

R 1510 RIGHTS OF PERSONS WITH HANDICAPS OR DISABILITIES/NON-DISCRIMINATION

It is the policy of the Board of Education that no qualified person with a handicap/disability shall, on the basis of handicap/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. The Board shall also comply with the Individuals with Disabilities Education Act through the implementation of Policy No. 2460 and Regulations Nos. 2460 through 2460.16.

DEFINITIONS

Person with a handicap/disability - means any person who (1) has a physical or mental impairment that substantially limits one or more of a person's major life activities and includes specific learning disabilities, (2) has a record of such impairment, or (3) is regarded as having such an impairment. (34 CFR sec. 104.3(j))

Disability - means a student with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments or specific learning disabilities and who by reason thereof, needs special education and related services 20 U.S. 1401 §602(A), or an individual who has a physical or mental impairment that substantially limits one or more major life activities of such individual. 42 U.S.C. §1201 §3.

Physical or Mental Impairment - means (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal, special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or physiological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (34 CFR sec. 104.3(j)(2)(i))

Major Life Activities - means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. (34 CFR sec. 104.3(j)(2)(ii)). Has a record of such impairment - means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or



more major life activities. (34 CFR sec. 104.3(j)(2)(iii)). Is regarded as having an impairment - means (1) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (2) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment, or (3) has none of the impairments defined above, but is treated by a recipient as having such an impairment. (34 CFR sec. 104.3(j)(2)(iv))

Recipient - Any state or its political subdivision, including this Board of Education. (34 CFR sec. 104.3(f))

Qualified Person with a handicap/disability means:

1. With respect to employment, a person with a handicap or disability who, with reasonable accommodation, can perform the essential functions of the job in question;
2. With respect to public preschool, elementary, secondary, or adult educational services, a person with a handicap/disability (1) of an age during which persons without a handicap/disability are provided such services, (2) of any age during which it is mandatory under state or federal law to provide such services to persons with handicaps/disabilities, or (3) to whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act;
3. With respect to post secondary and vocational educational services, a person with a handicap/disability who meets the academic and technical standards requisite to admission or participation in the school district's education program or activity; and
4. With respect to other services, a person with a handicap/disability who meets the essential eligibility requirements for the receipt of such services. (34 CFR sec. 104.3(k)(1-4))

Handicap - means any condition or characteristic that renders a person handicapped/disabled.

Disability - means any condition or characteristic that renders a person disabled.



Aids, Benefits, and Services - means aids, benefits and services to be equally effective, are not required to produce the identical result or level of achievement for persons with and without handicaps/disabilities, but must afford persons with handicaps/disabilities equal opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement, in the most integrated setting appropriate to the person's needs. (34 CFR sec. 104.4(b)(2))

Act - means the Rehabilitation Act of 1973, Public Law 93-112, as amended by the Rehabilitation Act Amendments of 1974, Public Law 93-516, 29 U.S.C. 794, the Americans with Disabilities Act 42 U.S.C. §1201 et seq., and the Individuals with Disabilities Act 20 U.S. 1400 et seq.

"Aggrieved individual" means a qualified person with a handicap/disability who alleges a grievance or the representative of such qualified person with a handicap/disability .

"Board of Education" means the Board of Education of the Tenafly School District.

"Complainant" means a parent(s) or legal guardian(s) of a qualified student with a handicap/disability or qualified person with a handicap/disability who files a grievance in accordance with the grievance procedure.

"Compliance Officer" means the district official responsible for the coordination of activities relating to compliance with §504.

"Day" means either calendar or working day as specified.

"Employee" means an individual who receives remuneration from the school district for services rendered.

"Grievance" means an unresolved problem concerning the interpretation or application by an officer or employee of this school district of law and regulations regarding discrimination by reason of handicap/disability.

"Immediate supervisor" means any employee responsible for, or exercising any degree of supervision or authority over another employee or student.

"Intermediate supervisor" means the administrator to whom the immediate supervisor is directly responsible.



"Student" means an individual enrolled in any formal educational program provided by the school district.

"School district" means the Tenafly School District.

District Coordinator

The Assistant Superintendent of Schools will coordinate efforts to comply with the Rehabilitation Act relative to district employees and in all matters arising under the Americans with Disabilities Act and Title IX. In this capacity, the Assistant Superintendent of Schools will be responsible for the initial evaluation of all allegations, reasonable accommodations, if required, and re-evaluations.

The Tenafly High School Guidance Department will coordinate efforts to comply with the Rehabilitation Act relative to district students. In this capacity, the Tenafly High School Guidance Department will be responsible for the initial evaluation of all allegations, reasonable accommodations, if required, and re-evaluations.

Such procedures to coordinate efforts to comply with the act will be contained in this Regulation.

The District Coordinator will comply with the mediation and due process requirements pursuant to N.J.A.C. 6A-14-2.6 and 6A:14-2.7 where applicable in cases arising from §504.

Notice

The Board shall notify members of the community, applicants, including those with impaired vision or hearing, and unions/associations within the school district, that the Board of Education does not discriminate on the basis of handicap/disability in violation of §504 or the Americans with Disabilities Act. This notice may include any of the following methods: the posting of notices, publication in local newspapers and magazines and/or distribution of memoranda or other written communications. The policy and regulation 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 and the Americans with Disabilities Act is not obviated or alleviated by the existence of any State or local law or other



requirement that, on the basis of handicap/disability, imposes prohibitions or limits upon the eligibility of qualified persons with handicaps/disabilities to receive services or to practice any occupation or profession, or because employment opportunities in any occupation or profession are or may be more limited for persons with handicaps/disabilities than persons without handicaps/disabilities.

EMPLOYMENT PRACTICES

Discrimination Prohibited

No qualified person with a handicap/disability shall, on the basis of handicap/disability, be subjected to discrimination in employment under any program or activity to which the Act applies. The Board of Education will take positive steps to employ and advance in employment qualified persons with handicaps/disabilities in programs assisted under the Act. The Board of Education will make all decisions concerning employment under any program or activity to which the Act applies in a manner which ensures that discrimination on the basis of handicap/disability does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap/disability.

The Board of Education will not participate in a contractual or other relationship that has the effect of subjecting qualified applicants or employees with handicaps/disabilities to discrimination prohibited by the Rehabilitation Act. This shall apply to

1. Recruitment, advertising, and the processing of applications for employment;
2. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
3. Rates of pay or any other form of compensation and changes in compensation;
4. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
5. Leaves of absences, sick leave, or other leave;
6. Fringe benefits available by virtue of employment, whether or not administered by the Board of Education;



7. Selection and financial support for training including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absences to pursue training;
8. Employer sponsored activities, including social or recreational programs; and
9. Any other term, condition, or privilege of employment.

The Board of Education's obligation to comply with these requirements is not affected by any inconsistent term or any collective bargaining agreement to which the Board is a party.

Reasonable Accommodation

The Board of Education will make reasonable accommodation to the known physical or mental limitation of any otherwise qualified applicant or employee with a handicap/disability unless the Board can demonstrate that the accommodation would impose an undue hardship on the operation of the program. Reasonable accommodation may include making facilities used by employees readily accessible to and usable by persons with a handicap/disability and job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions. In determining whether the accommodation would impose an undue hardship on the operation of the program, the Board of Education will consider:

1. The overall size of the school district's program with respect to the number of employees, number and type of facilities and the size of the budget;
2. The type of operation, including the composition and structure of the school district's workforce; and
3. The nature and cost of the accommodation needed.

The Board of Education will not deny any employment opportunity to a qualified employee or applicant with a handicap/disability if the basis of the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.



Employment Criteria

The Board of Education and its administration will not use any employment test or other selection criterion that screens out or tends to screen out persons with handicaps/disabilities or any class of persons with handicaps/disabilities unless the test score or other selection criterion is shown to be job-related for the position in question. The Board of Education and its administration may select and administer tests concerning employment so as to best ensure that when administered to an applicant or employee who has a handicap/disability that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

Pre-employment Inquiries

Except as provided for in this regulation and the Rehabilitation Act, the Board of Education and its administration, will not conduct pre-employment medical examination and will not make pre-employment inquiry of an applicant as to whether the applicant is a person with a handicap/disability or as to the nature or severity of the handicap/disability. The school district may make pre-employment inquiry into an applicant's ability to perform job related functions.

When the Board of Education is taking remedial action to correct effects of past discrimination or to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity, as provided for in the Rehabilitation Act, or when the Board is taking affirmative action pursuant to §504 of the Rehabilitation Act, the Board may invite applicants for employment to indicate whether and to what extent they are handicapped/disabled. This is permitted provided the Board states clearly on a written questionnaire or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts and the Board states clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide information will not subject the applicant or employee to any adverse treatment, and that the information will only be used in accordance with this part of the Regulation and applicable section of the Rehabilitation Act.

The Board of Education may condition an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty provided that all



entering employees are subjected to such an examination regardless of handicap/disability and the results of such an examination are used only in accordance with the requirements of the policy, regulation and the Rehabilitation Act.

Information obtained in accordance with pre-employment inquiries as to the medical condition or history of the applicant will be collected and maintained on separate forms that will be accorded confidentiality as medical records. Supervisors may be informed of restrictions on the work or duties of persons with handicaps/disabilities and any reasonable accommodations. First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment. Government officials investigating compliance with the Rehabilitation Act shall be provided relevant information upon request.

Complaints About Employment Discrimination

Complaints about employment discrimination under §504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act shall first be made in writing to the Superintendent of Schools or his/her designee.

FACILITIES

Discrimination Prohibited

No qualified person with a handicap/disability shall, because a Board of Education facility is inaccessible to or unusable by persons with handicaps/disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any activity to which this section of the Regulation applies.

Existing Facilities

The Board of Education will operate its programs and activities so that the program, when viewed in its entirety, is readily accessible to persons with a handicap/disability. The Board of Education is not required to make each of its facilities accessible to and usable by persons with a handicap/disability. The Board may comply with these requirements through such means as redesign of equipment, realignment of classes or other services to other buildings, assignment of aides, alternative sites, alterations of existing facilities or construction of new facilities or any other methods that result in making its programs or activities accessible to persons with handicaps/disabilities. The Board is not required to make structural changes in existing facilities where other methods that are effective in achieving compliance with this Regulation and the



Rehabilitation Act. The Board will give priority to those methods that offer programs and activities to persons with handicaps/disabilities in the most integrated setting appropriate. The Board of Education will develop a plan to make its facilities comply with this policy and the Rehabilitation Act. The plan shall be developed with the assistance of interested persons, including handicapped/disabled persons or organizations representing persons with handicaps/disabilities.

New Construction

The Board of Education will design and construct each new facility or part of each new facility, or in the renovation of facilities or part thereof, in a manner that each such facility is readily accessible to and usable by persons with handicaps/disabilities. The alterations are not required if the alteration has little likelihood of being accomplished without removing or altering a load-bearing structural member. The Board of Education will comply with the provisions of N.J.S.A. 18A and N.J.A.C. 6 for the construction, remodeling and/or renovation of its facilities.

Complaints About Accessibility of Facility

Complaints about access to facilities shall first be made to the Superintendent of Schools or his/her designee.

EDUCATIONAL PROGRAM

The Board of Education will not, on the basis of handicap/disability, exclude qualified persons with a handicap/disability from the program or activity and will take into account the needs of such persons in determining the aid, benefits or services to be provided under the program or activity.

Students not otherwise eligible for special education programs and/or related services pursuant to N.J.A.C. 6A:14-1 et seq. may be referred to the District Coordinator by the parent(s) or legal guardian(s), staff member and/or a request directly from the student.

The Board will provide a reasonable accommodation(s) to otherwise qualified students notwithstanding any program and/or related services required pursuant to N.J.A.C. 6A:14-1 et seq. Timelines for re-evaluations of students receiving a reasonable accommodation(s) will be established by the District Coordinator. A re-evaluation may be requested by the parent(s) or legal guardian(s) and/or the student at any time upon written request to the District Coordinator.



Location and Notification

The administration will undertake to identify and locate every qualified person with a handicap/disability residing within the school district who is not receiving a public school education and will take steps to notify such persons with handicaps/disabilities and their parent(s) or legal guardian(s) of the school district's duty under the policy and Rehabilitation Act. Students not otherwise eligible for program and/or related services pursuant to N.J.A.C. 6A:14-1 et seq., may be referred to the District Coordinator by the parent(s) or legal guardian(s), staff member and/or a request directly from the student.

Free Appropriate Public Education

The school district is required to provide a free appropriate public education to each student with a handicap/disability who resides within the school district regardless of the nature or severity of the student's handicap/disability. An appropriate education is the provision of general or special education and related aids and services that are designed to meet individual educational needs of students with handicaps/disabilities as adequately as the needs of students without handicaps/disabilities are met and are based upon adherence to procedures that satisfy the requirements of this regulation.

The school district may place a student with a handicap/disability in or refer such student to a program other than the one it operates as its means of carrying out the provisions of this regulation and IDEA. The school district continues to maintain responsibility for ensuring the requirements of this section are met in respect to any student with a handicap/disability so placed or referred.

A free appropriate public education must be provided to students with a handicap/disability or his/her parent(s)/legal guardian(s) without cost, except for those fees that are imposed on students without handicaps/disabilities or their parent(s) or legal guardian(s). If the student with a handicap/disability is placed in a program not operated by the school district, the school district will ensure adequate transportation to and from the program and it shall be provided at no greater cost than would be incurred by the person or his parent(s) or legal guardian(s) if the student with a handicap/disability was placed in the program operated by the school district. If a public or private residential placement is necessary to provide a free appropriate education to a student with a handicap/disability because of his/her handicap/disability, the program, including non-medical care and room and board shall be provided at no cost to the student or his/her parent(s) or legal guardian(s).

Educational Setting



The school administration will place a student with a handicap/disability in the general educational environment within the school district unless the school district demonstrates that the education of the student with a handicap/disability in the general environment with the use of supplementary aids and services cannot be achieved satisfactorily. The administration will consider the proximity of any alternative setting for students with handicaps/disabilities to the student's home. The Board will ensure that students with handicaps/disabilities participate with persons who are not handicapped or disabled in such activities and services to the maximum extent appropriate to the needs of the student with a handicap/disability in question.

Evaluation And Placement

The Board of Education establishes standards and procedures for the evaluation and placement of students who, because of handicap/disability, need or are believed to need special education or related services through Policy No. 2460 and Regulations Nos. 2460 through 2460.14. Individuals qualifying under §504 shall be evaluated using the following procedures:

1. Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel;
2. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
3. Tests are selected and administered so as to best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

In interpreting evaluation data and in making placement decisions, the school district will:



1. Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
2. Establish procedures to ensure that the information obtained from all such sources is documented and carefully considered;
3. Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data and the placement options; and
4. Ensure that the placement decision is made in conformity with this regulation and the Rehabilitation Act of 1973.

Timelines for re-evaluations of students receiving a reasonable accommodation(s) will be established by the District Coordinator. A re-evaluation may be requested by the parent(s) or legal guardian(s) and/or the student at any time upon written request to the District Coordinator.

Section 504 Accommodation Plan

Based on the evaluation of the student eligible for services under §504 the District Coordinator shall prepare a Section 504 Accommodation Plan which contains at least the following elements as related to the student:

1. Name.
2. Date of Birth.
3. Current educational placement.
4. Name of District's Section 504 designee who prepared the Section 504 Accommodation Plan.
5. Handicapping/Disabling condition.
 - a. Major life activity impaired.
 - b. Educational impact.



- c. Impact on related educational progress.
6. Accommodation (as appropriate).
 - a. Physical and learning environment.
 - b. Instructional.
 - c. Behavioral.
 - d. Evaluation.
 - e. Medical.
 - f. Transportation.
 - g. Other.
7. Location of the Accommodation.
8. A listing of individuals participating in the development of the plan, along with their titles and the date(s) of their participation.
9. A certification by the parent(s) or legal guardian(s) of the student that they have participated in the development of the plan and give their consent to its implementation.
10. A waiver of the fifteen days notice prior to the implementation of the plan by the parent(s) or legal guardian(s) if the plan is to be implemented sooner than the fifteen days.

Procedural Safeguards

The school district will establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap/disability, need or are believed to need special education or related services, a system of procedural safeguards that includes notice, an opportunity for the parent(s) or legal guardian(s) of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parent(s) or legal guardian(s) and representation by counsel, and a review procedure. These procedural safeguards shall be



in accordance with N.J.A.C. 6A:14 et seq. and Policy No. 2460 and Regulation 2460.7 and/or the grievance procedures contained herein.

Grievance Procedure - Students

This grievance procedure shall apply to qualified persons with handicaps/disabilities under the provisions of §504 of the Rehabilitation Act of 1973 and/or the Americans with Disabilities Act.

1. The parent(s) or legal guardian(s) of a qualified student with a handicap/disability or qualified adult student with a handicap/disability who believe the student has a valid basis for a grievance under §504, or the American Disabilities Act shall file an informal complaint in writing, stating the specific facts of his/her grievance and the alleged discriminatory act, with the District Coordinator.
2. The District Coordinator shall make all reasonable efforts to resolve the matter informally by reviewing the grievance with appropriate staff which may include, but not be limited to, the Principal, Child Study Team staff and/or the classroom teacher(s).
3. The District Coordinator will investigate and document the complaint including dates of meetings, dispositions and date of dispositions. The District Coordinator will provide a written reply to the aggrieved individual within seven working days.
4. If the complainant is not satisfied with the District Coordinator's written reply, the complainant must file a formal complaint in writing, setting out the circumstances that give rise to the alleged grievance. This written complaint must be filed with the District Coordinator within three working days.
5. The District Coordinator will appoint a qualified hearing officer within seven working days of the receipt of the written grievance. The hearing officer will conduct a hearing within seven working days. The hearing officer will give the parent(s) or legal guardian(s), student or adult student a full and fair opportunity to present evidence relevant to the issues raised under the grievance. The parent(s) or legal guardian(s), student or adult student may, at their own expense, be assisted or represented by individuals of their choice, including legal counsel. The hearing officer



will present a written decision to the District Coordinator and aggrieved individual within seven working days of the hearing.

6. The complainant may file an written appeal to the Board if not satisfied with the hearing officer's decision. The Board, through the Superintendent, will provide a written disposition of the alleged grievance.
7. The complainant may request Mediation and Due Process in accordance with N.J.A.C. 6A:14-2.6 and 2.7 if unsatisfied with the written decision of the Board, or if specifically requested by the parent(s) or legal guardian(s), or adult student the aforementioned N.J.A.C. 6A:14-2.6 and 2.7 grievance procedure must be followed.

Nonacademic Services

The Board of Education will provide non-academic and extracurricular services and activities in such manner as is necessary to afford students with handicaps/disabilities an equal opportunity for participation in such services and activities. These services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or school clubs, referrals to agencies which provide assistance to students with handicaps/disabilities, and employment to students, including both employment by the school district and assistance in making available outside employment.

The Board of Education and administration will ensure that qualified students with handicaps/disabilities are not counseled toward more restrictive career objectives than are students without handicaps/disabilities with similar interests and abilities. The Board will provide to qualified students with handicaps/disabilities an equal opportunity for participation in physical education courses, athletics, and similar programs and activities. The school district may offer separate physical education and athletic activities to students with handicaps/disabilities only if separate activities or differentiation is consistent with the requirements of the Rehabilitation Act and no qualified student with handicaps/disabilities is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

MISCELLANEOUS

Provisions Applicable to All Grievance Procedures



1. If the same or substantially the same grievance is made by more than one individual, a single individual may process the grievance through the grievance procedure on behalf of all aggrieved individuals. The names of all aggrieved individuals shall appear on all documents related to the settlement of the grievance.
2. An aggrieved individual may be represented or accompanied at any time by a person chosen by the individual.
3. An employee may use personal leave time when it becomes necessary to process a grievance during work hours.
4. A grievance that arises late in the school term will be submitted to an expedited process in order that the grievance may be resolved as soon after the school term as possible.
5. There will be no reprisal of any kind taken against any aggrieved individual for participation in a grievance.
6. All documents, communications, and records regarding the processing of a grievance will be filed in a separate file and will not be kept in the personnel or student file.

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