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**Americans with Disabilities Act Rights of Persons
With Handicaps or Disabilities/Policy on Non-Discrimination**

Dec 16

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[See POLICY ALERT Nos. 136, 151, 167 and 210]

1510 AMERICANS WITH DISABILITIES ACT RIGHTS OF PERSONS WITH
HANDICAPS OR DISABILITIES/POLICY ON
NON DISCRIMINATION

It is the policy of the Board of Education that no qualified ~~handicapped or disabled person~~ **individual with a disability will shall**, on the basis of ~~handicap or 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~~ **vocational opportunities** sponsored by this Board. The Board **will shall** comply with ~~§504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, as amended by the Americans with Disabilities Amendments Act of 2008 (hereafter referred to as the Act)~~. It ~~shall also comply with the Individuals with Disabilities Education Act through the implementation of Policy No. 2460 and Regulations Nos. 2460 through 2460.14.~~

Notice of the **Board Policy 1530 – Equal Educational Opportunities and Board Policy 5750 – Equal Educational Opportunity** ~~Board's policy on nondiscrimination in employment (Policy and Regulation No. 1530) and education (Policy and Regulation No. 5750)~~ 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 shall** 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** ~~because of his/her handicap/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 shall** be required to answer a question or submit to an examination regarding a ~~handicap/disability~~ except as such ~~handicap/disability~~ relates directly to **perform job-related functions** ~~the performance of the job sought~~. No candidate will be discriminated against on the basis of a ~~handicap/disability~~ that is not directly related to the essential function of the position for which he/she has applied.



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Reasonable accommodations, not directly affecting the educational and/or instructional program, ~~will shall~~ be made to accommodate employment conditions to the needs of qualified **individuals** ~~persons with handicaps/disabilities,-~~ ~~s~~Such accommodations may include, but are not limited to: ~~rescheduling; restructuring jobs; making facilities accessible; acquiring or modifying equipment; modifying examinations, training materials, policies and procedures; and providing readers or interpreters~~ **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.

~~The Board employment policies and procedures shall comply with the Americans with Disabilities Act.~~

Facilities **Maintenance and** Accessibility

No qualified **individual with a disability** ~~handicapped/disabled person will shall~~, because of the school district's facilities being inaccessible or unusable by ~~handicapped/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 shall~~ be constructed that do not fully comply with §504 of the Rehabilitation Act of 1973 and the American with Disabilities Act. Alterations to existing facilities or part thereof, ~~will shall~~ be altered in such a manner to the maximum extent feasible, that the facilities are readily accessible and usable by individuals with ~~handicaps/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.



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Service, Program, and Activity Access Educational Program Accessibility

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.

No qualified handicapped/disabled person shall be denied the benefit of, be excluded from participation in, or otherwise be subjected to discrimination in any activity offered by this district.

The Board has an affirmative obligation to evaluate a student who is suspected of having a handicap/disability to determine the student's need for special education and related services. The Board directs that all reasonable efforts be made to identify unserved children with handicaps/disabilities in this district who are eligible for special education and/or related services in accordance with Policy No. 2460 and Regulations Nos. 2460 through 2460.14, the Individuals with Disabilities Education Act, §504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

Section 504 of the Rehabilitation Act requires the Board to address the needs of children who are considered handicapped/disabled under §504 and do not qualify for services under the Individuals with Disabilities Education Act. A student may be handicapped/disabled within the meaning of §504, and therefore entitled to regular or special education and related aids and services under the §504 regulation, even though the student may not be eligible for special education and related services under Part B of the Individuals with Disabilities Education Act.

No student will be denied, because of his/her educational handicap/disability, participation in co-curricular, intramural, or interscholastic activities or any of the services offered or recognitions rendered regularly to the students of this district.

There will be grievance procedures for persons alleging discriminatory acts by the Board and/or staff. The due process rights of students with handicaps/disabilities and their parents will be rigorously enforced.



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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 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 - 28 CFR §35.107

The Board will designate the Human Resources Officer ~~is designated~~ as district coordinator for matters dealing with ADA compliance ~~§504 and Title IX~~. The district coordinator ~~shall act as a compliance officer and~~ can be contacted at the following address or telephone number:

**Office Address: 25 School House Road
Randolph, NJ 07869**

Telephone Number: (973) 361-0808

Grievance procedures are outlined in Regulation 1510.

~~A complaint regarding a violation of law and this policy will be subject to a complaint procedure that provides for the prompt and equitable resolution of disputes.~~



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~~The complainant shall be notified of his/her rights of appeal at each step of the process, and accommodations to the needs of handicapped/disabled complainants shall be made. A complainant shall be informed of his/her right to file a formal action for redress with or without recourse to the complaint procedure established by this policy and its accompanying regulation.~~

~~A complaint regarding the identification, evaluation, classification, or educational program of a student with a handicap/disability shall be governed by the due process rules of the State Board of Education, N.J.A.C. 6A:14 2.7 and the Office of Administrative Law, N.J.A.C. 1:6A-1 et seq., and by the procedural safeguard processes established by Board Policy No. 2460 and Regulation No. 2460.6 or the grievance procedures established in Regulation No. 1510.~~

Guarantee of Rights

The Board ~~will shall~~ not interfere, directly or indirectly, with any person's exercise or enjoyment of the rights protected by the ~~Act. §504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Individuals with Disabilities Education Act or Title IX.~~

The Board ~~will shall~~ not discriminate against any person for that person's opposition to any act or practice made unlawful by law or this ~~Ppolicy~~ or for that person's participation in any manner in an investigation or proceeding arising under ~~the Act. §504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Individuals with Disabilities Education Act or Title IX.~~

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.

Evaluation and Compliance

~~The Board directs the Superintendent to evaluate district programs and practices on nondiscrimination, in accordance with law, and to report evaluations to the Board. The Board will submit such assurances of compliance as are required by law.~~



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~~Notice Annual Publication~~

Policy and Regulation 1510 will be available to any member of the public in the district's Policy and Regulation Manual. ~~This Policy will be published yearly prior to the beginning of the school year in a regional newspaper, magazine and/or other written communication that is available to the public.~~

~~29 U.S.C. 794 (Sec. 504, Rehabilitation Act of 1973)~~

~~20 U.S.C. 1401 et seq. (Individuals with Disabilities Education Act)~~

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

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:



R-1510 RIGHTS OF PERSONS WITH HANDICAPS OR DISABILITIES/ NON-DISCRIMINATION

It is the policy of the Board of Education that no qualified handicapped/disabled person shall, on the basis of handicap/disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment or under any program, activity or vocational opportunities sponsored by this Board. The Board shall comply with §504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. The Board shall also comply with the Individuals with Disabilities Education Act through the implementation of Policy No. 2460 and Regulations Nos. 2460 through 2460.14.

DEFINITIONS

Handicapped/Disabled Person — means any person who (1) has a physical or mental impairment that substantially limits one or more of a person's major life activities and includes specific learning disabilities, (2) has a record of such impairment, or (3) is regarded as having such an impairment. (34 CFR sec. 104.3(j))

Disability — means a pupil with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments or specific learning disabilities and who by reason thereof, needs special education and related services 20 U.S. 1401 §602(A), or an individual who has a physical or mental impairment that substantially limits one or more major life activities of such individual. 42 U.S.C. §1201 §3.

Physical or Mental Impairment — means (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; muscular/skeletal, special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito urinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or physiological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (34 CFR sec. 104.3(j)(2)(i))

Major Life Activities — means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. (34 CFR sec. 104.3(j)(2)(ii)). **Has a record of such impairment** — means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities. (34 CFR sec. 104.3(j)(2)(iii)). **Is regarded as having an impairment** — means (1) has a physical or mental impairment that does not substantially limit major life activities but



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~~that is treated by a recipient as constituting such a limitation; (2) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment, or (3) has none of the impairments defined above, but is treated by a recipient as having such an impairment. (34 CFR sec. 104.3(j)(2)(iv))~~

~~Recipient—Any State or its political subdivision, including this Board of Education. (34 CFR sec. 104.3(f))~~

~~Qualified Handicapped/Disabled Person—means:~~

- ~~1. With respect to employment, a handicapped/disabled person who, with reasonable accommodation, can perform the essential functions of the job in question;~~
- ~~2. With respect to public preschool, elementary, secondary, or adult educational services, a handicapped/disabled person (1) of an age during which nonhandicapped/nondisabled persons are provided such services, (2) of any age during which it is mandatory under State or Federal law to provide such services to handicapped/disabled persons, or (3) to whom a State is required to provide a free appropriate public education under the Individuals with Disabilities Education Act;~~
- ~~3. With respect to post secondary and vocational educational services, a handicapped/disabled person who meets the academic and technical standards requisite to admission or participation in the school district's education program or activity; and~~
- ~~4. With respect to other services, a handicapped/disabled person who meets the essential eligibility requirements for the receipt of such services. (34 CFR sec. 104.3(k)(1-4))~~

~~Handicap—means any condition or characteristic that renders a person handicapped/disabled.~~

~~Disability—means any condition or characteristic that renders a person disabled.~~

~~Aids, Benefits, and Services—means aids, benefits and services to be equally effective, are not required to produce the identical result or level of achievement for handicapped/disabled and nonhandicapped/nondisabled persons, but must afford handicapped/disabled persons equal opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement, in the most integrated setting appropriate to the person's needs. (34 CFR sec. 104.4(b)(2))~~



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~~Act means the Rehabilitation Act of 1973, Public Law 93-112, as amended by the Rehabilitation Act Amendments of 1974, Public Law 93-516, 29 U.S.C. 794, the Americans with Disabilities Act 42 U.S.C. §1201 et seq., and the Individuals with Disabilities Act 20 U.S. 1400 et seq.~~

~~"Aggrieved individual" means a qualified handicapped/disabled person who alleges a grievance or the representative of such qualified handicapped/disabled person.~~

~~"Board of Education" means the Board of Education of the Randolph School District.~~

~~"Complainant" means a parent(s) or legal guardian(s) of a qualified handicapped/disabled pupil or qualified handicapped/disabled person who files a grievance in accordance with the grievance procedure.~~

~~"Compliance Officer" means the district official responsible for the coordination of activities relating to compliance with §504.~~

~~"Day" means either calendar or working day as specified.~~

~~"Employee" means an individual who receives remuneration from the school district for services rendered.~~

~~"Grievance" means an unresolved problem concerning the interpretation or application by an officer or employee of this school district of law and regulations regarding discrimination by reason of handicap/disability.~~

~~"Immediate supervisor" means any employee responsible for, or exercising any degree of supervision or authority over another employee or pupil.~~

~~"Intermediate supervisor" means the administrator to whom the immediate supervisor is directly responsible.~~

~~"Pupil" means an individual enrolled in any formal educational program provided by the school district.~~

~~"School district" means the Randolph School District.~~



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District Coordinator

The Board will appoint a District Coordinator to coordinate its efforts to comply with the Rehabilitation Act and the Americans with Disabilities Act and Title IX. Such procedures to coordinate its efforts to comply with the act will be contained in this Regulation for pupils, employees and other qualified persons. The District Coordinator will be responsible for the initial evaluation of all allegations, reasonable accommodations, if required, and re-evaluations. The District Coordinator will comply with the mediation and due process requirements pursuant to N.J.A.C. 6A:14-2.6 and 6A:14-2.7 where applicable in cases arising from §504.

Notice

The Board shall notify members of the community, applicants, including those with impaired vision or hearing, and unions/associations within the school district, that the Board of Education does not discriminate on the basis of handicap/disability in violation of §504 or the Americans with Disabilities Act. This notice may include any of the following methods: the posting of notices, publication in local newspapers and magazines and/or distribution of memoranda or other written communications. The policy and regulation may be reprinted in part or in full and distributed to serve as adequate notice.

State or Local Law

The obligation to comply with the Rehabilitation Act and the Americans with Disabilities Act is not obviated or alleviated by the existence of any State or local law or other requirement that, on the basis of handicap/disability, imposes prohibitions or limits upon the eligibility of qualified handicapped/disabled persons to receive services or to practice any occupation or profession, or because employment opportunities in any occupation or profession are or may be more limited for handicapped/disabled persons than nonhandicapped/nondisabled persons.

EMPLOYMENT PRACTICES

Discrimination Prohibited

No qualified handicapped/disabled person shall, on the basis of handicap/disability, be subjected to discrimination in employment under any program or activity to which the Act applies. The Board of Education will take positive steps to employ and advance in employment qualified handicapped/disabled persons in programs assisted under the Act. The Board of Education will make all decisions concerning employment under any program or activity to which the Act applies in a manner which ensures that discrimination on the basis of handicap/disability does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap/disability.



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The Board of Education will not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped/disabled applicants or employees to discrimination prohibited by the Rehabilitation Act. This shall apply to

1. Recruitment, advertising, and the processing of applications for employment;
2. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
3. Rates of pay or any other form of compensation and changes in compensation;
4. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
5. Leaves of absences, sick leave, or other leave;
6. Fringe benefits available by virtue of employment, whether or not administered by the Board of Education;
7. Selection and financial support for training including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absences to pursue training;
8. Employer sponsored activities, including social or recreational programs; and
9. Any other term, condition, or privilege of employment.

The Board of Education's obligation to comply with these requirements is not affected by any inconsistent term or any collective bargaining agreement to which the Board is a party.

Reasonable Accommodation

The Board of Education will make reasonable accommodation to the known physical or mental limitation of any otherwise qualified handicapped/disabled applicant or employee unless the Board can demonstrate that the accommodation would impose an undue hardship on the operation of the program. Reasonable accommodation may include making facilities used by employees readily accessible to and usable by handicapped/disabled persons and job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions. In determining whether the accommodation would impose an undue hardship on the operation of the program, the Board of Education will consider:



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- ~~1. The overall size of the school district's program with respect to the number of employees, number and type of facilities and the size of the budget;~~
- ~~2. The type of operation, including the composition and structure of the school district's workforce; and~~
- ~~3. The nature and cost of the accommodation needed.~~

~~The Board of Education will not deny any employment opportunity to a qualified handicapped/disabled employee or applicant if the basis of the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.~~

Employment Criteria

~~The Board of Education and its administration will not use any employment test or other selection criterion that screens out or tends to screen out handicapped/disabled persons or any class of handicapped/disabled persons unless the test score or other selection criterion is shown to be job-related for the position in question and alternative job-related tests or criteria that do not screen out as many handicapped/disabled persons shown by the Coordinator to be available. The Board of Education and its administration may select and administer tests concerning employment so as to best ensure that when administered to an applicant or employee who has a handicap/disability that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).~~

Pre-employment Inquiries

~~Except as provided for in this regulation and the Rehabilitation Act, the Board of Education and its administration, will not conduct pre-employment medical examination and will not make pre-employment inquiry of an applicant as to whether the applicant is a handicapped/disabled person or as to the nature or severity of the handicap/disability. The school district may make pre-employment inquiry into an applicant's ability to perform job-related functions.~~

~~When the Board of Education is taking remedial action to correct effects of past discrimination or to overcome the effects of conditions that resulted in limited participation in its Federally assisted program or activity, as provided for in the Rehabilitation Act, or when the Board is taking affirmative action pursuant to §504 of the Rehabilitation Act, the Board may invite applicants for employment to indicate whether and to what extent they are handicapped/disabled. This is permitted provided the Board states clearly on a written questionnaire or makes clear~~



~~orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts and the Board states clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide information will not subject the applicant or employee to any adverse treatment, and that the information will only be used in accordance with this part of the Regulation and applicable section of the Rehabilitation Act.~~

~~The Board of Education may condition an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty provided that all entering employees are subjected to such an examination regardless of handicap/disability and the results of such an examination are used only in accordance with the requirements of the policy, regulation and the Rehabilitation Act.~~

~~Information obtained in accordance with pre-employment inquiries as to the medical condition or history of the applicant will be collected and maintained on separate forms that will be accorded confidentiality as medical records. Supervisors may be informed of restrictions on the work or duties of handicapped/disabled persons and any reasonable accommodations. First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment. Government officials investigating compliance with the Rehabilitation Act shall be provided relevant information upon request.~~

~~Complaints About Employment Discrimination~~

~~Complaints about employment discrimination under §504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act shall first be made in writing to the Superintendent of Schools or his/her designee. If the complaint cannot be resolved the following grievance procedure shall be followed:~~

~~Grievance Procedure – Employment~~

~~This grievance procedure shall apply to qualified handicapped/disabled persons who are employees with alleged discriminatory act(s) under the provisions of §504 of the Rehabilitation Act of 1973 and/or the Americans with Disabilities Act.~~

- ~~1. The aggrieved individual shall file a written complaint, stating the specific facts of his/her grievance and the alleged discriminatory act, with the compliance officer.~~



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- ~~2. The District Coordinator shall make all reasonable efforts to resolve the matter informally by having the aggrieved individual review the complaint with his/her immediate supervisor.~~
- ~~3. The immediate supervisor shall render a determination to the aggrieved individual within five working days after hearing the complaint. If such complaint is not satisfactorily resolved at this stage, the aggrieved individual may proceed to the next level of appeal.~~
- ~~4. Within three working days after a determination has been made at the preceding stage, the aggrieved individual may present the complaint in writing to the intermediate supervisor, if such there be, who shall orally discuss the complaint with the aggrieved individual. The intermediate supervisor shall render a determination in writing to the aggrieved individual within seven working days after receiving the complaint. If such complaint is not satisfactorily resolved at this stage, the aggrieved individual may proceed to the next level of appeal.~~
- ~~5. Within three working days after a determination has been made by the intermediate supervisor, the aggrieved individual may make a written request to the compliance officer for review and determination.~~
- ~~6. The District Coordinator shall immediately notify the individual, immediate supervisor, and intermediate supervisor in the case to submit written statements to him/her within five working days setting forth the specific nature of the complaint, the facts relating thereto, and the determinations previously rendered.~~
- ~~7. The District Coordinator shall notify all parties concerned in the case of the time and place when an informal hearing will be held where the parties may appear and present oral and written statements supplementing their position in the case and the manner in which the hearing will be conducted. Such hearing shall be held within seven working days of receipt of the written statements pursuant to paragraph 5.~~
- ~~8. The District Coordinator shall render a determination within twelve working days after the written statements pursuant to paragraph 5 have been presented to him/her, or five working days after the completion of the informal hearing. The District Coordinator will provide a written copy of his/her determination to all parties.~~



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9. ~~The aggrieved individual may appeal the determination of the District Coordinator to the Board within three working days of the receipt of the compliance officer's determination. The appeal shall be in writing and attached to copies of the original complaint, the minutes of the informal hearing, and the written determination of the District Coordinator. The Board or a committee thereof may, in its discretion, convene a hearing at which the parties may present additional testimony and argument.~~
10. ~~Within forty five calendar days of the filing of appeal, the Board shall provide both parties with a written decision.~~
11. ~~If the complaint has not been satisfactorily resolved in the above stages, the aggrieved individual may appeal in writing directly to the Office of Civil Rights.~~

FACILITIES

Discrimination Prohibited

~~No qualified handicapped/disabled person shall, because a Board of Education facility is inaccessible to or usable by handicapped/disabled persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any activity to which this section of the Regulation applies.~~

Existing Facilities

~~The Board of Education will operate its programs and activities so that the program, when viewed in its entirety, is readily accessible to handicapped/disabled persons. The Board of Education is not required to make each of its facilities accessible to and usable by handicapped/disabled persons. The Board may comply with these requirements through such means as redesign of equipment, realignment of classes or other services to other buildings, assignment of aides, alternative sites, alterations of existing facilities or construction of new facilities or any other methods that result in making its programs or activities accessible to handicapped/disabled persons. The Board is not required to make structural changes in existing facilities where other methods that are effective in achieving compliance with this Regulation and the Rehabilitation Act. The Board will give priority to those methods that offer programs and activities to handicapped/disabled persons in the most integrated setting appropriate. The Board of Education will develop a plan to make its facilities comply with this policy and the Rehabilitation Act. The plan shall be developed with the assistance of interested persons, including handicapped/disabled persons or organizations representing handicapped/disabled persons.~~



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New Construction

~~The Board of Education will design and construct each new facility or part of each new facility, or in the renovation of facilities or part thereof, in a manner that each such facility is readily accessible to and usable by handicapped/disabled persons. The alterations are not required if the alteration has little likelihood of being accomplished without removing or altering a load bearing structural member. The Board of Education will comply with the provisions of N.J.S.A. 18A and N.J.A.C. 6 for the construction, remodeling and/or renovation of its facilities.~~

Complaints About Accessibility of Facility

~~Complaints about access to facilities shall first be made to the Superintendent of Schools or his/her designee. If the complaint cannot be resolved the following grievance procedure shall be followed:~~

Grievance Procedure - Facilities

~~This grievance procedure shall apply to qualified handicapped/disabled persons who are not employees or pupils with alleged discriminatory act(s) under the provisions of §504 of the Rehabilitation Act of 1973 and/or the Americans with Disabilities Act.~~

- ~~1. The aggrieved individual shall file a written complaint, stating the specific facts of his/her grievance and the alleged discriminatory act, with the District Coordinator.~~
- ~~2. The District Coordinator shall make all reasonable efforts to resolve the matter informally by reviewing the complaint with the aggrieved individual.~~
- ~~3. In the event the complaint cannot be resolved through an informal meeting, the District Coordinator shall notify all parties concerned in the case of the time and place when an informal hearing will be held where the parties may appear and present oral and written statements supplementing their position in the case and the manner in which the hearing will be conducted. Such hearing shall be held within seven working days of receipt of the written statements pursuant to paragraph 5.~~
- ~~4. The District Coordinator shall render a determination within twelve working days after the written statements pursuant to paragraph 5 have been presented to him/her, or five working days after the completion of the informal hearing. The District Coordinator will provide a written copy of his/her determination to all parties.~~



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5. ~~The aggrieved individual may appeal the determination of the District Coordinator to the Board within three working days of the receipt of the District Coordinator's determination. The appeal shall be in writing and attached to copies of the original complaint, the minutes of the informal hearing, and the written determination of the compliance officer. The Board or a committee thereof may, in its discretion, convene a hearing at which the parties may present additional testimony and argument.~~
6. ~~Within forty five calendar days of the filing of appeal, the Board shall provide both parties with a written decision.~~
7. ~~If the complaint has not been satisfactorily resolved in the above stages, the aggrieved individual may appeal in writing directly to the Office of Civil Rights.~~

EDUCATIONAL PROGRAM

~~The Board of Education will not, on the basis of handicap/disability, exclude qualified handicapped/disabled persons from the program or activity and will take into account the needs of such persons in determining the aid, benefits or services to be provided under the program or activity.~~

~~Pupils not otherwise eligible for special education programs and/or related services pursuant to N.J.A.C. 6A:14-1 et seq. may be referred to the District 504 Coordinator by the parent(s) or legal guardian(s), staff member and/or a request directly from the pupil.~~

~~The Board will provide a reasonable accommodation(s) to otherwise qualified pupils notwithstanding any program and/or related services required pursuant to N.J.A.C. 6A:14-1 et seq. Timelines for re-evaluations of pupils receiving a reasonable accommodation(s) will be established by the District Coordinator. A re-evaluation may be requested by the parent(s) or legal guardian(s) and/or the pupil at any time upon written request to the District Coordinator.~~

Location and Notification

~~The administration will undertake to identify and locate every qualified handicapped/disabled person residing within the school district who is not receiving a public school education and will take steps to notify such handicapped/disabled persons and their parent(s) or legal guardian(s) of the school district's duty under the policy and Rehabilitation Act. Pupils not otherwise eligible for program and/or related services pursuant to N.J.A.C. 6A:14-1 et seq., may be referred to the District Coordinator by the parent(s) or legal guardian(s), staff member and/or a request directly from the pupil.~~



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Free Appropriate Public Education

~~The school district is required to provide a free appropriate public education to each qualified handicapped/disabled person who resides within the school district regardless of the nature or severity of the person's handicap/disability. An appropriate education is the provision of regular or special education and related aids and services that are designed to meet individual educational needs of handicapped/disabled persons as adequately as the needs of nonhandicapped/nondisabled persons are met and are based upon adherence to procedures that satisfy the requirements of this regulation.~~

~~The school district may place a handicapped/disabled person in or refer such person to a program other than the one it operates as its means of carrying out the provisions of this regulation and IDEA. The school district continues to maintain responsibility for ensuring the requirements of this section are met in respect to any handicapped/disabled person so placed or referred.~~

~~A free appropriate public education must be provided to handicapped/disabled person without cost to the handicapped/disabled person or to his/her parent(s) or legal guardian(s), except for those fees that are imposed on nonhandicapped/nondisabled persons or their parent(s) or legal guardian(s). If the handicapped/disabled person is placed in a program not operated by the school district the school district will ensure adequate transportation to and from the program and it shall be provided at no greater cost than would be incurred by the person or his parent(s) or legal guardian(s) if the handicapped/disabled person was placed in the program operated by the school district. If a public or private residential placement is necessary to provide a free appropriate education to a handicapped/disabled person because of his/her handicap/disability, the program, including non medical care and room and board shall be provided at no cost to the person or his/her parent(s) or legal guardian(s).~~

Educational Setting

~~The school administration will place a handicapped/disabled person in the regular educational environment within the school district unless the school district demonstrates that the education of the handicapped/disabled person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. The administration will consider the proximity of any alternative setting for handicapped/disabled persons to the person's home. The Board will ensure that handicapped/disabled persons participate with nonhandicapped/nondisabled persons in such activities and services to the maximum extent appropriate to the needs of the handicapped/disabled person in question.~~



Evaluation And Placement

The Board of Education establishes standards and procedures for the evaluation and placement of pupils who, because of handicap/disability, need or are believed to need special education or related services through Policy No. 2460 and Regulations Nos. 2460 through 2460.14. Individuals qualifying under §504 shall be evaluated using the following procedures:

1. Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel;
2. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
3. Tests are selected and administered so as to best to ensure that, when a test is administered to a pupil with impaired sensory, manual, or speaking skills, the test results accurately reflect the pupil's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the pupil's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

In interpreting evaluation data and in making placement decisions, the school district will:

1. Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
2. Establish procedures to ensure that the information obtained from all such sources is documented and carefully considered;
3. Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data and the placement options; and
4. Ensure that the placement decision is made in conformity with this regulation and the Rehabilitation Act of 1973.

Timelines for re-evaluations of pupils receiving a reasonable accommodation(s) will be established by the District 504 Coordinator. A re-evaluation may be requested by the parent(s) or legal guardian(s) and/or the pupil at any time upon written request to the District Coordinator.



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~~Section 504 Accommodation Plan~~

~~The District Coordinator based on the evaluation of the pupil eligible for services under §504 shall prepare a Section 504 Accommodation Plan which contains at least the following elements as related to the pupil:~~

- ~~1. Name.~~
- ~~2. Date of Birth.~~
- ~~3. Current educational placement.~~
- ~~4. Name of the District Coordinator or designee preparing the Section 504 Accommodation Plan.~~
- ~~5. Handicapping/Disabling condition.
 - ~~a. Major life activity impaired.~~
 - ~~b. Educational impact.~~
 - ~~c. Impact on related educational progress.~~~~
- ~~6. Accommodation (as appropriate).
 - ~~a. Physical and learning environment.~~
 - ~~b. Instructional.~~
 - ~~c. Behavioral.~~
 - ~~d. Evaluation.~~
 - ~~e. Medical.~~
 - ~~f. Transportation.~~
 - ~~g. Other.~~~~
- ~~7. Location of the Accommodation.~~



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8. ~~A listing of individuals participating in the development of the plan, along with their titles and the date(s) of their participation.~~
9. ~~A certification by the parent(s) or legal guardian(s) of the pupil that they have participated in the development of the plan and give their consent to its implementation.~~
10. ~~A waiver of the fifteen days notice prior to the implementation of the plan by the parent(s) or legal guardian(s) if the plan is to be implemented sooner than the fifteen days.~~

Procedural Safeguards

~~The school district will establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap/disability, need or are believed to need special education or related services, a system of procedural safeguards that includes notice, an opportunity for the parent(s) or legal guardian(s) of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parent(s) or legal guardian(s) and representation by counsel, and a review procedure. These procedural safeguards shall be in accordance with N.J.A.C. 6A:14 et seq. and Policy No. 2460 and Regulation 2460.7 and/or the grievance procedures contained herein.~~

Grievance Procedure - Pupils

~~This grievance procedure shall apply to qualified handicapped/disabled persons who are pupils with alleged discriminatory act(s) under the provisions of §504 of the Rehabilitation Act of 1973 and/or the Americans with Disabilities Act.~~

1. ~~The parent(s) or legal guardian(s) of a qualified handicapped/disabled pupil or adult qualified handicapped/disabled pupil who believe the pupil has a valid basis for a grievance under §504, or the American Disabilities Act shall file an informal complaint in writing, stating the specific facts of his/her grievance and the alleged discriminatory act, with the District Coordinator.~~
2. ~~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).~~



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3. ~~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 aggrieved individual within seven working days.~~
4. ~~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 District Coordinator within three working days.~~
5. ~~The District Coordinator will appoint a qualified hearing officer within seven working days of the receipt of the written grievance. The hearing officer will conduct a hearing within seven working days. The hearing officer will give the parent(s) or legal guardian(s), pupil or adult pupil a full and fair opportunity to present evidence relevant to the issues raised under the grievance. The parent(s) or legal guardian(s), pupil or adult pupil may, at their own expense, be assisted or represented by individuals of their choice, including legal counsel. The hearing officer will present a written decision to the District Coordinator and aggrieved individual within seven working days of the hearing.~~
6. ~~The complainant may file an written appeal to the Board if not satisfied with the hearing officer's decision. The Board, through the Superintendent, will provide a written disposition of the alleged grievance.~~
7. ~~The complainant may request Mediation and Due Process in accordance with N.J.A.C. 6A:14-2.6 and 2.7 if unsatisfied with the written decision of the Board, or if specifically requested by the parent(s) or legal guardian(s), or adult pupil the aforementioned N.J.A.C. 6A:14-2.6 and 2.7 grievance procedure must be followed.~~

Nonacademic Services

~~The Board of Education will provide non-academic and extracurricular services and activities in such manner as is necessary to afford handicapped/disabled pupils an equal opportunity for participation in such services and activities. These services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or school clubs, referrals to agencies which provide assistance to handicapped/disabled persons, and employment to pupils, including both employment by the school district and assistance in making available outside employment.~~



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~~The Board of Education and administration will ensure that qualified handicapped/disabled pupils are not counseled toward more restrictive career objectives than are nonhandicapped/nondisabled pupils with similar interests and abilities. The Board will provide to qualified handicapped/disabled pupils an equal opportunity for participation in physical education courses, athletics, and similar programs and activities. The school district may offer separate physical education and athletic activities to handicapped/disabled pupils only if separate or differentiation is consistent with the requirements of the Rehabilitation Act and no qualified handicapped/disabled person is denied the opportunity to compete for teams or to participate in courses that are not separate or different.~~

MISCELLANEOUS

Provisions Applicable to All Grievance Procedures

- ~~1. If the same or substantially the same grievance is made by more than one individual, a single individual may process the grievance through the grievance procedure on behalf of all aggrieved individuals. The names of all aggrieved individuals shall appear on all documents related to the settlement of the grievance.~~
- ~~2. An aggrieved individual may be represented or accompanied at any time by a person chosen by the individual.~~
- ~~3. An employee may use personal leave time when it becomes necessary to process a grievance during work hours.~~
- ~~4. A grievance that arises late in the school term will be submitted to an expedited process in order that the grievance may be resolved as soon after the school term as possible.~~
- ~~5. There will be no reprisal of any kind taken against any aggrieved individual for participation in a grievance.~~
- ~~6. All documents, communications, and records regarding the processing of a grievance will be filed in a separate file and will not be kept in the personnel or pupil file.~~

Adopted: 15 January 2013



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**Americans with Disabilities Act Rights of Persons
With Handicaps or Disabilities/Non-Discrimination**

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[See POLICY ALERT Nos. 136, 138, 151, 167 and 210]

R 1510 AMERICANS WITH DISABILITIES ACT RIGHTS OF PERSONS
WITH HANDICAPS OR DISABILITIES/NON DISCRIMINATION

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.



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**Americans with Disabilities Act Rights of Persons
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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



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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



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- 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:



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- 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.



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- 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.



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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;



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- (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.



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- (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.



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- 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.



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- (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



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- (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.



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- (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



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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;



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- 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 will investigate the matter informally and will respond to the complainant in writing no later than seven working days after receipt of the written complaint. A copy of the complaint and the response will be forwarded to the Superintendent.
 4. The response of the District Coordinator may be appealed to the Superintendent in writing within three working days after it has been received by the complainant. The appeal will include the original complaint, the response to the complaint, and the complainant's reason for rejecting the response. A copy of the appeal must be given to the staff member alleged to have acted discriminatorily.
 5. On his/her timely request (that is, submitted before the expiration of the time within which the Superintendent must render a decision), the complainant will be given an informal hearing before the Superintendent, at a time and place convenient to the parties, but no later than seven working days after the request for a hearing has been submitted. The Superintendent may also require at the hearing the presence of the staff member charged with a discriminatory act and any other person with knowledge of the complained act.
 6. The Superintendent will render a written decision in the matter no later than seven working days after the appeal was filed or the hearing was held, whichever occurred later. Copies of the decision will be given to all parties.



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7. The complainant may appeal the Superintendent's decision to the Board by filing a written appeal with the School Business Administrator/Board Secretary no later than three working days after receipt of the Superintendent's decision. The appeal shall include:
 - a. The original complaint;
 - b. The response to the complaint;
 - c. The Superintendent's decision;
 - d. A transcript of the hearing, if one has been made, or a summary of the hearing to which all parties have consented; and
 - e. The complainant's reason for believing the Superintendent's decision should be changed.
8. If a staff member is charged with a discriminatory act, the Board will provide a copy of the appeal to that staff member.
9. The Board will review all papers submitted and may render a decision on the basis of the proceedings below. If the complainant so requests, the Board may convene a hearing, at which all parties may be represented by counsel and may present and examine witnesses, who will testify under oath.
10. The Board will render a written decision no later than forty-five calendar days after the appeal was filed or the hearing held, whichever occurred later. Copies of the decision will be given to all parties.
11. 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



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12. 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.
13. 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.

Adopted: 15 January 2013

Revised: _____



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Section 504 of the Rehabilitation Act of 1973 - Students

Dec 16

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[See **POLICY ALERT No. 210**]

2418 SECTION 504 OF THE REHABILITATION ACT OF 1973 - STUDENTS

The Board will comply with Section 504 of the Rehabilitation Act of 1973, the purpose of which is to eliminate discrimination on the basis of disability in any program or activity receiving Federal financial assistance.

Guarantee of Rights

The Board will provide a free appropriate public education to each student with a disability regardless of the nature or severity of the disability.

The Board will make reasonable accommodations to ensure that no student with a disability, solely on the basis of the disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity sponsored by this Board, including participation in non-academic and extracurricular services and activities.

The administration will undertake to identify and locate all students with disabilities between the ages of three and twenty-two, who are residing within the district, but not receiving a public school education. The administration will take steps to notify such students and their parents of the district's duty to provide accommodations for students with disabilities as well as procedures to determine eligibility for such accommodations.

Educational Setting

The Board will ensure that a student with a disability participates with nondisabled students in activities and services to the maximum extent appropriate to the needs of the student with a disability.

The school administration will place a student with a disability in the regular educational environment within the district unless the district demonstrates that the education of the student with a disability in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.



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Section 504 of the Rehabilitation Act of 1973 - Students

Evaluation and Placement

The Board will establish standards and procedures for initial evaluations and periodic re-evaluations of students who need or are believed to need accommodations, special education, and/or related services because of a disability. Evaluations may include, but are not limited to, a review of work samples, direct observation, interviews, and/or administration of assessment measures.

Enforcement

The **Human Resources Officer** is designated by the Board as the District 504 Coordinator for matters dealing with Section 504 of the Rehabilitation Act of 1973 and can be contacted at the following address or telephone number:

Office Address: 25 School House Road
Randolph, NJ 07960
Telephone: (973) 361-0808

Procedural Safeguards

The district will establish and implement a system of procedural safeguards with respect to the identification, evaluation, or provision of services under Section 504. This system includes notice, an opportunity for the parent to examine relevant records, an impartial hearing with the opportunity for participation by the parent and representation by counsel, and a review procedure. These procedural safeguards shall be in accordance with N.J.A.C. 6A:14 et seq., Policy 2460, Regulation 2460.8, and/or the grievance procedures outlined in Regulation 2418.

Notice

The Board will notify members of the community that the Board does not discriminate on the basis of a disability in violation of Section 504 of the Rehabilitation Act of 1973. Policy and Regulation 2418 may be reprinted in part or in full and distributed to serve as adequate notice.



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Section 504 of the Rehabilitation Act of 1973 - Students

State or Local Law

The obligation to comply with the Rehabilitation Act of 1973 is not obviated or alleviated by the existence of any State or local law or other requirement that, on the basis of disability, imposes prohibitions or limits upon the eligibility of a student with a disability to receive services.

29 U.S.C. 794 (Section 504 Rehabilitation Act of 1973)

20 U.S.C. 1401 et seq. (Individuals with Disabilities Education Act)

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

Adopted:



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Section 504 of the Rehabilitation Act of 1973 - Students

Dec 16

M

[See **POLICY ALERT No. 210**]

R 2418 SECTION 504 OF THE REHABILITATION ACT OF 1973 - STUDENTS

It is the policy of the Board of Education that no qualified student with a disability will, solely on the basis of disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity sponsored by this Board. The Board will also comply with the Individuals with Disabilities Education Act through the implementation of Policy 2460 and Regulations 2460 through 2460.16.

A. Definitions

1. “Accommodation” means a change in the educational setting, instructional strategies, materials, and/or supplementary/related aids and services that does not significantly alter the content of the curriculum or level of expectation for a student’s performance, but which allows the student to access the regular general education curriculum.
2. “Act” means the Rehabilitation Act of 1973.
3. “Aids and Services” means aids and services designed to meet the individual student’s educational needs to the same extent as the needs of students without disabilities are met. 34 CFR §104.33
4. “Board” means the Board of Education of this school district.
5. “Complainant” means a parent of a student with a disability who files a grievance in accordance with the grievance procedure.
6. “Day” means either calendar or working day, as specified in the Act.
7. “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;



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Section 504 of the Rehabilitation Act of 1973 - Students

- b. A record of such an impairment; or
 - c. Being regarded as having such an impairment.
8. "District" means this school district.
 9. "District 504 Coordinator" means the district official responsible for the coordination of activities relating to compliance with the Act.
 10. "FAPE" means free appropriate public education. FAPE consists of the provision of regular or special education and related aids and services designed to meet the educational needs of a student with a disability to the same extent as the needs of non-disabled students are met.
 11. "Grievance" means an unresolved problem concerning the interpretation or application of law and regulations regarding discrimination by reason of a disability by an officer or employee of this district.
 12. "Individuals with Disabilities in Education Act" (IDEA) identifies eligible children and young adults who have specific types of disabilities and, thus, require special education and related services. If they qualify, students receiving services through IDEA may also be eligible for services under Section 504 and ADA.
 13. "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, writing, standing, reaching, lifting, sleeping, bending, speaking, breathing, reading, concentrating, thinking, communicating, interacting with others, learning, and working. "Major life activities" also include 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



14. “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.
15. “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.



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Section 504 of the Rehabilitation Act of 1973 - Students

- 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.
16. “Qualified student with a disability” means a student with a disability at the preschool, elementary, or secondary level, who is: (1) of an age at which students without disabilities are provided educational services; (2) of an age at which it is mandatory under State law to provide educational services to students with disabilities; or (3) a student to whom a State is required to provide a free appropriate public education under the Individuals with Disabilities Education Act (IDEA).
17. “Record of such an impairment” means has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.
18. “Regarded as having an impairment” means the individual establishes that he or she has been subjected to a prohibited action 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)



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Section 504 of the Rehabilitation Act of 1973 - Students

- 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.
19. “Section 504” means Section 504 of the Act.
20. “Student” means an individual enrolled in any formal educational program provided by the school district.
21. “Substantially limits” means the extent to which the impairment limits a student’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 a student in 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 disability 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).



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- 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”.
- B. District 504 Coordinator - 34 C.F.R. §104.7(a)
- 1. The District 504 Coordinator will be responsible for the initial evaluation of all allegations, reasonable accommodations (if required), and re-evaluations.
 - 2. The District 504 Coordinator will comply with the mediation and due process requirements pursuant to N.J.A.C. 6A:14-2.6 and 6A:14-2.7 where applicable in cases arising from Section 504.
- C. Educational Program
- 1. General:
 - a. The Board will not, on the basis of a disability, exclude a student with a disability from a program or activity and will take into account the needs of such student in determining the aid, benefits, or services to be provided under a program or activity.



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- b. Identification for special education services under IDEA and accommodations under Section 504 are not mutually exclusive.
 - c. Students not otherwise eligible for special education programs and/or related services pursuant to N.J.A.C. 6A:14-1 et seq. may be referred to the District 504 Coordinator by the parent or staff member.
 - d. The Board will provide reasonable accommodation(s) to students with disabilities notwithstanding any program and/or related services required pursuant to N.J.A.C. 6A:14-1 et seq.
- D. Free Appropriate Public Education (FAPE) - 34 CFR §104.33
- 1. FAPE must be provided without cost to the student's parent, except for those fees imposed on a parent of a non-disabled student.
 - 2. The district may place a student with a disability in or refer such student to a program other than one it operates as its means of carrying out the provisions of this Regulation.
 - a. The district will continue to maintain responsibility for ensuring the requirements of the Act are met in respect to any student with a disability so placed or referred.
 - b. The district will ensure adequate transportation to and from the program, provided at no greater cost than would be incurred by the parent if the student were placed in a program operated by the district.
 - (1) The administration will consider the proximity of any alternative setting to the student's home.
 - (2) If a public or private residential placement is necessary to provide FAPE to a student with a disability, the placement, including non-medical care, room, and board, shall be provided at no cost to his/her parent.



E. Evaluation and Placement - 34 CFR §104.35

1. The Board will establish standards and procedures for initial evaluations and periodic re-evaluations of students who need or are believed to need special education and/or related services on the basis of disability.
 - a. Section 504 evaluations may encompass record and work sample review; direct observation in the natural setting; interviews with the student, parent, and school personnel; and/or administration of assessment measures. They do not include independent evaluations.
 - b. It may be determined that additional data is required, including the administration of formal standardized instruments and data on conditions in remission or episodic in nature. Tests and other evaluation materials must meet the following criteria:
 - (1) Validated for the specific purpose for which they are used and administered by trained personnel;
 - (2) Tailored to assess specific areas of educational need and not merely those designed to provide a single intelligence quotient; and
 - (3) Accurately reflect aptitude or achievement or whatever else the tests purport to measure, rather than the student's impaired sensory, manual, or speaking skills (unless the test is designed to measure these particular factors).
2. In interpreting evaluation data and in making placement decisions, the district will:
 - a. Draw information from a variety of sources, including, but not limited to: aptitude and achievement tests, medical evaluations, teacher recommendations, physical condition, social and cultural background, and adaptive behavior;



- b. Establish procedures to ensure that information obtained from all such sources is documented and carefully considered;
 - c. Ensure that placement decisions are made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and placement options; and
 - d. Ensure that placement decisions are made in conformity with this Regulation and 34 CFR §104.34.
3. The District 504 Coordinator will establish timelines for re-evaluations of students receiving reasonable accommodation(s). A parent may request a re-evaluation at any time upon written request to the District 504 Coordinator.
 4. Copies of requests for evaluation and related documents will be maintained in a designated Section 504 file folder placed in the student's cumulative record.
- F. Section 504 and Special Education
1. A student who qualifies for Section 504 services may not qualify for special education under IDEA; likewise, a student who qualifies under IDEA may not qualify under Section 504.
 2. A referral for a Section 504 evaluation may be made concurrently with a pending special education evaluation. In such instances, the Section 504 evaluation should be conducted during the same timeline utilized for the special education assessment. Generally, the Section 504 evaluation should be conducted in less than sixty days.
 3. If a student is found eligible under Section 504 prior to the special education team's findings, a Section 504 Accommodation Plan will be developed pending the special education team's findings. If the student is then found eligible for special education, an Individualized Education Program (IEP) will be developed and the IEP team can incorporate into the IEP any accommodations/services provided in the Section 504 Accommodation Plan.



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4. A separate Section 504 team meeting will be convened when a student is identified as eligible for special education and no longer requires accommodations/services under Section 504.
 5. When an IEP team determines a student is not eligible or no longer eligible for special education, there may be circumstances when a Section 504 referral for evaluation may be appropriate and should be considered. The IEP team may document the student is being referred for a Section 504 evaluation, and the eligibility evaluation shall be addressed in a separate Section 504 team meeting.
- G. Section 504 Accommodation Plan
1. The District 504 Coordinator will assist in organizing a team of individuals responsible for receiving referral documents; securing evaluation information; and determining eligibility and appropriate accommodations, related aids or services for eligible students with disabilities. The team must be comprised of people who:
 - a. Are knowledgeable about the student;
 - b. Understand the meaning of evaluation data; and
 - c. Are familiar with placement options.
 2. The District 504 Coordinator, based on the evaluation of the student eligible for services under Section 504, will prepare a Section 504 Accommodation Plan which may include as relates to the student:
 - a. Name;
 - b. Date of birth;
 - c. Current educational placement;
 - d. Name of the District 504 Coordinator preparing the Section 504 Accommodation Plan;
 - e. Disabling condition:



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Section 504 of the Rehabilitation Act of 1973 - Students

- (1) Major life activity impaired;
 - (2) Educational impact; and
 - (3) Impact on related educational progress.
- f. Accommodation (as appropriate):
- (1) Physical and learning environment;
 - (2) Instructional;
 - (3) Behavioral;
 - (4) Evaluation;
 - (5) Medical; and/or
 - (6) Transportation.
- g. Other:
- (1) List of individuals participating in the development of the plan, along with their titles and the date(s) of their participation.
 - (2) Certification by the student's parent that he or she has participated in the development of the plan and provided consent to its implementation.
 - (3) A waiver of the fifteen days' notice prior to the implementation of the plan by the parent if the plan is to be implemented sooner than the fifteen days.
3. A Section 504 Accommodation Plan should not:
- a. Modify the curriculum;
 - b. Exempt a student from a course or subject required for graduation;



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Section 504 of the Rehabilitation Act of 1973 - Students

- c. Alter the level of expectation for a student's performance;
 - d. Provide an extended time accommodation only for standardized testing when it is not required as part of the regular program of evaluation;
 - e. Include any testing accommodations unless authorized by the testing agency; and
 - f. Assign responsibility for implementing Section 504 accommodations to another student.
4. A Section 504 Accommodation Plan should:
- a. Directly relate to a student's identified needs;
 - b. Be specific, measurable, and tailored to meet students' identified needs to allow for consistent implementation;
 - c. Be written to incorporate specific symptoms, behavior, or triggers that elicit implementation of the accommodation or service if required only occasionally; and
 - d. Clearly state how much extended time is required based upon a student's identified needs, if the Section 504 team determines such an accommodation is appropriate.
5. Students needing medication:
- a. Not all students needing medication administered by school staff will require a Section 504 Accommodation Plan. It is not necessary to qualify a student as having a disability that substantially limits a major life activity under Section 504 in order to provide a service that schools perform for all general education students.
 - b. A Section 504 referral with the potential for a subsequent Section 504 Accommodation Plan is appropriate when a student is found to have a disability that substantially limits a major life activity and needs medication administered on a systematic basis to receive equal access to the educational program.



H. Nonacademic/Extracurricular Services - 34 CFR §104.37

1. Nonacademic and Extracurricular Services may include counseling, physical recreational athletics, transportation, health services, recreational activities, special interest groups or school clubs, and/or referrals to agencies which provide assistance to students with disabilities and student employment.
2. The Board and administration will ensure that students with disabilities are not counseled toward more restrictive career objectives than are nondisabled students with similar interests and abilities.
3. The Board will provide to students with disabilities equal opportunity as afforded nondisabled students for participation in physical education courses, athletics, and similar programs and activities.
 - a. The district may offer students with disabilities physical education and athletic activities that are separate or different from those offered to nondisabled students only if the separation or differentiation is consistent with the requirements of 34 CFR §104.34 and only if no student with a disability is denied the opportunity to compete or to participate.

I. Grievance Procedure - 34 CFR §104.7(b)

1. This grievance procedure shall apply to a student with a disability alleging discrimination under the provisions of Section 504 of the Rehabilitation Act of 1973.
2. The parent who believes his or her child has a valid basis for a grievance under Section 504 shall file an informal complaint in writing with the District 504 Coordinator stating the specific facts of the grievance and the alleged discriminatory act.



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3. The District 504 Coordinator will make reasonable efforts to resolve the matter informally by reviewing the grievance with appropriate staff including, but not limited to: the Principal, Child Study Team staff, and/or classroom teacher(s).
4. The District 504 Coordinator will investigate and document the complaint including dates of meetings, dispositions, and date(s) of dispositions. The District 504 Coordinator will provide a written decision to the complainant within seven working days of the written complaint.
5. If the complainant is not satisfied with the District 504 Coordinator's written decision, the complainant may appeal the decision in writing, setting out the circumstances that give rise to the alleged grievance. This written appeal must be filed with the District 504 Coordinator within three working days of the complainant's receipt of the written decision. The written appeal must state the basis for the appeal and the remedy sought by the complainant.
6. The District 504 Coordinator will appoint a qualified hearing officer within seven working days of the receipt of the written appeal. The hearing officer will conduct a hearing within seven working days of receipt of the written appeal. The hearing officer will give the parent a full and fair opportunity to present evidence relevant to the issues raised under the initial grievance. The parent may, at his or her own expense, be assisted or represented by individuals of their choice, including legal counsel. The hearing officer will present a written decision to the District 504 Coordinator and aggrieved individual within seven working days of the hearing.
7. The complainant may file a written appeal to the Board if not satisfied with the hearing officer's decision provided the written appeal is submitted to the Superintendent within three working days of the complainant's receipt of the hearing officer's written decision. The Board may, but is not required to, conduct a Board hearing on the appeal.



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8. The complainant may request mediation and due process in accordance with N.J.A.C. 6A:14-2.6 and 2.7 if unsatisfied with the written decision of the Board. If specifically requested by the parent, the aforementioned N.J.A.C. 6A:14-2.6 and 2.7 grievance procedures must be followed.

Adopted:



[See POLICY ALERT No. 210]

5330.04 ADMINISTERING AN OPIOID ANTIDOTE

New Jersey's "Overdose Prevention Act" encourages the wider prescription and distribution of an opioid antidote to prevent opioid overdose. The New Jersey Department of Education informed school districts they may develop and adopt policies and procedures to maintain and administer an opioid antidote to any student, school personnel, or other person believed to be experiencing an opioid overdose during school hours or during on-site school-sponsored activities to block the opioid's life-threatening effects.

In accordance with N.J.S.A. 24:6J-4.a.(1)(e), the school district's physician, as a health care practitioner as defined in N.J.S.A. 24:6J-3, may prescribe or dispense an opioid antidote directly or through a standing order to the school district for a school district certified school nurse to administer to overdose victims, provided the school physician deems a school district certified school nurse is capable of administering the opioid antidote to an overdose victim in an emergency. The physician's standing order must specify a school district certified school nurse is authorized to administer the opioid antidote to overdose victims. The school nurse so authorized shall be provided with training regarding the administration of the opioid antidote on a schedule deemed appropriate by the Administration in consultation with the school physician. In accordance with N.J.S.A. 24:6J-5.a.(1), the school physician issuing the standing order shall ensure that overdose prevention information is provided to the school district and the certified school nurse(s) authorized to administer an opioid antidote. The overdose prevention information shall include, but not be limited to: information on opioid overdose prevention and recognition; instructions on how to perform rescue breathing and resuscitation; information on opioid antidote dosage and instructions on opioid antidote administration; information describing the importance of calling 911 emergency telephone service for assistance with an opioid overdose; and instructions for appropriate care of an overdose victim after administration of the opioid antidote.

Upon receiving a report of a possible opioid overdose during school hours or during an on-site school-sponsored activity, the Principal, Principal's designee, or supervising staff member will immediately call 911. The school nurse, during school hours and if available at an on-site school-sponsored activity, will also be immediately called. In accordance with the provisions of N.J.S.A. 24:6J-4.d.(1), the school nurse who has received overdose prevention information pursuant to N.J.S.A. 24:6J-5.a.(1) and has been deemed capable of administering the opioid antidote by the school physician may administer the opioid antidote to a student, school personnel, or other person in an



emergency if the school nurse believes, in good faith, that the person is experiencing an opioid overdose.

The school nurse and/or other school staff members shall keep the student, school personnel, or other person comfortable until emergency medical responders arrive on the scene. Any student who receives an opioid antidote by the school nurse or by an emergency medical responder shall be transported to the nearest hospital with a school staff member designated by the Principal, Principal's designee, or supervising staff member of the on-site school-sponsored activity.

The Principal, Principal's designee, or supervising staff member will notify the parent of any student or a family member or other contact person for a school staff member who may be experiencing a possible opioid overdose as soon as practicable. The Principal, Principal's designee, or supervising staff member of the on-site school-sponsored activity shall notify the Superintendent of Schools whenever an opioid antidote is administered by a school nurse or an emergency medical responder.

The school nurse shall be responsible to store the opioid antidote that has been prescribed by the school physician in a safe and secure location; document the administration of an opioid antidote on a student's health record; monitor the on-site inventory and replacement of the opioid antidote supply; and plan for the disposal of administered opioid antidote and expired opioid antidote applicator.

Any student or school staff member who is found to be under the influence of a controlled dangerous substance shall be subject to the provisions of applicable statutes and administrative codes and Board policies and regulations regarding substance use.

The Overdose Prevention Act specifically provides that when a person, in good faith, seeks medical assistance for a person believed to be experiencing a drug overdose, whether the person is seeking assistance for him/herself or for another, the person calling for help and the person experiencing the overdose shall not be arrested, charged, prosecuted, or convicted for certain criminal offenses specified in the Act.

In accordance with the provisions of N.J.S.A. 24:6J-4.d.(2), the school district and the school nurse shall not, as a result of any acts or omissions, be subject to any criminal or civil liability for administering an opioid antidote in accordance with the provisions of N.J.S.A. 24:6J-1 et seq.

Nothing in this Policy shall prohibit the administration of an opioid antidote to a student, school personnel, or other person in an emergency during school hours or during on-site



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Administering an Opioid Antidote

school-sponsored activities by an emergency medical responder or by a person authorized to administer an opioid antidote in accordance with N.J.S.A. 24:6J-1 et seq.

This Policy shall be reviewed and approved by the school physician and Board Attorney prior to Board adoption and whenever the Policy is revised. This Policy shall be made available to school staff members, parents, and students in staff and student handbooks, published on the district's website, or through any other appropriate means.

N.J.S.A. 24:6J-1 et seq.

May 24, 2016 New Jersey Department of Education Memorandum - Information for Schools Regarding Opioid Overdose Prevention

Adopted:



2340 FIELD TRIPS

Introduction

Field trips have the potential to enhance student learning by providing educational experiences not available in the classroom. By extending the classroom through field trips, people, resources and sites which would not otherwise be available can be integrated into the school program. Field trips also enhance the co-curricular program of the school.

General Requirements

- A. Field trips shall be recommended by the Principal to the Superintendent. All field trips shall also be approved by the Board of Education. Students will have equitable opportunities to go on field trips (See letter D. below).
- B. The length of time traveling, as compared to the actual time students spend at the site, will be evaluated before a field trip is approved.
- C. The Principal will inform parents in advance of the objectives of the trip, date of departure and return, lunch provisions and other relevant details. Written parental permission is required for participation in field trip activities.
- D. Students may be charged for field trips, including the cost of transportation, in accordance with N.J.S.A. 18A:36-21. School support groups, such as the PTO or booster clubs are encouraged to raise funds, in accord with district policy and with Principal approval, to defray the cost of field trips. No student will be deprived of participation in a field trip due to financial hardship.
- E. If and when busses are hired to transport students to a field trip and a parent chooses not to send his/her child(ren) on the bus, the said parent may opt to drive his/her own child(ren) to the field trip destination only when the following criteria are met:
 1. The parent must complete and sign a permission form that releases the Board of Education from any and all liability while transporting his/her child(ren) to and from the field trip destination.
 2. All children who are transported by their parent(s) for a field trip must first report to the school and homeroom teacher and/or designee for attendance purposes.



3. Upon arrival at the field trip destination, all students who were transported privately must report to the homeroom teacher or designee for attendance. Students and their parents must remain with the class for the duration of the field trip activities.
 4. Once the field trip activities are completed, the child(ren) can be released to the custody of their parents(s) and transported back home.
- F When school transportation is provided for interscholastic athletics and curricular competitions students must use the school transportation to travel to the destination. After the event, a parent(s) may opt to use his/her private vehicle to transport his/her child(ren) home only if the following condition is met:
- The parent(s) must complete and sign a permission form that releases the Board of Education from any and all liability while transporting their child(ren) from the event. The signed document must be submitted to the coach, advisor, or staff member in charge prior to the event.
- G. The Superintendent will adopt regulations for the conduct of field trips.

N.J.S.A. 18A:36-21 et seq.; 18A:53-2

Adopted: 17 July 2012
Revised:



R 2340 FIELD TRIPS

Curricular Field Trips

Affords a first-hand educational experience which is an integral part of an approved course of study. The Board is permitted to charge students for all or part of the cost of field trips, with the exception of students in special educational classes and students with financial hardships.

Co-curricular Field Trips

Will be an enriching experience but not necessarily directly related to a course of study. These activities will not generally be held during the school day and students will be charged enough to cover the cost of the trip.

Permission Slips

A permission form will be sent to the parent(s) and/or legal guardian(s) of each child listing the objectives of the trip, date, departure, return, cost to the parent(s) or legal guardian(s), lunch arrangements, and any other relevant data. The permission form must be signed by the parent(s) or legal guardian(s) and returned to the school. No child may attend a field trip without a properly signed permission form.

Coordination of Trips

Field trips must be approved by the Board.

The Principal in each building will coordinate all trips, seeing that there is attention to all details, such as transportation, permission slips, contact with outside agencies, supervision, lunch, etc. A request form will list any changes that are to be made.

Transportation

Whenever possible, district buses will be used. District buses are available between the hours of 9:00 a.m. and 2:00 p.m. and after 4:00 p.m. The Principal will complete a Request for Bus Transportation form and forward it to the Transportation Coordinator at least ten days prior to the date of the trip.



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Field Trips

If unable to schedule district school buses, the administrator coordinating the trips will arrange directly with one of the private bus companies in the area. A purchase order will be processed through regular channels.

1. Submit form to your department supervisor or Principal;
2. Advise students to notify their other teachers of the trip;
3. All students attending a field trip must submit a signed permission slip;
4. Collect the money needed for the trip. Money should be deposited with the Principal's secretary who will issue any checks needed;
5. Review with students' appropriate dress required for trips;
6. Take signed permission slips with you on the trip in order to be prepared for any emergency;
7. Take attendance on the bus;
8. Supervise students during the trip and upon return to school.
9. A list of students actually attending the trip must be given to the attendance secretary and the Principal's office prior to the trip; and

Field trips must be scheduled at least three weeks in advance to allow for transportation arrangements. If you plan on using a private bus company, please make sure you contact them to set up a date and time. A list of charter bus companies is also available in the Main office.

Field trips will rarely be scheduled after May 31.

Adopted: 15 January 2013
Revised: _____

