

Chicago Public Schools Policy Manual

Title: COMBINED AMERICANS WITH DISABILITIES ACT AND 504 POLICY
Section: 501.1
Board Report: 12-0125-PO1 Date Adopted: January 25, 2012

THE CHIEF EXECUTIVE OFFICER RECOMMENDS:

That the Board rescind Board Report 00-0823-PO5 Policy and Procedures on the Americans with Disabilities Act and Board Report 01-0725-PO1 Policy on Section 504 of the Rehabilitation Act of 1973 and adopt a new combined Americans with Disabilities Act and 504 Policy.

PURPOSE: The purpose of this policy is to create a system for the Chicago Public Schools ("District") to address disability-related accommodations requests, complaints and appeals for students, employees and others in compliance with the Americans with Disabilities Act ("ADA") and Section 504 of the Rehabilitation Act of 1973 ("504").

POLICY TEXT:

I. APPLICABILITY

This policy applies to accommodation requests, complaints and appeals under 504 and the ADA made by employees, employment applicants, parents/guardians, students, community members, Local School Council members, volunteers, and other persons with disabilities. The request, complaint and appeal procedures set forth in this policy apply to requests for disability-based accommodations and allegations of disability discrimination as described and prohibited in the Board's Comprehensive Non-Discrimination, Title IX and Sexual Harassment Policy ("Comprehensive Non-Discrimination Policy") and as otherwise described herein.

This policy does not address the rights or remedies afforded to students with Individualized Education Plans (IEP) under the Individuals with Disabilities Education Act (IDEA), which are otherwise covered in the District's IDEA procedures.

II. SCOPE OF THE ADA AND 504

A. The ADA and 504 define a disability as: (i) a physical or mental impairment which substantially limits one or more major life activities; (ii) a record of such an impairment; or (iii) being regarded as having such an impairment. The ADA and 504 also cover individuals who have an association with a person who has a disability.

B. The ADA prohibits discrimination in employment, public accommodations, transportation, state and local government services and telecommunications based on an individual's disability, record of a disability or because the individual is regarded as having a disability. 504 prohibits similar types of discrimination by an entity receiving federal financial assistance.

C. No person, by reason of a disability, record of a disability or because the individual is regarded as having a disability, shall be discriminated against in any term or condition of employment, so long as the person is qualified and can perform the essential functions of the job in question, with or without a reasonable accommodation. The duty to reasonably accommodate extends to both employees and job applicants. Reasonable accommodations shall be provided unless to do so would pose an undue hardship.

D. No qualified individual, by reason of a disability, record of a disability or because the individual is regarded as having a disability, shall be excluded from participation in or be denied the benefits of District services, programs and activities, or be subjected to discrimination by the District.

E. District services, programs and activities, when viewed as a whole, are required to be accessible to qualified persons with disabilities. The District will accomplish this by, among other things, reassignment of programs and events to accessible locations or renovation of existing facilities. However, a public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section, nor is it required to take any actions that would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens.

F. Communications with qualified persons with disabilities are to be as effective as communications with others. The District shall furnish auxiliary aids and services, such as qualified sign language interpreters and alternate formats of written materials, where necessary to accomplish equally effective communications, unless to do so would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens.

G. No person may be retaliated against for exercising rights under federal, state or local laws pertaining to equal opportunities for qualified individuals with disabilities, including, but not limited to, making a request, grievance or complaint, or participating in an investigation.

H. No person shall be discriminated against because of a relationship or association with a person with a disability.

I. All new construction and alterations of District-controlled buildings shall be designed and constructed in such a manner that the facility or altered part of the facility is readily accessible to and usable by individuals with disabilities. In addition, alterations to a primary function area will be performed such that the path of travel to that area is readily accessible to the extent required by law.

J. Additional information regarding the ADA and 504 and their applicability to District services, programs or activities can be obtained from the District's Equal Opportunity Compliance Office ("EOCO") and Office of Special Education and Supports ("OSSES").

III. ACCOMMODATION REQUEST, COMPLAINT AND APPEAL PROCEDURES – GENERAL

For the purposes of this policy, the following terms will have the following meanings:

A. Definitions.

1. Accommodation Request: A request by or on behalf of a person with a disability to obtain any type of disability-related accommodation in order to participate equally in any District program, service or activity, including, but not limited to:
 - a. Relocation of a class or event to a wheelchair-accessible location;
 - b. Provision of specialized equipment for an employee;
 - c. A temporary or permanent building modification;
 - d. Modification of a facially neutral policy or guideline to provide equal access;
 - e. Provision of a sign language interpreter for a conference or a Braille/large print version of a parent or employee handbook;
 - f. Creation or amendment of a student 504 Plan.

This policy does not cover accommodations requested or provided pursuant to an IEP.

2. **Complaint:** An allegation of discrimination regarding:
 - a. Intentional unequal or adverse treatment on the basis of disability;
 - b. Retaliation or harassment on the basis of disability; or
 - c. Any other type of disability-based discrimination not otherwise covered explicitly under this policy or the Board's Comprehensive Non-Discrimination Policy.
3. **Appeal:** A request for the reconsideration of the full or partial denial of an accommodation request or of a particular accommodation provided.

B. **Establishing Student 504 Plans.** The Chief Education Officer or designee shall establish procedures for identifying students with disabilities who are eligible for accommodations under the ADA and 504 and developing appropriate 504 Plans. If a qualified student requests modifications and/or accommodations under 504, a 504 Plan will be developed that specifies the accommodations and/or modifications that will be provided for the student. Generally, 504 Plans are developed for students who are not otherwise eligible for an IEP.

C. **504/ADA Coordinator.** The Case Manager at each school shall serve as the school's 504/ADA Coordinator. The school 504/ADA Coordinator shall process requests for student accommodations under 504 and the ADA that are submitted to the school and maintain records regarding such requests. The school 504/ADA Coordinator shall be identified by name and phone number on the school website, school directory and in a prominent location in the school's main office.

D. **Publication of Procedures.** The below procedures for processing disability-related accommodations requests and complaints shall be posted on the Chicago Public Schools website and shall also be available from the EOCO and the OSES.

E. **Confidentiality.** All information regarding accommodations requests, complaints, and appeals must be treated as confidential by Board employees and must be handled in accordance with ADA and 504 confidentiality requirements, in addition to any specific directions detailed below.

F. **Overview of Procedures.**

1. **Students.** Procedures for ADA and 504 accommodation requests, complaints and appeals by or on behalf of current or expected District students are detailed in Section IV, below.
2. **Employees and Job Applicants.** Procedures for ADA and 504 accommodation requests, complaints and appeals by employees and job applicants are detailed in Section V.A., below.
3. **All Others.** Procedures for ADA and 504 accommodations requests, complaints and appeals by all others, including but not limited to parents/guardians, siblings and other family members, community members, Local School Council members, and visitors, are detailed in Section V.B, below.
4. **Public Meetings and Events.** Special procedures apply to public meetings and events, as detailed in Section VII, below.

G. **Errors in Submission.** No request, complaint or appeal, except those submitted by or on behalf of employees, may be denied on the basis of being submitted to the incorrect District employee or office under this policy. In such a case, the recipient must promptly refer the action to the appropriate entity under this policy, and any submission deadlines will be extended to compensate for time lost due to the error in submission.

H. **Non-Exclusion.** Nothing in this policy prevents anyone from submitting a report of discrimination, harassment, retaliation or non-compliance with this policy which they have witnessed or of which they have knowledge.

IV. STUDENT ACCOMMODATION REQUEST AND COMPLAINT PROCEDURES

This Section applies to requests for accommodations, complaints and appeals made by or on behalf of students with disabilities currently or seeking to be enrolled in a District school. Definitions of the terms “accommodation request,” “complaint” and “appeal” appear in Section III.A., above.

A. **Accommodation Requests.** Requests for accommodations on behalf of current or expected District students will be handled under the District’s established 504 timelines and procedures, which are available on the OSES website. For students with a food allergy or other life threatening allergy, the process for establishing a 504 Plan that includes an Individual Health Care Plan is specified in the Board’s Food Allergy Management Policy. For students with diabetes, the process for establishing a 504 Plan that includes a Diabetes Care Plan is specified in the Board’s Diabetes Management Policy. For students with asthma, the process for establishing a 504 Plan that includes an Asthma Action Plan is specified in the Board’s Asthma Management Policy. For students with other acute or chronic illnesses requiring the administration of medication during school hours, the process for establishing a 504 Plan is specified in the Board’s Administration of Medication Policy.

B. **Appeals of Accommodation Request Determinations.** A parent/guardian who disagrees with a determination by a school regarding: a) his/her child’s identification, evaluation, or educational placement; b) the implementation of his/her child’s 504 Plan; or c) the resolution of an accommodation request on behalf of his/her child may appeal the determination by requesting an informal reconsideration by the OSES or a formal 504 Hearing.

1. **Where and How Submitted.** Requests for reconsideration or for a 504 Hearing must be submitted in writing to the OSES Office of Dispute Resolution.

2. **Timelines and Procedures.**

a. **OSES Reconsideration.** If the parent/guardian requests reconsideration, the OSES will complete its reconsideration and issue a written determination within 30 calendar days of receipt of the written request. If the parent/guardian disagrees with the OSES reconsideration determination the parent/guardian may request a 504 Hearing by submitting a written request to the OSES.

b. **504 Hearing.** 504 hearings will be conducted in accordance with the procedural safeguards afforded to parents/guardians and students under 504, including: notice; an opportunity for the parents/guardians to examine relevant records; an impartial hearing with opportunity for participation by the parents/guardians; and representation by counsel.

C. **Complaints.**

1. **Where and How Submitted.** Complaints on behalf of current or expected District students will be investigated by the OSES Office of Dispute Resolution. Complaints must be submitted in writing and may be submitted to: a) the Principal or 504/ADA Coordinator of the student’s assigned school or the school conducting the desired program, service or activity; b) the central office department head of the applicable office; or c) the OSES Office of Dispute Resolution. Any school Principal, school 504/ADA Coordinator, or any central office department head receiving such a complaint must send the written complaint to the OSES Office of Dispute Resolution for handling within 3 business days following receipt of the written complaint. The Principal, 504/ADA Coordinator or central office department head shall send the complaint only to the OSES and not to the parties involved or any third parties.

2. Timelines and Procedures. Complaints must be submitted within 90 calendar days of the actions complained of. The OSES may collaborate with the EOCO on complaints that involve allegedly discriminatory actions by employees, in order to consider potential employment implications of the alleged conduct. The OSES may also refer complaints it receives to the school Principal or another Board department if doing so may address the complaint more expeditiously, but the OSES shall retain ultimate responsibility for the matter and for reporting to the complainant. Within 45 calendar days after receipt of the written complaint, the OSES shall report to the complainant its determination or a projected timeline for issuing its determination. The OSES will issue the final determination in writing to the complainant and any other necessary parties.

D. Appeals of Complaint Resolutions. Resolutions of complaints are not appealable within the District.

E. Office for Civil Rights Review. If a parent/guardian of a student with a disability is dissatisfied with any 504 Hearing decision or final resolution of an accommodation request or complaint, they may submit a complaint to the U.S. Department of Education, Office for Civil Rights.

V. NON-STUDENT ACCOMMODATION REQUEST AND COMPLAINT PROCEDURES

This Section applies to requests for accommodations and complaints made by persons with disabilities other than current or anticipated students, including but not limited to: employees, job applicants, students' family members, including minors, Local School Council representatives, members of the public, or anyone else eligible to participate in or attend a program, service or activity of the District. Definitions of the terms "accommodation request," "complaint" and "appeal" appear in Section III.A., above.

A. Employees and Job Applicants.

1. Accommodation Requests.

a. Where and How Submitted. Requests for accommodations needed to perform an employee's job duties or to participate in a job application process must be submitted in writing to the EOCO.

b. Timelines and Procedures. Within 45 calendar days after receiving the request, the EOCO will provide written notification to the requestor of its determination or the steps it will take to determine the reasonableness of the requested accommodation and a projected timeline for issuing its determination. Additional information regarding employee accommodation requests, including accommodation request forms, is available on the Chicago Public Schools website: www.cps.edu/Staff resources. The EOCO will issue its final determination in writing to the requestor and any other necessary parties.

c. Appeals of Accommodation Request Determinations. Appeals of all non-student accommodations determinations will be handled under the procedures established pursuant to Section VI, below.

2. Complaints.

a. Where and How Submitted. Complaints will be investigated by the EOCO. Complaints must be submitted in writing and may be submitted to: a) the Principal of the school conducting the relevant program, service or activity; b) the central office department head of the applicable office; or c) the EOCO. Any school Principal, or any central office department head, receiving such a complaint must send the written complaint to the EOCO for handling within 3 business days following receipt. The Principal, 504/ADA Coordinator or central office department head shall send the complaint only to the EOCO and not to the parties involved or any third parties.

- b. Timelines and Procedures. Complaints must be submitted within 90 calendar days of the actions complained of. The 90-day requirement shall be strictly applied, except when the EOCO determines that circumstances exist to warrant a waiver. Within 45 calendar days after receiving the complaint, the EOCO will provide written notification to the complainant of its determination or a projected timeline for issuing its determination. The EOCO will issue its final determination in writing to the complainant and any other necessary parties
- c. Appeals Regarding Complaint Resolutions. Resolutions of complaints are not appealable within the District.

B. Parents/Guardians, Visitors and All Other Non-Students.

1. Accommodation Requests.

- a. Where and How Submitted. Requests for accommodation by other persons with disabilities must be submitted in writing and may be submitted to: a) The Principal of the school at which the desired program, service, or activity is offered; b) The central office department head of the applicable office; c) The designated contact person, if any, for the desired program, service or activity; or d) The EOCO.
- b. Timelines and Procedures. The EOCO may refer requests it receives to one of the other employees or offices listed in subsection a. above if doing so may address the request more expeditiously, but the EOCO will retain ultimate responsibility for the matter and for reporting to the requestor. Within 45 calendar days after receiving the request, the school or department leader or the EOCO shall provide written notification to the requestor of its determination or the steps it will take to address the requested accommodation and a projected timeline for final resolution. Final determinations shall be issued in writing to the requestor and any other necessary parties. School and department leaders must consult with the, EOCO or Director of ADA Policy before responding to such requests and must have the final determination approved by the EOCO before sending it to the requestor and other parties.
- d. Appeals of Accommodation Request Determinations. Appeals of all non-student accommodations determinations will be handled under the procedures established pursuant to Section VI, below.

2. Complaints.

- a. Where and How Submitted. Complaints must be submitted in writing and may be submitted to: a) the Principal of the school conducting the relevant program, service or activity; b) the central office department head of the applicable office; or c) the EOCO.

Complaints will be investigated by the EOCO. Any school Principal, or any central office department head, receiving such a complaint must send the written complaint to the EOCO for handling within 3 business days following receipt. The Principal, 504/ADA Coordinator or central office department head shall send the complaint only to the EOCO and not to the parties involved or any third parties.

- b. Timelines and Procedures. Complaints must be submitted within 90 calendar days of the perceived discrimination. The 90-day requirement shall be strictly applied, except when the EOCO determines that circumstances exist to warrant a waiver. Within 45 calendar days after receiving the complaint, the EOCO will provide written notification to the complainant of its determination a projected timeline for issuing its determination. The EOCO will issue its final determination in writing to the complainant and any other necessary parties.

- c. Appeals Regarding Complaint Resolutions. Resolutions of complaints are not appealable within the District.

VI. APPEALS OF ADA AND 504 ACCOMMODATION REQUESTS

The Chief Executive Officer shall designate individuals from at least three central office departments to convene on an as-needed basis to review appeals of accommodation request determinations, as defined in Section III, above. These individuals shall make recommendations to the Director of ADA Policy, who shall issue the final determination on appeal. The Director of ADA Policy shall establish procedures for administering the appeals process. Such procedures shall be posted on the Chicago Public Schools website and also be available from the EOCO and the OSES. The appeals process established pursuant to this Section will not apply to any complaint resolution, any OSES reconsideration of an accommodations determination, or any decision issued by a hearing officer pursuant to a 504 Hearing.

VII. MEETINGS & EVENTS

A. In accordance with the requirements of the ADA and 504, public meetings and events, including but not limited to Local School Council meetings, shall be held in a location that is accessible to individuals with disabilities or, upon the timely request of a qualified individual with a disability, will be relocated to an accessible location or otherwise made accessible to the requestor.

B. Requests for relocation of meetings or events that are covered by the Illinois Open Meetings Act (5 ILCS 120-1 et seq.) must be submitted in writing in advance of the event to: a) The school Principal or 504/ADA Coordinator of the school at which the desired program, service, or activity is offered; b) The department head of the applicable department; c) The designated contact person, if any, for the desired program, service or activity; or d) The EOCO. The EOCO may refer requests it receives to one of the other listed entities if doing so may address the request more expeditiously.

C. Requests for auxiliary aids and/or other services such as sign language interpreters, alternate formats of written materials or other such accommodations in order to attend or participate in public meetings and events must be submitted in accordance with the procedures above and should be submitted in advance of the meeting or event.

D. A Principal, 504/ADA Coordinator, Board department head, or designated contact person who receives a request less than two business days before a scheduled event or meeting, should immediately forward the request to the EOCO, along with any proposed resolution. The EOCO will attempt to respond to the request before the event or meeting, to the extent practicable, given the amount of notice provided by the requestor, the nature of the request, and the nature of the event or meeting

VIII. LIMITATIONS

All terms below shall be interpreted as they are interpreted in the ADA and 504. This policy is not intended to expand or limit rights created by the ADA or 504. Nothing in this policy is intended nor shall be construed to create a private right of action against the Board or any of its employees. Furthermore, no part of this policy shall be construed to create contractual or other rights or expectations. Nothing herein is intended to affect the right of any person to make a charge of disability discrimination at any agency with jurisdiction over such claims. This policy does not address or affect in any way the rights or remedies afforded to students with disabilities under the Individuals with Disabilities Education Act of 2004 (IDEA).

Amends/Rescinds: Rescinds 00-0823-PO5 & 01-0725-PO1
Cross References: 07-0725-PO1; 96-1120-PO2; 95-0222-PO1
Legal References: Americans with Disabilities Act (42 §§ U.S.C. 12101 et seq.); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794).