

Corvian Community School Section 504 Procedural Safeguards/Hearing Rights

Right to Due Process. A parent or legal guardian who disagrees with the identification, evaluation, contents, or implementation of a Section 504 plan shall have the right to request a hearing on the issue. The process for students covered under IDEA (Individuals with Disabilities Education Act) is driven by state and federal statutes and is explained in the North Carolina Department of Public Instruction's Parents' Rights Handbook.

Requesting a Due Process Hearing. The Section 504 hearing process is a two-step procedure. The first step involves a school-level review by the school's Section 504 coordinator (in consultation with the Executive Director) of the issues raised by the student's parent or guardian. If the parent/guardian remains dissatisfied after the school-level review, s/he can request a hearing before an independent hearing officer.

Step 1: School-Level Review. For students covered only by Section 504, a request for school-level review must be made within 30 days of the Section 504 team's action or any failure of the school related to the implementation of a student's Section 504 plan. The request must be made in writing, must explain the reasons why the review is requested, and must be sent to the school's Executive Director. The request is not deemed timely unless it is received within the 30-day deadline.

The school's Section 504 coordinator (in consultation with the Executive Director) will review the situation and render a decision in writing to the parents within ten (10) school days of receipt of the written request for a school-level review.

Step 2: Request for Independent Hearing. If, upon receiving the results of the school-level review, the parent/guardian remains dissatisfied, the parent/guardian may request an independent review within five (5) business days of the date of the school-level review decision. The request must be made in writing, must explain the reasons why the review is requested, and must be sent to the school's Executive Director. The request is not deemed timely unless it is received within the five-day deadline.

Hearing Officer and Costs. Corvian Community School will appoint a hearing officer who is not an employee of the school to preside over the hearing and issue a decision. The hearing officer shall be familiar with the requirements of Section 504. The school is responsible for the compensation of the hearing officer. The school is not responsible for the cost of parent/guardian's legal counsel or any other parent representatives or parent-secured witness.

Parent Participation and Representation. A parent has the right to participate, speak, and present information at the hearing and to be represented by legal counsel or any other type of advocate or representative of their choice at their expense. If a parent is to be represented by an attorney at the hearing, he or she must inform the school's Executive Director and the Hearing Officer of that fact in writing at least ten (10) business days prior to the hearing date. Failure to notify the school's Executive Director and the Hearing Officer of that fact in writing may cause the hearing date to be delayed.

Scheduling and Pre-Hearing Procedures. The Hearing Officer shall attempt to schedule the hearing within 45 days of the parent's request for hearing. The Hearing Officer may conduct a pre-hearing conference (by telephone or other means) to identify and, if disputed, determine the issues for hearing. The Hearing Officer will also identify the date the parties will exchange witness lists, proposed exhibits, and pre-hearing memoranda. This exchange shall occur no later than five (5) business days prior to the hearing. Either party may prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing.

Conduct of Hearing. The hearing shall be conducted in an informal, non-adversarial manner. Formal rules of evidence and civil procedure do not apply. The Hearing Officer is not required to entertain any legal evidentiary objections to the admissibility, authenticity, or probative value of either oral testimony or documentary exhibits offered at the hearing. In the exercise of his or her discretion, however, the Hearing Officer may reasonably limit testimony and introduction of documentary exhibits for reasons of relevance. The Hearing Officer may consider any relevant evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious matters. The hearing shall be limited to issues raised in the hearing request, and the Hearing Officer shall exclude any issues that are not related to identification, evaluation, placement, or implementation under Section 504. Issues arising more than 30 days prior to the request for a school-level review may *not* be heard.

Recording. The hearing will be audio recorded by the school. The parent may obtain a copy of the recording at his or her request. The parent may also make his or her own audio recording of the hearing.

Format for Presentations. Each party will be afforded up to 2.5 hours to present their case, including presentation, direct examination, cross-examination, and argument. The parties may also submit any reports, evaluations, correspondence, notes, or any other documents that may support their positions and that the Hearing Officer will admit at his or her discretion. The party seeking relief bears the burden of persuasion and the burden of proof.

The Hearing Officer will begin the hearing with introductory remarks, addressing the purpose for the hearing, determining whether parties have complied with disclosure requirements, identifying any stipulations on the record, identifying the issue for the hearing on the record, and reminding the parties of time limits.

The Hearing Officer will provide an opportunity for each party to present evidence through calling of witnesses and referencing exhibits. In his or her discretion, the hearing officer may ask questions of a witness. The party requesting the hearing will present his or her evidence first, followed by the responding party. A party may choose to reserve a portion of its time for closing or rebuttal.

After all evidence has been presented, the Hearing Officer may ask for closing statements. The Hearing Officer may, in his or her discretion, request that the parties submit written closing statements within a specified number of days after the hearing.

The Hearing Officer will conclude the hearing, addressing the timeline for a decision and a statement on the record that the hearing is concluded.

Hearing Officer Decision. Within thirty (30) days of the conclusion of the hearing, the Hearing Officer will issue a written decision with findings of fact and conclusions of law. The Hearing Officer must confine his or her orders and rulings to those matters that involve identification, evaluation, or placement of children under Section 504 and to the provisions of the regulations implementing Section 504. A Hearing Officer may not award attorneys' fees, other monetary relief, or reimbursement as a part of relief granted to a parent. The decision of the Hearing Officer is binding on all parties.

Withdrawal of Request for Hearing. If a parent makes and then withdraws a request for a school-level review or a subsequent request for an impartial hearing under Section 504, that withdrawal bars a future hearing as to any issues older than 30 days at the time of a new request for a school-level review.