

**TUCSON UNIFIED SCHOOL DISTRICT
PROCEDURAL SAFEGUARDS
FOR
SECTION 504 DISABLED STUDENTS**

ADMINISTRATIVE REGULATION

6801(a)

DUE PROCESS

When a parent disagrees in matters relating to identification, evaluation or placement, there are procedural safeguards. A parent may seek to resolve these issues using informal dispute resolution procedures or request a formal due process hearing. Informal dispute resolution procedures include (1) Student Review Team review, (2) appeal to Equity Development, or (3) mediation.

Due process is a series of steps which helps assure that disabled students receive the free, appropriate public education, to which they are entitled. At each step in determining a student's need for services and developing a plan, the student, student's parents/guardians/surrogate (hereinafter referred to only as parent) or school district have a right to disagree with the decisions made. These decisions may be reviewed in a formal due process hearing.

PROCEDURES

A. *INFORMAL DISPUTE RESOLUTION PROCEDURES*

- I:** The Student Review Team (SRT) shall be convened to discuss the parental concerns.
- II:** If the concern is not resolved the parents may appeal to the Office of Equity Development.
- III:** An impartial mediator may assist the parents and the District to come to agreement.
- NOTE:** *The informal procedures are optional and are not required prior to requesting a due process hearing.*

B. *DUE PROCESS HEARING*

Phase I - Requesting a Hearing

When differences regarding the placement of a child cannot be resolved by the foregoing proceedings, the Office of Equity Development shall notify the parents by registered letter in the primary language of the family that they may request a formal hearing. The parent shall have 15 calendar days from their receipt of the notification in which to request a formal due process hearing in writing. If the District does not receive such a request within 15 calendar days, no further action regarding the hearing will be initiated by the District, and the child will remain in the current placement.

If the parents do not choose to resolve the issues through the informal dispute resolution procedures, the parents must present a written request for a formal due process hearing within 20 calendar days of their receipt of the notification regarding the identification, evaluation or placement decision they dispute.

Within a reasonable time after receiving a request from a parent, the District shall appoint a hearing officer who shall not be an officer, employee, or agent of Tucson Unified School District. Once appointed, this person will have up to 30 calendar days to review pertinent documents, to consult with all parties concerned, and to determine a time and a place for the hearing that will be reasonably convenient for all parties concerned.

Phase II - Scheduling the Hearing

Notification of the hearing shall be mailed by the hearing officer to the parent, all District personnel required to be at the hearing, and the Area Assistant Superintendent. A copy shall be retained by the hearing officer.

Phase III - Convening the Hearing

The Due Process Hearing shall be conducted in accordance with the following procedures:

The hearing officer shall preside at the hearing and shall conduct the proceeding in a fair and impartial manner to the end that all parties involved have an opportunity to present any relevant and material evidence and question witnesses.

All parties may prohibit the introduction of any evidence or the production of any witness at the hearing that has not been disclosed to that party at least 5 calendar days before the hearing. The parties shall have the right to produce outside expert witnesses and be represented by legal counsel and by individuals with special knowledge or training with respect to problems of disabled children.

The hearing officer shall review all relevant facts concerning the education placement.

1. The hearing officer shall render a decision, subject to judicial review, as to whether the District has met all procedural aspects of the education placement plan.
2. The hearing officer shall render a decision, subject to judicial review, which is binding on all parties, and in all cases should comply with Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 Code of Federal Regulation Part 104.

3. If the parents' primary language is other than English, the hearing officer shall appoint an interpreter upon the parents' request, which shall be made at least three school days prior to the hearing. A copy of the hearing officer's decision shall be sent registered mail to the Area Assistant Superintendent and parent within twenty calendar days following completion of the hearing. All parties involved shall have an opportunity to obtain written findings of fact and decisions.

All written correspondence, including the copy of the decision, shall be provided in English and the primary language of the home. The decision of the hearing officer shall be binding on the parents and on the local school district, its employees and agents, subject only to administrative review.

Phase IV - Appealing the Decision

If the case is appealed, the decision of the hearing officer shall be adhered to, unless a specific waiver is authorized by the hearing officer.

1. Such an appeal shall be accepted only if it is initiated within ten calendar days after the decision of the hearing officer has been received by the parties.
2. An appeal of a decision of an impartial hearing officer shall be limited to a determination of : (1) whether all procedural requirements have been observed, and (2) whether the decision of the hearing officer is arbitrary or unreasonable in light of the evidence of record.
3. The decision of the Appeals Officer regarding the appeal shall be sent to all parties, including the hearing officer, by registered mail within a reasonable time of the receipt of the appeal request.
4. The decision of the Appeals Officer shall be binding on the parents and on the school district, subject only to judicial review through established legal procedures.

**TUCSON UNIFIED SCHOOL DISTRICT
TUCSON, ARIZONA**

Reviewed by Board: May 21, 1991
Revised via Friday Report: September 24, 1999