

2162R INSTRUCTION

Section 504 of the Rehabilitation Act of 1973 ("Section 504")

1. Impartial Due Process Hearing. If the parent or legal guardian of a student who qualifies under Section 504 for special instruction or related services disagrees with a decision of the District with respect to: (1) the identification of the child as qualifying for Section 504; (2) the District's evaluation of the child; and/or (3) the educational placement of the child, the parents of the student are entitled to certain procedural safeguards. The student shall remain in his/her current placement until the matter has been resolved through the process set forth herein.
 - A. The District shall provide written notice to the parent or legal guardian of a Section 504 student prior to initiating an evaluation of the child and/or determining the appropriate educational placement of the child, including special instruction and/or related services;
 - B. Upon request, the parent or legal guardian of the student shall be allowed to examine all relevant records relating to the child's education and the district's identification, evaluation and/or placement decision;
 - C. The parent or legal guardian of the student may make a request in writing for an impartial due process hearing. The written request for an impartial due process hearing shall identify with specificity the areas in which the parent or legal guardian are in disagreement with the District;
 - D. Upon receipt of a written request for an impartial due process hearing, the District will promptly forward a copy of the written request to all interested parties;
 - E. Upon receipt of a written request for an impartial due process hearing, the District shall select and appoint an impartial hearing officer that has no professional or personal interest in the matter. In that regard, the District may select a hearing officer from the list of special education hearing examiners available at the Office of Public Instruction, the county superintendent or any other person that would conduct the hearing in an impartial and fair manner;
 - F. Once the District has selected an impartial hearing officer, the District shall provide the parent or legal guardian and all other interested parties with notice of the person selected;
 - G. Within ten (10) days of the District's selection of a hearing officer, a pre-hearing conference shall be scheduled to set a date and time for a hearing, identify the issues to be heard and stipulate to undisputed facts to narrow the contested factual issues;
 - H. The hearing officer shall in writing notify all parties of the date, time and location of the due process hearing;
 - I. At any time prior to the hearing, the parties may mutually agree to submit the matter to mediation. A mediator may be selected from the Office of Public Instruction's list of trained mediators;
 - J. At the hearing, the District and the parent or legal guardian may be represented by counsel;
 - K. The hearing shall be conducted in an informal but orderly manner. Either party may request that the hearing be recorded. Should either party request that the hearing be recorded, it shall be recorded using either appropriate equipment or a court reporter. The District shall be allowed to present its case first. Thereafter the parent or legal guardian

1 shall be allowed to present its case. Witnesses may be called testify and documentary
2 evidence may be admitted, however, witnesses will not be subject to cross-examination
3 and the Montana Rules of Evidence will not apply. The hearing officer shall make all
4 decisions relating the relevancy of all evidence intended to be presented by the parties.
5 Once all evidence has been received the hearing officer shall close the hearing. The
6 hearing officer may request that both parties submit proposed findings of fact,
7 conclusions and decision;

8 L. Within forty-five (45) days of the receipt of the written request for an impartial due
9 process hearing, the hearing examiner should issue a written report of his/her decision to
10 the parties;

11 M. The hearing officer may grant the written request of either party to extend the 45- day
12 period;

13 N. Appeals may be taken as provided by law. The parent or legal guardian may contact the
14 Office of Civil Rights, 1244 Speer Blvd., Suite 310, Denver Colorado 80204-3582. (303)
15 844-5695 or 5696.

16 2. Uniform Grievance Procedure. If a parent or legal guardian of the student alleges that the District
17 and/or any employee of the District has engaged in discrimination or harassment of the student,
18 the parent or legal guardian will be required to proceed through the District's Uniform Grievance
19 Procedure.

20 Legal Reference:

21 34 C.F.R. 104.36 Procedural Safeguards

22 Policy History:

23 Adopted on: October 22, 2001

24 Revised on: