

Hawkins County Board of Education

Monitoring	Descriptor Term	Descriptor Code 1.802	Issue Date
Review: Annually, In	Section 504 and ADA Grievance Procedures	Rescinds	Issued

1 The Board is committed to maintaining equitable employment/educational practices, services,
2 programs and activities that are accessible and usable by qualified individuals with disabilities.
3

4 **Definition**

5 *Section 504 of the Rehabilitation Act of 1973* provides that: No otherwise qualified individual with
6 handicaps in the United States... solely by reason of his/her handicap, be excluded from the
7 participation in, be denied the benefits of, or be subjected to discrimination under any program or
8 activity receiving federal financial assistance.¹
9

10 *Title II of the Americans with Disabilities Act, 1990* provides that: No otherwise qualified individual
11 with a disability shall be discriminated against in regard to job application procedures, the hiring,
12 advancement, or discharge of employees, employee compensation, job training and other terms,
13 conditions and privileges of employment.²
14

15 **Coordinator³**

16 The Board shall designate at least one employee to coordinate its efforts to comply with and carry out
17 its responsibilities under the Americans with Disabilities Act (ADA) and Section 504, including any
18 investigation of any complaint alleging non-compliance with the Acts or alleging any actions that
19 would be prohibited by the Acts.
20

21 **Notice⁴**

22 The Board shall make available the name, office address and telephone number of the ADA/Section
23 504 coordinator.
24

25 Methods of initial and continuing notification may include the posting of notices, publication in
26 newspapers and student and employee handbooks and distribution of memoranda or other written
27 communications.
28

29 **Complaint Procedure⁵**

30 The coordinator will hear ADA/Section 504 complaints. Complaints shall be submitted in writing to
31 the coordinator who will endeavor to accomplish prompt and equitable resolution of complaints
32 alleging any action that would be prohibited by the ADA/Section 504. The coordinator will respond to
33 all complaints within twenty (20) days with a written response as well as information on
34
35
36
37
38
39
40
41
42

1 Due Process Hearing Procedures

2 Section 504 of the Rehabilitation Act of 1973 provides the right to an impartial due process hearing if a
3 parent wishes to contest any action of the school system with regard to a child's identification,
4 evaluation, and placement under Section 504.⁶ If a parent/guardian requests a Section 504 hearing, the
5 parent/guardian has the right to personally participate and to be represented at the hearing by an
6 attorney or advocate at the parent's expense. Contested actions or omissions that are appropriate for a
7 Section 504 hearing should involve identification, evaluation, or placement issues involving a child
8 who has or is believed to have a disability.

9
10 Written Request for Hearing

11 A parent/guardian who wishes to challenge an action or omission with regard to the identification,
12 evaluation, or placement of a student who has or is believed to have a disability as defined by Section
13 504, shall make a written request for a due process hearing to the Section 504 coordinator. The written
14 request must be made on a form provided through the Central Office.

15
16 Impartial Hearing Officer

17 The director of schools or his/her designee shall appoint an impartial hearing officer to preside over the
18 hearing and issue a decision. Such appointment will be made within fifteen (15) days of the date of
19 receipt of a request for a due process hearing. The hearing officer will be hired as an independent
20 contractor at no expense to the parent. The hearing officer that is appointed shall not be a current
21 employee of the school system and shall not be related to any member of the Board of Education. The
22 hearing officer need not be an attorney but shall be familiar with the requirements of Section 504 and
23 the hearing procedures under Section 504. The choice of an impartial hearing officer is final and may
24 not be presented as an issue at the due process hearing since such an issue would not relate to the
25 identification, evaluation, or placement of a disabled child under Section 504. If a parent/guardian
26 disputes the impartiality of the appointed hearing officer, he/she may raise such issue in a review of the
27 hearing officer's opinion by a court of competent jurisdiction or in a complaint to the Office for Civil
28 Rights.

29
30 Office of Civil Rights

31 U.S. Department of Education
32 61 Forsyth St. S.W., Suite 19T10
33 Atlanta, GA 30303-8927
34 Telephone: 404-974-9406; TDD: 877-521-2172
35 Email: OCR.Atlanta@ed.gov

36
37 Scheduling of Hearing

38 The appointed hearing officer shall set a date for the hearing within fifteen (15) days of his/her
39 appointment and provide this information in writing to the parent/guardian and the Section 504
40 coordinator. The hearing shall take place at a mutually agreeable time and place.

41
42
43
44
45
46
47
48
49

Section 504 and ADA Grievance Procedures

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/guardian is represented by a licensed attorney at the due process hearing, he/she must inform the Section 504 coordinator and the appointed hearing officer of that fact, in writing, at least seven (7) calendar days prior to the hearing date, or the hearing can be continued upon the coordinator's request. The school system shall not have legal representation at the hearing unless the parent provides notice that he/she will have legal representation.

Pre-Hearing Conference

The hearing officer may order a Pre-Hearing Conference during which the parent/guardian 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 via telephone or in person depending on the hearing officer's decision based on the convenience to both parties.

Dismissals

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

The hearing shall be conducted in an informal, non-adversarial manner. The hearing shall be closed to the public unless the parent/guardian requests an open hearing. The hearing officer may reasonably limit testimony and introduction of exhibits for reasons of relevance.

Recording

Instead of a formal written transcript produced by a court reporter, the entire due process hearing will be video recorded. The school system shall provide a copy of the recording to the parent/guardian upon request. In order for an accurate recording to be made, the parties and witnesses shall introduce themselves at the beginning of their presentations. If a parent/guardian appeals the decision of the hearing officer to a court of competent jurisdiction, the school system shall prepare a written transcript of the hearing to be offered to the court as an exhibit.

Witnesses

Witnesses will present their information in narrative form, without the traditional question and answer format of legal proceedings. Cross-examination of witnesses will not be allowed, but a party may request that the hearing officer, at his/her discretion, ask a witness a certain question.

Format of Presentation

Each side will have an equal amount of time to present their positions as determined by the hearing officer. The parent/guardian will present his/her case first by making an opening statement outlining the issues, calling witnesses, and making a closing argument. The school system will present its side next. At the end of the school system's presentation, the parent/guardian may offer a short response. Each side may present personally or through their representatives.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

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

The hearing officer may allow or request written closing arguments summarizing and characterizing the information presented at the hearing.

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 shall address all of the issues raised by the parent/guardian as well as any corrective actions, if any, the school system must take. Any issue or claim raised by the parent/ guardian 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. The hearing officer may not award attorney's fees as a part of the relief granted to a parent/guardian or the district.

Review Procedure/Appeal

If the parent/guardian is not satisfied by the decision of the hearing officer, he/she may seek review of the decision in a court of competent jurisdiction.

Legal Reference:

1. 34 CFR § 104.4(a)
2. 42 USCA §12112(a)
3. 28 CFR § 35.107
4. 28 CFR § 35.106; 34 CFR § 104.8
5. 28 CFR § 35.170;172
6. 34 CFR § 104.36

Hawkins County Board of Education

Monitoring Review:	Descriptor Term	Descriptor Code	Issue Date
		Rescinds	Issued

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32

33
34
35
36
37
38
39
40
41
42

Hawkins County Board of Education

Monitoring Review:	Descriptor Term	Descriptor Code	Issue Date
		Rescinds	Issued

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

33
34
35
36
37
38
39
40
41
42

Hawkins County Board of Education

Monitoring Review:	Descriptor Term	Descriptor Code	Issue Date
		Rescinds	Issued

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

33
34
35
36
37
38
39
40
41
42

Hawkins County Board of Education

Monitoring Review:	Descriptor Term	Descriptor Code	Issue Date
		Rescinds	Issued

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

33
34
35
36
37
38
39
40
41
42