

Griffith Public Schools
Administrative Guidelines

2260.01B - SECTION 504/ADA – COMPLAINT AND DUE PROCESS PROCEDURES

If a person believes that s/he has been discriminated against on the basis of his/her disability, the person may utilize the following complaint procedures as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter.

In accordance with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations ("Section 504"), parents, students, and employees will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation or misapplication of Section 504. In addition, employees, students and their parents will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights. Finally, students and parents will be advised of their right to request a due process hearing before an Impartial Hearing Officer (IHO) regarding the identification, evaluation or educational placement of persons with disabilities, and their right to examine relevant education records.

Corporation Compliance Officer

The following person is designated as the Corporation Section 504 Compliance Officer/ADA Coordinator ("Corporation Compliance Officer"):

Aron Borowiak
602 North Raymond
Griffith, IN 46319

(219) 924-4250

Building principals shall serve as Building Section 504/ADA Compliance Officer(s) ("Building Compliance Officers").

Internal complaints and requests for due process hearings must be put in writing and must identify the specific circumstances or areas of dispute that have given rise to the complaint or the request for a hearing, and offer possible solutions to the dispute. The complaint or request for due process hearing must be filed with a Corporation Compliance Officer within the time limits specified below. The Corporation's Compliance Officer is available to assist individuals in filing a complaint or request.

Procedural Information and Rights – Students and Parents

In accordance with various Federal laws (including Section 504, the Americans with Disabilities Act of 1990, as amended ("ADA"), FERPA, and Title VII), the following procedural safeguards will be provided with respect to decisions or actions regarding the identification, evaluation, or educational program or placement, or content of a Section 504 Plan of a student who is or may be disabled under Section 504, but not also disabled under the IDEIA:

- A. students with disabilities have the right to take part in, and receive benefits from, public education programs without discrimination because of their disabilities;

- B. parents have the right to be advised of their rights under Section 504;

- C.

parents have the right to receive written notice of any decision regarding the identification, evaluation, or educational placement of their child;

- D. parents have the right to have their child receive a free appropriate public education ("FAPE");

This includes the right to be educated with students who are not disabled to the maximum extent appropriate (i.e., the student's education will be provided in the regular education classroom unless it is demonstrated that education in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily) and to receive regular or special education and related aids/services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of nondisabled students are met.

- E. parents have the right to have their child educated in facilities and receive services comparable to those provided to students without disabilities;

- F. parents have the right to have evaluation and educational placement decisions made based upon a variety of informational sources, and by persons who know the student, and are knowledgeable about the evaluation data and placement options;

- G. parents have the right to have their child transported in a non-discriminatory manner;

If the Corporation refers a student for aids, benefits, or services outside the Corporation, the Corporation will ensure that adequate transportation is provided at no greater cost to the parents than if the aids, benefits, or services were provided within the Corporation.

- H. parents have the right to place their child in a private school or alternative educational program;

However, if the Corporation makes FAPE available to the student that conforms to the requirements of Section 504 and nevertheless the parents choose to place the student elsewhere, the Corporation is not required to pay for the student's education at the private school or alternative program, including costs associated with transportation.

- I. parents have the right to have their child given an equal opportunity to participate in nonacademic and extracurricular activities offered by the Corporation;

- J. parents have the right to examine all relevant education records, including, but not limited to, those documents related to decisions regarding their child's identification, evaluation, educational program and placement;

- K. parents have the right to obtain, at their own expense, an independent educational evaluation of their child;
- L. parents have the right to obtain copies of education records at a reasonable cost unless the fee would effectively deny the parents access to the records;
- M. parents have the right to a response from the Corporation to reasonable requests for explanations and interpretations of their child's education records;
- N. parents have the right to receive all information in the parents' native language and mode of communication;
- O. parents have the right to periodic re-evaluations and an evaluation before any significant change in program/service modifications;
- P. parents have the right to request amendments of their child's education record(s) if there is reasonable cause to believe that information contained in the record(s) is inaccurate, misleading or otherwise in violation of the privacy rights of their child;

If the Corporation refuses to amend the record(s), the parents have the right to request a hearing and/or to attach to the record(s) a statement of why they disagree with the information it contains.

- Q. parents have the right to request mediation or an impartial due process hearing related to decisions or actions concerning their child's identification, evaluation, educational program or placement;
- R. parents have the right to file an internal complaint;
- S. parents have the right to be represented at any point in the process by an attorney;
- T. parents have the right to recover reasonable attorney fees as authorized by law (i.e., if the parents are successful on their due process claim);
- U. parents have the right to be notified of their Section 504 rights:
 - 1. when evaluations are conducted;
 - 2. when consent for an evaluation is withheld;
 - 3. when eligibility is determined;

4. when a Section 504 Plan is developed; and
5. before there is significant change in the Section 504 Plan.

Internal Complaint Procedure

An internal complaint may be filed by a student and/or parent. A student and/or parent may initiate the internal complaint procedure when s/he/they believe that a violation, misapplication or misinterpretation of Section 504 has occurred. Additionally, the following procedure may be used for any disagreement with respect to actions regarding the identification, evaluation, or educational program or placement of students who are identified as disabled or believed to be disabled pursuant to Section 504, and are not eligible under the IDEIA, except in the case of disciplinary actions where the provisions of the Student Code of Conduct apply. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the U.S. Department of Education's Office for Civil Rights or requesting a due process hearing.

- Step 1 - Investigation by the Building Compliance Officer: A student or parent may initiate an investigation by filing a written internal complaint with the Building Compliance Officer. The complaint should fully describe the circumstances giving rise to the dispute and how the child is adversely affected. The complaint must be filed as soon as possible, but not longer than thirty (30) calendar days after disclosure of the facts giving rise to the complaint. The Building Compliance Officer shall conduct an impartial investigation of the complaint. As part of the investigation, the Building Compliance Officer shall permit the complainant to present witnesses and other evidence in support of the complaint. The investigation shall be completed within fifteen (15) school days of the written complaint being filed. The Building Compliance Officer will notify the complainant in writing of his/her decision.
- Step 2 - Appeal to the Corporation Compliance Officer: If the complaint is not resolved satisfactorily at Step 1, the student or parent may appeal the Building Compliance Officer's decision in writing to the Corporation Compliance Officer. The appeal must be made within five (5) school days following receipt of the Building Compliance Officer's decision. The Corporation Compliance Officer will review the case, may conduct an informal hearing, and will notify all parties in writing of his/her decision within ten (10) school days of receiving the appeal.
- Step 3 - If the complaint is not resolved satisfactorily at Step 2, the student or parent may request a due process hearing, provided the complaint involves an issue related to the identification, evaluation, or placement of the student (see below).

Due Process Hearing

- A. When a request for a due process hearing is received, the aggrieved party will have the opportunity to receive a hearing conducted by an impartial hearing officer ("IHO") (i.e., by a person not employed by the School Board, not involved in the education or care of the child, and not having a personal or professional interest that would conflict with his/her objectivity in the hearing).
- B. The School Corporation will maintain a list of trained IHOs that may include IDEIA hearing officers, attorneys, and Directors of Special Education outside the Corporation. The Corporation Compliance Officer

will appoint an IHO from that list, and the costs of the hearing shall be borne by the Corporation. The appointment of an IHO will be made within fifteen (15) school days after the request for a due process hearing is received.

- C. A party to such a due process hearing shall have:
 - 1. the right, at his/her/their own cost, to be accompanied and advised by legal counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;
 - 2. the right to present evidence, and confront, cross-examine and compel the attendance of witnesses;
 - 3. the right to a written or electronic verbatim record of such hearing; and
 - 4. the right to written findings of fact and the reasons for the decision.

- D. The IHO shall conduct the due process hearing within a reasonable period of time (i.e., not to exceed ninety (90) calendar days of the request for such a hearing, unless this time-frame is mutually waived by the parties or is determined by the IHO to be impossible to comply with due to extenuating circumstances).

- E. The IHO will give the parent and/or student written notice of the date, time and place of the hearing. Notice will be given no less than twenty-one (21) calendar days prior to the date of the hearing, unless otherwise agreed to by the parent and/or student. The notice shall include:
 - 1. a statement of time, place and nature of the hearing;
 - 2. a statement of the legal authority and jurisdiction under which the hearing is being held;
 - 3. a reference to the particular section of the statutes and rules involved;
 - 4. a statement of the availability of relevant records for examination;
 - 5. a short and plain statement of the matters asserted; and
 - 6. a statement of the right to be represented by counsel.

- F. The IHO shall conduct the hearing in a manner that will afford all parties a full and fair opportunity to present evidence and to otherwise be heard. The parent and/or student may be represented by another person of his/her choice, including an attorney.
- G. The IHO shall make a full and complete record of the proceedings.
- H. The IHO shall render a decision in writing to the parties within thirty (30) calendar days following the conclusion of the hearing. The decision will be based solely on the testimony and demonstrative evidence presented at the hearing and include a summary of the evidence (i.e., findings of fact) and the reason for the decision.

The notification shall include a statement that either party may appeal the decision.

- I. Appeal of the IHO's decision may be made to a Federal court of competent jurisdiction.

OCR Complaint

At any time, if a student or parent believes that s/he has been subjected to discrimination based upon his/her disability in violation of Section 504 or the ADA, the individual may file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"). The OCR can be reached at:

U.S. Department of Education
Office for Civil Rights
Citigroup Center
500 W. Madison Street
Suite 1475
Chicago, Illinois 60661

Except in extraordinary circumstances, the OCR does not review the result of individual placement and other educational decisions, so long as the Corporation complies with the "process" requirements of Subpart D of Section 504.

Prohibition Against Retaliation

The Board will not discriminate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the ADA, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under Section 504 or the ADA, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by Section 504 or the ADA.

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