



DISTRICT OF COLUMBIA  
PUBLIC SCHOOLS

# Procedures for Impartial Hearings under Section 504

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## Purpose and Scope

An impartial hearing is available to parents/guardians, adult students, and District of Columbia Public Schools (DCPS) to resolve differences involving the identification, evaluation, and placement of students with disabilities entitled to protection under Section 504 of the Rehabilitation Act of 1973<sup>1</sup> and the implementing regulations found in 34 C.F.R. Part 104.<sup>2</sup>

## Request for an Impartial Hearing

### Requesting an Impartial Hearing

A parent/guardian, adult student, or DCPS<sup>3</sup> may request an impartial hearing to resolve disputes related to the rights, protections, and services provided under Section 504. The hearing request must be made within one (1) year of the date the parent/guardian knew or should have known about the alleged facts that form the basis of the request.

A request for an impartial hearing must be made in writing to the Section 504 and Student Accommodations Team at the DCPS Central Office. The team can be contacted at:

Section 504 and Student Accommodations Team  
DCPS Central Office  
1200 First Street NE  
Washington, DC 20002  
Email: 504@dc.gov  
Fax: (202) 645-8814

DCPS has created a *Section 504: Request for Impartial Hearing* form<sup>4</sup> to be filled out when requesting an impartial hearing. This form, and any other written requests for an impartial hearing, must include:

1. The student's name and date of birth;
2. The student's school and grade;
3. The student's address (or best available contact information if the student is homeless);
4. The name and contact information of the person requesting an impartial hearing;
5. A statement of the allegations or unresolved issues that the parent/guardian's wishes to have resolved at the hearing, including the dates of all allegations and the names of all people involved;
6. A statement of all facts and information, including supporting documentation, to explain the parent/guardian's allegations or unresolved issues;
7. The parent/guardian's proposed resolution;

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<sup>1</sup> 29 U.S.C. § 794.

<sup>2</sup> 34 C.F.R. § 104.36.

<sup>3</sup> DCPS and adult students may request an impartial hearing through the procedures set forth in this document on the same 504-related issues and disputes that a parent/guardian may. In this document, "parent/guardian" also includes adult children and DCPS (when it requests an impartial hearing against a parent/guardian or adult student).

<sup>4</sup> See Appendix I.

8. Any translation/language assistance request, including the language being requested; and
9. The contact information for the parent/guardian's attorney, if represented.

If an impartial hearing request does not include all of the information listed above, the Section 504 and Student Accommodations Team may return it to the parent/guardian within ten (10) business days and request that the parent/guardian provide the missing information. The Section 504 and Student Accommodations Team will wait to receive all required information before DCPS moves forward with the timeline and appoints a Hearing Officer.

### **Response to the Hearing Request**

DCPS will provide a written response to the parent/guardian's request for an impartial hearing. It will be delivered to both the parent/guardian and the Hearing Officer (once appointed) within fifteen (15) business days of receipt of a request for a hearing that includes all of the required information.<sup>5</sup> If DCPS requests an impartial hearing, the parent/guardian will have the same obligation to respond within fifteen (15) business days to DCPS' request.

### **Scheduling a Hearing**

Within fifteen (15) business days of receiving a hearing request with all of the required information,<sup>6</sup> DCPS will appoint a Hearing Officer to preside over the Impartial Hearing and ultimately issue a decision that follows these Procedures, Section 504 of the Rehabilitation Act of 1973 and its corresponding regulations, D.C. Municipal Regulations, and other applicable federal or D.C. statutes and regulations.

Once DCPS has assigned the request to a Hearing Officer, the Hearing Officer will hold a Pre-Hearing Conference within ten (10) business days and a hearing between the parent/guardian and DCPS within twenty (20) business days, unless an extension is granted by the Hearing Officer at the request of either party or by mutual agreement of the parties.

### **Appointment of a Hearing Officer**

The Hearing Officer will be hired by DCPS at no expense to the parent/guardian. The Hearing Officer is an independent contractor and will not be a current employee of DCPS.

### **Review of Appointment**

DCPS' appointment of a Hearing Officer is a final decision. This appointment may not be made an issue at the Hearing, since it does not relate to the identification, evaluation, accommodations, related services, or provision of FAPE under Section 504.

If the parent/guardian disputes the impartiality of the appointed Hearing Officer, they may raise this issue to a court of competent jurisdiction or in a complaint to the U.S. Department of Education's Office for Civil Rights.

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<sup>5</sup> See the above section on "Requesting a Hearing" for a list of all required information.

<sup>6</sup> See the above section on "Requesting a Hearing" for a list of all required information.

## Legal Representation at the Hearing

The parent/guardian has the right to be represented at the Impartial Hearing by an attorney. Each party is responsible for its own attorney's fees and litigation costs.

If a parent/guardian is going to be represented by an attorney at the Hearing, the parent/guardian must inform the Section 504 and Student Accommodations Team and the Hearing Officer of that fact in writing at least seven (7) business days prior to the hearing date. If the Section 504 and Student Accommodations Team is not notified that an attorney will be present and an attorney attends the Hearing on behalf of the parent/guardian, a continuance will be provided at DCPS' request to allow DCPS to also have representation at the Hearing.

## Pre-Hearing Matters

### Pre-Hearing Conference

The Hearing Officer will schedule a Pre-Hearing Conference for the parent/guardian to clarify the issues to be addressed at the Hearing and to resolve preliminary matters and answer the parties' questions regarding the hearing process. The Hearing Officer may hold the Pre-Hearing Conference via telephone or in person depending on the convenience to both parties, their counsel, and the Hearing Officer. The Pre-Hearing Conference will occur within ten (10) business days of the Hearing being assigned to the Hearing Officer, unless an extension is granted by the Hearing Officer at the request of either party or by mutual agreement of the parties.

At the Pre-Hearing Conference, the Hearing Officer shall also schedule the hearing date with input from the parties. The Hearing shall be held within twenty (20) business days of the date of assignment to the Hearing Officer. Upon a showing of good cause, the Hearing Officer may grant a continuance of the hearing date and set a new hearing date by issuing a written Amended Order Setting Hearing Date.

The Hearing Officer will also require the parties at the Pre-Hearing Conference to exchange a list of witnesses and any documents to be presented during the Impartial Hearing at least five (5) business days in advance of the hearing date. Witnesses and documents not disclosed at least five (5) business days prior to the Hearing shall be excluded from the Hearing unless good cause is shown. The Hearing Officer should document in the Pre-Hearing Order the deadline that witness lists and documents are due.

### Order Setting Hearing

Within three (3) business days of the Pre-Hearing Conference, the Hearing Officer shall distribute to all parties an Order Setting Hearing, which will include:

1. Notice of the date, time, and location of the Impartial Hearing;
2. A short and plain statement of the issues at dispute;
3. A statement of the legal authority and jurisdiction under which the Hearing is being held;
4. A statement of the availability of relevant records for examination;
5. A statement of the parent/guardian's right to participate in the Hearing; and
6. A statement of the parent/guardian's right to be represented by legal counsel.

If necessary, the Order Setting Hearing shall be translated into the language of the parent/guardian that was previously documented in the *Section 504: Request for Impartial Hearing* form.

#### **Dismissal after the Pre-Hearing Conference**

If, after the Pre-Hearing Conference, the Hearing Officer finds that the parent/guardian failed to allege any factual claims or legal issues that come within their jurisdiction as a Section 504 Impartial Hearing Officer, the Hearing Officer may dismiss the Hearing and issue an order to that effect explaining the bases for such finding.

### **The Impartial Hearing**

The Impartial Hearing shall be conducted in an informal, non-adversarial manner. The parties shall address the Hearing Officer by name (e.g., Mr. or Ms.), and the Federal Rules of Evidence and Civil Procedure shall not apply. The Hearing Officer is not required to entertain any legal evidentiary objections to the admissibility, authenticity, or probative value of oral testimony or documentary exhibits offered at the Hearing. In the exercise of their discretion, however, the Hearing Officer may reasonably limit testimony and introduction of documentary exhibits for reasons of relevance.

With input from the party that requested the Hearing, the Hearing Officer shall decide whether the Hearing is closed or open to the public.

Instead of a formal written transcript, the Hearing will be audio recorded. The parent/guardian may obtain a copy of the recording at their request. In order for an accurate recording to be made, the parties and witnesses shall introduce themselves at the beginning of their presentations.

#### **Format of Presentations**

While the precise format of presentations at the Impartial Hearing will be up to the discretion of the Hearing Officer, it is suggested but not required that presentations proceed in the following manner:

1. The parent/guardian will present their case by making an opening statement outlining their position and desired resolution on all issues, calling and questioning witnesses (with the opportunity for cross-examination by the other party) and presenting evidence, and making a closing argument.
2. DCPS will then present its case in the same manner.
3. After DCPS' presentation, the parent/guardian may offer a short response to DCPS' case.

#### **Rights of the Parties**

The parties have the following rights in the Hearing:

1. To be represented by counsel, although each party will be responsible for its own attorney's fees;
2. To present opening and closing arguments at the Hearing;
3. To present evidence and cross-examine witnesses;

4. To request that the Hearing Officer prohibit the introduction of evidence or the testimony of a witness that has not been disclosed five (5) business days in advance of the Hearing;
5. To obtain a copy of the recording of the Hearing; and
6. To have the Hearing Officer's orders and decision translated into the language requested on the *Section 504: Request for Impartial Hearing* form.

### **Responsibilities of the Hearing Officer**

The Hearing Officer shall ensure:

1. An atmosphere conducive to impartiality and fairness exists during the Impartial Hearing;
2. The issues raised in the Hearing are limited to those identified in the *Section 504: Request for Impartial Hearing* form and the response;
3. The parties and their attorneys comply with the Hearing Officer's rules and relevant laws and regulations;
4. The party requesting the Hearing has the burden of proof;
5. Actions are taken to move the case to conclusion, including dismissing the proceeding if either party refuses to comply in good faith with the Hearing Officer's orders;
6. An accurate record of the proceedings is maintained; and
7. The Pre-Hearing Conference, Impartial Hearing, and decision are completed within the timelines set forth in these Procedures, unless an extension is granted by the Hearing Officer at the request of either party or by mutual agreement of the parties.

## **The Hearing Decision**

The Hearing Officer will render a final, written decision within fifteen (15) business days of the date of the Impartial Hearing that sets forth findings of fact and conclusions of law based on the disputed issues and the evidence presented at the Hearing. The written decision will be sent to all parties to the Hearing, including the parent/guardian and DCPS.

## **Review Procedures**

### **Review by a Court**

If not satisfied by the decision of the Hearing Officer, the parent/guardian may seek review of the hearing decision in a court of competent jurisdiction.<sup>7</sup>

### **U.S. Department of Education's Office for Civil Rights**

At any time, the parent/guardian may file a complaint with the U.S. Department of Education's Office for Civil Rights (OCR). In general, complaints must be filed with OCR within 180 days of the last act of the alleged discrimination or within sixty (60) days of the conclusion of the DCPS grievance process.<sup>8</sup> OCR addresses Section 504 complaints separately and independently of the local hearing process, in

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<sup>7</sup> This court is generally the closest federal district court with jurisdiction over the case.

<sup>8</sup> Parties wishing to file a complaint with OCR should consult OCR's own guidance and timelines, rather than relying on this description.

accordance with the regulations and procedures established by the U.S. Department of Education. Filing a complaint with OCR does not affect the hearing process or the time lines set forth above.

OCR may be contacted at:

Office for Civil Rights  
District of Columbia Office  
U.S. Department of Education  
400 Maryland Avenue SW  
Washington, DC 20202

Phone: (202) 453-6020  
Fax: (202) 453-6021  
Email: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)  
Online: [www.ed.gov/ocr](http://www.ed.gov/ocr)

**D.C. Office of Human Rights**

The parent/guardian may also file a complaint with the D.C. Office of Human Rights (OHR), which enforces D.C.'s Human Rights Act and investigates incidents of discrimination, including those related to employment, housing, education, and public accommodations. OHR requires that complainants submit an intake questionnaire online or in person with one (1) year of a discriminatory act.<sup>9</sup> OHR's process and investigations are separate and independent from DCPS's 504 Impartial Hearing process.

Complaints to OHR can be submitted through its website: <https://ohr.dc.gov/service/file-complaint>, and OHR can be contacted at:

D.C. Office of Human Rights  
441 4<sup>th</sup> Street NW, Suite 570  
Washington, DC 20001

Phone: (202) 727-4559  
Fax: (202) 727-9589  
Email: [ohr@dc.gov](mailto:ohr@dc.gov)  
Online: <https://ohr.dc.gov>

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<sup>9</sup> Parties wishing to file a complaint with OHR should consult OHR's own guidance and timelines, rather than relying on this description.