

5750.1 STUDENT DISABILITIES PURSUANT TO SECTION 504 OF THE REHABILITATION ACT
OF 1973

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 5750.1 focuses upon Section 504 legal protections for students.

Section 504 requires the District to provide a "free and appropriate education," (FAPE) to each qualified student with a disability who is in the District's jurisdiction, regardless of the nature or severity of the student's disability. Section 504 protections are designed to provide FAPE and protect students with physical or mental impairments that substantially limit their major life activities in a way that impacts their functioning in the school setting to the point of needing 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").

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

I. Disability:

Pursuant to Section 504, a student is "disabled" if he or she:

- a. has a physical or mental impairment which substantially limits one or more of such student's major life activities;
- b. has a record of such an impairment, or
- c. is regarded as having such impairment.

"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.

“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.

All individuals eligible for services under the Individuals with Disabilities Education Act (IDEA) are protected under Section 504. Individuals who are not eligible for services under IDEA may nonetheless be eligible for services under Section 504.

II. District Coordinator and Building Coordinator:

- a. 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 attempt to resolve all written grievances.
- b. The Building Section 504 Coordinator is the building Principal or his/her designee who is responsible for managing the Section 504 Committee (the “504 Committee”) in his/her building.

III. Evaluation:

In compliance with federal law, the Board directs that students disabled pursuant to Section 504 be identified, referred to and evaluated by a 504 Committee, and that a determination of eligibility for accommodations of his/her regular program be made. Parents/guardians and school staff can 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 regular education program. An initial evaluation for Section 504 eligibility can only take place with the written consent of the child’s parent/guardian.

The Section 504 Committee shall consist of a group of persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. In making placement decisions, the Section 504 Committee shall draw upon a variety of sources including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The Section 504 Coordinator shall establish procedures to ensure that information obtained from all such sources is documented and carefully considered.

IV. Procedure:

How parent(s)/guardian(s) may request a Section 504 referral:

- a. Parent(s)/guardian(s) should contact the child’s school administrator or designee.
- b. The school administrator or designee will send parent(s)/guardian(s) a consent form seeking permission to evaluate and a Notice of Procedural Rights.

THE SCHOOL DISTRICT OF SOUTH ORANGE AND MAPLEWOOD, NEW JERSEY

PUPILS

5750.1/page 3 of 7

Student Disabilities Pursuant to Section 504

- c. Once the school administrator or designee is in receipt of the signed consent form, they will notify staff involved with evaluating your child.
- d. The school administrator or designee will convene a Section 504 Team comprised of people who are knowledgeable about the child, the disability, and the evaluation data.

Once the assessments and/or review of information is complete, the administrator or designee will schedule an Eligibility meeting.

The school administrator or designee will send the parent(s)/guardian(s) an Invitation Notice detailing the date, time and place of the Eligibility meeting. The parent(s)/guardian(s) may choose to invite physicians, mental health professionals, lawyers, and counselors. During the Eligibility meeting, the Section 504 Team will consider multiple sources of information, review evaluation results and determine if the child is eligible to receive accommodations and/or related services under Section 504. The Section 504 Committee shall involve parent(s)/guardian(s) in all identification, evaluation and educational placement decisions. Parent(s)/guardian(s) shall have an opportunity to examine all relevant records. A Section 504 evaluation meeting shall provide an opportunity for participation by each student's parent(s)/guardian(s) and other individuals who have knowledge or special expertise regarding the student. These other individuals may be invited by the parent(s)/guardian(s) or the District. In addition, the student and his/her parent(s)/guardian(s) may be represented by legal counsel at the meeting. The student's parent(s)/guardian(s) shall be notified in writing not less than 15 calendar days prior to the Section 504 Committee meeting. Written notice shall be provided in the parent(s)/guardian(s)' native language. The Section 504 Committee shall consider all relevant information concerning the student to determine whether he/she is disabled under Section 504.

The parent/guardian will be provided with a copy of the Notice of Procedural Rights at the meeting.

If a child is found eligible:

The Team will develop a Section 504 Plan that clearly states the disability and the major life activity impacted by the disability.

The Section 504 Plan will list the accommodations, materials and/or services required to level the playing field for the parent/guardian's child.

The Administrator or designee will monitor the implementation of the child's plan.

A liaison may be assigned by the Administrator or designee as a contact person regarding the child's Section 504 Plan.

The parent/guardian will be provided with a copy of the Section 504 Plan. **Upon receipt of the parent/guardian's signature indicating consent, the child's Section 504 Plan will be implemented.**

If a child is not found eligible:

The parent/guardian will be provided with a copy of the Section 504 Non-Eligibility form.

Annual Reviews

The school administrator or designee is responsible for ensuring that Section 504 Plans are reviewed at least annually or more frequently as conditions warrant. The purpose of this review is to determine the appropriateness of the current 504 Plan and to make any necessary modifications.

Three-Year Reevaluations

The school administrator or designee is responsible for initiating the Section 504 reevaluation process to determine continued eligibility every three years or more frequently if conditions warrant.

The process for the reevaluation is the same as the process that was followed during the initial evaluation. Refer to the previous steps 2-8.

How a staff member may request a Section 504 referral:

Staff member should contact the school's administrator or designee. All the remaining steps are identical to those regarding how parent(s)/guardian(s) may request a Section 504 referral.

How parent(s)/guardian(s) may appeal any aspect of the Section 504 process:

Parent(s)/guardian(s) should request to meet with the child's school administrator or designee and/or reconvene the student's 504 Team. The nature of all such meetings should always be respectful and collaborative, with the primary goal of resolving whatever outstanding issues remain regarding the child's Section 504 rights.

If the issues remain unresolved the parent(s)/guardian(s) should contact the District's Section 504 Coordinator.

If the resolution processes set forth above still do not resolve the issue, parent(s)/guardian(s) and adult students (18 years of age and older in New Jersey) have the following due process rights under Section 504:

The parent(s)/guardian(s) or student who has reached the age of majority has the right to receive a copy of a notice of procedural rights when the school district identifies, evaluates, refuses to evaluate, makes a new educational placement, denies a new educational placement or makes any significant change in the placement of the student because of the student's disability or suspected disability.

THE SCHOOL DISTRICT OF SOUTH ORANGE AND MAPLEWOOD, NEW JERSEY

PUPILS

5750.1/page 5 of 7

Student Disabilities Pursuant to Section 504

The parent(s)/guardian(s) or student who has reached the age of majority has the right to an evaluation of the student if the school district has reason to believe that the student has a mental or physical impairment that substantially limits learning or some other major life activity. The parent(s)/guardian(s) or student who has reached the age of majority has the right to this evaluation before any plan for accommodation and before any subsequent significant change in the educational placement of the child. An example of a significant change in educational placement is a referral for suspension.

The student has the right to a free appropriate public education ("FAPE"). Providing FAPE means that the District provides the student with general or special education and related aids and services that are designed to meet individual educational needs of persons with disabilities as well as the needs of non-handicapped persons are met and based on adherence to procedural safeguards outlined in Section 504.

To the maximum extent possible, the student has the right to be educated with children who are not disabled.

The parent(s)/guardian(s) or student under the age of 18 (eighteen) with the written consent of the parent(s)/guardian(s) have the right to examine all relevant records the school maintains on the student.

The parent(s)/guardian(s) or student who has reached the age of majority has the right to an impartial due process hearing if they wish to contest any action of the South Orange and Maplewood School District with regard to their student's identification, evaluation or placement under Section 504 of the Rehabilitation Act of 1973.

If the parent(s)/guardian(s) or student who has reached the age of majority wishes to contest an action taken by a Section 504 Team by means of an impartial due process hearing, a Request for Hearing must be submitted to the State Director of the Office of Special Education Programs, P.O. Box 500, Trenton, New Jersey 08625. This written request for a hearing must also be submitted to the attention of the Superintendent of Schools, South Orange and Maplewood School District, 525 Academy Street, Maplewood, NJ 07040. If the parent(s)/guardian(s) or student who has reached the age of majority ultimately disagree with the decision of the Administrative Law Judge, they have the right to seek review of that decision by filing a complaint with the federal district court.

If the parent(s)/guardian(s) or student who has reached the age of majority has other issues surrounding the student's education that do not specifically involve identification, evaluation or placement, the parent(s)/guardian(s) or the student who has reached the age of majority have the right to present a grievance or complaint to the District's Section 504 Coordinator.

The parent(s)/guardian(s) or student who has reached the age of majority also have the right to file a complaint with the Office of Civil Rights of the United States Department of Education, 32 Old Slip, 26th Floor, New York, New York, 10005, telephone number 646-428-3792 and facsimile number 646-428-3843.

How the District will ensure appropriate knowledge of Section 504 accommodations:

The Superintendent of Schools or his/her designee shall be responsible for coordinating the Board's efforts to comply with the requirements of Section 504. Those efforts shall include, but not be limited to, identifying the key transition periods in the child's educational career as intervention to kindergarten, fifth grade to sixth grade and eighth grade to ninth grade, and guaranteeing that all appropriate staff are involved in the transition process in a timely manner to ensure that the student will receive FAPE under Section 504. The Superintendent of Schools or his/her designee shall take all actions necessary to ensure that classroom teachers inform all appropriate staff of any student's accommodations under Section 504 in order to accomplish the goals of that student's Section 504 Plan. The Superintendent of Schools or his/her 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 his/her 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. Chief School S notifying parent(s)/guardian(s) of every student enrolled in the District's schools of this Policy at the beginning of each school year. Copies of this policy and a list of the procedural rights afforded by Section 504 shall also be sent to parent(s)/guardian(s) as part of the notification that their child has been referred for evaluation pursuant to section III (a) above.

V. Benefits:

The Board recognizes its responsibility to provide an education for qualified disabled persons that is commensurate with that provided for persons who are not disabled to the maximum extent appropriate to meet the needs of the disabled student. 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 disabled persons participate with nondisabled persons to the maximum extent appropriate to the needs of the disabled person. Any facility which the Board operates for disabled persons shall be comparable to facilities, services and activities provided for nondisabled persons. Regulations shall clearly set forth a grievance procedure to expeditiously process complaints concerning allegations of discrimination in the District.

VI. Reporting/Regulations:

At the end of the school year, each building Principal shall, in consultation with the Section 504 Team, develop a report on the concerns and issues identified by the Section 504 Team 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 Section 504 accommodations required, number and nature of any appeals filed by parent(s)/guardian(s) in the Section 504 process, and procedures for ensuring compliance with Section 504 requirements. The Superintendent of Schools shall issue regulations and procedures to implement this Policy.

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.

Cross Reference: Board Policy 1510

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Initial Adoption: