

# EVANS COUNTY SCHOOL SYSTEM

## Section 504 Procedural Safeguards

**1. Overview:** Any student or parent or guardian (“grievant”) may request an impartial hearing due to the school system’s actions or inactions regarding the student’s identification, evaluation, or educational placement under Section 504. Requests for an impartial hearing must be in writing to the school system’s District 504 Coordinator; however, a grievant’s failure to request a hearing in writing does not alleviate the school system’s obligation to provide an impartial hearing if the grievant orally requests an impartial hearing through the school system’s Section 504 Coordinator. The school system’s Section 504 Coordinator will assist the grievant in completing the written Request for Hearing.

**2. Hearing Request:** The Request for the Hearing must include the following:

- a. The name of the student.
- b. The address of the residence of the student.
- c. The name of the school the student is attending.
- d. The decision that is the subject of the hearing.
- e. The requested reasons for review.
- f. The proposed remedy sought by the grievant.
- g. The name and contact information of the grievant.

Within 10 business days from receiving the grievant’s Request for Hearing, the Section 504 Coordinator will acknowledge the Request for Hearing in writing and schedule a time and place for a hearing. If the written Request for Hearing does not contain the necessary information noted above, the Section 504 Coordinator will inform the grievant of the specific information needed to complete the request. All timelines and processes will be stayed until the Request for Hearing contains the necessary information noted above.

**3. Mediation:** The school system may offer mediation to resolve the issues detailed by the grievant in his or her Request for Hearing. Mediation is voluntary and both the grievant and school system must agree to participate. The grievant may terminate the mediation at any time. If the mediation is terminated without an agreement, the school system will follow the procedures for conducting an impartial hearing without an additional Request for Hearing.

**4. Hearing Procedures:**

- a. The Section 504 Coordinator will obtain an impartial review official who will conduct a hearing within 45 calendar days from the receipt of the grievant’s Request for Hearing unless agreed to otherwise by the grievant or a continuance is granted by the impartial review official.
- b. Upon a showing of good cause by the grievant or school system, the impartial review official, at his or her discretion, may grant a continuance and set a new hearing date. The request for a continuance must be in writing and copied to the other party.

As required by Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990, **Evans County** does not discriminate on the basis of race, color, national origin, sex, age, or disability in admission to its programs, services, or activities, in access to them, in treatment of individuals, or in any aspect of their operations. For additional information or referral to the appropriate system coordinator, contact the system superintendent’s office at 613 West Main Street, Claxton, GA 30417.

- c. The grievant will have an opportunity to examine the child's educational records prior to the hearing.
- d. The grievant will have the opportunity to be represented by legal counsel at his or her own expense at the hearing and participate, speak, examine witnesses, and present information at the hearing. If the grievant is to be represented by legal counsel at the hearing, he or she must inform the Section 504 Coordinator of that fact in writing at least 10 calendar days prior to the hearing. Failure to notify the Section 504 Coordinator in writing of representation by legal counsel shall constitute good cause for continuance of the hearing.
- e. The grievant will have the burden of proving any claims he or she may assert. When warranted by circumstances or law, the impartial hearing officer may require the recipient to defend its position/decision regarding the claims (i.e. A recipient shall place a disabled student in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of Supplementary aids and services cannot be achieved satisfactorily. 34 C.F.R.§104.34). One or more representatives of the school system, who may be an attorney, will attend the hearing to present the evidence and witnesses, respond to the grievant testimony and answer questions posed by the review official.
- f. The impartial review official shall not have the power to subpoena witnesses, and the strict rules of evidence shall not apply to hearings. The impartial review official shall have the authority to issue pre-hearing instructions, which may include requiring the parties to exchange documents and names of witnesses to be present.
- g. The impartial review official shall determine the weight to be given any evidence based on its reliability and probative value.
- h. The hearing shall be closed to the public.
- i. The issues of the hearing will be limited to those raised in the written or oral request for the hearing.
- j. Witnesses will be questioned directly by the party who calls them. Cross-examination of witnesses will be allowed. The impartial review official, at his or her discretion, may allow further examination of witnesses or ask questions of the witnesses.
- k. Testimony shall be recorded by court reporting or audio recording at the expense of the recipient. All documentation related to the hearing shall be retained by the recipient.

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## Web Resources:

Office of Civil Rights Section 504 Complaints

<http://www2.ed.gov/about/offices/list/ocr/complaints-how.html>

Office of Civil Rights Section 504 Frequently Asked Questions (FAQS)

<http://www2.ed.gov/about/offices/list/ocr/504faq.html>

Section 504 Overview (Georgia Department of Education)

<http://archives.doe.k12.ga.us/DMGetDocument.aspx/Overview%20of%20Section%20504%20of%20the%20Rehabilitation%20Act%20of%201973.pdf?p=6CC6799F8C1371F68DE1A3CA1B2B57704127920BEF9AF7CD2CE7D63ACB777F91&Type=D>

Section 504 Procedural Safeguards (Georgia Department of Education)

<http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Student-Support-Teams/Documents/Model%20Procedural%20Safeguards%20under%20Section%20504.pdf>

Section 504 Parent and Student Rights (Georgia Department of Education)

<http://www.gadoe.org/Curriculum-Instruction-and-Assessment/Student-Support-Teams/Documents/Model%20Section%20504%20Student%20Rights.pdf>

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