

## SECTION 504 OF THE REHABILITATION ACT OF 1973 –STUDENTS (M)

### 2418 SECTION 504 OF THE REHABILITATION ACT OF 1973 –STUDENTS (M)

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#### I. Introduction:

Section 504 of the Rehabilitation Act of 1973 (“Section 504”) is a federal anti-discrimination law that protects the rights of students and employees with disabilities in programs and activities that receive federal financial assistance from the U.S. Department of Education. Recipients of this federal financial assistance include the South Orange and Maplewood School District Board of Education (“District” or “Board”). This Policy number 2418 focuses upon Section 504 legal protections for students.

Section 504 requires the District to provide a “free and appropriate public education,” (FAPE) to each qualified student with a disability who is in the District’s jurisdiction, regardless of the nature or severity of the person’s disability. Under Section 504, providing FAPE means that students with physical or mental impairments that substantially limit their major life activities in a way that impacts their functioning in the school setting shall be provided with an individualized and systematic plan of accommodations and services. The District shall always consider the applicability of Section 504 protections for students when it is utilizing procedures under either Intervention and Referral Services (“I&RS”) or the Individuals with Disabilities Education Act (“IDEA”).

In accordance with its obligation to provide FAPE, the District shall provide accommodations to a student with disabilities that are designed to allow the student to access curricular and extracurricular activities in a manner substantially consistent with their non-disabled peers. All students eligible for services under the Individuals with Disabilities Education Act (IDEA) are protected under Section 504. Students who are not eligible for services under IDEA may nonetheless be eligible for educational and related services under Section 504. To the maximum extent possible, the student has the right to be educated with students who are not disabled.

The Board directs that all reasonable efforts be made to identify unserved students with disabilities in this District who are eligible for special education and/or related services in accordance with Policy No. 2460 and Regulations No. 2460, the Individuals with Disabilities Education Act,



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Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

The Board recognizes its responsibility to provide a Free Appropriate Public Education for qualified persons with disabilities that is commensurate with that provided for persons who do not have disabilities to the maximum extent appropriate to meet the needs of the students with disabilities. With regard to nonacademic and extracurricular services and activities, the Board recognizes its responsibility to arrange for the provision of those services and activities such that students with disabilities participate with nondisabled students to the maximum extent appropriate to the needs of the student with disabilities. Any facility which the Board operates for students with disabilities shall be comparable to facilities, services and activities provided for nondisabled students.

### II. Definitions:

- A. Disability: A student is “disabled” pursuant to Section 504 if they:
- i. have a physical or mental impairment which substantially limits one or more of such student’s major life activities;
  - ii. have a record of such an impairment, or
  - iii. are regarded as having such impairment.
- B. “Substantially limits” is defined as being unable to perform a major life activity that the average person in the general population can perform or is significantly restricted in the condition, manner, or duration under which an individual can perform a particular major life function as compared to the condition, manner, or duration which the average person in the general population can perform that same major life activity.
- C. “Major life activities” include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. The disabling condition need only substantially limit one major life activity in order for a student to be eligible.



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- D. District Coordinator: The District Section 504 Coordinator is the person who assures that the district is in compliance with legal requirements specified under Section 504. The District Section 504 Coordinator has the authority to investigate and recommend to the Superintendent a resolution of written grievances.
- E. Building Coordinator: The Building Section 504 Coordinator is the building Principal or their designee who is responsible for managing the Section 504 Team (the “504 Team”) in their building and ensuring implementation of Section 504 plans for students in the building. The Building Coordinator shall be responsible for ensuring that all appropriate staff are informed of the student’s right to accommodations under Section 504 and for ensuring that Section 504 plans are implemented.
- F. Section 504 Committee: The Section 504 Committee shall serve all District students and schools as an initial means of redress for any parent/guardian who has concerns about any aspect of a student’s Section 504 Plan, and who has not been able to resolve the concerns with the 504 Team. The Section 504 Committee shall consist of a group of persons who will, when necessary, become knowledgeable about the student, the meaning of the evaluation data, and the options with respect to accommodations, services and placement.
- G. “Accommodations” shall mean/include changes in the timing, formatting, setting, scheduling, response and/or presentation of an educational experience, including assistive technology(ies), that allow a student with disabilities to have equal access to the general educational program. Costs of such accommodations shall be borne by the District.
- H. “504 Team” shall include the Building 504 Coordinator and may include a student’s general education teacher(s), a special education teacher, the school principal, the parent(s)/guardian(s) of the student, the student (as appropriate, depending upon age and maturity), and any other person with firsthand relevant knowledge of the student and the disability at issue. The staffing of a 504 Team may differ for each student, depending upon the specific accommodations/services required.
- I. “Firsthand Relevant Knowledge” means a staff member who is currently working directly with the student and has firsthand knowledge of the child relevant to the Section 504 request being made and eligibility.



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- J “Intervention and Referral Services (“I&RS”) refers to a coordinated system in each District school building in which general education students are served, for the planning and delivery of intervention and referral services that are designed to assist students who are experiencing learning, behavior or health difficulties, and assist staff who have difficulties in addressing students’ learning, behavior or health needs.

### III. Evaluation:

In compliance with federal law, the Board directs that students with disabilities pursuant to Section 504 be identified, referred to, and evaluated by a 504 Team, and that a determination of eligibility for accommodations of their general educational program be made. The Board also directs that, when a request for a Section 504 evaluation is made, the Building Coordinator will hold a planning meeting with the parent(s)/guardian(s) within 20 calendar days, excluding the winter and spring breaks. For a student who does not require formal, standardized testing, an eligibility determination meeting will be held within 45 calendar days of the date of request, excluding the winter and spring breaks. For a student who does require formal standardized testing, an eligibility determination meeting will be held within 90 calendar days of the date of request, excluding winter and spring breaks. If eligible, a copy of the proposed 504 plan will be provided to the parent(s)/guardian(s) within 7 calendar days of the eligibility meeting, excluding holidays. If during the course of the I&RS process, a student is identified as having, or possibly having a disability pursuant to Section 504, the I&RS Team should also refer the student for a Section 504 evaluation. Referral for a Section 504 evaluation, shall not suspend or delay provision of interventions or other services pursuant to the I&RS process. Eligibility determination and initial Section 504 plan development may occur during the same meeting when sufficient evaluation data is available and the parent/guardian has agreed to this via written consent, and has been provided the opportunity to review information in advance.

Parents/guardians and school staff may refer a student for evaluation under Section 504 if they know or suspect that, due to a physical or mental impairment, a student requires accommodations to participate in or benefit from the general education program. An initial evaluation for



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Section 504 eligibility can only take place with the written consent of the student's parent/guardian.

In making accommodation, services and, placement decisions, the Section 504 Team shall draw upon a variety of sources including aptitude and achievement tests, teacher recommendations, physical condition, and adaptive behavior, and recommendations from medical providers, as appropriate. When the District is considering employing a targeted or intensive intervention under the District's intervention strategy for a particular student, it should ensure that any intervention used is designed to address the particular behavior, the obstacles to accomplishing schoolwork, or the underachievement in question.

The Section 504 Coordinator shall establish procedures to ensure that information obtained from all such sources is documented and carefully considered. In the event that parents/guardians disagree with the decision of the Section 504 Team, they may utilize the services of the Section 504 Committee.

#### IV. Implementation of this Policy and Procedural Regulations for Ensuring Compliance with Section 504:

The Superintendent of Schools, or their designee, shall be responsible for the District's efforts to comply with the requirements of Section 504 and this policy.

Within sixty (60) days of the adoption of this Policy, the Superintendent shall issue regulations and procedures for complying with Section 504 and this Policy, including regulations regarding Section 504 referrals, the District's efforts to identify underserved students who may be eligible for Section 504 accommodations, eligibility determinations, Section 504 plan development and implementation. These regulations shall also include requirements that parents/guardians be provided with a Notice of Procedural Rights upon their request for a Section 504 evaluation or as part of the notification that their student has been referred for evaluation for Section 504 accommodations; procedural safeguards including mechanisms for appealing a determination and expeditiously resolving complaints regarding eligibility determinations or development of a Section 504 plan; procedures to ensure implementation of and/or compliance with a student's Section 504 plan, and procedures for ensuring compliance with and accommodations under Section 504 at transition points in a



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student's educational career, including entry to kindergarten, transition from fifth grade to sixth grade and eighth grade to ninth grade. These regulations shall also clearly set forth a grievance procedure to expeditiously process complaints concerning allegations of discrimination in the District, including allegations of retaliation for asserting rights under Section 504 and/or this Policy.

The Superintendent of Schools shall ensure that all staff receives appropriate and ongoing professional development regarding the District's responsibilities pursuant to Section 504 requirements.

The Superintendent of Schools, and/or their designee, shall take all actions necessary to ensure that Building 504 Coordinators inform all appropriate staff of a student's right to accommodations and services under Section 504 in order to accomplish the goals of that student's Section 504 Plan.

The Superintendent of Schools or their designee shall take all actions necessary to ensure that students with Section 504 accommodations benefit from field trips and other curricular activities such as assemblies in a manner consistent with the goals of the student's Section 504 Plan. The Superintendent of Schools or their designee shall take all actions necessary to ensure that students with disabilities derive the benefits from interscholastic and intramural sports activities as well as other non-athletic extracurricular activities that their non-disabled peers enjoy. Those efforts shall include, but not be limited to, notifying parent(s)/guardian(s) of every student enrolled in the District's schools of this Policy at the beginning of each school year, as well as the names and contact information for the District and Building Coordinators. Copies of this Policy and a Notice of Procedural Rights afforded by Section 504 shall also be provided to parent(s)/guardian(s) upon request, as well as upon the request of parent(s)/guardian(s) request for a referral for Section 504 evaluation, or as part of the notification that their student has been referred for an evaluation for eligibility for accommodations under Section 504.

### V. Reports to the Board:

At the end of each school year, each building Principal shall, in consultation with the Section 504 Committee (including the Building Coordinator if other than the Principal), develop a report that includes a report of the number of students who were referred for Section 504



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evaluations, the outcome of the evaluation processes, the concerns and issues identified by the Section 504 Teams, and the effectiveness of the services provided in achieving the outcomes identified in the Section 504 plans. This report shall be provided to the Superintendent of Schools.

On the basis of the reports received from each building Principal, the Superintendent of Schools shall annually report to the Board a summary of the District's identification and evaluations of students, the Section 504 accommodations required, the number and nature of any appeals filed by parent(s)/guardian(s) in the Section 504 process, the number and nature of complaints and/or grievances regarding compliance with Section 504 plans, allegations of discrimination, or retaliation, and procedures for ensuring compliance with Section 504 requirements.

Article I, Paragraph 5 of the New Jersey State Constitution  
The New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.  
N.J.S.A. 18A:36-20  
N.J.A.C. 6A:7-1.1., et seq.  
20 U.S.C. 1400 et seq.  
34 C.F.R. § 104.33. et seq.

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