

MAYWOOD SCHOOL DISTRICT

SECTION 504 MANUAL

Michael Jordan
Superintendent of Schools

March 2022

MAYWOOD SCHOOL DISTRICT
SECTION 504 MANUAL OF PROCEDURES AND FORMS

Table of Contents

Information Regarding Section 504 in Public SchoolSection 1

Institutional RequirementsSection 2

Referral ProcessSection 3

Evaluation/Eligibility Process.....Section 4

Section 504 Accommodation Plan.....Section 5

District FormsSection 6

Grievance Procedures.....Section 7

Related Policies and Regulations.....Section 8

Michael Jordan
Superintendent of Schools
Principal, Maywood Avenue School

Michael Halligan
Principal, Memorial School

Kerry Leto & Christina Blundo
School Counselor/504 Officer, Maywood Avenue School

Carly Byrnes
School Counselor/504 Officer, Memorial School

SECTION I

INFORMATION REGARDING SECTION 504 IN THE PUBLIC SCHOOLS

Policy Statement

It is the policy of the Maywood School District to provide a free and appropriate public education to each student, within its jurisdiction, who is evaluated and determined to have a disability under either Section 504 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Improvement Act of 2004. Therefore, it is the intent of the district to ensure that students who are determined to have a disability within the definition of Section 504 are identified, evaluated and provided with appropriate classroom accommodations and/or modifications. The due process rights of disabled students and their parents/guardians will be enforced.

Section 504 of the Rehabilitation Act of 1973 (Public Law 93-112)

No otherwise qualified individual with handicaps in the United States shall, solely by reason of his or her handicap, as defined in Section 706(8) of this Title, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.

Section 504 is that section of the Rehabilitation Act of 1973 that applies to persons with disabilities. Basically, it is a civil rights act that prohibits discrimination against individuals with physical or mental disabilities who attend public or private schools receiving federal financial assistance. Examples of receiving federal funds include subsidized school lunch programs, Individuals with Education Act (IDEA), No Child Left Behind (NCLB), Race to the Top, and Safe & Drug Free Schools and Communities. The Office of Civil Rights (OCR), within the United States Department of Education, enforces Section 504 activities. Pursuant to New Jersey case law, if Section 504 regulations do not cover a specific issue, IDEA regulations are applicable.

Confidentiality

The Family Education Rights and Privacy Act (FERPA) regulations govern how school districts are expected to maintain confidentiality of Section 504 records. Most provisions of FERPA apply to Section 504 records. Section 504, unlike IDEA and FERPA, does not define the term “relevant records.”

Policy 2418

SECTION 504 OF THE REHABILITATION ACT OF 1973 –STUDENTS

The Board will comply with Section 504 of the Rehabilitation Act of 1973, the purpose of which is to eliminate discrimination on the basis of disability in any program or activity receiving Federal financial assistance.

Guarantee of Rights

The Board will provide a free appropriate public education to each student with a disability regardless of the nature or severity of the disability.

The Board will make reasonable accommodations to ensure that no student with a disability, solely on the basis of the disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity sponsored by this Board, including participation in non-academic and extracurricular services and activities.

The administration will undertake to identify and locate all students with disabilities between the ages of three and twenty-two, who are residing within the district, but not receiving a public school education. The administration will take steps to notify such students and their parents of the district's duty to provide accommodations for students with disabilities as well as procedures to determine eligibility for such accommodations.

Educational Setting

The Board will ensure that a student with a disability participates with nondisabled students in activities and services to the maximum extent appropriate to the needs of the student with a disability.

The school administration will place a student with a disability in the regular educational environment within the district unless the district demonstrates that the education of the student with a disability in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.

Evaluation and Placement

The Board will establish standards and procedures for initial evaluations and periodic re-evaluations of students who need or are believed to need accommodations, special education, and/or related services because of a disability. Evaluations may include, but are not limited to, a review of work samples, direct observation, interviews, and/or administration of assessment measures.

Enforcement

The _____ is designated by the Board as the District 504 Coordinator for matters dealing with Section 504 of the Rehabilitation Act of 1973.

Procedural Safeguards

The district will establish and implement a system of procedural safeguards with respect to the identification, evaluation, or provision of services under Section 504. This system includes notice, an opportunity for the parent to examine relevant records, an impartial hearing with the opportunity for participation by the parent and representation by counsel, and a review procedure. These procedural safeguards shall be in accordance with N.J.A.C. 6A:14 et seq., Policy 2460, Regulation 2460.8, and/or the grievance procedures outlined in Regulation 2418.

Notice

The Board will notify members of the community that the Board does not discriminate on the basis of a disability in violation of Section 504 of the Rehabilitation Act of 1973. Policy and Regulation 2418 may be reprinted in part or in full and distributed to serve as adequate notice.

State or Local Law

The obligation to comply with the Rehabilitation Act of 1973 is not obviated or alleviated by the existence of any State or local law or other requirement that, on the basis of disability, imposes prohibitions or limits upon the eligibility of a student with a disability to receive services.

29 U.S.C. 794 (Section 504 Rehabilitation Act of 1973)

20 U.S.C. 1401 et seq. (Individuals with Disabilities Education Act)

42 U.S.C. 12101 (Americans with Disabilities Act of 1990, as amended)

Adopted: 9/25/17

Revised: March 16, 2022

SECTION II

INSTITUTIONAL REQUIREMENTS

Child Find

Individuals and/or families who know a kindergarten to eighth grade child that lives in the Maywood School District, between the ages of 3 and 16 and has a suspected disability, should contact the Director of Special Education, located at 452 Maywood Avenue Maywood, NJ 07607. The Director of Special Education is available to discuss the possible need for educational services and to provide assistance as to how to access appropriate school personnel.

Student Identification and Referral Procedures

Students who are in need, or are believed to be in need, of services under Section 504 may be referred for evaluation by a parent/guardian or any District staff member operating under a standard certification.

Determination of Eligibility

To be considered eligible for services and protection under Section 504, a student must be determined, as a result of a comprehensive review of available information, to have ***a physical or mental impairment that substantially limits one or more major life activities.***

- A physical or mental impairment is described as (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following basic 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 physiological disorder (such as mental retardation, organic brain syndrome, emotional or mental illness and special learning disabilities).
- Major life activities include, but are not limited to, functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and major bodily functions.
- Section 504 regulations ***do not*** define the word "substantially." The District 504 Team can determine if a physical or mental impairment constitutes a disability based on the information available at the time of eligibility determination.
- Section 504 does not automatically protect children with ADD or ADHD. If a student's ADD or ADHD does not result in a substantial limitation in learning or an adverse effect on educational performance, he or she most likely will not be eligible for 504 services.
- Slow learning is considered a "condition" and as such is not regarded as a mental impairment.
- A student cannot claim protection under Section 504 if in violation of the District's policy on drugs and alcohol. However, a student who is not presently using drugs or alcohol and is in a recognized rehabilitation program is protected under Section 504.
- If a student's learning and/or behavioral problems result primarily from social maladjustment (i.e., social and environmental factors), the student is not considered to be eligible to receive services under Section 504.
- Determination of continued eligibility for services in Maywood School District under Section 504 will be conducted periodically. Re-evaluations will occur prior to a significant change in placement.

If the District determines that the student is not eligible to receive services under Section 504, written notice will be provided to the parent/guardian/adult student at the eligibility meeting.

Placement

If a student has been determined to have a disability as defined in Section 504, the District will develop a Section 504 Accommodation Plan that will:

- draw upon information from a variety of sources including aptitude and achievement tests, teacher recommendations, physical issues, medical issues and other independent evaluations;
- ensure that all evaluation data is documented and carefully considered;
- ensure that decisions are made by a group of persons knowledgeable about the student, the evaluation data, accommodations and/or modifications;
- be implemented in the least restrictive educational environment.

If the District determines that a student is eligible to receive special education and related services as defined in New Jersey Special Education Administrative Code (NJAC 6A:14), those services will be delivered pursuant to the Individualized Educational Program developed by the District for that student.

SECTION III

REFERRAL PROCESS

I. EXTERNAL REFERRAL - From Parent/Guardian

- A. Referral is forwarded to the appropriate building 504 Administrator for the student
- B. The 504 Administrator dates receipt of referral and sends out to parents/guardians a packet with directions to return to the appropriate Guidance office. The Section 504 Referral Packet is to include:
 1. *Section 504 Physician/Clinician Input form*
 2. *Section 504 Parent Input form*
 3. *Parents- Information regarding Section 504 of the Rehabilitation Act*
- C. Upon receipt of documents, the 504 Administrator dates and logs receipt.

1. After completed forms are submitted, the student is referred to the 504 committee.
 2. The building's Section 504 Officer will determine if an Intervention and Referral Services Teacher Referral form is needed
 - a. The 504 Administrator is responsible to ensure that appropriate staff member(s) complete and return form in a timely fashion.
- D. When all forms are completed and returned, the 504 Officer schedules the student for a Section 504 Eligibility Determination meeting with the 504 Committee.
1. The 504 Administrator provides parent with written notification of meeting.

II. INTERNAL REFERRAL - From I&RS Team

- A. If the I&RS Committee determines that the student might be eligible for a Section 504 Accommodation Plan, the I&RS folder is sent to the Section 504 Officer along with all supporting documents.
- B. The Section 504 Officer will review the I&RS documentation.
 1. And will determine whether the student should be evaluated for section 504 eligibility based on a substantial physical or mental impairment that substantially limits one or more life activities.
 - a. Parent will be contacted and Section 504 referral packet will be requested for completion if needed.

SECTION IV

EVALUATION/ELIGIBILITY PROCEDURES

ELIGIBILITY STATEMENT

To be entitled to the protections of Section 504 of the Rehabilitation Act of 1973, an individual **must demonstrate that he/she has a physical or mental impairment**, which **substantially limits a major life activity**, has a record of such impairment or is regarded as having such impairment. Major life activities include, but are not limited to seeing, hearing, speaking, walking, breathing, learning, working, caring for oneself and performing manual tasks.

The act is designed to prevent discrimination against individuals with disabilities. It provides that a student shall not be excluded from participation in or be denied the benefits of or be subjected to discrimination under any program or activity receiving federal funds such as public schools.

Section 504 is different than the Individuals with Disabilities Education Act (IDEA). This is due in large part to the fact to qualify under IDEA, the student must need special education and related services through an Individualized Education Program (IEP) as defined in federal and state law. In other words, the student's disability must adversely affect the student's educational performance as to require specialized instruction. Under 504, the disability need not have any effect on the student's ability to learn so long as the condition substantially limits some other major life activity that has implications for the student's education.

I. Before the Eligibility Determination Meeting:

A. The 504 Officer is responsible to send parent *Section 504 Referral Packet*

B. Meeting Participants may include: (* standing members)

1. Building Administrator*
2. School Counselor*
3. Nurse
4. CST Specialist*
5. Teacher knowledgeable of student*
6. Other District staff as warranted (i.e. Reading Specialist)
7. Parent/Guardian
8. Student, if appropriate
9. Other parties arranged by either District or Parent/Guardian (i.e. Physician).

V. During the Eligibility Determination Meeting

A. The 504 Officer is responsible to chair meeting and filling out the Student Eligibility Determination Form.

B. Documentation provided by referring party is reviewed, and Section 504 Eligibility Determination Form is discussed by committee.

C. If referral was submitted by the parent(s) and sufficient supporting documentation is **not** provided, committee can:

- a. *find the student not eligible* for a 504 Accommodation Plan; or
- b. *resubmit* the educational and/or behavioral issues back to the school's I&RS Team; or
- c. *refer* the student for a Child Study Team evaluation; or
- d. *request* additional assessments at parent expense.

- D. If referral was initiated by the District and the parent(s) did not provide sufficient supporting documentation, committee can:
 - a. *find the student not eligible* for a 504 Accommodation Plan; or
 - b. *resubmit* the educational and/or behavioral issues back to the school's I&RS Team; or
 - c. *refer* the student for a Child Study Team evaluation; or
 - d. *request* additional assessments at District expense.

- E. Upon receipt of supporting documentation and or completion of evaluations, the Section 504 Committee shall analyze the supporting documentation and evaluation data to determine if the student has a **mental or physical impairment that substantially impairs a major life function and is in need of educational related accommodations.**

VI. After the Eligibility Determination Meeting

- A. If student is eligible for services under Section 504, the District and parents will develop a *Section 504 Accommodation Action Plan*.

- B. If student is **not** eligible for services under Section 504, the Section 504 Committee will communicate to the parents that the Committee intends to:
 - 1. Not provide any additional services; or
 - 2. Develop a list of suggestions and/or recommendations for teachers and parents; or
 - 3. Forward the name of this student to the school's Intervention and Referral Services (I&RS) Committee.
 - 4. Contact the Director of Special Education to request a Child Study Team evaluation.

VII. Annual Review and Reevaluation

- A. Annually the Section 504 Referral Packet will be sent to parent by the Section 504 Officer each April of the current school year.
- B. Annually the Section 504 Referral Packet must be submitted to the Section 504 Officer by parent before the start of the each new school year
- C. The 504 committee will collect and review *Section 504 Action Plan Evaluation Form* (may differ between buildings) to determine if there is compliance to all required accommodations in the plan.

- D. Reevaluation
 - 1. Eligibility for continued accommodations under a Section 504 Accommodation Plan will be conducted periodically. Re-evaluations will occur prior to a significant change in placement

SECTION V

SECTION 504 ACCOMMODATION PLAN

I. Development of a Section 504 Action Plan

- A. Accommodations must reflect the documented disability or disabilities identified in the most recent *Section 504 Eligibility Determination* form.
- B. Accommodations will be determined based only on the physical or mental disability which substantially limits the identified life activity.
- C. If the accommodations result in the expenditure of funds, the school administrator is to be contacted.

II. After Development of a Section 504 Accommodation Plan

- A. Original copy of *Section 504 Action Plan* and all supporting documentation is to be maintained in the student's school.
- B. If the *Section 504 Eligibility Determination*:
 - 2. The Section 504 Administrators are responsible to contact all teachers responsible to implement the accommodations in the *Section 504 Action Plan* form and ensure that each teacher reviews and gets a copy of it.
- C. The Section 504 Administrators are responsible to maintain a computer data base of all students with *Section 504 Action Plans* and to monitor compliance to annual reviews and reevaluations.

III. Implementation of Section 504 Accommodation Plans

- A. Identified staff members are responsible to implement all accommodations stated in a student's *Section 504 Action Plan*.
- B. The Section 504 Administrator, building administrators, Child Study Team specialists, related service providers, identified independent consultants and guidance counselors are available to provide technical assistance to instructional staff.
- C. A staff member or parent/guardian can request to reconvene the Section 504 team at any time that he or she feels either that any accommodation stated in the *Section 504 Action Plan* no longer is appropriate, OR if the *Section 504 Action Plan* needs to be revised to increase accommodations to a Section 504 eligible student.
- D. Staff is to be reminded that any student found eligible for a Section 504 Action Plan is entitled to the same disciplinary procedural rights as are guaranteed to a student

classified under New Jersey Special Education Administrative Code and having an Individualized Educational Program.

IV. Annual Review/Reevaluation

A. Annually the Section 504 Referral Packet will be sent to parent by the Section 504 Officer each April of the current school year.

B. Annually the Section 504 Referral Packet must be submitted to the Section 504 Officer by parent before the start of the each new school year

C. The 504 committee will collect and review *Section 504 Action Plan Evaluation Form* (may differ between buildings) determine if there is compliance to all required accommodations in the plan.

D. Reevaluation

1 Eligibility for continued accommodations under a **Section 504 Action Plan** will conducted periodically. Re-evaluations will occur prior to a significant change in placement

SECTION VI
SECTION 504 FORMS
DIRECTORY

Form	Implementation Date
Eligibility Statement	
Parent Referral Packet Cover Memo	
Notice of Rights and Procedural Protections	
Section 504 Parent Input Form	
Section 504 Physician Input	
Form Request for Parental Participation in a Section 504 Meeting Form	
Section 504 Eligibility Determination Form	
Section 504 Student Action Plan	
Section 504 Teacher Action Plan Evaluation Form	

Maywood School District

Section 504 of the Rehabilitation Act of 1973

ELIGIBILITY STATEMENT

To be entitled to the protections of Section 504 of the Rehabilitation Act of 1973, an individual **must demonstrate that he/she has a physical or mental impairment**, which **substantially limits a major life activity**, has a record of such impairment or is regarded as having such impairment. Major life activities include, but are not limited to seeing, hearing, speaking, walking, breathing, learning, working, caring for oneself and performing manual tasks.

The act is designed to prevent discrimination against individuals with disabilities. It provides that a student shall not be excluded from participation in or be denied the benefits of or be subjected to discrimination under any program or activity receiving federal funds such as public schools.

Section 504 is different than the Individuals with Disabilities Education Act (IDEA). This is due in large part to the fact to qualify under IDEA, the student must need special education and related services through an Individualized Education Program (IEP) as defined in federal and state law. In other words, the student's disability must adversely affect the student's educational performance as to require specialized instruction. Under 504, the disability need not have any effect on the student's ability to learn so long as the condition substantially limits some other major life activity that has implications for the student's education.

**452 Maywood Avenue
Maywood, NJ 07607**

Date:

Parent/Guardian of _____:

Address:

Re: Section 504 of the Rehabilitation Act of 1973 Parent Referral Packet

Dear _____,

Enclosed is the Maywood School District 504 Parent Referral Packet. You will find:

- 504 Eligibility Statement
- Parent /Student Rights under Section 504
- Parent Input form
- Physician Input form

The 504 Committee will be meeting to determine whether your child is eligible for services under Section 504 of the Rehabilitation Act of 1973. This meeting is necessary to determine the most appropriate school program for your child. In order for the Maywood School District to consider your request, please return the forms listed above along with a professional evaluation to the Guidance office. Please note that one of the professional evaluations must be from a medical doctor. You are welcome to provide any additional information, including formal or informal test results, work samples, medical records, etc. At the next scheduled 504 committee meeting, the committee will discuss your child's eligibility.

Please return this requested material to _____ by _____.
Do not hesitate to contact my office if you have any questions or need additional information.

Sincerely,
504 Officer

Notice of Rights and Procedural Protections Under Section 504 and the Americans with Disabilities Act

The Maywood school district does not discriminate on the basis of race, color, religion, sex, age, national origin, or disability in admission, access, treatment, or employment in its programs, services, and activities. Applicants, students, parents/guardians, employees, referral agencies, and all organizations holding agreements with the District are hereby notified of this policy. Any person with concerns regarding the District's compliance with the regulations implementing Title VI, Title IX, Section 504 or the Americans with Disabilities Act is directed to contact:

Name: Kerry Leto

Position: Guidance Counselor/504 Officer

Address: 452 Maywood Ave. Maywood, NJ 07607

Phone Number: 201-845-9110 x127

E-mail: kletto@maywoodschoools.org

This document summarizes the procedural protections and rights you have as the parent of student who may qualify for accommodations or services under Section 504 and the ADA.

INTRODUCTION Section 504 of the 1973 Rehabilitation Act, along with the Americans with Disabilities Act, requires that the school district may not discriminate against students with disabilities. Accordingly, the district has adopted policies and procedures to ensure that discrimination does not take place. In the rest of this document, we will refer to these laws as Section 504/ADA.

IDEA ELIGIBILITY Many students who meet the definition of an individual with a disability under Section 504/ADA also qualify for services under the Individuals with Disabilities Education Act (IDEA). This document does not address these students or their parents. Such students are served pursuant to the requirements of the IDEA. The rest of this document addresses only the rights of parents of students who satisfy the definition of an individual with a disability under Section 504/ADA but do not qualify under IDEA.

AN APPROPRIATE EDUCATION If it is determined that your child meets the definition of an individual with a disability under Section 504/ADA, then your child will be entitled to a free and appropriate public education. This means that your child's education will be designed to meet his/her individual educational needs as adequately as the needs of nondisabled students are met. A free public education means that no fees will be imposed on you except for the same fees that are imposed on parents of nondisabled students. However, insurance companies and other third parties that are obligated to provide or pay for services to your child are still obligated to do so.

NOTICE You have the right to be notified by the district prior to any action that would identify your child as having a disability, evaluate your child for services under Section 504/ ADA, or place your child in a program based on a disability.

EVALUATION Prior to conducting an evaluation of your child for purposes of services under Section 504/ADA, the district will seek your informed written consent. An evaluation will not be conducted unless you give consent. However, school officials may review existing records, test scores, grades, teacher reports, and recommendations and other such information without your consent to the same extent they would do so for nondisabled students. If an evaluation is conducted, the school will make sure that

- All testing and other evaluation procedures are validated for the specific purpose for which they are used;
- They are administered by trained personnel in conformity with the instructions provided by the producer;
- They include tests and other evaluation materials designed to assess specific areas of educational need and not merely those designed to elicit a general IQ score; and
- Tests are selected and administered to best ensure that they accurately measure what the test seeks to measure, rather than any sensory, speaking, or manual impairments the student may have (except when the test is designed to measure sensory, speaking, or manual skills).

An evaluation that satisfies these requirements will be conducted prior to your child's initial placement and conducted or reviewed prior to any subsequent significant change in placement.

If your child is identified as an individual with a disability under Section 504/ADA the school will periodically reevaluate your child as appropriate.

PLACEMENT If your child is identified as an individual with a disability under Section 504/ADA, placement decisions about your child will be made by the school's 504 Team, which will include at least three professional staff members who, collectively, are knowledgeable about your child, the meaning of the evaluation data, and the placement options. You will be invited to participate in any meeting of the 504 Team if your child's placement and/or services are to be discussed. The 504 Team will also ensure that your child is placed in the least restrictive environment.¶

LEAST RESTRICTIVE ENVIRONMENT If your child is identified as an individual with a disability under Section 504/ADA, your child will be placed and served in the "least restrictive environment". This means that your child will be served with nondisabled students in the regular education environment to the maximum extent appropriate. Prior to removing your child from the regular education environment due to his/her disability, the school will consider the use of supplementary aids and services. Your child will be removed from the regular education environment only if he/she cannot be served satisfactorily in that environment, even when supplementary aids and services are provided. If it becomes necessary to serve your child in an alternate setting due to disability, the school will take into account the proximity of the alternate setting to your home.

EXAMINATION OF RECORDS You have the right to see and examine any educational records that pertain to your child or are relevant in serving your child.

HEARINGS If you disagree with a decision of the 504 Team regarding the identification, evaluation, or educational placement of your child you have the right to an impartial hearing. You have the right to participate in such a hearing and to be represented by a person of your choice, including an attorney.

If you wish to request a hearing, you must make a written request for a hearing within 30 calendar days from the time you receive the written notice of the decision of the 504 Team that you disagree with. Your request for a hearing must be filed with the district's Section 504 Coordinator.

Upon receipt of a timely request for a hearing, the district will notify you of the date, time, and location of the hearing. If you disagree with the decision of the hearing officer, you have the right to a review of that decision by a court a competent jurisdiction.

OTHER COMPLAINTS You also have the right to file a complaint with the district's Section 504 Coordinator pertaining to harassment, retaliation or discrimination against your child in ways that do not involve your child's identification, evaluation, or educational placement.

OFFICE FOR CIVIL RIGHTS You also have the right to file a complaint with the United State Office for Civil Rights.

U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
(800) 421-3481, TTD (877) 521-2172
Website: <http://www.ed.gov/about/offices/list/ocr/index.html>

MAYWOOD SCHOOL DISTRICT Section 504 Parent Input (To Be Completed By Parent/Guardian)

Student's Name: _____ Parent/Guardian(s) Name(s): _____

Address _____

School/Grade: _____ Phone Number: _____

- 1. Describe the nature of the physical or mental impairment and how the impairment impacts the child's current academic performance.

- 2. Describe how the student's physical or mental impairment affects a major life activity (such as hearing, walking, seeing, speaking, breathing, learning or working). Please attach any supporting documentation.

- 3. What, if any, specific accommodations are you seeking?

() Yes, I give permission to Maywood Avenue School to contact my child's physician/clinician indicated below.

() No, I do not give permission to Maywood Avenue School to contact my child's physician/clinician.

In order to be eligible for services under Section 504, a student must have an identified physical or mental impairment. The impairment must result in a **substantial limitation in a major life function.**

In order for the 504 Committee to consider your request, it is important that you return this form with any recent professional evaluations you may have, including psychological and/or medical evaluations, documenting a physical or mental impairment and its impact on a major life function.

Notice of Section 504 Rights:

Please sign indicating that you received a copy of your rights under The Rehabilitation Act of 1973, Section 504.

Parent/Guardian(s) Signature: _____ Date _____

Physician/Clinician Name: _____ Phone Number: _____

Please return this form and all supporting documentation to:

Maywood Avenue School
Attn: Section 504 Officer
452 Maywood Avenue Maywood, NJ 07607
(Phone) 201-845-9110 x127 (Fax) 201-291-1917
kleto@maywoodschoools.org
cblundo@maywoodschoools.org

Memorial School
Attn: Section 504 Officer
764 Grant Avenue Maywood, NJ 07607
(Phone) 201-845-9113 x112 (Fax) 201-845-0657
cbyrnes@maywoodschoools.org

Maywood School District
452 Maywood Avenue
Maywood, NJ 07607

**Section 504 Physician/Clinician Input (To Be Completed by
Physician/Clinician)**

Student's Name: _____ Parent/Guardian(s) Name(s): _____

Address _____

School/Grade: _____ Phone Number: _____

Please provide a detailed medical background, including a written diagnostic statement and copies of all reports.

In your opinion, how does the student's physical or mental impairment limit a major life activity?

Is the limitation: _____ Minimal _____ Moderate _____ Substantial

List any recommendations that you may have for consideration at an upcoming conference.

List any medications this student is currently taking (please include dosage and frequency).

Physician/Clinician's Name (Please Print): _____ Date: _____

Physician/Clinician's Signature: _____

Physician/Clinician's Stamp: _____

Please complete, sign and return this form and all supporting documentation to:

*Maywood Avenue School
Attn: Section 504 Officer
452 Maywood Avenue Maywood, NJ 07607
(Phone) 201-845-9110 x127 (Fax) 201-291-1917
kleto@maywoodschoools.org / cblundo@maywoodschoools.org*

*Memorial School
Attn: Carly Byrnes, Section 504 Officer
764 Grant Avenue Maywood, NJ 07607
(Phone) 201-845-9113 x112 (Fax) 201-845-0657
cbyrnes@maywoodschoools.org*

MAYWOOD SCHOOL DISTRICT

Section 504 Parent/Student Rights in Identification, Evaluation, and Placement

Below is a description of the rights granted by federal law to students with physical or mental impairments. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions.

You have a right to the following:

- Right to have your child with disabilities take part in and receive benefits from public education programs without discrimination because of his/her disability.
- Right to receive all information in the parent's/guardian's native language or primary mode of language.
- Right to have your child receive a free appropriate public education, which includes the right of the child to be educated with students without disabilities to the maximum extent appropriate.
- Right to have your child have equal opportunity to participate in school programs and extracurricular activities sponsored by the school.
- Right to receive notice within a reasonable time before the district identifies, evaluates or changes your child's eligibility or placement option (accommodations and/or modifications).
- Right to inspect and review all of your child's educational records, including the right to obtain copies of educational records at reasonable costs unless the cost would deny you access to the records, and the right to amend the record if you believe information contained in the record is inaccurate or misleading. If the school district refuses to amend the record, you have a right to request a hearing.
- Right to have eligibility or placement option (accommodations and/or modifications) decisions made based on information from a variety of sources and by persons who know the needs of the student, meaning of the evaluation data and placement decisions.
- Right to have periodic reevaluation and evaluation before any significant change in placement.
- Right to file a grievance, have an impartial hearing if you disagree with the school's district proposed action or file a complaint with the Office for Civil Rights or the federal court. You have the right to be an active participant. You have the right to be represented by counsel in the impartial hearing process and you have the right to appeal a decision by an impartial hearing officer that is not an employee of Maywood School District

Any questions or requests for additional information regarding these rights should be directed to the 504 Administrators at your child's school

REQUEST FOR PARENTAL PARTICIPATION IN A SECTION 504 MEETING

Student's Name: _____ Date: _____

Address: _____

Student's School: _____

Dear _____:

You are invited to attend a meeting regarding your child. The purpose of the meeting is to discuss:

- _____ 1. Referral for a Section 504 Accommodation Plan;
- _____ 2. Determination of initial eligibility for a Section 504 Accommodation Plan;
- _____ 3. Development of a Section 504 Accommodation Plan;
- _____ 4. Review/revision of a Section 504 Accommodation Plan;
- _____ 5. Annual Review and Determination of Eligibility of a Section 504 Action Plan
- _____ 6. Other: _____

Your participation in planning for the educational needs of your child is important. The meeting is scheduled for:

Date: _____ Time: _____ Location: _____

The following District staff members are expected to attend the meeting:

_____ Building Administrator	_____ School Nurse
_____ School Counselor	_____ Child Study Team Member
_____ Classroom Teacher(s)	_____ Related Service Provider

Other(s): _____

I would appreciate you contacting me at the number below by _____ to let us know if you will be attending the meeting. If this is not a convenient time or place, or should you have any questions, please call to discuss rescheduling the meeting or to discuss your questions.

If you cannot attend the meeting in person but wish to participate, other arrangements can be made to include you (for example, by a telephone conference). You may invite another person(s) who is knowledgeable about your child to accompany you to the meeting. You may also bring your child to the meeting if you believe it is appropriate. Please bring any independent evaluation reports you feel are appropriate and will assist in the decision making process.

Sincerely,

Name: _____

Position: _____

Telephone: _____

Maywood School District

Section 504 Eligibility Determination Form

() Initial

() Reevaluation

I. Student Information:

Student's Name	
Grade	
Date of Birth	
Homeroom Teacher	

() Memorial School

() Maywood Avenue School

II. Meeting Participation:

III. Information Used To Determine Eligibility:

Underlined items required. Either a psychological report or a physician report is required.

() Psychological Report

() Parent Information

() Work Samples

() Physician Report

() School Records

() Other _____

() Report Card

() State Assessment(s)

Eligibility Questions:

Is the student's limited academic and/or behavioral performance caused by cultural, economic and environmental circumstances.

() Yes () No If Yes, describe:

Has the student demonstrated a consistent need for substantially more time to complete homework assignments and class assignments than is required by non-disabled students?. () Yes () No If yes, describe:

Is modified assessing consistently necessary for the student to be able to demonstrate knowledge? () Yes () No If yes, describe:

Has the student experienced a steady decline in academic performance? () Yes () No If yes, describe:

Does the student exhibit frequent behaviors, such as drowsiness, impulsivity, inattentiveness, or aggressiveness, associated with an identified physical or mental impairment or medication and do these behaviors interfere with school performance? () Yes () No If yes, describe:

Is the student chronically absent or tardy for reasons related to a diagnosed physical or mental impairment and are absences or tardiest interfering with school performance? If yes, indicate the number of absences or tardies during the previous school year _____ and in the current school year, Absences _____ Tardies _____. () Yes () No If yes, describe:

Does the student have a physical or psychological impairment that impairs his/her ability to access school programs or meet school related requirements? () Yes () No If yes, describe:

Is the student currently using any adaptive measures and/or medication? () Yes () No If yes, describe:

After at least two intervention strategies have been implemented in regular education, does the student still exhibit significant learning difficulties? (Attach intervention documentation(s)) () Yes () No If yes, describe:

Do the adaptive measure and/or medication eliminate or reduce the student's handicap? () Yes () No If yes, describe:

VII. Handicap or Disability:

Name the student's specific handicap or disability: _____

VIII. Major Life Activity:

Check the major life activity that is affected by the disability.

- () seeing () hearing () breathing
() learning () walking () performing manual tasks
() major bodily function () eating () caring for oneself () other _____

IX. Does the handicap or disability substantially limit a major life activity?

The term "substantially limit" means that a student is:

- a. UNABLE to perform a major life activity that the *average* student of approximately the same age can perform

OR

- b. SIGNIFICANTLY RESTRICTED as to the condition, manner or duration under which a particular life activity is performed as compared to the *average* student of approximately the same age. The handicap or disability must be *substantial and somewhat unique*, rather than commonplace, when compared to the *average* student of approximately the same age.

Place an X on the following scale to indicate the specific degree that the handicap or disability identified in section VII limits the major life activity identified in section VIII. For any score of 4 or 5, supply specific information that justifies the rating.

5 ----- Extremely

 4 -----Substantially

 3 ----- Moderately

 2 ----- Mildly

 1 ----- Negligibly

X. Eligibility Determination:

_____ is eligible for Section 504 Plan. () Yes* () No
Student Name

The following action(s) is (are) recommended:

- _____ Meeting adjourned pending additional documentation and/or staff participation
- _____ Not eligible for services under Section 504, but the following suggestions and/or recommendations will be made to regular education teachers:

- _____ Referred to I&RS
- _____ Request for Child Study Team evaluation.

_____ Building Section 504 Administrator/Chairmen

_____ Date

**If the team finds the student eligible, please complete the Maywood School Section 504 Action Plan.*

Maywood Public Schools

Memorial School
764 Grant Avenue
Maywood, NJ 07607
(201) 845-9113

Maywood Avenue School
452 Maywood Avenue
Maywood, NJ 07607
(201) 845-9110

SECTION 504 STUDENT ACTION PLAN

Name:

D.O.B. :

Grade:

School: Maywood Avenue School

Date of Meeting:

Referred by:

_____ Initial plan

_____x_____ Updated plan

_____ Annual Review

Participants:

This student has a physical or mental disability, which substantially limits one or more major life activities.

This disability as identified by a certified doctor/physician/specialist is: _____

Basis for making the determination of disability (documentation) : _____

Check the major life activity:

- | | | | |
|--|------------------------------------|---|-----------------------------------|
| <input type="checkbox"/> Seeing | <input type="checkbox"/> hearing | <input type="checkbox"/> walking | <input type="checkbox"/> learning |
| <input type="checkbox"/> Performing manual tasks | <input type="checkbox"/> breathing | <input type="checkbox"/> Eating | |
| <input type="checkbox"/> Major bodily functions | <input type="checkbox"/> Speaking | <input type="checkbox"/> Caring for oneself (Hygiene) | |

Describe reasonable accommodations that are necessary:

Implementation Date: _____

Principal's Approval: _____

Date: _____

504 Officer: _____

Date: _____

Teacher: _____

Date: _____

I have participated in the development of this Section 504 plan and have received a copy of "Parent and Student Rights" under section 504, The Rehabilitation Act of 1973.

Parent/Guardian: _____

Date: _____

SECTION 504 TEACHER ACTION PLAN EVALUATION

STUDENT NAME: _____

LIST ALL TEACHERS FILLING OUT FORM: _____

SCHOOL: _____

GRADE: _____

ACCOMODATION	FREQUENCY OF USE			EFFECTIVNESS OF ACCOMODATION			
	Often	Sometimes	Never	Highly	Some- what	Rarely	Not

Comments:

SECTION VII GRIEVANCE PROCEDURES

I. Contact Information

A. If a parent/guardian has a question or concern regarding any aspect of the District's responsibility to provide services under Section 504, he or she should contact in writing, the Section 504 Officers in their child's building.

B. Currently, those positions are held by:

Maywood Avenue School:

504 Officer
452 Maywood Avenue
Maywood, NJ 07607
Phone: 201-845-9110

Memorial School:

Carly Byrnes
764 Grant Avenue
Maywood, NJ 07607
Phone: 201-845-9113 x112

The parent/guardian may request that the Section 504 Committee reconvene to review and revise a current Section 504 Accommodation Plan.

- a. The Building 504 Officer will respond to all written inquiries within 10 days of receipt of written request.
- b. If a parent/guardian is not satisfied with the response given by the 504 Officer, he or she needs to contact the Principal with a letter that specifically states the issues not resolved. The Principal will respond to all written inquiries involving 504 issues within 10 days of receipt of the written request.
- c. If a parent/guardian student is not satisfied with the response given by the Principal he or she needs to contact the Superintendent of Schools with a letter that specifically states the issues not resolved. The Superintendent will respond to all written inquiries involving 504 issues within 10 days of receipt of the written request.
- d. If the parent/guardian still is not satisfied with the response provided by the Superintendent, he or she may request an impartial hearing with the Board of Education.
- e. The parent/guardian student maintains the right to file a complaint with the Office of Special Education Programs at the New Jersey Department of Education and/or the United States Department of Education, Regional Office for Civil Rights.

1. OSEP – NJDOE

P.O. Box 500
Trenton, NJ 08625

2. USDOE – Office for Civil Rights

75 Park Place – 14th Floor
New York, New York 10007-214

SECTION VII POLICY & REGULATIONS

POLICY

1510 RIGHTS OF PERSONS WITH HANDICAPS OR DISABILITIES/POLICY ON NON-DISCRIMINATION (M)

M

It is the policy of the Board of Education that no qualified handicapped or disabled person shall, on the basis of handicap or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment or under any program, activity or vocational opportunities sponsored by this Board. The Board shall comply with §504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. It shall also comply with the Individuals with Disabilities Education Act through the implementation of Policy No.2460 and Regulations Nos. 2460 through 2460.14.

Notice of the Board's policy on nondiscrimination in employment (policy and Regulation No.1530) and education (Policy and Regulation No.5750) will be included in the Board policy manual, posted throughout the district, and referenced in any district statement regarding the availability of employment positions or educational services.

Employment

No employee or candidate for employment shall be discriminated against in recruitment, hiring, advancement, discharge, compensation, training, transfer, or any other term, condition, or privilege of employment solely because of his/her handicap/disability, provided the employee or candidate can, with or without reasonable accommodation, perform the essential functions of the position sought or held.

No candidate for employment shall be required to answer a question or submit to an examination regarding a handicap/disability except as such handicap/disability relates directly to the performance of the job sought. No candidate will be discriminated against on the basis of a handicap/disability that is not directly related to the essential function of the position for which he/she has applied.

Reasonable accommodations, not directly affecting the educational and/or instructional program, shall be made to accommodate employment conditions to the needs of qualified persons with handicaps/disabilities. Such accommodations may include, but are not limited to rescheduling; restructuring jobs; making facilities accessible; acquiring or modifying equipment; modifying examinations, training materials, policies and procedures; and providing readers or interpreters.

The Board employment policies and procedures shall comply with the Americans with Disabilities Act.

Facilities Accessibility

No qualified handicapped/disabled person shall, because of the school district's facilities being inaccessible or unusable by handicapped/disabled persons, be denied the benefits of, be excluded from participation in or otherwise be subjected to discrimination under any program or activity offered by the Board. No new facilities shall be constructed that do not fully comply with §504 of the Rehabilitation Act of 1973 and the American with Disabilities Act. Alterations to existing facilities or part thereof, shall be altered in such a manner to the maximum extent feasible, that the facilities are readily accessible and usable by individuals with handicaps/disabilities who have a need to access Board facilities.

Educational Program Accessibility

No qualified handicapped/disabled person shall be denied the benefit of, be excluded from participation in, or otherwise be subjected to discrimination in any activity offered by this district.

The Board has an affirmative obligation to evaluate a pupil who is suspected of having a handicap/disability to determine the pupil's need for special education and related services. The Board directs that all reasonable efforts be made to identify unserved children with handicaps/ disabilities in this district who are eligible for special education and/or related services in accordance with Policy No.2460

and Regulations Nos. 2460, through 2460.14, the Individuals with Disabilities Education Act, §504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

Section 504 of the Rehabilitation Act requires the Board to address the needs of children who are considered handicapped/disabled under §504 and do not qualify for services under the Individuals with Disabilities Education Act. A pupil may be handicapped/disabled within the meaning of §504, and therefore entitled to regular or special education and related aids and services under the §504 regulation, even though the pupil may not be eligible for special education and related services under Part B of the Individuals with Disabilities Education Act.

No pupil will be denied, because of his/her educational handicap/disability, participation in co-curricular, intramural, or interscholastic activities or any of the services offered or recognitions rendered regularly to the pupils of this district.

There will be grievance procedures for persons alleging discriminatory acts by the Board and/or staff. The due process rights of pupils with handicaps/disabilities and their parents will be rigorously enforced.

Enforcement

The Academic Program Coordinator is designated as district coordinator for matters dealing with §504 and Title IX. The district coordinator shall act as a compliance officer and can be contacted at the following address or telephone number:

Maywood Avenue School
452 Maywood Avenue
Maywood, New Jersey 07607
201-845-9114

A complaint regarding a violation of law and this policy will be subject to a complaint procedure that provides for the prompt and equitable resolution of disputes.

The complainant shall be notified of his/her rights of appeal at each step of the process, and accommodations to the needs of handicapped/disabled complainants shall be made. A complainant shall be informed of his/her right to file a formal action for redress with or without recourse to the complaint procedure established by this policy and its accompanying regulation.

A complaint regarding the identification, evaluation, classification, or educational program of a pupil with a handicap/disability shall be governed by the due process rules of the State Board of Education, N.J.A.C. 6A:14-2.7 and the Office of Administrative Law, N.J.A.C. 17:27-1 et seq., and by the procedural safeguard processes established by Board Policy No.2460 and Regulation No. 2460.6 or the grievance procedures established in Regulation No.1510.

Guarantee of Rights

The Board shall not interfere, directly or indirectly, with any person's exercise or enjoyment of the rights protected by the §504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Individuals with Disabilities Education Act or Title IX.

The Board shall not discriminate against any person for that person's opposition to any act or practice made unlawful by law or this policy or for that person's participation in any manner in an investigation or proceeding arising under §504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Individuals with Disabilities Education Act or Title IX.

Evaluation and Compliance

The Board directs the Superintendent to evaluate district programs and practices on nondiscrimination, in accordance with law, and to report evaluations to the Board. The Board will submit such assurances of compliance as are required by law.

Annual Publication

This Policy will be published yearly prior to the beginning of the school year in a regional newspaper magazine and/or other written communication that is available to the public.

29 U.S.C. 794 (Sec. 504, Rehabilitation Act of 1973)
20 U.S.C. 1401 et seq. (Individuals with Disabilities Education Act)
42 U.S.C. 12101 (Americans with Disabilities Act of 1990)
N.J.S.A. 10:5-1 et seq. N.J.S.A. 18A: 18A-17
N.J.A.C. 6A:14-1 et seq. 34 CFR Part 104

Adopted: November 18, 2004
Revised: March 4, 2019
March 16, 2022

REGULATION

R 1510 RIGHTS OF PERSONS WITH HANDICAPS OR DISABILITIES/NON-DISCRIMINATION (M) R 1510 AMERICANS WITH DISABILITIES ACT (M)

The Board of Education will comply with the requirements of the Americans with Disabilities Act of 1990, including changes made by the ADA Amendments Act of 2008 (hereafter referred to as the “Act.”)

A. Definitions

1. “Act” means the Americans with Disabilities Act of 1990, as amended by the ADA Amendments Act of 2008.
2. “Auxiliary aids and services” are identified based on the context of the communication and the individual’s disability. 28 CFR §35.104

They include, but are not limited to:

- a. Effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
 - b. Effective methods of making visually delivered materials available to individuals who are blind or have low vision;
 - c. Acquisition or modification of equipment or devices or similar services and actions; and
 - d. Other similar services and actions.
3. “Board” means the Board of Education of this school district.
 4. “Companion” means a family member, friend, or associate of an individual seeking access to a service, program, or activity of a school district, who, along with such individual, is an appropriate person with whom the district should communicate.
 5. “Complete complaint” means a written statement, signed by the complainant or someone authorized to do so on his/her behalf, containing the complainant's name and address and describing the public entity's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation. 28 CFR §35.104
 6. “Current illegal use of drugs” means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.

7. “Direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services. 28 CFR §35.139
8. “Disability” means, with respect to an individual, that the individual meets one or more of the following three prongs:
 - a. A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
 - b. A record of such an impairment; or
 - c. Being regarded as having such an impairment.
9. “District” means this school district.
10. “District Coordinator” means the district official responsible for the coordination of activities relating to compliance with the Act.
11. “Drug” means a controlled substance, as defined in schedules I through V of Section 202 of the Controlled Substances Act. 21 U.S.C. §812
12. “Employee” means an individual employed by the Board.
13. “Essential functions of the employment position” are based upon the employer’s judgment and can include an employer’s written description, prepared before advertising or interviewing applicants for the job.
14. “Existing facility” means a facility in existence on any given date, newly constructed or altered.
15. “Facility” means all or any portion of buildings, property, or structures, including the site where the building, property, structure, or equipment is located.
16. “Illegal use of drugs” means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. 21 U.S.C. §812
17. “Individual with a disability” means a person who has a disability and does not include an individual currently engaging in the illegal use of drugs, when the district acts on the basis of such use.
18. “Major life activities” means those of central importance to daily life and include, but are not limited to, functions such as: caring for one’s self, performing manual tasks, walking, seeing, hearing, eating, sitting, reaching, writing, standing, reaching, lifting, sleeping, bending, speaking, breathing, reading, concentrating, thinking, communicating, interacting with others, learning, and working. “Major life activities” also includes physical or mental impairments that substantially limit the operation of a major bodily function, including, but not limited to: functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, reproductive systems, and the operation of an individual organ within a body system. 28 CFR §35.108; 28 CFR §36.105
19. “Mitigating measures” means steps taken to eliminate or reduce the symptoms or impact of an impairment. “Mitigating measures” include, but are not limited to: medication; medical equipment/appliances; mobility devices; low vision devices (not including ordinary eyeglasses or contact lenses); prosthetics (including limbs and devices); hearing aids, cochlear implants, or other implantable hearing devices; oxygen therapy equipment and supplies; the use of assistive technology; reasonable modifications or auxiliary aids or services; learned behavioral or adaptive neurological modifications; and psychotherapy, behavioral, or physical therapies. 42 U.S.C. 126 §12102
 - a. Mitigating measures, must not be used when determining whether an impairment is a disability except for the use of corrective eyeglasses or contact lenses. Mitigating measures may be considered in assessing whether someone is entitled to reasonable accommodation or poses a direct threat.
20. “Office for Civil Rights” (OCR) means the United States Department of Education Office for Civil Rights.
21. “Other power-driven mobility device” means any mobility device powered by batteries, fuel, or other engines used by individuals with mobility disabilities for the purpose of locomotion, including any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair. 28 CFR §35.104

22. “Physical or mental impairment” means any physiological disorder or condition such as, cosmetic disfigurement or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic and lymphatic, skin, and endocrine; or any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities. 28 CFR §35.108(b)(2) and 28 CFR§36.105(b)4
- a. Physical or mental impairments may include, but are not limited to: contagious and noncontagious diseases and conditions; orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Human Immunodeficiency Virus (HIV) (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.
 - b. Physical or mental impairments do not include: transvestism; transsexualism; homosexuality or bisexuality; gender identity disorders; sexual behavior disorders; pedophilia; exhibitionism; environmental, cultural, and economic disadvantages; pregnancy; physical characteristics; personality traits or behaviors; normal deviations in height, weight, or strength; compulsive gambling; kleptomania; pyromania; and psychoactive substance use disorders resulting from current illegal use of drugs.
 - c. An impairment that is episodic or in remission may be considered a “disability” if it would substantially limit a major life activity when active.
 - d. Not all impairments are disabilities.
23. “Public entity” means this Board of Education.
24. “Qualified individual” for the purposes of employment, means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position (based upon the employer’s judgment) that such individual holds or desires. An employer’s written description, prepared before advertising or interviewing applicants for the job, shall be considered evidence of the essential functions of the job. 42 U.S.C. 126 §12111(8)
25. “Reasonable accommodation” may include making existing facilities used by employees readily assessable to and usable by individuals with disabilities and job restructuring, part-time modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.
26. “Record of such an impairment” means the individual has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.
27. “Regarded as having an impairment” means the individual establishes that he or she has been subjected to a prohibited action under the Act because of an actual or perceived physical or mental impairment, whether or not that impairment substantially limits or is perceived to substantially limit a major life activity.
- a. For this prong only, the public entity must demonstrate the impairment is or would be both transitory (lasting or expected to last six months or less) and minor to show an individual is not regarded as having such an impairment. 42 U.S.C. 126 §12102(3)(B)
 - b. A public entity is not required to provide a reasonable modification to an individual meeting the definition of “disability” solely under the “regarded as” prong.
28. “Substantially limits” means the extent to which the impairment limits an individual’s ability to perform a major life activity as compared to most people in the general population, whether or not an individual chooses to forgo mitigating measures. 42 U.S.C. 126 §12102(4); 28 CFR §35.108(d); 28 CFR §35.105(d) The rules of construction when determining whether an impairment substantially limits performance of a major life activity include:
- a. That it is broadly construed in favor of expansive coverage, to the maximum extent permitted under the Act.
 - b. That it does not demand extensive analysis.

- c. That it substantially limits one major life activity, but not necessarily other major life activities.
 - d. That it may be episodic or in remission, as long as the impairment would substantially limit a major life activity when active.
 - e. That it need not prevent, or significantly or severely restrict, an individual from performing a major life activity.
 - f. That it requires an individualized assessment which does not create an “inappropriately high level of limitation” and is based upon the conditions, manner, or duration under which the individual can perform the major life activity 42 U.S.C. 12102(4)(B).
 - g. That it generally will not require scientific, medical, or statistical evidence (although such evidence can be required where appropriate evidence that can be considered may include statements or affidavits of affected individuals and school records).
 - h. That the determination is made without regard to ameliorative effects of mitigating measures, except for the use of ordinary eyeglasses or contact lenses intended to fully correct visual acuity or eliminate refractive error. Non-ameliorative effects, such as the negative side effects of medication or a medical procedure, may also be considered.
 - i. That the effects of an impairment lasting or expected to last less than six months can be substantially limiting for establishing a disability under the first two prongs: “actual disability” or “record of”.
29. “Undue hardship” means an action requiring significant difficulty or expense when considered in light of factors which include: the nature and cost of the needed accommodation; the overall financial resources of the district or facility providing the reasonable accommodation; the size of the district with respect to the number of employees; effect on expenses and resources, or the impact otherwise of accommodation upon the operation of the facilities; and the type/location of facilities. 42 U.S.C. 126 §12111 (10)
30. “Wheelchair” means a manually operated or power-driven device designed primarily for use by an individual with a mobility disability.

B. General Requirements

1. Prohibitions Against Discrimination

- a. Discrimination is prohibited against a qualified individual on the basis of a disability. Such individual will not be excluded from participation in or denied the benefits of district services, programs, or activities or be subjected to discrimination by the district in accordance with 28 CFR §35.130. The district must ensure that:
 - (1) When services, programs, and activities are viewed in their entirety, they are accessible to and usable by individuals with disabilities; and
 - (2) Access to services, programs, and activities is provided in an integrated setting unless separate programs are necessary to ensure equal benefits.
- b. The district is not required to take any action that would result in a fundamental alteration of the nature of the program or activity or undue financial or administrative burden. However, claiming undue burden still requires the district to provide access through means that would not result in a fundamental alteration or undue financial or administrative burden.

2. Direct Threat - 28 CFR §35.139

- a. The district is not required to permit an individual to participate in or benefit from the district’s services, programs, or activities when that individual poses a direct threat to the health or safety of others.
- b. To determine whether an individual poses a direct threat to the health or safety of others, the district must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence to ascertain:

- (1) The nature, duration, and severity of the risk;
- (2) The probability that the potential injury will actually occur; and
- (3) Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

3. Illegal Use of Drugs - 28 CFR §35.131

- a. The district will not discriminate on the basis of past illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who:
 - (1) Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;
 - (2) Is participating in a supervised rehabilitation program; or
 - (3) Is erroneously regarded as engaging in such use.
- b. While the Act does not prohibit discrimination against an individual based on that individual's current illegal use of drugs, the district will not deny health services or services provided in connection with drug rehabilitation to an individual on the basis of that individual's current illegal use of drugs, if the individual is otherwise entitled to such services.
- c. The Act does not prohibit the district from adopting or administering reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual who formerly engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.

C. Personal Devices and Services

1. The district will permit individuals with mobility disabilities to use wheelchairs and manually powered mobility aids such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities in any areas open to pedestrian use. 28 CFR §35.137
2. The district will make reasonable modifications to permit the use of other power-driven mobility devices by individuals with mobility disabilities unless the district can demonstrate that the power-driven device cannot be operated in accordance with legitimate safety requirements pursuant to 28 CFR §35.137. The district will not ask an individual using a wheelchair or other power-driven mobility device questions about the nature and extent of the individual's disability. The district may require the individual to provide credible assurance that the device is required because of the person's disability.
3. The district is not required to provide individuals with disabilities personal devices, such as wheelchairs; individually prescribed devices such as prescription eyeglasses or hearing aids; readers for personal use or study; or services of a personal nature including assistance in eating, toileting, or dressing pursuant to 28 CFR §35.135.

D. Employment - 42 U.S.C. 126 §12112

1. Discrimination in Employment

- a. The Board will not discriminate against a qualified individual on the basis of disability in regard to job application procedures; hiring, advancement, or discharge; compensation; job training; and other terms, conditions, and privileges of employment.
- b. Applicants and employees working for or applying to work for the district who qualify for a job and are able to perform the essential functions of that job are entitled to reasonable accommodations provided that such accommodations do not pose undue hardship for the district.
- c. Nothing in the Act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation as outlined in N.J.A.C. 6A:32-4.1 et seq.
- d. The school district may not, on the basis of disability:

- (1) Limit, segregate, or classify a qualified individual in a way that adversely affects his/her opportunities or status of such employee, applicant, or participant in a contractual or other arrangement;
- (2) Utilize standards, criteria, or methods of administration that have the effect of discrimination on the basis of disability or perpetuate the discrimination of others subject to common administrative control;
- (3) Exclude or otherwise deny equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to associate or have a relationship;
- (4) Fail to make reasonable accommodations to known physical or mental limitations of an otherwise qualified individual with a disability or deny employment opportunities to such qualified individual unless the district can demonstrate that the accommodation would impose undue hardship to district operations;
- (5) Use qualification standards, employment tests, or other selection criteria that screen out or tend to screen out individuals with disabilities unless the standard, test, or other selection criteria, as used by the district, is shown to be job-related for the position in question and consistent with business necessity; and/or
- (6) Select and administer tests concerning employment to otherwise qualified individuals who possess impaired sensory, manual, or speaking skills, unless done in an effective manner to ensure that, when such tests are administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, the test results accurately reflect the skills, aptitude, or other factors such tests purport to measure rather than reflecting the impaired sensory, manual, or speaking skills of the employee or applicant (except where such skills are the factors that the test purports to measure).

2. Medical Examinations and Inquiries - (42 U.S.C. 126 §12112)

a. Pre-employment

- (1) Prohibited examination or inquiries:
 - (a) Whether such an applicant is an individual with a disability; or
 - (b) The nature or severity of such disability.
- (2) Acceptable inquiry:
 - (a) The ability of an applicant to perform job-related functions.

b. Employment Entrance Examinations

- (1) The district may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if:
 - (a) All entering employees are subject to such an examination regardless of disability;
 - (b) Information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that:
 - i. Supervisors and managers may be informed regarding necessary restrictions on work or duties of the employees and necessary accommodations;
 - ii. First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

- (1) For the purposes of the Act, a test to determine the illegal use of drugs will not be considered a medical examination.
- (2) No provision of the Act shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

E. Program Accessibility

1. Discrimination Prohibited

- a. Except as otherwise provided in 28 CFR §35.150, no qualified individual with a disability will, because the district's facilities are inaccessible to or unusable by individuals with disabilities, including inside or outside access to such facilities, may be excluded from participation in, or be denied the benefits of the services, programs, or activities of the district, or be subjected to discrimination by the district.
- b. The district will maintain facilities and equipment required by the Act to be readily accessible to and usable by individuals with disabilities. This provision does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs. 28 CFR §35.133
 - (1) In regard to existing facilities, the district will operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities.
 - (a) The district is not required to fundamentally alter the nature of a service, program, or activity, or assume undue financial or administrative burdens, or take any action threatening the historic significance of a historic property and has the burden of proving that compliance with the Act would result in such alterations or burdens. 28 CFR §35.150(a)
 - (b) Should the Board and Superintendent of Schools or his/her designee determine, after considering all resources available, that compliance would result in such alteration or burden, a written statement of reasons must accompany such a determination.
 - (c) The Board will take any other action, including, but not limited to redesign or acquisition of equipment, or reassignment of services or staff, that would not result in such alteration or burden, but would, nevertheless, ensure that individuals with disabilities receive the benefits/services provided by the district.
 - (2) In regard to new construction and alterations, each facility or part of a facility constructed by, on behalf of, or for the use of the district will be designed and constructed in such manner, in accordance with 28 CFR §35.151, that the facility or part of the facility is readily accessible to and usable by individuals with disabilities.
 - (a) Full compliance with the requirements of 28 CFR §35.151 is not required where the district can demonstrate that it is structurally impracticable to meet the requirements.
 - (b) If providing accessibility in conformance with 28 CFR §35.151 to individuals with certain disabilities (e.g., those who use wheelchairs) would be structurally impracticable, accessibility shall nonetheless be ensured to persons with other types of disabilities, (e.g., those who use crutches or who have sight, hearing, or mental impairments) in accordance with 28 CFR §35.151.

F. Communications - 28 CFR §35.160

1. The district will take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others.
2. The district will furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in and enjoy the benefits of a service, program, or activity conducted by the district.

- a. Auxiliary aids and services will be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.
 - b. The district will not require an individual with a disability to bring another individual to interpret with a disability. The district will not rely on an adult accompanying an individual with a disability or on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or where the individual with a disability specifically requests that the accompanying adult interprets or facilitates communication, the accompanying adult agrees to provide such assistance, and reliance on that adult is appropriate under the circumstances.
3. Where the district communicates by telephone with applicants and beneficiaries who are deaf, hard of hearing, or who have speech impairments, text telephones (TTYs) or equally effective telecommunications systems equipped with emergency service access will be used to communicate, in the same time and manner as with other telephone systems (including automated systems). 28 CFR §35.161
 4. The district will ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities, including signage at all inaccessible facility entrances. 28 CFR §35.163

G. Grievance Procedure - 28 CFR §35.107(b)

1. A complainant who believes that he/she has been harmed or adversely affected by a discriminatory practice or act prohibited by law and/or policy shall first discuss the matter with his/her immediate supervisor in an attempt to resolve the matter informally.
2. If the matter is not resolved to the satisfaction of the complainant within thirty working days, the complainant may submit a written complaint to the District Coordinator. The complaint will include:
 - a. The complainant's name and address;
 - b. The specific act or practice of which the complainant complains;
 - c. The employee, if any, responsible for the allegedly discriminatory act;
 - d. Results of discussions conducted in accordance with paragraph G.1. above; and
 - e. Reasons why those results are not satisfactory.
3. The District Coordinator will investigate the matter informally and will respond to the complainant in writing no later than seven working days after receipt of the written complaint. A copy of the complaint and the response will be forwarded to the Superintendent.
4. The response of the District Coordinator may be appealed to the Superintendent in writing within three working days after it has been received by the complainant. The appeal will include the original complaint, the response to the complaint, and the complainant's reason for rejecting the response. A copy of the appeal must be given to the staff member alleged to have acted discriminatorily.
5. On his/her timely request (that is, submitted before the expiration of the time within which the Superintendent must render a decision), the complainant will be given an informal hearing before the Superintendent, at a time and place convenient to the parties, but no later than seven working days after the request for a hearing has been submitted. The Superintendent may also require at the hearing the presence of the staff member charged with a discriminatory act and any other person with knowledge of the complained act.
6. The Superintendent will render a written decision in the matter no later than seven working days after the appeal was filed or the hearing was held, whichever occurred later. Copies of the decision will be given to all parties.
7. The complainant may appeal the Superintendent's decision to the Board by filing a written appeal with the School Business Administrator/Board Secretary no later than three working days after receipt of the Superintendent's decision. The appeal shall include:
 - a. The original complaint;

- b. The response to the complaint;
 - c. The Superintendent's decision;
 - d. A transcript of the hearing, if one has been made, or a summary of the hearing to which all parties have consented; and
 - e. The complainant's reason for believing the Superintendent's decision should be changed.
- 8. If a staff member is charged with a discriminatory act, the Board will provide a copy of the appeal to that staff member.
 - 9. The Board will review all papers submitted and may render a decision on the basis of the proceedings below. If the complainant so requests, the Board may convene a hearing, at which all parties may be represented by counsel and may present and examine witnesses, who will testify under oath.
 - 10. The Board will render a written decision no later than forty-five calendar days after the appeal was filed or the hearing held, whichever occurred later. Copies of the decision will be given to all parties.
 - 11. The complainant will be informed of his/her right to appeal the Board's decision to the:

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section – 1425 NYAV
Washington, D.C. 20530
 - 12. An individual who believes he or she or a specific class of individuals has been subjected to discrimination on the basis of disability by the district may, by himself/herself, or an authorized representative, at any time, file a complaint directly with OCR.
 - 13. Record:
 - a. The record of any complaint processed in accordance with this procedure will be maintained in a file kept by the District Coordinator.
 - b. A copy of the decision rendered at the highest level of appeal will be kept in the employee's personnel file.

Adopted: 9/25/17

Revised: March 4, 2019

March 22, 2022