



100 PROGRAMS

116 Title IX/OCR Compliance Procedures

**Cape Henlopen School District
GRIEVANCE PROCEDURE**

**A Procedure, Complaint Form and Complaint Investigation Procedure
in compliance with the requirements of
Title IX and Section 504**

MUST BE IN TEACHER HANDBOOKS
& CAPE HENLOPEN HIGH SCHOOL,
MARINER MIDDLE SCHOOL, BEACON
MIDDLE SCHOOL AGENDAS

**In Cooperation With
The Cape Henlopen School District**

Cape Henlopen School District does not discriminate on the bases of race, color, religion, national origin, sex, sexual orientation, marital status, disability or age in its employment, programs, and activities. (Cape Henlopen School District no discrimina en base de la raza, del color, de la religión, del origen nacional, del sexo, de la orientación sexual, del estado civil, del disability o de la edad en su empleo, programas, y actividades.) Cathy P. Petitgout, Employee/Student Compliance Officer: OCR/Title IX/504 Office of Human Resources; J. Conrad, Student 504 Compliance Officer, 1270 Kings Highway, Lewes, DE 19958 302-645-6686

**CAPE HENLOPEN SCHOOL DISTRICT
BOARD POLICY**



100 PROGRAMS

116 Title IX/OCR Compliance Procedures

The Delaware Department of Education (DOE) is responsible for ensuring that sub-recipients of Federal financial assistance do not discriminate against beneficiaries on the basis of race, color, national origin, sex or disability status. Two federal regulations require that a recipient adopt and publish a grievance procedure providing for prompt and equitable resolution of student and employee complaints alleging any discrimination based on sex or disability [Section 504: 34 CFR 104.7(b); Title IX: 34 CFR 106.8(b)].

The following is a combined Title IX and Section 504 grievance procedure, including a grievance form. It will be used by the Cape Henlopen School District for the processing of both student and employee complaints of discrimination on the basis of sex or disability. This procedure provides for the processing of a grievance at three levels of progressive decision making. At Level I, a grievance is heard by an authority at the level most immediate to many grievance occurrences. Level II decision making is at the central administrative level of the agency or institution. Level III calls for final grievance resolution by the governing body of the agency/institution, such as the Board of Education.

It should be remembered that Title IX and Section 504 regulations are not specific as to the type of grievance procedure to be used. The regulations merely require that a grievance procedure be "prompt and equitable" when responding to alleged discrimination. Collective bargaining grievance procedures are usually inappropriate in this regard since most do not cater to students and because the provisions of Title IX and Section 504 are not subject to collective bargaining and contract negotiations.

For more information or assistance regarding this procedure and form, please contact:

Cathy P. Petitgout
Human Resources
1270 Kings Highway
Lewes, Delaware 19958
Tel: (302) 645-6686

Mary Cooke
Delaware Department of Education
Human Resources
Office of Civil Rights
401 Federal Street, Suite 2
Dover, DE 19904
Tel: (302) 735-4030

*Adapted in part from "Title IX Grievance Procedures: An Introductory Manual," published by the Resource Center on Sex Roles in Education, National Foundation for the Improvement of Education, 1201 6th Street, NW, Washington, DC 20036.

**CAPE HENLOPEN SCHOOL DISTRICT
BOARD POLICY**



100 PROGRAMS

116 Title IX/OCR Compliance Procedures

**A GRIEVANCE PROCEDURE FOR TITLE IX
OF THE EDUCATION AMENDMENTS OF 1972
AND SECTION 504 OF THE REHABILITATION ACT OF 1973**

I. Filing of Grievances

- A. Eligibility for Filing: Any student or employee, or any individual may file any grievance of sex discrimination or sexual harassment with the Title IX coordinator. Any student or employee, may file any grievance of discrimination on the basis of a physical or mental handicap with the Section 504 coordinator.
- B. Pre-grievance Contact: Prior to the submission of a written grievance to a hearing officer, the grievant(s) may request pre-grievance contact with the respondent alleged to be directly responsible for the violation, and/or with the persons having immediate supervisory authority related to the grievance. These persons may make reasonable efforts to meet with the Title IX or Section 504 coordinator to discuss the grievance that the student(s) or employee(s) wishes to bring to their attention. Such a pre-grievance contact, however, shall be at the option of the grievant(s); it shall not be a precondition for the submission of a written grievance to a hearing officer.
- C. Grievance filing: Grievances filed with the Title IX or the Section 504 coordinator shall be in writing on a form provided by the coordinator, and shall provide the following information: name and address of grievant(s); nature of alleged violation; name of persons responsible for the alleged violation (where known); requested relief or corrective action (specification of desired relief shall be at the option of the grievant), and any background information the grievant believes to be relevant.
- D. Grievance forms: A grievance form (see next page) shall be prepared by the grievant and the Title IX or the Section 504 coordinator who will facilitate the filing of the grievance. These forms may be obtained from the Title IX or Section 504 coordinators, or any other person designated to handle these complaints. The grievant shall have the right to request assistance from the Title IX or Section 504 coordinator or any other individual, to assist in the preparation of the form or in the filing of the grievance.
- E. Time Limit for Filing a Grievance: A grievance must be filed within 60 days of the occurrence of the alleged Title IX violation or the alleged Section 504 violation.
- F. Grievance Provisions: Prior to filing a grievance, the grievant(s) shall be informed of the provisions and their rights, and shall be given a copy of Part V: General Provisions (see pages 9 and 10).

**CAPE HENLOPEN SCHOOL DISTRICT
BOARD POLICY**



**100 PROGRAMS
116 Title IX/OCR Compliance Procedures**

**The Cape Henlopen School District
Title IX and Section 504 Grievance Form**

Today's Date _____

Complainant's Name(s) _____
Last Name First Name Initial

Address _____

City _____ State _____ Zip Code _____

Telephone Number _____

Circle One: Student Employee Parent in behalf of student

Circle One: Title IX grievance Section 504 grievance

Specifics of Complaint (describe below, including any dates of alleged discrimination). Attach an extra page if necessary.

If you wish, please describe any corrective action you would like to see taken with regard to the possible civil rights violation. Attach an extra page if necessary.

Would you like a pre-grievance contact with an identified respondent before a decision of a hearing officer is made? Circle One: Yes or No

Signature of Complainant

Name of Grievant _____

Name of Title IX/Section 504 Coordinator _____

**CAPE HENLOPEN SCHOOL DISTRICT
BOARD POLICY**



100 PROGRAMS

116 Title IX/OCR Compliance Procedures

This section is for the use by the Title IX or Section 504 coordinator. Check below the course of action to be taken prior to submitting a copy of the grievance form and a copy of this form to be the identified respondent or to the respective hearing officer.

() **Pre-grievance Contact:** Date Submitted _____

Name of Identified Respondent

Due Date for response from person named above

() **Level I:** Date Submitted _____

Name of Hearing Officer

Job Title

Due Date for response from person named above

() **Level II:** Date Submitted _____ Due Date for Hearing _____

Name of Hearing Officer

Date of Hearing and Due Date for response from person(s) named above

() **Level III:** Date Submitted _____ Due Date for Hearing _____

Name of Hearing Officer(s)

Position Title

Date of Hearing and Due Date for response from person(s) named above

This section is for use by the identified respondent or hearing officer(s). Prior to returning this form to the Title IX or Section 504 coordinator, circle your decision regarding the grievance: **denied** or **granted**

If grievance has been granted, explain on another paper and/or circle your decision regarding the corrective action requested by the grievant: **agree** or **disagree**

Signature of Identified Respondent/Hearing Officer(s)

Date

**CAPE HENLOPEN SCHOOL DISTRICT
BOARD POLICY**



100 PROGRAMS

116 Title IX/OCR Compliance Procedures

II. Definitions

- A. **Grievance:** a complaint alleging any policy, procedure, or practice which would be prohibited by Title IX or by Section 504.
- B. **Title IX:** Title IX of the Education Amendments of 1972, the 1975 implementing regulation, and any memoranda, directive, guidelines, or subsequent legislation that may be issued or enacted.
- C. **Section 504:** Section 504 of the Rehabilitation Act of 1973, and any memoranda, directive, guidelines or subsequent legislation that may be issued or enacted.
- D. **Grievant:** a student or employee of (name of institution/agency) who submits a grievance relevant to Title IX or to Section 504.
- E. **(Name of institution/agency):** any reference to any school, department, subunit or program operated by (name of institution/agency).
- F. **Title IX Coordinator:** the employee(s) designated to coordinate (name of institution/agency) efforts to comply with and carry out its responsibilities under the Title IX regulation.
- G. **Section 504 Coordinator:** the employee(s) designated to coordinate (name of institution/agency) efforts to comply with and carry out its responsibilities under the Section 504 regulation.
- H. **Respondent:** a person alleged to be responsible or who may be responsible for the Section 504 or the Title IX violation alleged in a grievance. The term may be used to designate persons with direct responsibility for a particular action or those persons with supervisory responsibility for procedures and policies in those areas covered in the grievance.
- I. **Hearing Officer:** the representative(s) of (name of institution/agency) or of its governing body who is delegated authority for hearing/resolving a grievance at a specified level of grievance processing.
- J. **Grievance Answer:** the written statement of the respondent regarding the grievance allegation and possible corrective action.
- K. **Grievance Decision:** the written statement of a hearing officer of his/her findings regarding the validity of the alleged grievance and the corrective action to be taken.
- L. **Day:** a working day. The calculation of days specified in this grievance procedure exclude Saturdays, Sundays, and holidays. Any time limits set by this procedure may be extended, however, by mutual consent of the grievant(s) and the respondent(s).
- M. **Corrective Action:** the action which is taken by (name of institution/agency) to eliminate or modify any policy, procedure, or practice found to be in violation of Title IX or Section 504, or to provide redress to any grievant injured by the identified violation.

**CAPE HENLOPEN SCHOOL DISTRICT
BOARD POLICY**



100 PROGRAMS

116 Title IX/OCR Compliance Procedures

III. Initial Processing of Grievances

- A. Notification of Respondents: Within five days of the filing of a grievance, the Title IX or Section 504 coordinator shall submit a copy of the completed grievance form to the respondent(s), if requested by the grievant. The respondent(s) shall provide a written grievance answer and return the grievance form to the Title IX or Section 504 coordinator within five days after receipt of the grievance.

- B. Respondent's Grievance Answer: The respondent(s) receiving a copy of a grievance form shall, within five days, submit a written grievance answer to the grievant via the Title IX or Section 504 coordinator. Such answer shall confirm or deny each fact alleged in the grievance, indicate the extent to which the grievance has merit, or indicate acceptance or rejection of any desired redress specified by the grievant, or outline an alternative proposal for redress.

- C. Referral of Grievance and Grievance Answer to Appropriate Processing Level: Within five days after receipt of the respondent's written grievance answer, the Section 504 or Title IX coordinator shall determine the appropriate level for first grievance processing and submit a copy of the grievance form and the respondent's grievance answer to the appropriate hearing officer. If no grievance answer has been received from the respondent(s) by the fifth day after notification, the Section 504 or Title IX coordinator shall, on the sixth day, immediately submit a copy of the grievance form to the appropriate hearing officer along with a notice of non-response from the respondent.

The criteria which shall be used by the Section 504 or Title IX coordinator in determining the appropriate level for first processing of a grievance include:

Level I: Grievance involving policy, procedure or practice of single unit or subunit of agency/institution.

Level II: Grievance involving administrative policy, procedure, or practice of entire agency/institution.

Level III: Grievance involving policy for which a governing board is primarily responsible.

The hearings officer selected by the Title IX or Section 504 coordinator at each level shall be:

Level I: Examples are: principal, pupil personnel officer, chairperson of a department, dean of a school, or supervisor of non-instructional staff.

Level II: Examples are: superintendent, president or executive director of an institution or service area.

Level III: Governing board of agency/institution or representative of the governing board.

If the grievance is referred directly to Level II or to Level III for first processing, the Title IX or Section 504 coordinator shall write the reason(s) for this decision on the form.

**CAPE HENLOPEN SCHOOL DISTRICT
BOARD POLICY**



100 PROGRAMS

116 Title IX/OCR Compliance Procedures

IV. Grievance Processing Levels

A. Level I:

1. Written grievance decision by Level I hearing officer - when a grievance and, if possible, a grievance answer or non-response are referred to Level I for first processing, the Level I hearing officer shall, within five days of referral, submit a written grievance decision to the grievant, and if applicable, the respondent, via the Title IX or Section 504 coordinator. The decision shall: 1.) confirm or deny each fact alleged in the grievance and in the respondent's answer; 2.) indicate the extent to which the grievance has merit; and 3.) indicate acceptance or rejection of any redress specified by the grievant or respondent.
2. Acceptance or rejection of hearing decision by the grievant - if the grievant rejects the Level I hearing decision, she/he shall, within ten days of the receipt of the hearing decision, notify the Section 504 or Title IX coordinator of his/her intent to appeal the grievance to Level II. This notification shall be in writing. If no such notification is received by the Section 504 or Title IX coordinator within this time period, any corrective action specified in the Level I hearing decision shall be taken, and the grievance will be recorded as closed.
3. No written decision by Level I hearing officer - in the event that no written decision is issued by the Level I hearing officer within five days of referral, the Title IX or Section 504 coordinator shall, on the sixth day, immediately arrange a date for a Level II hearing, and submit the grievance along with a notice of non-response from the Level I hearing officer to the Level II hearing officer.

B. Level II:

1. Scheduling of a Level II hearing; notification of participants - within five days of the grievant's request to appeal the grievance to Level II, the Title IX or Section 504 coordinator shall arrange a date for a Level II hearing. The coordinator shall notify the grievant, the respondent if applicable, and the Level II hearing officer of the time, place, and minimum duration of the hearing. The hearing shall be held within five days after appeal/referral of the grievance to Level II. If any written materials or records relevant to the grievance are transmitted to the Level II hearing officer by the Title IX or Section 504 coordinator at the time of notification, copies of these materials shall also be transmitted to the grievant and, if applicable, the respondent.
2. Persons present at the Level II hearing - persons at the information hearing shall include the grievant, the respondent, any representative(s) of either the grievant or the respondent, any individual requested by either party to provide information relevant to the evaluation of the grievance, and the Level II hearing officer. The Title IX or Section 504 coordinator shall be present to act as moderator and recorder. Hearings shall not be open to other persons unless requested or approved by the grievant.

**CAPE HENLOPEN SCHOOL DISTRICT
BOARD POLICY**



100 PROGRAMS

116 Title IX/OCR Compliance Procedures

3. Procedures governing the conduct of the Level II hearing -
 - a. Duration: no hearing shall be less than three hours long, unless all parties consent to a shorter hearing. The time established for the duration of the hearing shall be allocated in equal parts to the grievant and the respondent. The Title IX or Section 504 coordinator shall moderate the usage of time.
 - b. Grievance witnesses: both the grievant and the respondent shall have the right to present such witnesses as they deem necessary to develop the facts pertinent to the grievance.
 - c. Questioning of witnesses: formal rules of evidence shall not be applied to the Level II grievance hearing. The grievant and respondent shall have the right to use their allocated time to ask questions of any person participating in the hearing.
4. Level II hearing decision - within five days after the Level II hearing, the Level II hearing officer shall issue a written decision which includes a statement regarding the validity of the grievance allegation, and a specification of any corrective action to be taken. This decision shall specify the reasons on which the decision is based. Copies of the decision shall be sent to the grievant and the respondent via the Section 504 or Title IX coordinator.
5. Acceptance or rejection of hearing decision by the grievant - if the grievant rejects the Level II hearing decision, she/he shall, within ten days of the receipt of the hearing decision, notify the Title IX or Section 504 coordinator of her/his intent to appeal the grievance to Level III. This notification shall be in writing. If no such notification is received within this time period, any corrective action specified in the Level II hearing decision shall be taken, and the grievance will be recorded as closed.
6. No written decision by Level II hearing officer - in the event that no written decision is issued by the Level II hearing officer within five days after the Level II hearing, the Title IX or Section 504 coordinator shall, on the sixth day, immediately submit a copy of the grievance form for processing at Level III, along with a formal notification for a Level III hearing, to the governing board of (name of institution/agency) or its designated representative(s). The grievance form shall also include a notice of non-response from the Level II hearing officer.

C. Level III:

1. Grievance hearing conducted by the governing board or the board's designated representative(s). Processing activities shall occur on the following schedule:
 - a. Scheduling of the hearing: within five days of the grievant's request to appeal the grievance to Level III, the Section 504 or Title IX coordinator shall submit to the governing board or its designated representative(s) a copy of the grievance and a formal notification requesting a date for the Level III hearing. The coordinator shall notify the grievant, the respondent, and the Level III hearing officer(s) of the time, place, and minimum duration of the hearing to occur within fifteen days after notifying the Level III hearing officer of the grievance. If any written materials or records relevant to the grievance are transmitted to the Level III hearing officer(s) by the Title IX or Section 504 coordinator prior to the hearing, copies of these materials shall also be transmitted to the grievant, and if applicable, to the respondent.

**CAPE HENLOPEN SCHOOL DISTRICT
BOARD POLICY**



100 PROGRAMS

116 Title IX/OCR Compliance Procedures

- b. Conducting the hearing: the hearing shall be scheduled for and conducted on a date not to exceed fifteen days after the appeal/referral of the grievance to Level III. It should be conducted similar to procedures governing the conduct of the Level II hearing.
2. Level II hearing decision: the governing board or the board's designated representative(s) of (name of institution/agency) shall issue a written decision which includes a statement regarding the validity of the alleged grievance and a specification of any corrective action to be taken. This decision shall constitute the final decision issued pursuant to any grievance.

All Level III hearing decisions shall be based on a majority vote by the governing board or its designated representative(s). Any board member in disagreement with the majority or its designated representative(s) shall have the option to prepare a dissenting opinion for inclusion within the final decision.

A copy of the decision shall be sent to the grievant and the respondent, if applicable, via the Title IX or Section 504 coordinator. The superintendent or chief executive officer of the institution/agency shall also receive a copy of the decision.

3. Rejection of hearing decision by the grievant - if the grievant rejects the Level III hearing decision, she/he may notify a state or federal agency having civil rights enforcement power. These agencies are: The Delaware Office of Human Relations and the U.S. Office for Civil Rights.

V. General Provisions

- A. Grievant's Right to Information: A grievant(s) may request access to information and records of the agency/institution which relate to the validity of the grievance. If such requested information requires an unreasonable cost by the agency/institution, such request may be refused provided that the information is not submitted as evidence by the respondent(s), and that this refusal is considered during the grievance hearing. In order to protect the privacy of persons not directly involved in the grievance proceeding, the agency/institution shall reserve the right to expunge names and any identifying information not directly relevant to the substance of the grievance from any information or records supplied to the grievant.
- B. Grievant's Right to Representation and Assistance:
 1. Right to representation – The grievant has the right to be represented by knowledgeable persons, organizations, or groups of her/his selection at any point During the initiation, filing, or processing of the grievance. The Section 504 or Title IX coordinator shall provide help in identifying such knowledgeable persons or groups.
 2. Right to assistance – The institution/agency shall provide assistance to grievants, including access to copies of the Title IX and Section 504 regulation, related guidelines, memoranda, and other relevant materials supplied the institution by the federal government as well as access to public grievance records. In addition, the Title IX or Section 504 coordinator shall provide consultation and assistance in the interpretation of such information and the use of this grievance procedure.

**CAPE HENLOPEN SCHOOL DISTRICT
BOARD POLICY**



100 PROGRAMS

116 Title IX/OCR Compliance Procedures

- C. **Training of Grievance Hearing Officers:** All persons designated as Level I, II and III grievance hearing officers may request training regarding Title IX or Section 504 regulatory requirements and non-discrimination precedents, and the basic principles and operation of this grievance procedure. This training shall be arranged by the Title IX or Section 504 coordinator. The Title IX or Section 504 coordinator may also provide continuing consultation to hearing officers regarding the civil rights requirements and the implementation of this procedure.
- D. **Confidentiality of Grievance Handling:** Grievant(s) shall also have the right to determine whether or not their grievance record shall be open or closed to the public. Should grievants decide that the grievance record shall be open to the public, they shall have the additional right to have any matter which directly or indirectly identifies the grievant removed from all grievance records or documents open to the public. No record of grievance shall be entered in the personal file of any student or employee.
- E. **Maintenance of Grievance Records:** Records shall be kept of each grievance. These shall include, at minimum: the name of the grievant and her/his position in (name of institution/agency); the date of grievance filing; the specific allegation made in the grievance and any corrective action requested; the names of respondents; the levels of processing and the resolution, date, and hearing officer(s) at each level; a summary of major points, facts, and evidence presented by each party to the grievance; and a statement of the final resolution and the nature and date of any corrective action taken. Such records shall be maintained on a confidential basis unless otherwise specified by the grievant, and shall be filed for a minimum of three years.
- F. **Prohibition of Harassment:** No person shall be subjected to discharge, suspension, discipline, harassment, or any form of discrimination for having used or having helped others use this grievance process.
- G. **Role of the Title IX and Section 504 Coordinator(s):** It is the primary responsibility of the Title IX and Section 504 coordinator(s) to ensure the effective installation, maintenance, processing, record keeping, and notification required by this grievance procedure.
- H. **Financial Responsibility for Grievance Processing:** All costs involved in the administration of this grievance procedure shall be assumed by the Cape Henlopen School District.