

HEARINGS RELATED TO LEA ELIGIBILITY

(FORMERLY: NOTICE AND OPPORTUNITY FOR A HEARING ON LEA APPLICATION)

I. STATE PROCEDURES

The following procedures will be used by the Arkansas Department of Education, Special Education Unit, to ensure that final action with respect to any application submitted by a local education agency or an educational service agency shall not be taken without first affording the local education agency or educational service agency involved reasonable notice and opportunity for a hearing under 34 CFR 76.401(d) [34 CFR 300.144].

- A.** The Administrator for Grants and Data Management will review the application for conformance with requirements set forth in the State's eligibility documents under Part B of the IDEA.
- B.** The Administrator for Grants and Data Management will advise the Chief Administrative Official of the applicant LEA in writing of any items of nonconformance with the requirements set forth in the State's eligibility documents under Part B of the IDEA. The applicant LEA will be provided with the opportunity to receive technical assistance from the SEA to bring the application into compliance and will be notified that failure to bring the application into compliance will result in the disapproval of the application.
- C.** Upon notification of a status of nonconformance of the LEA's application for funds under Part B of the IDEA, the Chief Administrative Official of the LEA will receive notice that the LEA has a right to a hearing before the Director of the Agency before the Agency disapproves the application.
- D.** To avail itself of the opportunity for a hearing on its application, the Chief Administrative Official of the LEA must submit a request for the hearing on the application in writing to the Associate Director for Special Education within 30 days of the notice of proposed disapproval.
- E.** The Director sets a mutually agreeable date, time, and place for the hearing and advises the Chief Administrative Official of this in writing. This must be done within ten (10) days of the receipt of written notice of appeal by the LEA to the Associate Director.
- F.** The Director considers the evidence presented by the LEA Chief Administrative Official and the Administrator of Grants and Data Management at the hearing.
- G.** Within ten (10) days of completion of the hearing, the Director disseminates, by certified mail, written findings of fact, the decision and reasons for the ruling with regard to the delay of payment of IDEA-B funds.
- H.** If the Arkansas Department of Education determines that its action was contrary to state or federal statutes or regulations that govern the applicable program, the SEA shall rescind its action.

- I.** IDEA-B payments to the LEA may be restored at any time satisfactory evidence is submitted to the SEA that corrective measures have been taken or when the Director issues a decision favorable to the LEA.
- J.** IDEA-B payments to the LEA will continue until such time as the hearing is completed on the question of withholding of funds and the written decision of the Director is received.
- K.** Local education agencies will be notified of their right to appeal decisions regarding the disapproval of LEA applications for IDEA-B funds or withholding of IDEA-B funds to the Secretary of Education, U.S. Department of Education.
- L.** The applicant shall file a notice of the appeal with the Secretary within 20 days after the applicant has been notified by the SEA of the results of the Department of Education's review. The applicant shall also be notified that if supported by substantial evidence, findings of fact of the SEA are final.
- M.** The Associate Director will advise the Administrator, Grants and Data Management, in writing as to when to withhold and when to restore IDEA-B payments.
- N.** The Arkansas Department of Education shall make available at reasonable times and places to each applicant all records of the agency pertaining to any review or appeal the applicant is conducting under this section, including records of other applicants.