

Section 504 of the Rehabilitation Act of 1973 (“Section 504”) is a federal civil rights statute that prohibits discrimination against a person with disabilities in programs receiving federal financial assistance. The Act protects individuals with a disability who has:

1. a physical or mental impairment which substantially limits one or more major life activities of such individual;
2. a record of such impairment; or
3. has been regarded as having such an impairment.

The general terms set forth in that definition are further defined in the statute and implementing regulations as follows:

- A. “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; genitourinary; hemic or lymphatic; skin and endocrine; or (2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- B. “Major life activities” include, but are not limited to, caring for one’s self, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Additionally, “major life activity” shall include the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
- C. “A record of such impairment” means having a history of, or being classified as having, a mental or physical impairment that substantially limits major life activities.
- D. The term “substantially limits” shall be interpreted consistently with the findings and purpose of the statute, meaning that a limitation need not prevent, or severely restrict the individual in performing a major life activity to meet the legal standard. The determination of whether an individual is experiencing a substantial limitation in

performing a major life activity should be assessed based on comparing an individual's ability to perform a specific life activity (which could be a major bodily function) with that of most people in the general population. An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

An impairment that is episodic, such as epilepsy, hypertension, multiple sclerosis, asthma, diabetes, major depression, bipolar disorder, and schizophrenia, or an impairment such as cancer that is in remission, will be considered a disability if it would substantially limit a major life activity when active.

- E. "Being regarded as having such an impairment" means (1) having 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) having 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) having none of the impairments defined in this section but is treated by a recipient as having such an impairment. Additionally, an individual will meet the requirements of "being regarded as having such an impairment" if the individual establishes that he or she has been subjected to an action prohibited under the statute because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. An individual with an impairment that is transitory or minor in nature, meaning that the impairment has an actual or expected duration of six (6) months or less shall not be considered "being regarded as having such an impairment" within the meaning of the statute.

The definition of "disability" shall be construed broadly to favor coverage of individuals to the maximum extent permitted by the law.

The North Colonie Central School District (the "District") recognizes its responsibility to avoid discrimination in policies and practices regarding students. No discrimination against any person with a disability will knowingly be permitted in any of the programs and practices in the school system.

The District will strive to identify, evaluate, and extend to every qualified student with a disability residing in the District, a free appropriate public education, including modifications, accommodations, specialized instruction or related aids as may be deemed necessary to meet the student's educational needs.

A free appropriate public education includes an educational program: (1) provided to the student at no cost to the parents or guardians; (2) designed to provide educational benefit despite the student's disability or disabilities; and (3) provided in the environment that affords the greatest exposure to non-disabled student peers.

Consistent with Section 504, children with disabilities who do not require special education or related services (and are, therefore, not classified under the Individuals with Disabilities Education Act ("IDEA") or Article 89 of the New York State Education Law ("Article 89")) are,

nonetheless, entitled to accommodations and services in the regular school setting that are necessary to enable them to benefit from all programs and activities available to non-disabled children. Whether a student is entitled to these accommodations and services will be determined by the Section 504 Team.

The District's Section 504 Compliance Officer is responsible for ensuring compliance with the requirements of the Act.



The determination as to whether a student is a student with a disability for purposes of Section 504 is to be made by the multidisciplinary Section 504 Team which shall consist of a group of persons, including individuals knowledgeable about the child, the meaning of the evaluation data and the placement options. Each building shall have a Section 504 Team made up of the building's Pupil Services Team. The Section 504 Team must include a general education teacher or special education teacher of the student (if applicable) and parent or guardian of the student unless the District has requested participation of the parent or guardian of the student and such individual either (a) rejects participation either orally or in writing; or (b) fails to respond to the District's request within a reasonable time. Additionally, members of the District's Committee on Special Education ("CSE") may act as the Section 504 Team, at which time they are no longer fulfilling the role of the CSE, but rather the Section 504 Team.



Referrals to the Section 504 Team may come from professional staff, parents, public health/welfare/ educational agencies, physicians, self-referrals or as a result of diagnostic screening.

Upon receipt of a referral (which may be a CSE Referral Form or a written letter of referral), the Section 504 Team will send the parents a copy of the Board of Education Policy regarding Section 504, and Notice of Meeting to invite them to discuss the reasons for referral and assessment plans. The parent will be requested at that meeting to sign a 504 Evaluation Consent Form.



Based on the areas of concern in meeting the educational needs of the student, members of the Section 504 Team will conduct appropriate evaluations as soon as possible to determine if there is any cause to suspect a disability requiring special education or related services which will be referred to the CSE.

The Section 504 Team shall arrange for the evaluation of the student believed to have such a disability by individuals who are trained to administer the particular evaluation and with tests and other evaluation materials validated for the purpose for which they are used. 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. Tests must be selected and administered so as to best 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 levels 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).

No single evaluation shall be determinative. In interpreting evaluation data and in making placement decisions, the Section 504 Team shall: (1) draw upon information from a variety of sources, including the student's report cards, aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, and (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.

If the Section 504 Team suspects a disability as such is defined by the Individuals With Disabilities Education Act ("IDEA"), or Article 89 of the New York State Education Law ("Article 89") a CSE referral will be initiated immediately, and the CSE process will be followed. If the Section 504 Team determines the student does not evidence a disability requiring a referral to the CSE, or if the CSE determines a student who is referred to it does not have a disability, the Section 504 Team will consider whether or not the student is disabled under Section 504 and, if so, will develop an Accommodation Plan.



In most cases, the use of appropriate accommodations in regular classes will enable the District to effectively address the instructional needs of children with disabilities protected by Section 504, without the need for special education or related services. By way of example, such accommodations may include: providing a structured learning environment, repeating and simplifying instructions about in-class and homework assignments; supplementing verbal instructions with visual instructions; using behavioral management techniques, adjusting class schedules, modifying test delivery; using tape recorders, computer aided instruction, and other audiovisual equipment; selecting modified textbooks or workbooks; and, tailoring homework assignments.

Provisions must also be made, where necessary, for nonacademic times such as lunchroom, recess and physical education, and to ensure participation in extracurricular activities.

To assure students with disabilities under Section 504 access to regular school programs and activities, appropriate services might also include educationally related support services, classroom aides, or speech and language improvement services. A child protected under Section 504 who is not eligible for special education under IDEA or Article 89 may receive services in a resource room in accordance with Part 200 of the Commissioner's Regulations (see 8 NYCRR 200.6[f]). Children previously classified under Article 89, who no longer require special education or related services may receive declassification support services including appropriate accommodations under Section 504.

The Accommodation Plan will include a description of the evaluation used to determine the existence of a disability, the nature of the disability, the effects of the disability on school performance, accommodations to be made and a date for review/assessment. Parents will be included in developing the Accommodation Plan.

Upon completion of an Accommodation Plan, the Section 504 Team will send the following forms to the parents:

- A. Notice of Determination of Disability
- B. The completed Accommodation Plan
- C. Parent/Student Rights under Section 504 of the Rehabilitation Act of 1973.

R

Reevaluation is recommended prior to any significant change of placement throughout the student's educational program. The Section 504 Team must reevaluate the student before determining that a student who was found to have a mental or physical impairment that substantially limits a major life activity no longer has such a mental or physical impairment and must provide a copy of the evaluation report to the student's parent or guardian. However, the Section 504 Team is not required to conduct a reevaluation of a student before the termination of a student's eligibility due to graduation with a local high school or Regents diploma or exceeding the age of eligibility for a free appropriate public education.

S

Section 504 requires the District to offer qualified students equal opportunities to participate in non-academic and extracurricular services and activities. Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, referrals to agencies which provide assistance to disabled persons, and employment of students, including both employment by the District and assistance in making available outside employment.

D

Discipline procedures for students designated as disabled under Section 504 will be those applicable to students with disabilities or special needs under Article 89 of the New York State Education Law and Part 201 of the Regulations of the Commissioner (8 NYCRR § 201).

T

The Director of Pupil Services, will serve as the District Section 504 coordinator (*SHS PST Co-Chair/K-8 Guidance Counselors*) for students. Copies of all forms and correspondence regarding a referral and subsequent District actions will be sent to the Director of Pupil Services who will

be responsible for maintaining a District file for each student referred and assuring compliance with Section 504 guidelines.



At least fourteen (14) days prior to the beginning of each school year, the District will send, via first class mail, a copy of the District's 504 Policy to the parents of or person or guardian of each student enrolled in the District identified as a disabled student under Section 504. A copy of the policy shall be posted in the main administrative office of each school within the District in a place where both students and District employees are likely to view the policy. The District will take continuing steps to notify students, parents, guardians, and District employees of its policy by utilizing methods determined by the District most likely to result in notice.



The enabling Regulations for Section 504 as set out in 34 CFR Part 104 provide parents and/or students with the following:

- A. You have a right to be informed by the District of your rights under Section 504. (The purpose of this Notice form is to advise you of those rights).
- B. Your child has the right to an appropriate education designed to meet his/her individual educational needs as adequately as the needs of nondisabled students are met.
- C. Your child has the right to free educational services except for those fees that are imposed on nondisabled students or their parents. Insurers and similar third parties are not relieved from an otherwise valid obligation to provide or pay for services provided to a disabled student.
- D. Your child has a right to placement in the least restrictive environment.
- E. Your child has a right to facilities, services, and activities that are comparable to those provided for nondisabled students.
- F. Your child has a right to an evaluation prior to an initial Section 504 placement and any subsequent significant change in placement.
- G. Testing and other evaluation procedures must conform with the requirements of 34 CFR 104.35 as to validation, administration, areas of evaluation, etc. The District will consider information from a variety of sources, including aptitude and achievement tests, teacher recommendation, physical condition, social and cultural background, adaptive behavior, physical or medical reports, student grades, progress reports, parent observations, and anecdotal reports.
- H. Placement decisions must be made by a group of persons (i.e., the Section 504 Team), including persons knowledgeable about your child, the meaning of the evaluation data,

the placement options, and the legal requirements for least restrictive environment and comparable facilities.

- I. If eligible under Section 504, your child has a right to periodic reevaluations.
- J. You have the right to examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program and placement.
- K. You have the right to obtain copies of educational records at a reasonable cost unless the fee could effectively deny you access to the records.
- L. You have the right to a response from the District to reasonable requests for explanations and interpretations of your child's records.
- M. You have the right to request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading or otherwise in violation of the privacy rights of your child. If the District refuses this request for amendment, it will notify you within a reasonable time, and advise you of the right to a hearing.
- N. If you wish to challenge the actions of the District's Section 504 Team in regard to your child's identification, evaluation, or educational placement, you must file a written Complaint/ Notice of Appeal with the District's Section 504 Compliance Officer in accordance with the Due Process Procedure set forth below.
- O. On Section 504 matters other than your child's identification, evaluation, and placement, you have a right to file a written grievance with the District's Section 504 Compliance Officer (or designee), pursuant to the Section 504 Grievance Procedure set forth herein who will investigate the allegations to the extent warranted by the nature of the complaint in an effort to reach a prompt and equitable resolution.

D

Under Section 504, parents of students with disabilities are entitled to notice regarding actions affecting the identification, evaluation or educational placement of their children under this policy and may file a written Complaint requesting an impartial due process hearing if they disagree with any determination of the District in this regard.

The Complaint must be made in writing stating the reasons the hearing is being requested, and be sent to the Section 504 Compliance Officer:

Director of Pupil Services
North Colonie Central School District
445 Watervliet-Shaker Road
Latham, New York 12110

A. Contents of Complaint

The Complaint must include:

- i) the name of the student;
- ii) the address of the residence of the student and available contact information for the student;
- iii) the name of the school the student is attending;
- iv) the circumstances forming the basis of the Complaint;
- v) how the student is, has been, or may be adversely affected; and
- vi) a proposed resolution of the problem.

Upon receipt of such Complaint, the Section 504 Compliance Officer shall appoint an impartial hearing officer to hear evidence at the hearing. The impartial hearing officer must be (1) an individual with no direct interest in the outcome of the hearing; and (2) an individual who is knowledgeable about Section 504.

The impartial hearing officer shall be appointed and the hearing shall begin within a reasonable time following receipt by the Section 504 Compliance Officer of the Complaint. It shall be the duty of the appointed impartial hearing officer to provide the parent and student advance notice of the date, time and place of the hearing, at least ten (10) days prior to the scheduled hearing.

If the District believes that the due process Complaint does not meet the above requirements, it shall notify the impartial hearing officer and parent within five (5) days of receipt of the Complaint stating the insufficiencies. Within ten (10) days of receiving the notice of insufficiency, the impartial hearing officer shall make a determination of whether the notification meets the requirements and shall immediately notify the parties in writing of such determination.

B. Resolution Process

Prior to holding an impartial hearing, the District shall, within twenty-five (25) days of receiving the Complaint, convene a meeting with the student when appropriate, parent or guardian and the relevant members of the Section 504 Team, as determined by the District, as well as a representative of the District who has decision-making authority on behalf of the District. At such meeting the student, parent or guardian and the District will discuss the Complaint and the facts raised therein at an attempt to resolve the issues that led to the Complaint. If, during the resolution process, the parent and District reach an agreement to resolve the Complaint, the parties shall execute a legally binding agreement that is signed by both the parent or guardian and representative of the school district who has the authority to bind the District. Such agreement shall be enforceable in any State court of competent jurisdiction or in a district court of the United States.

C. Hearing

The impartial hearing officer must give the parent or guardian and/or student as well as the District a full and fair opportunity to present evidence relevant to the issue(s) raised in the

Complaint. The parent or guardian and/or student may, at their own expense, be represented by an individual of their choosing, including an attorney.

A written or, at the option of the parties, electronic verbatim record of the hearing shall be maintained and made available to the parties.

D. Presentation of Evidence

The student or parent or guardian, the District and their respective counsel or representative, shall have an opportunity to present evidence, compel the attendance of witnesses and to confront and question all witnesses at the hearing. Each party shall have the right to prohibit the introduction of any evidence the substance of which has not been disclosed to such party at least five (5) business days before commencement of the hearing. The impartial hearing officer may receive any oral, documentary or tangible evidence except that he or she may exclude evidence that he or she determines to be irrelevant, immaterial, unreliable or unduly repetitious.

E. Memoranda of Law

The impartial hearing officer may receive memoranda of law from the parties and shall determine the maximum length and deadline(s) for such submissions.

F. Impartial Hearing Officer Determination

The impartial hearing officer shall issue a written determination or, at his or her discretion, issue a “bench” ruling on the matters arising out of the Complaint pursuant to Section 504 of the Rehabilitation Act and its implementing regulations within thirty days after the hearing ends. Such written decision shall include findings of fact and an order, if necessary, which shall be final and binding on all parties unless appealed. The decision shall be mailed to all parties and shall contain notice of the right to appeal the decision.

The decision of the impartial hearing officer shall be based solely upon evidence presented at the hearing.

Unless appealed, the decision of the impartial hearing officer shall be implemented no later than thirty (30) school days following the date of the decision.

G. Appeal of Impartial Hearing Officer Determination

Any party aggrieved by the decisions of an impartial hearing officer may appeal in writing to the Board of Education or other entity or individual designated by the Board of Education within thirty (30) days from the date the decision was mailed by the Board or its designee based upon the Record generated at the impartial hearing and written submissions of the parties. The Board, or its designee, shall issue a written determination affirming or overruling the impartial hearing officer’s Decision.

Aggrieved parents may thereafter appeal to any State court of competent jurisdiction or in a district court of the United States within one hundred twenty (120) days from the date the decision was mailed by the Board or its designee.



If any person believes that the District or any of the District's staff has inadequately applied the principles of Section 504, or their implementing regulations, except issues regarding the identification, evaluation or educational placement of a disabled student, that person may bring forward a written grievance, to the District's Section 504 Compliance Officer:

Director of Pupil Services
North Colonie Central School District
445 Watervliet-Shaker Road
Latham, New York 12110

The Grievant will discuss the grievance informally with the Section 504 Compliance Officer who will investigate the matter and respond in writing to the Grievant.

The Grievant may thereafter initiate formal procedures according to the following steps:

1. If the Grievant wishes to appeal the decision of the Section 504 Compliance Officer, the Grievant must submit a signed statement of appeal to the District within seven (7) days after receipt of the Section 504 Compliance Officer's response. The Superintendent will meet with the Grievant and any representative and make such other inquiries which the Superintendent deems appropriate. Thereafter, the Superintendent will set forth a conclusion and respond in writing to the Grievant within fourteen (14) days.
2. If the Grievant is not satisfied with the conclusion of the Superintendent, the Grievant may appeal through a signed, written statement to the Board of Education within seven (7) days of receipt of the Superintendent's response. In an attempt to resolve the grievance, the Board of Education will meet with the Grievant and any representative within thirty (30) days of receipt of such an appeal. The Board's written disposition of the appeal will be sent to the Grievant within ten (10) days of this meeting.
3. If the grievance has not been satisfactorily settled at Step 2, further appeal may be made to the Office for Civil Rights, Department of Education, Washington, D.C. 20201 or to a court of a competent jurisdiction.

The Section 504 Compliance Officer, on request, will provide a copy of the District's grievance procedure to the parents or guardians of any student of the District.

A copy of each of the Acts and Regulations upon which this notice is based will be made available upon request directed to the District's Section 504 Compliance Officer.

When used in this policy days will mean calendar days. The words person and complainant will refer to a student of the District.

Inquiries concerning the nondiscriminatory policy may be made to Director, Office for Civil Rights, Department of Education, Washington, D.C. 20201.

-
-
- A. A referral received by 504 Coordinator must be in the form of:
 - 1. 504 referral from school personnel, or
 - 2. A letter from parents/guardians or from physicians, agency, etc. knowledgeable about the student.
 - B. 504 Coordinator or designee discusses referral with initiator or person making the referral.
 - C. Notice of Meeting and Board of Education Policy will be sent to parents/guardians (phone call first to prepare for letter if parents did not initiate referral). Copy of notice sent to PPS Chairperson.
 - D. 504 Coordinator and/or PPS representative(s) meets with parents to discuss referral. Parents requested to sign 504 Evaluation Consent Form.
 - E. Section 504 multi-disciplinary evaluation completed.
 - F. If the Section 504 Team suspects a disability under IDEA or Article 89, CSE referral sent immediately to CSE chairperson and the CSE process is initiated (including discussion with parents/guardians).
 - G. If the Section 504 Team determines student does not have a disability requiring a referral to CSE, the Section 504 Team considers whether or not the student is disabled under Section 504.
 - H. If, in the process of CSE deliberations, the CSE determines a student is not disabled under IDEA, but may evidence a disability under Section 504, the CSE will act as a Section 504 Team and consider whether or not the student is disabled under Section 504.
 - I. If the Section 504 Team determines the student is not disabled under Section 504, the Notice of Determination of Disability and the Parent/Student Rights Under Section 504 information letter will be sent to the parents/guardians informing them of this decision.
 - J. If the Section 504 Team determines the student is disabled under Section 504, the student's teachers will be included with appropriate members of the Section 504 Team in developing an Accommodation Plan. The parents/guardians and the student (if appropriate) will have the opportunity to provide input into the Accommodation Plan.
 - K. Upon completion of the Accommodation Plan, the Section 504 Team will send the following forms to the parents/guardians and the PPS Chairperson:
 - 1. Notice of Determination of Disability

2. Completed Accommodation Plan
 3. Parent/Student Rights under Section 504
- L. A review will be made by the date determined on the Accommodation Plan, or sooner, if changes in the student's education progress indicate the need for change in the plan. Copies of any revised plans are sent to the parents or guardians and the PPS Chairperson.



Legal Aid Society of Northeastern New York
Lake Avenue
Saratoga Springs, NY 12866
Phone: 885-4874, 587-5188

Developmental Disabilities Legal Clinic
Albany Law School
80 New Scotland Avenue
Albany, NY
Phone: 445-2328

Disability Advocates, Inc.
5 Clinton Square, 3rd Floor
Albany, New York 12207
Phone: 518-432-7861
Toll Free Phone: (800) 993-8982

Lawyer Referral and Information Service of the New York State Bar Association
Elk Street
Albany, NY 12207
Phone: 518-463-3200 ext. 255, (800) 342-3661



The following are examples of disabilities under Section 504 of the Rehabilitation Act of 1973:

Contagious and other disease – HIV, AIDS, Tuberculosis, etc.
Prior illegal drug use or addiction
Respiratory problems-chronic asthma, allergies, etc.
Neurological – epilepsy, etc.
Musculoskeletal – arthritis, broken limbs, etc.
Sense and speech organs
Cardiovascular
Reproductive

Digestive
Genitourinary
Hemic and lymphatic – diabetes, hypoglycemic, hemophilia, etc.
Skin
Endocrine
Mental impairment
Organic brain syndrome
Emotional or mental illness (paranoia, schizophrenia, depression)
Learning disabilities
Attention Deficit Disorder (ADD), Attention Deficit Hyperactivity Disorder (ADHD)

Adopted : 8/25/97
Amended: 4/26/10