

ESA APPEAL FAQs

Q1: Why are appeals going through the State Board of Education (SBE) when my previous appeals went through Arizona Department of Education (ADE)?

The passage of bills in 2019 shifted the ESA Appeal authority from ADE to SBE for all ADE Decision issued on and after January 1, 2021. ADE Administrative decisions issued prior to January 1, 2021 must be appealed through ADE.

Q2: Will I received confirmation that my appeal was received?

Once an appeal is submitted, the Parent/Guardian/Account Holder will receive confirmation of receipt from SBE Staff within two business days.

Q3: How will ADE be notified that I have appealed their decision?

Once an appeal has been submitted to the SBE offices, SBE staff must include all appeal parties (ADE and Parent/Guardian/Account Holder) in **all** appeal communications. SBE staff will meet this obligation by copying each party on all emails. Additionally, both parties must be included in all verbal conversations. If the need for a phone conference arises, SBE staff will make arrangements.

Q4: What is a “Stay”?

A stay may allow a Parent/Guardian/Account Holder access to their suspended or terminated ESA account while the appeals process proceeds. Please reference Arizona Administrative Code (A.A.C.) [R7-2-1511](#) for more information.

Q5: Why does SBE keep CC-ing ADE on their emails to me?

Once an appeal has been submitted to SBE, **all parties** must be included in all conversations: both in person and online. If the need for a phone conference arises, SBE staff will make arrangements.

Q6: Is my appeal going to be heard by a Judge?

An Administrative Law Judge (ALJ) will preside over the hearing. For more information on what an ALJ is, please refer to the [OAH FAQs](#).

Q7: Who schedules the hearing date?

SBE Staff will request a hearing date with an Administrative Law Judge (ALJ), through the Office of Administrative Hearings (OAH), and will inform all parties (Parent/Guardian, ADE, and any possible attorneys) of the date and time OAH schedules for the hearing. All parties will

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be provided with the hearing date at least twenty (20) days notice before the hearing date and time.

Q8: When will the hearing take place?

OAH keeps their own schedule and may not have availability on the date/time SBE requested for the hearing. Once OAH responds with an available date/time, SBE will publish the Notice of Hearing (NOH) and distribute it to all parties: Parent/Guardian, ADE, and any applicable lawyers.

Q9: Where will the hearing take place?

For all ADE Administrative decisions issued on or after January 1, 2022, the hearing will be held virtually. Sign-on information for the virtual hearing will be provided by OAH a few days prior to the hearing date.

Q10: What if I am not available on the date of the hearing?

The Parent/Guardian/Account Holder will need to [contact OAH](#) regarding changing the date/time. Since SBE is the governing agency regarding the appeal, SBE cannot do this for the Parent/Guardian/Account Holder or ADE.

Q11: Am I required to use an attorney?

An Attorney is not required, but the Parent/Guardian/Account Holder may hire one if desired.

Q12: Is there a way to appeal, but without going to a hearing?

On SBE's homepage, the handout entitled *Hearing vs. Informal Settlement Conference* is available to provide basic differences between an Informal Settlement Conference (ISC) and a hearing: [here](#).

Q13: Is there a way to know how to prepare for the hearing?

Office of Administrative Appeals (OAH) provides a FAQ regarding [What a Hearing is Like](#).

Q14: Is the hearing the final decision?

No. The hearing provides SBE with a recommendation. SBE may decide to agree, disagree, or amend the recommendation.

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Q15: Will I get a copy of the Official Recommendation after the hearing?

Yes. SBE will provide a copy to all parties. SBE will also provide the date the Board will publicly vote on the appeal and the Recommendation.

Q16: Can I discuss my appeal with the Board at their public meeting?

Board Meetings are managed by Open Public Meeting Law. Pursuant with Arizona Revised Statute (A.R.S.) [§38-431.01](#) (H): A public body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body.

As such, the Parent/Guardian/Account Holder may make a public statement to the Board and/or submit a prewritten comment for the Board to consider.