

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. This information is not complete, but simply gives a brief, very general summary of the hearing process. You may call the Legal Counsel Office at the State Department of Education if you have specific questions or need more information. The number to call is 401-2228979.

What is a hearing? An administrative hearing is one step in the process of solving a conflict with a local school department. At the state level these matters are heard by a hearing officer designated by the state commissioner of education.

Can anyone ask for a hearing? Any parent, student, teacher, superintendent, or member of a school committee, if aggrieved and if the dispute arises under a law relating to schools or education, may ask to have a hearing if they still have a conflict with a school committee after trying to solve the problem at the local level. There are some issues that can come directly to the state commissioner of education, and there are limits on our jurisdiction.

What steps do I need to go through first?

If you have a dispute over a matter with your local school district, in most cases it is best to try to solve the problem at the local school district first. Discuss the problem first with the school principal. If the matter still 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 State Commissioner of Elementary and Secondary Education. Some matters such as residency go directly to the Commissioner.

How do I ask for a hearing?

Mail or fax a signed letter to the Commissioner of Education. In your letter, you will need to explain why you are asking for a hearing. You must also give your name and address, along with a phone number for us to call you and an e-mail. Please address your letter to:

Angélica Infante-Green, Commissioner
Rhode Island Department of Education
255 Westminster Street
Providence, RI 02903
Fax 401-222-6178

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

Your letter will be given to a hearing officer in the Legal Counsel Office. You will be contacted for the purpose of scheduling a hearing. You may also have the option of scheduling a pre-hearing conference for the purpose of sorting out the issues involved.

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?

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

What happens at the hearing?

The Hearing Officer will allow you to tell your side of the case. The school district will present their side of the issue. Each side will have an opportunity to ask questions of the other side. A court stenographer will record the proceedings.

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 hours, depending on the circumstances to be discussed and the number of witnesses testifying. Most of the time a hearing will last between one and two hours.

What happens after the hearing is over?

Sometimes you and the school district will be asked to write a document to submit to the hearing officer after the hearing. This may be done to clarify issues discussed at the hearing. A transcript is prepared by the court stenographer. 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?

Depending on the circumstances, it may take anywhere from five days to 45 days after the close of the record to receive a decision. Generally, it takes 45 working days on most decisions. For Interim Orders, in which the issue is whether education is being provided to children as required by federal and/or state law, the hearing officer has 5 working days to issue a decision.

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 a different office. For information on Due Process Hearings, you may call the Office of Student, Community and Academic Supports at 222-8999.

Can a hearing officer's decision be **appealed?**

Yes. You may appeal the hearing officer's decision, generally, to the Board of Education. A copy of the "Procedural Rules for Appeals from Decisions of the Commissioner" is provided with the Commissioner's decision. For information on Board of Education appeals, you may call the Board of Education at 401-222-8705.