

## **Policy JB-R-2: Regulation for Implementing Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and Section 504 Grievance Procedures**

The following regulation is developed for the implementation of School Board Policy JB – Equal Educational Opportunity and Nondiscrimination. This regulation is designed to be consistent with the general purpose and principles outlined in Policy JB, as well as consistent with federal and state statutes, and local ordinances.

Denver Public Schools shall provide a free appropriate public education (“FAPE”) as defined by Section 504 to all children with disabilities within the District as required under Section 504 and all relevant implementing regulations. For any student who needs or is believed to need a FAPE as defined in Section 504, the District shall follow the procedures outlined in this regulation and adopt plans pursuant to Section 504 (“504 Plans”).

### **Definitions**

1. “Student Compliance Officer” means the Executive Director of Student Services or his or her designee who oversees compliance with Section 504.
2. “Aggrieved Individual” shall mean a student of the District or his or her parent or guardian who is directly affected by and/or is witness to an alleged violation of Board policies regarding the identification and provision of a FAPE to students identified with disabilities pursuant to Section 504.

### **Student Compliance Officer’s Duties**

The Student Compliance Officer or his/her school-based designee shall be responsible for receiving requests for eligibility determinations pursuant to Section 504 and for conducting an investigation and coordinating all grievance procedures and processes for any alleged violation of federal or state statute or Board policy requiring the provision of a FAPE to qualifying students with disabilities pursuant to Section 504.

The District’s Student Compliance Officer is:

Executive Director  
Student Services  
Denver Public Schools  
1860 Lincoln St.  
Denver, CO 80203  
Telephone: (720) 423-3769

### **Student 504 Plans**

The ADA and Section 504 define a disability as: (i) a physical or mental impairment which substantially limits one or more major life activities; (ii) a record of such an impairment; or (iii) being regarded as having such an impairment.

In accordance with applicable law, Denver Public Schools shall provide a FAPE to students with qualifying disabilities pursuant to Section 504. Students and/or parents who believe that a student may require services pursuant to a 504 Plan are encouraged to contact the Student Compliance Officer and/or his or her school-based designee to request a meeting to discuss the student's potential eligibility for a 504 Plan. Likewise, all District personnel who believe that a student may require services pursuant to a 504 Plan may contact the Student Compliance Officer and/or his or her school-based designee to request a meeting to discuss the student's potential eligibility for a 504 Plan.

The Student Compliance Officer shall convene a team ("the 504 Team") of persons knowledgeable about the student, the student's school history, the student's individual needs, the meaning of any evaluation data, and the options for services. The Student Compliance Officer shall also make reasonable efforts to secure the participation of the student's parent or guardian on the student's 504 Team.

The student's 504 Team will consider the referral for eligibility of a 504 Plan and conclude whether any evaluations are necessary to determine the student's eligibility for a 504 Plan. The District may request an evaluation in order to determine eligibility for a 504 Plan. However, if the District requires an evaluation in order to determine eligibility for a 504 Plan, the District will provide the evaluation its own expense.

For a student who has been identified with a disability pursuant to Section 504, the student's 504 Team shall be responsible for determining what services are needed. In making such determinations, the student's 504 Team shall consider all available relevant information, and the student's parent or guardian shall be invited to participate in 504 Team meetings where services for the student will be determined. In determining the student's eligibility and in planning for the provision of appropriate educational services, the student's 504 Team shall complete form JB-E: "Section 504 Plan."

The 504 Team may also determine that, although the student is a student with a disability pursuant to Section 504, no services are appropriate. In that event, the 504 Team shall document that the student is a student with a disability pursuant to Section 504, but that the student does not require services in order to access the educational environment.

## **Review of Student Progress**

A student's 504 Team shall monitor the student's progress and the effectiveness of the student's 504 Plan annually where practicable to determine whether the prescribed services are appropriate and necessary, and to ensure that the student's needs are being met as adequately as the needs of his or her nondisabled peers. The student's parent or guardian shall be notified in writing of any District decision concerning the identification, evaluation, or placement of a student with a disability pursuant to Section 504.

## **Grievance Procedure**

For allegations under Section 504 and as otherwise required by law, Aggrieved Individuals who are challenging the identification, evaluation, educational placement or provision of services to students who need or are believed to need appropriate educational services under Section 504 may submit a complaint to the District's Student Compliance Officer. Complaints may be made orally or in writing, but Aggrieved Individuals are encouraged to use form AC-E-2: "Discrimination/Harassment Complaint Form." All reports received by teachers, counselors, principals, or other District employees shall be promptly forwarded to the Student Compliance Officer.

All complaints shall include a detailed description of the basis for the complaint and the names of the parties involved, including any witnesses. The complaint must be made within 30 days of receipt of the 504 Team decision with which the student and/or his or her parent or guardian disagree.

The Student Compliance Officer shall appoint a designee to investigate the matter and communicate with the Aggrieved Individual about his/her formal and informal rights and options under this procedure.

Please note that for complaints of discrimination based on disability, the procedures outlined in **JB-R1** shall apply. That process shall not prohibit the entitlement of an Aggrieved Individual to seek relief through the grievance process outlined herein related to identification, evaluation or educational placement of students.

## **Informal Mediation Procedures**

If the Student Compliance Officer receives a request for informal mediation, the Student Compliance Officer will appoint a member of District staff who has been trained regarding Section 504 to facilitate mediation discussions. Any agreement reached through informal mediation will be provided to the parties in writing. This process does

not affect the Aggrieved Individual's right to initiate other District Section 504 resolution procedures and/or initiate a formal complaint with the Office for Civil Rights.

### **Formal Hearing Procedures**

An impartial hearing process will be available to resolve disputes related to the identification, evaluation, placement, and/or provision of services for a student entitled to protections under Section 504 of the Rehabilitation Act of 1973. Either the District or an Aggrieved Individual may initiate a hearing. The Aggrieved Individual shall request a hearing using the complaint procedure identified above.

The Superintendent or designee shall appoint an impartial hearing officer. The student's parent or guardian shall be notified in writing of the hearing at least 5 school days prior to the date set for the hearing. The notice shall be in the parent or guardian's native language and shall contain:

1. A statement of the time and place of the hearing;
2. A statement of the parent or guardian's right to be represented by counsel; and
3. A statement of the parent or guardian's right to examine relevant records.

The hearing shall be informal and the student and his or her parent or guardian may appear at the hearing and shall be entitled to present testimony and other evidence. Formal rules of evidence shall not apply. The Student Compliance Officer or designee may represent the District at the hearing and shall likewise be entitled to present testimony and other evidence. The hearing shall be closed to the public.

The hearing officer shall deliver a written decision based upon evidence presented at the hearing to the Aggrieved Individual and the Student Compliance Officer within 10 school days of completion of the hearing. The hearing officer's decision shall include a summary of the evidence and the reasons for the decision.

Either the Aggrieved Individual or the District may appeal the hearing officer's decision by submitting a request for review to the Superintendent or designee within 10 calendar days following receipt of the hearing officer's decision. The request must be in writing and state with specificity the appellant's disagreements with the hearing officer's decision. The Superintendent or designee will review the record of the hearing and may request additional written information or oral testimony. The Superintendent or designee shall issue a written decision within 15 school days of receipt of the appeal. The Superintendent or designee's decision shall be final.

Nothing contained herein shall be interpreted to confer upon any person the right to a hearing independent of a Board policy, administrative procedure, statute, rule, regulation, or agreement expressly conferring such right.

### **Outside Agencies**

Complaints regarding violations of Section 504/ADA and requests for an impartial due process hearing may be filed directly with the Office for Civil Rights, U.S. Department of Education, 1244 North Speer Blvd., Suite 310, Denver, CO 80204.

#### Legal Ref.:

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794  
Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.  
28 C.F.R. § 35.101 et seq.

#### Cross Ref.:

JB – Equal Educational Opportunity and Nondiscrimination