

# Discussion of the Procedural Requirements

The following information relates to suggested methods for implementing Section 504 procedural requirements.

## **Procedure One: Written Assurance (34 CFR, 104(5)(a))**

Whenever a school applies for State or federal monies, it must assure that it does not discriminate on the basis of race, sex, color, national origin, age, or disability by signing assurance forms. This requirement is done routinely by all schools when they complete an application for funds.

## **Procedure Two: Section 504 Coordinator (34 CFR, 104(7)(a))**

The general provisions of Section 504, together with other federal nondiscrimination laws, require the designation of a person to coordinate the school's efforts to comply with these laws. Section 504 Coordinator responsibilities and activities could include some or all of the following suggested responsibilities:

- Ensure nondiscriminatory educational practices
- Establish and monitor a Section 504 referral/identification/review process
- Maintain data on Section 504 referrals
- Conduct staff and parent awareness and training activities concerning Section 504 requirements
- Implement Section 504 grievance procedures for the school
- Consult with the director of special education
- Serve as a liaison with the Utah State Office of Education (USOE) Section 504 monitoring Office, Educational Equity Office
- Serve as the contact with the regional Office for Civil Rights

The Section 504 Coordinator is someone already employed by the school. A general education administrator or school counselor who is knowledgeable about federal laws and regulations would be preferred. In addition, it is best practice for each school to designate a Section 504 representative to coordinate with the school's Section 504 Coordinator.

## **Procedure Three: Grievance Procedures (34 CFR, 104(7)(b))**

### **General Information**

If any person believes that the school or any of its staff have inadequately applied the regulations of Section 504 of the Rehabilitation Act of 1973, he/she may initiate a grievance with the school's Section 504 Coordinator. The grievance procedures must explicitly state and make clear to the individual(s) involved that **a complaint can be made to the regional office of U. S. Department of Education's Office for Civil Rights (OCR) without going through the**

**school's grievance procedures.** The grievance procedures are meant to provide for a prompt and equitable resolution of a complaint.

### **Suggested Local Grievance Procedures**

The 504 Coordinator, on request, will provide a copy of the school's grievance procedure and investigate all complaints in accordance with this procedure. The procedure must contain a description of the types of complaints covered by the grievance procedure and a description of the investigative appeals process.

The person who believes he/she has been discriminated against based on disability shall discuss the grievance with, and give the completed grievance form to, the Section 504 Coordinator who shall, in turn, investigate and reply to the complainant.

### **Suggested Process/Timeline**

*Step 1.* A written grievance form signed by the complainant shall be submitted to the Section 504 Coordinator. The Coordinator shall further investigate the matters of grievance and reply in writing to the complainant within 10 (ten) business days.

*Step 2.* If the complainant wishes to appeal the decision of the Section 504 Coordinator, he/she may submit a signed statement of appeal to the Superintendent of Schools within 10 business days after receipt of the Coordinator's response. The Coordinator and Superintendent cannot be the same individual. The Superintendent shall meet with all parties involved, formulate a conclusion, and respond in writing to the complainant within 10 business days.

**Note:** If the Superintendent also serves as the Section 504 Coordinator, the appeal must go to another individual. Communicate with the Utah State Equity Office for advice and guidance.

### **OCR Complaint Procedures (Formal)**

The complainant may file a complaint with the Office for Civil Rights (OCR) at any time before, during, or after the local grievance procedures. The contact information for the regional office is as follows:

U.S. Department of Education  
Office for Civil Rights, Region VIII  
Federal Building, Suite 310  
1244 Speer Boulevard  
Denver, Colorado 80204-3582  
303-844-5695

<http://school.utah.gov/equity/Civil-Rights-Information/OCR-Complaint-Form.aspx>

## Office for Civil Rights Complaint Process

An individual or an organization may file a complaint with the regional Office for Civil Rights (OCR). An OCR complaint must be filed, in writing, within 180 days after the alleged discriminatory act or from the time the person becomes aware of the alleged discriminatory act. In certain cases, OCR will consider complaints where more than 180 days have elapsed.

Anyone wishing to file a formal complaint with OCR should submit in writing the following information in a letter or on the Discrimination Complaint Form, available from OCR regional offices:

- Name, address, and phone (a daytime telephone number is helpful)
- A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required)
- The name and location of the agency that committed the alleged discriminatory act(s), as well as the name of the “injured” person
- A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, sex, color, national origin, age, or disability)

### REMEMBER!

A school or individual may not retaliate against or harass any person who has made a complaint, testified, assisted, or participated in any manner in an investigation.

## Suggested Mediation/Due Process Procedures

### Mediation

Mediation is not required under Section 504, **but should be considered a best practice**. Most of the time, parents and school staff agree upon issues regarding evaluation, eligibility, program, and placement of students with disabilities. However, there are times when disagreement occurs.

Conflict is often inevitable, but it need not produce negative results. If the parent and school are unable to resolve a conflict concerning a student with a disability, then mediation is an available alternative to a long and expensive due process hearing.

The mediator is a neutral third party and, therefore, has no power to make a decision regarding the dispute. He or she will listen to the views of each party and will assist the parties in developing their solution to the problem. The mediator has been trained to handle Section 504 disputes.

—Best Practice—

*Every attempt should be made to resolve any differences between the school and parents before a complaint is filed and/or before the Office for Civil Rights is contacted. Mediation is an excellent technique to resolve differences.*



**Mediation is completely voluntary.** It should not interfere with any procedural safeguards, including filing a grievance with the district requesting a due process hearing or filing a complaint with OCR. **Mediation costs are the responsibility of the school.**

A trained mediator works with both parties to guide them toward a mutually satisfactory solution in the best interest of the student and in compliance with Section 504 regulations. This occurs at a non-adversarial meeting that is more structured than a parent-school conference, but less formal than a due process hearing. Parents and schools are encouraged to try mediation before relying on more formal procedures such as the grievance procedures, complaints to OCR, or due process hearings.

### **Due Process Hearing**

Due process is defined as an opportunity to resolve a dispute between parents and schools over the decisions made and/or procedures used by the school under Section 504. A Section 504 due process hearing (CFR 104.36) may be called **at the request of the school or a parent, guardian, or surrogate parent of the student.** It is required that **parents or guardians** be notified of their right to request a hearing regarding a dispute over the identification, evaluation, or educational placement of a student with disabilities being served or considered for Section 504.

