Appeals Process

In accordance with federal rules, NCDPI provides applicants or recipients with the opportunity for a hearing to appeal NCDPI's final action under an applicable federal program. *See* 34 C.F.R. § 76.401(a), 34 C.F.R. § 76.783 and 20 U.S.C. 1231b-2. Specifically the applicant or recipient must allege that NCDPI took any of the following actions that violate a Federal or State law, regulations, rules or governing guidelines:

1) Failing to approve, or disapproving of, the application or project in whole or in part.
2) Failing to provide the amount of funds in accordance with requirements of the statutes and regulations.

No other grounds for appeal will be accepted or considered.

To request a hearing, the appellant must file a full and complete written appeal, including the issue(s) in dispute, the legal authority or other basis for the appeal position, and the remedy sought within 30 days of the NCDPI's action (e.g., notification of any action under 1 through 4 above). The request must have an original signature of the authorized agent who signed the application, if available. If that individual is not available, the request must have the original signature of another individual who is authorized to sign official documents.

An original and two copies of the request for a hearing must be submitted by one of the following methods.

1. Certified mailed with a return receipt required (within 30 days based on the postmark) to:

   Mailing Address:
   Donna Brown, Director
   Federal Program Monitoring and Support Division
   North Carolina Department of Public Instruction
   Mail Service Center 6351
   Raleigh, NC 27699

2. Hand-delivered to:

   Physical Address:
   Donna Brown, Director
   Federal Program Monitoring and Support Division
   North Carolina Department of Public Instruction
   301 N. Wilmington Street
   Raleigh, NC 27601

Within 30 days of receiving the hearing request, NCDPI will hold a hearing on the record to review its action. Pursuant to *In re Appeal of Clovis Unified School District*,[1] the applicant or recipient will receive notice of the hearing and have the opportunity to participate and be represented by counsel. The hearing will be conducted by an impartial hearing officer. During the hearing, the parties will have the opportunity to present and challenge evidence in an orderly fashion before an impartial decision

[1] *See In re Appeal of Clovis Unified School District*, U.S. Dept. of Ed. Remand Order (July 10, 1995).

maker.[2] No later than 10 days after the hearing, the hearing officer, as the impartial decision maker, will issue a written ruling on behalf of NCDPI including findings of fact and reasons for the ruling. The parties may waive these deadlines by mutual consent in writing.

NCDPI will rescind its action if it determines the action conflicts with Federal or State laws and regulations governing the applicable program. If after review, NCDPI does not rescind its action, the applicant or recipient may appeal to the Secretary of the U.S. Department of Education within 20 days of being notified of the result.

NCDPI will make all records pertaining to any review or appeal of the applicant or recipient available at reasonable times and places to the applicant or recipient. This includes records of other applicants.

If an applicant applied for a subgrant under a covered program listed in 34 C.F.R. § 76.401(a), NCDPI will provide an opportunity for a hearing before it disapproves the application. If the applicant applied for a hearing under a program not listed in 34 C.F.R. § 76.401(a), NCDPI will provide an opportunity for a hearing either before or after it disapproves the application.

[2] *Id.*