

## IHBA-RB ©

### REGULATION

# **SPECIAL INSTRUCTIONAL PROGRAMS AND ACCOMMODATIONS FOR DISABLED STUDENTS**

**(Section 504 of the Rehabilitation Act of 1973)**

## **Section 504 Due Process Hearing Procedures**

An impartial due process hearing will be utilized to resolve differences involving the [identification evaluation, or educational placement](#) of a Section 504 qualified student with a disability when such differences cannot be resolved by means of a less formal procedure. In this instance, *due process* is defined as an opportunity to present objections and reasons for the objections to the decision and/or procedures of the committee regarding application of Section 504. A Section 504 due process hearing may be called at the request of the District or a parent, guardian, or surrogate of an affected student. The proceedings will be presided over and decided by an impartial hearing officer. Impartial hearing officer means a person selected to preside at a due process hearing to assure that proper procedures are followed and to assure the protection of the rights of both parties.

In all related hearing matters the following definitions shall apply:

- A. *Days* means calendar days.
- B. *Placement plan* means the program by which the decision concerning the educational placement of the student is decided.
- C. *Parents* means parents, guardian, or surrogate parent.

Parents or the District may initiate a due process hearing on a matter related to [the identification evaluation, or educational placement of a Section 504 qualified student](#) ~~4) eligibility and related procedures, 2) procedural safeguards, or 3) provision of a free and appropriate public education to the student.~~

Requests for a due process hearing must be submitted in writing to the Superintendent. Hearing notifications to the parents shall be given at least twenty (20) days prior to the date set for the hearing. The notice shall contain:

- A. A statement of time, place, and nature of the hearing.
- B. A statement of the legal authority and jurisdiction under which the hearing is being held.

- C. A reference to the particular section of the statutes and rules involved.
- D. A statement of the availability of relevant records for examination.
- E. A short and plain statement of the matters asserted.
- F. A statement of the right to be represented by counsel.

All written correspondence shall be provided in English and/or interpreted in the primary language.

### Hearing Procedures

The hearing officer shall preside at the hearing and shall conduct the proceedings in an impartial manner to the end that all parties involved have an opportunity to:

- A. Present their evidence.
- B. Produce outside expert testimony and be represented by legal counsel and by individuals with knowledge or training with respect to problems of students with disabilities.

Parents involved in the hearing will be given the right to:

- A. Have the student present at the hearing.
- B. Open the hearing to the public.

In cases where there are language differences, an interpreter shall be provided.

The hearing officer shall review all relevant facts concerning the education placement.

~~● The hearing officer shall determine, subject to appeal by judicial review, whether the District has met all procedural aspects of the education accommodation plan.~~

- A. The hearing officer shall render a decision, subject to judicial review, that is binding on all parties, except that in all cases any action taken must comply with current Arizona Revised Statutes and federal court decisions.

~~● The hearing officer shall ascertain that:~~

~~■ The procedures utilized in determining the student's needs have been appropriate in nature and degree.~~

~~■ The student's rights have been fully observed.~~

~~■ The provision of aids, services, or programs to the student may afford a free and appropriate education.~~

- B. If the parents' primary language is other than English, then the hearing officer shall appoint an interpreter.

### **Decision of the Hearing Officer**

A copy of the hearing officer's decision shall be delivered to the District and the parent, guardian, or surrogate within ten (10) days following completion of the hearing, which in no event shall be later than forty-five (45) days after receipt of the request for a hearing.

- Notification will include a statement that either party may appeal the decision.

The decision of the hearing officer is binding on all parties concerned; it is subject only to judicial review.

### **Record of Hearing**

A written or electronic verbatim recording of the Section 504 due process hearing shall be on file at the District office and will be available for review upon request to the parents and/or any of the involved parties. Parents may have a copy of the proceedings, in English and in the primary language of the home.

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