

R7-2-805. Education Division General Administrative Regulations

- A.** This rule prescribes procedures to be used for appealing a decision by the Arizona Department of Education (Department) relating to federal programs administered by the Department and subject to the Education Division General Administrative Regulations (EDGAR) Title 34, Code of Federal Regulations § 75 and 76.
- B.** A school district or public agency may request a hearing if it alleges that the Department violated a federal statute or regulation by:
 - 1. Terminating further assistance for an approved project;
 - 2. Ordering, in accordance with a final state audit resolution determination, the repayment of misspent or misapplied federal funds;
 - 3. Disapproving or failing to approve the application or project in whole or in part; or
 - 4. Failing to provide funds in amounts in accordance with the requirements of statutes and regulations.
 - 5. Not approving the school district or public agency's proposal for funding.
- C.** When a school district or public agency requests a hearing, the Superintendent of Public Instruction (Superintendent) shall select a hearings appeals panel from Department staff other than those within the same division as the federal program area under which the appeal rose.
- D.** Hearing procedures
 - 1. An applicant must request a hearing by notifying the Superintendent by certified mail of its decision to appeal a decision as set forth in subsection (B) of this rule. If the applicant is or represents a school district, authorization to seek a hearing must come from the Governing Board of that school district.
 - 2. The request for hearing must set forth the nature of the complaint and the facts on which the complaint is based.
 - 3. The applicant shall request a hearing within 30 days of the date notice of the Department action was sent. For purposes of this rule, the date of notice by the Department is the date of sending notice of the Department action.
 - 4. A hearing shall be scheduled before the appeal panel within 30 days from the receipt of the request.
 - 5. The appeals panel chairperson shall give at least 10 days' notice of the hearing date to the complainant.
 - 6. The parties may submit written materials no later than five days prior to the hearing, such materials to consist of six copies.
 - 7. At the hearing the parties may present evidence in writing and through witnesses and may be represented by counsel.
 - 8. The length and order of the presentation may be determined by the appeals panel chairperson.
 - 9. If the complainant or authorized representative fails to appear at the designated time, place and date of the hearing, the appeal shall be considered closed and the process terminated.
- E.** Decision. No later than five days after the hearing, the appeals panel shall forward to the Superintendent its recommendation relating to the school district or agency's request for review. Within 10 days after the hearing, the Superintendent shall issue his or her written ruling, including findings of fact and reasons for the ruling. If the Superintendent determines that the Department's action was contrary to the statutes and regulations that govern the applicable program, the Superintendent shall rescind the action.

- F.** Appeal. If the Superintendent does not rescind the Department action, the applicant may appeal to the U.S. Department of Education. The applicant shall file a notice of appeal with the U.S. Department of Education within 20 days after the applicant has been notified by the Superintendent of his or her decision by certified mail.

- G.** State Board of Education submission. The Superintendent shall annually submit to the State Board of Education as an informational item summaries of all decisions including the findings of fact of hearing procedures conducted pursuant to this rule for State Board of Education review.

Historical Note: Adopted effective June 24, 1983 (Supp. 83-3).