

**PLEASANTON UNIFIED SCHOOL DISTRICT  
PROCEDURAL SAFEGUARDS**

**HEARING PROCEDURES PURSUANT TO  
SECTION 504 OF THE REHABILITATION ACT**

**I. Purpose and Scope**

The purpose of this Hearing Procedure is to provide an avenue for the resolution of complaints which allege discrimination on the basis of handicap pursuant to Section 504 of the Rehabilitation Act of 1973, with respect to actions regarding the identification, evaluation, and reasonable accommodation of the educational setting for qualified handicapped pupils. Federal Regulation 34 CFR 104.36 states:

"A recipient that operates a public elementary or secondary education program shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of Section 615 of the Education of the Handicapped Act is one means of meeting this requirement."

The procedural safeguards set forth below apply only to those matters identified in 34 CFR 104.36 which cannot be resolved through the hearing procedures set forth in section 615 of the Education for the Handicapped Act (now Individuals with Disabilities Education Act - IDEA) and California Education Code Sections 56500-56507. Only when a complaint is filed over the identification, evaluation, or educational placement of a pupil and the remedy sought is not available under the Individuals with Disabilities Education Act, shall these procedures be utilized. (EHA, 20 U.S.C. Section 1415(f), 100 stats. 796)

**II. Definitions**

1. "Appellant" means parents, guardian, or pupil.
2. "Days" means working days.
3. "District" means the Pleasanton Unified School District.
4. "Employee" means a person who is on the payroll of the District.
5. "Pupil" means a person enrolled in one of the schools operated by the district.

### III. Procedures

1. Notice of Appeal Rights. The District Director of Pupil Services will notify parents annually through the Parent-Student Rights and Responsibilities Handbook, of their right to appeal the decision of the District with respect to the identification, evaluation, and placement of a pupil pursuant to 34 CFR 104.35.
2. Rights Relating to Records. Parents have the right to review relevant records regarding their child. Records may be reviewed at the school site or at the District Office in accordance with the procedures set forth in California Education Code section 49069.
3. Conditions Under Which Appeals May Be Filed. A parent or pupil may appeal decisions made by the District relating to any of the following:
  - a. Identification of the pupil as handicapped pursuant to 34 CFR 104.3(j)
  - b. Evaluation procedures utilized with the pupil pursuant to 34 CFR 104.35.
  - c. Educational placement/services and the accommodation(s) recommended for the pupil in accordance with 34 CFR 104.33.

These procedures shall not be utilized if the remedy requested by the appellant is available through the due process procedures set forth in Section 615 of the Individuals with Disabilities Education Act.

4. Timelines for Filing an Appeal. An appeal must be filed within the semester in which the action being appealed occurred.
5. Written Request by Parent Making Appeal. The parent or pupil appealing a decision of the District pursuant to these procedures must submit a written request for review. A parent or pupil making an oral request will be assisted by the District in making a written request. The written request shall be directed to the Director of Pupil Services and shall indicate the following:
  - a. the specific nature of the decision(s) made by the District with which the appellant disagrees;
  - b. the specific relief the appellant is seeking through the appeal procedures; and
  - c. any other information the appellant believes will assist in understanding the appeal.
6. Designation of the Individual to Review Appeal and Conduct the Hearing. Within 7 days of

receipt of a written appeal and request for hearing, the Director of Pupil Services or his/her designee shall select a hearing officer from a list maintained by the District.

Persons whose names appear upon the list shall meet all of the following requirements:

- a. be qualified to review District decisions relating to Section 504 of the Rehabilitation Act;
- b. be impartial and unbiased; and
- c. not be an employee of the District or the County Office of Education.

Prior to the hearing, the individual so selected will review the District's action and notify the parties in writing of the date of the hearing, allowing at least 10 days notice. Either party to the hearing may request a continuance. The continuance shall be granted by the hearing officer upon a showing of good cause. Any continuance shall extend the time for rendering a final hearing decision for a period only equal to the length of the continuance. The hearing shall be conducted and a written decision mailed to all parties within 45 days from the date of the selection of the hearing officer.

Any party to the hearing shall be afforded the following rights:

- a. The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of handicapped children.
- b. The right to present evidence, written arguments and oral arguments.
- c. The right to confront, cross-examine, and compel the attendance of witnesses.
- d. The right to a written or electronic verbatim record of the hearing.
- e. The right to written findings of fact and the decision.
- f. The right to prohibit the introduction of any evidence at the hearing that has not been disclosed to the party at least 5 days before the hearing.

The individual conducting the hearing pursuant to these procedures may uphold, reverse, or modify the District's determination with respect to:

- a. Identification of the pupil as handicapped pursuant to 34 CFR 104.3(j).
- b. Evaluation procedures utilized with the pupil pursuant to 34 CFR 104.35.

- c. Educational placement/services and accommodations recommended for the pupil in accordance with 34 CFR 104.33.

The decision of the hearing officer shall be binding on the parties, subject to review by any court of competent jurisdiction.