

## Chapter 157. Hearings and Appeals

### Subchapter DD. Hearings Conducted by Independent Hearing Examiners

*Statutory Authority: The provisions of this Subchapter DD issued under the Texas Education Code, §§21.252, 21.254, and 21.304, unless otherwise noted.*

#### §157.1101. Rates of Independent Hearing Examiners.

- (a) An independent hearing examiner shall be compensated at the rate of \$125 per hour for billable professional services. Billable professional services are activities that directly relate to implementing a hearing assignment, including prehearing and post-hearing telephone conferences; drafting and reviewing correspondence, documents, and evidence; participating in an evidentiary hearing; and drafting and finalizing an opinion or recommendation.
- (b) An independent hearing examiner is eligible to receive a maximum compensation of \$10,000 for each case. This amount may not be increased.
- (c) While conducting a hearing, an independent hearing examiner is entitled to receive per diem and expenses at rates established by the State of Texas for overnight travel related to official state business. Per diem includes food, lodging, and transportation. (*See* <https://fm.xcpa.state.tx.us/fm/travel/travelrates.php>)
- (d) An independent hearing examiner is entitled to reimbursement for expenses directly related to the hearing such as long distance telephone calls, postage to the parties or to the commissioner of education, cost of copies, or facsimiles. An independent hearing examiner may not be reimbursed for expenses arising from legal research such as computerized legal research services. An independent hearing examiner may not be reimbursed for expenses related to acquiring research materials or for registration fees to attend required continuing legal education seminars and conferences.
- (e) All billings and claims for reimbursement shall be prepared pursuant to this section and shall be presented to the school district for payment. Compensable hourly services shall be billed in quarter-hour increments. An independent hearing examiner may not be compensated for services rendered by any other person.

*Source: The provisions of this §157.1101 adopted to be effective May 8, 1996, 21 TexReg 3708; amended to be effective May 7, 2006, 31 TexReg 3533; amended to be effective May 28, 2012, 37 TexReg 3830.*

#### §157.1102. Assignment of Independent Hearing Examiners.

- (a) The Texas Education Agency (TEA) division responsible for hearings and appeals shall notify an independent hearing examiner by email that he or she has been assigned a hearing. The independent hearing examiner shall, by return email or facsimile to the division within 72 hours, acknowledge the assignment and indicate whether he or she is able to accept the assignment. The division shall notify the parties to the hearing of the assignment.
- (b) If the independent hearing examiner is unable to accept the assignment, the independent hearing examiner shall notify the TEA division responsible for hearings and appeals by telephone, email, or facsimile as soon as possible within 72 hours after the assignment.
- (c) Failure to comply with subsection (b) of this section shall result in the case being assigned to another independent hearing examiner.

*Source: The provisions of this §157.1102 adopted to be effective May 8, 1996, 21 TexReg 3708; amended to be effective May 28, 2012, 37 TexReg 3830; amended to be effective January 10, 2023, 48 TexReg 49.*

#### §157.1103. Report of the Independent Hearing Examiner.

- (a) Within ten calendar days after issuing proposed findings of fact and conclusions of law, the independent hearing examiner shall submit the findings and conclusions, along with any recommended relief, to the commissioner of education.

- (b) The recommendation shall be transmitted as an attachment to an email and a scanned copy or a paper copy of the signature page shall be submitted to complete the filing.

*Source: The provisions of this §157.1103 adopted to be effective May 8, 1996, 21 TexReg 3708; amended to be effective May 28, 2012, 37 TexReg 3830.*