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(a) The related institution shall have the right to appeal from the order within 5 working days from the receipt of the order.

(b) The appeal shall be heard by the hearings office of the Department, which shall render the final agency decision for purposes of judicial review.

(c) Imposition of the sanction shall be stayed until the final decision is issued pursuant to subsection (m) of this section.

(d) A hearing on the sanction shall be held within 10 working days of the request for hearing.

(e) The parties to the hearing shall be the aggrieved related institution and the Secretary.

(f) The parties are entitled to be represented by counsel.

(g) The hearings office may permit, modify, or deny a timely request by the related institution for prehearing discovery.

(h) The hearings office, upon its own motion or upon motion of either party, may subpoena any person or evidence, administer oaths, and take depositions and other testimony.

(i) The hearing shall inquire fully into all of the matters at issue and shall receive into evidence the testimony of witnesses and any documents which are relevant and material to such matters.

(j) The parties shall have the right to present evidence and testimony and to cross-examine that presented by the opposing party.

(k) The purpose of the hearing is to consider and render a decision on the following matters:

(1) The existence of a hazardous condition;

(2) If a hazardous condition exists, the amount of money to be placed into the escrow account; and

(3) The length of time in which the hazardous condition must be corrected.

(l) The burdens of proof are as follows:

(1) The related institution has the burden of proof with respect to establishing the lack of the cited deficiency or deficiencies; and

(2) The Secretary has the burden of proof with respect to the establishment of a deficiency or deficiencies as constituting a hazardous condition.

(m) A decision shall be rendered by the hearings office within 7 days of the hearing. The decision shall be the final agency decision of the Department, subject to appeal pursuant to § 19-367 of this part.

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