



Ohio Administrative Code

Rule 3304:1-21-14 Informal resolution, grievance and arbitration.

Effective: February 18, 2022

(A) OOD establishes this rule to satisfy the requirement of affording a fair hearing to licensees as required by 20 USC 107b(6) and 34 CFR 395.13, in effect on the effective date of this rule.

(B) A licensee dissatisfied with any BSVI action arising from the operation or administration of the BE program, including employment decisions and ministerial decisions, is encouraged, but not required, to first attempt a pre-grievance meeting with the assigned area manager to resolve any issue.

BE shall schedule an informal meeting within thirty days of receiving the written request. This request for informal resolution is not a grievance.

(C) A licensee may file a grievance and request a fair hearing when the licensee is dissatisfied with any BSVI action arising from the operation or administration of the BE program.

(1) The request shall be made in writing and submitted to the BE manager;

(2) The request shall be received by the BE manager within three hundred and sixty-five calendar days of the date the licensee became or reasonably should have become aware of the action taken. Engaging in informal resolution shall not extend this timeframe for the operator to file a grievance.

(3) No grievance requesting a fair hearing shall be permitted concerning employment decisions or ministerial decisions made by OOD, BSVI or BE. A denial does not prevent the operator or licensee from requesting an arbitration proceeding pursuant to 34 C.F.R. 395.13 in effect on the effective date of this rule.

(D) Whenever a licensee files a grievance in accordance with Ohio law and this rule, BE shall schedule and conduct a fair hearing pursuant to Chapter 119. of the Revised Code where such provisions do not conflict with the Randolph Sheppard Act, as amended, and the following



requirements.

(1) BE shall schedule the fair hearing within sixty calendar days of receiving the grievance.

(2) The fair hearing shall be conducted by an impartial hearing officer under contract with OOD.

(3) The fair hearing shall be held in person at the OOD central office in Columbus, Ohio, or through an OOD approved videoconference software with the consent of the impartial hearing officer and the parties. Any person participating in a hearing may appear remotely through an OOD approved videoconference software. Any person participating remotely shall ensure compatibility and connectivity with the OOD approved videoconference software prior to the start of the hearing. Proposed exhibits shall be exchanged between the parties and the hearing officer prior to the start of the hearing.

(E) While the grievance is pending, the BE manager, or designee, shall contact the licensee to determine if the grievance may be resolved informally.

(1) Any informal meeting shall be scheduled within thirty calendar days of receipt of the grievance.

(2) The BE manager, or designee, shall provide a written summary of any informal meeting to the licensee with any proposed informal resolution.

(3) The request shall proceed to a fair hearing unless the grievance is withdrawn.

(F) The impartial hearing officer shall submit to BE a report and recommendation within thirty calendar days after the fair hearing has concluded. BE shall serve the report and recommendation on the licensee or licensee's attorney in accordance with section 119.09 of the Revised Code. The report and recommendation shall be based on the Randolph Sheppard Act and regulations, as applicable, Ohio law and Administrative Code, and OOD policies and procedures.

(1) The licensee may file written objections to the impartial hearing officer report and recommendation with the director of BSVI. Written objections must be received by the director of BSVI within ten calendar days of the licensee receiving the report and recommendation in



accordance with section 119.09 of the Revised Code.

(2) The licensee may request the report and recommendation be served by other appropriate means after service is perfected.

(G) The director of BSVI shall issue an adjudication order approving, modifying, or disapproving the report and recommendation after considering all objections of the licensee in accordance with section 119.09 of the Revised Code.

(H) Licensees may challenge the director of BSVI adjudication order by filing a complaint with the secretary of education pursuant to 20 USC 107d-1 in effect on the effective date of this rule.

A three-member ad hoc arbitration panel will arbitrate the dispute.

(I) OOD shall have the fair hearing recorded in a manner that may be transcribed. Any party may request the transcript of the hearing at their own expense.

(J) Time limits created by this rule may be extended by mutual agreement of the parties.