

## School Board of Charlotte County Bylaws & Policies

### 2260.01 - SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY

Pursuant to Section 504 of the Rehabilitation Act of 1973 ("Section 504"), the Americans with Disabilities Act of 1990, as amended ("ADA") and implementing regulations (collectively "Section 504/ADA"), no otherwise qualified individual with a disability shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The School Board does not discriminate in admission or access to, participation in, or treatment, in, its programs or activities. As such, the Board's policies and practices will not discriminate against students with disabilities and will make accessible to qualified individuals with disabilities its facilities, programs, and activities. No discrimination will be knowingly permitted against any individual with a disability on the sole basis of that disability in any of the programs, activities, policies, and/or practices in the District.

As used in this policy and the implementing administrative procedures, "an individual with a disability" means a person who has, had a record of, or is regarded as having, a physical or mental impairment that substantially limits one or more major life activities. Major life activities as defined by Section 504 are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active.

The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, assistive technology, reasonable accommodations or auxiliary aids or services, or learned behavioral or adaptive neurological modifications.

With respect to public preschool, elementary, and secondary educational services, a qualified person with a disability means a disabled person:

- A. who is of an age during which nondisabled persons are provided educational services;
- B. is of any age during which it is mandatory under Florida law to provide educational services to disabled persons; or
- C. to whom the State is required to provide a free appropriate public education pursuant to the Individuals with Disabilities Education Improvement Act (IDEIA).

Individual with a disability also includes an individual who:

- A. has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;
- B. is participating in a supervised rehabilitation program and is no longer engaging in such use; or

C. is erroneously regarded as engaging in such use, but is not engaging in such use.

Notwithstanding the preceding, for purposes of programs and activities, providing educational services, the District may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student who is an individual with a disability and who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against students who are not individuals with disabilities.

With respect to vocational education services, a qualified person with a disability means a disabled person who meets the academic and technical standards requisite to admission or participation in the vocational program or activity.

#### 504 District Compliance Officers

Director of Human Resources, Patrick Keegan  
1445 Education Way  
Port Charlotte, Florida 33948  
Phone: 941-255-0808 ext. 3004  
patrick.keegan@yourcharlotteschools.net

Assistant Superintendent of Human Resources and Employee Relationships, Chuck Breiner  
1445 Education Way  
Port Charlotte, Florida 33948  
Phone: 941-255-0808, ext. 3122  
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Assistant Superintendent for School Support, April Prestipino  
1445 Education Way  
Port Charlotte, Florida 33948  
Phone: 941-255-0808, ext. 3073  
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The following person is designated as the District Compliance Coordinator for receiving complaints pertaining to Section 504 and/or ADA:

Coordinator of Psychological Services  
1445 Education Way  
Port Charlotte, Florida 33948  
Phone: 941-255-0808  
Fax: 941-255-7573

The District Compliance Coordinator will oversee the investigation of any complaints of discrimination against a student based on disability, which may be filed pursuant to the internal complaint procedure, and will attempt to resolve such complaints.

The District Compliance Coordinator will also oversee the training of employees in the District so that all employees understand their rights and responsibilities under Section 504 and the ADA, and are informed of the Board's policies, administrative procedures and practices with respect to fully implementing and complying with the requirements of Section 504/ADA.

The principal is the building level coordinator of Section 504/ADA and is responsible for monitoring compliance of all Section 504/ADA requirements.

### Complaint Procedures

If a student believes that s/he has been excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance on the basis of his/her disability, the student and his/her parents, or the eligible student, may utilize the complaint procedures set forth in Policy [2260](#) - Nondiscrimination and Access to Equal Educational Opportunity as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter.

### Filing a Complaint with OCR/Florida Commission on Human Relations/EEOC

At any time, if an employee 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 Florida Commission on Human Relations, or the Equal Employment Opportunity Commission ("EEOC").

### Appealing to OCR/Florida Commission on Human Relations/EEOC

If the complainant is not satisfied with the Superintendent's decision, the complainant will have an additional thirty (30) days to appeal the decision to the United States Department of Education Office of Civil Rights, Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

### Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination, or participates as a witness in an investigation, is prohibited. Specifically, the Board will not discriminate/retaliate 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 those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.

### Facilities

No qualified person with a disability will, because the District's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504/ADA applies.

The District is committed to operating its programs and activities so that they are readily accessible to persons with disabilities. This includes, but is not limited to, providing accommodations to parents with disabilities who desire access to their child's educational program or meetings pertinent thereto. Programs and activities will be designed and scheduled so that the location and nature of the facility or area will not deny a student with a disability the opportunity to participate on the same basis as students without disabilities.

### Education

The Board is committed to identifying, evaluating, and providing a free appropriate public education (FAPE) to students within its jurisdiction who are disabled within the definition of Section 504, regardless of the nature or severity of their disabilities.

If a student has a physical or mental impairment that significantly limits one (1) or more major life activities, the Board will provide the student with a free appropriate public education. An appropriate education may include regular or special education and related aids and services to accommodate the unique needs of students with disabilities. For disabled students who are not eligible for specially designed instruction under the IDEIA, the related aids and services (including accommodations/modifications/interventions) they need in order to have their needs met as adequately as the needs of nondisabled students are met, shall be delineated, along with their placement, in a Section 504 Plan (Form 2260.01A F13). Parents/Guardians/Custodians ("parents") are invited and encouraged to participate fully in the evaluation process and development of a Section 504 Plan.

The Board is committed to educating (or providing for the education of) each qualified person with a disability who resides within the District with persons who are not disabled to the maximum extent appropriate. Generally, the District will place a person with a disability in the regular educational environment unless it is demonstrated that the education of the person in the regular environment even with the use of supplementary aids and services cannot be achieved satisfactorily. If the District places a person in a setting other than the regular educational environment, it shall take into account the proximity of the alternate setting to the person's home.

### **Evaluation**

Before any action is taken with respect to Section 504 accommodations for a student with a disability, an evaluation shall be conducted or assessment information reviewed to determine if the student is disabled under Section 504. Parents will be afforded the opportunity to participate and provide input into the evaluation process. The assessment information may include, but will not be limited to, medical reports that document a physical or mental impairment, aptitude and achievement test scores, teacher observations, and recommendations and other data including information on social or cultural background and adaptive behavior. The information obtained from all such sources shall be documented and carefully considered.

### **Re-evaluations**

Re-evaluations are not required at specific intervals; however, assessments will be updated so that eligibility and accommodation planning is based on information that accurately defines the student's disability and reflects the student's current strengths and needs. At least every three (3) years appropriate school staff should determine whether updated evaluations are needed. A re-evaluation will be completed prior to a significant change in placement. When a re-evaluation is needed, parents will be sent a meeting invitation and a copy of the Notice of Section 504/ADA Procedural Information and Rights prior to conducting a re-evaluation. Consistent with initial evaluations, parents will be afforded the opportunity to meaningfully participate and provide input in the re-evaluation process.

### **Non-academic Extra-Curricular Services**

The District will provide non-academic extracurricular services and activities in such a manner as is necessary to afford qualified persons with disabilities an equal opportunity for participation in such services and activities. Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interests groups or clubs sponsored by the District, referrals to agencies that provide assistance to persons with disabilities, and employment of students. In providing or arranging for the provision of meals and recess periods, and nonacademic and extracurricular services and activities, including those listed above, the District will verify that persons with disabilities participate with persons without disabilities in such services and activities to the extent appropriate.

### **Procedural Safeguards and Due Process**

The parents may challenge the actions of the Section 504 Committee regarding identification, evaluation, or placement of their child by filing a request for a due process hearing. Alternatively, the parents may file an internal complaint. If the parents elect the former, the Board must provide a due process hearing before an impartial hearing officer to resolve the dispute. A parent does not need to first exhaust the internal complaint process in order to file a request for a due process hearing. The parents may also file a complaint with the Office for Civil Rights which is a separate process from both the due process hearing and internal complaint procedures. It should be noted that the OCR is not part of the District's appeal process and, absent extraordinary circumstances, will not review the result of individual placement and other educational decisions, so long as the District complied with the procedural requirements of Section 504 (concerning identification and location, evaluation, and due process procedures).

The Board will adopt a system of procedural safeguards that will provide for prompt and equitable resolution of complaints alleging violations of Section 504/ADA. Due process rights of students with disabilities and their parents under Section 504 will be enforced.

### **Notice**

Notice of the Board's policy on nondiscrimination in education practices and the identity of the Compliance Officer(s) will be posted throughout the District, and published in the District's recruitment statements or general information publications.

29 C.F.R. Part 1630

34 C.F.R. Part 104

29 U.S.C. 794, Section 504 Rehabilitation Act of 1973, as amended

42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

Adopted 1/18/11

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