



EXECUTIVE DEPUTY COMMISSIONER
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May 9, 2012

To: American Arbitration Association
Education Law Section 3020-a Hearing Officers

From: Valerie Grey *Valerie Grey*

Subject: Education Law Section 3020-a Hearing Officer Rates
(effective April 1, 2012 through March 31, 2013)

Pursuant to New York State Education Law §3020-a(3)(b)(i)(B), the Commissioner sets forth the following maximum rates of compensation and study hours for hearing officers adjudicating matters under Section 3020-a. The rates and study hour limitations are part of a package of fiscal and programmatic reforms recently enacted to contain costs and speed resolution of proceedings.

Maximum Rate of Compensation:

Hearing officers shall be compensated by the New York State Education Department (“Department”) on a per diem basis. The per diem fee shall be that listed in the biographical profile for the arbitrator that the American Arbitration Association (AAA) submits to the Department pursuant to Education Law §3020-a(3)(a); provided, however, that such per diem fee shall not exceed **\$1,400 per day**. In no instance will an arbitrator be reimbursed a “special rate” for adjudicating an Education Law §3020-a matter that is higher than the arbitrator’s customary per diem fee for other non-Education Law §3020-a labor arbitration hearings. Except for the initial hearing day, hearing officers should submit charges only for actual time spent on a hearing.

The Department will further compensate hearing officers for the costs of necessary travel and other reasonable expenses that the hearing officers incur in the performance of their duties. The Department expects that claims for any services rendered, other than the initial hearing day, will be appropriately prorated to the nearest 1/10th of an hour. In addition, when time or expenses are involved for two or more hearings on the same day or trip, hearing officers shall appropriately prorate such time and/or expenses.

Definition of a “day”:

The Department defines a “day” for per diem purposes to mean seven (7) hours of service. Except for the initial hearing day, billings for days of service that constitute less than seven hours shall be prorated to the nearest 1/10th of an hour and shall be subject to any applicable cancellation fees in accordance with 8 NYCRR §82-1.12(a).

Maximum Study Time:

Charges for study time should not be in excess of actual time spent, prorated to the nearest 1/10th of an hour. The Department will not reimburse for study time beyond a maximum of a 1:1 ratio of hearing days to study days, and expects that the study time for a hearing that lasts in excess of seven days will not require more than seven days of study time. If a hearing officer requires more than

seven days of study time for a particularly complex matter, the officer can make application to the Department for additional reimbursement. In situations where good cause substantiates additional study time, at the Department's sole discretion, such applications will be granted.

Accordingly, the following schedule will typically apply to compensation for study time:

<u>Total Hearing Days</u>	<u>Maximum Allowable Study Days</u>
1	1
2	2
3	3
4	4
5	5
6	6
7	7
more than 7	no more than 7 unless good cause shown

General Reimbursement Principles:

The Department asks hearing officers to charge only for expenses that are normally reimbursable and that are incurred in connection with the particular Education Law §3020-a case involved. Further, to the extent practicable, the Department requests that hearing officers schedule cases that the parties anticipate will be settled on days on which the hearing officer can adjudicate other Education Law §3020-a cases. That is, hearing officers are encouraged to avoid scheduling, and charging a full per diem rate, simply to “put a settlement on the record.”

Order of Payments:

For fiscal year 2012-13, the legislature has appropriated \$3.8 million for the total costs of the Education Law §3020-a program (including costs of transcribing records of proceedings). In accordance with the new statutory amendments found at Education Law §3020-a(3)(b)(i)(A), the Commissioner will give priority to claims for arbitrator fees incurred in cases in which charges were filed after April 1, 2012, in the order in which such claims are received.

If you have any questions, please contact Tina Sciocchetti, Executive Director, Test Security and Educator Integrity, at 518.474.1385 or tsciocch@mail.nysed.gov, or Deborah Marriot, Director of the Office of school Personnel Review and Accountability, at 518.474.3021 or dmarriot@mail.nysed.gov.