

How to Request a Due Process Hearing with the School District

In addition to the grievance procedure required by Section 504, the U.S. Department of Education has an administrative rule for regulating due process hearings under Section 504. It is important that you understand your right to request a hearing regarding the identification, evaluation, or educational placement of your disabled son or daughter.

The impartial due process hearing is to resolve differences involving the education of Section 504 qualified students when such differences cannot be resolved by means of a less formal procedure.

Due Process

Due process is defined here as an opportunity to present objections and reasons for the objections to the decisions and/or procedures used by the SST/504 Team. A Section 504 due process hearing may be called at the request of the school, a parent, or a guardian. If the school proposes to change your son or daughter's placement and you file a request for a hearing, the school is obligated to maintain your son or daughter's placement until administrative proceedings are completed.

A written or verbatim recording of the due process hearing will be on file at the district 504 office and will be available for review upon request to the parents or involved parties.

Within 20 days of receipt of a request for hearing, the 504 Director will select an impartial hearing officer.

Due Process Hearing: Participants' Rights

Either party to the hearing may request the hearing officer grant a continuance. The continuance may be granted upon showing of good cause or by agreement of the parties.

Any party to the hearing shall be afforded the following rights:

1. The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of students who are qualified disabled within the meaning of Section 504.
2. The right to present evidence, documentary and testimonial.
3. The right to question and cross-examine witnesses.
4. The right to written findings of fact, conclusions of law and decisions prepared by the hearing officer.

Within forty-five (45) calendar days of the selection of the hearing officer, excluding the days of any continuance, the hearing on the appeal shall be conducted and a written decision mailed to all parties. The written decision shall be in accordance with Section 504 and its regulations.

The parties shall abide by the decision of the Section 504 hearing officer unless the decision is appealed to a court of competent jurisdiction and the decision is stayed, revised or reversed by the court.