



OCS Section 504 Grievance Procedures

Section 504 Grievance Procedure

Any person who believes she or he has been subjected to discrimination on the basis of disability by a student, staff member, or third party may file a grievance under this procedure. Examples of disability discrimination can include, but are not limited to, disability-based harassment; limiting or denying a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service; treating a student differently on the basis of disability; denying a student with a disability a free and appropriate education; and failing to make modifications of "policies, practices or procedures" when such modification is necessary to accommodate individuals with disabilities.

The District prohibits retaliation against anyone who files a grievance or cooperates in the investigation of a grievance.

Grievances should be submitted to the District Section 504/ADA Coordinator within 30 school days of the date the person filing the grievance becomes aware of the alleged discriminatory action.

A complaint should be in writing, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.

If the Complainant is unable to put the complaint in writing, the School shall provide reasonable accommodations to assist the Complainant with the submission of his/her complaint. Although the School encourages individuals to submit complaints in writing, the School will nonetheless provide prompt and equitable responses when it becomes aware of possible discrimination.

The District Section 504/ADA Coordinator (or her/his designee) shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint, including the opportunity to present witnesses. The Section 504/ADA Coordinator will maintain the files and records of the School relating to such grievances.

The District Section 504/ADA Coordinator will complete the investigation and issue a written decision on the grievance no later than 30 working days after its filing unless extenuating circumstances require an extension of the 30-day timeline. In such a case, the District Section 504/ADA Coordinator (or her/his designee) will communicate with the Complainant concerning the need for an extension.

The person filing the grievance may appeal the decision of the District Section 504/ADA Coordinator by writing to the Director of Student Engagement and Support Services, within 15 working days of receiving the District Section 504/ADA Coordinator's decision. The Director of Student Engagement and Support Services or his/her designee, shall issue a written decision in response to the appeal no later than 30 working days after its filing.

If it is determined that discrimination occurred, the School shall take the appropriate steps to prevent the recurrence of discrimination and correct the discriminatory effects on the complainant and others.

The School shall maintain confidentiality as required by the Family Educational Rights and Privacy Act (FERPA) at all times.

The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination on the basis of disability with the U. S. Department of Education, Office for Civil Rights. The address of the regional office that includes North Carolina is:

Office for Civil Rights, District of Columbia Office
U.S. Department of Education
400 Maryland Avenue, S.W. Washington, DC 20202-1475 Telephone: (202) 453-6020
Facsimile: (202) 453-6021 Email: OCR.DC@ed.gov

The District will make appropriate arrangements to ensure that disabled persons are provided other accommodations, if needed, to participate in this grievance process. Such arrangements may include but are not limited to, providing interpreters for the deaf, providing taped cassettes of material for the blind, providing a scribe for submission of the complaint, or assuring a barrier-free location for the proceedings. The District Section 504/ADA Coordinator will be responsible for making such arrangements.

Due Process Procedures

Parents or the District may initiate a due process hearing on a matter related to:

- 1) eligibility
- 2) provision of a free and appropriate public education to the student; or 3) placement of the student.

An impartial due process hearing will be utilized to resolve differences involving the evaluation or educational placement of a Section 504-qualified student with a disability when such differences cannot be resolved by means of a less formal procedure. In this instance, due process is defined as an opportunity to present objections and reasons for the objections to the decision and/or procedures of the committee regarding the application of Section 504. A Section

504 due process hearing may be called at the request of the District or a parent, guardian, or surrogate of an affected student. The proceedings will be presided over and decided by an impartial hearing officer. An impartial hearing officer is a person selected to preside at a due process hearing to ensure that proper procedures are followed and to ensure the protection of the rights of both parties.

In all related hearing matters the following definitions shall apply:

- A. Days means calendar days.
- B. Placement plan means the program by which the decision concerning the educational placement of the student is decided.
- C. Parents means parents, guardians, or surrogate parents.

Requests for a due process hearing must be submitted in writing to the Superintendent. Hearing notifications to the parents shall be given at least twenty (20) days prior to the date set for the hearing. The notice shall contain:

- A. A statement of time, place, and nature of the hearing.
- B. A statement of the legal authority and jurisdiction under which the hearing is being held.
- C. A reference to the particular section of the statutes and rules involved.
- D. A statement of the availability of relevant records for examination.
- E. A short and plain statement of the matters asserted.
- F. A statement of the right to be represented by counsel at the parent's own expense.

All written correspondence shall be provided in English and/or interpreted in the parent/guardian's primary language.

Hearing Procedures

The hearing officer shall preside at the hearing and shall conduct the proceedings in an impartial manner to the end that all parties involved have an opportunity to:

- A. Present their evidence.
- B. Produce outside expert testimony and be represented by legal counsel and by individuals with knowledge or training with respect to problems of students with disabilities.

Parents involved in the hearing will be given the right to have the student present at the hearing and have the right to request that the hearing be open to the public. If the parents' primary language is other than English, then the hearing officer shall appoint an interpreter.

The hearing officer shall review all relevant facts concerning the evaluation or educational placement of the Section 504 student. The hearing officer shall render a decision that is binding on all parties, except that in all cases any action taken must comply with NC Gen statutes and/or State Board of Education Rules and federal court decisions. The decision may be appealed only to a federal court of competent jurisdiction.

Decision of the Hearing Officer

A copy of the hearing officer's decision shall be delivered to the District and the parent, guardian, or surrogate within ten (10) days following completion of the hearing, which in no event shall be later than forty-five (45) days after receipt of the request for a hearing. The decision of the hearing officer is binding on all parties concerned; it is subject only to judicial review.

Record of Hearing

A written or electronic verbatim recording of Section 504 due process hearing shall be on file at the District office and will be available for review upon request to the parents and/or any of the involved parties. Parents may request a copy of the proceedings, in English and in the primary language of the home.