

Haddon Heights School District

Parent/Guardian Section 504 Manual

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INTRODUCTION

The Office for Civil Rights (OCR) is charged with the enforcement of Section 504 of the Rehabilitation Act of 1973.

Section 504 prohibits discrimination against individuals with disabilities, including both students and staff members, by school districts receiving federal financial assistance. The regulations require identification, evaluation, provision of appropriate services, and procedural safeguards in every school in the United States. Section 504 ensures that the education system provides the full range of special accommodations and services necessary for students with special needs to benefit from public education programs and activities.

There are some students who are not eligible for IDEA (Special Education) services but who are deemed eligible under Section 504, and to whom a district may therefore have responsibilities.

The IDEA defines as eligible for special education and related services a child who has one of several educational disabilities that adversely affects the child's educational performance and results in a need for special education and related services. Specific criteria must be met for each category of educational disability. Section 504 covers all students who meet this definition, even if they do not fall within the IDEA enumerated categories and even if they do not require special education services.

A regular education intervention plan is appropriate for a student who does not have a disability or is not suspected of having a disability but may be facing challenges in school. If a student is eligible under the IDEA, an Individualized Education Plan (IEP) will be developed and proposed for the student to meet his/her needs. Development of an IEP for such a student satisfies the school district's Section 504 obligations to the student. If a student with a disability or who is suspected of having a disability (as defined in Section 504) is not eligible under the IDEA, but is thought to be in need of educational services in order to receive an appropriate education (as defined in Section 504), the school district shall conduct an evaluation in accordance with Section 504 and determine whether the student is Section 504 eligible. If the student is Section 504 eligible, then the district shall develop a Section 504 plan for the student.

What is required for the Section 504 evaluation and placement process is determined by the type of disability believed to be present, and the type of services the student may need. The evaluation must be sufficient to assess accurately and completely the nature and extent of the disability, and the recommended services. Evaluations more limited than a full special education evaluation (Child Study Team) may be adequate. For example, in the case of the student with juvenile arthritis, the evaluation might consist of the school nurse meeting with the parent and reviewing the student's medical records. In cases of ADHD, current psychological evaluations may be used in combination with appropriate medical information if such evaluation diagnosed the ADHD issue. In other cases, additional testing may be necessary. All cases must be presented to the school I&RS Team for discussion and a decision.

A group of persons knowledgeable about the student must make the determination of what services are needed. The group should review the nature of the disability and how it affects the student's education, whether specialized services are needed, and if so what those services are. The decisions about Section 504 eligibility and services must be documented in the student file and reviewed periodically.

Under Section 504, the parent or guardian must be provided with notice of actions affecting the identification, evaluation, or placement of the student and are entitled to an impartial hearing if they disagree with district decisions in these areas.

It is important to realize that Section 504 is NOT an aspect of "special education." Rather, it is a responsibility of the comprehensive general public education system. As such, building administrators and superintendents of schools are responsible for its implementation. This information is specific to the federal legislation referenced. For further information contact the New Jersey State Department of Education or the U.S. Office of Civil Rights.

SECTION 504 POLICY STATEMENT

It is the intent of the district to ensure that students with a disability within the definition of Section 504 of the Rehabilitation Act of 1973 are identified, evaluated, and provided with appropriate educational services. Students may qualify as an individual with a disability under this policy even though they do not require services pursuant to the Individuals with Disabilities Education Act (IDEA).

Due process rights of students with disabilities and their parents under Section 504 will be enforced.

504 COMMITTEE

In our schools, the I&RS (Intervention and Referral Services) team will serve as the 504 Committee. However, it is important, given the legality of a 504 plan that the team include:

- ADMINISTRATOR who can authorize accommodations and/or alternative placement
- COUNSELOR who can interpret scores and offer other insights on the child
- TEACHER(S) who can recognize the child's difficulties and need for accommodations and who are knowledgeable about local programs
- PSYCHOLOGIST, LDTC, SOCIAL WORKER or OTHER SPECIALIST will join when appropriate
- NURSE if any medical information is relevant to the learning situation
- PARENT(S), although not officially a member by law, is invited

PROCESS

- A student is referred for consideration to the 504 Committee by an adult who is knowledgeable about the student's situation. In most cases, the student has been through the I&RS process and attempts at interventions were unsuccessful. In some cases, parents may request a 504 plan based on outside testing/evaluation.
- The 504 Committee reviews the initial request and accepts/rejects need for a 504 evaluation. If accepted, a team member is assigned as case manager. If not accepted, there is an appeal process listed in enclosed Regulation 1510.
- The Parent is advised of the decision in writing by the 504 Committee chairperson or designee.
- Information and data from relevant sources is gathered and reviewed by the 504 team in preparation for the 504 evaluation meeting.

At the determination of eligibility /planning meeting, the following steps are taken:

- The 504 Coordinator for the building will chair the meeting.
- The Chair will follow the district's Determination of Eligibility form, asking all questions and noting where members of the Committee may differ in their understanding of the answer to the questions.
- Once all questions are asked, the Chair will lead the group in determining the specific degree that the impairment limits the major life activity.
- Once the extent of the limitation is determined, the Team will decide if the student is eligible for 504 and if so, develop school and classroom accommodations.

1. When a student with a disability qualifies for a 504 the plan is written which assures accommodations necessary for the student to have opportunities commensurate with peers.

2. Appoint a plan monitor, establish date(s) for review/re-evaluation, have parents sign 504 plan.

INFORMATION REGARDING SECTION 504 REHABILITATION ACT OF 1973

Section 504 is an Act, which prohibits discrimination against persons with a disability in any program receiving Federal financial assistance. The Act defines a person with a disability as anyone who:

1. Has a mental or physical impairment which substantially limits one or more major life activities; for example, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;
2. Has a record of such an impairment; or
3. Is regarded as having such impairment.

In order to fulfill its obligation under Section 504, the Haddon Heights Public School District recognizes a responsibility to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a disability will knowingly be permitted in any of the programs and practices in the school system.

The school district has specific responsibilities under the Act, which include the responsibility to identify, evaluate, and to afford reasonable accommodations to any child/employee determined to be eligible.

If the parent or guardian disagrees with the determination made by the professional staff of the school district, he/she has a right to an impartial hearing. If an employee disagrees with the determination made by the professional staff of the school district or district consultants, he/she has a right to an impartial hearing.

The Family Educational Rights and Privacy Act (FERPA) also specifies rights related to educational records. This Act gives the parent or guardian the right to: 1) inspect and review the child's educational record, 2) make copies of these records, 3) receive a list of individuals having access to those records, 4) ask for an explanation of any item in the records, 5) ask for an amendment to any report on the grounds that it is inaccurate, misleading, or violates the child's rights, and 6) a hearing on the issue if the school refuses to make the amendment.

EVALUATION GUIDELINES (SECTION 504 OF THE REHABILITATION ACT OF 1973)

1. If a child needs or is believed to need general education accommodations, related services, and/or supplemental aids under Section 504 of the Rehabilitation Act of 1973, the school district must evaluate the child.
2. Notification and informed written consent of the parent/legal guardian is required for an initial Section 504 evaluation and re-evaluation. The person responsible for the Section 504 referral should communicate in person or by telephone with the parent/legal guardian in addition to sending the Receipt of Section 504 Referral Notice, the Parent/Student Rights in Identification, Evaluation, Accommodation and Placement, and a copy of the Request for Section 504 Services.
3. The Section 504 evaluation:
 - should be based on information from a variety of sources; e.g. teacher(s), other school staff members, parent/legal guardian, physician, nurse, other professionals or persons in the community with relevant information
 - should document and consider all available pertinent information; e.g. records, assessment data, medical reports related to the suspected physical or mental impairment which may be substantially limiting a major life activity
 - should be conducted by a team or group of persons knowledgeable about the child, the suspected condition, evaluative procedures, the meaning of the evaluative data, and possible and appropriate accommodation/placement options
 - should utilize assessment materials, tests, and/or evaluation procedures, which are tailored to assess specific areas of educational need, are not racially or culturally discriminatory, and are validated for the specific purposes for which they are used.
4. Section 504 evaluation procedures may include:
 - review of school records, including testing, attendance, and discipline
 - interviews with persons knowledgeable about the child's functioning
 - observations in the school, home or community environments
 - statements and information from physicians and other professionals when appropriate and available.
5. The parent/legal guardian must be invited to participate in the Section 504 Evaluation Meeting where the determination of whether a student is an individual with a disability, and possible accommodations/services will be discussed. Reasonable effort should be made to hold this meeting at a time when the parent/legal guardian is able to attend.
6. In order to determine Section 504 eligibility during the evaluation meeting, the team should consider the following steps:
 - Discuss relevant collected data
 - Determine whether a physical or mental impairment can be identified
 - Determine whether the impairment or condition substantially limits one or more major life activities.
7. If the student is determined to be eligible under Section 504, the evaluation team develops a written Section 504 Education Plan which documents in the general education accommodations and/or related services that will be provided in order to meet the educational needs of the student with a disability.
8. Periodic reevaluation is required by Section 504 regulations. Reevaluation of Section 504 eligibility plan will occur at least once a year, upon significant change in school placement or program.

NOTICE TO PARENT OF RIGHTS AFFORDED BY SECTION 504 OF THE REHABILITATION ACT OF 1973

The following is a description of some of the rights granted by federal law to students with disabilities. The intent of the manual is to keep you fully informed concerning decisions about your child and to inform you of your rights should you disagree with any of these decisions.

You have the right to:

- Have your child take part in, and receive benefits from public education programs without discrimination because of a disabling condition
- Have the school district advise you of your rights under federal law
- Receive notice with respect to identification, evaluation, or placement of your child
- Have your child receive a free and appropriate public education. This includes the right to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to have the school district make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities
- Have your child educated in facilities and receive services comparable to those provided non-disabled students
- Have evaluation, educational, and placement decisions based upon a variety of information sources, and by persons who know the student, the evaluation data, and placement options
- Have transportation provided to and from an alternative educational placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the district
- Have your child be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district
- Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement
- Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records
- A response from the school district to reasonable requests for explanations and interpretations of your child's records
- Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your child. If the school district refuses this request it shall notify you within a reasonable time, and advise you of the right to a hearing
- File a local grievance with the person in the district that is responsible for assuring compliance.
- Request mediation or an impartial due process hearing with the Office of Special Education Programs related to decisions or actions regarding your child's identification, evaluation, educational program, or placement. You and the student may take part in the hearing and have an attorney represent you.
- File a written complaint with the Office of Civil Rights.

1510 AMERICANS WITH DISABILITIES ACT (M)

M

It is the policy of the Board of Education that no qualified individual with a disability will, on the basis of disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment or under any program, activity, or services sponsored by this Board. The Board will comply with the Americans with Disabilities Act of 1990, as amended by the Americans with Disabilities Amendments Act of 2008 (hereafter referred to as the Act).

Notice of Board Policy 1530 – Equal Educational Opportunities and Board Policy 5750 – Equal Educational Opportunity will be included in the Board policy manual, posted throughout the district, and referenced in any district statement regarding the availability of employment positions or educational services.

Employment

No employee or candidate for employment will be discriminated against in recruitment, hiring, advancement, discharge, compensation, job training, transfer, or any other term, condition, or privilege of employment solely on the basis of a disability, provided the employee or candidate can, with or without reasonable accommodation, perform the essential functions of the position sought or held.

No candidate for employment will be required to answer a question or submit to an examination regarding a disability except as such disability relates directly to perform job-related functions. No candidate will be discriminated against on the basis of a disability that is not directly related to the essential function of the position for which he/she has applied.

Reasonable accommodations, not directly affecting the educational and/or instructional program, will be made to accommodate employment conditions to the needs of qualified individuals with disabilities, such accommodations may include, but are not limited to: making existing facilities used by employees readily assessable to and usable by individuals with disabilities, job restructuring, part-time modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.



The district will furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities an equal opportunity to participate in and enjoy the benefits of a service, program, or activity conducted by the district.

Facilities Maintenance and Accessibility

No qualified individual with a disability will, because of the school district's facilities being inaccessible or unusable by disabled persons, be denied the benefits of, be excluded from participation in or otherwise be subjected to discrimination under any program or activity offered by the Board. No new facilities will be constructed that do not fully comply with the Act. Alterations to existing facilities or part thereof, will be altered in such a manner to the maximum extent feasible, that the facilities are readily accessible and usable by individuals with disabilities who have a need to access Board facilities.

The district will maintain facilities and equipment required by the Act to be readily accessible to and usable by persons with disabilities.

Service, Program, and Activity Access

The district will make reasonable accommodations so that services, programs, and activities are readily accessible and usable by qualified individuals with disabilities. The district is not required to provide personal devices or services of a personal nature to qualified individuals with disabilities.

Evaluation and Compliance

The Superintendent or designee will evaluate district programs and practices on nondiscrimination, in accordance with law, and will report to the Board accordingly. Assurances of compliance will be submitted as required by law.

The district, with the assistance of interested persons, who may include individuals with disabilities or members of organizations representing individuals with disabilities, or other interested community members and staff, will evaluate its current services, policies, practices, and the effects thereof with regard to the requirements of the Act and make necessary modifications to meet the Act requirements. If such modifications would result in a fundamental alteration of the nature of the affected program or activity, or undue



AMERICANS WITH DISABILITIES ACT (M)

financial or administration burden, the district will provide access through means which would not result in a fundamental alteration or undue financial or administrative burden.
28 CFR §35.150(a)

For a period of at least three years following completion of the self-evaluation, the district will maintain on file, available for public inspection, a list of those interested persons consulted, a description of the areas examined and problems identified, and modifications made.

Enforcement

The Board will designate the Vice-Principal (Grades 7-9) and Vice-Principal (Grades 10-12) at the high school and a designated elementary guidance counselor for the elementary schools are designated as district coordinators for matters dealing with ADA compliance. The district coordinators can be contacted at the following addresses or telephone numbers:

High School: Vice-Principal (Grades 7-9) & Vice-Principal (Grades 10-12)

Address: 301 Second Avenue
Haddon Heights, NJ 08035

Telephone Number: 856-547-1920

Elementary Schools: Guidance Counselor

Address: 1700 Sycamore Street
Haddon Heights, NJ 08035

Telephone Number: 856-547-7647



The District ADA Officer is the Director of Special Education. Contact information is as follows:

Address: 316B Seventh Avenue
Haddon Heights, NJ 08035
Telephone Number: 856-547-1322

Grievance procedures are outlined in Regulation 1510.

Guarantee of Rights

The Board will not interfere, directly or indirectly, with any person's exercise or enjoyment of the rights protected by the Act.

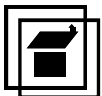
The Board will not discriminate against any person for that person's opposition to any act or practice made unlawful by law or this Policy or for that person's participation in any manner in an investigation or proceeding arising under the Act.

The district is not required to permit an individual to participate in or benefit from the district's services, programs, or activities when that individual poses a direct threat to the health or safety of others.

Notice

Policy and Regulation 1510 will be available to any member of the public in the district's Policy and Regulation Manual.

42 U.S.C. 12101 (Americans with Disabilities Act of 1990, as amended)



POLICY

HADDON HEIGHTS
BOARD OF EDUCATION

Administration
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AMERICANS WITH DISABILITIES ACT (M)

N.J.S.A. 10:5-1 et seq.

N.J.S.A. 18A:18A-17

N.J.A.C. 6A:14-1 et seq.

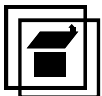
34 CFR Part 104

Adopted: 10 November 2009

Revised: 10 August 2010

Revised: 10 July 2012

Revised: 14 March 2017



R 1510 AMERICANS WITH DISABILITIES ACT (M)

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The Board of Education will comply with the requirements of the Americans with Disabilities Act of 1990, including changes made by the ADA Amendments Act of 2008 (hereafter referred to as the “Act.”

A. Definitions

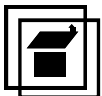
1. “Act” means the Americans with Disabilities Act of 1990, as amended by the ADA Amendments Act of 2008.
2. “Auxiliary aids and services” are identified based on the context of the communication and the individual’s disability. 28 CFR §35.104

They include, but are not limited to:

- a. Effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
 - b. Effective methods of making visually delivered materials available to individuals who are blind or have low vision;
 - c. Acquisition or modification of equipment or devices or similar services and actions; and
 - d. Other similar services and actions.
3. “Board” means the Board of Education of this school district.
 4. “Companion” means a family member, friend, or associate of an individual seeking access to a service, program, or activity of a school district, who, along with such individual, is an appropriate person with whom the district should communicate.
 5. “Complete complaint” means a written statement, signed by the complainant or someone authorized to do so on his/her behalf, containing the complainant's name and address and describing the public entity's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation. 28 CFR §35.104



6. “Current illegal use of drugs” means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person’s drug use is current or that continuing use is a real and ongoing problem.
7. “Direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services. 28 CFR §35.139
8. “Disability” means, with respect to an individual, that the individual meets one or more of the following three prongs:
 - a. A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
 - b. A record of such an impairment; or
 - c. Being regarded as having such an impairment.
9. “District” means this school district.
10. “District Coordinator” means the district official responsible for the coordination of activities relating to compliance with the Act.
11. “Drug” means a controlled substance, as defined in schedules I through V of Section 202 of the Controlled Substances Act. 21 U.S.C. §812
12. “Employee” means an individual employed by the Board.
13. “Essential functions of the employment position” are based upon the employer’s judgment and can include an employer’s written description, prepared before advertising or interviewing applicants for the job.
14. “Existing facility” means a facility in existence on any given date, newly constructed or altered.
15. “Facility” means all or any portion of buildings, property, or structures, including the site where the building, property, structure, or equipment is located.

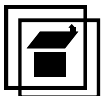


16. “Illegal use of drugs” means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. 21 U.S.C. §812
17. “Individual with a disability” means a person who has a disability and does not include an individual currently engaging in the illegal use of drugs, when the district acts on the basis of such use.
18. “Major life activities” means those of central importance to daily life and include, but are not limited to, functions such as: caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sitting, reaching, writing, standing, reaching, lifting, sleeping, bending, speaking, breathing, reading, concentrating, thinking, communicating, interacting with others, learning, and working. “Major life activities” also includes physical or mental impairments that substantially limit the operation of a major bodily function, including, but not limited to: functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, reproductive systems, and the operation of an individual organ within a body system. 28 CFR §35.108; 28 CFR §36.105
19. “Mitigating measures” means steps taken to eliminate or reduce the symptoms or impact of an impairment. “Mitigating measures” include, but are not limited to: medication; medical equipment/appliances; mobility devices; low vision devices (not including ordinary eyeglasses or contact lenses); prosthetics (including limbs and devices); hearing aids, cochlear implants, or other implantable hearing devices; oxygen therapy equipment and supplies; the use of assistive technology; reasonable modifications or auxiliary aids or services; learned behavioral or adaptive neurological modifications; and psychotherapy, behavioral, or physical therapies. 42 U.S.C. 126 §12102
 - a. Mitigating measures, must not be used when determining whether an impairment is a disability except for the use of corrective eyeglasses or contact lenses. Mitigating measures may be considered in assessing whether someone is entitled to reasonable accommodation or poses a direct threat.
20. “Office for Civil Rights” (OCR) means the United States Department of Education Office for Civil Rights.

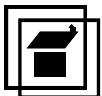


21. “Other power-driven mobility device” means any mobility device powered by batteries, fuel, or other engines used by individuals with mobility disabilities for the purpose of locomotion, including any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair. 28 CFR §35.104

22. “Physical or mental impairment” means any physiological disorder or condition such as, cosmetic disfigurement or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic and lymphatic, skin, and endocrine; or any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities. 28 CFR §35.108(b)(2) and 28 CFR§36.105(b)4
 - a. Physical or mental impairments may include, but are not limited to: contagious and noncontagious diseases and conditions; orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Human Immunodeficiency Virus (HIV) (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.
 - b. Physical or mental impairments do not include: transvestism; transsexualism; homosexuality or bisexuality; gender identity disorders; sexual behavior disorders; pedophilia; exhibitionism; environmental, cultural, and economic disadvantages; pregnancy; physical characteristics; personality traits or behaviors; normal deviations in height, weight, or strength; compulsive gambling; kleptomania; pyromania; and psychoactive substance use disorders resulting from current illegal use of drugs.
 - c. An impairment that is episodic or in remission may be considered a “disability” if it would substantially limit a major life activity when active.
 - d. Not all impairments are disabilities.

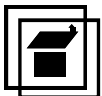


23. “Public entity” means this Board of Education.
24. “Qualified individual” for the purposes of employment, means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position (based upon the employer’s judgment) that such individual holds or desires. An employer’s written description, prepared before advertising or interviewing applicants for the job, shall be considered evidence of the essential functions of the job. 42 U.S.C. 126 §12111(8)
25. “Reasonable accommodation” may include making existing facilities used by employees readily assessable to and usable by individuals with disabilities and job restructuring, part-time modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.
26. “Record of such an impairment” means the individual has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.
27. “Regarded as having an impairment” means the individual establishes that he or she has been subjected to a prohibited action under the Act because of an actual or perceived physical or mental impairment, whether or not that impairment substantially limits or is perceived to substantially limit a major life activity.
 - a. For this prong only, the public entity must demonstrate the impairment is or would be both transitory (lasting or expected to last six months or less) and minor to show an individual is not regarded as having such an impairment. 42 U.S.C. 126 §12102(3)(B)
 - b. A public entity is not required to provide a reasonable modification to an individual meeting the definition of “disability” solely under the “regarded as” prong.
28. “Substantially limits” means the extent to which the impairment limits an individual’s ability to perform a major life activity as compared to most

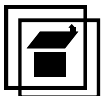


people in the general population, whether or not an individual chooses to forgo mitigating measures. 42 U.S.C. 126 §12102(4); 28 CFR §35.108(d); 28 CFR §35.105(d) The rules of construction when determining whether an impairment substantially limits performance of a major life activity include:

- a. That it is broadly construed in favor of expansive coverage, to the maximum extent permitted under the Act.
- b. That it does not demand extensive analysis.
- c. That it substantially limits one major life activity, but not necessarily other major life activities.
- d. That it may be episodic or in remission, as long as the impairment would substantially limit a major life activity when active.
- e. That it need not prevent, or significantly or severely restrict, an individual from performing a major life activity.
- f. That it requires an individualized assessment which does not create an “inappropriately high level of limitation” and is based upon the conditions, manner, or duration under which the individual can perform the major life activity 42 U.S.C. 12102(4)(B).
- g. That it generally will not require scientific, medical, or statistical evidence (although such evidence can be required where appropriate evidence that can be considered may include statements or affidavits of affected individuals and school records).
- h. That the determination is made without regard to ameliorative effects of mitigating measures, except for the use of ordinary eyeglasses or contact lenses intended to fully correct visual acuity or eliminate refractive error. Non-ameliorative effects, such as the negative side effects of medication or a medical procedure, may also be considered.
- i. That the effects of an impairment lasting or expected to last less than six months can be substantially limiting for establishing a disability under the first two prongs: “actual disability” or “record of”.



29. “Undue hardship” means an action requiring significant difficulty or expense when considered in light of factors which include: the nature and cost of the needed accommodation; the overall financial resources of the district or facility providing the reasonable accommodation; the size of the district with respect to the number of employees; effect on expenses and resources, or the impact otherwise of accommodation upon the operation of the facilities; and the type/location of facilities. 42 U.S.C. 126 §12111 (10)
 30. “Wheelchair” means a manually operated or power-driven device designed primarily for use by an individual with a mobility disability.
- B. General Requirements
1. Prohibitions Against Discrimination
 - a. Discrimination is prohibited against a qualified individual on the basis of a disability. Such individual will not be excluded from participation in or denied the benefits of district services, programs, or activities or be subjected to discrimination by the district in accordance with 28 CFR §35.130. The district must ensure that:
 - (1) When services, programs, and activities are viewed in their entirety, they are accessible to and usable by individuals with disabilities; and
 - (2) Access to services, programs, and activities is provided in an integrated setting unless separate programs are necessary to ensure equal benefits.
 - b. The district is not required to take any action that would result in a fundamental alteration of the nature of the program or activity or undue financial or administrative burden. However, claiming undue burden still requires the district to provide access through means that would not result in a fundamental alteration or undue financial or administrative burden.
 2. Direct Threat - 28 CFR §35.139



- a. The district is not required to permit an individual to participate in or benefit from the district's services, programs, or activities when that individual poses a direct threat to the health or safety of others.
 - b. To determine whether an individual poses a direct threat to the health or safety of others, the district must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence to ascertain:
 - (1) The nature, duration, and severity of the risk;
 - (2) The probability that the potential injury will actually occur; and
 - (3) Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.
3. Illegal Use of Drugs - 28 CFR §35.131
- a. The district will not discriminate on the basis of past illegal use of drugs against an individual who is not engaging in current illegal use of drugs and who:
 - (1) Has successfully completed a supervised drug rehabilitation program or has otherwise been rehabilitated successfully;
 - (2) Is participating in a supervised rehabilitation program; or
 - (3) Is erroneously regarded as engaging in such use.
 - b. While the Act does not prohibit discrimination against an individual based on that individual's current illegal use of drugs, the district will not deny health services or services provided in connection with drug rehabilitation to an individual on the basis of that individual's current illegal use of drugs, if the individual is otherwise entitled to such services.
 - c. The Act does not prohibit the district from adopting or administering reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual who



formerly engaged in the illegal use of drugs is not now engaging in current illegal use of drugs.

C. Personal Devices and Services

1. The district will permit individuals with mobility disabilities to use wheelchairs and manually powered mobility aids such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities in any areas open to pedestrian use. 28 CFR §35.137
2. The district will make reasonable modifications to permit the use of other power-driven mobility devices by individuals with mobility disabilities unless the district can demonstrate that the power-driven device cannot be operated in accordance with legitimate safety requirements pursuant to 28 CFR §35.137. The district will not ask an individual using a wheelchair or other power-driven mobility device questions about the nature and extent of the individual's disability. The district may require the individual to provide credible assurance that the device is required because of the person's disability.
3. The district is not required to provide individuals with disabilities personal devices, such as wheelchairs; individually prescribed devices such as prescription eyeglasses or hearing aids; readers for personal use or study; or services of a personal nature including assistance in eating, toileting, or dressing pursuant to 28 CFR §35.135.

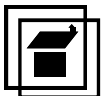
D. Employment - 42 U.S.C. 126 §12112

1. Discrimination in Employment
 - a. The Board will not discriminate against a qualified individual on the basis of disability in regard to job application procedures; hiring, advancement, or discharge; compensation; job training; and other terms, conditions, and privileges of employment.
 - b. Applicants and employees working for or applying to work for the district who qualify for a job and are able to perform the essential functions of that job are entitled to reasonable accommodations

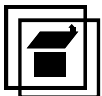


provided that such accommodations do not pose undue hardship for the district.

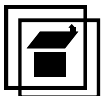
- c. Nothing in the Act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation as outlined in N.J.A.C. 6A:32-4.1 et seq.
- d. The school district may not, on the basis of disability:
 - (1) Limit, segregate, or classify a qualified individual in a way that adversely affects his/her opportunities or status of such employee, applicant, or participant in a contractual or other arrangement;
 - (2) Utilize standards, criteria, or methods of administration that have the effect of discrimination on the basis of disability or perpetuate the discrimination of others subject to common administrative control;
 - (3) Exclude or otherwise deny equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to associate or have a relationship;
 - (4) Fail to make reasonable accommodations to known physical or mental limitations of an otherwise qualified individual with a disability or deny employment opportunities to such qualified individual unless the district can demonstrate that the accommodation would impose undue hardship to district operations;
 - (5) Use qualification standards, employment tests, or other selection criteria that screen out or tend to screen out individuals with disabilities unless the standard, test, or other selection criteria, as used by the district, is shown to be job-related for the position in question and consistent with business necessity; and/or



- (6) Select and administer tests concerning employment to otherwise qualified individuals who possess impaired sensory, manual, or speaking skills, unless done in an effective manner to ensure that, when such tests are administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, the test results accurately reflect the skills, aptitude, or other factors such tests purport to measure rather than reflecting the impaired sensory, manual, or speaking skills of the employee or applicant (except where such skills are the factors that the test purports to measure).
2. Medical Examinations and Inquiries - (42 U.S.C. 126 §12112)
 - a. Pre-employment
 - (1) Prohibited examination or inquiries:
 - (a) Whether such an applicant is an individual with a disability; or
 - (b) The nature or severity of such disability.
 - (2) Acceptable inquiry:
 - (a) The ability of an applicant to perform job-related functions.
 - b. Employment Entrance Examinations
 - (1) The district may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if:
 - (a) All entering employees are subject to such an examination regardless of disability;



- (b) Information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that:
 - i. Supervisors and managers may be informed regarding necessary restrictions on work or duties of the employees and necessary accommodations;
 - ii. First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and
 - iii. Government officials investigating compliance with this Act, will be provided relevant information on request.
- (2) The results of such examination shall only be used in accordance with these provisions.
- c. Examination and Inquiry:
 - (1) Prohibited examinations and inquiries:
 - (a) The district will not require a medical examination and will not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.
 - (2) Acceptable examinations and inquiries:
 - (a) The district may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees in the district.



- (b) The district may make inquiries into the ability of an employee to perform job-related functions.

3. Defenses - 42 U.S.C. 126 §12113

a. Qualification Standards

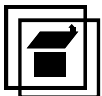
- (1) It may be a defense to a charge of discrimination under the Act that an alleged application of qualification standards, tests, or selection criteria that screen out, tend to screen out, or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under the Act.

- (a) The term "qualification standards" may include a requirement that an individual will not pose a direct threat to the health or safety of other individuals in the workplace.

- (b) Notwithstanding 42 U.S.C. 126 §12102 (4)(E)(ii), the Board will not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity.

b. Infectious and Communicable Diseases

- (1) In any case in which an individual has an infectious or communicable disease included on the list developed by the United States Secretary of Health and Human Services in accordance with the Act, and which cannot be eliminated by reasonable accommodation, and that is transmitted to others through the handling of food, the Board and its



administration may refuse to assign or allow such individual to continue to work in a job involving food handling.

- c. Illegal Use of Drugs and Alcohol - 42 U.S.C. 126 §12114
 - (1) An individual with a disability shall not include any employee or applicant who is currently engaging in the illegal use of drugs, with exceptions noted in section B.3. of this Regulation.
 - (2) The Board will hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior as other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee.
- d. Drug Testing
 - (1) For the purposes of the Act, a test to determine the illegal use of drugs will not be considered a medical examination.
 - (2) No provision of the Act shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

E. Program Accessibility

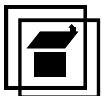
1. Discrimination Prohibited

- a. Except as otherwise provided in 28 CFR §35.150, no qualified individual with a disability will, because the district's facilities are inaccessible to or unusable by individuals with disabilities, including inside or outside access to such facilities, may be excluded from participation in, or be denied the benefits of the services, programs, or activities of the district, or be subjected to discrimination by the district.
- b. The district will maintain facilities and equipment required by the Act to be readily accessible to and usable by individuals with



disabilities. This provision does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs. 28 CFR §35.133

- (1) In regard to existing facilities, the district will operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities.
 - (a) The district is not required to fundamentally alter the nature of a service, program, or activity, or assume undue financial or administrative burdens, or take any action threatening the historic significance of a historic property and has the burden of proving that compliance with the Act would result in such alterations or burdens. 28 CFR §35.150(a)
 - (b) Should the Board and Superintendent of Schools or his/her designee determine, after considering all resources available, that compliance would result in such alteration or burden, a written statement of reasons must accompany such a determination.
 - (c) The Board will take any other action, including, but not limited to redesign or acquisition of equipment, or reassignment of services or staff, that would not result in such alteration or burden, but would, nevertheless, ensure that individuals with disabilities receive the benefits/services provided by the district.
- (2) In regard to new construction and alterations, each facility or part of a facility constructed by, on behalf of, or for the use of the district will be designed and constructed in such manner, in accordance with 28 CFR §35.151, that the facility or part of the facility is readily accessible to and usable by individuals with disabilities.
 - (a) Full compliance with the requirements of 28 CFR §35.151 is not required where the district can



demonstrate that it is structurally impracticable to meet the requirements.

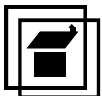
- (b) If providing accessibility in conformance with 28 CFR §35.151 to individuals with certain disabilities (e.g., those who use wheelchairs) would be structurally impracticable, accessibility shall nonetheless be ensured to persons with other types of disabilities, (e.g., those who use crutches or who have sight, hearing, or mental impairments) in accordance with 28 CFR §35.151.

F. Communications - 28 CFR §35.160

1. The district will take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others.
2. The district will furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in and enjoy the benefits of a service, program, or activity conducted by the district.
 - a. Auxiliary aids and services will be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.
 - b. The district will not require an individual with a disability to bring another individual to interpret with a disability. The district will not rely on an adult accompanying an individual with a disability or on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or where the individual with a disability specifically requests that the accompanying adult interprets or facilitates communication, the accompanying adult agrees to provide such assistance, and reliance on that adult is appropriate under the circumstances.

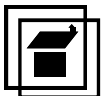


3. Where the district communicates by telephone with applicants and beneficiaries who are deaf, hard of hearing, or who have speech impairments, text telephones (TTYs) or equally effective telecommunications systems equipped with emergency service access will be used to communicate, in the same time and manner as with other telephone systems (including automated systems). 28 CFR §35.161
 4. The district will ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities, including signage at all inaccessible facility entrances. 28 CFR §35.163
- G. Grievance Procedure - 28 CFR §35.107(b)
1. A complainant who believes that he/she has been harmed or adversely affected by a discriminatory practice or act prohibited by law and/or policy shall first discuss the matter with his/her immediate supervisor in an attempt to resolve the matter informally.
 2. If the matter is not resolved to the satisfaction of the complainant within thirty working days, the complainant may submit a written complaint to the District Coordinator. The complaint will include:
 - a. The complainant's name and address;
 - b. The specific act or practice of which the complainant complains;
 - c. The employee, if any, responsible for the allegedly discriminatory act;
 - d. Results of discussions conducted in accordance with paragraph G.1. above; and
 - e. Reasons why those results are not satisfactory.
 3. The District Coordinator 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).

4. The District Coordinator will investigate and document the complaint including dates of meetings, dispositions and date of dispositions. The District Coordinator will provide a written reply to the complainant within seven working days.
5. If the complainant is not satisfied with the District Coordinator's written reply, the complainant must file a formal complaint in writing, setting out the circumstances that give rise to the alleged grievance. This written complaint must be filed with the Building Principal within three working days.
6. The Building Principal will investigate and document the complaint including dates of meetings, dispositions and date of dispositions. The Building Principal will provide a written reply to the complainant within seven working days.
7. If the complainant is not satisfied with the Building Principal's written reply, the complainant must file a formal complaint in writing, setting out the circumstances that give rise to the alleged grievance. This written complaint must be filed with the District ADA Officer within three working days.
8. The District ADA Officer will investigate and document the complaint including dates of meetings, dispositions and date of dispositions. The District ADA Officer will provide a written reply to the complainant within seven working days.
9. The complainant may file a written appeal to the Superintendent if not satisfied with the District ADA Officer's decision. The Superintendent will provide a written reply to the complainant within seven working days.
10. The complainant may file a written appeal to the Board if not satisfied with the Superintendent's decision. The Board may, within forty-five calendar days of the receipt of the request, conduct an informal hearing before a committee of Board members, in which the complainant will present his/her complaint. The Board may, on the petition of the complainant, permit the examination of witnesses. The Board will provide a written disposition of the alleged grievance.



11. The complainant may request an impartial hearing by filing a Mediation and/or Due Process petition in accordance with N.J.A.C. 6A:14-2.6 and 2.7 if unsatisfied with the written decision of the Board. The complainant may also file a complaint with the Office of Civil Rights.
12. While the Board of Education strongly encourages the use of this internal grievance procedure, at any time during this grievance process a complainant may file a request for mediation and/or due process, or file a complaint with the Office of Civil Rights.
13. An individual who believes he or she or a specific class of individuals has been subjected to discrimination on the basis of disability by the district may, by himself/herself, or an authorized representative, at any time, file a complaint directly with OCR.
14. Record:
 - a. The record of any complaint processed in accordance with this procedure will be maintained in a file kept by the District Coordinator.
 - b. A copy of the decision rendered at the highest level of appeal will be kept in the employee's personnel file.
15. The complainant will be informed of his/her right to appeal the Board's decision to the:

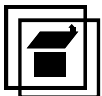
U.S. Department of Justice

950 Pennsylvania Avenue, NW

Civil Rights Division

Disability Rights Section – 1425 NYAV

Washington, D.C. 20530



REGULATION

HADDON HEIGHTS
BOARD OF EDUCATION

ADMINISTRATION
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AMERICANS WITH DISABILITIES ACT (M)

Adopted: 10 November 2009

Revised: 10 August 2010

Revised: 14 March 2017

