

SECTION 504 DUE PROCESS RIGHTS

Parents who wish to challenge a decision of a Section 504 review committee/Section 504 team that relates to the identification, evaluation, or educational placement of a student may file a written due process hearing request with the LEA. Examples of the types of challenges include: whether a student has a disability and is eligible for special education and or related services; whether a student with a disability requires further evaluation in order to devise an appropriate plan of services; or whether the scope of the evaluation or the current services is sufficient to meet the student's individual educational needs.

Upon receipt of a parent's appeal, the LEA must schedule a due process hearing before an impartial hearing officer and provide the parents with a written notice of hearing that sets out the date, time, and place for the hearing and advises them of their right to participate and be represented by an attorney. It is OCR's interpretation that an LEA cannot require a parent to address a FAPE-related complaint through an alternate grievance procedure before undergoing an impartial due process hearing.

The employment of a hearing officer is the financial responsibility of the LEA. A hearing officer cannot be an employee of the LEA and cannot be related to any member of the board of education. A hearing officer need not be an attorney but must be familiar with the requirements of Section 504 and must render a written decision including findings of fact and conclusions of law.

A copy of the written record or tape recording of the hearing must be provided to the parents, and an interpreter must be provided for parents whose primary language is other than English or who are hearing impaired. The decision made by a hearing officer is final unless the parents or the LEA appeal the decision to state or federal court.

UNITED STATES DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS (OCR)

OCR enforces Section 504. OCR has authority to enforce this law in all programs and activities that receive federal funds. These include programs and activities operated by institutions and agencies, such as state education agencies, elementary and secondary schools, colleges and universities, vocational schools, and vocational rehabilitation agencies.

OCR investigates complaints filed by individuals, or their representatives, who allege that they have experienced disability-based discrimination. It also initiates compliance reviews of recipient institutions and agencies and monitors the progress in eliminating discriminatory practices of institutions and agencies that are implementing plans negotiated by it. It attempts to resolve compliance problems through negotiation. However, if unable to do so, it initiates the actions necessary to enforce the law.

Persons who allege that an LEA has violated a provision of Section 504 may file a complaint with OCR.

The address of the regional office which covers Tennessee is:

United States Department of Education Office for Civil Rights
Atlanta Office
61 Forsyth St., S.W., Suite 19T10
Atlanta, GA 30303
(404) 974-9406
OCR.Atlanta@ed.gov

Tennessee Department of Education's Section 504 Resource Manual, revised November 2024.