

## **STUDENTS**

### **SECTION 504 OF THE REHABILITATION ACT OF 1973**

#### **Statement**

Section 504 of the Rehabilitation Act of 1973 (“Section 504”) prohibits discrimination against individuals with a disability in any program receiving Federal financial assistance. To be protected under Section 504, an individual must be determined to: (1) have a physical or mental impairment that substantially limits one or more major life activities; (2) have a record of such an impairment; or (3) be regarded as having such an impairment.

In order to fulfill its obligation under Section 504, the Board of Education recognizes a responsibility to avoid discrimination in policies and practices regarding its personnel, students, parents and members of the public who participate in school sponsored programs. In this regard, the Board of Education prohibits discrimination against any person with a disability in any of the programs operated by the school system.

The school district also has specific responsibilities under Section 504 to identify, evaluate and provide an educational placement for students who have a physical or mental impairment that substantially limits a major life activity. The school district’s obligation includes providing access to free appropriate public education (“FAPE”) for students determined to be eligible under Section 504. Under Section 504, FAPE is defined as the provision of regular or special education and related services that are designed to meet the individual educational needs of a student with a disability as adequately as the needs of students without disabilities are met, and that are provided without cost (except for fees imposed on nondisabled students/parents).

If the parent or guardian of a student disagrees with the decisions made by the professional staff of the school district with respect to the identification, evaluation, and/or educational placement of his/her child, a parent/guardian has a right to request an impartial due process hearing. The parent or guardian may also file an internal grievance on these issues or any other type of discrimination on the basis of disability by utilizing the complaint procedures outlined in the Board’s Administrative Regulations, and/or may file a complaint with the Office of Civil Rights, U.S. Department of Education.

Any student, parent, guardian or other individual who believes he/she has been discriminated against by or within the district on the basis of a disability may utilize the complaint procedures outlined in the Board’s Administrative Regulations, and/or may file a complaint with the Office of Civil Rights, U.S. Department of Education, 8<sup>th</sup> Floor, 5 Post Office Square, Suite 900, Boston, MA 02109-0111; TELEPHONE NUMBER (617) 289-0111.

Anyone who wishes to file a complaint, or who has questions or concerns about this policy, should contact the Coordinator of School Services, Section 504 Coordinator for the Manchester Public Schools, at phone number 860-647-3448.

Legal References:       29 U.S.C. § 794  
                              34 C.F.R. § 104 et seq.  
                              42 U.S.C. 12101 et seq.  
                              ADA Amendments of 2008, Public Law 110-325

REVISED:       3/24/14

**ADMINISTRATIVE REGULATIONS REGARDING SECTION 504  
OF THE REHABILITATION ACT OF 1973**

**Board of Education Section 504 Grievance/Complaint Procedures**

**I. Definitions**

**Free appropriate public education (FAPE):** for purposes of Section 504, refers to the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met, that are provided without cost (except for fees imposed on nondisabled students/parents), and is based upon adherence to procedures that satisfy the Section 504 requirements pertaining to educational setting, evaluation and placement, and procedural safeguards.

**Major life activities:** include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. A major life activity also includes the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

**Mitigating Measures:** include, but are not limited to, medication, medical supplies, equipment, appliances, low-vision devices (not including ordinary eyeglasses or contact lenses), prosthetics, hearing aids, cochlear implants, mobility devices, oxygen therapy, use of assistive technology, reasonable accommodations or auxiliary aids or services or learned behavioral or adaptive neurological modifications.

**Physical or Mental Impairment:** a) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine or b) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

**II. Procedures for Grievances/Complaints Alleging Discrimination on the Basis of Disability**

- A. Any eligible person, including any student, parent/guardian, staff member or other employee who feels that he/she has been discriminated against on the basis of disability may submit a written complaint to the district's designated Section 504 Coordinator within thirty (30) school days of the alleged occurrence. Timely reporting of complaints facilitates the prompt investigation and resolution of such complaints. If the complaint is made verbally, the individual taking the complaint will reduce it to writing.
- B. At any time, when complaints involve discrimination that is directly related to a claim regarding the identification, evaluation, and/or educational placement of a student under Section 504, the complainant may request that the Section 504 Coordinator submit the complaint directly to an impartial hearing officer and request a hearing in accordance with Section III.D. Complaints regarding a student's rights with respect to his/her identification, evaluation and/or educational placement shall be addressed in accordance with the procedures set forth below in Section III.

- C. Retaliation against any individual who complains pursuant to the Board's policy and regulations listed herein is strictly prohibited. The district will not tolerate any reprisals or retaliation that occur as a result of the good faith reporting or complaint of disability-based discrimination, or as a result of an individual's participation or cooperating in the investigation of a complaint. The district will take necessary actions to prevent retaliation as a result of filing a complaint or the participation in an investigation of a complaint.
- D. If the Section 504 Coordinator is the subject of the complaint, the complaint should be submitted directly to the Superintendent who may conduct the investigation or appoint a designee to conduct the investigation in accordance with these procedures.
- E. Complaints will be investigated promptly within timeframes identified below. Timeframes may be extended as needed given the complexity of the investigation, availability of individuals with relevant information and other extenuating circumstances. Confidentiality will be maintained by all persons involved in the investigation to the extent possible.
- F. The complaint should contain the following information:
  - 1. The name of the complainant;
  - 2. The date of the complaint;
  - 3. The date(s) of the alleged discrimination;
  - 4. The names of any witness(es) or individuals relevant the complaint;
  - 5. A detailed statement describing the circumstances in which the alleged discrimination occurred; and
  - 6. Remedy requested.

However, all complaints will be investigated to the extent possible, even if such information is not included in the complaint. In such circumstances, additional information may be requested by the investigator as part of the investigation process.

- G. Upon receipt of the complaint, the individual investigating the complaint shall:
  - 1. Provide a copy of the written complaint to the Superintendent of Schools;
  - 2. Meet with the complainant within ten (10) school days to discuss the nature of the complaint, identify individuals the complainant believes have relevant information, and obtain any relevant documents the complainant may have;
  - 3. Provide the complainant with a copy of the Board's Section 504 Policy, and these administrative regulations;
  - 4. Conduct an investigation that is adequate, reliable, and impartial. Investigate the factual basis for the complaint, including conducting interviews with individuals with information and review of documents relevant to the complaint;
  - 5. Maintain confidentiality to the extent practicable throughout the investigative process, in accordance with state and federal law;
  - 6. Communicate the outcome of the investigation in writing to the complainant, and to any individual properly identified as a party to the complaint (to the extent permitted by state and federal confidentiality requirements), within fifteen (15) school days from the date the complaint was received by the Section 504

Coordinator or Superintendent. The investigator may extend this deadline for no more than fifteen (15) additional school days if needed to complete the investigation. The complainant shall be notified of such extension. The written notice shall include a finding whether the complaint was substantiated and if so, shall identify how the district will remedy any identified violations of Section 504;

7. If a complaint is made during summer recess, the complaint will be reviewed and addressed as quickly as possible given the availability of staff and/or other individuals who may have information relevant to the complaint. If fixed timeframes cannot be met, complainant will receive notice and interim measures may be implemented as necessary
  8. Ensure that appropriate corrective action is taken whenever allegations are verified. When allegations are verified, ensure that compensatory services and/or other measures to remedy the effects of the discrimination are appropriately considered, and offered, when appropriate. Corrective action should include steps to avoid continuing discrimination.
  9. In the event the investigator concludes that there is no violation of Section 504, the District may attempt to resolve the complainant's ongoing concerns, if possible.
- H. If the complainant is not satisfied with the findings and conclusions of the investigation, the complainant may present the complaint and written outcome to the Superintendent for review and reconsideration within thirty (30) calendar days of receiving the findings. This process provides an opportunity for complainants to bring information to the Superintendent's attention that would change the outcome of the investigation. In submitting the complaint and written outcome for review, the complainant must explain why he/she believes the factual information was incomplete, the analysis of the facts was incorrect, and/or the appropriate legal standard was not applied, *and* how this would change the investigator's determination in the case. Failure to do so may result in the denial of the review.

Upon review of a written request from the complainant, the Superintendent shall review the investigative results of the Section 504 Coordinator and determine if further action and/or investigation is warranted. Such action may include consultation with the investigator and complainant, a meeting with appropriate individuals to attempt to resolve the complaint or a decision affirming or overruling the investigator's conclusions or findings. The Superintendent shall provide written notice to the complainant of his/her decision within ten (10) school days following the receipt of the written request for review.

### **III. Complaint Resolution Procedures for Complaints Involving a Student's Identification, Evaluation, and/or Educational Placement**

Complaints regarding a student's identification, evaluation, and/or educational placement shall generally be handled using the procedures described below. However, at any time, the complainant may request that the Section 504 Coordinator submit the complaint directly to an impartial hearing officer, and request a hearing in accordance with the provisions of subsection D (below).

#### **A. Submission of Complaint to Section 504 Coordinator**

1. In order to facilitate the prompt investigation of complaints, any complaint regarding a student's identification, evaluation and/or educational placement under Section 504 should be forwarded to the district's Section 504 Coordinator within thirty (30) school days of the alleged date that the dispute regarding the student's identification, evaluation and/or education placement arose. Timely reporting of complaints facilitates the resolution of potential educational disputes .
2. The complaint concerning a student's identification, evaluation and/or educational placement should contain the following information:
  - a. Full name of the student, age, and grade level;
  - b. Name of parent(s);
  - c. Address and relevant contact information for parent/complainant;
  - d. Date of complaint;
  - e. Specific areas of disagreement relating to the student's identification, evaluation and/or placement; and
  - f. Remedy requested.

However, all complaints will be investigated to the extent possible even if such information is not included in the complaint. In such circumstances, additional information may be requested by the investigator as part of the investigation process.

3. Complaints will be investigated promptly within timeframes identified below. Timeframes may be extended as needed given the complexity of the investigation, availability of individuals with relevant information and other extenuating circumstances.
4. Upon receipt of the complaint, the Section 504 Coordinator shall:
  - a. Forward a copy of the complaint to the Superintendent of Schools;
  - b. Meet with the complainant within ten (10) school days to discuss the nature of his/her concerns and determine if an appropriate resolution can be reached. If a complaint is made during summer recess, the complaint will be reviewed and addressed as quickly as possible given the availability of staff and other individuals who may have information relevant to the complaint;
  - c. If, following such a meeting, further investigation is deemed necessary, the Section 504 Coordinator shall promptly investigate the factual basis for the complaint, consulting with any individuals reasonably believed to have relevant information, including the student and/or complainant; and
  - d. Communicate the results of his/her investigation in writing to the complainant and any persons named as parties to the complaint (to the extent permitted by state and federal confidentiality requirements) within fifteen (15) school days from the date the complaint was received by the Section 504 Coordinator.
  - e. In the event that the person making the complaint contends that the Section 504 Coordinator has a conflict of interest that prevents him/her

from serving in this role, the complaint shall be forwarded to the Superintendent who shall appoint an investigator who does not have a conflict of interest.

B. Review by Superintendent of Schools

1. If the complainant is not satisfied with the findings and/or resolution offered as a result of the Section 504 Coordinator's review, he or she may present the complaint and the written statement of findings to the Superintendent for review and reconsideration within thirty (30) calendar days of receiving the findings. This process provides an opportunity for complainants to bring information to the Superintendent's attention that would change the outcome of the investigation. In submitting the complaint and written outcome for review, the complainant must explain why he/she believes the factual information was incomplete, the analysis of the facts was incorrect, and/or the appropriate legal standard was not applied, *and* how this would change the investigator's determination in the case. Failure to do so may result in the denial of the review.
2. The Superintendent shall review the complaint and any relevant documents maintained by the Section 504 Coordinator/investigator and shall consult with the Section 504 Coordinator/investigator regarding attempts to resolve the complaint. The Superintendent also shall consult with the complainant. The Superintendent may attempt to resolve the complainant's concerns alone, or with another appropriate administrator.
3. Following the Superintendent's review, he or she shall communicate his/her findings to the complainant within ten (10) school days following his/her receipt of the written request for review.
4. If the complainant is not satisfied with the Superintendent's decision or proposed resolution, he/she may request that the Superintendent submit the matter to a neutral mediator or to an impartial hearing officer. This request for a hearing/mediation should be made within fifteen (15) school days of the Superintendent's decision. Mediation shall only occur by mutual agreement of the parties.

C. Mediation Procedures:

A parent or guardian may request mediation with a neutral mediator to attempt to resolve a disagreement with the decisions made by the professional staff of the school district with respect to the identification, evaluation, and/or educational placement of his/her child.

1. A request for mediation regarding a student's identification, evaluation and/or educational placement under Section 504 should be forwarded to the district's Section 504 Coordinator within thirty (30) school days of the alleged date that the dispute regarding the student's identification, evaluation, and/or educational placement arose.
2. The request for mediation concerning a disagreement relating to a student's identification, evaluation and/or educational placement should contain the following information:
  - a. Full name of the student, age, and grade level;

- b. Name of parent(s);
  - c. Address and relevant contact information for parent/complainant;
  - d. Date of complaint;
  - e. Specific areas of disagreement relating to the student's identification, evaluation and/or placement; and
  - f. Remedy requested.
3. Upon receipt of a request for mediation, the Section 504 Coordinator shall:
    - i. Forward a copy of the request for mediation to the Superintendent of Schools;
    - ii. Retain a neutral mediator who is knowledgeable about the requirements of Section 504, and has an understanding of a free appropriate public education ("FAPE") under Section 504, and the distinctions between Section 504 and the regulations and requirements of the Individuals with Disabilities Education Act (IDEA).
  4. The mediator shall inform all parties involved of the date, time and place of the mediation and of the right to have legal counsel or other representation at the complainant's own expense, if desired.
  5. The mediator shall meet with the parties jointly, or separately, as determined by the mediator, and shall facilitate a voluntary settlement of the dispute between the parties, if possible.
  6. If the parties are not able to reach a voluntary settlement of the dispute, the complainant may request an impartial hearing, as described below.

D. Impartial Hearing Procedures:

An impartial due process hearing is available to the parent or guardian of a student disagrees with the decisions made by the professional staff of the school district with respect to the identification, evaluation, and/or educational placement of his/her child, or otherwise makes a claim of discrimination relating to the identification, evaluation, or educational placement of the student.

1. Upon receipt of a request for an impartial due process hearing, the Board shall retain an impartial hearing officer. The impartial hearing officer must be someone who is knowledgeable about Section 504, an understanding of a free appropriate public education ("FAPE") under Section 504, and the distinctions between Section 504 and the regulations and requirements of the Individuals with Disabilities Education Act (IDEA).
2. The impartial hearing office shall schedule a pre-hearing conference with the District and the Parent (or his/her legal counsel) to identify the issue(s) for hearing, set the hearing schedule, and address other administrative matters related to the hearing, including the option for mediation, and the right of the right to have legal counsel or other representation at the complainant's own expense, if desired;
3. The impartial hearing officer shall inform all parties involved of the date, time and place of the hearing and of the right to present witness(es), other evidence, and to have legal counsel or other representation at each party's own expense, if desired.

4. The impartial hearing officer shall hear all aspects of the complainant's complaint and/or appeal concerning the identification, evaluation and/or educational placement of the student and shall reach a decision within forty-five (45) school days of receipt of the request for hearing. The decision shall be presented in writing to the complainant and to the Section 504 Coordinator.
5. An impartial hearing officer under Section 504 does not have jurisdiction to hear claims alleging discrimination, harassment or retaliation based on an individual's disability unless such a claim is *directly related* to a claim regarding the identification, evaluation, or educational placement of a student under Section 504.
6. The time limits noted herein may be extended for good cause shown, including but not limited to if more time is needed to permit thorough review, presentation of evidence, and opportunity for resolution.

## MANCHESEER PUBLIC SCHOOLS

### NOTICE OF PARENT/STUDENT RIGHTS UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 of the Rehabilitation Act of 1973 (commonly referred to as “Section 504”) is a non-discrimination statute enacted by the United States Congress. Section 504 prohibits discrimination on the basis of disability. Under Section 504, the school district also has specific responsibilities to identify, evaluate and provide an educational placement for students who are determined to have a physical or mental impairment that substantially limits a major life activity. The school district’s obligation includes providing such eligible students a free appropriate public education (“FAPE”). Section 504 defines FAPE as the provision of regular or special education and related services that are designed to meet the individual educational needs of a student with a disability as adequately as the needs of students without disabilities are met, and that are provided without cost (except for fees imposed on nondisabled students/parents).

A student is covered under Section 504 if it is determined that he/she suffers from a mental or physical disability that substantially limits one or more major life activity such as (but not limited to) caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. A major life activity may also include the operation of a major bodily function, such as an individual’s immune, digestive, respiratory or circulatory systems.

A student can be disabled and be covered by Section 504 even if he/she does not qualify for, or receive, special education services under the IDEA.

The purpose of this notice is to provide parents/guardians and students with information regarding their rights under Section 504. Under Section 504, you have the right:

1. To be informed of your rights under Section 504;
2. To have your child take part in and receive benefits from the [\_\_\_\_\_] School District’s education programs without discrimination based on his/her disability.
3. For your child to have equal opportunities to participate in academic, nonacademic and extracurricular activities in your school without discrimination based on his/her disability;
4. To be notified of decisions and the basis for decisions regarding the identification, evaluation, and educational placement of your child under Section 504;
5. If you suspect your child may have a disability, to request an evaluation, at no expense to you, to have an eligibility determination under Section 504, and if eligible, placement decisions made by a team of persons who are knowledgeable of your child, the assessment data, and any placement options;
6. If your child is eligible for services under Section 504, for your child to receive a free appropriate public education (FAPE). This includes the right to receive regular or special education and related services that are designed to meet the individual needs of your child as adequately as the needs of students without disabilities are met.

7. If your child is eligible for services under Section 504, for your child to receive reasonable accommodations and services to allow your child an equal opportunity to participate in school, extra-curricular and school-related activities;
8. For your child to be educated with peers who do not have disabilities to the maximum extent appropriate;
9. To have your child educated in facilities and receive services comparable to those provided to non-disabled students;
10. To review all relevant records relating to decisions regarding your child's Section 504 identification, evaluation, and educational placement;
11. To examine or obtain copies of your child's educational records at a reasonable cost unless the fee would effectively deny you access to the records;
12. To request changes in the educational program of your child, to have your request and related information considered by the team, a decision made by the team, and if denied, an explanation for the team's decision/determination;
13. To an impartial due process hearing if you disagree with the school district's decisions regarding your child's Section 504 identification, evaluation or educational placement. The costs for this hearing are borne by the local school district. You and the student have the right to take part in the hearing and to have an attorney represent you at your expense.
14. To file a local grievance/complaint with the district's designated Section 504 Coordinator to resolve complaints of discrimination including, but not limited to, claims of discrimination directly related to the identification, evaluation or placement of your child.
15. To file a formal complaint with the U.S. Department of Education, Office for Civil Rights.

For additional assistance regarding your rights under Section 504, you may contact:

Boston Regional Office  
Office for Civil Rights  
U.S. Department of Education  
8<sup>th</sup> Floor  
5 Post Office Square, Suite 900  
Boston, MA 02109-3921  
Telephone: (617) 289-0111

Connecticut State Department of Education  
Bureau of Special Education  
and Pupil Services  
P.O. Box 2219  
Hartford, CT 06145  
Telephone: (860) 807-2030