

PROCEDURES FOR SECTION 504 IMPARTIAL HEARINGS

Alexandria City Public Schools or the parent or guardians of a student (or an adult student) with a disability as defined by Section 504 of the Rehabilitation Act of 1973 (“Section 504”) may request an impartial hearing to resolve any disagreement regarding the identification, evaluation, accommodations, and/or modifications, provisions of FAPE, or causality determination of the student with a disability. Requests for a hearing that raise issues pursuant to both Section 504 and the Individuals with Disabilities Act (“IDEA”) may, at the discretion of the hearing officer, be heard together through the IDEA hearing procedures provided by federal and state law, regulations, and ACPS policies.

1. Requesting an Impartial Hearing

Requests for an impartial hearing shall be made in writing and delivered to the Chief Student Services Officer (the Compliance Officer). The request shall include: the name of the student, the address of the residence of the student (or available contact information in the case of a homeless student), the name of the school the student is attending, a description of the nature of the problem with supporting facts, and a proposed resolution of the problem.

If the request does not include all of the required information, it may be returned to the parents within 10 school days of receipt by the Compliance Officer, with a request to provide the missing information within five additional school days. The remaining procedures will not proceed until the additional information is received from the parents. As used in this regulation, “school day” shall mean any day when the student’s school is open during the regular school year; during summer months shall mean any day when ACPS central administrative offices are open.

A hearing may only be requested within one year of the date the parents knew or should have known about the alleged actions or facts that form the basis of the complaint.

ACPS may provide a written response to the request for a hearing. Should ACPS elect to provide such a response, it should be delivered to both parents/guardians and the hearing officer within 15 school days of receipt of a request for a hearing that includes all of the required information. If ACPS requests an impartial hearing, parents/guardians will have the same option to respond.

2. Appointment of Hearing Officer

An impartial hearing officer will be appointed by the Compliance Officer from the list of special education due process hearing officers maintained by the Offices of the Executive Secretary of the Supreme Court of Virginia. The Compliance Officer will contact the Office of the Executive Secretary to request the name of a hearing officer within five school days of receipt of a request for a hearing that includes all of the required information identified in Section 1, and will follow up as necessary until a hearing officer is appointed.

3. Pre-Hearing Procedures

Prior to the hearing, the hearing officer shall:

- a. Convene a pre-hearing conference with the parties, unless the hearing officer determines such a conference is unnecessary;
- b. Identify the specific issues to be addressed during the hearing based on the request for hearing and any response provided by the other party;
- c. Schedule a hearing date and location with input from the parties, and notify the parties in writing of such information;
- d. Ascertain whether the parties will be represented by counsel;
- e. Ascertain from the parents whether the hearing will be open or closed;
- f. Ensure that the hearing will be accurately recorded by a court reporter who is paid for his or her attendance by the school division;
- g. Have the authority to require that the student be evaluated; and
- h. Require the parties to exchange a list of witnesses and any documents to be presented during the hearing at least five business days in advance of the hearing unless otherwise permitted by the hearing officer for good cause shown, with a copy provided to the hearing office as well.

4. Hearing Procedures

- a. The parties have the following rights in the hearing:
 - (1) To be represented by counsel with each party being responsible for its own attorney's fees;
 - (2) To present evidence and cross examine witnesses;
 - (3) To request that the hearing officer prohibit the introduction of evidence of a witness that had not been disclosed five business days prior to the hearing;
 - (4) To obtain at their own expense a copy of the transcript of the hearing.
- b. The hearing officer shall ensure in connection with the hearing that:
 - (1) An atmosphere conducive to impartiality and fairness exists;
 - (2) The issues raised in the hearing are limited to those identified in the request for a hearing and any response filed, or to any subsequent amendment to the request or the response when allowing such amendment, is mutually agreed to by the parties or as otherwise permitted by the hearing officer for good cause shown;
 - (3) The parties and their attorneys, advocates, or advisors comply with the special education hearing officer's rules, and with relevant laws and regulations, and are not permitted to pursue hostile or irrelevant pursuits in questioning;

- (4) Actions are taken to move the case to conclusion, including dismissing the pending proceeding if either party refuses to comply in good faith with the special education hearing officer's orders;
- (5) An accurate record of the proceedings is maintained;
- (6) The party requesting the hearing has the burden of proof; and
- (7) The hearing is completed within 60 calendar days of receipt of the request for a hearing or of a subsequent agreed-upon amendment, unless an extension is granted at the request of either party for good cause or by mutual agreement of the parties.

c. Hearing Decision:

A written decision shall be issued to all parties setting forth findings of fact and conclusions of law based on the evidence presented in the hearing. The decision shall be issued within 15 days of the conclusion of the hearing. The decision is final and binding unless either party files a timely appeal in an appropriate court.

Any questions regarding these procedures should be directed to the Chief Student Services Officer.

Revised: April 15, 2015

Legal Ref: Section 504 of the Rehabilitation Act of 1973.

Cross Refs: JB Equal Educational Opportunities/Nondiscrimination
JBA Section 504 Nondiscrimination Policy and Hearings Procedures