

Appeals Process

In accordance with federal rules, NCDPI provides applicants or recipients with the opportunity for a hearing to appeal NCDPI's final action under an applicable federal program. See 34 C.F.R. § 76.401(a), 34 C.F.R. § 76.783 and 20 U.S.C. 1231b-2. Specifically, the applicant or recipient must allege that NCDPI violated State or Federal law, rules, regulations, or guidelines in:

- 1) disapproving or failing to approve its application or program in whole or part,
- 2) failing to provide funds in amounts in accord with the requirements of laws and regulations,
- 3) ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, or
- 4) terminating further assistance for an approved program.

No other grounds for appeal will be accepted or considered.

To request a hearing, the appellant must file a full and complete written appeal, including the issue(s) in dispute, the legal authority or other basis for the appeal position, and the remedy sought within 30 days of the NCDPI's action (e.g., notification of any action under 1 through 4 above). The request must have an original signature of the authorized agent who signed the application, if available. If that individual is not available, the request must have the original signature of another individual who is authorized to sign official documents.

An original and two copies of the request for a hearing must be submitted by one of the following methods.

1. Certified mailed with a return receipt required (within 30 days based on the postmark) to:

Mailing Address:

Dr. LaTricia Townsend, Director
Federal Program Monitoring and Support Division
North Carolina Department of Public Instruction
Mail Service Center 6307
Raleigh, NC 27699

2. Hand-delivered to:

Physical Address:

Dr. LaTricia Townsend, Director
Federal Program Monitoring and Support Division
North Carolina Department of Public Instruction
301 N. Wilmington Street
Raleigh, NC 27601

Within 30 days of receiving the hearing request, NCDPI will hold a hearing on the record to review its action. Pursuant to *In re Appeal of Clovis Unified School District*,¹ the applicant or recipient will receive notice of the hearing and have the opportunity to participate and be represented by counsel. The

¹ See *In re Appeal of Clovis Unified School District*, U.S. Dept. of Ed. Remand Order (July 10, 1995).

hearing will be conducted by an impartial hearing officer. During the hearing, the parties will have the opportunity to present and challenge evidence in an orderly fashion before an impartial decision maker.² No later than 10 days after the hearing, the hearing officer, as the impartial decision maker, will issue a written ruling on behalf of NCDPI including findings of fact and reasons for the ruling. The parties may waive these deadlines by mutual consent in writing.

NCDPI will rescind its action if it determines the action conflicts with Federal or State laws and regulations governing the applicable program. If after review, NCDPI does not rescind its action, the applicant or recipient may appeal to the Secretary of the U.S. Department of Education within 20 days of being notified of the result.

NCDPI will make all records pertaining to any review or appeal of the applicant or recipient available at reasonable times and places to the applicant or recipient. This includes records of other applicants.

If an applicant applied for a subgrant under a covered program listed in 34 C.F.R. § 76.401(a), NCDPI will provide an opportunity for a hearing before it disapproves the application. If the applicant applied for a hearing under a program not listed in 34 C.F.R. § 76.401(a), NCDPI will provide an opportunity for a hearing either before or after it disapproves the application.

² *Id.*