



# Section 504 Grievance & Due Process

## 6.205.2p

### Standard Operating Procedure Outline

<i>Category:</i>	<b>Student Support Services</b>	<i>Department:</i>	<b>Section 504/Special Populations</b>		
<i>Procedure:</i>					
<i>Policy Reference #:</i>	1.802	<i>Version:</i>	1.0	<i>Date Revised:</i>	9.15.23

### Operational Objective(s):

1. To assure compliance with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), and other federal and state non-discrimination laws and regulations pertaining to students with disabilities. These laws also prohibit discrimination against students who have a record of having, or are regarded as having, a disability.
2. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794; 34 C.F.R. § 104) is a federal law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education. Section 504 requires a school district to provide a Free and Appropriate Public Education (FAPE) to each qualified student with a disability who is in the school district’s jurisdiction, regardless of the nature or severity of the disability. Under Section 504, FAPE consists of the provision of regular related aids and services designed to meet the student’s individual educational needs as adequately as the needs of students who do not have disabilities.

### 504 Coordinator:

Metropolitan Nashville Public Schools (MNPS) has designated the following employee to coordinate efforts to comply with and carry out the school district’s responsibilities under Section 504, including any investigation of any formal complaints alleging non-compliance with the Section 504:

Dr. Ashley Collins, Director Special Populations & Civil Rights  
2601 Bransford Ave.  
Nashville, TN 37204  
629-910-6352  
Specialpopulations@mnps.org

## **Grievance Procedures:**

Section 504 requires school districts to adopt and publish grievance procedures providing for the prompt and equitable resolution of student disability discrimination complaints. A parent<sup>1</sup> may an informal or formal complaint alleging disability discrimination by or within MNPS on behalf of their student using the procedures below.

### ***Informal Compliant***

An informal complaint is an expedited, collaborative method of resolving a student's disability-related concern(s). While the filing of an informal complaint is not required prior to filing a formal complaint, parents are encouraged to do so in order to resolve the matter promptly through discussions and problem-solving with the District 504 Coordinator. An informal complaint must be filed by the parent with the District 504 Coordinator within 10 calendar days of the alleged violation of Section 504. The complaint may be filed orally or in writing to [SpecialPopulations@mnps.org](mailto:SpecialPopulations@mnps.org). If the complaint is made orally, the District 504 Coordinator will reduce it to writing on the MNPS Section 504 Complaint Form and ask the parent to sign and date it. A meeting (whether in-person or via telecommunication) to discuss the concern(s) must be convened within five calendar days after receipt of the informal complaint, or on a mutually agreed upon date and time. Depending on the nature of the allegations, the District 504 Coordinator may elect to involve the School-level 504 Coordinator in the resolution of the complaint and/or in the resolution meeting. If the complaint is not resolved as of that meeting, or if the parent wishes to bypass the informal complaint process, the parent may file a formal complaint.

### ***Formal Complaint***

A formal complaint is a District-level investigation conducted by the District 504 Coordinator into an allegation of disability discrimination against a student. The process may take longer to resolve than an informal complaint, and it results in a written response to the parent from MNPS. Formal complaints of disability discrimination may be made orally or in writing to the District 504 Coordinator. The District 504 Coordinator will provide the parent with the MNPS Section 504 Compliant form, which must be returned to the District 504 coordinator in person or at [SpecialPopulations@mnps.org](mailto:SpecialPopulations@mnps.org). If the complaint is made orally, the District 504 Coordinator will reduce it to writing on the MNPS Section 504 Complaint Form and ask the parent to sign and date it. Upon receipt of the complaint, the District 504 Coordinator will review and investigate the allegation(s). The Coordinator will meet (whether in person or via telecommunications) with all parties involved as needed, review evidence, and formulate a conclusion. The Coordinator will provide the parent with a written response within twenty (20) calendar days, as well as information on further dispute resolution procedures that may be followed if the parent is dissatisfied with the Coordinator's proposed resolution.

### ***Appeals of Formal Complaints***

If the parent wishes to appeal the formal complaint decision of the District 504 Coordinator, they must submit a completed MNPS 504 Complaint Appeal Form to the Chief of Student Services or his/her designee within ten (10) days of the District 504 Coordinator's response. Completed appeal forms must be submitted to [SpecialPopulations@mnps.org](mailto:SpecialPopulations@mnps.org). The Chief of Student Services or his/her designee will meet (whether in person or via telecommunications) with all parties

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<sup>1</sup> Throughout this procedure, the term "parent" refers to a parent or legal guardian.

involved as needed, review evidence, formulate a conclusion, and respond in writing to the appeal within twenty (20) calendar days.

### **Impartial Hearing Procedure:**

Section 504 provides the right to an impartial hearing (also called a due process hearing) if a parent wishes to contest any action of the school district regarding their child's identification, evaluation, and/or placement under Section 504. If a parent requests a Section 504 hearing, the parent has the right to personally participate and to be represented at the hearing by an attorney at the parent's expense.

#### ***Request for Hearing***

A parent who wishes to challenge an action or omission by the school district with regard to the identification, evaluation, or placement of a student who has or is believed to have a disability must make a written request for a due process hearing to the District Section 504 Coordinator. The written request must be made on the District's 504 Due Process Hearing Request Form and submitted to [SpecialPopulations@mnps.org](mailto:SpecialPopulations@mnps.org).

#### ***Impartial Hearing Officer***

The Director of Schools or his/her designee will appoint an impartial hearing officer to preside over the hearing and issue a decision. Such appointment will be made within fifteen (15) calendar days of the date of receipt of a request for a due process hearing. The hearing officer will be hired as an independent contractor at no expense to the parent. The hearing officer may not be a current employee of the school district, a current member of the MNPS Board of Education, and may not be related to any current member of the MNPS Board of Education.

The hearing officer need not be an attorney but must be familiar with the requirements of Section 504 and the hearing procedures under Section 504. The choice of an impartial hearing officer is final and may not be presented as an issue at the due process hearing since it does not relate to the identification, evaluation, or placement of the student. If a parent disputes the impartiality of the appointed hearing officer, he/she may raise such issue in a review of the hearing officer's decision by a court of competent jurisdiction or in a complaint to the U.S. Department of Education, Office for Civil Rights.

#### ***Scheduling of Hearing***

The hearing officer will set a date for the hearing within fifteen (15) calendar days of his/her appointment and provide this information in writing to the parent and the Section 504 Coordinator. The hearing will take place at a mutually agreeable time and place.

#### ***Continuances***

Upon a showing of good cause, the hearing officer, at his/her discretion, may grant a continuance of the hearing date and set a new hearing date.

#### ***Legal Representation at Hearing***

If a parent will be represented by a licensed attorney at the due process hearing, he/she must inform the Section 504 Coordinator and the hearing officer of that fact, in writing, at least seven

(7) calendar days prior to the hearing date or the hearing may be continued upon the Coordinator's request.

### ***Ex Parte Communication***

Parties to hearings must not engage in ex parte communication with the hearing officer. Ex parte communication occurs when one party to the proceeding initiates discussions about a case with the hearing officer to the exclusion of the other party or parties. All contact with the hearing officer must be in writing with a copy to the other party. If a parent wishes to initiate a telephone conversation with the hearing officer, they are required to first write (fax or e-mail) to the hearing officer, with a copy to the other party, requesting the opportunity to speak with the hearing officer with the other party on the call as well. The hearing officer will not respond to ex parte communications except for emergency discussions to discuss new dates.

### ***Pre-Hearing Conference***

The hearing officer may order a Pre-Hearing Conference during which the parent or his/her representative will state and clarify the issues to be addressed at the hearing. The Pre-Hearing Conference will also serve to resolve preliminary matters, clarify jurisdictional issues, and answer the parties' questions regarding the hearing process. The Pre-Hearing Conference can be held electronically or in person depending on the hearing officer's decision based on the preferences of both parties.

### ***Failure to Appear at a Prehearing Conference***

If a party fails to appear for a prehearing conference, a hearing officer may proceed with the conference and/or may also dismiss the case or rule by default for the opposing party.

### ***Dismissal***

If, after the Pre-Hearing Conference, the hearing officer finds that the parent, as a matter of law, alleges and/or raises no factual claims or legal issues that come within his/her jurisdiction as a Section 504 hearing officer, he/she may dismiss the hearing and issue an order to that effect explaining the basis for such finding.

### ***Hearing Officer Letter Confirming Results of Prehearing Conference***

After the prehearing conference, the hearing officer will prepare a letter summarizing the matters discussed, agreed upon, or otherwise decided during the conference. This letter will serve as a prehearing order.

### ***Requests for Documents***

Any party may request any other party to produce or make available for inspection or copying any documents or tangible things, not privileged, not supplied previously, and which are in the possession, custody, or control of the party upon whom the request is made. Requested documents not been disclosed to the parties within the timeframe prescribed by the hearing officer may not be introduced into evidence.

### ***Hearing***

The hearing will be closed to the public unless the parent requests an open hearing. The hearing officer may reasonably limit testimony and introduction of exhibits for reasons or relevance.

***Failure to Appear***

If a party fails to appear at the scheduled hearing, the hearing officer may take evidence and issue such orders as may be necessary including, but not limited to, ordering an educational placement for the child or defaulting the absent party.

***Recording or Transcript***

Instead of a formal written transcript produced by a court reporter, the school district may elect to video or audio record the hearing. If recorded, the school district will provide a copy of the video or audio recording to the parent upon request. In order for an accurate record to be made, the parties and witnesses will introduce themselves at the beginning of their presentations. If a parent appeals the decision of the hearing officer to a court of competent jurisdiction, the school district will prepare a written transcript of the hearing to be offered to the court as an exhibit, if not already prepared.

***Format of Presentation***

Each side will have an equal amount of time to present their positions, as determined by the hearing officer. Each party may present his/her case first by making an opening statement outlining the issues, calling witnesses, introducing evidence, and making a closing argument. Each side may present personally or through their attorneys.

***Submission of Exhibits***

As part of their presentations and at the discretion of the hearing officer, the parties may submit any reports, evaluations, correspondence, notes, or any other documents that may support their positions. Exhibits submitted to the hearing officer by either party must be marked. The hearing officer may, in the exercise of his/her discretion, reasonably limit the number of documents to be submitted for his/her review, as well as the number of witnesses and the length and/or scope of their presentations or statements.

***Closing Arguments and Briefs***

The hearing officer may allow or request written closing arguments summarizing and characterizing the information presented at the hearing. The hearing officer may order written briefs to be submitted by the parties, establish the issues to be addressed by the briefs (including findings of facts and conclusions of law), and set the deadline for their submission.

***Decision***

The hearing officer may make an oral ruling at the conclusion of the hearing or take the case under advisement and issue a written opinion. Such decision will address all of the issues raised by the parent as well as any corrective actions, if any, the school system must take. Any issue or claim raised by the parent that is left unaddressed by the hearing officer in his/her decision will be deemed to have been denied. The decision must be issued within forty-five (45) days after the date the Request for a Due Process Hearing is received by the District 504 Coordinator, unless the hearing had been continued. The hearing officer may not award attorneys' fees as a part of the relief granted to a parent or the district.

***Review Procedure/Appeal***

If either party is dissatisfied by the decision of the hearing officer, he/she may seek review of the decision in a court of competent jurisdiction.

**Filing a Complaint with the Office for Civil Rights**

An individual may file a complaint of disability discrimination with the U.S. Department of Education, Office for Civil Rights (OCR), in accordance with its filing procedures. The OCR complaint process is available whether or not the complainant participates in the District's complaint resolution processes.

Office for Civil Rights  
U.S. Department of Education  
61 Forsyth St. S.W., Suite 19T10  
Atlanta, GA 30303-8927  
Telephone: 404-974-9406; TDD: 877-521-2172  
Email: [OCR.Atlanta@ed.gov](mailto:OCR.Atlanta@ed.gov)

**Performance Measure/Accountability**

Continuous evaluation of procedure to ensure efficiency and compliance with all regulations.

**Maintenance Responsibility**

The Director of Schools or their cabinet level designee is responsible for maintenance of this document and questions regarding this memo.