

## Students

### Section 504: Civil and Legal Rights and Responsibilities

The school district has the responsibility to identify and evaluate students who may need special services or programs within the intent of Section 504 of the Rehabilitation Act of 1973 to receive the required free appropriate education.

Students may be eligible for services under the provisions of Section 504 even though they do not require services according to the Education of the Handicapped Act, PL. 94-142 (EHA/IDEA).

Legal Reference: Connecticut General Statutes

10-15c Discrimination in public schools prohibited.

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§791, 793-794 (2006), (34 Code of Federal Regulations Part 104).

Americans with Disabilities Act of 1990, 42 U.S.C. §§12101-12213; 29 C.F.R. Part 1630 (2006); 28 C.F.R. Part 35 (2006).

Americans with disabilities Amendments Act of 2008.

Policy adopted: October 20, 2015

AVON PUBLIC SCHOOLS  
Avon, Connecticut

## Students

### Section 504: Civil and Legal Rights and Responsibilities

In order to meet the requirements of Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments Act of 2008 (ADA), the following procedures have been established:

#### Definitions

1. A student is considered a **“qualified individual with disabilities”** under Section 504 if he/she:
  - a. Has a physical or mental impairment which substantially limits one or more major life activities, even when mitigating measures, such as medication, prosthetics, hearing aids etc., ameliorate the effects of the disability. (e.g., any student receiving services under the Individuals with Disabilities Act (IDEA), students with diabetes). The term does not cover students disadvantaged by cultural, environmental or economic factors;
  - b. Has a record or history of such an impairment (e.g., a student with learning disabilities who has been decertified as eligible to receive special education under IDEA, a student who had cancer, a student in recovery from chemical dependencies);
  - c. Is regarded as having such an impairment. A person can be found eligible under this provision if he/she:
    - (1) Has a physical or mental impairment that does not substantially limit a major life activity but is treated by the District as having such a limitation;
    - (2) Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others towards such impairment (e.g., a student who is obese); or
    - (3) Has no physical or mental impairment but is treated by the District as having such an impairment (e.g., a student who tests positive with the HIV virus but has no physical effects from it).
  - d. Has a qualifying disability that is episodic or in remission.
2. **“Physical or mental impairment”** means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities;

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#### Definitions (continued)

3. **“Major life activities,”** as defined by the ADA, means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating; and major bodily functions including, but not limited to, functions of the immune system normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions;
4. **“Program or activity”** includes all District programs and activities. The District will also ensure that contracts with those who provide services to the District, such as alternative programs, also provide students with disabilities an equal opportunity to participate in the program or activity;
5. **“Potentially disabling conditions”** under Section 504, if they substantially limit a major life activity, may include, but are not limited to:
  - a. Attention deficit disorder (ADD)
  - b. Behavior disorders
  - c. Chronic asthma and severe allergies
  - d. Physical disabilities such as spina bifida, hemophilia and conditions requiring students to use crutches
  - e. Diabetes

#### District Responsibilities

The Superintendent of Schools or his/her designee will:

1. Provide written assurance of nondiscrimination whenever the District receives federal money in accordance with application guidelines;
2. Designate an employee to coordinate the District’s compliance efforts with Section 504;
3. Provide procedures to resolve student, parent and employee complaints of discrimination;
4. Provide notice to students, parents, employees, including those with vision or hearing impairments, of the District’s policy of compliance with Section 504 prohibiting nondiscrimination in admission or access to or treatment or employment in District programs or activities. District aids, benefits and services will afford students with disabilities equal opportunity to obtain the same result, gain the same benefit or reach the same level of achievement as students without disabilities, in the most integrated setting appropriate to the student’s needs. Notice will specify the employee designated by the District to coordinate the District’s Section 504 compliance efforts;

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### Section 504: Civil and Legal Rights and Responsibilities

#### District Responsibilities (continued)

5. Annually identify and locate Section 504 qualified students with disabilities in the District who qualify for services;
6. Annually notify students with disabilities and their parents or guardians of the District's responsibilities under Section 504;
7. Provide parents or guardians with procedural safeguards:
  - a. Notice of their rights under Section 504, including the right to request an impartial hearing which is the responsibility of the District.
  - b. An opportunity to review relevant records.

#### Extracurricular Athletics (Clubs, Intramural, Interscholastic)

1. Schools must not make any assumption about what a student with a particular disability can or cannot do with respect to participating in athletics.
2. The District will provide a qualified student with a disability an opportunity to benefit from the District's program equal to that of students without disabilities.
3. A "qualified" student with a disability must be allowed to participate in any selective or competitive program offered by the District if such student meets the required level of skill or ability for the program.
4. The District may modify the extracurricular athletic activity provided such modification does not fundamentally alter the nature of the game.
5. The District will make reasonable modifications and provide those aids and services that are necessary to ensure an equal opportunity to participate, unless doing so fundamentally alters the program.
6. Schools will provide accommodations to students outside of normal school hours as required. This includes, but not limited to, a diabetic student receiving assistance with blood sugar monitoring and insulin injections.
7. Students with disabilities who cannot participate in the District's existing extracurricular athletics program, even with reasonable modifications or aids and services, shall/may (TBD) be afforded an opportunity to participate in athletic activities that are separate or different from those offered to students without disabilities. This can include the creation of disability-specific teams for sports, such as wheelchair tennis or wheelchair basketball. This can be done regionally, with other school districts, through the mixing of males and female disabled students on teams together, or through the offering of "allied" or "unified" sports teams on which students with disabilities participate with non-disabled students.

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### Section 504: Civil and Legal Rights and Responsibilities (continued)

#### Transportation

1. If the District proposes to terminate transportation services for a student who qualifies for services under Section 504, due to disciplinary reasons, the District will first determine the relationship between the student's behavior and his/her disability and provide the parent with notice of his/her rights.
2. If the District places a student in a program not operated by the District, the District will ensure that adequate transportation to and from the program is provided at District expense.

#### Evaluation

1. The District will conduct an evaluation of any student who, because of a disability, needs or is believed to need accommodations or related services. Such evaluation will be completed by an evaluation team comprised of a group of persons knowledgeable about the student, the meaning of the evaluation data and placement options. The team will be appointed by the Superintendent of Schools or his/her designee. Such evaluation will be completed before any action is taken with respect to the initial placement of the student in a regular or special education program and any subsequent, significant change in placement.
2. Tests and other evaluation materials will:
  - a. Be validated and administered by trained personnel;
  - b. Tailored to assess educational need;
  - c. Reflect aptitude or achievement. All tests must measure what they purport to measure.

#### Placement

1. In interpreting evaluation data and making placement decisions, the evaluation team will:
  - a. Draw upon information from a variety of sources;
  - b. Ensure that all relevant information is documented and considered;
  - c. Ensure that the student is educated with students without disabilities to the maximum extent possible.

## Students

### Section 504: Civil and Legal Rights and Responsibilities (continued)

#### Reevaluations

1. The evaluation team will periodically reevaluate all students identified as qualified to receive services under Section 504. Minimally, students will be reevaluated every three years.
2. A reevaluation will be conducted by the evaluation team whenever a significant change in placement occurs. Examples of significant changes in placement include, but are not limited to:
  - a. Expulsion;
  - b. Serial suspensions which exceed 10 school days in a school year. Consideration will be given to the frequency of suspensions, the length of each and their proximity to one another;
  - c. Transferring or placing the student in alternative education or other such programs;
  - d. Graduation;
  - e. Significantly changing the composition of the student's class schedule (e.g., moving the student from regular education to the resource room, etc.).

#### Complaints

Student, parent or staff complaints of noncompliance with the provisions of Section 504 will be reported to the Superintendent or designee and processed in accordance with established District complaint procedures.

#### Grievance Procedure

##### I. Informal Level

- A. Any student, parent/guardian, staff member or applicant to a program who feels that he/she has been discriminated against on the basis of race, color, national origin, religion, sex, sexual preference or disability shall contact the designated Compliance Coordinator within 30 days of the alleged occurrence to discuss the nature of the complaint.

The Compliance Coordinator shall maintain a written record which shall contain the following:

1. Full name and address of Complainant
2. Full name and position of person(s) who allegedly discriminated against the Complainant
3. A concise statement of the facts constituting the alleged discrimination
4. Dates of the alleged discrimination

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### Section 504: Civil and Legal Rights and Responsibilities

#### Grievance Procedure (continued)

##### I. Informal Level (continued)

- B. At the time the alleged discrimination complaint is filed, the Compliance Coordinator will direct the Complainant to the appropriate Principal or Administrator who will investigate the complaint and send a written report to the Coordinator. The Coordinator shall then meet informally with the Complainant and the individuals against whom the complaint was lodged, and shall provide confidential counseling where advisable and shall finally seek an informal agreement between the parties concerned. Every attempt shall be made to seek a solution and resolve the alleged discrimination complaint at this level.

This process shall take no longer than ten (10) working days from the time the complaint was received.

##### II. Formal Level

If the Complainant is not satisfied with these initial informal procedures and within twenty (20) work days from the date of the original discussion with the Coordinator of Section 504, more formal procedures may be initiated by the Complainant to further explore and resolve the alleged discrimination complaint at this level.

- A. The Complainant shall present the written alleged discrimination complaint to the Superintendent or designee who may resolve the complaint alone or with the appropriate principal/administrator.
- B. The Superintendent of Schools or his/her designee shall inform all parties of the date, time and place of the grievance hearing and of their right to present witnesses or representatives, if desired. The designee shall provide assistance to the Complainant in understanding the grievance procedure process. A written record of the hearing shall be kept.

The Superintendent of Schools or his/her designee shall hear and fully review the case within (15) days of receipt of the discrimination complaint. A written decision shall be sent to the Complainant within (5) days of the hearing.

If the complainant is not satisfied with the Superintendent of Schools or his/her designee's recommendation he/she may submit a written appeal to the Avon Board of Education within fifteen (15) days of the Superintendent of Schools or his/her designee's decision.

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#### **Grievance Procedure** (continued)

#### **II. Formal Level** (continued)

With at least five (5) days notice given prior to the hearing, the Avon Board of Education shall inform all parties involved of the date, time and place of the hearing and of the right to present witnesses and to have legal counsel or other representation, if desired. The Avon Board of Education shall hear all aspects of the appeal and shall reach a decision within twenty (20) days of receipt of the written appeal. The decision shall be presented in writing to the complainant at its next regularly scheduled meeting.

The time limits as noted throughout may be extended by mutual agreement in writing.

Any person may also file a complaint of illegal discrimination with the Office of Civil Rights, John W. McCormick Post Office and Court House Building, 2nd floor, Post Office Square, Boston, MA 02109 or O.C.R. Washington, D.C. at the same time he/she files a grievance, during or after use of the grievance process, or without using the grievance process at all. If a complaint is filed with the Office of Civil Rights, it must be filed in writing no later than 180 days after the occurrence of the possible discrimination.

## **Parent/Student Rights**

### **In Identification, Evaluation and Placement, Under Section 504 of the Rehabilitation Act of 1973**

The Rehabilitation Act of 1973, commonly referred to as Section 504, is a nondiscrimination statute enacted by the United States Congress. The purpose of the Act is to prohibit discrimination and to assure that disabled students have educational opportunities and benefits equal to those provided to non-disabled students.

An eligible student under Section 504 is a student who (a) has a physical or mental impairment which substantially limits one or more major life activities, (b) has a record of having or (c) is regarded as having, a physical or mental impairment which substantially limits a major life activity such as learning, self-care, walking, seeing, hearing, speaking, breathing, working, and performing manual tasks.

Many students will be eligible for educational services under both Section 504 and the Individuals with Disabilities Education Act (IDEA) but entitlement to services under the IDEA or other statutes is not required to receive services under Section 504.

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### Section 504: Civil, Legal Rights and Responsibility

#### Parent/Student Rights (continued)

#### In Identification, Evaluation and Placement, Under Section 504 of the Rehabilitation Act of 1973 (continued)

- I. The following is a description of the rights and options granted by federal law to students with disabilities (handicaps). The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions. You have the right to:
  1. Have your child take part in, and receive benefits from, public education programs without discrimination because of his/her disabling condition.
  2. Have the school district advise you of your rights and options under federal law.
  3. Receive notice with respect to identification, evaluation, or placement of your child.
  4. Have your child receive a free 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 accommodations to allow your child an equal opportunity to participate in school and school-related activities.
  5. Have your child educated in facilities and receive services comparable to those provided to non-disabled students.
  6. Have your child receive special education or related services and/or general education intervention/modifications.
  7. Have evaluation, educational, and placement decisions made based upon a variety of information sources, and by persons who know the student, evaluation data, and placement options.
  8. Have transportation provided to and from an alternative placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the district.
  9. Have your child given an equal opportunity to participate in non-academic and extracurricular activities offered by the district.
  10. Examine records relating to your child's educational program, including records relations to identification, evaluation and placement.
  11. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records. State law provides that you are entitled to receive one free copy of your child's records.

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#### Parent/Student Rights (continued)

#### In Identification, Evaluation and Placement, Under Section 504 of the Rehabilitation Act of 1973 (continued)

12. A response from the school district to reasonable requests for explanations and interpretations of your child's records.
  13. 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 for amendment, it shall notify you within a reasonable time, and advise you of the right to a hearing. This hearing will be according to the Family Education Rights and Privacy Act (FERPA).
  14. Request an impartial hearing, or appeal related to decisions or actions regarding your child's identification, evaluation, educational program, or placement. The costs for the hearing are borne by the local school district.  
  
You and the student may take part in the hearing and have an attorney represent you at your expense. If you ultimately prevail on the issues raised at the hearing, you may be entitled to payment of all or part of your attorney's fees.
  15. Initiate the hearing process by filing a written request for a hearing with the Superintendent of Schools or designee, indicating the specific areas of disagreement and the remedy that you are requesting. Any such requests should be filed within 45 days of the action or decision with which you disagree.
  16. File a court action if you are dissatisfied with the hearing decision.
  17. File a local grievance to resolve complaints of discrimination other than those involving the identification, evaluation or placement of a student.
- II. The person in this District who is responsible for assuring that the District complies with Section 504 and the Americans with Disabilities Act (ADA) is the Superintendent of Schools or his/her designee.

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### Section 504: Civil, Legal Rights and Responsibility

#### Parent/Student Rights (continued)

#### In Identification, Evaluation and Placement, Under Section 504 of the Rehabilitation Act of 1973 (continued)

- III. Organizations and agencies which you may contact to obtain assistance with evaluation/placement questions include, but are not limited to, the following:
- A. **Federal**  
Office for Civil Rights  
Boston Regional Office  
Telephone: (617) 289-0111  
e-mail: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)  
Fax: (617) 289-0150
  - B. **State**  
Department of Education  
Bureau of Special Education  
and Pupil Services  
Telephone: (860) 807-2025
  - C. **Low-Cost Legal Services**  
Legal Aid Society of  
New London County, Inc.  
Telephone: (860) 447-0323
  - D. **Filing Complaints Electronically:**  
<http://www.ed.gov/about/offices/list/ocr/complaintintro.html>
- IV. You also may file a complaint with the Office of Civil Rights, U.S. Department of Education, 8<sup>th</sup> Floor, 5 Post Office Square, Boston, MA 02109-3921. Any such complaints must be filed within 180 days of the possible act of discrimination.

#### Impartial Hearing Requirement

The District shall conduct when requested an impartial hearing for parents or guardians of students with disabilities under Section 504 concerning the identification, evaluation, or education placement of a student with a disability. The Connecticut State Department of Education does not conduct these hearings.

The hearing officer selected by the District to conduct these hearings may not be a District employee involved in the student's care or education; have a personal or professional interest in the child; be an Avon Board of Education member; or be involved in the formulation of state policy affecting students with disabilities.

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### Section 504: Civil, Legal Rights and Responsibility

#### Impartial Hearing Requirement (continued)

The hearing officer may only review issues related to the identification, evaluation or placement of a child with a disability. The Section 504 hearing officer does not have jurisdiction to hear claims alleging discrimination, harassment or retaliation unless such a claim is directly related to the District's failure to provide the student with a free, appropriate public education (FAPE). The Section 504 hearing officer may not hear discrimination, harassment or retaliation claims which are not a part of an issue related to identification, evaluation or placement of a child with a disability.

Parents/guardians utilizing these Section 504 procedural safeguards are not legally entitled to state mediation, state advisory opinion, state hearing or complaint resolutions. These procedures, under IDEA, are not part of Section 504 procedures.

To ensure fundamental fairness, the child's current agreed-upon placement shall be maintained while a Section 504 hearing is pending.

The Section 504 hearing is not an IDEA hearing and has a narrower due process focus. Minimum necessary procedures for Section 504 include: notice, a right to inspect records, an impartial hearing with a right to representation by counsel and a review procedure. There is no requirement that cross-examinations be allowed or that a court reporter be provided. (See Form "Section 504 Parental Rights")

#### Provisions of Services

Merely being classified under Section 504 does not mean the child should be taught by other than the regular subject area endorsed classroom teacher or unless:

- The child's written plan must describe the circumstances that prevent the child from receiving instruction from the regular certified teacher.
- The child requires services in a setting other than the regular education classroom.