

EAST QUOGUE UNION FREE SCHOOL DISTRICT

IMPARTIAL HEARING OFFICER APPOINTMENT AND COMPENSATION

Policy 4321.5

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 Suffolk 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 School District their interest in serving as an IHO in the School District.

Upon receipt of a request for an impartial hearing, the rotational selection process for the IHO shall be initiated within two (2) business days after receipt by the School District of such written request. The District Clerk shall initiate the process. Should an IHO decline appointment, or if within twenty-four (24) hours the IHO fails to respond or is unreachable after reasonable efforts by the District Clerk, such efforts will be documented through independently verifiable efforts. The District Clerk will then proceed through the list to determine availability of the next successive IHO.

The District Clerk will initiate the selection process by contacting the impartial hearing officer whose name first appears after the impartial hearing officer who last served. This will be by telephone, or if unsuccessful, by leaving a message and sending a letter by overnight mail. The District Clerk will canvass the list in alphabetical order as prescribed by the Regulations of the Commissioner of Education until an appointment is accepted.

An IHO on the School 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 (5) days of receiving such a request; and
2. Initiate the hearing within the first fourteen (14) days after either:
 - The School District appoints the hearing officer; or
 - The date on which he or she receives written notice that the parents and the School 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 thirty (30) day period beginning with the receipt of the due process complaint, whichever occurs first unless the parties agree in writing to continue mediation at the end of the thirty (30) day resolution period, in which case, the hearing or pre-hearing conference shall commence within the first fourteen (14)

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days after the impartial hearing officer is notified in writing that either party withdrew from mediation.

Appointment

The Board of Education by resolution, or Board President by letter (or Vice President in his/her absence or inability), will appoint an IHO immediately after the IHO selected from the rotational list indicates he or is available.

The Board of Education 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 School District shall compensate an impartial hearing officer for his or her services in an amount not greater than the maximum rate established for such purpose by the Director of the Division of Budget. The School District shall not be responsible for any cancellation fees incurred as a result of cancelled or rescheduled hearing dates.

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 School District and such information will be reported to the New York State Education Department's Office of Special Education as required by Commissioner's regulations.

Cross Ref:

Ref: 8 NYCRR §§200.2(b)(9), (e)(1); 200.5(j); 200.21

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