



**Pupil Personnel Services**  
**Clark Mills School**  
**Administrative Wing**  
**36 Gordons Corner Road, Manalapan, NJ 07726-3758**  
**(732) 786-2750**  
**Fax: (732) 786-2751**

## **PARENT AND STUDENT RIGHTS**

Under Section 504, the Rehabilitation Act of 1973

The Rehabilitation Act of 1973, commonly referred to as “Section 504”, is a nondiscrimination statute enacted by the United States Congress. The purpose of the Act is to prohibit discrimination and to assure that disabled students have educational opportunities and benefits equal to those provided to non-disabled students.

An eligible student under Section 504 is a student who has a physical or mental impairment which substantially limits a major life activity such as learning, self-care, walking, seeing, hearing, speaking, breathing, working and performing manual tasks. This is not an exhaustive list. The disability is required to substantially limit a major life function even with the use of “mitigating measures”.

**Dual Eligibility:** Many students will be eligible for educational services under both Section 504 and the Individuals with Disabilities Education Act (IDEA). Both regulations require a recipient operating federally funded public elementary and secondary education programs to provide a “free appropriate public education” (FAPE) to each qualified person with a handicap that is in the recipient’s jurisdiction, regardless of the nature of severity of the person’s handicap. Students who are eligible under the IDEA have many specific rights that are not available to students who are eligible solely under Section 504. “Parents’ Rights in Special Education” (P.R.I.S.E.), a handbook prepared by the News Jersey Department of Education is available through the school district’s Special Education Department and sets out the rights assured by the IDEA. It is the Purpose of this document to set out the rights assured by Section 504 to those disabled students who do not qualify under the IDEA.

The enabling regulations for Section 504 as set out in 34 CFR Part 104 provide parents and/or students with the following rights:

1. You have the right to be informed by the school district of your rights under Section 504. 34 CFR 104.32
2. Your child has the right to an appropriate education designed to meet his/her individual educational needs as adequately as the needs of non-disabled students are met. 34 CFR 104.33
3. Your child has the right to free educational services except of those fees that are imposed on non-disabled students or their parents. Insurers and similar third parties are not relieved from an otherwise valid obligation to provide or pay for services provided to a disabled student. 34 CFR 104.33
4. Your child has a right to placement in the least restrictive environment. 34 CFR 104.3
5. Your child has a right to facilities, services and activities that are comparable to those provided for non-disabled students. 34 CFR 104.34
6. Your child has a right to an evaluation prior to an initial Section 504 placement and any subsequent significant change in placement. 34 CFR 104.3

7. Testing and other evaluation procedures must conform to the requirements of 34 CFR 104.35 as to validation, administration, areas of evaluation, etc. The district shall consider information from a variety of sources, including aptitude and achievement tests, teacher recommendation, physical condition, social and cultural background, adaptive behavior, physical or medical reports, student grades, progress reports, parent observations and anecdotal reports. 34 CFR 104.35
8. Placement decisions must be made by a group of persons (i.e., the Section 504 Committee), including persons knowledgeable about your child, the meaning of the evaluation data, the placement options, and the legal requirements for least restrictive environment and comparable facilities. 34 CFR 104.35
9. If eligible under Section 504, your child has a right to periodic reevaluations, generally after three years. 34 CFR 104.35. In addition, the district will evaluate the accommodations identified in your child's 504 plan annually.
10. You have the right to notice prior to any action by the district in regard to the identification, evaluation, or placement of your child. 34 CFR 104.36
11. You have the right to examine relevant records. 34 CFR 104.36
12. **You have the right to an impartial hearing with respect to the district's action regarding your child's identification, evaluation, or educational placement, with opportunity for parental participation in the hearing and representation by an attorney. 34 CFR 104.36**
13. The request for an impartial hearing is sent to the district's Section 504 Coordinator, Georgianna Petillo at 36 Gordons Corner Road, Manalapan, NJ 07726, within fifteen (15) calendar days from the time you receive written notice of the Section 504 Committee's action(s). A hearing will be scheduled before an impartial hearing officer, and you will be notified in writing of the date, time, and place for the hearing or you can a due process petition on your own. 34CFR 104.36
14. Your consent is required to evaluate and implement your child's 504.
15. On Section 504 matters district's grievance procedures are to file a complaint with district's Section 504 Coordinator, Georgianna Petillo, who will investigate the allegations to the extent warranted by the nature of the complaint in an effort to reach a prompt and equitable resolution.
16. You also have the right to file a complaint with the Office of Civil Rights or file a due process hearing with an administrative law judge. The form is locates in the P.R.I.S.E. booklet located at Pupil Personnel Services. 732-786-2750

### **How to File an Online Complaint**

Complainants wishing to file a complaint may do so by:

**Mail or Facsimile:** Complainants may mail or send by facsimile a letter or use the OCR's Discrimination Complaint Form available from one of OCR's enforcement offices (see the list of OCR's offices in this brochure). In your correspondence, please include:

- The complainant's name, address and, if possible (although not required), a telephone number where the complainant may be reached during business hours;
- Information about the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required);
- The name and location of the institution that committed the alleged discriminatory act(s); and
- A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination (race, color, national origin, sex, disability, age or the Boy Scouts of America Equal Access Act).

**E-mail:** Complainants may file a complaint, using the following e-mail address: [ocr@ed.gov](mailto:ocr@ed.gov). (Use the same procedures as above.)

**Online:** Complainants may file a complaint with OCR using OCR's electronic complaint form at the following Web site: <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>.

For those without current e-mail accounts, Internet access may be freely available from your local public library, and free e-mail accounts are available from several large providers.

**Note:** A recipient of federal financial assistance may not retaliate against any person who has made a complaint, testified, assisted or participated in any manner in an investigation or proceeding under the laws listed on the first page of this brochure.

**New Jersey, New York,  
Puerto Rico, Virgin Islands**

Office for Civil Rights/New Jersey  
U.S. Department of Education  
P.O. Box 090  
140 E. Front Street – 6<sup>th</sup> floor  
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