21st Century Community Learning Center Grant

APPEAL PROCEDURES

1. WHO ADMINISTERS THE 21st CENTURY COMMUNITY LEARNING CENTER GRANT?

The Ohio Department of Education (the Department), Office for Improvement and Innovation, has been the agency charged with administering the 21st Century Community Learning Center's program since 2002, when it was authorized under Title IV, Part B of the Elementary and Secondary Education Act of 1965 (ESEA), known as No Child Left Behind (NCLB). The passage of the Every Student Succeeds Act (ESSA) of 2015 amended ESEA and altered the focus of the 21st Century Community Learning Center (21st CCLC) Grant.

Federal and state laws guide the implementation of the 21st CCLC Grant. Pursuant to 20 USC 7174 and 34 CFR 76.400, the Department may take certain actions in approving or denying applications for the 21st CCLC.

2. WHAT ACTIONS BY THE DEPARTMENT ARE SUBJECT TO ADMINISTRATIVE REVIEW (APPEAL)?

Pursuant to 34 CFR 76.401(c), the following actions are subject to administrative review (appeal):

1. Disapproval of or failure to approve the grant application in whole or in part.
2. Failure to provide funds in amounts in accordance with the requirements of statutes and regulations.

In order to request an appeal of one of the above actions, the appellant must allege that the Department's actions violated a State or Federal statute or regulation in taking the action. 34 CFR 76.401(c).

Appeals based upon a disagreement with the professional judgment of the grant readers will not be considered.

Grant readers represent a diverse range of professions and are selected based on background and experience related to providing effective academic, enrichment, youth development and related services to children. The Department's role is to facilitate the process in accordance with state and federal laws and regulations.

3. WHAT IS THE PROCESS FOR REQUESTING AN APPEAL?

All requests for appeal by an applicant of the 21st CCLC must be made in writing and must specifically state whether the appellant is requesting an in-person hearing or whether the appellant plans to submit written documentation only.

The appeal request must have an original "wet" signature of the authorized agent who signed the 21st CCLC grant application.

The appeal request must be postmarked by the U.S. Postal Service or hand delivered to the Department **no later than thirty (30) calendar days** following the receipt of notification of the action through the Comprehensive Continuous Improvement Plan (CCIP). If the 30th day falls on a Saturday, Sunday or federal legal holiday, the request may be postmarked or delivered on the next day that is not Saturday, Sunday or a federal legal holiday. Emailed letters of appeal will not be accepted.

All Appeal Requests should be sent to:

Office of Chief Legal Counsel
Ohio Department of Education
25 South Front Street, MS 607
Columbus, Ohio 43215-4183.

4. WHAT MUST AN APPEAL REQUEST INCLUDE?

An appeal request must include the following:

1. The issue in dispute;
2. The State or Federal law alleged to have been violated by the Department;
3. Copies of all documents, correspondence, data, exhibits, and other information that the applicant intends to introduce at the hearing to support its position;
4. If an appellant requests an in-person hearing, the appellant must provide a list of witnesses the appellant intends to call at the hearing; and
5. Whether the applicant is requesting an in-person appeal or a written appeal.

5. WHAT HAPPENS AFTER THE DEPARTMENT RECEIVES THE APPEAL REQUEST?

Upon receipt of the appeal request, the Department's Office of Legal Counsel will review the appeal request for all required elements as listed in Question 4 above. The Department will acknowledge receipt of the appeal request, in writing, **no later than ten (10) calendar days** after its receipt. The acknowledgment will indicate the date upon which the appeal request was received and whether the appeal request has been accepted or denied based upon the required elements.

If the Department accepts the appeal request, the acknowledgement will also contain a confirmation of whether the appellant has requested an in-person or written appeal and will assign an independent and impartial administrative review official (the hearing officer) to conduct the administrative review pursuant to 34 CFR 76.401.

6. WHAT IS THE DIFFERENCE BETWEEN AN IN-PERSON APPEAL AND A WRITTEN APPEAL?

An appellant can request an in-person appeal or an appeal by written documentation only.

An in-person appeal is one that takes place at the Department with all parties physically present. The appellant and the Department will each have an opportunity to present evidence, witness testimony (under oath), documentation, cross examination, and make opening and closing statements in front of an independent hearing officer. Anyone who appears at a hearing must comply with all orders given

by the hearing officer. A court reporter will be present to record a transcript of the proceedings. The in-person hearing must take place within **thirty (30) calendar days** of the appeal request. After the in-person hearing takes place, the hearing officer will issue his or her decision within **ten (10) calendar days**.

A written appeal is one in which the appellant and the Department will submit written documentation to the independent hearing officer. The hearing officer will issue a decision, within **thirty (30) calendar days**, based solely off the written documentation submitted by the parties.

7. WHAT IS THE PROCESS AND TIMELINE FOR AN IN-PERSON APPEAL?

Within **ten (10) calendar days** of the receipt of the appeal request, the Department will send an appointment letter to the hearing officer, which will list the contact information for the parties. The hearing officer will then reach out to all parties to schedule a hearing date. The appellant is the only party that can waive the 30-day timeframe for an in-person hearing.

The appellant shall be given **at least ten (10) calendar days** advance written notice of the hearing date and time. Once a hearing is scheduled, only the hearing officer may change the date of the hearing.

8. WHAT IS THE PROCESS AND TIMELINE FOR A WRITTEN APPEAL?

The appellant may appeal by submitting written materials to the hearing officer upon which the hearing officer will base his or her decision. The hearing officer will issue his or her decision within **thirty (30) calendar days** of the appeal request. The appeal request must contain all documents the appellant wishes the hearing officer to consider in rendering a decision.

9. WHAT IS THE APPELLANT'S RECOURSE IF THE HEARING OFFICER UPHOLDS THE DEPARTMENT'S ACTION?

The determination by the hearing officer is the final administrative determination afforded to the appellant at the state level. The appellant may file a notice of appeal to the Secretary of the United States Department of Education within **twenty (20) calendar days** of the receipt of the hearing officer's decision.

If the state hearing officer's decision is supported by substantial evidence, the findings of fact of the state hearing officer are final.

10. MAY AN APPELLANT HIRE LEGAL COUNSEL FOR THE APPEAL?

The appellant may retain legal counsel for an appeal. If the appellant retains legal counsel, the appellant should immediately notify the Department with the name and contact information of their legal counsel and should conduct all appeal-related communication through their legal counsel.

11. WHAT HAPPENS IF THE APPELLANT'S REPRESENTATIVES FAIL TO APPEAR AT A SCHEDULED IN-PERSON HEARING?

If the appellant's representative(s) fail to appear at a scheduled in-person hearing, the appellant thereby waives its right to a personal appearance before the hearing officer and therefore, its opportunity to present its case. Scheduled hearings may be rescheduled if the appellant notifies the

hearing officer prior to the hearing date, and the hearing officer agrees to reschedule. The appellant and the Department must adhere to any scheduling order issued by the hearing officer.

An in-person appeal will not be converted to a written appeal based upon the non-appearance of the appellant.

12. ARE THERE ANY ADDITIONAL CONDITIONS THE APPELLANT MAY NEED TO KNOW ABOUT THE HEARING PROCESS?

1. Any information upon which the Department based its decision to deny the appellant's grant application shall be available to the appellant for inspection from the date the Department receives the appeal request.
2. A representative from the Department will attend the hearing to provide testimony and answer questions of the hearing officer.
3. The hearing officer shall be an independent and impartial official, not accountable to any person authorized to make decisions subject to appeal under 34 CFR 76.401.
4. The hearing officer shall make a determination based on evidence provided or presented by the parties and Federal and State laws, regulations, policies, and procedures governing the 21st CCLC.
5. The Department will maintain records of all administrative reviews and their disposition.

13. WHO CAN A POTENTIAL APPELLANT CONTACT FOR ADDITIONAL QUESTIONS AND INFORMATION REGARDING THE APPEAL PROCESS?

An institution or individual interested in requesting an appeal may contact Sara Katz, Assistant Legal Counsel at the Department at (614) 369-3763 or by email, at sara.katz@education.ohio.gov.