

# **AUGUSTA SCHOOL DEPARTMENT**

## **AUGUSTA, MAINE**

### **SECTION 504 OF THE REHABILITATION ACT OF 1973**

#### **SECTION 504 GRIEVANCE PROCEDURES**

It is the policy of the Augusta Public Schools Board of Education to provide a free and appropriate public education (FAPE) to all students within its jurisdiction who are handicapped consistent with the definitions set forth in Section 504 of the Rehabilitation Act of 1973 and of the Americans with disabilities Act (ADA) of 1990. No student solely by reason of his or her handicap as defined in these Acts, shall be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity operated by the school district.

#### **504 Grievance Procedures**

A parent or guardian who believes that the district is violating Section 504 procedures may file a grievance with the district.

A parent or guardian who believes that they, or their child, have not received proper services or accommodations which are therefore a violation of Section 504, should file the complaint with the Superintendent of Schools and District 504 Coordinator.

The complaint should be in writing and explain why the complainant believes there is a violation of the law. Upon receiving the complaint, the 504 coordinator will schedule an informal hearing within fifteen (15) working days. The parent/guardian has the right to be accompanied by counsel.

At the informal meeting, the purpose is to clarify each party's concerns and understandings of the specific alleged violation. At the informal meeting the parties will attempt to resolve the complaint. A description of the alleged violation will be reduced to writing.

If it is determined that a satisfactory conclusion cannot be reached a meeting will be scheduled within five (5) working days with the superintendent or assistant superintendent of schools.

If after meeting with the superintendent or assistant superintendent of schools, the complainant believes that the violation remains unresolved, the complainant or the school may request mediation or a hearing.

The costs for mediation and or the hearing are borne by the local school department. You and the student may take part in the hearing and have an attorney represent you.

1. Hearing request must be made to the Superintendent of Schools. The following details the procedure:
  - a) If the parent/guardian disagrees with the identification, evaluation, educational placement, or the provisions of a free appropriate public education for his or her child then the parent/guardian may make a written request for a hearing to the Superintendent of Schools, indicating the specific reason(s) for the request. A copy of the request may be filed with the nearest Regional Office for Civil Rights.

- 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) Such hearings shall be conducted within twenty (20) instructional days after the request unless the hearing officer grants an extension, and at a time and place reasonably convenient to the parent. Upon receipt of the parent's or local school district's request for a hearing the local Superintendent or designee shall designate the independent hearing officer. The local school district shall bear all costs pertaining to the hearing, including the transcription, hearing officer's fee, and expenses; but shall not be responsible for the fees and expenses incurred by the parent/guardian except for those detailed below. The parent involved in a hearing shall be given the right to have the child who is the subject of the hearing present and or open the hearing to the public, and be represented by legal counsel or other representative.
- d) During the pendency of the hearing, unless the local school district and the parents of the child agree otherwise, the child involved in the proceeding shall remain in his or 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.
- e) The child and the parent shall have the right to legal counsel and or other representation of their own choosing. The local school district may inform the parent of any free or low cost legal services available in the area if the parent requests the information or if the local school district initiates a hearing. The decision of the hearing officer shall be based solely upon the evidence presented at hearing. The school shall bear the burden of proof as to the appropriateness of any placement, transfer or denial of same.
- f) A tape recording or other verbatim record of the hearing shall be made and transcribed and upon request shall be made available to the parent or the parent's representative at local school district's expense. At a reasonable time prior to the hearing, during school hours, the parent or the parent's representative shall be given access to all records of the local school district and any of its agents or employees pertaining to the child, including all test and reports upon which the proposed action may be based. The parent or parent's representative shall have the right to compel the attendance, to confront, or to cross examine any witness who may have evidence upon which the proposed action may be based. The parent or parent's representative and local school district shall have the right to present evidence and testimony, including expert medical, psychological or educational testimony. Introduction of any evidence at the hearing that has not been disclosed to both parties at least (5) days before the hearing is prohibited, subject to the discretion of the hearing officer.

g) Within fifteen (15) instructional days after the hearing, the hearing officer shall render a decision in writing. Such decision shall include findings of fact, conclusions of law, and order, if necessary, which will be binding on all parties. The dated decision shall be sent by mail to the parent and the Superintendent of the school and shall contain notice of the right to review the discussion. The decision shall be implemented no later than twenty (20) instructional days following the date of the decision, unless review is sought by either party. Should the parent/guardian be represented by legal counsel and ultimately prevail on the issues at the hearing, the parent/guardian may be entitled to payment of all or part of the attorney fees and the cost incurred by the parent/guardian.

2. Request a review (appeal) of the hearing should you not prevail. The following details the procedure:

a) A petition to review (appeal) the decision of a hearing officer may be made by any party to the hearing. The request must be in writing, filed with the local Superintendent and the opposing party, be specific to the objections, and be filed within twenty (20) instructional days of the date the hearing officer's decision is received. The school corporation is responsible for hiring an independent Review (Appeals) Officer to conduct an impartial review of the record as a whole and may, at its election, conduct its review with or without oral argument. Such review shall be conducted within twenty (20) instructional days of the receipt of the Petition for Review, unless either party requests an extension of time or the Board on its own motion extends the timelines.

b) The Review (Appeals) Officer shall insure the transcription is prepared of its review and made available upon request of any party.

c) Any party disagreeing with the decision of the Review (Appeals) Officer may appeal to the Regional Office for Civil Rights.

3. File a local grievance to resolve complaints of discrimination. The procedure is as follows:

a) An alleged grievance under Section 504 must be filed in writing fully setting out the circumstances giving rise to such grievance.

- b) Such claims must be made in writing and filed with the following individual:

Section 504 Coordinator  
Augusta School Department  
Office of the Superintendent  
40 Pierce Drive  
Augusta, Maine 04330

- c) A hearing will be conducted according to the procedures outlined in the regulations implementing the Family Educational Rights and Privacy Act (FERPA).
- d) The Section 504 Coordinator will appoint a hearing officer who will conduct the hearing within a reasonable time after the request was received.
- e) The Section 504 Coordinator shall give the parent, student, or employee reasonable advance notice of the date, time, and place of hearing.
- f) The hearing may be conducted by any individual, including an official of the local school district, who does not have a direct interest in the outcome of the hearing.
- g) The local school district shall give the parent, student, or employee full and fair opportunity to present evidence relevant to the issues raised. The parent, student or employee may, at their own expense, be assisted or represented by individuals of his or her choice, including an attorney.
- h) The local school district shall make its decision in writing within fifteen (15) days after the hearing.

- i) The decision must be based solely on the evidence presented at the hearing and shall include a summary of the evidence and reasons for the decision. The persons in this district who is responsible for assuring that the district complies with Section 504 and the Americans with Disabilities Act (ADA) is the Section 504 Coordinator.