

## **The Students First Act of 2011: Hearing Officer Guide and Frequently Asked Questions**

*Revised June 2026*

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### **Overview**

The Students First Act of 2011 (“SFA” or “the Act”), codified at Ala. Code § 16-24C-1 et seq., took effect on July 1, 2011. The Act generally governs terminations and certain other employment actions involving tenured teachers and nonprobationary classified employees who are covered by its provisions.

Employers subject to the SFA include city and county boards of education; educational and correctional institutions under the control of the Alabama Department of Youth Services; the Alabama Institute for Deaf and Blind; and two-year educational institutions operated under the authority and control of the Board of Trustees of the Alabama Community College System.

The SFA repealed and replaced Alabama’s former teacher-tenure and fair-dismissal laws and returned primary responsibility for conducting personnel proceedings and making personnel decisions to covered employers. The employer conducts the initial hearing and develops the administrative record. If an eligible employee appeals an adverse decision, a hearing officer reviews the employer’s decision based on that record and gives deference to the employer’s decision.

Coverage under the SFA depends on the definitions and exclusions contained in the current law. Those provisions were amended effective July 1, 2024, including changes affecting certain assistant administrative officers and executive and administrative management employees of public two-year institutions.

### **Frequently Asked Questions**

#### **1. Who administers the hearing officer selection process?**

Responsibilities under the Students First Act are shared by the appropriate state education agency and the Alabama State Bar.

After a timely notice of appeal is filed, the appropriate education agency refers the appeal to the executive director of the Alabama State Bar. The executive director obtains a panel of five retired Alabama judges, excluding probate judges, from the official roster maintained by the Bar and administers the hearing officer selection process.

The Alabama State Bar administers the selection process but does not review the employer's personnel decision or participate in deciding the appeal.

## **2. How is the hearing officer selected?**

The parties may agree to select a hearing officer from the five-member panel provided by the Alabama State Bar or from another source.

If the parties do not agree, they select the hearing officer through an alternating-strike process. The employee receives the first strike, and the employer receives the final strike. The selection process must be completed within 10 calendar days after the parties receive the panel.

## **3. How is the hearing officer notified of the selection?**

The Alabama State Bar notifies the selected hearing officer by email or other written communication. The hearing officer should promptly confirm availability and review the names of the parties, attorneys and other participants for possible conflicts.

A hearing officer may not serve if the hearing officer has a personal or professional interest that would conflict with the ability to render an objective decision. Any actual or potential conflict, scheduling problem or other impediment should be disclosed promptly to the Alabama State Bar.

## **4. What timelines apply to the appeal?**

Hearing officers must agree to comply with the timelines established by the Students First Act.

Important deadlines include:

- The hearing officer selection process must be completed within 10 calendar days after the parties receive the panel.
- The employer must compile and file the administrative record with the hearing officer within 20 days after receiving the notice of appeal, unless the hearing officer extends the deadline for good cause.
- The hearing officer must issue a final ruling affirming or reversing the employer's decision within five days after the appellate hearing.
- The Act does not establish a specific deadline for conducting the appellate hearing. The hearing officer should schedule the matter promptly and allow sufficient time for any briefing or other submissions while remaining mindful of the statutory decision deadline.

## **5. What personnel actions may be reviewed by a hearing officer?**

Subject to the requirements and definitions of the Students First Act, a tenured teacher or nonprobationary classified employee may obtain review of:

- A termination from employment;
- A suspension without pay for more than 20 workdays; and
- An involuntary transfer to a position with a lower rate of pay or a shorter term of employment.

Before appealing, the employee must timely request and participate in the hearing available before the governing board or institution president and must comply with the other statutory requirements for an appeal.

Certain actions are not subject to review under the Act. These include qualifying reductions or modifications to compensation, benefits or the length of the work or school year that are prospective, formally approved and applied to similarly situated employees. Layoffs and other personnel actions properly implemented as unavoidable reductions in force under Ala. Code § 16-1-33 also are not subject to review under the Act.

## **6. What kind of hearing is conducted on appeal?**

The hearing officer's review is not a new trial or a de novo evidentiary proceeding. The employer creates the evidentiary record during the initial personnel hearing and submits that administrative record to the hearing officer after the employee appeals. The notice of appeal must identify the grounds on which the appeal is based. The hearing officer reviews the employer's decision based on the administrative record and the issues properly presented on appeal.

The Students First Act requires the hearing officer to hold a hearing but does not prescribe a detailed format. Because the proceeding is appellate in nature, it will generally involve oral argument rather than the presentation of a new evidentiary case. The hearing officer may establish an appropriate schedule for legal briefs, written arguments and oral argument.

## **7. Where is the appellate hearing conducted?**

The Students First Act does not designate a required location for the appellate hearing. The hearing officer should coordinate with the parties to select an appropriate and reasonably accessible venue.

A courtroom, government meeting room, education agency facility or other suitable

location may be used. The hearing officer should provide the parties with written notice of the hearing's date, time, location and any applicable procedures.

## **8. What standard of review does the hearing officer apply?**

The hearing officer must give deference to the employer's decision and may not substitute the hearing officer's judgment for that of the employer.

In *Ex parte Lambert*, 199 So. 3d 761 (Ala. 2015), the Alabama Supreme Court determined that the arbitrary-and-capricious standard applies to a hearing officer's review under the Students First Act. This is a highly deferential standard. An employer's decision is not arbitrary merely because reasonable people could disagree about its wisdom or because the hearing officer might have reached a different decision.

The hearing officer must issue a final ruling affirming or reversing the employer's decision. When the sanction imposed by the employer is found to be arbitrary and capricious, the hearing officer may reverse and remand the matter to the employer for consideration of a lesser sanction.

If the employer's decision is set aside, the employee is entitled to reinstatement and credit for benefits due under applicable statutes, salary schedules or compensation policies. Either party may appeal an adverse decision of the hearing officer to the Alabama Court of Civil Appeals.

## **9. Must the hearing officer follow a particular format when issuing the final ruling?**

The Students First Act does not prescribe a specific format for the hearing officer's ruling. The decision should nevertheless be in writing and should clearly state the result and the basis for the ruling.

A decision ordinarily should include:

- The case name and identifying information;
- A brief procedural history;
- The grounds raised on appeal;
- The applicable standard of review;
- The relevant facts reflected in the administrative record;
- The hearing officer's analysis;
- The disposition affirming, reversing or, when legally appropriate, reversing and remanding the employer's decision; and
- The date and signature of the hearing officer.
- The ruling should contain enough information to permit meaningful review if

either party appeals to the Alabama Court of Civil Appeals.

**10. How much is a hearing officer paid?**

The Students First Act does not establish a specific hourly rate. It provides that hearing officers are paid according to the criteria and prevailing rate established by the appropriate state education authorities from funds appropriated by the Legislature. Currently, the approved hearing officer rate is \$150 per hour.

The hearing officer should confirm the applicable rate and billing requirements before beginning work on an assignment.

**11. How does the hearing officer submit an invoice and receive payment?**

After completing services, the hearing officer should submit an itemized invoice to the employer in accordance with the current billing instructions issued by the appropriate education agency.

The invoice should include:

- The case name or tracking number;
- The dates on which services were performed;
- A brief description of each task;
- The time devoted to each task;
- The approved hourly rate; and
- The total amount requested.

Travel time, travel expenses and other costs should be billed only as permitted by the current reimbursement guidelines.

The employer is responsible for following the applicable payment and reimbursement procedures. Any reimbursement request should be submitted using the current Hearing Costs Claim Form and should include the hearing officer's itemized invoice, the final decision and any other documentation required by the appropriate education agency.

Current claim forms and submission instructions are available through <http://www.alsde.edu>. Then select Department Offices/Office of Financial Management/SDE Accounting/Documents.