

**SECTION 504 ACCOMMODATIONS**

It is the policy of the Board of Education (the "Board") that no qualified handicapped/disabled person shall, on the basis of handicap/disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any program or activity sponsored by this Board. The Board shall comply with Section 504 of the Rehabilitation Act of 1973 ("Section 504") and the Americans with Disabilities Act of 1990 (the "ADA").

**DEFINITIONS**

"504 Committee" – means a committee consisting of district employees and/or administrators which is responsible for reviewing, approving, and implementing Section 504 Accommodations for pupils, employees and other qualified persons. The Committee shall consist of no less than three (3) and no more than five (5) members, inclusive of the chairperson, who must be an Administrator in the District. The Chairperson shall determine the individuals who comprise the 504 Committee, who may include, in addition to the student's parent(s)/guardian(s), any of the following: nurse, guidance counselor, general/special education teacher, administrator, school psychologist, learning disability/teacher consultant, social worker, and school physician. The Committee shall report to the 504 Compliance Officer. The 504 Committee is separate and distinct from the Intervention and Referral Services ("I & RS") Committee. Each school building within the School District shall have a 504 Committee.

"504 Compliance Officer" – means the district official responsible for the coordination of all activities relating to compliance with Section 504 and implementation of Board Policy 2224 and this Regulation.

"Acts" - 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.

"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 handicapped/disabled and nonhandicapped/nondisabled persons, but must afford handicapped/disabled persons 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 C.F.R. §104.4(b)(2).

"Aggrieved Individual" – means a qualified handicapped/disabled person who alleges a grievance or the representative of such qualified handicapped/disabled person.

"Board" – means the Board of Education of the Pennsville Public School District.

"Complainant" – means a parent(s) or legal guardian(s) of a qualified handicapped/disabled pupil or qualified handicapped/disabled person who files a grievance in accordance with the grievance procedure.

"Day" – means calendar, working or school day as specified.

"Disability" - means a physical or mental impairment that substantially limits one or more major life activities of an individual. 42 U.S.C. §1201.3.

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

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

"Handicap" - means any condition or characteristic that renders a person handicapped/disabled, as defined below.

"Handicapped/Disabled Person" - 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 C.F.R. §104.3(j).

"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 C.F.R. §104.3(j)(2)(iii).

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

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

"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 C.F.R. §104.3(j)(2)(iv).

"Major Life Activities" - means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. 34 C.F.R. §104.3(j)(2)(ii).

“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; muscular-skeletal, 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 C.F.R. §104.3(j)(2)(i).

"Pupil" – means an individual enrolled in any formal educational program provided by the Board.

“Recipient” – means any state or its political subdivision, including this Board of Education. (34 C.F.R. §104.3(f))

"School district" – means the Pennsville Public Schools District.

### **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 the Acts. 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 Acts 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 handicapped/disabled persons 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 handicapped/disabled persons than non-handicapped/non-disabled persons.

### **504 COMPLIANCE OFFICER**

At the reorganization meeting, the Board will annually appoint a district official as the 504 Compliance Officer to coordinate its efforts to comply with Section 504 and the ADA. The Board may elect to appoint officers for each school building, but is not required to do so.

The 504 Compliance Officer shall designate and implement procedures to coordinate the district's efforts to comply with the Acts and this Regulation for pupils, employees and other qualified persons. The 504 Compliance Officer shall 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 Section 504.

In conjunction with the 504 Committee, the 504 Compliance Officer shall be responsible for the review, evaluation, approval, provision of reasonable accommodations (if appropriate), and re-evaluations of 504 accommodations for pupils, employees, and other qualified persons. The 504 Compliance Officer shall review all accommodation requests, along with supporting physician certifications and documents, to determine whether the requested accommodation(s) are reasonable. If the requested accommodation(s) is found to be reasonable, the 504 Compliance Officer shall make the necessary arrangements for the accommodation(s) to be implemented using the procedures outlined in this Regulation. If the requested accommodation(s) is found to be unreasonable, the 504 Compliance Officer shall provide a statement as to why the accommodation request was not granted and provide any suggestions for appropriate alternate accommodations to adequately address the employee or student's needs, if possible.

### **504 COMMITTEE**

The 504 Committee, under the guidance of the 504 Compliance Officer, will be responsible for the review, assessment, approval and implementation of all 504 accommodations for pupils, employees and other qualified persons. The 504 Committee will review all accommodation requests, along with supporting physician certifications and documents, to determine whether the requested accommodation(s) are reasonable. At the very least, a 504 Committee meeting shall be held to discuss the request within twenty (20) days of receipt. If the requested accommodation(s) is/are found to be reasonable, the Committee shall make the necessary arrangements for the accommodation(s) to be implemented using the procedures outlined in this Regulation. If the requested accommodation(s) is/are found to be unreasonable, the Committee shall provide a statement as to why the accommodation request was not granted and provide any suggestions for appropriate alternate accommodations to adequately address the employee or student's needs, if possible. The original 504 Plans and supporting documentation will be maintained in the individual buildings where the student attends school or in the school building where the employee works. Copies of these documents will also be maintained by the District 504 Compliance Officer.

### **FACILITIES**

#### **Discrimination Prohibited**

No qualified handicapped/disabled person shall, because a Board facility is inaccessible to or unusable by handicapped/disabled persons, 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 will operate its programs and activities so that the program, when viewed in its entirety, is readily accessible to handicapped/disabled persons. The Board is not required to make each of its facilities accessible to and usable by handicapped/disabled persons. 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 handicapped/disabled persons. 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 Section 504. The Board will give priority to those methods that offer programs and activities to handicapped/disabled persons in the most integrated setting appropriate. The Board will develop a plan to make its facilities comply with this policy and Section 504. The plan shall be developed with the assistance of interested persons, including handicapped/disabled persons or organizations representing handicapped/ disabled persons.

**New Construction**

The Board 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 handicapped/disabled persons. 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 will comply with the provisions of N.J.S.A. Title 18A and N.J.A.C. Titles 6 and 6A for the construction, remodeling and/or renovation of its facilities.

**Complaints About Accessibility of Facilities**

Complaints about access to facilities shall first be made to the Superintendent of Schools or his/her designee. If the complaint cannot be resolved the following grievance procedure shall be followed.

**Grievance Procedure – Facilities**

This grievance procedure shall apply to qualified handicapped/disabled persons who are not employees or pupils with alleged discriminatory act(s) under the provisions of the Acts.

1. The aggrieved individual shall file a written complaint, stating the specific facts of his/her grievance and the alleged discriminatory act, with the 504 Compliance Officer.
2. The 504 Compliance Officer shall make all reasonable efforts to resolve the matter informally by reviewing the complaint with the aggrieved individual.
3. In the event the complaint can not be resolved through an informal meeting, the 504 Compliance Officer shall notify all parties concerned in the case of the time and place when an informal hearing will be held where the parties may appear and present oral and written statements supplementing their position in the case and the manner in which the hearing will be conducted. Such hearing shall be held within ten (10) working days of receipt of the written statements pursuant to paragraph 5.

4. The 504 Compliance Officer shall render a determination within twelve (12) working days after the written statements pursuant to paragraph 5 have been presented to him/her, or ten working days after the completion of the informal hearing. The 504 Compliance Officer will provide a written copy of his/her determination to all parties.
5. The aggrieved individual may appeal the determination of the 504 Compliance Officer to the Board within three (3) working days of the receipt of the 504 Compliance Officer's determination. The appeal shall be in writing and attached to copies of the original complaint, and the written documentation of the 504 Compliance Officer. The Board or a committee thereof may, in its discretion, convene a hearing at which the parties may present additional testimony and argument.
6. Within forty-five days of the filing of appeal, the Board shall provide both parties with a written decision.
7. If the complaint has not been satisfactorily resolved in the above stages, the aggrieved individual may appeal in writing directly to the Office of Civil Rights, or take other legal action as appropriate.

## **EMPLOYMENT**

### **Discrimination Prohibited**

No qualified handicapped/disabled person 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 will take positive steps to employ and advance in employment qualified handicapped/disabled persons in programs assisted under the Act. The Board 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 will not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped/disabled applicants or employees to discrimination prohibited by Section 504. 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;
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'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 accommodations, not directly affecting the educational and/or instructional program or negatively impacting the essential job functions, to the known physical or mental limitation of any otherwise qualified handicapped/disabled applicant or employee 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 handicapped/disabled persons 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 will consider:

1. The overall size of the 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 district's workforce; and
3. The nature and cost of the accommodation needed.

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

**Employee Accommodation Request Procedure**

In order to receive a disability accommodation, an employee must formally submit a request through the Board-approved Employee 504 Accommodation Request Procedure as follows:

1. The requesting employee must complete the Employee Disability Accommodation Request form detailing the nature of the alleged disability and the accommodation sought. Form # 504-1E.
2. The requesting employee must complete the Employee Authorization for Release of Records for Disability Accommodation Request to permit his/her health care provider to exchange and disclose any necessary confidential health information to the Board which is relevant to the request. Form # 504-2E.
3. At or near the same time the employee submits the Accommodation Request form, the employee must have his/her physician complete the Physician Certification for Employee Disability Accommodation form and attach any and all relevant medical information to that form. Form # 504-3E.
4. The completed Accommodation Request packet, including the three (3) above referenced forms and any additional relevant documentation, must be sent to the 504 Committee for consideration.
5. Upon receipt of an Accommodation Request, and if the request for accommodations is medically based, the 504 Committee will consult with the District Physician. In that regard and in that case, the Accommodation Request packet must be sent to the School Physician. If, however, the request for accommodations is not medically based, the 504 Committee will move to paragraph 7 below.
6. After review of the Accommodation Request materials, the District Physician must complete the Certification for Employee Disability Accommodation and provide an opinion as to whether the employee has functional limitations and recommend what, if any, accommodation(s) may be appropriate for consideration by the 504 Committee. Form # 504-4E.
7. Upon receiving the Accommodation Request packet and the District Physician Certification (if necessary), the 504 Committee shall review all of the pertinent materials and decide whether the individual qualifies as disabled and whether or not an accommodation is appropriate and/or necessary for the employee.
8. As part of the Accommodation Request review procedure, the 504 Committee must determine whether the accommodation would impose an undue hardship on the operations of the District pursuant to applicable laws, regulations, and/or whether the request will negatively impact the essential job functions of the employee. If the 504 Committee determines that an accommodation would



impose such an undue hardship and/or would negatively impact the essential job functions of the employee, the Committee shall first consult with the 504 Compliance Officer to determine whether the accommodation request should be denied. In that regard, the 504 Compliance Officer may also elect to consult with the Board Counsel as well.

9. The 504 Committee shall then complete the Employee Disability Accommodation Response form and detail its decision of whether the accommodation(s) was granted, and if so, describe what action will be taken to meet the accommodation. Form # 504-5E.
10. If requested by the 504 Compliance Officer, counsel for the Board may review the Accommodation Request and the 504 Committee's response to ensure legal compliance.
11. If the Accommodation Request, or an alternate accommodation, is approved by the District Physician, the 504 Committee and/or Board Counsel, the Board shall then implement the accommodation.
12. Review of employee accommodations by the 504 Committee may occur from time to time to assess the continuing necessity and/or appropriateness of the accommodation.

### **Employment Criteria**

The Board and its administration will not use any employment test or other selection criterion that screens out or tends to screen out handicapped/disabled persons or any class of handicapped/disabled persons unless the test score or other selection criterion is shown to be job-related for the position in question and alternative job-related tests or criteria that do not screen out as many handicapped/disabled persons shown by the 504 Coordinator to be available. The Board 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 Section 504, the Board 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 handicapped/disabled person 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 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 Section 504, or when the Board is taking affirmative action pursuant to Section 504 of Section 504, 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 Section 504.

The Board 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 Section 504.

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 handicapped/ disabled persons 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 Section 504 or the ADA shall first be made in writing to the Superintendent of Schools or his/her designee. If the complaint cannot be resolved the following grievance procedure shall be followed:

### **Grievance Procedure - Employment**

This grievance procedure shall apply to qualified handicapped/ disabled persons who are employees with alleged discriminatory act(s) under the provisions of § 504 of the Rehabilitation Act of 1973 and/or the Americans with Disabilities Act.

1. The aggrieved individual shall file a written complaint, stating the specific facts of his/her grievance and the alleged discriminatory act, with the 504 Compliance Officer.
2. The 504 Compliance Officer shall make all reasonable efforts to resolve the matter informally by having the aggrieved individual review the complaint with his/her immediate supervisor.

3. The immediate supervisor shall render a determination to the aggrieved individual within ten working days after hearing the complaint. If such complaint is not satisfactorily resolved at this stage, the aggrieved individual may proceed to the next level of appeal.
4. Within five working days after a determination has been made at the preceding stage, the aggrieved individual may present the complaint in writing to the intermediate supervisor, if such there be, who shall orally discuss the complaint with the aggrieved individual. The intermediate supervisor shall render a determination in writing to the aggrieved individual within ten working days after receiving the complaint. If such complaint is not satisfactorily resolved at this stage, the aggrieved individual may proceed to the next level of appeal.
5. Within ten working days after a determination has been made by the intermediate supervisor, the aggrieved individual may make a written request to the compliance officer for review and determination.
6. The 504 Compliance Officer shall immediately notify the individual, immediate supervisor, and intermediate supervisor in the case to submit written statements to him/her within ten working days setting forth the specific nature of the complaint, the facts relating thereto, and the determinations previously rendered.
7. The 504 Compliance Officer shall notify all parties concerned in the case of the time and place when an informal hearing will be held where the parties may appear and present oral and written statements supplementing their position in the case and the manner in which the hearing will be conducted. Such hearing shall be held within ten working days of receipt of the written statements pursuant to paragraph 5.
8. The 504 Compliance Officer shall render a determination within twelve working days after the written statements pursuant to paragraph 5 have been presented to him/her, or five working days after the completion of the informal hearing. The 504 Coordinator will provide a written copy of his/her determination to all parties.
9. The aggrieved individual may appeal the determination of the 504 Compliance Officer to the Board within five working days of the receipt of the compliance officer's determination. The appeal shall be in writing and attached to copies of the original complaint, the minutes of the informal hearing, and the written determination of the 504 Compliance Officer. The Board or a committee thereof may, in its discretion, convene a hearing at which the parties may present additional testimony and argument.
10. Within forty-five calendar days of the filing of appeal, the Board shall provide both parties with a written decision.

11. If the complaint has not been satisfactorily resolved in the above stages, the aggrieved individual may appeal in writing directly to the Office of Civil Rights or take other, legal action.

**PUPIL 504 ACCOMMODATIONS**

The Board of Education will not, on the basis of handicap/ disability, exclude qualified handicapped/disabled persons 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.

Pupils 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 504 Coordinator by the parent(s) or legal guardian(s), staff member and/or a request directly from the pupil.

The Board will provide a reasonable accommodation(s) to otherwise qualified pupils notwithstanding any program and/or related services required pursuant to N.J.A.C. 6A:14-1 et seq. Timelines for re-evaluations of pupils receiving a reasonable accommodation(s) will be established by the 504 Compliance Committee. A re-evaluation may be requested by the parent(s) or legal guardian(s) and/or the pupil at any time upon written request to the 504 Officer.

**Location and Notification**

The administration will undertake to identify and locate every qualified handicapped/disabled pupil residing within the school district who is not receiving a public school education and will take steps to notify such handicapped/disabled persons and their parent(s) or legal guardian(s) of the school district's duty under the policy and Section 504. Pupils 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 504 Compliance Officer by the parent(s) or legal guardian(s), staff member and/or a request directly from the pupil.

**Educational Setting**

The school administration will place a handicapped/disabled person in the regular educational environment within the school district unless the school district demonstrates that the education of the handicapped/disabled person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. The administration will consider the proximity of any alternative setting for handicapped/disabled persons to the person's home. The Board will ensure that handicapped/ disabled persons participate with nonhandicapped/ nondisabled persons in such activities and services to the maximum extent appropriate to the needs of the handicapped/disabled person in question.

**Accommodation Request Procedures**

In order to request a 504 Accommodation(s) for a pupil, the pupil's parent(s)/guardian(s), the adult pupil, or other referring individual must formally submit a formal request through the Board-approved 504 Accommodation Request Procedure as follows:

1. The referring/requesting individual must complete the Pupil Disability Accommodation Request form detailing the nature of the alleged disability and the accommodation sought. Form # 504-1P.
2. The parent/guardian/adult pupil must complete the Pupil Authorization for Release of Records for Disability Accommodation Request to permit the pupil's health care provider to exchange and disclose any necessary confidential/protected health information to the District which is relevant to the request. Form # 504-2P.
3. At or near the same time of the submission of the Accommodation Request form, the pupil/guardian/adult pupil must have the pupil's physician complete the Physician Certification for Pupil Disability Accommodation form and attach any and all relevant medical information to that form. Form # 504-3P.
4. The completed Accommodation Request packet, including the three forms referenced above, and any additional relevant documentation, must be sent to the 504 Committee for consideration.
5. Upon receipt of a complete Accommodation Request packet, and if the request for accommodations is medically based, the 504 Committee shall consult the school nurse if he/she is part of the 504 Committee. If the school nurse is not part of the 504 Committee, the Accommodation Request packet must be sent to the School Physician per paragraph 6 below.
6. If, after consultation with the school nurse, he/she deems it necessary to review additional medical information, the 504 Committee shall forward a copy of the complete request packet to the District Physician for review. If no review by the District Physician is required per the recommendation of the school nurse, the 504 Committee shall move to paragraph 8 below.
7. After review of the Accommodation Request materials, the District Physician must complete the Certification for Pupil Disability Accommodation and provide an opinion as to whether the pupil has functional limitations and what, if any, accommodation(s) may be appropriate for consideration by the 504 Committee. Form # 504-4P.
8. Upon receiving the Accommodation Request packet and the District Physician Certification, the 504 Committee, along with the assistance of any such additional school district staff, administrators or professionals as he/she may deem necessary

and appropriate, shall review all of the pertinent materials and decide whether the pupil qualifies as disabled and whether or not an accommodation is appropriate and/or necessary for the pupil.

9. As part of the accommodation request review procedure, the 504 Committee must determine whether the accommodation would impose an undue hardship on the operations of the District pursuant to applicable laws and regulations. If the 504 Committee determines that an accommodation would impose such an undue hardship, the Committee shall first consult with the 504 Compliance Officer to determine whether the accommodation request should be denied. In that regard, the 504 Compliance Officer may also elect to consult with the Board Counsel as well.
10. The 504 Committee shall then complete the Pupil Disability Accommodation Response form and detail the decision of whether the accommodation(s) was granted, and if so, describe what action will be taken to meet the accommodation. Form # 504-5P.
11. If requested by the 504 Compliance Officer, counsel for the Board may also be asked to review the Accommodation Request and the 504 Committee's response to ensure legal compliance.
12. If the requested accommodation, or an alternate accommodation, is approved pursuant to the procedure set forth above, the Board, through the 504 Committee and any other necessary administrators and/or staff members, shall then implement the accommodation.

### **Accommodation**

In interpreting data and in making pupil accommodation 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 accommodation decision is made in conformity with this regulation and the Rehabilitation Act of 1973.

**Section 504 Accommodation Plan**

The 504 Committee, based on the evaluation of the pupil eligible for services under Section 504, shall prepare a Section 504 Accommodation Plan (Form #504-6P) which contains the following elements as related to the pupil:

1. Name.
2. Date of Birth.
3. Current educational placement.
4. Name of the District employee preparing 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 pupil that they have participated in the development of the plan and give their consent to its implementation.

10. Where appropriate, 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.

### **504 Accommodation Reevaluation**

Reevaluation of pupil accommodations may occur from time to time to assess the continuing necessity and/or appropriateness of the accommodation(s). Timelines for re-evaluations of pupil receiving a reasonable accommodation(s) will be established by the 504 Committee. A re-evaluation may be requested by the parent(s) or legal guardian(s) and/or the pupil at any time upon written request to the 504 Committee.

### **Grievance Procedure**

This grievance procedure shall apply to qualified handicapped/ disabled persons who are pupils with alleged discriminatory act(s) under the provisions of Section 504 and/or the ADA.

1. The aggrieved pupil or parent/guardian of the pupil shall file a written complaint, stating the specific facts of his/her grievance and the alleged discriminatory act, with the 504 Committee.
2. The 504 Committee will make all reasonable efforts to resolve the matter informally by having a meeting with the parent and/or aggrieved pupil to review the complaint.
3. The 504 Committee will render a determination to the aggrieved pupil or parent/guardian of the pupil within ten school days after hearing the complaint. If such complaint is not satisfactorily resolved at this stage, the aggrieved pupil or parent/guardian of the pupil may proceed to the next level of appeal.
4. Within ten school days after a determination has been made by the 504 Committee, the aggrieved pupil or parent/guardian of the pupil may make a written request to the 504 Compliance Officer for review and determination.
5. The 504 Compliance Officer will immediately notify the pupil or the parent/guardian of the pupil, immediate supervisor, and intermediate supervisor in the case to submit written statements to him/her within ten school days setting forth the specific nature of the complaint, the facts relating thereto, and the determinations previously rendered.
6. The 504 Compliance Officer will notify all parties concerned in the case of the time and place when an informal hearing will be held where the parties may appear and present oral and written statements supplementing their position in the appeal and the manner in which the hearing will be conducted. Such hearing shall



be held within ten school days of receipt of the written statements pursuant to paragraph 5.

7. The 504 Compliance Officer will render a determination within twelve school days after the written statements pursuant to paragraph 5 have been presented to him/her, or five school days after the completion of the informal hearing. The 504 Coordinator will provide a written copy of his/her determination to all parties.
8. The aggrieved individual may appeal the determination of the 504 Compliance Officer to the Board within five school days of the receipt of the 504 Compliance Officer's determination. The appeal shall be in writing and attached to copies of the original complaint, the written determination of the 504 Committee, and the written determination of the 504 Compliance Officer. The Board or a committee thereof may, in its discretion, convene a hearing at which the parties may present additional testimony and argument.
9. Within forty-five calendar days of the filing of appeal, the Board shall provide both parties with a written decision.
10. If the complaint has not been satisfactorily resolved in the above stages, the aggrieved individual may appeal in writing directly to the Office of Civil Rights or take other, legal action.

### **Nonacademic Services**

The Board will provide non-academic and extracurricular services and activities in such manner as is necessary to afford handicapped/disabled students 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 handicapped/disabled persons, and employment to students, including both employment by the school district and assistance in making available outside employment.

The Board and Administration will ensure that qualified handicapped/disabled students are not counseled toward more restrictive career objectives than are nonhandicapped/nondisabled students with similar interests and abilities. The Board will provide to qualified handicapped/disabled students 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 handicapped/disabled students only if separate or differentiation is consistent with the requirements of the Rehabilitation Act and no qualified handicapped/disabled person is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

**Grievance Procedure - Miscellaneous**

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. 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.
4. There will be no reprisal of any kind taken against any aggrieved individual for participation in a grievance.
5. 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 pupil file.

Date: May 26, 2009

Date Reviewed/Revised: August 30, 2010

**Legal References:**

<u>N.J.S.A.</u> 2C:16-1	Bias intimidation
<u>N.J.S.A.</u> 2C:33-4	Harassment
<u>N.J.S.A.</u> 10:5-1 et seq.	Law Against Discrimination
<u>N.J.S.A.</u> 18A:6-5	Inquiry as to religion and religious tests prohibited
<u>N.J.S.A.</u> 18A:6-6	No sex discrimination
<u>N.J.S.A.</u> 18A:18A-17	Facilities for handicapped persons
<u>N.J.S.A.</u> 18A:26-1	Citizenship of teachers, etc.
<u>N.J.S.A.</u> 18A:26-1.1	Residence requirements prohibited
<u>N.J.S.A.</u> 18A:29-2	Equality of compensation for male and female teachers
<u>N.J.S.A.</u> 18A:37-14 through 18A:37-19, inclusive	Harassment, intimidation, and bullying defined; definitions
<u>N.J.S.A.</u> 18A:36-20	Discrimination; prohibition
<u>N.J.S.A.</u> 26:8A-1	Domestic Partnership Act
<u>N.J.A.C.</u> 5:23-7.1	Barrier Free Subcode of the Uniform Construction Code
<u>N.J.A.C.</u> 6A:7-1.1	Managing for Equality and Equity in Education
See particularly: <u>N.J.A.C.</u> 6A:7-1.4 through 1.8 inclusive	

<u>N.J.A.C. 6A:30-1.1</u>	Evaluation of the Performance of School Districts
<u>N.J.A.C. 6A:32-12.1</u>	Reporting requirements
<u>N.J.A.C. 6A:32-14.1</u>	Review of mandated programs and services

Executive Order 11246 as amended

29 U.S.C.A. 201 <i>et seq.</i>	Equal Pay Act of 1963 as amended
20 U.S.C.A. 1681 <i>et seq.</i>	Title IX of the Education Amendments of 1972
42 U.S.C.A. 2000e <i>et seq.</i>	Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunities Act of 1972
29 U.S.C.A. 794 <i>et seq.</i>	Section 504 of the Rehabilitation Act of 1973
20 U.S.C.A. 1401 <i>et seq.</i>	Individuals with Disabilities Education Improvement Act
42 U.S.C.A. 12101 <i>et seq.</i>	Americans with Disabilities Act (ADA)

Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986)

School Board of Nassau County v. Arline, 480 U.S. 273 (1987)

Vinson v. Superior Court of Alameda County, 740 P.2d 404 (Cal. Sup. Ct. 1987)

State v. Mortimer, 135 N.J. 517 (1994)

Taxman v. Piscataway Bd. of Ed., 91 F. 3d 1547 (3d Cir. 1996)

Davis v. Monroe County Board of Education, 526 U.S. 629 (1999)

Saxe v. State College Area School Dist., 240F. 3d 200 (3d Cir. 2001)

L.W. v. Toms River Reg. Schools Bd. of Education, 189 N.J. 381 (2007)

Manual for the Evaluation of Local School Districts

Comprehensive Equity Plan, New Jersey Department of Education

United States Department of Education - Office of Civil Rights Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (1997)

### **Possible Cross References:**

2224	Nondiscrimination/Affirmative Action
3320	Purchasing procedures
4111	Recruitment, selection and hiring
4111.1	Nondiscrimination/affirmative action
4131/4131.1	Staff development; in-service education/visitations/conferences
4211	Recruitment, selection and hiring
4211.1	Nondiscrimination/affirmative action
4231/4231.1	Staff development; in-service education/visitations/conferences
5131	Conduct/discipline

| Possible Cross References (continued):

5145.4	Equal educational opportunity
6121	Nondiscrimination/affirmative action
6145	Extracurricular activities