



Impartial Hearing Officer Compensation Policy

Effective Date: June 1, 2020

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I. Overview

The New York City Department of Education (NYCDOE) 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.

II. Effective Date

This *Compensation Policy* is effective as of June 1, 2020 and replaces the former *Compensation Policy* issued on September 19, 2014. All services rendered for appointments made on or after June 1, 2020, until further notice, must be billed pursuant to this new *Compensation Policy*.¹ All services rendered for appointments made prior to June 1, 2020 will continue to be billed under the 2014 *Compensation Policy*.

As of the Effective Date, this Compensation Policy constitutes the final and complete written policy for services rendered by impartial hearing officers. This Compensation Policy supersedes all prior agreements, and may only be amended in a writing signed by a duly authorized officer of the New York City Department of Education.

III. Contact Information

Inquiries regarding the new Compensation Policy should be directed to:

, Impartial Hearing Office at:
ihcompquest@schools.nyc.gov

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

For questions regarding invoice payments, please email:
ihcompquest@schools.nyc.gov

¹ Hearing officers certified by NYSED in 2020 should invoice pursuant to the 2020 Compensation Policy, regardless of appointment date.

IV. SERVICES RENDERED

Generally, hearing officers must manage and bill bifurcated cases separately (e.g., expedited - with prefix of 9 in case number; and related non-expedited case - no prefix in case number) and submit separate invoices for each case. Contemporaneously held hearings for bifurcated cases should be billed only under the expedited case number with '9' prefix case.

A. Administrative Fee

The administrative fee **[AF]** is intended to cover the administrative work performed through the duration of a case, including but not limited to, communicating with the parties and NYCISO and providing typed, electronic copies of administrative forms and other documents to the parties and NYCISO.

Hearing officers are eligible to bill for an administrative fee except where the hearing officer:

- recused from a case for any reason other than a conflict of interest that is discovered for the first time at impartial hearing; or
- recused from a case before holding a hearing or submitting an order; or
- appointed in error, provided the appointment was revoked before the hearing officer scheduled a hearing or issued an order.

Hearing officers are directed to bill for the administrative fee **[AF]** in the following manner:

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

B. Facilitating Pre-Hearing Conferences and 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 NYCDOE for more than one (1) **[PC]** per case unless the due process complaint 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 are recommenced, the hearing officer may bill NYCDOE for each additional pre-hearing conference using bill code **[PCA]**, limited to the number of amendments granted in a case.

Hearing officers may bill for all status conferences **[SC]** held throughout the duration of an impartial hearing. Status conference refers to status conferences as used in standard legal practice; typically pre-trial meetings between the parties and trier of fact to update the progress of the case and set a timeline for discovery and trial to ensure future progress of the case. Status conferences must be held on the record. To promote judicial efficiency, it is highly recommended that status conferences are conducted remotely.

A cancellation 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 2 P.M. of the previous day) may be billed if one of the following errors is committed by NYCIHO or NYCDOE:

- Failure of NYCIHO staff to enter hearing scheduling data, accompanied with proof of submission of such 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 three (3) business days prior to the scheduled matter.

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

CODE	NATURE OF SERVICES RENDERED	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 Hearings and Impartial Hearings

Hearing officers are compensated for conducting pendency hearings and substantive hearings in a case. To encourage the continued use of remote hearings, hearing officers will be compensated at the same rate for conducting hearings remotely or in-person. Both pendency hearings and substantive hearings are billed at \$100 per hour, with a minimum \$100 fee, prorated at one-quarter hour increments after the first hour (i.e., case from 9:00 a.m. to 10:05 a.m. is billable to the NYCDOE as 1 and ¼ hours long). Hearing length, for which hearing officers will bill hourly, is calculated by the scheduled start time (if the hearing officer is ready to begin) and the actual end time of the hearing.

Any unreasonably long breaks in the hearing (such as meal breaks, breaks to hold another hearing, and breaks between continuations) are not compensable and will not be used in calculating the length of the hearing. Shorter off-the-record periods will be included in the length of the hearing.

Hearing officers may not double bill for contemporaneously held hearings.

Hearing officers are directed to bill for Pendency Hearings **[PHD]** and Hearings **[HD]** in the following manner:

CODE	NATURE OF SERVICES RENDERED	FEE
PHD	Pendency Hearing <ul style="list-style-type: none">• Minimum \$100• Pro-rated in one-quarter hour increments after the first hour	\$100 per hour*
HD	Full Hearings <ul style="list-style-type: none">• Minimum \$100• Pro-rated in one-quarter hour increments after the first hour	\$100 per 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 (a pendency or substantive hearing was held) and previously assigned to another hearing officer (i.e., the previous hearing officer recused or was rescinded).

A hearing officer may bill a record review fee at rate of \$60 per hour up to a maximum of three hours. Hearing officers may not bill a record review fee if they do not maintain this case through case closure.

For records that require more than three hours to review, the hearing officer may bill for additional record review time, in one-quarter hour increments, after written request by the hearing officer is approved by NYCISO. Additional compensation for record review should be billed under code **[RRX]** and the amount of compensation may vary.

A hearing officer may only bill **[RR]** and **[RRX]** once per case.

Hearing officers are directed to bill for Record Review Fee **[RR]** and Additional Record Review **[RRX]** 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. Limit of one [RR] per case.	\$60 per hour, up to a maximum of 3 hours
RRX	Additional record review (over three hours) upon hearing officer request with justification and subsequent approval by NYCIHO. Limit of one [RRX] per case.	\$60 per hour; no maximum

E. Remanded Case Review

Hearing officers are eligible for a remand review fee **[RM]** upon appointment to a case that was remanded by the Office of State Review. A hearing officer may bill a remand review fee at rate of \$60 per hour up to five hours.

Remanded review fees are only billable if the hearing officer closes the case pursuant to the direction of the State Review Officer.

For records that require more than five hours to review, the hearing officer may bill for additional record review time, in one-quarter hour increments, after written request by the hearing officer and approval by NYCIHO. Additional compensation for remand review should be billed under code **[RMX]** and the amount of compensation may vary.

Hearing officers are directed to bill for Remanded Review **[RM]** and Additional Remand Review **[RMX]** in the following manner:

CODE	NATURE OF SERVICES RENDERED	FEE
RM	Remand Review – only billable if hearing officer closes the case pursuant to the direction of the State Review Officer.	\$60 per hour, up to a maximum of 5 hours
RMX	Additional remand review (over five hours) upon hearing officer request with justification and subsequent approval by NYCIHO.	\$60 per hour, no maximum

F. Writing & Submitting Orders

Hearing officers should bill for issuing the following written decisions/orders.

- Order of Consolidation **[OC]**, at a rate of **\$100** per order
 - Billed only on the subsequent case number (higher number), not on the pending case number (lower number)
- Insufficiency Decision **[ID]**, at a rate of **\$150** per order
- Pendency Order **[DP]**, at a rate of **\$150** per order
- Order of Extension **[OE]**, at a rate **\$25** per extension
 - Only applies to Orders of Extension granted for a minimum of thirty days
 - Granted only after consideration of the child's educational interest, a party's opportunity to present a case, adverse financial or detrimental consequences, and whether there has already been a delay
 - Extension forms should be submitted to IHOExtensions@schools.nyc.gov, using [the forms provided by NYC IHO](#).
- Interim Order **[OIN]**, at a rate **\$100** per order for any of the following:
 - Evaluations;
 - Transportation while case is pending;
 - Evidentiary issues;
 - Response to motions; or
 - Appointment of Guardian Ad Litem
- Order of Dismissal **[OD]**, at a rate of **\$150** per case
- Order of Termination **[OT]**, at a rate of **\$100** per case
- Statement of Agreement and Order **[DS]**, at a rate of **\$100** per order
- Findings of Fact and Decision **[D1, D2, or D3]**
 - Compensation for writing final decisions is hourly with a maximum cap based on the tier of complexity under which the decision falls. There are three tiers of complexity based on the total number of pages of transcripts, affidavits, and closing briefs. Hearing officers may request additional hourly compensation for writing final decisions for cases which are exceptionally complex and do not conform to one of the three tiers.
 - **[D1] Simple Cases**
 - \$100 per hour, up to a max of \$300
 - 0-100 pages of transcripts/affidavits/closing briefs in hearing record
 - **[D2] Moderate Cases**
 - \$100 per hour, up to a max of \$700
 - 101-349 pages of transcripts/affidavits/closing briefs in hearing record
 - **[D3] Complex Cases**

- \$100 per hour, up to a max of \$1000
- 350+ pages of transcripts/affidavits/closing briefs in hearing record
- Hearing officers should note the number of pages for transcript, affidavit, and closing briefs and the number of hours they spent writing the decision on their invoices when they bill for Findings of Fact and Decision to indicate the tier for which the decision is categorized.
- Hearing officers may submit to the [REDACTED] a request for additional decision writing time [DX], at the rate of \$100 per hour prorated in one-quarter hour increments. The request may include factors such as time spent research and writing, number and complexity of issues, number of school years, and number and length of exhibits. If the request is approved by NYCIHO, hearing officer may include [DX] on the invoice.
- Redacted version of Findings of Fact and Decision and Final Statements of Agreement and Order at a rate of \$100 per case
 - Redacted decisions must be emailed to New York State Education Department at specedih@nysed.gov.

CODE	NATURE OF SERVICES RENDERED	FEE
OC	Order of Consolidation	\$100
ID	Insufficiency Decision	\$150
OE	Order of Extension	\$25
OIN	Interim Orders for: <ul style="list-style-type: none"> • Evaluations • Transportation while case is pending • Evidentiary issues • Response to motions • Appointment of Guardian Ad Litem 	\$100
DP	Pendency Order	\$150
OD	Order of Dismissal	\$150
OT	Order of Termination	\$100
DS	Statement of Agreement and Order	\$100
D1	Findings of Fact and Decision – Simple <ul style="list-style-type: none"> • 0-100 pages of transcripts/affidavits/closing briefs 	\$100 per hour, up to maximum of \$300

D2	Findings of Fact and Decision – Moderate <ul style="list-style-type: none"> • 101-349 pages of transcripts/affidavits/closing briefs 	\$100 per hour, up to maximum of \$700
D3	Findings of Fact and Decision – Complex <ul style="list-style-type: none"> • 350+ pages of transcripts/affidavits/closing briefs 	\$100 per hour, up to maximum of \$1,000
DX	Additional Decision Writing Compensation <ul style="list-style-type: none"> • Upon request by Hearing Officer, based on exceptional case complexity • Prior approval by NYCDOE required 	\$100 per hour, no maximum
RD	Redacted Findings of Fact and Decision or Final Statement of Agreement and Order	\$100

G. Training

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

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

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

CODE	DESCRIPTION	FEE
TS	NYCISO Hearing Officer Training	\$300 per day

V. WITHDRAWALS, CANCELLATIONS, AND OTHER DELAYS

A. Impartial Hearing – Same Day Cancellation/Late Withdrawals

A same day cancellation fee² [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 2:00 PM the previous day) can only be billed if one of the following errors is committed by NYCIHO or NYCDOE:

- Failure of NYCIHO staff to enter hearing scheduling data, accompanied with proof of submission of such 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
- Either party is more than one (1) hour late to a scheduled matter and the matter is rescheduled for another day
- Either party fails to appear despite the Impartial Hearing Office providing written notification to the parties of a scheduled matter not less than three (3) business days prior to the scheduled matter

Hearing officers are directed to bill 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

² Hearing officers must indicate their arrival time and departure time on the invoice in order to be paid a cancellation fee.

B. Impartial Hearing Officer and Party Lateness

When a hearing officer is running late, the hearing officer must contact NYCIHO 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, NYCDOE requests as a professional courtesy to the parties that a hearing officer waits at least one (1) hour before starting the hearing without both parties present.

VI. TRAVEL AND LODGING

Travel Stipend

All hearing officers may bill a one-time travel stipend per case. Hearing officers are eligible to bill for this travel stipend on all cases that have at least one hearing type activity that was held. The travel stipend is billed upon completion of a case on the individual case invoice.

Travel from Out-of-NYC Region

In addition to the travel stipend, hearing officers who reside beyond 75 miles from Columbus Circle and need to travel to hearings held at NYCDOE Impartial Hearing Office or another designated NYCDOE site may request prior approval for Out-of-NYC Region travel and lodging reimbursements on a per day basis. Out-of-NYC Region travel and lodging reimbursements are not billed on individual case invoices, but must be billed monthly on a separate form.

Upon such prior approval, hearing officers who reside beyond 75 miles from Columbus Circle may be reimbursed for travel, on a per diem basis, at the current USA GSA mileage rate³ from their home to Columbus Circle. Travel reimbursement is contingent on attendance at one (1) hearing type activity at NYCDOE Impartial Hearing Office or another designated NYCDOE site. Mileage reimbursement cannot exceed 325 miles from home to Columbus Circle.

Lodging

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

³ The 2020 USA GSA rate is \$0.575 per mile. This rate is updated yearly.

scheduled duration of at least 5 hours each day. The per diem rate for lodging must not exceed the U.S.A. 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 is not billed on individual case invoices, but must be billed monthly on a separate form. Dated lodging receipts must be included with the separate form.

NYSED and NYCDOE will jointly re-examine the efficacy of the travel policy in 6 months from the effective date of this policy. NYSED and NYCDOE will also analyze the effects of regulatory changes such as videoconferencing when re-visiting 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	All hearing officers may bill a one-time travel stipend per case. Hearing officers are eligible to bill for this travel stipend on cases that have at least one hearing type activity that was held. (only 1 TR may be billed per case)	\$100
TR-ONYC	Additional travel may only be billed by hearing officers who reside beyond 75 miles of Columbus Circle. The mileage rate for travel is not to exceed the U.S. General Services Administration (GSA) per diem rate for New York City. Travel reimbursement is based on mileage rate from home to Columbus Circle, up to a maximum of 325 miles.	Prior Approval Required. USA GSA Per Diem Rate will vary.
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	Prior Approval Required. USA GSA Per Diem Rate, will vary.

	not to exceed the U.S. General Services Administration (GSA) per diem rates for New York City.	
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VII. MAILING

While it is suggested that hearing officers solicit the parent’s permission to receive a copy of the decision electronically, NYCDOE 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 (except redacted decisions), 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	FEE
MG	USPS First Class postage rates for mailing all hardcopies of decisions and orders to parents or parent representatives (Receipts required)	Will vary

VIII. PROCEDURES FOR OBTAINING PAYMENT

Before NYCIHO will process invoice for payment, the hearing officer must timely submit electronic copies of the following (if applicable):

- All evidence and hearing materials
- Certification of Evidence
- Administrative Cover Sheet, if a final decision was rendered
- Receipt 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 service provided, 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 Compensation Policy

Please Note:

- All invoices must be typed and emailed 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 regarding invoice payments, please email:

ihocompquest@schools.nyc.gov.

If there are any questions or concerns related to the application of a specific billing item, please contact the [REDACTED].

CODE	NATURE OF SERVICES RENDERED	FEE
AF	Administrative Fee	\$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
PHD	Pendency Hearing <ul style="list-style-type: none"> • Minimum \$100 • Pro-rated in one-quarter hour increments after the first hour 	\$100 per hour*
HD	Full Hearings <ul style="list-style-type: none"> • Minimum \$100 • Pro-rated in one-quarter hour increments after the first hour 	\$100 per hour*
RR	Record Review (after recusal or rescission) – only billable if hearing officer maintains a case through case closure. Limit of one [RR] per case.	\$60 per hour, up to a maximum of 3 hours
RRX	Additional record review (over three hours) upon hearing officer request with justification and subsequent approval by NYCISO. Limit of one [RRX] per case.	\$60 per hour, no maximum
RM	Remand Review – only billable if hearing officer closes case pursuant to the direction of the State Review Officer.	\$60 per hour, up to a maximum of 5 hours
RMX	Additional remand review (over five hours) upon hearing officer request with justification and subsequent approval by NYCISO.	\$60 per hour; no maximum
OC	Order of Consolidation	\$100
ID	Insufficiency Decision	\$150
OE	Order of Extension	\$25

OIN	Interim Orders for: <ul style="list-style-type: none"> • Evaluations • Transportation while case is pending • Evidentiary issues • Response to motions • Appointment of Guardian Ad Litem 	\$100
DP	Pendency Order	\$150
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DS	Statement of Agreement and Order	\$100
D1	Findings of Fact and Decision - Simple <ul style="list-style-type: none"> • 0-100 pages of transcripts/affidavits/closing briefs 	\$100 per hour, up to maximum of \$300
D2	Findings of Fact and Decision - Moderate <ul style="list-style-type: none"> • 101-349 pages of transcripts/affidavits/closing briefs 	\$100 per hour, up to maximum of \$700
D3	Findings of Fact and Decision – Complex <ul style="list-style-type: none"> • 350+ pages of transcripts/affidavits/closing briefs 	\$100 per hour, up to maximum of \$1,000
DX	Additional Decision Writing Compensation <ul style="list-style-type: none"> • Upon request by hearing officer, based on exceptional case complexity • Prior approval by NYCISO required 	\$100 per hour, no maximum
TS	NYCISO Hearing Officer Training	\$300 per day
SDC	Day of Hearing: Unable to Proceed	\$200
RD	Redacted Findings of Fact and Decision or Final Statement of Agreement and Order	\$100
MG	USPS First Class postage rates for mailing all decisions and orders to parents or parent representatives (Receipts required)	Will vary

TR	All hearing officers may bill a one-time travel stipend per case. Hearing officers are eligible to bill for this travel stipend on cases that have at least one hearing type activity that was held. (only 1 TR may be billed per case)	\$100
TR- ONYC	Additional travel may only be billed by hearing officers who reside beyond 75 miles of Columbus Circle. Mileage rate reimbursement from home to Columbus Circle, up to a maximum of 325 miles.	Prior Approval Required. USA GSA Per Diem Rate, will vary.
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.A. General Services Administration (GSA) per diem rates for New York City.	Prior Approval Required. USA GSA Per Diem Rate, will vary.

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