an opportunity to present evidence and testimony.
8. The student remains in the current placement during the pendency of the impartial hearing unless both parties agree and except as otherwise provided for expedited impartial hearings for certain disciplinary suspensions or removals of a student.
9. The IHO renders and forwards the finding of fact and decision to the parties and to the State Education Department in accordance with regulatory timelines.
10. The decision of the IHO is final and binding on both parties unless appealed to the State Review Officer (SRO).

Withdrawals of Requests for Due Process Hearings

When a party wishes to withdraw a request for a due process hearing as follows:

1. Prior to the commencement of the hearing, a voluntary withdrawal by the party requesting the hearing shall be deemed by the IHO to be without prejudice unless the parties otherwise agree. The commencement of the hearing means the first date the hearing is held after a prehearing conference (if a prehearing conference was conducted).
2. Except for withdrawals made prior to the commencement of the hearing, a party seeking to withdraw a due process complaint must immediately notify the IHO and the other party. The IHO must issue a written order of termination.
3. A withdrawal shall be presumed to be without prejudice except that the IHO may, at the request of the other party and upon notice and an opportunity for the parties to be heard, issue a written decision that the withdrawal shall be with prejudice.
4. The decision of an IHO in the order of termination that a withdrawal shall be with or without prejudice is binding upon the parties unless appealed to the Office of State Review.
5. If the party subsequently files a due process complaint notice within one year of the withdrawal of a complaint that is based on or includes the same or substantially similar claims as made in a prior due process complaint notice that was previously withdrawn by the party, the school district shall appoint the same IHO appointed to the prior complaint unless that IHO is no longer available to hear the new due process complaint notice.

Recordkeeping and Reporting

The District will maintain an alphabetical list of the names of each IHO who is certified in New York State and available to serve in the District. The District will record and report to the State Education Department required information relating to the selection of IHOs and the conduct of impartial hearings according to the manner and schedule specified by the department.

Compensation of Impartial Hearing Officers

The District will be responsible for compensating the IHO for pre-hearing, hearing and post-hearing activities at the rate agreed upon at the time of the IHO's appointment.

Guardians ad Litem at Impartial Hearings

Unless a surrogate parent has been previously appointed, the IHO must appoint a guardian ad litem when the IHO determines that the interests of the parent(s) are opposed to or inconsistent with those of the student or whenever the interests of the student would be best protected by such appointment.

Confidentiality

All issues relating to a request for and conduct of an Impartial Hearing must be kept confidential by all District staff.

NYSSBA Ref: Impartial Hearing Officer Appointment and Compensation (4321.8) – Required Policy

Ref: Education Law Sections 4404(1) and 4410(7)
8 New York Code of Rules and Regulations (NYCRR) Sections 200.1, 200.2, 200.5, 200.16, 200.21 and 201.11

Notes: Adopted February 16, 2012 pursuant to Resolution No. 2011-12: 576; Amended June 24, 2021 pursuant to Resolution No. 2020-21: 930; Amended August 22, 2024 pursuant to Resolution No. 2024-25: 198; Amended July 31, 2025 pursuant to Resolution No. 2025-26: 104

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