

Weakley County Board of Education



Monitoring:	Descriptor Term: Section 504 and ADA Grievance Procedures	Descriptor Code: 1.802	Issued Date: 02/07/2013
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2 The Board is committed to maintaining equitable employment/educational practices, services,
3 programs and activities that are accessible and usable by qualified individuals with disabilities.
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5 **DEFINITION**

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7 *Section 504 of the Rehabilitation Act of 1973* provides that: No otherwise qualified individual
8 with handicaps in the United States...solely by reason of his/her handicap, be excluded from the
9 participation in, be denied the benefits of, or be subjected to discrimination under any program or
10 activity receiving federal financial assistance.¹

11
12 *Title II of the Americans with Disabilities Act, 1990* provides that: No otherwise qualified
13 individual with a disability shall be discriminated against in regard to job application procedures,
14 the hiring, advancement, or discharge of employees, employee compensation, job training and
15 other terms, conditions and privileges of employment.²

16 **COORDINATOR**³

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18
19 The Board shall designate at least one employee to coordinate its efforts to comply with and
20 carry out its responsibilities under the Americans with Disabilities Act (ADA) and Section 504,
21 including any investigation of any complaint alleging non-compliance with the Acts or alleging
22 any actions that would be prohibited by the Acts.

23 **NOTICE**⁴

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25
26 The Board shall make available the name, office address and telephone number of the
27 ADA/Section 504 coordinator.

28
29 Methods of initial and continuing notification may include the posting of notices, publication in
30 newspapers and student and employee handbooks and distribution of memoranda or other written
31 communications.

32 **COMPLAINT PROCEDURE**⁵

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34
35 The coordinator will hear ADA/Section 504 complaints. Complaints shall be submitted in
36 writing to the coordinator who will endeavor to accomplish prompt and equitable resolution of

Legal References:

¹ 34 CFR § 104.4(a)

² 42 USCA § 12112(a)

³ 28 CFR § 35.107

⁴ 28 CFR § 35.106; 34 CFR § 104.8

⁵ 28 CFR § 35.170; 172

1 complaints alleging any action that would be prohibited by the ADA/Section 504. The
2 coordinator will respond to all complaints within twenty (20) days with a written response as
3 well as information on further grievance procedures that may be followed if the complaining
4 party is not satisfied with the coordinator's proposed resolution.

5
6 **DUE PROCESS HEARING PROCEDURES**
7

8 Section 504 of the Rehabilitation Act of 1973 provides the right to an impartial due process
9 hearing if a parent wishes to contest any action of the school system with regard to a child's
10 identification, evaluation, and placement under Section 504.⁶ If a parent/guardian requests a
11 Section 504 hearing, the parent/guardian has the right to personally participate and to be
12 represented at the hearing by an attorney or advocate at the parent's expense. Contested actions
13 or omissions that are appropriate for a Section 504 hearing should involve identification,
14 evaluation, or placement issues involving a child who has or is believed to have a disability.

15
16 *Written Request for Hearing*
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18 A parent/guardian who wishes to challenge an action or omission with regard to the
19 identification, evaluation, or placement of a student who has or is believed to have a disability as
20 defined by Section 504, shall make a written request for a due process hearing to the Section 504
21 coordinator. The written request must be made on a form provided through the Central Office.
22

23 *Impartial Hearing Officer*
24

25 The director of schools or his/her designee shall appoint an impartial hearing officer to preside
26 over the hearing and issue a decision. Such appointment will be made within fifteen (15) days of
27 the date of receipt of a request for a due process hearing. The hearing officer will be hired as an
28 independent contractor at no expense to the parent. The hearing officer that is appointed shall not
29 be a current employee of the school system and shall not be related to any member of the Board
30 of Education. The hearing officer need not be an attorney but shall be familiar with the
31 requirements of Section 504 and the hearing procedures under Section 504. The choice of an
32 impartial hearing officer is final and may not be presented as an issue at the due process hearing
33 since such an issue would not relate to the identification, evaluation, or placement of a disabled
34 child under Section 504. If a parent/guardian disputes the impartiality of the appointed hearing
35 officer, he/she may raise such issue in a review of the hearing officer's opinion by a court of
36 competent jurisdiction or in a complaint to the Office for Civil Rights.
37

38 Office for Civil Rights
39 U.S. Department of Education
40 61 Forsyth St. S.W., Suite 19T10
41 Atlanta, GA 30303-8927
42 Telephone: 404-974-9406; TDD: 877-521-2172
43 Email: OCR.Atlanta@ed.gov

Legal Reference:

⁶ 34 CFR § 104.36

1 *Scheduling of Hearing*
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3 The appointed hearing officer shall set a date for the hearing within fifteen (15) days of his/her
4 appointment and provide this information in writing to the parent/guardian and the Section 504
5 coordinator. The hearing shall take place at a mutually agreeable time and place.
6

7 *Continuances*
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9 Upon a showing of good cause, the hearing officer, at his/her discretion may grant a continuance
10 of the hearing date and set a new hearing date.
11

12 *Legal Representation at Hearing*
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14 If a parent/guardian is represented by a licensed attorney at the due process hearing, he/she must
15 inform the Section 504 coordinator and the appointed hearing officer of that fact, in writing, at
16 least seven (7) calendar days prior to the hearing date or the hearing can be continued upon the
17 coordinator's request. The school system shall not have legal representation at the hearing unless
18 the parent provides notice that he/she will have legal representation.
19

20 *Pre-Hearing Conference*
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22 The hearing officer may order a Pre-Hearing Conference during which the parent/guardian or
23 his/her representative will state and clarify the issues to be addressed at the hearing. The Pre-
24 Hearing Conference will also serve to resolve preliminary matters, clarify jurisdictional issues,
25 and answer the parties' questions regarding the hearing process. The Pre-Hearing Conference
26 can be held via telephone or in person depending on the hearing officer's decision based on the
27 convenience to both parties.
28

29 *Dismissals*
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31 If, after the Pre-Hearing Conference, the hearing officer finds that the parent, as a matter of law,
32 alleges and/or raises no factual claims or legal issues that come within his/her jurisdiction as a
33 Section 504 hearing officer, he/she may dismiss the hearing and issue an order to that effect
34 explaining the basis for such finding.
35

36 *Hearing*
37

38 The hearing shall be conducted in an informal, non-adversarial manner. The hearing shall be
39 closed to the public unless the parent/guardian requests an open hearing. The hearing officer may
40 reasonably limit testimony and introduction of exhibits for reasons or relevance.
41

42 *Recording*
43

44 Instead of a formal written transcript produced by a court reporter, the entire due process hearing
45 will be video recorded. The school system shall provide a copy of the recording to the
46 parent/guardian upon request. In order for an accurate recording to be made, the parties and

1 witnesses shall introduce themselves at the beginning of their presentations. If a parent/guardian
2 appeals the decision of the hearing officer to a court of competent jurisdiction, the school system
3 shall prepare a written transcript of the hearing to be offered to the court as an exhibit.

4
5 *Witnesses*

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7 Witnesses will present their information in narrative form, without the traditional question and
8 answer format of legal proceedings. Cross-examination of witnesses will not be allowed, but a
9 party may request that the hearing officer, at his/her discretion, ask a witness a certain question.

10
11 *Format of Presentation*

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13 Each side will have an equal amount of time to present their positions as determined by the
14 hearing officer. The parent/guardian will present his/her case first by making an opening
15 statement outlining the issues, calling witnesses, and making a closing argument. The school
16 system will present its side next. At the end of the school system's presentation, the
17 parent/guardian may offer a short response. Each side may present personally or through their
18 representatives.

19
20 *Submission of Exhibits*

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22 As part of their presentations and at the discretion of the hearing officer, the parties may submit
23 any reports, evaluations, correspondence, notes, or any other documents that may support their
24 positions. Exhibits submitted to the hearing officer by either party must be marked. The hearing
25 officer may, in the exercise of his/her discretion, reasonably limit the number of documents to be
26 submitted for his/her review, as well as the number of witnesses and the length and/or scope of
27 their presentations or statements.

28
29 *Closing Arguments*

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31 The hearing officer may allow or request written closing arguments summarizing and
32 characterizing the information presented at the hearing.

33
34 *Decision*

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36 The hearing officer may make an oral ruling at the conclusion of the hearing or take the case
37 under advisement and issue a written opinion. Such decision shall address all of the issues raised
38 by the parent/guardian as well as any corrective actions, if any, the school system must take. Any
39 issue or claim raised by the parent/guardian that is left unaddressed by the hearing officer in
40 his/her decision will be deemed to have been denied. The decision must be issued within forty-
41 five (45) days after the date the Request for a Due Process Hearing is received by the district.
42 The hearing officer may not award attorneys' fees as a part of the relief granted to a
43 parent/guardian or the district.

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1 *Review Procedure/Appeal*

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3 If the parent/guardian is not satisfied by the decision of the hearing officer, he/she may seek
4 review of the decision in a court of competent jurisdiction.