

Section 504 Procedural Safeguards

Any student or parent or guardian (grievant) may request an impartial hearing due to the school system's actions or inactions regarding their child's identification, evaluation, or educational placement under Section 504. Requests for an impartial hearing must be in writing to the school system's Section 504 Coordinator, however, a grievant's failure to request a hearing in writing does not alleviate the school system's obligation to provide an impartial hearing if the grievant orally requests an impartial hearing through the school system's Section 504 Coordinator. The 504 Coordinator will assist the grievant in completing the written *Request for Hearing*. Upon notice or at the receipt of the request the grievant shall be given a copy of *Students and Parents Rights Under Section 504*.

1. Any student, parent or other person with a complaint alleging a violation as described above shall promptly notify, in writing or orally, either the principal for his/her school or the 504 Coordinator. If the complaint is oral, either the coordinator or school principal to whom the complaint is made shall promptly prepare a memorandum or written statement of the complaint as made to him or her by the complainant and shall have the complainant read and sign the memorandum or statement if it accurately reflects the complaint made. If the complaint is made to a school principal, he or she shall be responsible for notifying the District 504 Coordinator of the complaint.
2. If the alleged offending individual is the 504 Coordinator designated by the Board of Education, the complaint shall either be made by the complainant to the Superintendent or, if the complaint is initially made to the school principal, reported by the principal to the Superintendent.
3. The *Request for a Hearing* must include the following:
 - A. The name of the student
 - B. The address of the residence of the student
 - C. The name of the school the student is attending
 - D. The decision that is the subject of the hearing
 - E. The requested reason(s) for review
 - F. The proposed remedy sought by the grievant
 - G. The name and contact information of the grievant
4. Within 10 business days from receiving the grievant's *Request for Hearing* the 504 Coordinator will acknowledge the request in writing AND schedule a time and place for a hearing. If the written *Request for a Hearing* does not contain the necessary information noted above, 504 Coordinator will inform the grievant of the specific information needed to complete the request. All timelines and processes will be stayed until the *Request for Hearing* contains the necessary information noted above
5. The school system may offer mediation to resolve the issues detailed by the grievant in their *Request for Hearing*. Mediation is voluntary and both the grievant and school system must agree to participate. The grievant may terminate the mediation at any time. If the mediation is terminated without an agreement, the school system will follow the procedures for conducting an impartial hearing without an additional *Request for Hearing*.

6. The Section 504 Coordinator will obtain an impartial review official (school board members and other district employees are not considered impartial hearing officers) who will have knowledge of Section 504 of the Rehabilitation Act of 1973. The Hearing Officer will conduct a hearing within 45 calendar days from the receipt of the grievant's *Request for Hearing* unless agreed to otherwise by the grievant or continuance is granted by the impartial review official.
7. Upon a showing of good cause by the grievant or school system, the impartial review official, at his or her discretion, may grant a continuance and set a new hearing date. The request for a continuance must be in writing and copied to the other party.
 - A. The grievant will have an opportunity to examine the child's educational records prior to the hearing.
 - B. The grievant will have the opportunity to be represented by legal counsel at his or her own expense at the hearing and participate, speak, examine witnesses, and present information at the hearing. If the grievant is to be represented by counsel at the hearing, he or she must inform the Section 504 Coordinator of that fact in writing at least 10 calendar days prior to the hearing. Failure to notify the Section 504 Coordinator in writing of representation by the legal counsel shall constitute good cause for continuance of the hearing.
 - C. The grievant will have the burden of proving any claims he or she may assert. When warranted by circumstances or law, the impartial hearing officer may require the recipient to defend its position/decision regarding the claims. (i.e., A recipient shall place a disabled student in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. 34 CFR §104.34). One or more representatives of the school system, who may be an attorney, will attend the hearing to present the evidence and witnesses respond to the grievant testimony and answer questions posed by the review official.
 - D. The impartial review official shall not have the power to subpoena witnesses and the strict rules of evidence shall not apply to hearings. The impartial review official shall have the authority to issue pre-hearing instructions, which may include requiring the parties to exchange documents and names of witnesses to be present.
 - E. The impartial review official shall determine the weight to be given any evidence based on its reliability and probative value.
 - F. The hearing shall be closed to the public.
 - G. The issues of the hearing will be limited to those raised in the written or oral request for the hearing.
 - H. Witnesses will be questioned directly by the party who calls them. Cross-examination of witnesses will be allowed. The impartial review official, at his or her discretion, may allow further examination of witnesses or ask questions of the witnesses.

- I. Testimony shall be recorded by court reporting or audio recording at the expense of the recipient. All documentation related to the hearing shall be retained by the recipient.
 - J. Unless otherwise required by law, the impartial review official shall uphold the action of school system unless the grievant can prove that a preponderance of the evidence supports his or her claim.
 - K. Failure of the grievant to appear at a scheduled hearing unless prior notification of absences was provided and approved by the impartial review official or just cause is shown shall constitute a waiver of the right to a personal appearance before the impartial review official.
- 8. The impartial review official shall issue a written determination within 20 calendar days of the date the hearing concluded. The determination of the impartial review official shall not include any monetary damages or the award of any attorney's fees.
 - 9. If not satisfied with the decision of the impartial review official, any party may pursue any right of review, appeal, cause of action or claim available to them under the law or existing state or federal rules or regulations.

The confidentiality of any individual making a complaint or report in accordance with this policy, to the extent it is reasonably possible, shall be protected, although the discovery of the truth and the elimination of unlawful harassment shall be the overriding consideration.

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