



## **ACE - NONDISCRIMINATION ON THE BASIS OF DISABILITY**

Poudre School District is committed to the policy of nondiscrimination on the basis of disability under all applicable laws, including but not limited to Section 504 of the Rehabilitation Act of 1973, 20 U.S.C. § 794 (“Section 504”) and the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. (“ADA”). Section 504 and the ADA provide that no qualified individual with a disability shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any District program or activity. The District does not unlawfully discriminate on the basis of disability in access or admission to, or treatment or employment in, its programs or activities.

### **NONDISCRIMINATION WITH RESPECT TO STUDENTS**

The District shall provide a free, appropriate public education to each of its students as provided by law. The District shall not discriminate against any student on the basis of disability, including but not limited to exclusion from curricular or extracurricular programs, services or activities.

### **NONDISCRIMINATION IN EMPLOYMENT**

The District shall not discriminate against any qualified individual on the basis of disability in regard to job recruitment, application procedures or hiring; advancement in or termination of employment; job training, compensation or benefits; or other terms, conditions or privileges of employment. The District shall make reasonable accommodations to the known physical or mental limitations of any otherwise qualified individual with a disability who is a job applicant or employee, unless the District can demonstrate that the accommodation would impose an undue hardship on District operations or would require modification of the essential functions of the job at issue.

### **NONDISCRIMINATION WITH RESPECT TO PARENTS, GUARDIANS AND MEMBERS OF THE PUBLIC**

The District shall make reasonable accommodations as required by law for members of the public who seek to participate in or enjoy the benefits of District programs, services or activities. The District shall also make reasonable accommodations as required by law for parents/guardians to attend their children’s curricular and extracurricular programs and activities, and to participate on the same basis as parents/guardians who are not disabled in school-related matters concerning their children such as parent-teacher conferences, IEP meetings, Section 504 meetings, disciplinary hearings, and the like.

## SECTION 504/ADA COORDINATORS

The director of student services shall serve as the District section 504/ADA coordinator with respect to District students and members of the public, and may be contacted at 2407 LaPorte Avenue, Fort Collins, Colorado 80521; phone (970) 490-3033. The executive director of human resources shall serve as the District section 504/ADA coordinator with respect to District employees, and may be contacted at 2407 LaPorte Avenue, Fort Collins, Colorado 80521; phone (970) 490-3620. The District section 504/ADA coordinators shall ensure compliance with applicable laws prohibiting discrimination on the basis of disability, shall formulate procedures and guidelines to implement and administer the terms of this policy, and shall monitor District operations and practices to ensure compliance with Section 504, the ADA and other applicable laws prohibiting discrimination on the basis of disability.

## RESOLUTION OF DISCRIMINATION COMPLAINTS

The following options for resolution of complaints alleging discrimination on the basis of disability are separate, distinct and voluntary. Neither the District nor any of its employees shall retaliate against any individual for exercising rights provided under Section 504 and/or the ADA, or for good-faith participation in the resolution of a disability discrimination complaint under this policy.

Individuals who believe they have been unlawfully discriminated against by the District on the basis of disability (or their parents/guardians, in the case of students under 18 years of age and individuals unable to advocate for themselves) may seek to resolve their complaints as set forth in this policy.

An impartial due process hearing may be requested at any time to resolve complaints alleging discrimination on the basis of disability regarding a student's section 504 identification, evaluation or educational placement in accordance with the procedure set forth below.

In addition to the grievance and impartial due process hearing procedures described below, complaints alleging discrimination on the basis of disability may at any time be submitted to mediation if agreed to by the complainant and the appropriate District section 504/ADA coordinator, and/or may be filed with the United States Department of Education, Office for Civil Rights ("OCR"). Contact information for the Denver regional OCR office is: U.S. Department of Education, Cesar E. Chavez Memorial Building, 1244 Speer Boulevard, Suite 310, Denver, Colorado 80204; phone: (303) 844-5695; TDD: (877) 521-2172; e-mail: [OCR.Denver@ed.gov](mailto:OCR.Denver@ed.gov).

## GRIEVANCE PROCEDURE

STEP 1: The complainant shall complete Section 504/ADA Complaint Form ACE-E (available in the Department of Student Services, the Department of Human Resources, the office at each District school and on the District's website) and

submit the completed Form to the school principal, the department director or the complainant's supervisor (as applicable) within twenty (20) calendar days of the alleged discrimination. If the complainant is unable to complete the Section 504/ADA Complaint Form because of a disability or other legitimate reason, the complainant may have another person complete the Form on his/her behalf or may orally provide the information called for in the Form to the appropriate District official. The District official to whom complaint information is orally submitted shall document it on the Section 504/ADA Complaint Form, read the information back to the complainant and give the complainant an opportunity to correct the information read back.

NOTE: If disability discrimination is being alleged against the principal/director/supervisor, the Section 504/ADA Complaint Form may be filed with the appropriate District section 504/ADA coordinator within twenty (20) calendar days of the alleged discrimination, and the matter shall thereafter proceed as specified in Step 3. If disability discrimination is being alleged against one of the District section 504/ADA coordinators, the Section 504/ADA Complaint Form may be filed with the other District section 504/ADA coordinator within twenty (20) calendar days of the alleged discrimination, and the matter shall thereafter proceed as specified in Step 3.

STEP 2: The principal/director/supervisor (or the building/department section 504 coordinator if the principal/director/supervisor does not also serve in that capacity) shall promptly conduct an investigation as necessary to determine the relevant facts, and shall then meet with the complainant as soon as practicable to receive any additional evidence the complainant may wish to present and to attempt to equitably resolve the complaint. At the conclusion of such investigation and meeting(s), the principal/director/supervisor (or building/department section 504 coordinator) shall render a written determination regarding the complaint and provide a copy to: (a) the complainant; (b) the member of the superintendent's cabinet responsible for the school, department or program in which the alleged discrimination occurred; and (c) the appropriate District section 504/ADA coordinator.

STEP 3: If the complainant is not satisfied with the written determination of the complaint rendered by the principal/director/supervisor (or building/department section 504 coordinator) at the conclusion of Step 2, the complainant may appeal that determination to the appropriate District section 504/ADA coordinator within ten (10) calendar days after receiving it. The appeal shall be in writing and shall describe with specificity the basis of each point of disagreement with the written determination. If the complainant is unable to file the appeal in writing because of a disability or other legitimate reason, the complainant may have another person do so or may orally describe the basis of each point of disagreement with the written determination to the District section 504/ADA coordinator. In the event of an oral appeal, the District section 504/ADA coordinator shall document the

information provided, read it back to the complainant and give the complainant an opportunity to correct the information read back.

STEP 4: The District section 504/ADA coordinator shall promptly review the appeal, conduct further investigation and/or meet with the complainant as the coordinator deems necessary, and shall render a written decision concerning the appeal as soon as practicable. Copies of the coordinator's written decision shall be provided to: (a) the complainant; and (b) the member of the superintendent's cabinet responsible for the school, department or program in which the alleged discrimination occurred.

STEP 5: If the complainant is not satisfied with the written decision concerning the appeal rendered by the District section 504/ADA coordinator, the complainant may pursue any statutory remedy or litigation authorized by law.

#### IMPARTIAL DUE PROCESS HEARING PROCEDURE

A parent/guardian (or the student, if he/she is 18 years of age or older) may at any time file a written request with the director of student services for an impartial due process hearing to resolve a complaint alleging discrimination on the basis of disability regarding a student's section 504 identification, evaluation or educational placement. The request must state with specificity each issue the complainant wishes to have decided through the hearing process, and for each such issue must also state the remedy sought by the complainant.

The complainant and the District each have the right to be represented by legal counsel at the impartial due process hearing and in connection with any prehearing matters. If the complainant will be represented by legal counsel at the hearing, he or she must notify the District of that fact at the time the hearing is requested. If the District will be represented by legal counsel at the hearing, it must notify the complainant of that fact within three (3) business days of receiving the hearing request. Parties who choose to be represented by legal counsel shall be responsible for the payment of all costs and legal fees charged by their counsel.

Upon the District section 504/ADA coordinator's receipt of an appropriate request for impartial due process hearing, the District shall retain an independent hearing officer who is knowledgeable about Section 504 and the ADA. The hearing officer shall coordinate with the parties to set a date, time and place for the hearing; shall advise the parties in advance regarding applicable hearing procedures and rules of evidence; and shall issue any prehearing orders deemed necessary or advisable.

The impartial due process hearing shall be recorded. Each party shall have the right to present witnesses, documents and other relevant evidence in support of their case. The independent hearing officer shall issue a written decision within ten (10) business days after the conclusion of the hearing that addresses each of the issues properly submitted. The hearing officer's decision shall: (a) be confined to matters concerning

the student's section 504 identification, evaluation or educational placement; (b) be based solely on relevant evidence introduced at the hearing; and (c) include a summary of the relevant evidence presented and the reasons for the decision rendered. The hearing officer may not assess or award attorney fees related to the hearing.

After the independent hearing officer has issued his/her decision, the recording of the impartial due process hearing, all physical and documentary evidence and all other items comprising the record of the hearing shall be returned to the District.

Within thirty (30) calendar days of receipt of the independent hearing officer's written decision, either party may seek review of the decision in a court of competent jurisdiction, as authorized by law.

Current practice codified 1994

Adopted by Board: May 22, 1995

Revised by Board: October 9, 1995

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Revised by Board: January 26, 1998

Revised by Board: November 25, 2002

Revised by Superintendent: September 2, 2008

Revised by Superintendent: July 25, 2011

#### LEGAL REFS.:

29 U.S.C. 701, et seq. (Section 504)

42 U.S.C. 1201, et seq. (Americans with Disabilities Act)

34 C.F.R. 104, et seq.

#### CROSS REFS:

AC, Nondiscrimination/Equal Opportunity

GBA, Equal Employment Opportunity

GBAA, Harassment of Employees

JB, Nondiscrimination/Equal Educational Opportunities

JBB, Harassment of Students