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3 **INSTRUCTION**

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6 Section 504 of the Rehabilitation Act of 1973 (“Section 504”)

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8 (1) **Impartial Due Process Hearing.** If the parent or legal guardian of a student who qualifies under
9 Section 504 for special instruction or related services disagrees with a decision of the District
10 with respect to: (1) the identification of the child as qualifying for Section 504; (2) the District’s
11 evaluation of the child; and/or (3) the educational placement of the child, the parents of the
12 student are entitled to certain procedural safeguards. The student shall remain in his/her current
13 placement until the matter has been resolved through the process set forth herein.
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- 15 A. The District shall provide written notice to the parent or legal guardian of a Section 504
16 student, prior to initiating an evaluation of the child and/or determining the appropriate
17 educational placement of the child, including special instruction and/or related services;
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 - 19 B. Upon request, the parent or legal guardian of the student shall be allowed to examine all
20 relevant records relating to the child’s education and the District’s identification,
21 evaluation, and/or placement decision;
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 - 23 C. The parent or legal guardian of the student may make a request in writing for an impartial
24 due process hearing. The written request for an impartial due process hearing shall
25 identify with specificity the areas in which the parent or legal guardian is in disagreement
26 with the District;
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 - 28 D. Upon receipt of a written request for an impartial due process hearing, a copy of the
29 written request shall be forwarded to all interested parties within three (3) business days;
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 - 31 E. Within ten (10) days of receipt of a written request for an impartial due process hearing,
32 the District shall select and appoint an impartial hearing officer who has no professional
33 or personal interest in the matter. In that regard, the District may select a hearing officer
34 from the list of special education hearing examiners available at the Office of Public
35 Instruction, the county superintendent, or any other person who would conduct the
36 hearing in an impartial and fair manner;
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 - 38 F. Once the District has selected an impartial hearing officer, the District shall provide the
39 parent or legal guardian and all other interested parties with notice of the person selected;
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 - 41 G. Within five (5) days of the District’s selection of a hearing officer, a prehearing
42 conference shall be scheduled to set a date and time for a hearing, identify the issues to be
43 heard, and stipulate to undisputed facts to narrow the contested factual issues;
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 - 45 H. The hearing officer shall, in writing, notify all parties of the date, time, and location of
46 the due process hearing;
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4 I. Anytime prior to the hearing, the parties may mutually agree to submit the matter to
5 mediation. A mediator may be selected from the Office of Public Instruction’s list of
6 trained mediators;
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8 J. At the hearing, the District and the parent or legal guardian may be represented by
9 counsel;
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11 K. The hearing shall be conducted in an informal but orderly manner. Either party may
12 request that the hearing be recorded. Should either party request that the hearing be
13 recorded, it shall be recorded using either appropriate equipment or a court reporter. The
14 District shall be allowed to present its case first. Thereafter the parent or legal guardian
15 shall be allowed to present its case. Witnesses may be called to testify, and documentary
16 evidence may be admitted; however, witnesses will not be subject to cross-examination,
17 and the Montana Rules of Evidence will not apply. The hearing officer shall make all
18 decisions relating to the relevancy of all evidence intended to be presented by the parties.
19 Once all evidence has been received, the hearing officer shall close the hearing. The
20 hearing officer may request that both parties submit proposed findings of fact,
21 conclusions, and decision;
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23 L. Within twenty (20) days of the hearing, the hearing examiner should issue a written
24 report of his/her decision to the parties;
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26 M. Appeals may be taken as provided by law. The parent or legal guardian may contact the
27 Office of Civil Rights, 912 2nd Avenue, Seattle, WA 98714-1099; (206) 220-7900.
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29 (2) Uniform Complaint Procedure. If a parent or legal guardian of the student alleges that the
30 District and/or any employee of the District has engaged in discrimination or harassment of the
31 student, the parent or legal guardian will be required to proceed through the District’s Uniform
32 Complaint Procedure.
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35 Legal Reference: 34 C.F.R. 104.36 Procedural safeguards
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38 Procedure History:

39 First reading on: 10/13/21

40 Second reading/Adopted on: 11/10/21