21st Century Community Learning Centers Program (21st CCLC)

Appeals Process

I. Background

The 21st Century Community Learning Centers program (21st CCLC) is a program authorized under Title IV, Part B, of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA) of 2015. The Nebraska Department of Education (NDE) is responsible for administration and supervision of the 21st CCLC program in Nebraska.

II. Application Review and Award

Pursuant to the 21st CCLC program, and other State and Federal statutes and regulations, NDE follows a two-step process for reviewing and awarding applications. First, NDE employees familiar with the programs and activities review all applications for completeness and applicant eligibility. NDE-selected peer reviewers then review and score the applications based upon an established scoring rubric. Based on the scoring rubric and merit of each application, Awards are determined. Intent to Award notices are posted to the NDE website.

III. Grounds for Appeal

Intent to Award notices issued by NDE may be appealed. Appeals based on a disagreement with the professional judgment of the peer reviewers will not be considered by NDE.

a. Appeals by applicants or subgrantees (Appellants) which do not fall under any of the grounds described below shall be deemed to be dismissed without prejudice, and the Appellants shall be so notified by electronic mail.

b. Appeals may only be made on the following NDE decisions:
   i. NDE's denial of a competitive grant application submitted by the Appellant;
   ii. NDE not making an award for Appellant's application;
   iii. NDE requiring certain corrective action as a result of an audit finding, or as a result of a site visit or other monitoring effort, and the Appellant does not agree that corrective action is necessary; or
   iv. Appellant feels NDE has violated a specific federal statute or program regulation.

IV. Appeals Procedure

a. Time to File
   i. Appellants must submit appeals by electronic mail to NDE.LegalServices@nebraska.gov within ten (10) business days from the date the Intent to Award is posted on the NDE website.

b. Submission
   i. Appeals must, at a minimum, contain the following information in order to be considered:
      1. Appellant's district or organization;

2. Appellant's name, phone number, email address, and a statement that they have authority to make the appeal on behalf of the district or organization;
3. The decision they are appealing;
4. The ground(s) under which the appeal is being requested in accordance with Section III; and
5. The remedy sought.

c. Initial Review of Appeal by Grant Administrator

i. All appeals under this process shall be subject to initial review by the NDE Grant Administrator.

ii. The Appellant may request a meeting with the Grant Administrator within five (5) business days of the appeal being filed, to present evidence in support of such appeal. The Grant Administrator shall determine whether said meeting may be in-person or by electronic videoconference platform (such as Zoom, Microsoft Teams).

iii. Where applicable, the program team and subgrantee(s) of any Intent to Award shall be notified in advance of said meeting and shall be afforded the opportunity to submit evidence in support of their respective positions prior to the meeting with the Appellant taking place.

iv. The Grant Administrator shall have ten (10) business days following submission of the appeal to review the Appellant's submission, as well as any other evidence presented by relevant parties to determine:

1. Whether or not grounds for appeal exist based on the evidence and other information submitted by the Appellant and/or other interested parties; and
2. Whether or not the dispute may be resolved informally through further discussion between the Appellant, the program team and other relevant parties.

v. The burden of proof shall be on the Appellant to prove the allegations in their appeal.

vi. The Grant Administrator may request additional documentation from the Appellant for further investigation.

vii. Once the Grant Administrator has made a determination whether or not to grant the appeal, said decision shall be communicated to all relevant parties by electronic mail no later than ten (10) days following receipt of the appeal by NDE.

viii. In the event that the appeal is sustained, the Grant Administrator may assign an appropriate remedy.

d. Formal Hearing before the Deputy Commissioner

i. If the Appellant or subgrantee is dissatisfied with the decision of the Grant Administrator, they may appeal the decision of the Grant Administrator to the relevant Deputy Commissioner for Education and request a formal hearing. The dissatisfied party must submit a *Request for Formal Hearing*

by electronic mail to NDE.LegalServices@nebraska.gov within ten (10) business days of the Grant Administrator's decision.

1. The Request for Formal Hearing must assign specific error related to the Grant Administrator's decision.
2. A dissatisfied party may only raise issues in their Request for Formal Hearing that were considered before the Grant Administrator.
3. The meeting will allow the Awardee, the Appellant, and the program team to present and respond to arguments on appeal.

ii. A Request for Formal Hearing is not available if a disputed Intent to Award has been withdrawn or the application process for the subgrants reopened or, in the opinion of the Grant Administrator, the defect(s) identified have been cured.

iii. The Deputy Commissioner shall convene a hearing within ten (10) business days of receiving a valid Request for Formal Hearing to consider the issues raised. The hearing may be conducted in-person or by electronic videoconference platform (such as Zoom, Microsoft Teams).

1. The Deputy Commissioner shall review the appeal *de novo* on the record created before the Grant Administrator.
2. Only upon request by the Deputy Commissioner, the awardee, the Appellant, and the program team may submit additional evidence.
3. The dissatisfied party has the burden to show that the Grant Administrator erred by a preponderance of the evidence.
4. Unless otherwise directed by the Deputy Commissioner, no party aside from the dissatisfied party shall be required to attend the hearing.

iv. The Deputy Commissioner shall issue his or her decision, including findings of fact and reasons for the ruling, within ten (10) business days after the submission of the Request for Formal Hearing or within five (5) business day after the hearing takes place, whichever is later, and said decision shall be communicated to all relevant parties by electronic mail.

v. The Deputy Commissioner may:

1. Affirm the decision of the Grant Administrator;
2. Reverse the decision of the Grant Administrator; or
3. Provide any alternate remedy that the Deputy Commissioner is empowered to provide under this process.

e. Appeal to the Commissioner for Education

i. If the Appellant or Awardee is dissatisfied with the decision of the Deputy Commissioner, they many appeal that decision to the Commissioner for Education (Commissioner). The dissatisfied party must submit a *Request for Appeal to the Commissioner for Education* by electronic mail to

NDE.LegalServices@nebraska.gov within ten (10) business days of the Deputy Commissioner's decision.

1. The Request for Appeal must assign specific error to the Deputy Commissioner's decision.
2. A dissatisfied party may only raise issues in their Request for Appeal that were considered before the Grant Administrator.

A *Request for Appeal* is not available if a disputed Intent to Award has been withdrawn or the application process for the subgrant reopened or, in the opinion of the Commissioner, the defect(s) have been cured.

ii. The Commissioner shall review the Request for Appeal *de novo* on the record created before the Grant Administrator and the Deputy Commissioner.

1. The dissatisfied party has the burden to show that the Deputy Commissioner erred by a preponderance of the evidence submitted.
2. If supported by substantial evidence, the findings of fact by the Deputy Commissioner shall be deemed as final.
3. Only upon request by the Commissioner, the awardee, the Appellant, and the program team may submit additional evidence.

iii. The Commissioner shall issue his or her final decision, including findings of fact and reasons for the ruling, within ten (10) business days after the submission of the Request for Appeal to the Commissioner, and said decision shall be communicated to all relevant parties by electronic mail.

iv. The Commissioner may:

1. Affirm the decision of the Deputy Commissioner;
2. Reverse the decision of the Deputy Commissioner; or
3. Provide any alternate remedy that the Commissioner is empowered to provide under this process.

V. Appeal to U.S. Secretary of Education

If the Appellant or subgrantee is dissatisfied with the final decision of the Commissioner for Education, they many appeal that decision to the U.S. Secretary of Education within twenty (20) days of the Commissioner for Education's final decision, in accordance with 34 CFR 76.401. Any such appeal to the U.S. Secretary of Education shall be governed by the relevant appeals process set out in federal regulations.