

## 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 submitted appeal form was received?**

Once an appeal form 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 Rule [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: Who schedules the hearing date?**

SBE Staff will work with all parties to schedule a hearing date. All parties will be provided with at least twenty (20) days notice of the hearing date and time.

**Q7: Where will the hearing take place?**

For all ADE Administrative decisions issued on or after January 1, 2022, the hearing will be held virtually.

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### **Q8: Is my appeal going to be heard by a Judge?**

The passage of a bill in 2021 made SBE Exempt from the Office of Administrative Hearings (OAH). This means SBE will schedule hearings before a Hearing Officer. The Hearing Officer will be presiding over all appeals concerning ADE Administrative decisions issued on or after January 1, 2022.

### **Q9: What if I am not available on the date of the hearing?**

The Parent/Guardian/Account Holder will need to contact SBE as soon as possible.

### **Q10: Am I required to use an attorney?**

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

### **Q11: 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](#).

### **Q12: Is the hearing the final decision?**

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

### **Q13: 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.

### **Q14: 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.