

Regulation

NONDISCRIMINATION/AFFIRMATIVE ACTION

Section 504 Complaint Procedures

In compliance with Section 504 of the Rehabilitation Act of 1973 as administered by the U.S. Department of Health, Education, and Welfare, regarding the establishment of complaint procedures for students and public employees who may have been denied the benefits of participation in or have been subject to discrimination under any program or activity of this district solely by reason of disability, the following procedures for the orderly settlement of complaints of students and employees of the school district are promulgated.

Definitions Section 504

"Aggrieved individual" means a student or employee who alleges a grievance or the representative of such student or employee.

"Compliance officer" means the district official responsible for the coordination of activities relating to compliance with Section 504.

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

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

"Student" means an individual enrolled in any formal educational program provided by the school district.

Grievance Procedure – Employment

This grievance procedure shall apply to employees with alleged discriminatory act(s) under the provisions of Section 504 of the Rehabilitation Act of 1973 and/or the Americans with Disabilities Act:

- A. The aggrieved individual shall file a written complaint, stating the specific facts of his or her grievance and the alleged discriminatory act, with the compliance officer;
- B. The compliance officer shall make all reasonable efforts to resolve the matter informally by having the aggrieved individual review the complaint with his or her immediate supervisor;
- C. The immediate supervisor shall render a determination to the aggrieved individual within fifteen (15) working days after hearing the complaint. If such complaint is not satisfactorily resolved at this stage, the aggrieved individual may proceed to the next stage;
- D. Within fifteen (15) working days after a determination has been made at the preceding stage, the aggrieved individual may present the complaint in writing to the compliance officer for review and determination;
- E. The compliance officer shall immediately notify the individual, immediate supervisor, and the principal in the case to submit written statements to him or her within fifteen (15) days setting forth the specific nature of the complaint, the facts relating thereto, and the determinations previously rendered;
- F. The 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

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supplementing their position in the case and the manner in which the hearing will be conducted. Such hearing shall be held within fifteen (15) working days of receipt of the written statements;

- G. The compliance officer shall render a determination within fifteen (15) working days after the written statements have been presented to him or her, or fifteen (15) days after the completion of the informal hearing. The compliance officer will provide a written copy of his or her determination to all parties;
- H. The aggrieved individual may appeal the determination of the compliance officer to the board within fifteen (15) 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 formal hearing, and the written determination of the compliance officer. The board may, in its discretion, convene a hearing at which the parties may present additional testimony and argument.
- I. Within 30 days of the filing of appeal, the board shall provide both parties with a written decision.
- J. 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.

Grievance Procedure – Students

- A. The parent or guardian of a student who believes the student has a valid basis for a grievance under Section 504, or the American Disabilities Act shall file a written complaint, stating the specific facts of his or her grievance and the alleged discriminatory act, with the compliance officer;
- B. The compliance officer shall make all reasonable efforts to resolve the matter informally by reviewing the grievance with appropriate staff which may include, but not be limited to, the principal, child study team staff and/or the classroom teacher(s);
- C. The compliance officer will investigate and document the complaint including dates of meetings, dispositions and date of dispositions. The compliance officer will provide a written reply to the aggrieved individual within fifteen working days;
- D. If the complainant is not satisfied with the compliance officer's written reply, the complainant must file the grievance in writing, setting out the circumstances that give rise to the alleged grievance. This written grievance must be filed with the compliance officer within fifteen working days;
- E. The compliance officer will appoint a hearing officer within fifteen working days of the receipt of the written grievance. A hearing will be conducted within fifteen working days. The hearing officer will give the parent or guardian and the student a hearing relevant to the issues raised under the grievance. The parent or guardian and the student may, at their own expense, be assisted or represented by individuals of their choice, including legal counsel. The hearing officer will present a written decision to the compliance officer and aggrieved individual within fifteen working days of the hearing;
- F. The complainant may file a written appeal to the board if not satisfied with the hearing officer's decision. The board, through the chief school administrator, will provide a written disposition of the alleged grievance;
- G. The complainant may request mediation and due process according to law if unsatisfied with the written decision of the board.

Mediation and/or due process are available when disputes arise between the board and parents/guardians of students with or without a disability in regard to educational placement (use of this grievance procedure is not a prerequisite to mediation and/or due process.)

Other Provisions

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- A. 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;
- B. An aggrieved individual may be represented or accompanied at any time by a person chosen by the individual;
- C. An employee may use personal leave time when it becomes necessary to process a grievance during work hours;
- D. 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;
- E. There will be no reprisal of any kind taken against any aggrieved individual for participation in a grievance;
- F. 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 student file.

Affirmative Action and Equal Employment Opportunity Complaints

The purpose of this procedure is to give any district employee or candidate for employment the opportunity to appeal an alleged denial of equal employment opportunity in violation of state and federal laws and board policy 2224 Nondiscrimination/Affirmative Action, ensuring equal access to all categories of employment without regard to the candidate's race, color, national origin, ancestry, age, sex, affectional or sexual orientation, gender identity or expression, marital status, pregnancy, domestic partnership status, familial status, liability for service in the Armed Forces of the United States, nationality, atypical hereditary cellular or blood trait of any individual, genetic information, or refusal to submit to a genetic test or make the results of a genetic test known, in employment or in educational opportunities. Further state and federal protection is extended on account of disabilities, social or economic status, pregnancy, childbirth, pregnancy-related disabilities, actual or potential parenthood, or family status.

This procedure is intended to facilitate an equitable and just resolution of a dispute at the most immediate level and should be implemented in an informal manner. All participants in the procedure will respect the confidentiality that this district accords to information about individual employees.

Every reasonable effort will be made to expedite the process in the interest of a prompt resolution. Time limits may, however, be extended with the consent of all parties.

Definitions

"Complaint" means an alleged discriminatory act or practice.

"Complainant" means a teaching staff member who alleges a discriminatory act or practice.

"Discriminatory act or practice" means denial of equal employment opportunity in violation of state and federal laws and board policy 2224 Nondiscrimination/Affirmative Action, ensuring equal employment opportunities without regard to the applicant's race, color, national origin, ancestry, age, sex, affectional or sexual orientation, gender identity or expression, marital status, domestic partnership status, familial status, liability for service in the Armed Forces of the United States, nationality, atypical hereditary cellular or blood trait of any individual, genetic information, or refusal to submit to a genetic test or make the results of a genetic test known, in employment or in educational opportunities. Further state and federal protection is extended on account of disabilities, social or economic status, pregnancy, childbirth, pregnancy-related disabilities, actual or potential parenthood, or family status.

Affirmative Action and Equal Employment Opportunity Complaints Procedure

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- A. A complainant who believes that he or she has been harmed or adversely affected by a discriminatory practice or act prohibited by law and/or policy shall discuss the matter with his or her immediate supervisor in an attempt to resolve the matter informally;
- B. If the matter is not resolved to the satisfaction of the complainant within ten days, the complainant may submit a written complaint to the affirmative action officer. The complaint will include:
 - 1. The complainant's name and address;
 - 2. The specific act or practice that the complainant complains of;
 - 3. The school employee, if any, responsible for the allegedly discriminatory act;
 - 4. The results of discussions conducted with the immediate supervisor; and
 - 5. The reasons why those results are not satisfactory.
- C. The affirmative action officer will investigate the matter informally and will respond to the complaint in writing no later than ten days after receipt of the written complaint. A copy of the complaint and the response will be forwarded to the chief school administrator;
- D. The response of the affirmative action officer may be appealed to the chief school administrator in writing within ten days after it has been received by the complainant. The appeal will include the original complaint, the response to the complaint, and the complainant's reason for rejecting the response. A copy of the appeal must be given to the staff member alleged to have acted discriminatorily;
- E. On his or her timely request (that is, submitted before the expiration of the time within which the chief school administrator must render a decision), the complainant will be given an informal hearing before the chief school administrator, at a time and place convenient to the parties, but no later than ten days after the request for a hearing has been submitted. The chief school administrator may also require the presence at the hearing of the staff member charged with a discriminatory act and any other person with knowledge of the act complained of;
- F. The chief school administrator will render a written decision in the matter no later than ten days after the appeal was filed or the hearing was held, whichever occurred later. Copies of the decision will be given to all parties;
- G. The complainant may appeal the chief school administrator's decision to the board by filing a written appeal with the board secretary no later than ten days after receipt of the chief school administrator's decision. The appeal shall include
 - 1. The original complaint;
 - 2. The response to the complaint;
 - 3. The chief school administrator's decision;
 - 4. A transcript of the hearing, if one has been made, or a summary of the hearing to which all parties have consented; and
 - 5. The complainant's reason for believing the chief school administrator's decision should be changed.
- H. A copy of the appeal to the board must be given to the staff member, if any, charged with a discriminatory act.
- I. The board will review all papers submitted and may render a decision on the basis of the proceedings below. If the complainant so requests, the board may convene a hearing, at which all parties may be represented by counsel and may present and examine witnesses, who will testify under oath.
- J. The board will render a written decision no later than 30 days after the appeal was filed or the hearing held, whichever occurred later. Copies of the decision will be given to all parties.
- K. The complainant will be informed of his or her right to appeal the board's decision to the

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1. The Commissioner of Education
Bureau of Controversies and Disputes
New Jersey Department of Education
PO Box 500
Trenton, New Jersey 08625
Phone: (609) 292-5705
2. Equal Employment Opportunity Commission Newark District Office
1 Newark Center, 21st Floor
Newark, New Jersey 07102
Phone: 800-669-4000 or 973-645-6383
3. U.S. Office for Civil Rights
U.S. Department of Education
32 Old Slip, 26th Floor
New York, NY 10005-2500
Phone 646-428-3900 or TDD: 877-521-2172
Email: OCR.NewYork@ed.gov
4. New Jersey Division on Civil Rights
140 East Front Street, 6th Floor
P.O. Box 090
Trenton, NJ 08625-0090
Phone: 609-292-4605 or TDD 609-292-1785

Record

The records of any complaint processed in accordance with this procedure shall be maintained in a file kept by the affirmative action officer.

A copy of the decision rendered at the highest level of appeal will be kept in the employee's personnel file.

Adopted:	April 28, 2004
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