



PENN-HARRIS-MADISON SCHOOL CORPORATION

NOTICE OF PARENT AND STUDENT RIGHTS UNDER SECTION 504

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against persons with a disability in any program receiving federal financial assistance. In order to fulfill obligations under Section 504, the Penn-Harris-Madison School Corporation has the responsibility to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a disability should knowingly be permitted in any of the programs and practices of the school system. Penn-Harris-Madison has the responsibilities under Section 504, which include the obligations to identify, evaluate, and, if the student is determined to be eligible under Section 504, to afford access to appropriate educational services.

An eligible student under Section 504 is a student who (a) has, (b) has a record of having, or (c) is regarded as having, a physical or mental impairment that substantially limits a major life activity, which includes but is not limited to learning, self-care, walking, seeing, hearing, speaking, breathing, working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking, communicating and performing manual tasks. In addition, the following major bodily functions are considered major life activities: functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Dual Eligibility: Many students will be eligible for educational services under both Section 504 and the Individuals with Disabilities Education Act (“IDEA”). Students who are eligible under IDEA have many specific rights that are not available to students who are eligible solely under Section 504. The *Notice of Parent Rights / Procedural Safeguards* is available through the Penn-Harris-Madison Exceptional Education department and sets out the rights granted by the IDEA. It is the purpose of this Notice to set out the rights assured by Section 504 to those disabled students who do not qualify under IDEA.

The following is a description of the rights and options granted by Section 504. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions. You have the right to:

1. Have your child take part in, and receive benefits from, public education programs without discrimination because of his/her disabling condition.
2. Have the school district advise you of your rights and options under federal law. (34 CFR 104.32)
3. Receive notice prior to any action by the district with respect to identification, evaluation, or placement of your child. (34 CFR 104.36)
4. Have your child receive a free appropriate public education. This includes the right to be educated with students without disabilities to the maximum extent appropriate. It also includes the right to have the school district make reasonable

accommodations to allow your child an equal opportunity to participate in school and school-related activities, as well as to have the school district provide free educational services (with the exception of certain costs normally paid by the parents of nondisabled students. (34 CFR 104.33 and 104.34)

5. Have your child educated in facilities and receive services comparable to those provided to students without disabilities and in the least restrictive environment. (34 CFR 104.34)
6. Have an evaluation of your child prior to an initial 504 placement and any subsequent significant change in placement. (34 CFR 104.35)
7. Have testing and other evaluation procedures conform to federal requirements as to validation, administration, areas of evaluation, etc. The evaluation, educational, and placement decisions made by the district will be based upon a variety of information sources and by a group of persons (i.e., the 504 Committee) who know the student, evaluation data, and placement options. (34 CFR 104.35)
8. Have transportation provided to and from an alternative placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the district.
9. Have your child given an equal opportunity to participate in non-academic and extracurricular activities offered by the district.
10. If eligible under Section 504, have periodic reevaluations of your child, generally every three years. (34 CFR 104.35)
11. Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement. (34 CFR 104.36)
12. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records. (34 CFR 104.36)
13. A response from the school district to reasonable requests for explanations and interpretations of your child's records. (34 CFR 104.36)
14. Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your child. If the school district refuses this request for amendment, it shall notify you within a reasonable time and advise you of the right to a hearing. This hearing will be according to the Family Educational Rights and Privacy Act (FERPA) and should not be confused with an impartial due process hearing. (34 CFR 104.36)
15. Challenge the actions of the 504 Committee regarding your child's identification, evaluation, or educational placement. If you wish to make a challenge, you must

file a written complaint with the Penn-Harris-Madison 504 Coordinator by mailing your written complaint to:

Section 504 Coordinator
Dr. Kay Antonelli
Assistant Superintendent for Instruction
55900 Bittersweet Road
Mishawaka, IN 46545

The 504 Coordinator will investigate the matter and send a written response to you within ten (10) instructional days.

16. File an internal complaint relating to an alleged violation, misapplication or misinterpretation of Section 504. This procedure may also be used for any disagreement with respect to actions regarding the identification, evaluation or educational program or placement of students who are disabled or believed to be disabled under Section 504 are not eligible under the IDEIA, except in the case of disciplinary actions where the provisions of the Student Code of Conduct apply. Use of these procedures is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the U.S. Department of Education's Office for Civil Rights. The procedure is as follows:
 - a) Step 1 - Investigation by the Building Compliance Officer: A student or parent may initiate an investigation by filing a written internal complaint with the Building Compliance Officer. The complaint should fully describe the circumstances giving rise to the dispute and how the child is adversely affected. The complaint must be filed as soon as possible, but not longer than thirty (30) calendar days after disclosure of the facts giving rise to the complaint. The Building Compliance Officer shall conduct an impartial investigation of the complaint. As part of the investigation, the Building Compliance Officer shall permit the complainant to present witnesses and other evidence in support of the complaint. The investigation shall be completed within fifteen (15) school days of the written complaint being filed. The Building Compliance Officer will notify the complainant in writing of his/her decision.
 - b) Step 2 - Appeal to the Section 504 Coordinator: If the complaint is not resolved satisfactorily at Step 1, the student or parent may appeal the Building Compliance Officer's decision in writing to the Section 504 Coordinator. The appeal must be made within five (5) school days following receipt of the Building Compliance Officer's decision. The Section 504 Coordinator will review the case, may conduct an informal hearing, and will notify all parties in writing of his/her decision within ten (10) school days of receiving the appeal.
 - c) Step 3 - If the complaint is not resolved satisfactorily at Step 2, the student or parent may request a due process hearing, provided the complaint

involves an issue related to the identification, evaluation, or placement of the student (see below).

- 17) Request an impartial due process hearing related to actions regarding the identification, evaluation, or educational placement of your child. You do not have to complete the written complaint process described above before requesting an impartial due process hearing. Hearing requests must be made to the Superintendent of Schools. The following details the procedure:
 - a) If you disagree with the identification, evaluation, educational placement, or the provisions of a free appropriate public education for your child, you may make a written request for a hearing to the Superintendent of Schools, indicating the specific reason(s) for the request.
 - b) The local school district may initiate a hearing regarding the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student. The local school district shall notify the parent of the specific reason(s) for the request.
 - c) The hearing shall be conducted by an impartial hearing officer (IHO) (i.e., by a person not employed by the Board, not involved in the education or care of the child, and not having a personal or professional interest that would conflict with his/her objectivity in the hearing). The School Corporation will maintain a list of trained IHOs that may include IDEIA hearing officers, attorneys, and Directors of Special Education outside the Corporation. The Section 504 Coordinator will appoint an IHO from that list, and the costs of the hearing shall be borne by the Corporation. The appointment of an IHO will be made within fifteen (15) school days after the request for a due process hearing is received.
 - d) Such hearings shall be conducted within a reasonable period of time (i.e., not to exceed 90 calendar days of the request for such a hearing, unless this time frame is mutually waived by the parties or is determined by the IHO to be impossible to comply with due to extenuating circumstances).
 - e) A party to such due process hearing shall have:
 - (1) The right, at his/her own cost, to be accompanied and advised by legal counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;
 - (2) The right to present evidence, and confront, cross-examine and compel the attendance of witnesses;
 - (3) The right to a written or electronic verbatim recording of such hearing; and

- (4) The right to written findings of fact and the reasons for the decision.
- f) The IHO will give the parent and/or student written notice of the date, time and place of the hearing. Notice will be given no less than twenty-one (21) calendar days prior to the date of the hearing, unless otherwise agreed to by the parent and/or student. The notice shall include:
 - (1) A statement of time, place, and nature of the hearing;
 - (2) A statement of the legal authority and jurisdiction under which the hearing is being held;
 - (3) A reference to the particular section of the statutes and rules involved;
 - (4) A statement of the availability of relevant records for examination;
 - (5) A short and plain statement of the matters asserted; and
 - (6) A statement of the right to be represented by counsel.
 - g) The IHO shall conduct the hearing in a manner that will afford all parties a full and fair opportunity to present evidence and to otherwise be heard. The parent and/or student may be represented by another person of his/her choice, including an attorney.
 - h) The IHO shall make a full and complete record of the proceedings.
 - i) The IHO shall render a decision in writing to the parties within thirty (30) calendar days following the conclusion of the hearing. The decision will be based solely on the testimony and demonstrative evidence presented at the hearing and include a summary of the evidence (i.e., findings of fact) and the reason for the decision. The notification shall include a statement that either party may appeal the decision.
 - j) Appeal of the IHO's decision may be made to a federal court of competent jurisdiction.
 - k) During the pendency of the hearing, unless the local school district and the parent of the child agree otherwise, the child involved in the proceeding shall remain in his/her present educational placement. If there is a dispute regarding this present placement, the hearing officer shall order an interim placement. The present educational placement of the child shall include normal grade advancement if the proceedings extend beyond the end of a school year. If the issue involves an application for initial admission to school, the child, with the consent of the parent, shall be placed in the school until the completion of the proceedings. In the absence of an

agreement, the hearing officer shall determine the child's placement during the proceedings.

18. You have a right to file a complaint with the Office for Civil Rights (OCR) of the Department of Education. You may submit your concerns to:

U.S. Department of Education
Citigroup Center
500 W. Madison Street, Suite 1475
Chicago, IL 60661-4544
Telephone: (312) 730-1560
OCR.Chicago@ed.gov