

SECTION 504 OF THE REHABILITATION ACT OF 1973

Section 504 of the Rehabilitation Act is a broad statute encompassing several different topics. Given the breadth of the statute this policy is delineated in four sections:

- General Provisions,
- Employment Practices,
- Accessibility, and
- Preschool, Elementary, and Secondary Education.

GENERAL PROVISIONS

It is the policy of the South Colonie Central School District that any qualified individual with a disability shall not be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity sponsored by this District. The District, as an employer and educator, shall not exclude or deny individuals with disabilities from any benefits, programs or services. In addition, those individuals with disabilities shall have the right to participate in and have equal access to all benefits, programs and services sponsored by the District.

All District benefits, programs, services and activities are operated in compliance with Section 504. To ensure compliance with Section 504, the District shall self-evaluate its benefits, programs, services and activities; designate a Section 504 Coordinator; and establish grievance procedures should allegations of noncompliance be raised.

1. Definitions

For purposes of this policy, an individual with a disability is an individual who:

- has a physical or mental impairment which subsequently limits one or more major life activities;
- has a record of such an impairment; or
- is regarded as having such an impairment.

As it relates to employment, qualified individuals with disabilities are persons who, with reasonable accommodation, can perform the essential functions of the job for which they have applied or have been hired to perform.

As it relates to elementary or secondary school students, qualified individuals with disabilities are students with disabilities who are entitled to a free and appropriate public education, which for the purposes of Section 504 means the provision of regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of non-disabled students are met.

2. Self-Evaluation

As part of the self-evaluation process, the District shall evaluate its current policies and practices under Section 504, modify policies and practices that do not comply with the requirements of Section 504, and take appropriate steps to eliminate any effects of discrimination.

Self-evaluation is maintained on file by the District for three (3) years after completion of the evaluation and is available for public inspection. The self-evaluation file includes a list of any interested persons, including persons with disabilities or organizations representing persons with disabilities, consulted with regard to the self-evaluation, areas examined, any discriminating problems found, and any modifications made or remedial steps taken with respect to any violation of Section 504.

3. Section 504 Coordinator

The District shall appoint one (1) individual to coordinate compliance with Section 504. The responsibility of the 504 Coordinator is to oversee and to monitor the grievance procedure and ensure compliance with the following performance responsibilities.

4. Performance Responsibilities

- a. It is the obligation of the Section 504 Coordinator to develop a Section 504 grievance procedure which provides for due process for use by students and employees, provides information about the availability and use of the grievance procedure, and further maintains a record of all grievance problems and solutions.
- b. Inform District personnel of the Section 504 Coordinator's responsibilities and assure periodic meetings of the Coordinator to update staff on Section 504 activities.
- c. Provide ongoing review of District bulletins, catalogs, Board policies, counseling procedures, yearbooks, and administrative regulations and practices related to compliance with Section 504.
- d. Ascertain that annual notice of the Section 504 Coordinator's name, office address and telephone number is placed in school catalogues and handbooks.
- e. Review student-sponsored organizations and suggest criteria for compliance with Section 504.
- f. Become familiar with resource information for assistance with self-evaluation and remediation available from the Department of Education Office of Civil Rights.
- g. Develop a systematic procedure for monitoring compliance with Section 504.
- h. Disseminate information about student rights in relation to Section 504.
- i. Assure that cooperative training agreements and District contracts have appropriate non-discrimination statements.

5. Grievance Procedures

Grievance procedures adopted with respect to any violation of Section 504 incorporate due process requirements for the resolution of any complaint.

A Section 504 educational grievance is a complaint filed by a student, employee, or parent of a student within the District in which there is an allegation that educational discrimination on the basis of a disability has occurred.

To be considered, all grievances shall be submitted in writing and shall be signed by the complainant.

The initial complaint shall be filed with the Building Principal. The Principal shall then communicate his/her written decision to the complainant within five (5) school days after having received the complaint.

If the complainant feels the decision of the Principal is not satisfactory, the complainant may appeal such decision within seven (7) school days to the Superintendent. The Superintendent shall set a hearing within five (5) school days from the date of receiving the appeal. The Superintendent shall render a written decision within ten (10) school days of the hearing.

If the complainant believes that the decision of the Superintendent is not satisfactory, then the complainant, within seven (7) school days, may request a hearing before the Board of Education. The Board of Education shall render a decision within ten (10) school days of the date the appeal was heard.

If the complainant feels the decision of the Board of Education is not satisfactory, the complainant may file a complaint with the Department of Education Office of Civil Rights.

6. Notice

The District shall notify all employees and students in any and all written materials and publications of its policy that it does not discriminate against anyone on the basis of disability in any benefit, program or activity, which it operates or maintains.

EMPLOYMENT PRACTICES

It is the policy of the South Colonie Central School District that any qualified person with a disability shall not, on the basis of disability, be subject to discrimination in employment under any programs, services, activities, facilities, and events sponsored by this District. This policy applies to all aspects, terms, conditions, or privileges of employment, including but not limited to, recruitment, advertising, hiring, promotion, rates of pay, leaves of absences, job assignments, and any other term, condition or privilege of employment. Furthermore, the District shall not enter into any contractual agreement or other relationship which would subject persons with disabilities to discrimination.

1. Reasonable Accommodation

The District makes reasonable accommodations to an otherwise qualified employee with a disability, unless the District demonstrates that the accommodation imposes an undue hardship on the program or activity.

For the purposes of this policy, reasonable accommodations include, among other things:

- making facilities used by employees readily accessible;
- job restructuring;
- part-time or modified work schedules;
- acquisition or modification of equipment or devices; and
- the provision of readers or interpreters.

An undue hardship on the District depends on several factors including, but not limited to, the nature and cost of the accommodation.

The District does not deny employment opportunities to qualified employees or applicants with disabilities if the basis for the denial is the need to make reasonable accommodations for the employees or applicants.

2. Employment Criteria

The District does not use any employment tests or other criteria that screen out individuals with disabilities unless the employment tests or other criteria is job related and alternative employment tests or criteria that do not screen out individuals with disabilities are not available.

Any test administered concerning employment measure the employee's job skills rather than reflect the individual's disability.

3. Pre-Employment Inquiries

The District does not conduct a pre-employment medical examination or make an inquiry of an applicant as to whether he/she is a disabled person or as to the nature or severity of a disability.

Pre-employment inquiries are limited solely to the applicant's ability to perform job functions.

However, in an attempt to correct the effects of past discrimination or in an attempt to overcome the effects of discrimination, the District may ask applicants if they have a disability provided the District states that the information sought is used only in connection with remedial actions and that the voluntary inquiry will be kept confidential, and further that refusal to respond does not adversely affect the applicant's employment prospects.

The District may condition an offer of employment on the results of a medical examination conducted prior to the employee beginning employment provided that all employees are subject to the same medical examination regardless of disability and that the results of the examination remain confidential.

ACCESSIBILITY

Any qualified person with a disability shall not be denied the benefits of, be excluded from participation in, or otherwise be subject to discrimination under any program, activity, benefit, or service sponsored by the South Colonie Central School District.

1. Existing Facilities

All District programs, activities, benefits or services are readily accessible to individuals with disabilities.

The District's compliance with this policy is demonstrated by the reassignment of classes, services, activities or programs to accessible buildings; the alteration of an existing facility or the construction of a new facility. The District is not required to make structural changes to existing facilities where other remedial methods can be accomplished to comply with Section 504.

All methods of compliance by the District ensure that individuals with disabilities are in the most integrated setting appropriate to the program, activity, benefit or service sponsored by the District. Should structural changes be necessary to existing buildings, the District shall develop a transition plan setting forth the steps to complete such changes.

2. New Construction

All District buildings constructed after June 3, 1977 are constructed in such a manner that the building is readily accessible to those individuals with disabilities.

3. Alteration

Any District facility altered after June 3, 1977 are, to the maximum extent possible, altered in a way that the facility is readily accessible and usable by individuals with disabilities.

PRESCHOOL, ELEMENTARY & SECONDARY EDUCATION

The South Colonie Central School District shall provide a free and appropriate public education to each qualified student with disabilities. Section 504 of the Rehabilitation Act of 1973 as it applies to programs for students with disabilities is similar to the Individuals with Disabilities Education Act (IDEA) and Article 89 of the New York State Education Law.

Individuals with disabilities shall not be excluded from school programs, activities, services and/or events sponsored by the District, or be discriminated against on the basis of disability in the fulfillment of the student's participation in programs, activities, services and/or events sponsored by the District.

For the purposes of this policy, an individual with disabilities is an individual who:

- has a physical or mental impairment which subsequently limits one or more major life activities (e.g. self-care, walking, seeing, hearing, breathing);
- has a record of such an impairment; or
- is regarded as having such an impairment.

A qualified student is one who is:

- of an age during which non-disabled individuals are provided such services;
- of an age during which it is mandatory under state law to provide such services to disabled individuals; or
- to whom a state is required to provide a free and appropriate public education.

If a student with a disability is not classified under IDEA and New York State Education Law, then the District is required to examine the student under the requirements of Section 504.

1. Notice

On an annual basis, the District identifies and locates all individuals within the District who are not receiving a public education, and thereafter notifies the parent(s) and/or guardian(s) of those students of the District's obligation to provide a free and appropriate public education to all students with disabilities residing within the geographic boundaries of the District.

2. Free and Appropriate Public Education

An appropriate education is a program that is designed to meet the individual educational needs of a student with a disability through the use of regular education, special education, related services and aids. The development of an Individualized Education Plan (IEP) in accordance with the IDEA is one way to comply with the provision of an appropriate educational program.

The District may place or refer a student with a disability to a program, service or aid not operated by the District as long as the District ensures non-discrimination under that program, service or aid. The District shall ensure that any student with a disability is provided with adequate transportation to any program, service or aid not operated by the District as would be provided for any program, service or aid operated by the District.

3. Least Restrictive Environment

Students with a disability are placed in the regular educational setting unless the student's educational goals cannot be satisfactorily achieved within that environment with the use of supplementary aids and services.

The District provides an education for students with disabilities, to the maximum extent possible, with their non-disabled peers and closest to the student's home. In addition, the District ensures that students with disabilities participate in non-academic and extracurricular activities to the maximum extent possible with their non-disabled peers. All District programs, services, or activities for students with disabilities are comparable to other programs, services or aids provided to non-disabled students.

4. Referral Process

Initially the Principal receives a referral from a parent, student, professional, or outside agency. Then, notice of such referral is sent to the District's Section 504 Coordinator.

The Principal reviews the referral data and determines the necessity to convene a Section 504 Committee meeting.

If a Section 504 Committee meeting is required, the Committee together with the Principal:

- a. determines applicability of the Section 504 process to the case;
- b. if the Section 504 process is appropriate, the Committee along with the Principal shall determine eligibility under Section 504;
- c. the Committee, along with the Principal, next determines the accommodations, modifications and/or support services necessary to meet the student's need; and
- d. reflects such services within a Section 504 Accommodation Plan.

It is the obligation of the Principal to then implement and supervise those required support services and accommodations under the Section 504 Accommodation Plan.

If the 504 Committee determines that the provisions of Section 504 are not applicable to the particular student, the Principal shall forward a letter to the referring person with an explanation for the decision and include a copy of the parental rights that correspond thereto.

5. Evaluation and Placement

The District conducts an evaluation of all students believed to be in need of Special Education or related services before an initial placement and before any other significant change in placement. Thereafter, students shall be evaluated on an annual and tri-annual basis.

The placement of a student with a disability is based upon aptitude and achievement tests, physical condition, teacher recommendations and adaptive behavior.

6. Section 504 Committee

The Board of Education may select its Committee on Special Education (CSE) or other building level team comprised of individuals with knowledge of the student to act as the Section 504 Committee. This team must develop an accommodation plan for the student with a disability.

7. Non-Academic Services

The District provides an equal opportunity for students with disabilities to participate in non-academic and extracurricular activities, which activities include counseling, physical recreational athletics, recreational activities, clubs, employment of students, and health services.

All counseling services provided to a student do not discriminate on the basis of disability. A qualified student with a disability receiving counseling services from the District is not to be counseled about restrictive career goals and objectives.

The District may offer physical education and athletic activities to students with disabilities that are different than those activities offered to non-disabled students as long as the disabled students are offered the opportunity to compete for teams and participate in physical education courses that are not separate from regular education.

8. Section 504 Accommodation Plan

A Section 504 Accommodation Plan developed by the Section 504 Committee includes at least the following:

- date of Section 504 Committee meeting;
- nature of the problem;
- evaluations completed and the dates thereof;
- basis for determining that a student has a disability;
- nature of the disability;
- whether the disability affects a major life activity and in what manner;
- list of accommodations;
- review date; and
- participants' names.

9. Procedural Safeguards

With respect to identification, evaluation and/or educational placement the District provides the following procedural safeguards to parents:

- notice of any evaluation or change in placement;
- right to examine the student's records;
- right to an impartial hearing; and
- review and appeal procedures.

10. Due Process

Parents of a student with a disability are entitled to notice of any action affecting the identification, evaluation or placement of the student. The parents may request an impartial hearing if they disagree with the District's proposal of a free and appropriate public education. No provision under Section 504 automatically requires the District to maintain a student in his/her educational placement pending any due process proceeding.

A hearing officer may be selected pursuant to Part 200 of the Regulations of the Commissioner of Education, but Section 504 does not require that only State-certified hearing officers may serve. To ensure impartiality of the hearing officer, any Section 504 Committee member or person who made the decision under review may not be a hearing officer.

11. Discipline

A suspension of more than ten (10) days is a significant change in placement. The District shall evaluate and review a student's existing placement prior to a change in that placement.

It is the obligation of the District to evaluate whether there is a nexus between the student's disability and the behavior. The Section 504 Committee may require further evaluations to determine whether the current educational placement is appropriate. If there is a nexus, then the student may not be suspended for more than ten (10) days unless the behavior violates the District's Code of Conduct with respect to drug or alcohol use or the possession of a dangerous weapon on school district property. During the disciplinary proceedings, there is no automatic right of the student to remain in the current educational placement.

A parent has the right to request an impartial hearing if they disagree with the determination of whether the behavior was related to the disability.

12. Residential Placement

If the District determines that a private or public residential placement is appropriate for the student with a disability, then the placement is provided at no cost to the parents or student. However, if the District has made a free and appropriate public education available to and the parent(s) or guardian places the student in a private placement, the District is not required to pay for the private education.

13. Pre-School and Adult Education

The South Colonie Central School District does not discriminate against students who are enrolled in pre-school education, day care, or adult education.

14. Complaints

A complaint with regard to violations of Section 504 may be filed with the Office for Civil Rights, United States Department of Education or the New York State Education Department.

Reference: 20 U.S.C. § 1405.

29 U.S.C. § 794.

34 C.F.R. §§1-104.1-104.8.

34 C.F.R. §§ 104.11-104.14.

34 C.F.R. §§ 104.21-104.23.

34 C.F.R. §§ 104.31-104.38.

Memorandum on the Guidelines for School Districts Regarding the Rights of Students Under Section 504 of the Rehabilitation Act of 1973. (New York State Education Department, November 1993)

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