# OCS Section 504 Grievance Procedures

Any person who believes she or he has been subjected to discrimination based on 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 based on 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.

## Step 1 - Principal Conference

A student, parent, or guardian wishing to invoke the 504 appeals process shall make a written request for a conference with the principal to discuss the grievance and seek resolution. The request shall fully describe the grievance. The following additional guidelines shall be observed:

A. A grievance shall be filed with the school principal as soon as possible but not later than thirty school days after disclosure of the facts giving rise to the grievance.
B. The principal shall grant the conference within five school days following receipt of the request. The principal will state in writing his/her position on the question to the individual within five school days following the conference.

C. Only the parent, guardian, or someone acting in loco parentis shall be permitted to join or represent the student in the conference with the principal.

## Step 2 - Appeal to the Superintendent or designee (District 504 Coordinator)

If the grievance is not resolved at Step 1, the student, parent, or guardian may appeal the principal's decision in writing to the superintendent or designee. The appeal must be made within five school days following receipt of the appeal. A written response shall be made to the student, parent, guardian, and principal from the superintendent or his designee within ten school days following the review.

## Step 3 - Appeal for a Section 504 Due-Process Hearing

If the grievance is not resolved at Step 2, an appeal may be made to an independent hearing. The appeal must be made in writing within ten school days following the written response from the superintendent's designee in Step II. Upon receipt of the request for a hearing, the superintendent's designee will arrange for an independent hearing officer to hear the case.

The individual is entitled to have his/her parent/guardian participate in the hearing and be represented by counsel if so desired. The hearing officer will inform the parent/guardian of the decision within thirty days of the hearing.

The District will make appropriate arrangements to ensure that disabled persons are provided with 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 Coordinator will be responsible for making such arrangements.

## Due Process Procedures Details

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

A. eligibility
B. provision of a free and appropriate public education to the student; or
C. 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 means 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 made.
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 parents' 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 impartially conduct the proceedings to the end that all parties involved have an opportunity to:

Present their evidence.
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 the 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.

## Step 4 - If the grievance is not resolved at Step 3, there is a right to appeal to federal court from the decision of the hearing officer.

Note: The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination based on 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

**Note**: A request for a principal conference is optional and is not a required procedure for requesting reconsideration, a Section 504 hearing, or filing a complaint of discrimination with OCS or the Office of Civil Rights.