



**Updated February 2020**

## **UNIFORM PRE-HEARING DIRECTIONS**

Effective immediately, Hearing Officers will implement the following procedures in all cases.

Follow these directions unless the Hearing Officer makes an exception.

Each Hearing Officer may have his or her own preferences and procedures in addition to these directions. If so, the Hearing Officer will send his or her own procedures at the start of the case.

## **PRE-HEARING MATTERS**

### **1. COMMUNICATION WITH THE HEARING OFFICER**

*Attorneys.* Do not communicate with the Hearing Officer if you are represented by an attorney. If you hire an attorney after the complaint is filed, your attorney must contact ODR and the Hearing Officer to enter an appearance.

*Email.* Use email to communicate with the Hearing Officer. Copy the other party on all emails to the Hearing Officer. Do not send hard copies of any

document emailed to the Hearing Officer. Include the ODR file number in the subject line of every email.

*Mail.* If you cannot use email, you may use U.S. mail to communicate with the Hearing Officer. Send a copy of all letters to the Hearing Officer to the other party. Include the ODR file number on all letters.

*Conference Calls.* Contact the Hearing Officer to schedule conference calls if necessary. The Hearing Officer cannot speak with a party unless the other party is also on the call.

## **2. RE-SCHEDULING HEARING DATES**

The Hearing Officer will schedule the first hearing session upon assignment.

Contact the Hearing Officer immediately if you need to reschedule a hearing session. When asking the Hearing Officer to reschedule a hearing session, say why you are making the request. When possible, contact the other party first and tell the Hearing Officer if the other party agrees with the scheduling request.

The Hearing Officer must issue a final decision on or before the decision due date. The decision due date is set by statute. The Hearing Officer can extend the decision due date *only at the parties' (or either party's) request*. The Hearing Officer cannot schedule past the decision due date.

Hearing Officers may grant or deny requests to reschedule hearings and to extend decision due dates.

In expedited cases, the Hearing Officer has limited power to move timelines. Requests to reschedule expedited hearings are unlikely to be granted.

## **EXHIBITS**

### **1. NOTICE FOR DISCLOSURE OF WITNESSES & EXHIBITS**

Tell the other party about all witnesses who may testify and exhibits that you may use at any hearing session at least five business days before the first hearing session.

For expedited cases, tell the other party about all witnesses who may testify and exhibits that you may use at any hearing session at least two business days before the first hearing session.

If you find evidence after the hearing starts, and want to use that evidence, show it to the other party and tell the Hearing Officer. The Hearing Officer may let you use the evidence, depending on the circumstances of the case.

### **2. JOINT EXHIBITS**

Hearing Officers encourage joint exhibits to avoid duplicates of the same document. The Hearing Officer may exclude duplicative documents.

### **3. EXCHANGE OF EXHIBITS**

Hearing Officers encourage the parties to exchange a complete set of their exhibits before the first hearing session. The parties shall exchange a

complete set of their exhibits at the first hearing session if they have not already done so.

In cases with electronic exhibits, the Hearing Officer will provide instructions to the parties for sharing and accessing each set of exhibits.

#### **4. PREPARATION OF EXHIBITS**

Prepare all exhibits according to the Attachment to these Pre-Hearing Directions. All exhibit markings must be clearly readable.

The Hearing Officer will return exhibits not prepared according to these requirements for re-marking. The Hearing Officer will not admit exhibits that are not properly prepared and marked.

### **THE HEARING**

#### **1. NOTICE OF SETTLEMENT**

The party who filed the complaint shall *immediately* notify the Hearing Officer if the parties have settled the case, or if a conditional dismissal order is appropriate.

#### **2. PRESENTATION OF EVIDENCE**

The party seeking relief shall present its case first unless the Hearing Officer issues an order directing the other party to present first. The parties may present their cases in whatever order they choose. However, the Hearing

Officer may direct the presentation of evidence, including the sequence of witnesses.

### **3. SCOPE OF THE CLAIM**

If there is a dispute about the timeliness of the complaint or the scope of the claims, the Hearing Officer may establish procedures to resolve those issues before the first hearing session.

The parties will state the issues of the case in their opening statements. After the opening statements, the Hearing Officer will re-state the issues on the record, seeking confirmation from the parties of issues to be determined in the hearing. The Hearing Officer's re-statement of the issues on the record will govern the scope of the hearing.

### **4. REPORTS AS EVIDENCE**

*Where the Author Testifies.* Any evaluation report, re-evaluation report, independent report, or other report that is offered as an exhibit shall speak for itself. The Hearing Officer may accept any such report as its author's direct testimony about the report's contents. The Hearing Officer may limit direct examination of the author to matters that establish the report's evidentiary weight or relevance, or that help the Hearing Officer understand the report.

*Where the Author Does Not Testify.* Any evaluation report, re-evaluation report, independent report, or other report, may be offered as an exhibit. The report shall speak for itself. The Hearing Officer will give the report appropriate evidentiary weight at her or his discretion.

## **5. HEARING DURATION AND WITNESS TIME ALLOTMENTS**

The timely resolution of due process hearings is not only contemplated by the law, but in practical terms is best for the student, family, and educators. Hearing Officers set the following expectation for the length of the hearing and witness time allotments to achieve a timely resolution:

*Length of the Hearing.* Every attempt will be made to conclude hearings within two full days. Hearing Officers intend that hearings will extend no longer than four full days.

*Witness Time Allotments.* Each party is allotted **one (1)** hour to question each witness. The hour will include direct and re-direct examinations or cross and re-cross examinations. If a party does not use the full hour for both rounds of questioning, any remaining time will be forfeited. There will be no third round of questioning.

*Requesting Extra Time.* If a party needs more than **one (1)** hour to question a particular witness, the party shall ask the Hearing Officer for more time before the hearing session convenes. If a party asks for more time after an examination starts, the Hearing Officer may grant additional time for good cause shown.

## **6. SESSIONS BY CONFERENCE CALL OR VIDEO CONFERENCE**

The Hearing Officers prefer to convene hearing sessions in person when evidence will be presented. If both parties voluntarily agree between themselves to use video conference technology to convene a virtual hearing

session and communicate that joint request in writing to a Hearing Officer, the session may be conducted as a virtual hearing session.

## **7. DECORUM IN THE HEARING**

Professional decorum throughout the entire hearing is necessary. Attorneys shall adhere to court decorum requirements. Hearing Officers may adjourn a hearing session if attendees will not comply with decorum standards.

It is not appropriate for attendees to read newspapers, magazines, or books, use mobile devices, or do work unrelated to the hearing in the hearing room while the hearing is in session.

Technology that is necessary to access exhibits or accommodate a disability is permitted.

## Attachment Requirements for Exhibits

The Office for Dispute Resolution is strictly enforcing guidelines for marking exhibits in light of the need to prepare records properly for appeals of hearing officers' decisions in accordance with court directives.

- 1) **Copying**. The copy of exhibits for the Hearing Officer must be one-sided. The copy for the witness and the copies for the parties may be either one-sided or two-sided. Four copies are required—a copy for the parent, a copy for the LEA, a copy for a witness to refer to, and a copy for the hearing officer.
- 2) **Exhibit Marking**. All exhibits must be marked as follows: P for Parent, or S for School District, or IU for Intermediate Unit, or C for County.
- 3) **Exhibit Numbers & Page Numbers**. On every page of the exhibit, the page should include the exhibit number and the page number as part of the overall number of pages in the exhibit.

So, for example, parents' first exhibit, with four pages, would be numbered P-1 page 1 of 4, P-1 page 2 of 4, P-1 page 3 of 4, and P-1 page 4 of 4, with each page marked separately and completely. The same would apply for the pagination of each of the LEA's exhibits with the appropriate abbreviation from #2 above.

- 4) **Location of Exhibit Numbers & Page Numbers**. Exhibit numbers and page numbers must be in the lower right corner and not obscured by other print on the page. So that exhibit numbers and page numbers are not cut off when being copied, exhibit numbers and page numbers must be a minimum of ½ inch from the bottom of the page and ½ inch from the right side of the page. (See example pages that follow.)
- 5) **Exhibits in Landscape Format**. Where exhibits are in landscape format, the exhibits should be oriented so that, when placed in portrait format, the type faces away from the left side of the page. In effect, type on an exhibit in landscape format, when the page is held in portrait format, would be read from the bottom of the page to the top. (See example pages that follow.)

These requirements must be followed and any previous methods that differ must be abandoned. ***If the exhibits are not numbered properly they will be returned to the party for re-numbering. The record will not be closed until the exhibits are marked and numbered properly.***



***Sample***

***Exhibit***

***in***

***Portrait***

***Format***

***Sample***

***Exhibit***

***in***

***Landscape***

***Format***

(See also example on next page)

**INDIVIDUALIZED EDUCATION PROGRAM (IEP)**

Student's Name:

**V. GOALS AND OBJECTIVES** - Include, as appropriate, academic and functional goals. Use as many copies of this page as needed to plan appropriately. Specially designed instruction may be listed with each goal/objective or listed in Section VI.

Short term learning outcomes are required for students who are gifted. The short term learning outcomes related to the student's gifted program may be listed under Goals or Short Term Objectives.

<b>MEASURABLE ANNUAL GOAL</b> Include: Condition, Name, Behavior, and Criteria (Refer to Annotated IEP for description of these components)	Describe HOW the student's progress toward meeting this goal will be measured	Describe WHEN periodic reports on progress will be provided to parents	Report of Progress

**SHORT TERM OBJECTIVES** - Required for students with disabilities who take alternate assessments aligned to alternate achievement standards (PASA).

Short term objectives / Benchmarks