

SECTION 504 GRIEVANCE AND DUE PROCESS PROCEDURES

I. PURPOSE

To provide a grievance procedure to challenge the District's actions regarding a student's identification, evaluation, or educational placement in compliance with Section 504 of the Rehabilitation Act of 1973.¹

II. SCOPE

This policy applies to Shelby County Schools' students and parents.

III. DEFINITIONS

Section 504 Committee - a group of individuals who make placement decisions pursuant to Section 504 of The Rehabilitation Act of 1973. The individuals include persons knowledgeable about a student, the meaning of the student's evaluation data, placement options, and the legal requirements for the least restrictive environment and comparable facilities.²

Grievance - a claim by parents or students that the District has not complied with the provisions of Section 504 of the Rehabilitation Act of 1973 or has engaged in actions prohibited by the Act.

IV. POLICY STATEMENT

The Rehabilitation Act of 1973 (Act), commonly referred to as Section 504, is a nondiscrimination statute enacted by the United States Congress. The purpose of the Act is to prohibit discrimination and to assure that disabled students have educational opportunities and benefits equal to those provided to nondisabled students.

Notice of Parents and Student Rights under the Act, as required by law, shall be provided in the Student Handbook located on the District's website at www.scsk12.org or at a school.

Parents shall have a right to challenge the actions of the Section 504 Committee with regard to their child's identification, evaluation, or educational placement through any **one (1) or all** of the following in accordance with this policy:

1. Informal Grievance Procedures;
2. Formal Grievance Procedures; and/or
3. Impartial Due Process Hearing

A. Grievance Procedures

Parents' decision to participate in the informal and/or formal grievance process does not prevent them from requesting an impartial due process hearing at any time. Parents/guardians may register a formal grievance or request an impartial due process hearing either orally or in writing. If the request is initially made orally, it shall be put in writing. The parent/guardian may be provided a form for this purpose.

1. Informal Grievance

If parents have a grievance, they may request an informal conference with a school level administrator. A conference will be scheduled after notice of the grievance is received by the principal.

If the grievance is not resolved following the informal conference or if parents elect not to participate in an informal conference with school level administrators, a formal grievance and/or a request for a due process hearing may be filed.

2. Formal Grievance

Parents may lodge a formal grievance by filing a written Notice of Appeal with the District's Section 504 Coordinator within five (5) work days from the time they receive written notice of the Section 504 Committee's action(s). The Section 504 Coordinator may be reached at:

Shelby County Schools
2800 Grays Creek

Arlington, TN 38002
Phone (901) 473-2560
Fax (901) 473-2660
Attention: Section 504 Coordinator

The Superintendent (or designee) shall conduct an investigation and a written decision shall be rendered within a reasonable time.

If the grievance is not resolved after the Superintendent's (or designee's) written decision, the parents may appeal to the Shelby County Board of Education. The Board shall meet and review the formal grievance and decide (1) that no hearing before the Board is warranted or (2) notify the grievant of the scheduled hearing.

If the grievance is not resolved following the formal grievance or the parents elect not to participate in a formal grievance process, an informal grievance and/or a request for a due process hearing may be filed.

3. Impartial Due Process Hearing

Section 504 requires that the District maintain a procedure for conducting impartial hearings with an opportunity for participation by the student's parents/guardian and representation by counsel.³ The following provides the due process hearing procedures:

Parents requesting a hearing should submit a written request to the Section 504 Coordinator at

Shelby County Schools
2800 Grays Creek
Arlington, TN 38002
Phone (901) 473-2560
Fax (901) 473-2660
Attention: Section 504 Coordinator

The written request shall include the following information:

1. The reason for the request
 - a. Denied identification, evaluation or educational placement of persons who, because of disability need or are believed to need special instruction or related services
 - b. Placed in a setting which is not the least restrictive environment
 - c. Denied appropriate services due to inaccessibility of programs

- d. Denied accommodations and/or modification to regular education program because of identified disability
 - e. Denied participation in extracurricular or nonacademic activities because of a disability
2. A suitable time for the hearing: morning, afternoon, evening
 3. Two (2) possible dates for the hearing
 4. A statement as to whether you prefer the hearing to be closed or open

Upon receipt of the Due Process Request, the Section 504 Coordinator will forward it to one of the impartial Hearing Officers on the approved Hearing Officer List. The impartial Hearing Officer will then advise both parties of the date, time and location of the hearing.

The hearing must be held no less than fifteen (15) days and no more than thirty (30) days from the time the request for the hearing is submitted, unless the parent/guardian agrees otherwise, or the Hearing Officer grants a continuance at the request of one of the parties.

School System's Responsibilities

- The school will provide a location for the hearing.
- The cost of the impartial Hearing Officer and court reporter will be paid by the school system. The school system will provide the parents with a copy of the hearing transcript at no cost to the parent.
- The school system will allow the child to remain in his/her present placement until after the hearing; unless the parents agree that a change in placement would be best for the child.
- The school system must inform the parent of any free or low cost legal services or other relevant services available in the area.
- If a parent/guardian is represented by a licensed attorney at the due process hearing, she/he must inform the District's Section 504 Coordinator and the appointed Hearing Officer of that fact, in writing, at least (7) days prior to the hearing date.

Before the Hearing

- All exhibits to be presented at the hearing shall be exchanged between the school system and the parents at least five (5) days prior to the hearing.
- The school system must allow the parent to examine the child's records and make copies if requested.

During the Hearing

- The parent(s) and the school system may be represented by legal counsel.
- The parent(s) may present and cross-examine witnesses who know about the child's disability.
- The child may be present at the hearing.
- After the impartial Hearing Officer has heard the case, he/she will give a written decision.
- The impartial Hearing Officer understands what the law requires for children with special needs.

After the Hearing

- The parents will receive a written record or tape recording of all that was said at the hearing.
- A copy of the impartial Hearing Officer's decision will be given to both the school systems and parents. The Hearing Officer must render a decision within forty-five (45) days after the 504 Coordinator's receipt of the request for a hearing, unless the parents agree otherwise or the Hearing Officer has granted a continuance at the request of one of the parties.
- The decision made by the Hearing Officer is final unless parents or the school system appeals the decision to the appropriate state or federal court.
- A parent/guardian may file a complaint with the Office for Civil Rights (OCR) if she/he believes that the District has violated any provision or regulation of Section 504. OCR addresses Section 504 complaints separately and independently of the local hearing process, in accordance with the guidelines set forth in OCR's Case Processing Manual. A parent/guardian should contact OCR concerning timeframes for filing OCR complaints.

The OCR office for Tennessee is:

Atlanta Office
Office for Civil Rights
U.S. Department of Education
61 Forsyth St. S.W., suite 19T10
Atlanta, GA 30303-8927

Telephone: (404) 974-9406
FAX: (404) 974-9471;
TDD: 877-521-2172
Email: OCR.Atlanta@ed.gov

The OCR National Headquarters is:

U.S. Department of Education
Office of Civil Rights
Lyndon Baines Johnson
Department of Education Bldg.
400 Maryland Avenue, SW
Washington, DC 20202-1100

Telephone: 800-421-3481
FAX: (202) 453-6012
TDD: 877-521-2172
Email: OCR@ed.gov

Legal References:

1. Section 504 of the Rehabilitation Act of 1973;
29 U.S.C. § 794; 34 C.F.R. Part 104
2. 34 C.F.R. 104.35
3. 34 C.F.R. 104.36
4. 34 C.F.R. 104.36

Cross References: