



Indian River School District SECTION §504 Procedural Safeguards

1. **Grievance:** It is the policy of the District not to discriminate against students with regard to access to programs, services and activities on the basis of disability. If informal discussions have not achieved a resolution, the student/parent/guardian may obtain a Section 504 Grievance Form from the District's Section 504 Coordinator. The District will process and investigate all grievances submitted to the Coordinator, whether orally or in writing. However, grievants are strongly encouraged to submit their grievance in writing utilizing the Section 504 Grievance Form that has been developed for this purpose. Grievances must be submitted within ten (10) business days after the grievant becomes aware of act(s) that form the basis of the grievance. Upon receipt, the Coordinator shall conduct an investigation of the matters identified in the grievance and shall issue a written decision to the grievant, and other interested parties (if any), within fifteen (15) business days. If the grievant is not satisfied with the Coordinator's response, they may submit a signed statement of appeal to the Superintendent within five (5) business days of receipt of the Coordinator's decision. The Superintendent or his/her designee shall meet, when appropriate, with all parties involved, formulate a conclusion, and shall issue a final decision on the grievance, in writing, to the grievant and/or other interested parties, within fifteen (15) business days after receipt of the appeal. Please note that you are not required to exhaust the District's grievance or hearing procedures before filing a complaint with the federal Office of Civil Rights.

2. **Impartial Hearing:** Any student, parent, or guardian ("Complainant") may request an impartial hearing due to the school system's actions or inactions regarding your child's identification, evaluation, or educational placement under Section 504. Requests for an impartial hearing must be submitted in writing to the District's Section 504 Coordinator at 31 Hosier Street, Selbyville, Delaware 19975, attention to Dr. Renee Jerns, or by email pamela.jerns@irsd.k12.de.us. However, a Complainant's failure to request a hearing in writing does not alleviate the District's obligation to provide an impartial hearing if the Complainant orally requests an impartial hearing through the District's Section 504 Coordinator. The District's Section 504 Coordinator will, upon request, assist the Complainant in completing the written Request for Hearing.

3. **Impartial Hearing Request:** The Request for Hearing (either orally or in writing) must include the following information:
 - a. The name of the student.
 - b. The student's residential address.
 - c. The name of the school the student is attending.
 - d. The decision that is the subject of the hearing.
 - e. The requested reasons for review.
 - f. The proposed remedy sought by the Complainant.
 - g. The name and contact information of the Complainant.

Within 10 business days of receiving the Complainant's Request for Hearing, the Section 504 Coordinator will acknowledge its receipt in writing and schedule a time and place for a hearing. If the Request for Hearing does not contain the necessary information noted above, the Section 504 Coordinator will inform the Complainant of the specific information needed to complete the request. All timelines and processes will be stayed until the Request for Hearing contains the necessary information noted above.

4. **Mediation.** The District may offer mediation to resolve the issues detailed by the Complainant in their Request for Hearing. Mediation is voluntary and both the Complainant and the District must agree to participate. The Complainant may terminate the mediation at any time. If the mediation is terminated without an agreement, the District will follow the procedure for conducting an impartial hearing without requiring an additional Request for Hearing.



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5. Hearing Procedures:

- a. The Section 504 Coordinator will obtain an impartial hearing officer (the "IHO") who will conduct the hearing within 45 calendar days from the receipt of the Complainant's Request for Hearing unless otherwise agreed to by the Complainant or if a continuance is granted by the IHO.
 - b. Upon a showing of good cause by the Complainant or the District, the IHO may, at their discretion, grant a continuance and set a new hearing date. The request for a continuance must be made in writing and be copied to the other party.
 - c. The Complainant will have an opportunity to examine the child's educational records prior to the hearing.
 - d. The Complainant will have the opportunity to be represented by legal counsel at their own expense at the hearing and participate, speak, examine witnesses, and present evidence at the hearing. If the Complainant is to be represented by legal counsel at the hearing, they must so inform the Section 504 Coordinator of that fact in writing at least 10 calendar days prior to the hearing. Failure to notify the Section 504 Coordinator in writing of representation by legal counsel shall constitute good cause for continuance of the hearing.
 - e. The Complainant will have the burden of proving any claims he or she may assert. When warranted by circumstances or law, the IHO may require the District to defend its position/decision regarding the claims. One or more representatives of the District, who may be an attorney, will attend the hearing to present the evidence and witnesses, respond to the Complainant's testimony and answer questions posed by the IHO.
 - f. The IHO shall not have the power to subpoena witnesses, and the strict rules of evidence shall not apply to the hearing. The IHO shall have the authority to issue pre-hearing instructions, which may include requiring the parties to exchange documents and names of witnesses to be present.
 - g. The IHO shall determine the weight to be given any evidence based on its reliability and probative value.
 - h. The hearing shall be closed to the public.
 - i. The issues of the hearing will be limited to those raised in the written or oral request for the hearing.
 - j. Witnesses will be questioned directly by the party who calls them. Cross-examination of witnesses will be allowed. The IHO, at their discretion, may allow further examination of witnesses or ask questions of the witnesses.
 - k. Testimony shall be recorded by court reporter or by audio recording at the expense of the District. All documentation related to the hearing shall be retained by the District.
 - l. Unless otherwise required by law, the IHO shall uphold the action of the District unless the Complainant can prove that a preponderance of the evidence supports his or her claim.
 - m. Failure of the Complainant to appear at a scheduled hearing unless prior notification of absence was provided and approved by the IHO or just cause is shown shall constitute a waiver of the right to a personal appearance before the impartial review official.
6. **Decision:** The IHO shall issue a written decision within 20 calendar days of the date the hearing concluded. The determination of the IHO shall not include any monetary damages or the award of any attorney's fees.
7. **Review:** If not satisfied with the decision of the IHO, any party may pursue any right of review, appeal, cause of action or claim available to them under the law.