

# **Martha's Vineyard Public Schools**

## **Section 504 Handbook**

### **Section 504 Coordinator:**

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## **Section 1 Introduction**

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Section 504 of the Rehabilitation Act of 1973 (“Section 504”) is a federal civil rights law that prohibits discrimination against individuals with disabilities on the basis of their disabling condition. The law provides that:

No otherwise qualified individual with a disability in the United States shall, solely by reason of her or his disability, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. 29 USC § 794(a).

As applied to public schools (as recipients of federal funds) the Section 504 prohibits the denial of public education participation or enjoyment of the benefits offered by public school programs because of a child’s disability. Section 504 provides a broad spectrum of protections against discrimination on the basis of disability. For example, all qualified elementary and secondary public-school students who meet the definition of an individual with a disability under Section 504 are entitled to receive regular or special education and related aids and services that are designed to meet their individual educational needs as adequately as the needs of students without disabilities are met.

Section 504 also requires, among other things, that a student with a disability receive an equal opportunity to participate in athletics and extracurricular activities, and to be free from bullying and harassment based on disability.

### **Non-Discrimination Statement**

The Martha’s Vineyard Public School District does not discriminate on the basis of disability with regard to admission, access to services, treatment, or employment in its programs or activities. It is the intent of the District to ensure that students who are disabled within the definition of Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 are identified, assessed, and provided with appropriate educational services.

### **Notice of Parent and Student Rights under Section 504**

Parents and/or Guardians (“Parents”) and students (when age appropriate) will receive written Notice of Parent and Student Rights under Section 504 upon initiation of the referral and eligibility determination process. The District should encourage parents to review this document thoroughly.

## **Section 504 Terms and Definitions**

### **504 Plan**

Written document developed by a team that outlines regular or special education and related aids and services (sometimes referred to as “accommodations”) necessary for a student who has a physical or mental impairment that substantially limits one or more major life activities, in order to provide the student with a free and appropriate public education (FAPE).

### **Americans with Disabilities Act (ADA)**

This is a federal civil rights law that prohibits discrimination against individuals with disabilities. It covers schools, the workplace and public places. ADA works in tandem with Section 504.

### **BSEA**

The Bureau of Special Education Appeals conducts due process hearings and renders rulings and decisions concerning eligibility, evaluations, placement, Individual Education Programs (IEPs), provision of special education and procedural protections for students with disabilities.

### **Compliance Officer**

The person officially designated by the school district to coordinate the requirements of Section 504.

### **Eligible Student**

In order to be eligible for a 504 Plan, a student must have a physical or mental impairment that substantially limits one or more major life activity areas.

### **Extracurricular Activities**

Section 504 requires school districts to provide an equal opportunity for participation in non-academic and extracurricular services and activities, including but not limited to counseling services, sports and physical education, field trips, school sponsored clubs and activities, and after school activities.

### **Free Appropriate Public Education (FAPE)**

The provision of an appropriate education is the provision of regular or special education and related aids and services that are designed to meet the needs of students with disabilities as adequately as the needs of nondisabled students are met and based upon adherence to the procedural requirements of Section 504.

### **Has a record of such impairment:**

Has a history of or has been classified (or misclassified) as having a mental or physical impairment that substantially limits one or more major life activities.

### **Major life activity:**

Functions such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, thinking, communicating, concentrating and other major bodily functions as defined by federal law. This list is not exhaustive.

**Mitigating Measures**

Mitigating measures include but are not limited to medications, prosthetic devices (for example, an artificial arm), assistive devices (e.g., wheelchairs, canes, crutches, and computer modifications that increase accessibility) learned behavior; and adaptive neurological modifications that an individual may use to eliminate or reduce the effects of an impairment.

**Office for Civil Rights (OCR)**

The agency that enforces several Federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the Department of Education. OCR has three primary responsibilities: investigating complaints, conducting compliance reviews, and providing technical assistance.

**Physical or mental impairment:**

Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin or endocrine; or any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

**Section 504 Team**

A group of persons knowledgeable about the child and the meaning of the evaluation data, and the placement options. Usually, the Principal or 504 Coordinator at the school level determines the composition of the 504 Team. A student's teachers and parents are members of the 504 Team. Often, the student is a member of the 504 Team.

**Substantial Limitation**

In considering whether a student is substantially limited in the performance of a major life activity, the student is compared to the average student of the same age in the general population. This determination requires an individualized assessment. However, the term "substantially limits" should be construed broadly in favor of expansive coverage; it is not meant to be a demanding standard. In that regard, an impairment does not have to prevent or significantly restrict the individual from performing a major life activity in order to be considered substantially limiting.

**Supplementary Aids and Services**

These are supports to help a child learn in the general education classroom. Examples of this are equipment or assistive technology, such as audiobooks or highlighted classroom notes.

## Section 2

### Eligibility and Evaluations under Section 504

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#### Eligibility Criteria

Eligibility for a Section 504 Plan is determined using a three-pronged approach that considers if the student:

1. Has a physical or mental impairment .
2. That substantially limits .
3. A major life activity.

In order to be considered an individual with a disability under Section 504, all three prongs need to accurately reflect the student.

The federal regulations define physical or mental impairment as follows:

“as any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.”

Note: This list does not include a comprehensive list of specific diseases or conditions.

Under Section 504, major life activities include but are not limited to the following:

- caring for oneself
- lifting
- performing manual tasks
- seeing
- hearing
- eating
- sleeping
- walking
- standing
- speaking
- breathing
- learning
- reading
- concentrating
- thinking
- communicating
- working
- bending

It 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. 42 U.S.C. § 12102(4)(a)(2)(B).

When considering eligibility under Section 504, it is important to note the following:

- A student does not need to have a disability limiting learning to qualify for a 504 Plan.
- An impairment that substantially limits only one major life activity may be considered a disability.
- An impairment that is episodic or in remission, is a disability if it would substantially limit a major life activity when active.

### **The 504 Team Process**

In addition to the District's Section 504 Coordinator, each school in Martha's Vineyard Public Schools has a building-based Section 504 Coordinator. The Coordinator will be responsible to implement the 504 Team process. The Coordinator will determine a Team for each student based in part upon the nature of the suspected disability and the student's potential needs.

### **A 504 Team consists of people who:**

- Have knowledge about the student
- Have knowledge about the evaluation data and information
- Have knowledge about accommodations that may be discussed; and
- Have knowledge about placement options

### **Step 1. Referral**

A written request for a referral for a 504 evaluation should be forwarded to the school 504 Coordinator when the student may have a disability and be in need of regular or special education and related aids or services. A referral for a Section 504 evaluation could result in a request for a special education evaluation if the suspected disability could also fall within a category of special education eligibility. A student may also be referred for an evaluation by a physician, therapist or other individual in a position to suspect that the student may have a disability and be in need of regular or special education and related and aids and services. A student may self-refer.

### **Step 2. Evaluation and Documentation**

Evaluations will be proposed after school personnel review the referral information. With prior parent consent, the Martha's Vineyard Public School District will conduct an evaluation that will include school district assessments and review of other relevant information, *e.g.*, grades, review of records, health information, and classroom participation and performance. In interpreting evaluation data and in making placement decisions, the 504 Team must consider data from a variety of sources including but not limited to: aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.

The evaluation process may include formal testing conducted by highly credentialed school personnel (*e.g.*, academic achievement, social emotional). Evaluations conducted by school personnel will be administered during the school day and may result in the student missing some instructional time.

Should the school district determine that formal evaluations are needed, consent from parents will be required. The District may also ask, but may not require, families to provide additional medical documentation. Upon receipt of parent consent to conduct the evaluation, the school district has 45 school days to complete the evaluations and then convene a 504 eligibility meeting.

There are times when families may present to the school district a report from an independent evaluator. Although the Team will consider the findings from independent educational evaluations, the Martha's Vineyard Public Schools reserves the right to conduct its own evaluations. All relevant information should be available to the school and parents at least two (2) school days prior to the eligibility meeting.

- Note: In many instances, the District will seek a release from parents to speak with outside providers. This is a best practice to gather as much information as possible about the student from a variety of sources. (See Request/Release of Information form).

### **Step 3. Team Review**

The 504 Team will schedule a meeting to determine eligibility for a Section 504 Plan and if appropriate, consider necessary services and supports. The entire Team will consider all provided assessment reports and information from the variety of sources. The three-pronged eligibility criteria will guide the process to determine if a student has a disability under Section 504.

#### **Questions that the Team may consider at the 504 meeting include:**

- What is the nature and severity of the impairment?
- What is the major life activity that may be substantially limited by the suspected disability?
- What is the suspected duration of the impairment?
- How has the student responded to any prior interventions or accommodations?
- Does the student consistently need extended time to complete assignments?
- Does the student consistently need significant changes made to the curriculum and/or physical school environment?
- Has the student shown a consistent pattern of negative behaviors or disciplinary issues?

When an impairment *does not substantially limit* one or more of the above major life activities, a student does not qualify for classroom accommodations under Section 504. It is important for families and school personnel to have conversations about instructional strategies that are utilized routinely for all students and that meet the needs of diverse learners.

### **Temporary Impairment**

A temporary impairment does not constitute a disability for purposes of Section 504 unless its



severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual.

### **Mitigating Measures**

When determining if a person has a disability, a school cannot consider the ameliorative effects of mitigating measures when determining eligibility under 504 with respect to how the impairment impacts the major life activities under consideration. For example, a student with low vision (unable to read typical size print with ordinary eyeglasses or contacts) who is able to read using a computer program that enlarges the font size of documents qualifies as a person with a disability, even though the computer program diminishes the impact on the student's vision's

The 2008 Amendments to the ADA provide a non-comprehensive list of mitigating measures: medications; prosthetic devices (for example, an artificial arm); assistive devices (for example, computer modifications that increase accessibility, wheelchairs, scooters, walkers, canes, and crutches), learned behavior; and adaptive neurological modifications that an individual may use to eliminate or reduce the effects of an impairment.

Note that the use of ordinary eyeglasses or contacts is the one exception to the mitigating measure rule. In other words, if a person's vision is corrected with eyeglasses or contacts, the school may consider how the eyeglasses or contacts help the student see when making a determination about whether the student has a visual disability

### **Development of the 504 Plan**

Should the 504 Team determine a student is eligible for a Section 504 Plan, the Team will develop the plan collaboratively. Accommodations included in the Section 504 Plan will:

- Be individualized and specific.
- Be considered as necessary to provide the student FAPE in accordance with Section 504.
- Be determined by the Team.

The 504 Plan should identify the person(s) responsible for implementing each component of the Plan.

The completed 504 Plan will be implemented immediately. All teachers and other school personnel with a "need to know" status will be informed of the contents of the Plan. Should the Team find the student not eligible for a Section 504 Plan, the Team will encourage the student and family to discuss with the teachers the differentiated instructional approaches and District Curriculum Accommodation Plan options that are implemented routinely within the classroom and that may be helpful to the student.

Furthermore, if the family disagrees with the findings of the Team, they may ask to reconvene the team or exercise their due process rights in accordance with Section 504 of the Rehabilitation Act of 1973.

### **Implementing the Plan**

District and school staff are legally responsible to implement the 504 Plan. The classroom teacher(s) and/or other professionals maintain regular and consistent documentation to demonstrate that the school has implemented the plan. For example, a teacher may keep a file of student work, or write special notations in a grade book, or maintain notes. Other forms of data collection should be considered by the 504 Team to show compliance and to aid in reviewing the efficacy of accommodations. Any concerns about the plan's effectiveness should be shared with the 504 building coordinator.

1. The Plan will be provided to all who need it: teachers (classroom and specialists); substitute teachers; bus drivers/cafeteria workers (as applicable)
2. The Plan will be reviewed annually or as appropriate.
3. If the student chooses not to accept accommodations – the district will document this and take steps to address as necessary.
4. The student will be re-evaluated at least every three (3) years to determine whether the student continues to be eligible for a 504 Plan.

### **When considering eligibility under Section 504, it is important to note the following:**

1. A 504 Plan is not designed to fundamentally alter the program, standards, or what students are expected to know and be able to do.
2. Though the definition of Section 504 is broad, the school district must still determine if impairment substantially limits a major life activity.
3. Simply having a disability does not mean a student is 504 eligible. The school district must consider all the data and identify the substantial limitation.
4. When a school qualifies a student for Section 504, it means he or she has rights.

A child's physician cannot make the student automatically eligible. Physicians make diagnoses, but the school district determines 504 eligibility.

### Section 3 FAPE under Section 504

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Under Section 504, FAPE (Free Appropriate Public Education) refers to the provision of regular or special education and related aids and services a student with a disability needs and the appropriate setting in which to receive those services. In general, the following areas should be addressed in a written 504 accommodation plan to meet the FAPE requirement as defined by Section 504:

- **The nature of the student’s disability and the major life activities that it limits.**
- **The basis for determining the disability** – the evaluation procedures must be documented in the accommodation plan.
- **The educational impact of the disability** – the 504 team must describe how the disability substantially affects the student’s educational performance so proper accommodations can be implemented.
- **Necessary accommodations** – 504’s FAPE standard requires schools to provide services designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met.
- **Placement** – 504 has a least restrictive environment requirement similar to the IDEA and students with disabilities and students without disabilities must be placed in the same setting, to the maximum extent appropriate.

To satisfy FAPE requirements under Section 504, education services must meet individual needs and students with disabilities must be educated with nondisabled students to the maximum extent appropriate to the needs of the student with a disability. In addition, evaluation and placement decisions must be made in accordance with appropriate procedures. Finally, districts are required to have due process procedures for review of identification, evaluation and placement decisions.

For further information, refer to the OCR Guidance: FAPE for Students with Disabilities under Section 504, available at:

<https://www2.ed.gov/about/pffices/list/ocr/docs/edlite-fape504.html?exp=1>

## Section 4 Other Important Topics

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### **Extracurricular Activities and Nonacademic Services**

School districts must provide non-academic services and activities in a manner that provides students with disabilities an equal opportunity for participation. This requirement includes activities such as extracurricular athletics and special interest groups or clubs sponsored by the school district. School districts must afford qualified students with disabilities an equal opportunity for participation in extracurricular athletics in an integrated manner to the maximum extent appropriate to the needs of the student. This requirement means that a school district must make reasonable modifications to its policies, practices, or procedures whenever such modifications are necessary to ensure equal opportunity, unless the school district can demonstrate that the requested modification would constitute a fundamental alteration of the nature of the extracurricular athletic activity.

The fact that a student has a disability does not mean that the student must be allowed to participate in any selective or competitive program offered by a school district. Rather, school districts may require a level of skill or ability of a student in order for that student to participate in a selective or competitive program or activity, so long as the selection or competition criteria are not discriminatory.

See also OCR Dear Colleague Letter: Students with Disabilities in Extracurricular Athletics (Jan. 25, 2013), available at:

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.pdf>.

### **Behavior and Discipline**

Similar to students who are protected under the IDEA, students with disabilities eligible under Section 504 have additional protections in matters of student discipline. Students with disabilities may be disciplined in the same manner as non-disabled peers for up to 10 school days in the same school year, as long as the removal does not constitute a change of placement. When suspension of a disabled student (including a student on a 504 plan or IEP) will constitute a change of placement (including expulsion or removal to a 45 day interim alternative educational setting), the District will comply with the following procedures:

Relevant members of the student's 504 Team will conduct a Manifestation Determination Team meeting. The Team will determine if the misconduct was a manifestation of the student's disability. In making this determination the Team must consider all relevant information, including:

1. The 504 Plan
2. Staff observations
3. Any relevant information provided by the parent/student

The results of the Manifestation Determination meeting should be made available to the administration. If the team determines that the incident is a manifestation of their disability the student will not receive discipline that results in a change of placement. If the team determines that the behavior is a manifestation of the student's disability, it must determine if the student's current placement is appropriate. If the student's conduct is determined to not be a manifestation of his or disability, the District may apply relevant disciplinary procedures in the same manner and for the same duration as students without disabilities." 34 C.F.R. 300.530(c). Parents are entitled to notice and procedural safeguards when a manifestation determination is conducted. The team must also determine whether the student's 504 plan is being followed. If not, and the failure to implement the student's 504 plan led to the incident, the student may not be disciplined.

The District will develop an individualized behavior management plan for a student with a disability when the student's behavioral difficulties significantly interfere with his ability to benefit from his/her education.

### **Bullying and Harassment**

Section 504 prohibits disability-based harassment that is sufficiently serious to deny or limit a student's ability to participate in or benefit from the school's education programs and activities. Bullying and harassment of a student by his or her peers, based on disability, may deny a student equal educational opportunities. When the district knows or reasonably should know of possible disability-based harassment, it will take immediate and appropriate steps to investigate or otherwise determine what occurred. If an investigation reveals that the harassment created a hostile environment, the district will take prompt and effective steps reasonably calculated to end the harassment, eliminate the hostile environment, prevent the harassment from recurring, and as appropriate remedy its effects.

The district also has responsibilities under Section 504's FAPE requirements when a student with a disability is harassed or bullied on any basis (not just disability). This is because bullying or harassment can result in a denial of FAPE under Section 504. An example of a FAPE denial would be if a student experiences adverse changes in academic performance or behavior as a result of bullying or harassment.

### **Section 504 and ADHD**

As a result of the expanded scope of the term disability under the ADA, an increasing number of students with ADHD are entitled to protections under Section 504. In 2016, the Office for Civil Rights issued a Resource Guide specifically addressing students with ADHD and Section 504. This resource highlights the following reminders:

- The district must consider the term disability broadly and cannot consider the positive effects of mitigating measures in evaluating for a disability (*i.e.*, medication).
- In determining whether a student has a disability under Section 504, the district must consider all potential major life activities that may be impacted by the student's impairment, not just learning.
- Section 504 does not require a medical assessment as a precondition to the school district's determination that the student has a disability. If the District believes that a

medical assessment is necessary to determine whether the student has ADHD and needs special education or related aids or services because of ADHD, the student's parents cannot be required to pay for it.

- The District should not act on stereotypes and generalizations about ADHD and will monitor all students carefully for ADHD without regard to race or gender.
- Not all students with ADHD require the same accommodations.

For additional information, please refer to the following link:

<https://www2ed.gov/about/offices/list/ocr/letters/colleague-201607-504-adhd.pdf>

### **Section 504 and Individual Health Care Plans**

Many students who qualify as disabled under Section 504 have medical issues that may also necessitate the development of an individual health care plan (IHCP). A student may have both a Section 504 Plan and an IHCP. It is important to recognize the differences between IHCPs and Section 504 plans.

An IHCP is a written document that outlines the provision of student healthcare services and can help ensure that a student's medical needs are met throughout the school day. A student with an IHCP who has not been determined to be a student with a disability will not be entitled to a free appropriate public education or afforded the protections provided by the general nondiscrimination prohibitions included in Section 504 and Title II of the ADA.

Not every student who has an IHCP will be considered a student with a disability under Section 504. Whether a student with a health issue qualifies for a Section 504 Plan depends on whether the health issue substantially limits a major life activity area and whether because of the disability, the student needs special education or related aids and services.

### **Standardized Tests and Accommodations- MCAS**

MCAS is untimed for every student; each student receives as much time as s/he needs within one school day. Decisions about other MCAS accommodations must be discussed and determined by the 504 Team and the 504 Plan must include this information. The principal is responsible for ensuring that each student is assessed using the test format and accommodations listed in the student's 504 plan. See Department of Elementary and Secondary Education's *Accessibility and Accommodation Manual for the 2021-2022 MCAS Tests and Retests*, available at <https://www.doe.mass.edu/mcas/accessibility/manual.docx>

### **Section 504 and Long COVID**

The U.S. Center for Disease Control and Prevention has identified "long COVID" as another term for post-COVID conditions which include a wide range of new, returning, or ongoing health problems people can experience more than four weeks after first being infected with the virus that causes COVID-19.

A child or student experiencing long COVID or other conditions that have arisen as a result of COVID-19 may be entitled to protections and services. Some children and students who were already identified as having a disability under Section 504 and who have contracted COVID-19 may experience new or worsened symptoms related to their pre-existing disability, to COVID-

19, or to both. If these symptoms persist in the form of long COVID, these children or students may need new or different related aids and services, specialized instruction, or reasonable modifications. Other children or students may be found eligible for services under Section 504 for the first time because of the adverse impact of long COVID if long COVID substantially limits one or more of the student's major life activities. The evaluation of a student must be individualized and not make any conclusions based on the child's diagnosis alone.

For additional information, see OCR Office of Special Education and Rehabilitative Services Fact Sheet: "Long COVID under Section 504 and the IDEA: A Resource to Support Children, Students, Educators, Schools, Service Providers and Families" (July 26, 2021), available at: <https://sites.ed.gov/idea/files/ocr-factsheet-504-20210726.pdf>

**Section 5**  
**Grievance Procedures**

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**MARTHA'S VINEYARD PUBLIC SCHOOLS**  
**SECTION 504 GRIEVANCE PROCEDURES**

Martha's Vineyard Public Schools (the District) will make every attempt to resolve disputes internally with respect to Section 504 compliance for students. When disputes emerge, these grievance procedures will incorporate due process standards to resolve complaints of discrimination. To comply with Section 504, the District:

1. Provides written assurance of nondiscrimination.
2. Designates a 504 Coordinator.
3. Provides grievance procedures to resolve complaints.
4. Provides notice of nondiscrimination in admission or access to its programs or activities. Notice is included in student/parent handbook.
5. Identifies and locates all qualified children with disabilities who are not receiving a public education.
6. Notifies annually persons with disabilities and their parents or guardians of the district's responsibilities under Section 504.
7. Provides parents or guardians with notice of procedural safeguards.
8. Conducts a self-evaluation of school district policies, programs, and practices to make sure discrimination is not occurring.

**GRIEVANCE PROCEDURES**

The 504 Coordinator, on request, will provide a copy of these grievance procedures and investigate all complaints in accordance with these procedures. The person who believes he/she has been discriminated against based on disability shall discuss the grievance with, and give a written grievance to, the Section 504 Coordinator who shall, in turn, investigate and reply to the complainant. An individual may also file a 504 complaint on behalf of someone else. The District will assist individuals who need assistance putting a grievance into writing.

The District will make appropriate arrangements to ensure that individuals with disabilities are provided any necessary accommodations to participate in this grievance process. Such arrangements may include, but are not limited to, providing interpreters for the deaf, providing taped cassettes of material for the blind, or assuring a barrier-free location for the proceedings. The Section 504 Coordinator will be responsible for such arrangements.

The Superintendent will designate an individual to investigate grievances against the 504 Coordinator. The 504 Coordinator will designate an individual to hear any appeals concerning 504 complaints against the Superintendent.



## **PROCESS/TIMELINE**

### *Step 1:*

A complaint must be submitted in writing to the Section 504 Coordinator. Complaints about the Section 504 Coordinator may be brought directly to the Superintendent. The complaint must contain the name and address of the person filing it and be signed by the complainant. The 504 Coordinator shall further investigate the complaint and make best efforts to communicate the outcome in writing to the complainant within twenty (20) school days. In cases in which the investigation extends beyond twenty days, the Coordinator will inform the complainant about the status of the investigation within twenty (20) school days.

The District will address any violations of Section 504, take steps to prevent the recurrence of any discrimination, and correct any discriminatory effect on the person filing the grievance and others.

### *Step 2:*

If the complainant wishes to appeal the decision of the Section 504 Coordinator, he/she may submit a signed statement of appeal to the Superintendent of Schools (or designee) within ten (10) school days after receipt of the 504 Coordinator's response. The 504 Coordinator and Superintendent cannot be the same individual. The Superintendent shall meet with all parties involved, formulate a conclusion, and use reasonable efforts to respond in writing to the complainant within thirty (30) school days.

### *Step 3:*

If the complainant remains unsatisfied, he/she may appeal to the Bureau of Special Education Appeals or other appropriate state agency or court. The availability and use of this grievance procedure do not prevent a person from filing complaint of discrimination on the basis of disability directly with U.S. Department of Education, Office for Civil Rights, or any other state or federal agency.

## **FEDERAL COMPLAINT PROCEDURES**

The complainant may file a complaint with the Office for Civil Rights (OCR) at any time before, during, or after the local grievance procedures. The contact information for the regional office is as follows:

Office for Civil Rights  
U.S. Department of Education  
8<sup>th</sup> Floor  
5 Post Office Square  
Boston, MA 02109-3921  
Telephone: (617) 289-0111  
Facsimile: (617) 289-0150  
[Email: OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

## **Office for Civil Rights Complaint Process**

An individual or an organization may file a complaint with the regional Office for Civil Rights (OCR). An OCR complaint must be filed, in writing, within 180 days after the alleged discriminatory act or from the time the person becomes aware of the alleged discriminatory act. In certain cases, OCR will consider complaints where more than 180 days have elapsed. Anyone wishing to file a formal complaint with OCR should submit in writing the following information in a letter or on the Discrimination Complaint Form available from OCR regional offices:

- Name, address, and phone (a daytime telephone number is helpful)
- A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required)
- The name and location of the agency that committed the alleged discriminatory act(s), as well as the name of the —injured person
- A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, sex, color, national origin, age, or disability)

**A school or individual may not retaliate against or harass any person who has made a complaint, testified, assisted, or participated in any manner in a discrimination investigation.**

### **DUE PROCESS HEARING**

Due process is defined as an opportunity to resolve a dispute between parents and schools over the decisions made and/or procedures used by the school under Section 504. A Section 504 due process hearing may be made *at the request of the school or a parent, guardian, or surrogate parent of the student*. It is required that parents or guardians be notified of their right to request a hearing regarding a dispute over the identification, evaluation, or educational placement of a student with disabilities being served or considered for Section 504. *See Notification of Section 504 Parent/Student Rights*. A request for a due process hearing may be submitted directly to:

Division of Administrative Law Appeals  
Bureau of Special Education Appeals  
14 Summer Street, 4<sup>th</sup> Floor  
Malden, MA 02148

### **MEDIATION**

Mediation is not required under Section 504. Most of the time, parents and school staff agree upon issues regarding evaluation, eligibility, program, and placement of students with disabilities. However, there are times when disagreement occurs. If the parent and school are unable to resolve a conflict concerning a student with a disability, then mediation is an available alternative to a due process hearing which can be lengthy and expensive. A trained mediator works with both parties to guide them toward a mutually satisfactory solution in the best interest of the student and in compliance with Section 504 regulations. This occurs at a non-adversarial meeting that is more structured than a parent-school conference, but less formal than a due process hearing. Parents and schools are encouraged to try mediation before relying on more formal procedures such as the grievance procedures, complaints to OCR, or due process hearings.

**Mediation is completely voluntary.** It should not interfere with any procedural safeguards, including filing a grievance with the district, requesting a due process hearing with the Bureau of Special Education Appeals or filing a complaint with OCR.

## Section 6

### Additional Section 504 Resources (Available Online)

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- OCR Parent and Educator Resource Guide to Section 504 in Public Schools (Dec. 2016), available at:  
<https://www2.ed.gov/about/offices/list/ocr/docs/504-resource-guide-201612.pdf>
- OCR Protecting Students with Disabilities, available at:  
<https://www2.ed.gov/about/offices/list/ocr/504faq.html>
- OCR – FAPE Under Section 504 (Aug. 2010), available at:  
<https://www2.ed.gov/about/offices/list/ocr/docs/edlite-FAPE504.html>
- US Department of Health and Human Services – Section 504 Fact Sheet, available at:  
<https://www.hhs.gov/sites/default/files/ocr/civilrights/resources/factsheets/504.pdf>
- MA DESE – Section 504, available at: <http://www.doe.mass.edu/sped/links/sec504.html>
- Dear Colleague Letter – ADHD and Section 504 (July 2016), available at:  
<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201607-504-adhd.pdf>
- Dear Colleague Letter: Students with Disabilities in Extracurricular Athletics (Jan. 2013), available at: <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.pdf>

**Section 7**  
**Martha's Vineyard 504 Forms**

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- Section 504 Checklist
- Section 504 Grievance Procedures
- Parent/Student Rights under Section 504
- Section 504 Referral Form
- Permission to Speak Reciprocally Form
- 504 Eligibility –Educational Assessment Permission Form
- Educational Assessment Form
- Medical Assessment Form
- Meeting Invitation – Review
- Meeting Invitation - Reevaluation
- Section 504 Attendance Sheet
- Meeting Notes
- Meeting Notes for Annual Reviews
- Section 504 Accommodation Plan
- Section 504 Letter of No Finding
- Manifestation Determination Paperwork
- Section 504 Plan Termination letter
- 504 Graduation Letter