

# Grievance Procedures (34 CFR, 104(7)(b))

## General Information

If any person believes the school or any of its staff have inadequately applied the regulations of Section 504 of the Rehabilitation Act of 1973, he/she may initiate a grievance with the school's Section 504 Coordinator. The grievance procedures must explicitly state and make clear to the individual(s) involved that a complaint can be made to the regional office of the U.S. Department of Education's Office for Civil Rights (OCR) without going through the school's grievance procedures. The grievance procedures are meant to provide for a prompt and equitable resolution of a complaint.

While providing for mediation is a best practice, developing the grievance procedures for the complaint process and due process hearings are mandatory for a recipient of federal funds that employs 15 or more persons [34 CFR § 104.7(b)].

## Suggested Local Grievance Procedures

The Section 504 Coordinator, on request, will provide a copy of the school's grievance procedures and investigate all complaints in accordance with these procedures. In order to be prompt and equitable, the district/charter school should incorporate the following:

1. Notice of the grievance procedures provided to students and parents
2. Procedures that afford an opportunity for adequate, reliable, and impartial investigation, including a description of the investigative appeals process
3. Timeframes that are reasonably prompt that have been established for various stages of the complaint process
4. Notice of the outcomes of the complaint provided to the parties
5. An assurance that any violations will be addressed, and steps that will be taken to prevent a recurrence

The person who believes he/she has been discriminated against based on disability shall discuss the grievance with, and give the completed grievance form to the Section 504 Coordinator who shall, in turn, investigate and reply to the complainant.

## Suggested Process/Timeline

Step 1. A written grievance form signed by the complainant shall be submitted to the Section 504 Coordinator. The Coordinator shall further investigate the matters of grievance and reply in writing to the complainant within 10 (ten) business days.

Step 2. If the complainant wishes to appeal the decision of the Section 504 Coordinator, he/she may submit a signed statement of appeal to the Superintendent of Schools within 10 business days after receipt of the Coordinator's response. The Coordinator and Superintendent cannot be the same individual. The Superintendent shall meet with all parties involved, formulate a conclusion, and respond in writing to the complainant within 10 business days.

*Note: If the Superintendent also serves as the Section 504 Coordinator, the appeal must go to another individual. Communicate with the USBE Equity Officer in Student Advocacy Services for advice and guidance.*

### **Suggested Mediation**

Mediation is not required under Section 504, but should be considered a best practice. Most of the time, parents and school staff agree upon issues regarding evaluation, eligibility, program, and placement of students with disabilities. However, there are times when disagreement occurs.

Conflict is often inevitable, but it need not produce negative results. If the parent and school are unable to resolve a conflict concerning a student with a disability, then mediation is an available alternative to a long and expensive due process hearing.

The mediator is a neutral third party and, therefore, has no power to make a decision regarding the dispute. He or she will listen to the views of each party and will assist the parties in developing their solution to the problem. The mediator has been trained to handle Section 504 disputes.

#### **-----Best Practice-----**

Every attempt should be made to resolve any differences between the school and parents before a complaint is filed and/or before the OCR is contacted. Mediation is an excellent technique to resolve differences.

Mediation is completely voluntary. It should not interfere with any procedural safeguards, including filing a grievance with the district/charter school requesting a due process hearing or filing a complaint with OCR. Mediation costs are the responsibility of the school.

A trained mediator works with both parties to guide them toward a mutually satisfactory solution in the best interest of the student and in compliance with Section 504 regulations. This occurs at a non-adversarial meeting that is more structured than a parent-school conference, but less formal than a due process hearing. Parents and schools are encouraged to try mediation before relying on more formal procedures such as the grievance procedures, complaints to OCR, or due process hearings.

### **Due Process Hearing**

Due process is defined as an opportunity to resolve a dispute between parents and schools over the decisions made and/or procedures used by the school under Section 504. A Section 504 due process hearing (CFR 104.36) may be called at the request of the school or a parent, guardian, or surrogate parent of the student. It is required that parents or guardians be notified of their right to request a hearing regarding a dispute over the identification, evaluation, or educational placement of a student with disabilities being served or considered for Section 504.