



504 Complaint and Hearing Procedure

Section 504 of the Rehabilitation Act of 1973 (“Section 504”) requires school districts to provide a free appropriate public education (“FAPE”) to eligible students whose disability otherwise interferes with the child’s ability to learn in a general education classroom. Under Section 504, eligible students are entitled to receive education services designed to meet their individual educational needs as adequately as the needs of non-disabled students are met.

A school district must identify, evaluate, and provide appropriate educational services to an eligible student. Under Section 504, a parent/legal guardian has the right to challenge decisions regarding the identification, evaluation, and educational placement of his/her child. If a parent/legal guardian wants to contest an action or omission on the part of the District, the parent/legal guardian has a right to an impartial hearing (“Hearing”).

In the event a hearing has been held, or is pending, pursuant to the provisions of the Individuals with Disabilities Education Act (“IDEA”) on any of the issues currently being alleged by the parent/legal guardian, no Section 504 Hearing will be held on like issues. An IDEA hearing that is resolved by a decision or dismissed with prejudice shall resolve any like issues for which a Section 504 Hearing has been requested.

Generally, concerns related to Section 504 are best addressed at the school building level. If there are concerns, a parent/legal guardian is encouraged to contact the building principal to discuss issues with the building principal and other appropriate building staff. If issues are not resolved, the parent/guardian also has the option of engaging in Informal Resolution (detailed below) with the Section 504 Coordinator.

Requesting a Hearing/Informal Resolution

A parent/legal guardian (of the affected student) may request a Section 504 Hearing on matters directly related to the District’s decision(s) or action(s) regarding the following:

1. The identification of the student as disabled, or the eligibility of the student for services under Section 504.
2. The evaluation procedures utilized with the student, including a decision not to evaluate a student.
3. The educational placement and/or related aids and services recommended for or provided to the student.

The parent/legal guardian must make such request within ninety (90) calendar days of the parent/legal guardian's receipt of notice of the 504 Team's decision in regard to any of the above.

All requests for a Hearing must:

1. Be submitted in writing to the District's 504 Coordinator.
2. Describe the specific nature of the dispute.
3. State the proposed specific relief or remedy requested.
4. Any other information the parent/legal guardian believes is important to understanding the dispute.

The written request may be made on a form provided by the District for that purpose. If a request does not include all the required information, the 504 Coordinator will contact the parent/legal guardian within ten (10) school days, with a request to provide the missing information to proceed. The parent/legal guardian will have five (5) school days to provide the missing information. The timelines below do not run until any additional information requested is received.

Informal Resolution. The 504 Coordinator will offer the parent/legal guardian the opportunity to participate in Informal Resolution. If the parent/legal guardian is agreeable, the Section 504 Coordinator will work with the parent/legal guardian and the building to resolve the identified issues. An agreement to utilize Informal Resolution will stay the time limits noted below until the Informal Resolution process is concluded. If the concerns are still not resolved, the parent/legal guardian may proceed with a formal Hearing.

The District will appoint an impartial Hearing Officer (appointment to be made within fifteen (15) school days of receipt of the request for a hearing) to preside over the Hearing and issue a decision. In most cases, the impartial Hearing Officer will be an AEA trained mediator. If an AEA trained mediator is not available, the District will seek other options from the Iowa Department of Education.

The Hearing Officer will notify the parties in writing of the date, time, and place of the Hearing. The parent/legal guardian and the District will be given at least ten (10) calendar days' notice of the date of the Hearing.

Parent/Legal Guardian Participation & Representation

A parent/legal guardian has the right to participate and present information at the Hearing, and to be represented by legal counsel at the parent/legal guardian's expense. If a parent/legal guardian is to be represented by legal counsel at the Hearing, he or she must inform the District's 504 Coordinator and the appointed Hearing Officer of that fact in writing at least seven (7) calendar days prior to the Hearing date. Failure to notify the 504 Coordinator and the appointed Hearing Officer of that fact in writing may cause the Hearing date to be delayed.

Conduct of Hearing

The Hearing shall be conducted in an informal, non-adversarial manner. The Hearing shall be closed.

The Hearing procedure will be presided over and decided by the Hearing Officer, but shall be limited as follows:

1. The Hearing is limited to facts within two (2) years of the date the parent/legal guardian submits his or her written request for Hearing.
2. The Hearing Officer's procedures will conform to the standard of "fundamental fairness." Formal rules of evidence, civil procedure, and the IDEA procedures shall not apply to the Hearing. In the exercise of his or her discretion, the Hearing Officer may reasonably limit testimony and introduction of documentary exhibits for reasons of relevance.
3. The issues of the Hearing will be limited to those specifically raised in the written request for Hearing.
4. The party requesting the Hearing shall carry the burden of proving the claims asserted.

Recording

An electronic recording of the Hearing will be on file at the District's administration office and will be available for review upon request by the parent/legal guardian. In order for an accurate recording to be made, the parties and witnesses should introduce themselves at the beginning of their presentations. The recording will be destroyed once the period for review of a Hearing Officer's decision (detailed below) has passed.

Witnesses

Witnesses will present their information in narrative form, without the traditional question and answer format of legal proceedings. Cross-examination of witnesses will not be allowed, but a party may request that the Hearing Officer, at his or her discretion, ask a witness a certain question. The Hearing Officer will have the discretion to allow testimony through other means if a witness is not available to testify in person. This may include, but is not limited to, testimony through video conferencing or written affidavit.

Format for Presentations

The parent/legal guardian will present his or her case first, by making an opening statement which outlines the parent/legal guardian's position on all issues, presenting personally, calling additional witnesses, and making a closing argument. The District will follow the same format. At the end of the District's presentation, the parent/legal guardian may offer a short response to the District's case. The above format is not required, but may be helpful in organizing the presentation of the case to the Hearing Officer.

Submission of Documentary Exhibits and Written Arguments

As part of their presentations, the parties may submit any reports, evaluations, correspondence, notes, or any other documents that may support their positions and that the Hearing Officer will admit at his or her discretion. Each separate exhibit submitted to the Hearing Officer by either party must be marked numerically (Parent/Legal Guardian 1, Parent/Legal Guardian 2, etc.; District 1, District 2, etc.). The Hearing Officer may, in the exercise of his or her discretion, reasonably limit the number of documents to be submitted for his or her review, as well as the number of witnesses and the length and/or scope of their presentations or statements.

The parties may submit, at the Hearing Officer's discretion, a written statement summarizing and characterizing the information presented at the hearing, and providing legal authority in support of their position.

Closing of Hearing

At the conclusion of all presentations, the Hearing Officer will close the hearing and set a date for the issuance of the written decision. If the Hearing Officer is other than the 504 Coordinator, the Hearing Officer will issue a written recommendation to the 504 Coordinator regarding the issues raised and recommending what corrective action, if any, the District must take. The 504 Coordinator will review the recommended decision and issue a final written decision to the parties. If the Hearing Officer is the 504 Coordinator, the 504 Coordinator will issue the final written decision to the parties.

Decision Timeline

The hearing will be conducted and the Hearing Officer will issue a written decision within sixty (60) school days from the date of the hearing assignment. However, either party to the Hearing may request a continuance. The continuance may be granted by the Hearing Officer upon a showing of good cause. Any continuance(s) granted by the Hearing Officer will extend the time for rendering a final hearing decision for a period equal to the length of the continuance(s). The written decision will be mailed to all parties.

Remedies and Relief

The Hearing Officer must confine his or her orders and rulings to those matters that involve identification, evaluation, or placement of children under Section 504 and to the provisions of the regulations implementing Section 504.

Review Procedure

The decision of the Hearing Officer is binding on all parties concerned, but the aggrieved party has the right to request a review of the Hearing Officer's decision.

An aggrieved party may request review of the Hearing Officer's decision. A request for review must:

1. Be submitted in writing to the Section 504 Coordinator, with a copy to the opposing party, if applicable.
2. Contain specific objections to the written decision believed to be erroneous.
3. Be filed within fifteen (15) calendar days of the date of the Hearing Officer's decision.

The District will appoint an impartial Review Officer. The Review Officer shall determine whether the petition for review contains all of the required information within ten (10) school days from its receipt. If it is determined the petition does not contain all the required information, the petition will be returned, and the party petitioning for review will have an additional five (5) school days in which to remedy the defect.

The Review Officer shall not hear additional evidence, except in the case of a showing of extraordinary circumstances necessitating an additional hearing, but shall be limited to review the evidence and the record of the hearing conducted by the Hearing Officer and the objections of the appealing party. The Review Officer shall render a decision within sixty (60) calendar days following the petition for review as to whether the Hearing Officer's decision shall stand or shall be overturned.

If a hearing and/or oral argument are determined necessary by the Review Officer in order to conduct a review of the proceedings, the Review Officer shall give reasonable notice to both parties of the date, time, and location of the hearing/oral argument. Whether a hearing and/or oral argument are necessary shall be left solely to the discretion of the Review Officer and neither party shall have the right to request a hearing and/or argument. The parties may be represented by counsel at any hearing requested by the Review Officer, at the expense of the respective parties.

The written decision of the Review Officer shall be based solely on the evidence presented and the applicable law, and shall contain reasons for the decision. The decision of the Review Officer shall be a final decision.

Complaints to the Office for Civil Rights (OCR)

At any time, a parent/legal guardian may file a complaint with OCR if he or she believes that the District has violated any provision or regulation of Section 504. The filing of an OCR complaint does not affect the hearing process or the time lines set forth above. OCR addresses Section 504 complaints separately and independently of the local hearing process.