

Henniker School District Procedure

Section 504

The Henniker School District is committed to providing disabled children who attend our schools with the opportunity to participate in, and benefit from, our educational system. The following is the official written policy for compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act (ADA).

DEFINITIONS APPLICABLE TO HENNIKER SCHOOL DISTRICT SECTION 504/ADA POLICY

Otherwise qualified disabled student: This term means a student who would qualify for a particular benefit or program in all respects except for the fact that he or she is a "disabled student" under Section 504/ADA.

Disabled student: This term under Section 504/ADA means a student who:

- I. has a physical or mental impairment that substantially limits one or more major life activities,
- II. has a record of having an impairment that substantially limits one or more major life activities, or
- III. is regarded as having an impairment that substantially limits one or more major life activity.

Section 504/ADA specifically excludes the following physical and/or mental impairments from qualifying a student as disabled: homosexuality, bisexuality, transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, other sexual disorders, compulsive gambling, kleptomania, pyromania or psychoactive substance abuse disorders resulting from illegal use of drugs.

Major life activities: This term means life functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Record of impairment: This term means having a history of, or being classified as, having a mental or physical impairment that substantially limits one or more major life activity.

Regarded as having an impairment: This term refers to persons who do not have any substantial limitations on any major life activities, but are nevertheless perceived or treated as if they had such limitations.

THE HENNIKER SCHOOL DISTRICT'S NONDISCRIMINATION POLICY IN ITS PROVISION OF EDUCATIONAL PROGRAMS AND SERVICES TO OTHERWISE QUALIFIED DISABLED STUDENTS

In compliance with its obligations under both Section 504 and the ADA, Henniker School District does not discriminate against otherwise qualified disabled students in the provision of its educational

programs and activities. Henniker School District will make reasonable modifications to its programs and activities to accommodate otherwise qualified disabled students, unless such modifications would impose an undue burden on the operation of the particular program, or would alter the fundamental nature or purpose of the program. In addition to its provision of educational services, Henniker School District will not discriminate against otherwise qualified disabled students in its provisions of non-educational programs and services such as counseling, athletics, transportation, health services, recreational activities, special interest groups or clubs, referrals to other agencies, and employment.

Henniker School District will provide a free appropriate education (including formalized modifications in the regular education classroom, special education and/or related aids and services) to otherwise qualified disabled students who reside within, or are invited to attend, Henniker School District. Instruction will be individually designed to meet the individualized educational needs of these students. Henniker School District will seek to assure that the educational services provided to otherwise qualified disabled students are reasonably calculated to afford such students an equal opportunity to achieve educational benefit as is provided to non-disabled students.

The Henniker School District's Section 504/ADA Coordinator is the SAU #24 **Pupil Personnel Director**.

A. Least Restrictive Environment

Henniker School District will educate otherwise qualified disabled students with non-disabled students to the maximum extent appropriate. Henniker School District will remove an otherwise qualified disabled student from the regular educational environment only when the District determines that educating the student in the regular environment with the use of formalized classroom modifications, supplementary aids and/or services cannot be achieved satisfactorily.

B. Initial Evaluations

Henniker School District will evaluate any student suspected of qualifying as a disabled student under Section 504/ADA. Henniker School District does not receive funds under Section 504/ADA and is not required to pay for medical or psychiatric evaluation of a student; however, Henniker School District will attempt to obtain and keep on file relevant and current medical information provided by the student's parents and/or physician, psychologist, psychiatrist and other professionals in order to make needed adjustments or modifications for the student.

C. Modifications

The determination of what formalized Section 504/ADA modifications to the student's regular education program, special education, and/or related services are appropriate for a student suspected of qualifying as a disabled student under Section 504/ADA will be made in writing by a group knowledgeable about the student.

D. Re-evaluations

Henniker School District will re-evaluate any student determined to be eligible for formalized modifications, special education, and/or related services every three years, or more frequently if conditions warrant.

E. Changes in Placement

If a student has been determined to be eligible for Section 504/ADA formalized modifications, special education, and/or related services under Section 504/ADA, Henniker School District will re-evaluate or hold a placement meeting before making any significant change in placement. Examples of significant changes in placement before which Henniker School District will reevaluate include individual suspensions that exceed ten cumulative school days, expulsion, transfer of a student to home instruction, or a significant change in the method of delivery of the student's education (e.g. moving the student from regular education to the resource room).

F. Documentation of Evaluations and Changes in Placement

Henniker School District will document any Section 504/ADA evaluations that are performed and/or any decisions that are made regarding any student who is evaluated for qualification for formalized modifications, special education, and/or related services under Section 504/ADA.

G. Personnel Training

Henniker School District will provide appropriate workshops to instruct teachers on the education of persons with disabilities, along with teacher in service meetings and consultation with medical professionals, as necessary.

H. Transportation of Otherwise Qualified Disabled Students

Henniker School District will not discriminate in its provision of transportation to otherwise qualified disabled students. If Henniker School District places a student, under a Section 504/ADA plan, in a program not operated by the District, the District will assure that adequate transportation to and from the program is provided at no greater cost than the parent would have paid to transport the student to the district-operated program. However, if Henniker School District has made available a free appropriate education to a student that conforms to the requirements of Section 504/ADA, but the parent chooses to place the student elsewhere, Henniker School District will not pay for any costs incurred in transporting the student to that program.

I. Notice to Parent or Guardian of Actions Affecting Identification, Evaluation or Placement

Henniker School District will notify the parent or guardian of a student suspected of being an otherwise qualified disabled student of his/her rights to (initiate the grievance procedure and/or obtain) an impartial hearing if the parent or guardian disagrees with any action regarding identification, evaluation, and/or placement of a student suspected of being disabled under Section 504/ADA.

J. General Notice Regarding Nondiscrimination

The District seeks to notify all the District's students, students' parents, applicants, and employees of its policy of nondiscrimination on the basis of disability. To achieve this objective, the District will include the following Notice on all applications for employment or admission within the District, collective bargaining proposals, student handbooks, and other school-wide publications where inclusion of such Notice would be appropriate:

Henniker School District does not discriminate against qualified disabled individuals on the basis of disability in its provision of programs, services, or employment. The District has designated the school principal to coordinate the District's compliance with federal nondiscrimination laws.

In addition, the District will post the above notice on appropriate bulletin boards throughout its school campuses, and will take steps to assure that this notice is made available to persons with impaired vision.

(Alternative Notice):

Henniker School District does not discriminate on the basis of race, sex, color, religion, age, national origin, or disability in its provision of programs, services, or employment. The District has designated the school principal to coordinate the District's compliance with federal nondiscrimination laws.

EVALUATION, IDENTIFICATION AND MODIFICATIONS FOR SECTION 504/ADA QUALIFIED DISABLED STUDENTS

1. A written referral requesting possible evaluation of a student for a disability is a written request initiated by a parent, teacher, counselor, or other school personnel when such a person has reason to believe that a student has a disability that significantly impairs that student's ability to function at school. In addition, a student, parent or outside agency, or any individual knowledgeable about a student may also refer the student for evaluation. All referrals must be in writing and must be submitted to the Special Education Director or Superintendent.
2. Within five school days of receiving the written referral request, the Special Education Director or Superintendent shall submit the written referral request to the Referral Committee, along with any evaluations, reports, or other written materials the referring person or agency would like the Referral Committee to consider. The Special Education Director or Superintendent may contact the referring person or other parties to ascertain pertinent information.
3. Within ten (10) school days of its receipt of the written referral, the Referral Committee will conduct a conference to review the written referral request, along with any accompanying evaluations, reports, or other written materials. At the conclusion of the conference, the Referral Committee will make a determination as to whether a formal evaluation for a qualifying disability is appropriate. If the Referral Committee determines there is a significant possibility that the student in question would qualify as disabled under the IDEA, Section 504, or the ADA, the Referral Committee will make the determination that formal evaluation is appropriate.
4. If the Referral Committee makes the determination that formal evaluation is not appropriate, the Referral Committee will notify the referring party and parent in writing, and will provide a combined IDEA/§504/ADA Notice of Parent/Student Rights to the parent or guardian of the student in question.
5. If the Referring Committee makes the determination that formal evaluation is appropriate, the Referring Committee will refer the case, with all the documents it has collected, to the special education director or designee. The special education director or designee will cause a Permission to Evaluate form to be forwarded to the parent or guardian of the student in question.
6. Upon receipt of a completed Permission to Evaluate form from the student's parent or guardian, the special education director or designee will assume the responsibility of evaluating the student to determine whether he/she is eligible for special education and related services under IDEA.

7. Upon completion of the formal evaluation for IDEA eligibility, the Special Education Committee (including the parent or guardian) will make a determination as to whether the student is eligible for special education and related services under IDEA. The Special Education Committee's determination regarding the IDEA eligibility shall be made within 60 days of receipt of the signed permission to evaluate.

8. If the student is determined to be eligible for special education and related services under IDEA, an Individual Education Plan (IEP) will be designed to meet the student's needs in the least restrictive environment. The specifics of this process are set forth in the District's IDEA Plan.

9. If the Special Education Committee determines the student is not eligible for special education and related services under IDEA, it will:

- a. provide a notice of ineligibility for IDEA special education and related services to the parent or guardian;
- b. provide an IDEA Notice of Parent/Student Rights to the parent or guardian; and
- c. refer the student to the District's Section 504/ADA Coordinator for review to determine eligibility under Section 504/ADA. Such a referral will occur within 10 school days.

10. Upon receipt of a referral for evaluation pursuant to 9(c), the Section 504/ADA Coordinator or designee will form a committee with other persons knowledgeable about the student to determine whether the student is eligible for a Section 504/ADA Plan. If the Section 504/ADA committee formed for this purpose finds the student has a physical or mental impairment that substantially limits one or more major life activities, the student shall be found to be an eligible Section 504/ADA Plan disabled student.

11. The Section 504/ADA Coordinator or designee shall provide written notification to student's parent or guardian of any decision by the Section 504/ADA committee as to eligibility under

Section 504/ADA. Section 504/ADA parent rights will be sent to the parents to be signed and returned.

12. For students determined to be eligible under Section 504/ADA, a Section 504/ADA Plan setting forth special education and/or related services will be implemented for the student in the least restrictive environment. The Section 504/ADA committee will develop this plan based on information gained from a variety of sources and after consideration of various placement options. As a matter of courtesy, this plan will be submitted to the parent for his or her signature. Upon the parent's return of the signed plan, one copy of the signed plan will be given to the parent, one copy will be retained for the student's cumulative records, and one copy will be kept in the student's 504/ADA records.

SEARCH AND SERVE EFFORTS UNDER §504/ADA

In order to not duplicate efforts, attempts to locate and identify all qualified persons with disabilities residing in the district who are not presently receiving a public education - whether they are disabled pursuant to IDEA, §504/ADA, or both - will be made under the district's IDEA/child search and serve efforts.

SECTION 504/ADA GRIEVANCE PROCEDURE #1

A "grievance" is a complaint by a District employee, a student entitled to an education within the

District, or a parent or guardian of such a student (complainant). The District has designed this grievance procedure as a means of reaching a fair and equitable settlement, at the lowest possible administrative level, of differences and issues relating to possible discrimination against employees and/or students under the Rehabilitation Act of 1973 (Section §504) and/or the Americans with Disabilities Act. Any proceedings under this procedure shall be kept as informal and confidential as may be appropriate at all levels of the procedure.

Those seeking to employ this procedure must follow all the proper channels described below. If the time limits specified in any level of the procedure are not met by the complainant, the grievance shall be considered waived.

Step One: Oral - Supervisor/Principal

The complainant must first orally present his/her grievance to the immediate supervisor/principal or designee with the objective of resolving the matter informally. The building principal is considered the immediate supervisor for students, parents, and all building employees.

The complainant and his/her supervisor/principal shall confer on the grievance with a view toward arriving at a mutually satisfactory resolution of the grievance. At the conference, the complainant may appear alone or be accompanied by a mutually acceptable person. The supervisor/principal shall have the same privilege.

Step Two: Written - Supervisor/Principal

If the discussion between the complainant and his/her supervisor/principal or designee does not resolve the matter to the satisfaction of the complainant, then within five (5) school days after the Step One conference the complainant shall set forth his/her grievance in writing to the supervisor/principal or designee specifying:

- a. The nature of the grievance;
- b. How the complainant has been harmed by action/inaction of the District;
- c. If any suggestions to resolve the grievance were made during the Step One conference, why these suggestions are insufficient;
- d. What remedy the complainant is seeking; and
- e. Why the complainant believes this remedy is appropriate.

The complainant's supervisor/principal shall communicate his/her decision to the complainant in writing within five (5) school days of receipt of the written grievance.

If a grievance is pursued beyond this level, written records will be forwarded to each successive level of procedure by the complainant.

Step Three: Investigation and Fact Finding - Written Decision - §504/ADA Coordinator

If the complainant is not satisfied with the disposition of his/her grievance after Step Two has been completed, he or she shall within seven (7) days after the date of the decision present his/her grievance in writing to the Section 504/ADA Coordinator or designee.

The 504/ADA Coordinator or designee will review the written record, meet with the complainant, and hear from other involved persons if needed. The 504/ADA Coordinator or designee will render a decision in writing within ten (10) school days of receipt of complainant's Step Three written grievance.

Step Four: Hearing - School Board

If the complainant is not satisfied with the disposition of his/her grievance after Step Three has been completed, the complainant may request a hearing before the School Board by forwarding a written request for such a hearing to the Superintendent or designee along with any materials the complainant desires the Superintendent to submit to the Board. The request for hearing before the School Board must be received within five (5) school days after the date of the decision from Step Three.

The Superintendent shall immediately inform the Section 504/ADA Coordinator or designee.

The Section 504/ADA Coordinator or designee may submit to the Superintendent any materials he/she desires the Superintendent or designee to submit to the Board.

The Superintendent or designee shall forward to the School Board copies of the written grievance along with all materials submitted by the complainant and the Section 504/ADA Coordinator or designee.

Within 20 school days the School Board shall hold a hearing to decide the grievance, using its normal rules of procedure.

Both the District and the complainant may be accompanied by his/her lawyer at this hearing, and minutes of the proceeding will be taken.

The complainant shall be served with a written decision by the School Board within 30 days from the hearing.

PARENT/STUDENT RIGHTS IN IDENTIFICATION,

EVALUATION AND PLACEMENT

Please Keep This Explanation for Future Reference.

(Section 504 of the Rehabilitation Act of 1973)

The following is a description of the rights granted by federal law to students with handicaps. 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 handicapping condition;
2. Have the school district advise you of your rights under federal law;
3. Receive notice with respect to identification, evaluation, or placement of your child;
4. Have your child receive a free appropriate public education. This includes the right to be educated with non-handicapped students 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;
5. Have your child educated in facilities and receive services comparable to those provided non-handicapped students;
6. Have your child receive special education and related services if he/she is found to be eligible under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act;
7. Have evaluation, educational, and placement decisions made based upon a variety of information sources, and by persons who know the student, the evaluation data, and placement options;
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 be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district;
10. Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement;

(29 U.S.C. 706(7)2 794; 34 C.F.R. Part 104, 20 U.S.C. 1232g; 34 C.F.R. Part 99)

10. Examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement;
11. Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records;
12. A response from the school district to reasonable requests for explanations and interpretations of your child's records;
13. 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;
14. Request mediation or an impartial due process hearing related to decisions or actions regarding your child's identification, evaluation, educational program or placement. You and the student may take part in the hearing and have an attorney represent you.
15. File a local grievance.

The person in this district who is responsible for assuring that the district complies with Section 504 is Diane Lurvey and can be reached at (603) 428-3269.

12/04/91