



Impartial Hearing Officer Compensation Policy

Effective Date: February 10, 2020

Table of Contents

I. OVERVIEW	3
II. EFFECTIVE DATE	3
III. CONTACT INFORMATION	3
IV. SERVICES RENDERED	4
A. Administrative Costs:	4
B. Facilitating Pre-Hearing & Status Conferences:	5
C. Conducting Pendency & Impartial Hearings:	7
D. Reviewing Record – Cases in Progress	8
E. Remanded Case Review	9
F. Writing & Submitting Orders:	10
G. Training:	13
V. WITHDRAWALS, CANCELLATIONS, AND OTHER DELAYS	14
A. Impartial Hearing – Same Day Cancellation/Late Withdrawals	14
B. Impartial Hearing Officer and Party Lateness:	15
VI. TRAVEL	16
VII. MAILING	17
VIII. PROCEDURES FOR OBTAINING PAYMENT	18
IX. INVOICING CODES (IN SUMMARY)	19

I. Overview

New York City Department of Education (DOE) Impartial Hearing Office (NYCIHO), compensates hearing officers in accordance with the policies and procedures outlined herein, and in accordance with 8 NYCRR 200.21(a) and NYSED Policy Publication 01-11.

The NYCIHO reserves the right to change, delete, or suspend any and/or all parts of this *Compensation Policy* at any time.

II. Effective Date

This *Compensation Policy* is to take effect on February 10, 2020 and replaces the former *Compensation Policy* issued on September 19, 2014. All services rendered on or after February 10, 2020, until further notice, must be invoiced pursuant to this new *Compensation Policy*. All services rendered prior to February 10, 2020 must be invoiced under the 2014 *Compensation Policy*.

III. Contact Information

Inquiries regarding the new Compensation Policy should be directed to:

Riccardo White, Senior Director of Finance and Operations, Impartial Hearing Office at:
ihocompquest@schools.nyc.gov

Please submit invoices via the NYCIHO invoices email at: ihoinvoices@schools.nyc.gov

For questions regarding payments received on invoices, please email:
ihocompquest@schools.nyc.gov

IV. SERVICES RENDERED

A. Administrative Fee:

Hearing officers are eligible to bill for an administrative fee **[AF]** on a case subject to the limitations below:

There is no **AF** for any case in which a hearing officer is:

- recused from a case for any reason other than a conflict of interest that is discovered for the first time at the Impartial Hearing; or
- recused from a case before holding a hearing or submitting an order; or
- appointed in error (i.e., invalid case, keystroke/data entry error), provided the appointment was revoked within four (4) business days

AF is intended to cover the administrative costs of the case, including but not limited to the costs of scheduling hearings, and transmitting the record and other documents to the NYCIO.

For cases that are bifurcated (e.g., expedited and related non-expedited case) hearing officers must manage and bill for these cases separately and submit separate invoices for each case. As a reminder, in bifurcated cases the non-expedited case has a six **(6)** digit case number and the expedited case has a “**9**” prefixed to the same six **(6)** digit case number. PLEASE NOTE: Any hearings held for both cases may only be billed once. Note: These hearings are to be invoiced under the expedited ‘9’ case only.

Hearing officers are directed to invoice **AF** in the following manner:

CODE	NATURE OF SERVICES RENDERED	FEE
AF	Administrative Fee	\$200

B. Facilitating Pre-Hearing & Status Conferences:

Hearing officers are compensated, in the amount of \$50, for conducting a pre-hearing conference **[PC]** or status conference **[SC]** in a case. No hearing officer shall bill the DOE for more than one (1) **PC** per case unless the case has been amended. For cases in which a proposed amendment has been granted by the hearing officer and/or consented to by the non-filer, and the applicable timelines recommence, the hearing officer may bill the DOE for an additional pre-hearing conference per approved amendment and use the code **PCA**.

A hearing officer shall not be paid for any **PCA** if the applicable timelines do not recommence pursuant to the filing of an amended due process complaint. Therefore, payments for amended pre-hearing conferences held shall never exceed the number of amendments granted by the hearing officer or consented to by the non-filer.

Hearing officers may bill for all status conferences **[SC]** held throughout the duration of an impartial hearing. In order to be paid for holding a status conference, it must be held on the record and transcribed. It is highly recommended that they be held off-site by telephone.

An "Appearance Fee" **[PCX]** or **[SCX]**, in the amount of **\$50**, for appearing at a pre-hearing conference or status conference that does not proceed and results in a same-day cancellation (or after 5 p.m. previous day) can only be billed if one of the following errors is committed by the NYCISO or the DOE:

- Failure of NYCISO staff to enter hearing scheduling data, accompanied with proof of submission of said data to NYCISO (emailed scheduling request to NYCISO scheduling inbox)
- Incorrect data entered by NYCISO staff resulting in hearing officer appearing for an unscheduled hearing, or
- Unforeseen technical error in I.H.S. causing the notification of scheduled hearings not to be generated and transmitted to the parties
- Failure of a court reporter to appear within one hour of the scheduled hearing time
- The NYCDOE representative is more than one (1) hour late to a scheduled matter and the matter is rescheduled for another day
- The NYCDOE representative fails to appear despite the Impartial Hearing Office providing written notification to the parties of a scheduled matter not less than (3) business days prior to the scheduled matter

Hearing officers are directed to invoice for **PC, PCA, PCX, SC and SCX** in the following manner:

CODE	NATURE OF SERVICES RENDERED/DESCRIPTION	FEE
PC	Pre-Hearing Conference	\$50
PCA	Pre-Hearing Conference - Amended Request	\$50
PCX	Pre-Hearing Conference same day cancellation for one of the enumerated reasons	\$50
SC	Status Conference	\$50
SCX	Status Conference same day cancellation for one of the enumerated reasons	\$50

C. Conducting Pendency & Impartial Hearings:

Hearing officers are compensated for conducting pendency hearings and impartial hearings in a case; in some cases, a hearing officer may need to hold a hearing to resolve a dispute over a subpoena request. Compensation is determined by the length of the hearing. The length of the hearing is determined by when the hearing officially started and ended. PLEASE NOTE: Any breaks in the hearing record taken for any reason other than hearing related activity are not compensable and will not be used to determine the length of the hearing. Shorter, off the record periods will be included in the length of the hearing. Pendency hearings lasting less than 30 minutes (PHS) will be paid at \$50. Hearings lasting up to 60 minutes will be paid at \$100. After the first 60 minutes, payment will be pro-rated in ¼ hour increments (\$25), rounded up to the next full 15 minutes (**PHD/HD**) (i.e., case from 9:00 a.m. to 10:05 a.m. is billable to the DOE as 1 and ¼ hours long).

PLEASE NOTE: If a hearing is scheduled for multiple cases for the same student at the same time, the hearing date/time is only billable for one of the cases, not all. Hearing officers should bill for the hearing under the earliest filed case.

Hearing officers are directed to invoice for **PHS**, **PHD**, and **HD** in the following manner:

CODE	NATURE OF SERVICES RENDERED	FEE
PHS	Pendency Hearing lasting less than 30 minutes	\$50
PHD	Pendency Hearing (*pro-rated in 15 minute increments after 1 st hour, minimum \$100)	\$100/hour*
HD	Full Hearings (*pro-rated in 15 minute increments after 1 st hour, minimum \$100)	\$100/hour*

D. Reviewing Record – Cases in Progress

Hearing officers are eligible for a record review fee **[RR]** upon appointment to a case that was already in progress and previously assigned to another hearing officer (i.e., hearing officer recused or was rescinded).

A hearing officer appointed after a recusal or rescission may bill a record review fee **[RR]** if a pendency or full hearing was held prior to hearing officer’s appointment. A hearing officer may bill a record review fee at rate of \$60 an hour for up to a maximum of 3 hours. Hearing officers may not bill a record review fee if they do not maintain this case through completion.

Upon written request with justification by impartial hearing officer and approval by NYCISO, hearing officer may invoice for additional record review time (over three hours). Extra record review **[RRX]** compensation may vary.

Only one **RR** may be billed per case by an individual hearing officer.

Hearing officers are directed to invoice **RRs** and **RRXs** in the following manner:

CODE	NATURE OF SERVICES RENDERED	FEE
RR	Record Review (after recusal or rescission) – only billable if hearing officer maintains a case through completion. Only one RR may be billed per case by an individual hearing officer.	\$60 an hour up to a maximum of 3 hours
RRX	Additional record review (over \$180) upon hearing officer request with justification and subsequent approval by NYCISO.	will vary

E. Remanded Case Review

Hearing officers are eligible for a remand review fee **[RM]** upon appointment to a case that was remanded after an appeal. A hearing officer may bill a remand review fee at rate of \$60 an hour for up to 5 hours.

Remanded review fees are only billable if the hearing officer subsequently submits a final order.

Upon written request with justification by impartial hearing officer and approval by NYCIHO, hearing officer may invoice for additional remand review time (over the five hours). Extra record review **[RMX]** compensation may vary.

Hearing officers are directed to invoice **RM**s and **RMX**s in the following manner:

CODE	NATURE OF SERVICES RENDERED	FEE
RM	Remand Review – only billable if hearing officer subsequently issues a final order	\$60 an hour for up to a maximum of 5 hours
RMX	Additional remand review (over \$300) upon hearing officer request with justification and subsequent approval by NYCIHO.	will vary

F. Writing & Submitting Orders:

Hearing officers are compensated for issuing the following written decisions/orders:

- Statements of Agreement and Order **[DS]**, at a rate of **\$100** per order
- Pendency Order **[DP]**, at a rate of **\$150** per order
- Findings of Fact and Decision **[D1, D2 or D3]**

There is a three-tier system for compensation of final decisions based on the complexity of the case:

[D1] Simple Cases - \$100/hour up to a max of \$300 for cases with 0-100 transcript pages in record

[D2] Medium Cases - \$100/hour up to a max of \$700 for cases with 101-349 transcript pages in record

[D3] Complex Cases - \$100/hour up to a max of \$1000 for cases with 350+ transcript pages in record

Hearing officers are to note the number of transcript pages in the record and the number of hours they spent writing the decision on their invoices when they bill for Findings of Fact and Decision.

Hearing officers may submit to the Senior Director of Finance a request for extra decision writing time **[DX]** beyond the amount the hearing officer is entitled to based on transcript length. The request must include a justification. Justification factors may include time spent research and writing, number and complexity of issues, length of hearing record, number and length of exhibits. If the request is approved by NYCISO, hearing officer may then invoice for an additional fee.

- Redacted version of (1) Findings of Fact and Decision and (2) Final Statements of Agreement and Order at a rate of **\$100** per case
- Insufficiency Decision without Dismissing the Case **[ID]**, at a rate of **\$150** per order
- Insufficiency Decision Dismissing the Case **[ID]**, at a rate of **\$150** per case
- Order of Dismissal **[OD]**, at a rate of **\$150** per case
- Order of Termination **[OT]**, at a rate of **\$100** per case
- Order of Consolidation **[OC]**, at a rate **\$100** - **to be billed only on the subsequent case (higher number), not on the pending case (lower number)**
- Order of Extension **[OE-30]**, at a rate **\$25** per extension for extensions granted for a minimum of 30 days. Extension requests are to be made using forms provided by NYCIHO and mailed to IHOExtensions@schools.nyc.gov. This item will be revisited if there are any changes to the duration of extensions in the NYCRR or other controlling regulations and/or laws.
- Interim Order **[OIN]**, at a rate **\$100** per order for any of the following:
 - (1) Evaluations, or
 - (2) Transportation while case is pending, or
 - (3) Evidentiary issues, or
 - (4) Response to motions, or
 - (5) Appointment of guardian ad litem

Hearing officers are directed to invoice for the above services in the following manner:

CODE	NATURE OF SERVICES RENDERED	FEE
DS	Decision Writing for Statement of Agreement and Order	\$100
DP	Decision Writing for Pendency Order	\$150
D1	Decision Writing for Simple Findings of Fact and Decision (0-100 transcript pages in record)	\$100/hour up to a maximum of \$300
D2	Decision Writing for Medium Findings of Fact and Decision (101-349 transcript pages in record)	\$100/hour up to a maximum of \$700
D3	Decision Writing for Complex Findings of Fact and Decision (350+ transcript pages in record)	\$100/hour up to a maximum of \$1000
DX	Extra Decision Writing Compensation (upon written request by hearing officer and approval by NYCISO only)	will vary
RD	Redacted version of Findings of Fact and Decision and Final Statements of Agreements and Order only (only 1 RD per case may be billed, with the exception of remanded cases). Redacted decisions are to be emailed to New York State Education Department at spcedih@nysed.gov .	\$100
ID	Decision Writing for Insufficiency Decision	\$150
OD	Decision Writing for Order of Dismissal	\$150
OT	Decision Writing for Order of Termination	\$100
OC	Order of Consolidation (to be billed only on subsequent case or higher number case)	\$100
OE-30	30 day Order of Extension	\$25
OIN	Interim Orders for any of the following: (1) evaluations (2) transportation during pendency while case is	\$100

	pending (3) evidentiary issues (4) response to motions (5) appointment of guardian ad litem	
--	--	--

G. Training:

Hearing officers are compensated, at a rate of \$300 per day, for attending training sessions **[TS]** conducted by the NYCIOH.

The DOE does not pay for training held by the Office of Court Administration (OCA), the New York State Education Department (SED), the NYC Office of Administrative Trials and Hearings (OATH), NYS Bar Association (NYSBA) or any other entity.

The DOE attendance sheet is the sole document needed for the DOE to process payment. It is mandatory that hearing officers sign in and out on the training attendance sheets to guarantee payment.¹ If a training takes course over multiple days, hearings officers must sign in and out on all days in order to be paid for all days.

CODE	DESCRIPTION	FEE
TS	NYCIOH hearing officer training per day	\$300

¹Hearing officers must sign-in and indicate their time of arrival and departure in order to be paid Appearance Fee.

V. WITHDRAWALS, CANCELLATIONS AND OTHER DELAYS

A. Impartial Hearing – Same Day Cancellation/Late Withdrawals

An “Appearance Fee”² [SDC], in the amount of **\$200**, for appearing at a full or pendency hearing that does not proceed and results in a same-day cancellation (or after 5 p.m. previous day) can only be billed if one of the following errors is committed by the NYCIHO or the DOE:

- Failure of NYCIHO staff to enter hearing scheduling data, accompanied with proof of submission of said data to NYCIHO (emailed scheduling request to NYCIHO scheduling inbox)
- Incorrect data entered by NYCIHO staff resulting in hearing officer appearing for an unscheduled hearing
- Unforeseen technical error in I.H.S. causing the notification of scheduled hearings not to be generated and transmitted to the parties
- Failure of a court reporter to appear within one hour of the scheduled hearing time
- The NYCDOE representative is more than one (1) hour late to a scheduled matter and the matter is rescheduled for another day
- The NYCDOE representative fails to appear despite the Impartial Hearing Office providing written notification to the parties of a scheduled matter not less than (3) business days prior to the scheduled matter

² Hearing officers must sign-in and indicate their time of arrival and departure in order to be paid an Appearance Fee.

Hearing officers are directed to invoice for same day cancellations of full or pendency hearings as described herein in the following manner:

CODE	DESCRIPTION	FEE
SDC	Day of Hearing: Unable to Proceed	\$200

B. Impartial Hearing Officer and Party Lateness:

When a hearing officer is running late, the hearing officer must contact the NYCISO and the parties will be made aware of any lateness. When parties are running late, while it is up to the hearing officer to determine the length of time to wait for the parties, the DOE requests that as a professional courtesy to the parties a hearing officer wait at least 1 hour before starting the hearing without both parties present.

VI. TRAVEL AND LODGING

The DOE will reimburse hearing officers for travel. Travel reimbursement will occur in one of two tiers, depending on where a hearing officer lives.

Tier One –

Hearing officers residing within 75 miles of Columbus Circle will be compensated no more than \$100 per case for travel. Travel compensation is contingent on attendance at one (1) hearing type activity at NYCDOE's Impartial Hearing Office or other designated DOE site.

Tier Two –

Hearing officers residing more than 75 miles outside of Columbus Circle will be compensated at a rate of \$0.58 per mile for each mile beyond 75 miles of Columbus Circle to their homes, in addition to the \$100 described in "Tier One." Travel compensation is contingent on attendance at one (1) hearing type activity at NYCDOE's Impartial Hearing Office or other designated DOE site. For hearings officers residing beyond 325 miles of Columbus Circle, compensation for "Tier Two" travel requires preapproval from the NYCIHO.

Lodging may only be billed by hearing officers who (1) reside beyond 75 miles of Columbus Circle and (2) accept appointment to and maintain a minimum of ten cases and (3) for one night of lodging, hold hearing(s) on two consecutive days for a total scheduled duration of at least 5 hours each day. The per diem rate for lodging is not to exceed the U.S. General Services Administration (GSA) per diem rates for New York City. As per NYCDOE policy, taxes and fees are not reimbursable. A Certificate of Tax Exemption can be furnished upon request to be provided to lodging secured pursuant to a hearing officer's duties under this section. Lodging reimbursement are not be billed on case invoices, but are to be billed monthly on a separate form. Dated lodging receipts must be included with the separate form. SED & DOE will jointly reexamine the efficacy of the travel policy in 6 months from the effective date of this policy. We will also analyze the effects of proposed regulatory changes such as videoconferencing when revisiting the travel policy.

For GSA rates please consult the following link: <https://www.gsa.gov/travel/plan-book/per-diem-rates/per-diem-rates-lookup>.

Please note: Hearing officers will not be reimbursed for meals, or other related expenses.

CODE	DESCRIPTION	FEE
TR - NYC	Hearing officers residing within 75 miles of Columbus Circle. Travel compensation is contingent on attendance at one (1) hearing at NYCDOE's Impartial Hearing Office or other designated DOE site. (only 1 per case may be billed)	\$100
TR - ONYC	Hearing officers residing more than 75 miles outside of Columbus Circle. Travel compensation is contingent on attendance at one (1) hearing at NYCDOE's Impartial Hearing Office or other designated DOE site. Hearing officers may invoice TR-ONYC on a per diem basis, billed separately.	\$100 + \$0.58 per mile for every mile beyond 75 miles of Columbus Circle
LG	Lodging may only be billed by hearing officers who (1) reside beyond 75 miles of Columbus Circle (2) accept appointment to and maintain a minimum of ten cases and (3) for one night of lodging, hold hearing(s) on two consecutive days for a total scheduled duration of at least 5 hours each day. The per diem rate for lodging is not to exceed the U.S. General Services Administration (GSA) per diem rates for New York City.	will vary

VII. MAILING

The DOE will reimburse hearing officers for USPS First Class postage rates provided that a receipt is submitted with the invoice for all hardcopies of decisions mailed to parents or parent representatives.

(NOTE: Hearing officers are still required to send electronic versions of all decisions and orders to the NYCIHO at ihodec@schools.nyc.gov. Redacted decisions must be emailed to New York State Education Department at specedih@nysed.gov.)

CODE	NATURE OF SERVICES RENDERED/DESCRIPTION	FEE
MG	USPS First Class postage rates for mailing all hardcopies of decisions and orders to parents or parents' representative (Receipts required)	will vary

VIII. PROCEDURES FOR OBTAINING PAYMENT

Before this office will authorize payment, the hearing officer must timely submit all of the following (if applicable):

- all evidence and hearing materials
- Certification of Evidence
- an Administrative Cover Sheet, if a final decision was written
- proof of mailing costs
- Hearing Officers will be required to sign an attestation for each invoice affirming the veracity of the contents of each invoice

To prevent payment delays, hearing officers must ensure submitted invoices contain:

- the relevant case information (i.e., correct case number and student name)
- each provided service, listing the code and describing the nature of the services rendered
- the correct date that each service was rendered
- any other information required under this policy
- purchase order number

Please Note:

- **All invoices must be typed and submitted to: ihoinvoices@schools.nyc.gov.**
- **All dates of service should be listed in chronological order.**
- **Hearing officers may only bill on cases (1) that are closed or (2) on which hearing officer has been rescinded or recused, subject to the limitations listed in Section IV of this document (Services Rendered-Administrative Fee).**

For questions on payments received please email: ihocompquest@schools.nyc.gov.

The NYCIHO will notify hearing officers as invoices are processed and/or reconciled to comply with this payment schedule.

If there are any questions or concerns related to the application of a specific billing item, please contact the Senior Director of Finance and Operations, Riccardo White.

IX. INVOICING CODES (in summary)

CODE	NATURE OF SERVICES RENDERED/DESCRIPTION	FEE
AF	Administrative Fee – not billable if hearing officer recused before issuing an order or before holding a hearing	\$200
PC	Pre-Hearing Conference	\$50
PCA	Pre-Hearing Conference - Amended Request	\$50
PCX	Pre-Hearing Conference - same day cancellation	\$50
SC	Status Conference	\$50
SCX	Status Conference - same day cancellation	\$50
PHS	Pendency hearing lasting less than 30 minutes	\$50
PHD	Pendency Hearing (*pro-rated in 15 minute increments after 1 st hour)	\$100/hour*
HD	Full Hearings (*pro-rated in 15 minute increments after 1 st hour, minimum \$100)	\$100/hour*
RR	Record Review (after recusal or rescission) – only billable if hearing officer maintains a case through completion. Only one RR may be billed per case by an individual hearing officer.	\$60 an hour up to a maximum of 3 hours

RRX	Additional record review (over \$180) upon hearing officer request with justification and subsequent approval by NYCIHO.	will vary
RM	Remand Review – only billable if hearing officer subsequently issues a final order.	\$60 an hour up to a maximum of 5 hours
RMX	Additional remand review (over \$300) upon hearing officer request with justification and subsequent approval by NYCIHO.	will vary
DS	Decision Writing for Statement of Agreement and Order	\$100
DP	Decision Writing for Pendency Order	\$150
D1	Decision Writing for Simple Findings of Fact and Decision (0-100 transcript pages)	\$100/hour up to a maximum of \$300
D2	Decision Writing for Medium Findings of Fact and Decision (101-349 transcript pages)	\$100/hour up to a maximum of \$700
D3	Decision Writing for Complex Findings of Fact and Decision (350+ transcript pages)	\$100/hour up to a maximum of \$1000
DX	Extra Decision Writing Compensation (upon written request by hearing officer and approval by NYCIHO only)	will vary
ID	Decision Writing for Insufficiency Decision	\$150
OD	Decision Writing for Order of Dismissal	\$150
OT	Decision Writing Day for Order of Termination	\$100
OC	Order of Consolidation – to be billed on subsequent case only (higher number case)	\$100
OE-30	Order of Extension for 30 day extensions	\$25

OIN	Interim Orders for any of the following: (1) evaluations (2) transportation during pendency (3) evidentiary issues (4) response to motions (5) appointment of guardian ad litem	\$100
TS	NYCIHO hearing officer training	\$300/day
SDC	Day of Hearing: Unable to Proceed	\$200
RD	Decision Redaction for (1) Findings of Fact and Decision and (2) Final Statement of Agreement and Order only (only 1 FOFD or Final SOAO per case may be billed) – electronic versions emailed to NYSED with NYCIHO copied on email	\$100
MG	USPS First Class postage rates for mailing all decisions and orders to parents or parents' representative (Receipts required)	will vary
TR - NYC	Hearing officers residing within 75 miles of Columbus Circle. Travel compensation is contingent on attendance at one (1) hearing at NYCDOE's Impartial Hearing Office or other designated DOE site. (only 1 per case may be billed)	\$100
TR - ONYC	Hearing officers residing more than 75 miles outside of Columbus Circle. Travel compensation is contingent on attendance at one (1) hearing at NYCDOE's Impartial Hearing Office or other designated DOE site. Hearing officers may invoice TR-ONYC on a per diem basis, billed separately.	\$100 + \$0.58 per mile for every mile beyond 75 miles of Columbus Circle

(END OF DOCUMENT)