

**§ 668.87**

**34 CFR Ch. VI (7-1-02 Edition)**

15 days after the designated department official receives the request. The limitation or termination does not take place until after the requested hearing is held.

(4) A hearing official conducts a hearing in accordance with § 668.88.

(c) *Expedited proceeding.* With the approval of the hearing official and the consent of the designated department official and the institution or servicer, as applicable, any time schedule specified in this section may be shortened.

(Authority: 20 U.S.C. 1094)

[59 FR 22447, Apr. 29, 1994, as amended at 60 FR 61774, Dec. 1, 1995; 65 FR 65637, Nov. 1, 2000]

**§ 668.87 Prehearing conference.**

(a) A hearing official may convene a prehearing conference if he or she thinks that the conference would be useful, or if the conference is requested by—

(1) The designated department official who brought a proceeding against an institution or third-party servicer under this subpart; or

(2) The institution or servicer, as applicable.

(b) The purpose of a prehearing conference is to allow the parties to settle or narrow the dispute.

(c) If the hearing official, the designated department official, and the institution, or servicer, as applicable, agree, a prehearing conference may consist of—

(1) A conference telephone call;

(2) An informal meeting; or

(3) The submission and exchange of written material.

(Authority: 20 U.S.C. 1094)

[59 FR 22448, Apr. 29, 1994]

**§ 668.88 Hearing.**

(a) A hearing is an orderly presentation of arguments and evidence conducted by a hearing official.

(b) If the hearing official, the designated department official who brought a proceeding against an institution or third-party servicer under this subpart, and the institution or servicer, as applicable, agree, the hearing process may be expedited. Procedures to expedite the hearing process

may include, but are not limited to, the following—

(1) A restriction on the number or length of submissions;

(2) The conduct of the hearing by telephone conference call;

(3) A stipulation by the parties to facts and legal authorities not in dispute; or

(4) A review limited to the written record.

(c)(1) The formal rules of evidence and procedures applicable to proceedings in a court of law are not applicable. However, discussions of settlement between the parties or the terms of settlement offers are not admissible.

(2) The designated department official has the burden of persuasion in any fine, suspension, limitation or termination proceeding under this subpart.

(3) Discovery, as provided for under the Federal Rules of Civil Procedure, is not permitted.

(4) The hearing official accepts only evidence that is relevant and material to the proceeding and is not unduly repetitious.

(d) The designated department official makes a transcribed record of the proceeding and makes one copy of the record available to the institution or servicer.

(Authority: 20 U.S.C. 1094)

[51 FR 43325, Dec. 1, 1986, as amended at 57 FR 47753, 47754, Oct. 19, 1992; 57 FR 60034, Dec. 17, 1992; 59 FR 22448, Apr. 29, 1994]

**§ 668.89 Authority and responsibilities of the hearing official.**

(a) The hearing official regulates the course of a hearing and the conduct of the parties during the hearing. The hearing official takes all necessary steps to conduct a fair and impartial hearing.

(b)(1) The hearing official is not authorized to issue subpoenas.

(2) If requested by the hearing official, the parties to a hearing shall provide available personnel who have knowledge about the matter under review for oral or written examination.

(c) The hearing official takes whatever measures are appropriate to expedite a hearing. These measures may include, but are not limited to, the following—