

Section 504 Due Process Hearing Procedures

Impartial hearings are available under Section 504 to resolve disagreements between a parent or guardian and a Local Education Agency (LEA - school district or charter school) over matters related to the identification, evaluation, or educational placement of a student with a disability. See 34 CFR 104.36.

A parent or guardian who wishes to challenge an LEA's action or omission with regard to the identification, evaluation, or placement of student with a disability must submit a written request for a Due Process Hearing to the LEA's Section 504 Coordinator within ninety (90) calendar days of the dispute giving rise to the hearing request. The term "days" in regards to these procedures shall mean any day that the child's school is open during the regular school year. The written request should include:

- A statement that the parent or guardian is requesting a Due Process Hearing before an impartial Hearing officer
- The name of the student, the address of the student, and the name of the school the student is attending
- A description of the decision(s) in dispute, including facts relating to the decision
- The remedy the parent or guardian is seeking

Within ten (10) days of the date of receipt of the request, the LEA will appoint an impartial Hearing Officer to preside over the hearing and issue a decision. The Hearing Officer will be hired by the LEA as an independent contractor at no expense to the parent or guardian. The Hearing Officer need not be an attorney, but shall be familiar with the requirements of Section 504 and the LEA's Hearing Procedures under Section 504.

Within ten (10) days, the appointed Hearing Officer shall issue notice to the parent or guardian and the LEA's Section 504 Coordinator setting a date, time, and location for a hearing to be held within fifteen (15) days of the notice.

The parent or guardian shall notify the Hearing Officer at least seven (7) days prior to the set hearing date of their desire to be represented by an attorney and whether they wish the hearing be open to the public.

The hearing shall be conducted in an informal, non-adversarial manner. The Rules of Evidence and Procedures will not apply. Each party will have an opportunity to present evidence relevant to the dispute. 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 their discretion.

The due process hearing will be tape-recorded. The parent or guardian may obtain a copy of the tape recording at their request.

At the conclusion of all presentations, the Hearing Officer may make an oral ruling at the conclusion of the hearing or take the case under advisement. In either case, the Hearing

Officer must make a decision within fifteen (15) working days in writing, addressing and ruling on all issues raised by the parent or guardian and indicating what corrective action, if any, the LEA must take.

If not satisfied by the decision of the Hearing Officer, a parent or guardian may seek a review of the hearing decision in a court of competent jurisdiction, generally the closest federal district court.

At any time, a parent or guardian may [file a complaint](#) with the Office for Civil Rights (OCR) if they believe that the LEA has violated any provision or regulation of Section 504. The filing of a complaint does not affect the hearing process or the timelines set forth above. OCR addresses Section 504 complaints separately and independently of the local hearing process, in accordance with the guidelines set forth in [OCR's Compliant Resolution manual](#).

Please note, this is a sample policy. The contents in this document are not an official policy of the U.S. Department of Education or the Utah State Board of Education.