Section 504 Procedures Manual



White Plains City School District

Revised August 2016

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August 2016

# Dear White Plains Community:

The following pages contain information about Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and the White Plains City School District’s Section 504 procedures.

The procedures outlined in the manual and the corresponding forms for use by our schools reflect information from the State Education Department, the Office for Civil Rights, legal publications and input from our attorneys. Although I have made every effort to simplify and streamline the paperwork, there are legal obligations that require these procedures and forms.

When a student is found to meet the criteria for protection under Section 504 and a 504 Accommodation Plan (“504 Plan”) is developed, it is essential that all staff members working with the student be made aware of the accommodations and understand their obligations to implement the accommodations. Implementation of Section 504 accommodations is not a choice; staff members have a legal obligation to implement the accommodations set forth in a 504 Plan.

As the Section 504 Coordinator for the White Plains City School District, I serve as the 504 Compliance Officer for students and am available to hear grievances brought by parents. This plan will be reviewed and updated, as needed as ongoing rulings from the Office for Civil Rights and the courts provide clarification and guidance.

Please feel free to contact me at 914-422-2037 if you have any questions or require any additional information.

Sincerely,

Susan LeCointe Dorsett

Director Special Education Department

Section 504 Coordinator

# Non-Discrimination Policy

In compliance with the Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, Title IX of the 1972 Education Amendments, and part 200 of the Commissioner’s Regulations, the White Plains City School District does not discriminate on the basis of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, religion, genetic information or marital status in its educational programs, activities, or employee practices. This policy of non-discrimination includes recruitment and employment of personnel, as well as access by students to educational programs, course offerings, and school-wide activities**.**

To ensure nondiscriminatory treatment toward qualified individuals with disabilities in all employment practices and related activities, job descriptions for all District positions shall include the essential functions of the position with or without reasonable accommodation. The District will also establish grievance procedures that allow for the prompt and equitable resolution of any alleged discrimination. Appendix B to this document provides the District’s Section 504 grievance procedure.

# Introduction

Section 504 of the Rehabilitation Act of 1973 (“Section 504”) prohibits discrimination against handicapped individuals in programs or activities receiving federal financial assistance. This means that individuals with disabilities in such programs or activities may not be excluded from participation in, be denied the benefits of, or be subjected to discrimination. Under Section 504, an individual with a disability is defined as anyone who:

1. has a mental or physical impairment which substantially limits one or more major life activities; or
2. has a record of such impairment; or
3. is regarded as having such impairment.

The Board of Education of the White Plains City School District has established policy that prohibits discrimination of individuals with disabilities, including students and staff. The District has established Section 504 Committees in each of its schools and, in accordance with the requirements of Section 504, identified a Section 504 Compliance Officer. This manual outlines the District’s procedures with respect to students and provides guidelines for school personnel to ensure full protection of eligible students.

This Procedures Manual is designed to serve as a resource for implementing and monitoring of Section 504 in relation to students in the White Plains City School District. It is also intended to clarify distinctions from the Individuals with Disabilities Education Act (IDEA). The manual describes the policies, procedures and safeguards related to Section 504, while providing each building committee with guidance on its consistent implementation.

If there are any questions or concerns about any information included in this manual, please contact the Director of Special Education who is responsible for district-wide coordination of Section 504 in relation to students.

In the White Plains City School District, Section 504 is administered at the building level, with coordination from the central office. Each school building has a Section 504 Committee whose responsibilities include:

1. determining student eligibility
2. developing 504 Plans
3. conducting periodic reviews/reevaluations

#

# I. Referral and Initial Eligibility Determination

Any member of the school community, a parent/guardian, teacher, administrator or other agency/community member may make a referral if he/she suspects that a student may have a disability as defined under Section 504. Alternatively, a student may make a self-referral. Any such referral must be made in writing.

**Special Note**

A referral for a Section 504 disability should only be made if there is reason to suspect that the child meets all three of the essential elements of the eligibility definition for a Section 504 disability. No student should be classified as Section 504 solely as a means to receive extra help in class or on a test. Remember, the law states that a student must have an impairment that “substantially” limits a major life activity.

It is desirable that any student experiencing difficulties in school should be presented first to the designated Case Conference Team, Response to Intervention Team or Problem Solving Team, in the student’s building. This team is a group of staff members who review the student’s records as well as anecdotal and observational information collected from teachers.

In most cases, unlike the full psycho-educational evaluation under the IDEA, the Section 504 Committee’s initial evaluation for eligibility is based on the needs of the individual student and a formal review of available data. Such data may include but is not limited to grades, anecdotal reports, test scores, records of school based teams, consultation with staff/outside agencies, and parentally provided information. If the Section 504 Committee determines that available information is insufficient to reasonably determine whether the child has a physical or mental impairment that substantially limits one or more major life activities, the Section 504 Committee may refer the child to the Committee on Special Education or the Section 504 Committee may seek parental consent for relevant testing, assessment(s) or evaluation(s).

In any event, the process following referral will parallel the IDEA timeline, suggesting that 60 calendar days be used as a guide for a reasonable amount of time to complete the referral process, although the timelines applicable to the CSE under the IDEA are not binding on the Section 504 Committee.

Any new student with a 504 Plan moving into the district should have his/her plan and his/her eligibility immediately reviewed, while any necessary interim services are provided.

The parent/guardian shall have the opportunity to examine all relevant records for the student and to participate in the eligibility determination.

 **II. Committee Structure**

The basic organizational structure for implementing Section 504 within the District is as follows:

* Each school building is responsible for establishing and maintaining a Section 504 Committee

* The composition of each Section 504 Committee must include:
* a person knowledgeable about the child
* a person knowledgeable about evaluation data
* a person knowledgeable about intervention options
* as needed, a chairperson from central office or his/her designee for all cases of either initial evaluation or, upon review/reevaluation, exit from Section 504 eligibility
* a building coordinator
* The designated “building coordinator” of the Section 504 Committee must be the principal or the principal’s designee (e.g., assistant principal or learning facilitator). The Building 504 Coordinator and/or the chairperson is responsible for: (a) convening and, except in cases where the chairperson is from the central office, conducting the meetings, (b) managing the flow of paperwork; (c) assuring communication with the parent/guardian; (d) ensuring that appropriate building staff receive copies of the 504 Plan or its pertinent part(s), and (e) ensuring that critical information and paperwork are transferred as the student transitions from one building to another.
* The Section 504 Committee must meet, as appropriate, to determine student eligibility, develop the 504 Plan, and conduct reviews/reevaluations of eligibility and the Plan.
* The District’s 504 compliance officer for student matters is the Director of Special Education. All critical student issues, including the need for fiscal resources and the grievance procedure, must be referred to the office of Special Education.

#

# III. 504 Plans

The Section 504 Committee develops a 504 Plan that contains the following information:

* The student’s identified disability
* The major life activity that is substantially limited
* The specific accommodation(s) and/or services that are necessary in school, based on the child’s identified disability
* The date for the review/reevaluation
* Names of those who attended the Section 504 Committee meeting at which the 504 Plan was developed

Parents/guardians must be invited to participate in all Section 504 Committee meetings, including the development of the 504 Plan. They must receive the Parent/Student Rights notice (Appendix A). Meeting notifications will be sent in the parent’s native language. Translators will be available at the meeting, should the parent request their assistance.

All appropriate staff in the school building responsible for implementing the 504 Plan should have access to its pertinent contents.

If a student is deemed ineligible for a 504 Plan after a meeting, the basis for the Section 504 Committee’s decision must be recorded in the comments section of the form used for a 504 plan. A copy of this ineligibility statement must be sent to the student and/or his/her parent/guardian as well as one maintained in the building confidential file.

# IV. Accommodations and Services

# Any accommodation or related service included in a 504 Plan should be both necessary and reasonable in relation to the student’s identified disability. The specific nature and scope of the accommodation(s) and/or related services(s) will depend on the nature of the disability of the individual student. The need for extensive services warrants consideration for possible eligibility under the IDEA.

**Special Note:**

A student eligible for a 504 Plan cannot be exempted from any State-mandated test. Furthermore, certain State and other standardized tests may limit the specific types of modifications allowed.

504 Plans may be submitted by parents, for consideration, to the SAT or ACT. The decision to grant accommodations for those assessments resides with the testing agency, not the White Plains City School District.

# V. Implementation of 504 Plan

# Once the Section 504 Committee has developed the 504 Plan and the parent has received a copy of the Plan along with the Parent/Student Rights (Appendix A), the Building 504 Coordinator is responsible to ensure its implementation.

It is essential that the most recent copy of the 504 Plan be part of the student’s record as he/she transitions from one school building to another (either as a result of “moving up” in grade level, as a result of transferring from one school building to another or as a result of a move to another district). The Building 504 Coordinator should ensure that the “receiving” school is aware that a 504 Plan exists. Whenever possible, there should be communication between the “sending” and “receiving” school staff.

When the transition is the result of moving up in grade, if a periodic review of the 504 Plan is scheduled in the spring semester, the appropriate representative of the receiving school should be invited to the student’s Section 504 Committee meeting.

**VI. Review of Ongoing 504 Plan**

The Section 504 Committee must document that the child meets all three essential elements of eligibility according to current legal standards not only initially but upon the periodic review/reevaluations. Moreover, the Committee must periodically determine whether the 504 Plan is reasonably appropriate.

The parent and other interested individuals are welcome to provide any substantiating data, including medical information, for the Section 504 Committee’s consideration for the initial evaluation and periodic reviews, including reevaluation. In any event, the District retains the right and responsibility to determine the student’s initial and continuing eligibility.

Whenever the student no longer meets the criteria for Section 504 eligibility according to current legal standards, discontinuing the 504 Plan is appropriate. In such cases, a Section 504 Committee meeting will be held; parents will be invited; written documentation of the exiting decision will be shared with the parents; along with a notice of Parent/Student Rights (Appendix A); and a copy of both documents should be kept on file. The Section 504 Committee will be available to meet with the parents to review the 504 Plan in the student’s senior year; however, Section 504, unlike the IDEA, does not require a transition plan. Moreover, the determination of the student’s eligibility under Section 504 at the postsecondary level, including any additional evaluation or documentation, is not part of the District’s obligation.

**Special Note**

Unlike the IDEA, Section 504 has no provision for an independent educational evaluation

(IEE) at District expense.

# Glossary of Terms

The following terms associated with Section 504 are critical to the understanding of this law. It is important to note that these definitions, in some cases, differ from those under the Individuals with Disabilities Education Act (IDEA).

An **individual with a disability** includes a person who:

* Has a physical or mental impairment that substantially limits one or more of such person’s major life activities
* Has a record of such an impairment or
* Has been regarded as having such an impairment.

The first prong (i.e., bulleted item) of this definition is required for eligibility for a 504 Plan; the other two prongs are protections against exclusions. Moreover, children who meet the criteria for the first prong but fit into overlapping coverage of the IDEA receive an individualized education program (IEP) rather than a 504 Plan.

A **physical or mental impairment** includes one or more of the following:

* Physiological disorder or condition
* Cosmetic disfigurement
* Anatomical loss affecting one or more of the following body systems, including but not limited to, musculoskeletal, respiratory, hemic, and lymphatic.
* Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disability.

“**Major life activities**” include functions such as:

|  |  |  |
| --- | --- | --- |
| ▪ Performing manual tasks▪ Walking▪ Seeing▪ Hearing▪ Breathing▪ Learning | ▪ Caring for one’s self▪ Speaking▪ Working▪ Eating▪ Sleeping▪ Standing | ▪ Lifting ▪ Bending▪ Reading▪ Concentrating▪ Thinking ▪ Communicating |

**“Substantially,”** in the context of the eligibility definition, refers to a significant and long-standing restriction, A school district may not consider any “mitigating measures” when determining whether there is a substantial limitation, except the ameliorative effects of eye glasses and contact lenses can be considered.

**504 Plan** refers to a document that identifies the individual student’s disability, the accommodations and/or services needed in school, and a date for review/reevaluation.

**Reasonable** **Accommodation** is 1) Will help mitigate the disability. 2) The accommodations have to be directly linked to the identified disability. 3) Will allow the disabled student access to curriculum, activities and school programs.

**Section 504 Committee** is a group of individuals at the building level who are knowledgeable about the student, evaluation data, and interventions (i.e., accommodations and/or services) and who are responsible for determining whether the student is eligible under Section 504 and, if so, for developing his/her 504 Plan. (The corresponding group under the IDEA is the Committee on Special Education (CSE)).

**APPENDIX A**

**White Plains City School District**

**Section 504 Committee**

**Section 504 of the Rehabilitation Act of 1973**

**Parent/Student Rights**

**Please keep this explanation for future reference**

Below is a description of the rights granted by federal law to students with disabilities. 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 the following:

* Right to have your child with disabilities take part in and receive benefits from public education programs without discrimination because of his/her disability.
* Right to receive all information in the parent’s or guardian’s native language or primary other mode of communication.
* Right to have your child receive a free, appropriate public education to the maximum extent appropriate.
* Right to have your child have equal opportunity to participate in school programs and extracurricular activities sponsored by the school.
* Right to receive notice in a reasonable time before a district identifies, evaluates or changes your child’s placement in order to participate.
* Right to inspect and review all of your child’s educational records, including the right to obtain copies of educational records at a reasonable cost unless the cost would deny you access to the records, and the right to amend the record if you believe information contained in the record is inaccurate or misleading. If the school district refuses to amend the record, you have the right to request a hearing.
* Right to have educational evaluation and placement decisions made based on information from a variety of sources and by persons who know the needs of the student, meaning of evaluation data and placement options.
* Right to periodic reevaluation and evaluation before any significant changes in accommodations.
* If you disagree with the Section 504 Committee’s determinations or recommendations the school district has established a Grievance procedure (see attached form). The final step in this Grievance Procedures is an appeal to the Board of Education. The Board of Education will appoint a hearing officer, who shall schedule a Section 504 Due Process Hearing and who shall issue a written recommendation within thirty (30) calendar days of the conclusion of the hearing. Following receipt of the hearing officer’s recommendation, the Board of Education will issue a final decision. You will be an active participant in the hearing process. You have the right to representation by counsel in the hearing process. You have the right to appeal the Board of Education’s decision.
* If requested, you will be provided with information on obtaining free or low-cost legal and other relevant services at no expense to the school district.

Susan LeCointe Dorsett, Section 504 Coordinator

White Plains Public Schools

5 Homeside Lane

White Plains, NY 10605

914-422-2037

Enclosure: Grievance Procedure

**APPENDIX A**

# White Plains City School District

# Section 504 Committee

**Derechos de los Padres/Estudiantes segun la Seccion 504**

**Del Acto de Rehabilitacion de 1973**

**Por favor mantenga estas informaciones para futures referencias**

Una descripcion, mas abajo, de los derechos concedido por la ley federal a los estudiantes con incpapcidades. La intencion de la ley es mantenerle informado de todo lo concerniente a las decisions sobre su nino e informarle sobre sus derechos en el caso de que usted no este de acuerdo con alguna de las decisions.

Usted tiene el derecho de lo siguiente:

* El derecho de que su nino con incapacidades forme parte y reciba los beneficios de los programas de educacion publica sin discriminacion debido a las incapacidades de el/ella.
* El derecho de recibir toda informacion en la lengua native o modo primario de communicacion del padre/tutor.
* El derecho de que su nino reciba gratis una educacion publica apropiada, la cual incluye el derecho de que su nino sea educado con estudiates sin incapacidades al maximo apropiado.
* El derecho de que su nino tenga la oportunidada de participacion de una manera equitativa en los programas escolares y actividades extracurriculares garantizadas por la escuela.
* El derecho de que su nino tenga la teimpo razonable antes de que el distrito identifique, evalue o cambia la asignacion de su rano, en orden de participar.
* El derecho de inspeccionar y reviser todo el expediente educacional de su nino, incluyendo el derecho de obtener copias del expediente educacional a un costo razonable, a menos que debido al costo no le sea possible el acceso del expediente, y el derecho de enmendar el expediente si usted cree que el expediente contiene informaciones desactualizadas o inadecuadas. Si el distrito escolar de rehusa a enmendar el expediente, usted tiene el derecho de pedir una audiencia.
* El derecho de tener una evaluacion educacional y tomar la decision de asignacion en base a las informaciones de varias fuentes y por personas que conocen las incapacidades del estudiante, opciones de asignaciones y significado de los datos de la evaluacion.
* El derecho de evaluar y reevaluar periodicamente antes de un cambio significativo en los servicios.
* El derecho de una audiencia imparcial si usted esta en desacuerdo con la accion propuesta por el distrito escolar. Usted debe pedir una Audiencia Debido al Proceso de la Seccion 504 dentro de los trenta (30) dias calendario del aviso. Usted sera un participante activo. Usted tiene el derecho de ser representado por un asesor en el proceso de la audiencia imparcial. Usted tiene el derecho de apelar la decision official de la audiencia imparcial.

Susan LeCointe Dorsett

Section 504 Compliance Officer

White Plains Public Schools

5 Homeside Lane

White Plains, New York 10605

914-422-2037

 **APPENDIX B**

**Grievance Procedure**

The District has established the following grievance procedure for parents and any other individuals who claim a violation of Section 504:

If an individual alleges a violation of Section 504 (*e.g.,* when a parent seeks to dispute the eligibility determination or the 504 Plan for his/her child), the following multi-step process applies:

Step 1

The individual has the opportunity to discuss the matter informally with the representatives of the building, including the principal, where the alleged violation arose for possible mutual resolution. For example, in an eligibility dispute, the parent/guardian may speak with the Building 504 Coordinator and, if appropriate, the entire building committee.

Step 2

If not satisfied with the outcome based on this informal meeting, within 30 calendar days thereafter, the parent/guardian may contact the District’s Section 504 Coordinator (who, for student issues, is the Director of Special Education) in writing at the address below.

 Director of Special Education

Section 504 Coordinator

 White Plains City School District

5 Homeside Lane

 White Plains, NY 10605

The complainant will receive a written answer from the District’s Section 504 Coordinator within 30 calendar days.

Step 3

If the complainant is not satisfied with the Section 504 Coordinator’s written answer, she/he may appeal to the Board of Education within 15 days of receipt of that answer. The Board will appoint a hearing officer, who shall schedule a hearing for a mutually convenient time, and issue a written recommendation within 30 days of the conclusion of the hearing for a final Board decision.

NOTE: *At any time, a parent/guardian or other individual has the option to file a complaint with the Office for Civil Rights (OCR). The complaint must be filed within 180 days of the alleged discrimination.*