

KIPP: Nashville Board of Directors

Monitoring: Annually	Descriptor Term: Section 504 and ADA Grievance Procedures	Policy: 1802	Issued: 7/29/17
-----------------------------	---	---------------------	------------------------

1 KIPP Nashville is committed to maintain equitable employment/educational practices,
2 services, programs, and activities that are accessible and usable by qualified individuals
3 with disabilities.

4 DEFINITION

5 *Section 504 of the Rehabilitation Act of 1973* provides that: No otherwise qualified
6 individual with handicaps in the United States...solely by reason of his/her handicap, be
7 excluded under any program or activity receiving federal financial assistance.¹

8 *Title II of the American with Disabilities Act, 1990* provides that: No otherwise qualified
9 individual with a disability shall be discriminated against in regard to job application
10 procedures, the hiring, advancement, or discharge of employees, employee
11 compensation, job training, and other terms, conditions, and privileges of employment.²

12 COORDINATOR³

13 KIPP Nashville shall designate at least one employee to coordinate its efforts to comply
14 with and carry out its responsibilities under the Americans with Disabilities Act (ADA) and
15 Section 504, including any investigation of any complaint alleging non-compliance with
16 the Acts or alleging any actions that would be prohibited by the Acts.

17 504 Coordinator Contact Information: smalanchuk@KIPPnashville.org

18 NOTICE⁴

19 KIPP Nashville shall make available the name, office address, and telephone number of
20 the ADA/Section 504 coordinator. Methods of initial and continuing notification may
21 include the posting of notices, publication in student and employee handbooks, or other
22 written communications.

1 COMPLAINT PROCEDURE⁵

2 The Coordinator will hear ADA/Section 504 complaints. Complaints shall be submitted
3 orally or in writing to the coordinator who will endeavor to accomplish prompt and
4 equitable resolution of complaints alleging any action that would be prohibited by the
5 ADA/Section 504. The coordinator will respond to all complaints within twenty (20) days
6 with a written response as well as information on further grievance procedures that may
7 be followed if the complaining party is not satisfied with the coordinator's proposed
8 resolution.

9 DUE PROCESS HEARING PROCEDURES

10 Section 504 of the Rehabilitation Act of 1973 provides the right to an impartial due
11 process hearing if a parent wishes to contest any action of the school system with regard
12 to a child's identification, evaluation, and placement under Section 504.⁶ If a
13 parent/guardian requests a Section 504 hearing, the parent/guardian has the right to
14 personally participate and to be represented at the hearing by an attorney or advocate at
15 the parent's expense. Contested actions or omissions that are appropriate for a Section
16 504 hearing should involve identification, evaluation, or placement issues involving a
17 child who has or is believed to have a disability.

18 *Request for Hearing*

19 A parent/guardian who wishes to challenge an action or omission with regard to the
20 identification, evaluation, or placement of a student who has or is believed to have a
21 disability as defined by Section 504 shall make an oral or written request for a due
22 process hearing to the Section 504 coordinator. The request shall be submitted on or
23 reduced to writing on a form provided through the KIPP Nashville Regional Office.

24 *Impartial Hearing Officer*

25 The Director of Student Support or his/her designee shall appoint an impartial hearing
26 officer to preside over the hearing and issue a decision. Such appointment will be made
27 within fifteen (15) days of the date of receipt of a request for a due process hearing. The
28 hearing officer will be hired as an independent contractor at no expense to the parent.
29 The hearing officer that is appointed shall not be a current employee of the school
30 system and shall not be related to any member of the Board of Directors. The hearing
31 officer need not be an attorney but shall be familiar with the requirements of Section 504
32 and the hearing procedures under Section 504. The choice of an impartial hearing officer
33 is final and may not be presented as an issue at the due process hearing since such an
34 issue would not relate to the identification, evaluation, or placement of a disabled child
35 under Section 504. If a parent/guardian disputes the impartiality of the appointed hearing
36 officer, he/she may raise such an issue in a review of the hearing officer's opinion by a
37 court of competent jurisdiction or in a complaint to the Office for Civil Rights.

- 1 Office for Civil Rights
- 2 U.S. Department of Education
- 3 61 Forsyth St. S.W., Suite 19T10
- 4 Atlanta, GA 30303-8927
- 5 Telephone: 404-974-9406; TDD: 877-521-2172
- 6 Email: OCR.Atlanta@ed.gov

7 *Scheduling of Hearing*

8 The appointed hearing officer shall set a date for the hearing within fifteen (15) days of
9 his/her appointment and provide this information in writing to the parent/guardian and
10 the Section 504 coordinator. The hearing shall take place at a mutually agreeable time
11 and place.

12 *Continuances*

13 Upon a showing of good cause, the hearing officer, at his/her discretion, may grant a
14 continuance of the hearing date and set a new hearing date.

15 *Legal Representation at Hearing*

16 If a parent/guardian is represented by a licensed attorney at the due process hearing,
17 he/she must inform the Section 504 coordinator and the appointed hearing officer of
18 that fact, in writing, at least seven (7) calendar days prior to the hearing date, or the
19 hearing can be continued upon the coordinator's request.

20 *Pre-Hearing Conference*

21 The hearing officer may order a Pre-Hearing Conference during which the
22 parent/guardian or his/her representative will state and clarify the issues to be addressed
23 at the hearing. The Pre-Hearing Conference will also serve to resolve preliminary matters,
24 clarify jurisdictional issues, and answer the parties' questions regarding the hearing
25 process. The Pre-Hearing Conference can be held via telephone or in person depending
26 on the hearing officer's decision based on the convenience to both parties.

27 *Dismissals*

28 If, after the Pre-Hearing Conference, the hearing officer finds that the parent, as a matter
29 of law, alleges and/or raises no factual claims or legal issues that come within his/her
30 jurisdiction as a Section 504 hearing officer, he/she may dismiss the hearing and issue an
31 order to that effect explaining the basis for such finding.

1 *Hearing*

2 The hearing shall be conducted in an informal, non-adversarial manner. The hearing shall
3 be closed to the public unless the parent/guardian requests an open hearing. The hearing
4 officer may reasonably limit testimony and introduction of exhibits for reasons or
5 relevance.

6 *Recording*

7 Instead of a formal written transcript produced by a court reporter, the entire due
8 process hearing will be video recorded. The school system shall provide a copy of the
9 recording to the parent/guardian upon request. In order for an accurate recording to be
10 made, the parties and witnesses shall introduce themselves at the beginning of their
11 presentations. If a parent/guardian appeals the decision of the hearing officer to a court
12 of competent jurisdiction, the school system shall prepare a written transcript of the
13 hearing to be offered to the court as an exhibit.

14 *Witnesses*

15 Witnesses will present their information in narrative form, without the traditional question
16 and answer format of legal proceedings. Cross-examination of witnesses will not be
17 allowed, but a party may request that the hearing officer, at his/her discretion, ask a
18 witness a certain question.

19 *Format of Presentation*

20 Each side will have an equal amount of time to present their positions as determined by
21 the hearing officer. The parent/guardian will present his/her case first by making an
22 opening statement outlining the issues, calling witnesses, and making a closing
23 argument. The school system will present its side next.

24 At the end of the school system's presentation, the parent/guardian may offer a short
25 response. Each side may present personally or through their representatives.

26 *Submission of Exhibits*

27 As part of their presentations and at the discretion of the hearing officer, the parties may
28 submit any reports, evaluations, correspondence, notes, or any other documents that
29 may support their positions. Exhibits submitted to the hearing officer by either party must
30 be marked. The hearing officer may, in the exercise of his/her discretion, reasonably limit
31 the number of documents to be submitted for his/her review, as well as the number of
32 witnesses and the length and/or scope of their presentations or statements.

1 *Closing Arguments*

- 2 The hearing officer may allow or request written closing arguments summarizing and
3 characterizing the information presented at the hearing.

4 *Decision*

- 5 The hearing officer may make an oral ruling at the conclusion of the hearing or take the
6 case under advisement and issue a written opinion. Such a decision shall address all of
7 the issues raised by the parent/guardian as well as any corrective actions, if any, the
8 school system must take. Any issue or claim raised by the parent/guardian that is left
9 unaddressed by the hearing officer in his/her decision will be deemed to have been
10 denied. The decision must be issued within forty-five (45) days after the date the Request
11 for a Due Process Hearing is received by the KIPP Nashville Regional Office. The hearing
12 officer may not award attorneys' fees as a part of the relief granted to a parent/guardian
13 or the district.

14 *Review Procedure/Appeal*

- 15 If the parent/guardian is not satisfied by the decision of the hearing officer, he/she may
16 seek review of the decision in a court of competent jurisdiction.

Legal References

¹ 34 CFR § 104.4(a)

² 42 USCA §12112(a)

³ 28 CFR § 35.107

⁴ 28 CFR § 35.106; 34 CFR § 104.8

⁵ 28 CFR § 35.170, 35.172

⁶ 34 CFR §104.36