

## **SECTION 504 HEARING PROCEDURE-PURPOSES AND SCOPE**

An impartial hearing procedure is available to students and their parents to resolve differences dealing with educational services available under Section 504 of the Rehabilitation Act (hereinafter "Section 504") when such differences cannot be resolved by means of a less formal procedure. Students and their parents are encouraged to use St. Maries Joint School District No. 41's Civil Rights Grievance Procedure for resolution of differences whenever possible.

The hearing procedures and procedural safeguards set forth in this Policy apply to the identification, evaluation, or educational placement of a student, as set forth in 34 CFR 104.36. A student qualifies for a free appropriate public education, including related services, under Section 504 if he or she has a physical or mental impairment which substantially limits one (1) or more major life activities.

The following definitions will apply to all related hearing matters:

1. "Days" means calendar days;
2. "Parents" means parents or legal guardians; and
3. "Placement" means the program concerning the educational placement of the student.

## **HEARING PROCEDURES**

A Section 504 impartial hearing may be requested by the District or a parent of an affected student on matters directly related to the District's decisions or actions regarding the following:

1. The identification or eligibility of a student as disabled under Section 504;
2. The evaluation procedures utilized with the student, including a decision not to evaluate a student; or
3. The educational placement and/or related aids and services recommended for or provided to the student, including any change in placement as a result of disciplinary action.

All requests for a hearing under this Policy must be submitted in writing addressed to the Superintendent. The written request for a hearing must contain:

1. The specific nature of the dispute;

2. The specific relief or remedy requested; and
3. Any other information the District or parents believe is important to understanding the dispute.

The hearing procedure will be presided over and decided by an impartial hearing officer. The Superintendent, or his or her designee, will select an impartial hearing officer within fifteen (15) days of receipt of the request for a Section 504 hearing. The selected impartial hearing officer will:

1. Be qualified to review District decisions relating to Section 504;
2. Be impartial and unbiased; and
3. Not be an employee of the District.

The selected hearing officer, prior to the hearing, will review the District's actions and notify the parties in writing of the date of the hearing. The parents and the District will be given at least ten (10) days' notice of the date of the hearing. The notice from the appointed hearing officer will contain:

1. A statement of the time, place, and nature of the hearing;
2. A statement of the legal authority and jurisdiction under which the hearing is being held;
3. A statement of the availability of relevant records for examination;
4. A concise statement of the issues in dispute;
5. A statement setting forth the right of the student's parents or guardian to participate in the hearing procedure; and
6. A statement of the right to be represented by counsel.

All written correspondence will be provided in English and/or interpreted in the parents' primary language.

The hearing will be conducted and a written decision will be mailed by the hearing officer to all parties within forty-five (45) days from the date of the hearing assignment, except that either party to the hearing may request a continuance. The continuance may be granted by the hearing officer upon a showing of good cause. Any continuance(s) granted by the hearing officer will extend the time for rendering a final hearing decision for a period equal to the length of the continuance(s).

The appointed hearing officer will preside at the hearing and will conduct the hearing proceedings in a manner that allows all parties the following rights:

1. The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of disabled children;
2. The right to present evidence and oral arguments;
3. The right to an electronic verbatim record of the hearing; and
4. The right to written findings of fact and a decision on the matter.

Parents involved in the hearing process will have the right to:

1. Have the student present at the hearing; and
2. Open the hearing to the public.

In cases where there are language differences, an interpreter will be provided by the District.

The appointed hearing officer will review all relevant facts presented at the hearing and will determine whether the student's rights have been fully observed. The hearing officer will have the authority to uphold, reverse, or modify the District's decisions or actions with regard to the:

1. Identification of the student as disabled;
2. Evaluation procedures utilized with the student, including a decision not to evaluate a student; and
3. Educational placement and/or services and accommodations recommended for or provided to the student.

#### **DECISION OF THE HEARING OFFICER**

A copy of the hearing officer's findings of fact and decision will be delivered to the District and the parents within forty-five (45) days from the date of the assignment of the hearing officer, unless a continuance was granted.

The decision of the hearing officer is binding on all parties concerned and may be appealed to a court of competent jurisdiction.

## **RECORD OF THE HEARING**

An electronic verbatim recording of the Section 504 hearing will be on file at the District Office and will be available for review upon request by the parents or guardians and/or any of the involved parties.

### **Policy Cross Reference:**

#### **Legal Reference:**

29 USC Chapter 16

34 CFR Part 104

©2001 Eberharter-Maki & Tappen, PA

#### **Policy History:**

Reviewed: 02/11/2002

Adopted: 03/11/2002

Reviewed: 07/28/2008