

Section 504 Notice of Procedural Safeguards

Overview

Section 504 of the Rehabilitation Act of 1973 (Section 504) is a federal civil rights law that prohibits discrimination on the basis of disability. Section 504 provides, in part, that no qualified individual with a disability shall, solely on the basis of his or her disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from the Department of Education.

Definitions

Handicapped Person (“Person with a Disability”): any person who (i) has a physical or mental impairment which substantially limits one or more major life activities; or (ii) has a record of such impairment; or (iii) is regarded as having such impairment.

Physical or Mental Impairment: (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Major Life Activity: Major life activities under Section 504 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. *Amended by the ADAAA of 2008; see 42 USC §12102(2)(A)*. Major life activities also include 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. *See 42 USC §12102(2)(B)*.

Note: These lists are not exhaustive. Other functions can be major life activities for purposes of Section 504.

Qualified Person with a Disability: (1) With respect to public educational services, a person with a disability (i) of an age during which persons without disabilities are provided such services, (ii) of an age during which it is mandatory under state law to provide such services to persons with a disability, or (iii) to whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act (IDEA); (2) With respect to vocational education services, a person with a disability who meets the academic and technical standards requisite to admission or participation in the District’s education program or activity; and (3) With respect to other services, a person with a disability who meets the essential eligibility requirements for the receipt of such services.

Appropriate Education: the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of persons with disabilities as adequately as the needs of persons without disabilities are met and are based upon adherence to

Section 504 procedural requirements regarding academic settings, nonacademic settings, comparable facilities, evaluation, placement and the provision of procedural safeguards.

Section 504 Team: a group of persons including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options.

Significant Change in Placement: A substantial and fundamental change in a student's educational program that can include, but is not limited to, an exclusion from the educational program of more than ten school days, transferring a student from one type of program to another, or terminating or significantly reducing a related service.

Notice of Section 504 Procedural Safeguards

The District hereby provides notice of the following procedural safeguards to insure that parents and guardians are fully informed of their rights concerning decisions involving the identification, evaluation, or educational placement of their student. These procedural safeguards will be provided at the time of referral, at a time when the parent or guardian disagrees with a decision regarding the identification, evaluation, or educational placement of their student, any time that a parent or guardian requests information regarding the rights contained herein, and on an annual basis thereafter. Section 504 safeguards include the following:

- (i) Receiving notice of rights under Section 504 (See 34 CFR 104.36);
- (ii) Receiving notice with respect to actions regarding identification, evaluation, or educational placement (34 CFR 104.36);
- (iii) The right to examine all relevant records relating to decisions regarding their child's identification, evaluation, or educational placement. Requests to review such records should be made to the Chair of the Section 504 Team (34 CFR 104.36);
- (iv) The right to file a complaint as set forth below;
- (v) The right to representation by counsel in any due process hearing;
- (vi) The right to review of the determination of any due process hearing.

District's Complaint Procedure

The District has adopted the Anti-Discrimination/Anti-Harassment Policy and Grievance Procedure, found in the student handbook, for the prompt and equitable resolution of complaints alleging any action prohibited under Section 504 and Title II, as applicable. Examples of grievable issues could include, but are not limited to: denial of an accommodation; inadequacy of an accommodation; or inaccessibility of a program or activity due to disability.

Individuals may file a report or complaint of discrimination, including harassment, with the Principal. If the complaint involves allegations of discrimination based on disability, the person filing the complainant also has the option to file his/her complaint with the building level 504 coordinator. A report or complaint of a violation involving the Principal should be filed with the Superintendent.

While it is highly recommended that all parties begin resolution of issues as described above, individuals always have the right to initiate a complaint with the Office for Civil Rights, or, as appropriate, with the Bureau of Special Education Appeals at any time.

Requesting a Due Process Hearing through the Bureau of Special Education Appeals

Parents or guardians have the right to request a due process hearing related to decisions regarding their child’s identification, evaluation, and/or educational placement. Parents or guardians may take part in these proceedings and have an attorney represent them at their own cost. A parent or guardian may request a due process hearing by filing a written request with the Bureau of Special Education Appeals of the Massachusetts Department of Elementary & Secondary Education.

Bureau of Special Education Appeals
One Congress Street, 11th Floor
Boston, MA 02114
Phone: (617) 626-7250
Fax: (617) 626-7270

U.S. Department of Education, Office for Civil Rights Complaint

Parents or guardians also have the right to file a complaint related to violations of Section 504 with Office for Civil Rights of the U.S. Department of Education. The OCR regional office for Massachusetts is:

Office for Civil Rights
U.S. Department of Education
8th Floor
5 Post Office Square Suite 900
Boston, MA 02109-3921
Phone: (617) 289-0111
FAX: (617) 289-0150; TDD: (877) 521-2172
Email: OCR.Boston@ed.gov

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