



**APPEALS PROCESS FOR FEDERAL SUBGRANT AND  
STATE EXCESS COST APPLICATIONS**

The Department utilizes the following criteria and procedures when conducting a hearing requested by a school corporation or other public agency appealing a Department decision related to federal programs administered by the Department and subject to the Education Division General Administrative Regulations (EDGAR), 34 CFR §§ 75 and 76, as well as an appeal brought under 511 IAC 7-47-2 for a denial of an application for excess cost funding.

**I. Action**

- A. A school corporation or public agency may request a hearing to appeal the Department's decision if it alleges the Department failed to comply with a federal statute or regulation in any of the following:
  - 1. Disapproving or failing to approve an application or project in whole or in part.
  - 2. Failing to provide funds in amounts in accordance with the requirements of applicable statutes and regulations.
  - 3. Ordering, in accordance with a final state audit resolution determination, the repayment of misspent or misapplied federal funds.
  - 4. Terminating further assistance for an approved project.
- B. A school corporation or legal settlement or the governing body of a charter school may request a hearing to appeal the denial of an application for excess cost funding made pursuant to 511 IAC 7-47 if it alleges that the Department denied an application that:
  - 1. Included all required information, and
  - 2. Demonstrated eligibility for excess cost funding.

**II. Request for Hearing**

- A. A request for hearing must be made within thirty (30) calendar days of the date of the Department's decision.
- B. The request must be in writing and sent via certified mail to the Superintendent of Public Instruction, 151 West Ohio Street, Indianapolis, IN 46204.
- C. If the request is to appeal a decision listed in Section Ia, it must describe why the Department's decision is in error and the facts in support of the applicant's claim. In addition, if the request is made by a school corporation or a charter school, it must include documentation of the governing body's authorization to request the hearing.

- D. If the request is to appeal a decision listed in Section 1b, it must explain why the application for excess cost funding should be approved, including how the application contains the necessary information to demonstrate eligibility for excess cost funding.
- E. The request for hearing will be forwarded to General Counsel to assign a cause number. General Counsel will forward the request to the panel chair.

### **III. Hearing Procedures**

- A. A hearing will be conducted by a three member panel appointed by the Superintendent of Public Instruction, one of whom shall be designated as the chair. None of the panel members shall work within the division that implements the federal program to which the school district or public agency applied.
- B. The panel will conduct the hearing within thirty (30) days of the date the request for hearing is received.
- C. The panel chair shall notify the parties of the date and time of the hearing at least ten (10) calendar days in advance of the hearing. All hearings will be conducted at the Department's offices in Indianapolis.
- D. Parties have the right to be represented by counsel at the hearing.
- E. If either party wishes to submit written materials, the party must provide four (4) copies to the panel chair and one (1) copy to the opposing party at least five (5) calendar days prior to the scheduled hearing.
- F. At the hearing:
  - 1. Parties may present evidence through written documents and witness testimony.
  - 2. The length and order of presentation will be determined by the panel chair.
  - 3. The hearing will be recorded, but no transcript will be prepared.
- G. If the applicant or authorized representative fails to appear at the designated time and place of the hearing, the appeal shall be considered closed and the process terminated.

### **IV. Decision**

No later than ten (10) calendar days after the hearing, the panel shall issue its written decision affirming or reversing the Department's decision, including findings of fact, reason(s) for the ruling, and notice of appeal rights. The panel chair shall send the decision by certified mail to the applicant and provide a copy to appropriate Department staff.

### **V. Appeal of Panel's Decision**

- A. If the panel affirms the Department's action regarding a federal subgrant, the applicant may appeal to the U.S. Department of Education. The applicant must file a notice of appeal with the U.S. Department of Education within twenty (20) calendar days after the applicant has been notified by certified mail of the panel's decision.

- B. If the panel affirms the Department's action regarding an application for excess cost funding, the applicant may appeal to a civil court of competent jurisdiction within thirty (30) calendar days of the applicant receiving the panel's decision.

#### **VI. Maintaining the record**

The panel chair will maintain the hearing record until the written decision is issued and then forward the record to the Office of Legal Affairs for archiving.