

SUBJECT: SECTION 504 POLICY:

The Memphis Community School District does not discriminate against individuals on the basis of disability. This nondiscriminatory obligation under Section 504 of the Rehabilitation Act applies to admission or access to, participation in, or treatment or employment in, its programs and activities.

It is the intent of Memphis Community Schools to provide a free appropriate public education to each student with a disability within its jurisdiction, regardless of the nature or the severity of the disability.

It is the further intent of the District to ensure that students, who have disabilities within the meaning of Section 504 of the Rehabilitation Act of 1973, are identified, evaluated and provided with the required appropriate education.

As used in this policy and any implementing procedures, “an individual with a disability” means a person who has, or had, or is regarded as having, a physical or mental impairment that substantially limits one or more of his/her major life activities. For employment purposes, an individual with a disability does not include an individual currently engaging in the illegal use of drugs when the district acts on the basis of such use; or any individual who is an alcoholic or who has a currently contagious disease or infection if current alcohol use or such disease and infection constitutes a direct threat to the property, health or safety of others or results in the individual being unable to perform the duties of the job, while employed with Memphis Community Schools.

The Board of Education designates the Superintendent of Memphis Community Schools as its Section 504 compliance officer to coordinate the District’s efforts to comply with Section 504 and to investigate and attempt to resolve grievances regarding alleged violations of Section 504 and this policy. A copy of the Rehabilitation Act of 1973 and Section 504 implementing regulations may be obtained from the Section 504 compliance officer. The Superintendent can be contacted at 34110 Bordman Road, Memphis, MI 48041, 810-392-2151.

Notice of the Board’s policy on non-discrimination in employment and education practices and the identity of the Section 504 compliance officer shall be posted throughout the District, and published as appropriate.

The Board will adopt a grievance procedure to provide for prompt and equitable resolution of complaints alleging violations of Section 504 and this policy.

SECTION 504 PROCEDURES

I. Employment

No qualified person shall, on the basis of disability, be subject to discrimination in employment in any District program or activity.

As recipient of assistance under the Individuals with Disabilities Education Act (IDEA) the Board shall take positive steps to employ and advance in employment qualified persons with disabilities in programs assisted under the Act.

No candidate for employment shall be required to answer a question regarding a disabling condition and no such candidate will be discriminated against on the basis of disabling condition that is not directly related to the essential functions of the position for which he/she has applied. However, this stipulation does not constrain the need to ensure that an applicant is not afflicted with a currently contagious disease or infection which would constitute a direct threat to staff and students nor to determining if an applicant is an alcoholic or abuser of drugs whose current use would prevent the applicant from performing the essential functions of the position or would constitute a direct threat to property or the safety of others.

The Board will make reasonable accommodations to known physical or mental limitations of an otherwise qualified applicant or employee with a disability unless the accommodation would impose an undue hardship on the operation of its program.

The Board will include notice of reasonable accommodation requirements on District employment application forms, and will post notices that employee reasonable accommodation Request forms may be obtained from the Section 504 coordinator.

II. Facilities

The programs and activities of this District shall be accessible and usable by individuals with disabilities. This includes, but is not limited to, accommodations to parents with disabilities desiring to access the student's educational program or meetings pertinent thereto. Programs and activities need to be designed and scheduled so the location or nature of the facility or area will not deny a student with a disability the opportunity to participate on the same basis as a student without a disability. This includes not only academic programs but all extracurricular programs, including athletics.

III. Identification and Referral Procedures for Students Suspected of Having a Disability Under Section 504

Students who are believed to have a disability are addressed under this policy. Under this policy, a student with a disability is one who:

- Has a physical or mental impairment that substantially limits one or more major life activities, including learning; or
- Has a record of such an impairment; or
- Is regarded as having such an impairment (34 C.F.R. Section 104.3 (1), (k).
- **Only students who actually have a physical or mental impairment that substantially limits one or more major life activities are entitled to FAPE, and students who have a record of or are regarded as having such an impairment are protected against disability discrimination but are not eligible to receive FAPE.**

When evaluating a student to determine eligibility under Section 504, the District will not limit its assessment only to whether the mental or physical impairment substantially limits the major life activity of learning.

Potential major life activities may include, but is not limited to the following:

Caring for oneself, Manual tasks, Walking, Seeing, Hearing, Speaking, Breathing, Learning, Working, Operation of a major body function, Eating, Sleeping, Standing, Lifting, Bending, Reading, Concentrating, Thinking, and Communicating.

A major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Students who are in need or are believed to be in need of services under Section 504 may be referred for evaluation by a parent, teacher, other certified school employee, community agency, or by self-referral.

Parents/Guardians either will be invited to participate in Section 504 meetings or otherwise will be given a meaningful opportunity to provide input into Section 504 team decisions regarding the identification, evaluation, and placement of students with disabilities.

An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active and that the determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication or learning strategies.

The District will consider the referral and based upon a review of the student's existing records, including academic, social, testing, and behavioral records, determined as to whether an evaluation under this procedure is appropriate. Any student who, because of a disability needs, or is believed to need special education or related services will be evaluated. If a request for evaluation is denied, the District will inform the parents or guardian of this decision and of procedural rights as described in section VI.

IV. Evaluation and Determination of Eligibility

A Multidisciplinary Evaluation Team (MET) will evaluate **whether the student has a mental or physical impairment that substantially limits one or more major life activities**. Evaluations will comply with the requirements set forth in 34 CFR Section 104.35 (a) and (b).

A student may be eligible for a Section 504 plan if the student does not require educational services but does require modifications to District policies or health services in order to participate in District programs and activities.

The evaluation procedures to be followed may, but need not be, all those evaluation procedures which are followed for evaluating students who are suspected as having disabilities under P.L. 94-142, the Individuals with Disabilities Education Act (IDEA). However, the District's Section 504 evaluation procedures must ensure that:

- Tests and other evaluation material have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
- Tests and the 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
- Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the tests purport to measure).

A group of persons knowledgeable about the child, the meaning of the evaluation data, and the placement options will make a determination regarding whether a referred student has a disability under the requirements of Section 504 and will establish the services needed by the student.

No final determination of whether the student is an individual with a disability within the meaning of Section 504 will be made by the District without informing the parent or guardian of the student concerning such proposed determination. Procedural safeguards as defined under Section VI will be given to the parents/guardians.

A reevaluation of a student with a disability must be conducted before any subsequent significant change is made to the student's placement or accommodations.

If the District denies a parental request for a reevaluation, it will provide the parent with their procedural safeguards.

V. Placement

Each qualified student with a disability regardless of the nature or severity of the student's disability must be provided a free appropriate public education. An appropriate education is the provision of regular and special education and related aids and services that are designed to meet individual educational needs of persons with disabilities as adequately as the needs of persons without disabilities are met.

In interpreting evaluation data and in making educational decisions, the District shall:

- Draw upon information from a variety of sources including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior;
- Ensure that all evaluation data is documented and carefully considered;
- Ensure that decisions are made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data and the placement options; and
- Ensure that the student is educated with students without disabilities to the maximum extent appropriate to meet the student's individual needs.

If the District determines that the student is eligible for special education and related services under both the IDEA and Section 504 Rehabilitation Act of 1973, those services shall be delivered pursuant to an Individualized Education Program developed pursuant to the IEPC procedures of the IDEA.

If the District determines that the student has a disability under Section 504 of the Rehabilitation Act of 1973, but does not also meet the definition of disability under IDEA, the District will determine through a Section 504 committee meeting the placement and services necessary for the student to receive FAPE, i.e., the regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of students without disabilities are met. If the committee determines that special education is necessary for FAPE, then it must be included in the student's Section 504 plan. It is presumed that a student with a disability will be placed in the regular educational environment unless it is demonstrated that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. The placement, services, and modifications the committee determines are needed for FAPE will be listed in writing in a Section 504 Educational Program Plan but not in an IEP.

The District may also determine that no special education or related services are appropriate. If so, the record of the District proceedings will reflect the identification of the student as having a disability under Section 504 and state the basis for the decision that no special services are presently needed.

The student's parent or legal guardian must be given a meaningful opportunity to provide input into these decisions. The parent/guardian must be provided with notice of any of the decisions described above and of their procedural safeguards.

VI. Procedural Safeguards

With respect to actions regarding the identification, evaluation or educational placement of a person who, because of disability, needs or is believed to need special instruction or related services the following procedural safeguards shall be afforded:

- The District will provide notice (written or oral) and other procedural safeguards to parents/guardians with respect to actions regarding the identification, evaluation/reevaluation, or educational placement of students with disabilities.
- An opportunity for the parents or guardian of the student to examine relevant educational records.
- An impartial hearing with the opportunity for participation by the student's parents or guardian and representation by counsel.
- Either party may appeal the decision ordered by the Section 504 hearing officer to the Michigan State Department of Education.

Request for a Section 504 hearing must be made to the District Section 504 Coordinator within 10 calendar days after receipt of the notice of the right to file. In each case for which a hearing has been requested, the district will designate a hearing officer from the Michigan Department of Education Hearing Office listing who is willing to conduct Section 504 hearings. The Section 504 Hearing Officer shall render a decision in writing to the District and parents or guardian.

What Is a 504 Plan for Children with a Physical or Mental Impairment?

If your child has a physical or mental disability, she/he may be eligible for a 504 plan.

Section 504 of the Rehabilitation Act of 1973 is the civil rights law that prohibits discrimination on the basis of disability; and guarantees individuals with disabilities equal access to an education.

What is a 504 plan?

- A 504 plan is a written plan that will **set forth the regular or special education and related aids and services that are designed to meet the individual educational needs of the student with a disability as adequately as the needs of students without disabilities are met.**

An eligible person/student is any person who:

- Has a physical or mental impairment which substantially limits a major life activity (such as learning, caring for oneself, performing manual tasks, walking, seeing, speaking, hearing and working, breathing, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking communication, or operation of a major bodily function).
- is of age, birth to 26 years old, in the state of Michigan.

Parents, teachers, adult-aged students, other staff, or community agencies can request a review for Section 504 eligibility determination.

- Submit a written request to the school asking for an evaluation to determine **whether the student has a mental or physical impairment that substantially limits one or more major life activities.**
- Request a copy of your school district's policies and procedures on Section 504.
- A 504 committee should include parents, teacher, social workers, Section 504 coordinator, school psychologist, school administrator or others **knowledgeable about the student, the evaluation data, and the placement options.**
- This committee determines student needs based on information gathered from a variety of sources.
- A Section 504 Educational Program Plan is written to address the individual needs of the eligible student.
- Plans are reviewed periodically (generally on a yearly basis).
- A reevaluation of a student with a disability must be conducted before any subsequent significant change is made to the student's placement.
- A plan may be terminated; once an evaluation has been completed and the 504 committee determines, based on the information gathered from a variety of sources, that the student no longer has a substantial limitation to a major life activity.
- 504 plans and termination documentation become part of the student's school records.

Note: The Office for Civil Rights has resources available on line concerning Section 504, at:

<http://www.ed.gov/about/offices/list/ocr/disabilityresources.html>

Notice of Rights for Students with Disabilities and their Parents Under Section 504 of the Rehabilitation Act of 1973

(Also included are requirements under Title VI of the Civil Rights Act of 1964
or the Family Educational Rights and Privacy Act)

Section 504 of the Rehabilitation Act of 1973 is federal law written with the purpose of prohibiting discrimination against persons with disabilities who may participate in, or receive benefits from federal programs receiving federal financial assistance. In the public schools, Section 504 ensures that eligible students with disabilities are provided with educational and non-academic benefits and opportunities comparable to those provided to non-disabled peers.

Parents/guardians are provided notice Section 504 rights on several occasions. Specifically, rights are provided to parents upon:

- Request for consent to evaluate
- Termination of a Section 504 referral
- Notice of Re-evaluation
- Refusal to evaluate or re-evaluate
- Refusal to review a Section 504 plan
- Notice of Section 504 Planning Committee meeting
- Other actions taken with regard to the identification, evaluation, and placement of a student with a disability.

Then purpose of this document is to inform parents and students of the rights granted to them under Section 504. The federal regulations that implement Section 504 are found at Title 34, Part 104 of the Code of Federal Regulations (CFR) and entitle parents of eligible students, and the students themselves, to the following rights:

- To have your child participate in, and receive benefits from public education programs without discrimination because of a disabling condition.
- To be informed about your rights under Section 504. The school district must provide you with written notice of your rights under federal law.
- To receive all information in your native language and primary mode of communication.
- To receive notice prior to the school district:
 - Initiating an evaluation for your child
 - Refusing to evaluate your child
 - Making a decision as to whether your child has a disability
 - Making a decision as to FAPE, i.e., what regular or special education and related aids and services are needed to meet the individual educational needs of students with a disability as adequately as the needs of students without disabilities are met.
- To agree or disagree to proposed district recommendations for evaluating your child, identifying your child as having a disability, and determining FAPE.
- To have your child receive a free appropriate public education with the exception of certain costs normally also paid by the parents of students without disabilities.
- To have your child educated with students without disabilities and participates in nonacademic and extracurricular services and activities with students without disabilities to the maximum extent appropriate to your child's needs.
- To have the school district make decisions concerning your child to allow your child with a disability an equal opportunity to participate in school and school related activities comparable to those offered to non-disabled students.
- To have your child educated in facilities and receive services comparable to those provided to students without disabilities.
- To have evaluation, educational, and service decisions regarding your child made by a group of persons knowledgeable about: the student, the evaluation data, and the placement options.
- To have your child periodically re-evaluated:
 - To determine if there has been a change in educational need
 - Before any significant change in program/service modifications.
- To have transportation provided for your child to and from a program not operated by the school district if the district places your child in the program.
- To have your child given an equal opportunity to participate in non-academic and extracurricular Activities offered by the school district.
- To examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program and services.
- To obtain copies of educational records at a reasonable cost, unless the fee would deny you access to the records.
- To receive a response from the school district to reasonable requests for explanations and interpretations of your child's records.
- To request an amendment of your child's educational records if there is reasonable cause to believe the records are inaccurate, misleading, or otherwise in violation of your child's privacy rights. If the school district refuses this request for amendment, it shall notify you within a reasonable time and advise you on your right to a hearing.

- To file a grievance over an alleged violation of Section 504 or the school district's Section 504 policy with the school district, the state board of education and/or the U.S. Department of Education's Office for Civil Rights (OCR).
- To request mediation or an impartial due process hearing if you wish to contest any action of the school district with regard to your child's identification, evaluation, instruction and/or services Section 504.
- To participate personally in the impartial due process hearing, and to be represented by an attorney, if you wish to hire one. Hearing or mediation requests must be made to the District 504 Coordinator.
- To receive a record of impartial due process hearing: to obtain written findings of fact and a written decision.
- To appeal the impartial hearing officer's decision to Michigan State Department of Education.
- To ask for payment of reasonable attorney's fees if you are successful in your claim.

MEMPHIS COMMUNITY SCHOOLS
GRIEVANCE PROCEDURE

The Memphis Community Schools has adopted the following Grievance Procedure for addressing complaints of discrimination under Section 504. A person is not required to use this procedure and may instead file a complaint directly with the Office for Civil Rights, 600 Superior Avenue East, Suite 750, Cleveland, OH 44114-2611:

Step 1: A party, whether a student, parent, employee or general public who believes that he/she has been discriminated against by the Memphis Community Schools is encouraged to discuss the matter informally with the building principal where the incident took place. NOTE: If it is the building principal who is the subject of the complaint, the party may instead, contact the District Special Education Director. The person receiving the complaint shall investigate the incident and verbally convey his/her findings and a possible solution to the party within 10 school days. The informal process described in Step 1 is voluntary and that the grievant may access the formal complaint process at any time.

Step 2: If the informal Step 1 process does not resolve the matter, a written complaint may be submitted to the school's principal or special education director requesting a formal complaint process be initiated, investigated, and produce a recommendation to remedy the complaint.

The complaint shall include

- 1) Date Submitted
- 2) Student, parent, employee, or general public's name
- 3) Specifics
 - a. The facts of the incident or action complained about
 - b. The date of the incident or action giving rise to the complaint
 - c. The type of discrimination alleged to have occurred
- 4) The remedy desired and reasons such remedy is deemed appropriate

Within the next 10 school days, the principal or special education director shall investigate, interview witnesses, and issue a written disposition, with copies to be given to both the person who alleged the violation and the person who is the subject of the complaint.

Step 3: If the principal or special education director's reply does not resolve the matter within the ten day guideline, a written complaint may be submitted to the applicable School District Section 504 Coordinator /Superintendent within 10 School days of the receipt of the Step 2 disposition. During the investigation both parties shall have the right to present witnesses and offer other evidence. The Section 504 Coordinator/Superintendent shall reply in writing to the complainant and the Person who is the subject of the complaint within 10 school days.

Step 4: If the complainant wishes to appeal the decision of the Section 504 Coordinator/Superintendent, he/she may submit a written appeal to the Board of Education after receipt of the Section 504 Coordinator/Superintendent's reply. The Board of Education shall meet with all parties involved and respond to the complaint in writing within 10 school days of the date of the appeal. Copies shall be provided to both the complainant and the person who is the subject of the complaint.

Step 5: If it is determined that the complaint, if true, necessitates further action, notice shall promptly be sent to any staff member involved with the corrective action(s) to prevent the recurrence of any discriminatory effects or disability harassment.

Memphis Community Schools hereby provides assurance that it strictly prohibits any form of retaliation against persons who utilize this Grievance Procedure.

MEMPHIS COMMUNITY SCHOOLS

SECTION 504 COMPLAINT FORM

School Where Incident Occurred: _____ Date: _____

Complainant's Name: _____

Address: _____

Phone: _____ Email: _____

1. Describe the alleged violation of Section 504. Please be specific and include the specific incident(s), the individuals involved, dates/times/locations, etc. Attach additional pages if needed.

2. Describe your proposed resolution/remedy to alleged problem(s)/violations(s).

Date: _____

Signature of the Complainant

PLEASE SUBMIT THIS FORM TO:

Superintendent
Memphis Community Schools
34110 Bordman Road
PO Box 201
Memphis, Michigan 48041-0201
(810)392-2151

A person who believes that he/she has been discriminated against by Memphis Community Schools on the basis of disability may file a complaint through the District's grievance procedure. A complaint may also be filed with the Office for Civil Rights (OCR), U.S. Department of Education, 600 Superior Ave East, Suite 750, Cleveland, OH 44114. You may file a complaint with OCR at any time. Filing a complaint with the School District is not a prerequisite to filing with OCR.