

Frequently Asked Questions: THE HEARING PROCESS

Appeals to the State Commissioner of Education

This information is intended for the guidance of anyone having an unresolved dispute with a local school district or other local educational agency (“LEA”). It is not intended to be complete, but merely to serve as a brief, general summary of the hearing process. If you have specific questions or need more information, you may call the Legal Office at the State Department of Elementary and Secondary Education (“RIDE”) at 401-222-8979.

What is a hearing? An administrative hearing is a step in the process of resolving a dispute with a local school department or other LEA. Such disputes are usually heard by a Hearing Officer at RIDE, who is designated by RIDE’s Commissioner (“Commissioner”) and are conducted at RIDE’s offices located at 255 Westminster Street in Providence.

Can anyone ask for a hearing? Any parent, student, teacher, superintendent, or member of a local school committee may request a hearing if aggrieved and if the dispute arises under a law relating to schools or education. Generally, a petitioner must have exhausted all available remedies at the local level prior to requesting a hearing. In rare, time-sensitive cases, it may be possible to appeal directly to the Commissioner before exhausting all available local remedies, such as in cases where an interim protective order would be appropriate, as discussed below.

What steps do I need to go through first?

Generally, you should first try to resolve the problem at the local district level before appealing to the Commissioner. You should review the procedural rules for appealing disputes in effect at your school. As a general rule, you should discuss the problem first with the school principal. If the matter is not settled, then make an appointment to talk with your school district superintendent. The next step is to be heard at the next meeting of your local school committee. If you are not satisfied with the school committee’s decision, you may then appeal that decision to the Commissioner. Some matters, such as residency disputes, go directly to the Commissioner.

How do I ask for a hearing?

To request a hearing, you may complete and submit the attached sample complaint form. Your complaint must explain the reason you are asking for a hearing as well as what relief you are seeking. You must also give your name and address, along with a phone number and an e-mail address for us to contact you.

Please use the following contact information to submit your completed complaint form, whether by email, regular mail, or fax:

Mail: Angélica Infante-Green, Commissioner
 Attn: Legal Office
 Rhode Island Department of Education
 255 Westminster Street, Fourth Floor
 Providence, RI 02903

Fax: 401-222-4691

Email: Legal@ride.ri.gov

If you have difficulty accessing or filling out the form or have further questions regarding your complaint, please contact RIDE’s Legal Office at 401-222-8979 or Legal@ride.ri.gov.

What happens after I send in my complaint asking for a hearing?

In the usual case, your complaint will be assigned to a RIDE Hearing Officer designated by the Commissioner. You will be contacted for the purpose of scheduling a hearing or a pre-hearing conference for the purpose of sorting out the issues involved. Alternatively, the Hearing Officer may offer you the option of mediation, as discussed below.

Do I need to have an attorney with me at the hearing?

While many people do hire a lawyer to represent them at a hearing, it is not required that you do so.

Who will be at the hearing?

As noted, the hearing is conducted by a RIDE Hearing Officer, who is designated by the Commissioner. You and representatives of the school district will be there, along with any witnesses you or the district may bring to testify at the hearing. A court stenographer will transcribe what is said at the hearing.

What happens at the hearing?

The Hearing Officer will allow you to present your side of the case. The school district will then present their side of the issue. Each side will have an opportunity to present witnesses or introduce documents into evidence, as well as ask questions of the other side's witnesses. Although the rules of evidence as applied in the courts are applicable, exceptions may be made if, in the discretion of the Hearing Officer, it is necessary to ascertain facts not reasonably susceptible of proof under the rules of evidence.

What should I bring to the hearing?

You should bring with you anything that will support your position. Either party may submit relevant documents as exhibits. Either party may request a subpoena for either documents or witnesses to be present at the hearing. If you request a subpoena, you will be responsible for having it served and paying any expenses involved.

How long does a hearing take?

A hearing can take anywhere from 20 minutes to several days, depending on the circumstances to be discussed and the number of witnesses testifying. Typically, a hearing will last between two and three hours.

What happens after the hearing is over?

Sometimes you and the school district will be asked to submit a post-hearing memorandum to the Hearing Officer to clarify the issues discussed at the hearing. Once the transcript and all exhibits and documents are received, the Hearing Officer will declare the record closed, and no more exhibits will be accepted. The Hearing Officer will then write a decision.

How long does it take to get a decision?

The Commissioner's decision must be issued within 45 working days of the record closing.

Can the Commissioner's decision be appealed?

You may appeal most decisions to the Council on Elementary and Secondary Education. A copy of the "Procedural Rules for Appeals from Decisions of the Commissioner" is provided to you along with the Commissioner's decision. For information on such appeals, you may call the Council at 401-222-8705.

What is an Interim Protective Order?

An interim protective order is applicable only in “extraordinary circumstances,” such as when a student has no educational placement, there are paramount “health or safety concerns,” or there is a risk that the very purpose of an education law or regulation will be frustrated. Interim Protective Orders are not routinely invoked to avoid the regular, statutorily-prescribed adjudicatory process. Hearings on interim orders must be conducted within 5 working days of a request for relief and a decision must be issued within 5 working days after completion of the hearing.

What is Mediation?

Mediation is an informal, voluntary process where each side is afforded the opportunity to candidly present their case to a mediator who then attempts to bring about an amicable settlement by educating both sides as to the relevant law, likely outcome and expense and time associated with an evidentiary hearing and likely appeal. If the parties agree to mediation and it is not successful, another Hearing Officer may have to be appointed to then hear the dispute.

What is a Due Process Hearing?

This is a special type of administrative hearing required under the Individuals with Disabilities Education Act when issues arise regarding the education of students with disabilities. Due Process Hearings are handled by the Office of Student, Community and Academic Supports. For more information on Due Process Hearings, you may contact the OSCAS Special Education Call Center at 401- 222-8999 or RIDECallCenter@ride.ri.gov.



State of Rhode Island
DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
255 Westminster Street
Providence, Rhode Island 02903-3400

Angélica Infante-Green
Commissioner

General Education Dispute Resolution Complaint Form

This form assists you with providing the information needed for appealing any dispute arising under a law relating to schools or education to the State Commissioner of Elementary and Secondary Education. This form is to be used only for appeals of general education matters; if you are appealing any matter relating to special education you should contact the RIDE OSCAS Special Education Call Center at 401- 222-8999 or RIDECallCenter@ride.ri.gov.

Before submitting this form, please be sure that you have exhausted all available remedies at the local level. Additional information regarding appeals of general education matters to the State Commissioner of Elementary and Secondary Education is available at: <https://ride.ri.gov/inside-ride/legal-support>.

Student Information

| |
|------------------------------|
| Student's Name: _____ |
| Current Grade Level: _____ |
| School of Attendance: _____ |
| District of Residence: _____ |
| Address: _____ _____ |

Complainant Information

| |
|---|
| Complainant's Name: _____ |
| Relationship to Student: _____ |
| Address (if different than student): _____ _____ |
| Telephone: _____ Email Address: _____ |

Description of the Issues

Please describe the problem(s) and your concern(s), including as much detail as possible. Include all information that you believe to be important. You may attach any additional documents that you believe would support your claim(s).

Please describe your concern(s), stating the specific facts on which your claim is based.

Describe what steps you have taken to resolve your concern(s) at the local level. Please include the names of any school district representatives that you have contacted.

Please state your preferred resolution, or what actions the school may take that you believe would resolve your concern(s).

Complainant's Signature: _____ **Date:** _____

You may submit your completed complaint form using the below contact information:

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Rhode Island Department of Education
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Providence, RI 02903

Fax: 401-222-4691

Email: Legal@ride.ri.gov

If you have any questions about this form or your complaint, please contact the RIDE Legal Office at 401-222-8979 or legal@ride.ri.gov.