

## The School Board of Pasco County Bylaws & Policies

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

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

"An individual with a disability" means a person who has, had a record of, or is regarded as having, a physical or mental impairment that substantially limits one or more major life activities.

An impairment as used in Section 504 may include any disability, long-term illness, or various disorder that "substantially" reduces or lessens a student's ability to access learning in the educational setting because of a learning-, behavior- or health-related condition to include any physiological disorder or condition, cosmetic disfigurement or impairment related to immune system, normal cell growth, digestive, bowel, bladder, respiratory, circulatory, endocrine and reproductive, neurological and brain functions, mental or psychological disorder, including emotional, mental illness, and specific learning disabilities.

Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

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

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

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

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

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

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

## **District Coordinator**

The District Coordinator for Section 504/ADA can be reached at:

Address: 7227 Land O'Lakes Boulevard  
Land O'Lakes, Florida 34638

Phone: 813-794-2000; 352-524-2000; 727-774-2000

The District Coordinator is responsible for coordinating the District's efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the ADA. A copy of Section 504 and the ADA, including copies of their implementing regulations, may be obtained from the District Coordinator.

The District Coordinator will oversee the investigation of any complaints of discrimination based on disability, which may be filed pursuant to the Board's adopted internal complaint procedure, and will attempt to resolve such complaints.

The Board will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA. The Board will further establish and implement a system of procedural safeguards in accordance with Section 504, including the right to an impartial due process hearing.

## **Training**

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

The Board will provide in-service training and consultation to staff responsible for the education of persons with disabilities, as necessary and appropriate.

## **Reasonable Accommodation**

This determination will be made by a District Compliance Officer after considering the resources of the District, the impact on the program, service, or activity, and the comparable efficacy of the various auxiliary aids and services. Before making this determination, the District Compliance Officer may consult with the Board Attorney. The District Compliance Officer will notify, in writing, the person requesting the auxiliary aids/services of his determination, including the reasons for his conclusion.

## **Facilities**

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

Administrators are responsible for verifying 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. Additionally, administrators are directed to verify that proper signage is present at all inaccessible entrances to their facilities, directing users to an accessible entrance or to a location at which they can obtain information about accessible facilities. The international symbol for accessibility should be used at each accessible entrance to a facility.

The District is committed to operating its programs and activities so that they are readily accessible to person with disabilities. This includes, but is not limited to, providing accommodations to parents with disabilities who desire access to their child's educational program or meetings pertinent thereto. Programs and activities will be designed and scheduled so that the location and nature of the facility or area will not deny a student with a disability the opportunity to participate on the same basis as students without disabilities. The District will meet its obligations through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, alteration of existing facilities and/or construction of new facilities, or any other method that results in making its programs and activities accessible to persons with disabilities. In choosing among available methods for meeting its obligations, the District will give priority to those methods that serve persons with disabilities in the most integrated setting appropriate.

For facilities constructed or altered after June 3, 1977, the District will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the District is committed to operating its programs and activities so that they are readily accessible to persons with disabilities. This includes, but is not limited to, providing accommodations to parents with disabilities who desire access to their child's educational program or meetings pertinent thereto. Programs and activities will be designed and scheduled so that the location and nature of the facility or area will not deny a student with a disability the opportunity to participate on the same basis as students without disabilities.

## **Mobility Devices**

The Board shall permit the use of power-driven mobility devices by individuals with mobility disabilities, unless it can be demonstrated that the class of power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the Board has adopted pursuant to Section 35.130(h) of Section 504/ADA.

A public entity shall not ask an individual using a wheelchair or other power-driven mobility device questions about the nature and extent of the individual's disability. A public entity may ask a person using a other power-driven mobility device to provide a credible assurance that the mobility device is required because of the person's disability.

## **Education**

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

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

Such education will be provided to these individuals with persons who are not disabled to the maximum extent appropriate. Generally, the District will place a person with a disability in the regular educational environment unless it is demonstrated that the education of the person in the regular environment even with the use of supplementary aids and services cannot be achieved satisfactorily. If the District places a person in a setting other than the regular educational environment, it shall take into account the proximity of the alternate setting to the person's home.

The District will not discriminate against otherwise qualified students with disabilities (i.e., students who otherwise meet eligibility criteria – e.g., age - for participation in the educational program and/or activities) in the provision of its educational programs and activities. The District further will provide a free appropriate public education to qualified students with disabilities. Said education shall entail the provision of regular or special education and related services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of non-disabled students are met. This includes providing academic and non-academic services to students with disabilities in the same setting as their non-disabled peers to the maximum extent appropriate.

In addition to its provision of educational services, the Board will not discriminate against otherwise qualified students with disabilities in its provision of non-educational academic and extra-curricular services and activities such as counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, referrals to other agencies that provide assistance to persons with disabilities, and employment of students, and will provide students with disabilities an equal opportunity to participate in such services and activities.

Qualified students with disabilities will be afforded accommodations/modifications/interventions to the District's non-academic and extra-curricular services and activities, unless such accommodations/modifications/interventions would impose an undue financial burden or would alter the fundamental nature or purpose of the service or activity. A determination that a particular accommodation/modification/intervention would constitute an undue burden must be made by the Superintendent or his designee after considering all resources available for use in the funding and operation of the service or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion.

In the event the Superintendent determines that an undue burden would result, the District will take any other action that would not result in such burden but would still allow, to the maximum extent possible, individuals with disabilities to receive the benefits of the District's non-academic and extra-curricular services and activities on an equal basis as individuals without disabilities.

## **Referral**

Referrals may be made by anyone (e.g., parents, teachers, or other knowledgeable professionals). Referrals shall be made on the Suspected Disability Referral Form (Form 2260.01A F4) and submitted to the Building Compliance Officer. Referrals may be made at any time. Parents may request a referral form by contacting the Building Compliance Officer or a District Compliance Officer.

Generally, a staff member should refer a student for an evaluation under Section 504 if he suspects that the student not only has a mental or physical impairment but also suspects that an impairment substantially limits one or more major life activities.

If the District does not suspect that a student has a mental or physical impairment that substantially limits one or more major life activities and therefore determines not to evaluate, it will notify the parents/guardians of that decision through the issuance of a prior written notice (Form 2260.01A F18) and provide them with a copy of the Notice of Section 504/ADA Procedural Information and Rights.

## **Evaluation**

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

## **Reevaluations**

Reevaluations are not required at specific intervals; however, assessments will be updated so that eligibility and

accommodation planning is based on information that accurately defines the student's disability and reflects the student's current strengths and needs. At least every three (3) years appropriate school staff should determine whether updated evaluations are needed. A re-evaluation will be completed prior to a significant transition, a significant change in placement or when the student is making insufficient academic or behavior progress. When a reevaluation is needed, parents will be sent prior notice (Form 2260.01A F18) and a copy of the Notice of Section 504/ADA Procedural Information and Rights. Consistent with initial evaluations, parents will be afforded the opportunity to meaningfully participate and provide input in the re-evaluation process.

## **Section 504 Plan**

If a student is identified as disabled pursuant to Section 504, and it has been determined that the student requires specialized services and/or accommodations/modifications/interventions in order to receive FAPE and to access the District's programs and activities on an equal basis to students without disabilities, the school based team will develop and complete the Section 504 Plan (Form 2260.01A F13). Aside from the description of the student's disability and the special education or related aides and services needed, the Plan will specify how the student will be provided FAPE. The Plan will specify the accommodations/modifications/interventions necessary so that the student's needs are met as adequately as the needs of nondisabled students.

The purpose of the Section 504 Plan is to provide the student with equal access to school activities, to remove barriers to educational opportunity, and provide, to the degree possible, a level playing field. The Section 504 Plan should be signed by the members of the school based team, including the parents. A copy of the Plan will be sent to the District's Compliance Officer and the Building Compliance Officer as soon as possible. A copy of the Plan also will be placed in the student's cumulative folder and given to school personnel who work with the student. If the parents are present, the Building Compliance Officer will request written permission from the parents to implement the Section 504 Plan.

For initial plans, parent consent is required prior to implementation by the District. If the parents do not attend the meeting to develop a Section 504 Plan, the District will make reasonable efforts to obtain parental input prior to finalizing the plan and (a) submitting the Plan to parents for consent or (b) implementing a subsequent Plan.

After parents consent to the initial Section 504 Plan, the District may implement subsequent plans without written parental consent, but the parents must be provided with a copy of the Notice of Section 504/ADA Procedural Information and Rights (Form 2260.01A F3) that explains their right to challenge the District's actions. Regardless of whether it is an initial or subsequent plan, a copy of the Plan must be sent to the student's parents.

## **Parents' Options If They Disagree with the District's Identification, Evaluation and/or Placement of Their Child**

The parents may challenge the actions of the school based team regarding identification, evaluation or placement of their child by filing a request for an impartial due process hearing. Alternatively, the parents may file an internal complaint. If the parents elect the former, the Board must provide a due process hearing before an impartial hearing officer ("IHO") that is not employed by the District. See AP 2260.01B - Section 504/ADA Complaint and Due Process Procedures.

A parent does not need to first exhaust the internal complaint process in order to file a request for a due process hearing. In fact, a due process hearing may be requested at any time and parents do not waive that right if they first opt to try to resolve their dispute through the internal complaint process. If a parent is not satisfied with the IHO's decision, he may appeal it to a Federal Court of competent jurisdiction.

The parents may also file a complaint with the Office for Civil Rights. The Office for Civil Rights, however, is not part of the District's internal complaint process or the system of procedural safeguards, and, absent extraordinary circumstances, will not review the results of individual placement and other educational decisions so long as the District complied with the "process" requirements of Section 504 (concerning identification and locations, evaluation, and due process procedures).

## **Procedural Safeguards and Due Process**

The Board will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA. The Board will further establish and implement a system of procedural safeguards in accordance with Section 504 including the right to an impartial due process hearing and legal counsel.

### **Prohibition Against Retaliation**

The Board will not discriminate against, coerce, intimidate, threaten, or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the Americans with Disabilities Act ("ADA"), or because that individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under Section 504 or the ADA, or because that individual exercised, enjoyed, aided, or encouraged any other person in the exercise or enjoyment of any right granted or protected by Section 504 or the ADA.

### **Notice**

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

The Superintendent shall prepare administrative guidelines for facilitating the prompt, fair and appropriate identification, referral, evaluation and placement of students with disabilities in accordance with Section 504.

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

34 C.F.R. Part 104

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

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