

AGAWAM PUBLIC SCHOOLS
SECTION 504 of the Rehabilitation Act of 1973
ADA Amendment Act of 2008
MANUAL



April Rist
Section 504 Coordinator

Agawam Public Schools Section 504 Manual

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District & School Building Contacts

Steven Lemanski	Superintendent of Schools	(413) 821-0552
April Rist	504 Coordinator	(413) 821-0540
Susan Schoenberger	Asst. Principal/High School	(413) 821-0523
Mike Donovan	Asst. Principal/Jr High School	(413) 821-0565
Charles Joyal	Asst. Principal/Doering School	(413) 523-0408
Shelley Russell	Principal/Clark School	(413) 821-0576
Cheryl Salomao	Principal/Granger School	(413) 821-0581
Noelle Colbert	Principal/Phelps School	(413) 821-0587
Nicholas Bernier	Principal/Robinson School	(413) 821-0584
Robin Fernandes	Director/Early Childhood Ctr.	(413) 821-0598

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Section 504 Overview

Section 504 of the Rehabilitation Act of 1973 (29 USC 794 34 CFR Part 104) is a broad civil rights law designed to protect the rights of individuals with disabilities in programs and activities that receive federal financial assistance from the United States Department of Education, including Title Grants funds.

This federal statute (Section 504) prohibits discrimination based upon a disability. School districts must provide an appropriate education for each eligible student that allow access to the benefits of public education.

A disability, under Section 504, is defined as a physical or mental impairment which substantially limits one or more major life activities.

Persons who are protected against discrimination under Section 504 must be determined to:

- Have a physical or mental impairment that *substantially* limits one or more major life activity; or
- Have a record of such an impairment; or
- Be regarded as having an impairment.

In addition to being protected against discrimination under the Section 504 statute, eligible students **may** require a Section 504 Accommodation Plan to address specific needs in the educational setting related to the disability. Eligibility for a Section 504 Accommodation Plan is determined using a 3-pronged approach that considers if the person (student):

1. Has a physical or mental impairment (as determined above)...
2. that *substantially limits*...
3. a major life activity.

Such eligible students shall receive a free and appropriate public education through a 504 Accommodation Plan that is designed to allow access to an education, including nonacademic and extracurricular activities, that is comparable to that provided to students without disabilities.

Substantial Limitation - the determination of substantial limitation must be made on a case-by-case basis with respect to each individual student. The Section 504 regulatory provision at 34 C.F.R. 104.35 (c) requires that a group of knowledgeable persons draw upon information from a variety of sources in making this determination.

Major life activities under the Section 504 statute and the American with Disabilities Act (ADA), include but are not limited to:

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- caring for oneself
- performing manual tasks
- seeing
- hearing
- eating
- sleeping
- walking
- standing
- lifting
- bending
- speaking
- breathing
- learning
- reading
- concentrating
- thinking
- communicating
- working
- writing

The list of major bodily functions that are now considered major life activities includes, but is not limited to: functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. See ADA Amendments Act of 2008 § 4(a) (codified as amended at 42 U.S.C. § 12102).

The examples of major life activities in the Section 504 regulatory provisions, at 34 C.F.R. § 104.3(j)(2)(ii), predate the ADA Amendments Act of 2008, and are not exhaustive. Because the definition of disability in the ADA applies to Section 504, all the examples of major life activities listed in the ADA also constitute major life activities under Section 504.

Information from the Office for Civil Rights, based upon the 2008 amendments to the Americans with Disabilities Act (ADA), clarifies that a *temporary impairment* does not constitute as a disability except under certain conditions. Along with the conditions as discussed in the 3-prong eligibility process, the expected duration of the impairment needs to be considered. Through the amendment of ADA, Congress determined that the duration of an impairment expected to last less than 6 months may not constitute a disability.

The ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools further:

- directs that the ameliorating effects of mitigating measures (other than ordinary eyeglasses or contact lenses) may not be considered in determining whether an individual has a disability;
- clarifies that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active; and
- clarifies how the ADA applies to individuals who are "regarded as" having a disability.

In summation, Section 504 is a federal civil rights law under the Rehabilitation Act of 1973. It provides protection against discrimination for individuals with disabilities. Students in school settings fall under the civil rights protection of Section 504. The law and regulations prohibits discrimination on the basis of disability from all school programs and activities in both public and private schools receiving direct or indirect federal funding. Section 504 accommodations could be available to identified students with disabilities, who have been evaluated. The decision whether or not to evaluate is made by the 504 team, which must include people who are knowledgeable about the child and the suspected disability. Section 504 is designed to provide equal access and fairness in general education to students with disabilities, thereby leveling the playing field for them through what is known as a Section 504 Accommodation Plan. The Section 504 Accommodation Plan is

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not mentioned in the law or regulations but is considered a good way to document efforts. It is **not** a plan designed to enhance a student's performance. It is a plan to provide fairness and equal access to education. The student must be evaluated and meet the Section 504 identification criteria.

Process for Determining Eligibility and Need for Section 504 Accommodation Plan

A student is entitled to accommodations under Section 504 if they have been identified **and** the evaluation shows that the individual has a **mental or physical impairment that substantially limits one or more major life activities**. This determination is made by a team of knowledgeable individuals, including the parents, who are familiar with the student and his/her disability.

Mitigating measures - Within the ADA 2008 Amendments Act, Congress specified that the ameliorative (remedial or corrective) effects of mitigating measures (something that eliminates or reduces the effects) must not be considered in determining if a person is an *individual with a disability*. Once a school district determines that a student has a disability that student's use of mitigating measures could still be relevant in determining his or her need for special education or related services. (Questions and Answers on the ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools, Question 9). *It is possible that a student may be eligible for the non-discrimination protections of Section 504 (manifestation determination, procedural safeguards, periodic reevaluation and the nondiscrimination protections), but would not receive an accommodation plan because the student would not need such a plan due to the ameliorative effects of a mitigating measure.*

General Education Interventions and/or Further Identification:

The general education school based Instructional Support Team is typically the starting point to consider whether or not a student needs to be evaluated for accommodations. When a student is experiencing academic and/or behavioral difficulty, he or she should be referred to the school's Instructional Support Team. Referrals to the team are filed with the designated building administrator and are accepted from parents and/or the student's teacher.

- This early intervening team meets to discuss the concerns. The presenting problem and any previous interventions are considered and reviewed. The review/discussion should include all current information, performance data, and recommendations.
- This team may suggest research-based intervention strategies to help remediate the difficulties. These strategies should be documented in a District Curriculum Accommodation/Intervention Plan (DCAP).
- If the team determines that a DCAP is appropriate, the plan is developed, implemented, and reviewed at identified intervals. When the subsequent review shows that the response to this intervention was successful, the team will continue the DCAP and periodic review as appropriate.
- When the subsequent review shows that a student has not responded positively to research-based interventions documented in an intervention plan (DCAP) and/or has a suspected disability, the team may make a referral for evaluation to another program such as Section 504, special education, Title I, or other such program as appropriate (in essence a Pre-evaluation Meeting). A parent may also initiate an evaluation by informing the school regarding their concerns and requesting testing.

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- The Instructional Support Team may also determine if the nature of the student's difficulty warrants an immediate referral to another program for evaluation. Important: If the student has an obvious disability or is in obvious crisis, the team should make an immediate referral for a multidisciplinary evaluation to consider the possible need for special education services.

It is important to note that, for initial referrals, a Pre-evaluation Meeting must be held to review any previous actions taken to address concerns, determine whether the problem identified suggests an impairment of a major life activity, and determine whether a request to conduct an evaluation is warranted. This team decides whether to evaluate or not evaluate for eligibility under Section 504. All actions should be documented. Note: a district is not required to implement a 504 Plan from another district; however, the fact that the student has a plan is notice of a record of having a disability. The team should meet to review documents and decide whether to conduct assessments or implement the plan if appropriate.

Appropriate Evaluation under Section 504

The Section 504 regulatory provision at 34 C.F.R. 104.35(b) requires school districts to individually evaluate a student before classifying the student as having a disability or providing services. Section 504 further requires the use of evaluation procedures that ensure that children are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials. The compliance officer (building administrator) will coordinate the gathering of relevant information necessary to assist in the identification and/or justification of possible 504 eligibility. The school nurse should be included in all referrals relating to medical concerns.

Under Section 504, the U.S. Department of Education Office for Civil Rights interprets the law to require parental consent for evaluation. The school notifies parents/guardians, in writing, of the school's reason and intent to conduct an evaluation under Section 504. The notice should include a description of the evaluation, request for written parental permission to evaluate, and a copy the procedural safeguards (parents' rights) under Section 504. If a parent refuses consent for an initial evaluation and the school district suspects a student has a disability, Section 504 provides the use of due process hearing procedures to seek to override the parents' denial of consent.

Tests used for the purpose of evaluation must be selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement or other factors being measured rather than reflect the student's disability, except where those are the factors being measured. Section 504 also requires that tests and other evaluation materials include those tailored to evaluate the specific areas of educational need and not merely those designed to provide a single intelligence quotient. These tests and other evaluation material must be validated for the specific purpose for which they are used and appropriately administered by trained personnel.

The amount of information required is determined by the multi-disciplinary team gathered to evaluate the student. This team should include persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. The team members must determine if they have enough information to make a knowledgeable decision as to whether or not the student has a disability. The Section 504 regulatory provision at 34 C.F.R. 104.35(c) requires that school districts draw from a variety of sources in the evaluation

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process so that the possibility of error is minimized. The information obtained from all such sources must be documented and all significant factors related to the student's learning process must be considered. These sources and factors may include aptitude and achievement tests, parent information, teacher information, student statement or interview if in Middle through High School, student grades, student observational data (observations from multiple settings), student disciplinary records, physical and/or health information, social and cultural background, and adaptive behavior. Parents/guardians may also present information from outside sources such as an independent evaluation or information from a clinician or physician, etc. to be considered. Should parents/guardians wish to present evaluations/information from outside sources, the following factors should be addressed:

- A statement regarding the nature of the suspected impairment and/or disability and its impact on a major life function (please identify the major life function impacted)
- Evaluation reports are current (within one year)
- Reports should identify what measures were used in the evaluation
- Professional credentials of the evaluator(s)
- Description of how the suspected impairment and/or disability substantially limits the student's ability to access his/her school environment.

In evaluating a student suspected of having a disability, it is unacceptable to rely on presumptions and stereotypes regarding persons with disabilities or classes of such persons.

Timelines

Although the Section 504 regulations do not specify timelines, the U.S. Department of Education's general rule is that the same timelines for special education apply to Section 504 if the district does not have its own specific 504 timelines. The Agawam Public Schools will adhere to the timelines outlined in the special education regulations. As such, once a consent form is signed, the school district will have 30 school days to conduct the evaluation(s) and 45 school days to convene the 504 Team to determine eligibility, and if eligible, develop an accommodation plan and make placement decisions.

Under Section 504, there is an annual review of the services and accommodations plan. Each student with disabilities eligible under Section 504 must be re-evaluated "periodically," and may not be determined ineligible without a re-evaluation. A student's Section 504 plan should not be significantly changed or terminated without a re-evaluation.

Initial evaluation meeting

Parents/guardians shall be invited to participate in the meeting and shall be given the opportunity to examine all relevant records. Parental participation at the initial meeting is a procedural safeguard.

The Section 504 Team (group of individuals knowledgeable about the student, evaluation data, and placement options) meets and analyzes the evaluation data to determine if the student has a mental or physical impairment that substantially limits a major life activity. The Team will consider all provided assessment reports and information from the variety of sources. The 3-pronged eligibility criteria (physical/mental

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impairment that substantially limits a major life activity) will guide the process in determining if a student has a disability under Section 504. An impairment in and of itself may qualify a student for protection under Section 504 but **may not** necessitate an accommodation plan. The determination of what constitutes a substantial limitation must be made on a case-by-case basis with respect to each individual student. Some questions that the Team will consider at the meeting include:

1. What is the nature and severity of the impairment?
2. What is the suspected duration of the impairment?
3. What major life activity is impacted and how is it impacted?
4. How has the student responded to any prior interventions?
5. Does the student consistently need significant changes made to the curriculum and/or physical school environment?
6. Does the student demonstrate consistent social/emotional/behavior difficulties?

Plan Development

If, upon appropriate evaluation, a student is determined to be eligible for services under Section 504, the 504 Team shall make decisions regarding the accommodations/services and/or placement necessary to ensure that the student receives a free appropriate public education. Parents should be consulted and given the opportunity for input regarding the accommodations. Factors to be considered for plan/service options are as follows:

- Evaluation results
- The student's unmet needs relating to the area of impairment
- Access, services and/or accommodations based on needs
- Least restrictive environment for services
- Discussion of and plan for possible staff training

The accommodations and/or services are documented within a Section 504 Plan.

The student will be placed in the regular education environment unless the district can demonstrate that the education of the student in the regular environment with the use of supplementary aids/services cannot be achieved satisfactorily. The student shall be educated with those who are not disabled to the maximum extent appropriate to his/her individual needs (34 C.F.R. 104.34).

The 504 Team shall monitor the progress of the student and the effectiveness of the student's plan to determine whether the services are appropriate and necessary and whether the student's needs are being met as adequately as the needs of students who are not disabled. The 504 Plan should be reviewed annually. In addition, the student's eligibility under Section 504 shall be reevaluated every three years.

A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement (34 C.F.R. 104.35).

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If the 504 Team determines that no services are necessary for the student, the record of the team's decision shall reflect the identification of the student as a person with a disability (if appropriate) under Section 504 and shall state the basis for the decision for no special services presently needed. An example of this could be a student with ADHD whose current use of medication (a mitigating measure) results in no need for services or accommodations. This student could qualify under having a disability, but the student would not be in need of services if the medication removes the need for other accommodations or supports. In this situation, although the student does not need a Section 504 plan, they are eligible and receive manifestation determination, procedural safeguards, periodic reevaluation and the nondiscrimination protections of Section 504. Should the need for an accommodation plan develop, the Section 504 Team would reconvene and develop an appropriate plan at this time.

When a student does not qualify for services under Section 504, it is important for families and school personnel to have conversations about instructional strategies that are utilized routinely for all students and that meet the needs of diverse learners.

Change in Placement/Manifestation Determination

Section 504 requires an evaluation before any change in placement. A change in placement includes suspension or expulsion in excess of 10 school days. A long-term suspension (longer than 10 school days) or expulsion of a student protected by Section 504 may only occur if the behavior is not related to the student's disability, so a Manifestation Determination must be conducted. A Manifestation Review meeting must be convened to determine whether or not the behavior is a manifestation of the student's disability. Section 504 teams may use IDEA's manifestation determination provisions to guide their Section 504 manifestation determination decision-making.

Procedural Safeguards and Notifications

The intent of these procedural safeguards 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.

Your child is entitled to take part in and receive benefits from public education programs without discrimination based on a disability. 34 C.F.R. §104.21

Your child is entitled to receive a free appropriate public education. This includes the right to be educated with other students to the maximum extent appropriate. It also includes the right to have the school make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities. 34 C.F.R. § 104.33(a)

Your child is entitled to be educated in facilities and receive services and activities comparable to those provided to students without disabilities. 34 C.F.R. § 104.34(b)(c)

You have the right to receive all information in the parent/guardian native language and primary mode of communication.

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You have the right to receive notice of any action pertaining to identification, evaluation, program, and/or placement.

You have the right to provide or deny parental permission for initial evaluations (parental permission is required to conduct the evaluations).

Your child is entitled to be evaluated prior to an initial placement and any subsequent significant change in placement. 34 C.F.R. § 104.35(a)

Your child is entitled to be evaluated and tested with procedures in accordance with regulations pertaining to evaluation procedures. 34 C.F.R. §104.34(b)

Your child is entitled to evaluation, educational, and placement decisions made based upon a variety of information sources and by individuals who know the student, disability, evaluation data, and placement options. 34 C.F.R. §104.34(b)

Your child is entitled to have placement decisions made by persons knowledgeable about your child, the meaning of evaluation data, and placement options. 34 C.F.R. § 104.35 (c)(3)

Your child is entitled to periodic evaluations. 34 C.F.R. § 104.35(d)

Your child is entitled to an equal opportunity to participate in nonacademic and extracurricular activities offered by the school district. 34 C.F.R. § 104.37

You have the right to examine all relevant records relating to decisions regarding your child's identification, evaluation, educational program, and placement. 34 C.F.R. § 104.36

You have the right to file a grievance and/or request an impartial hearing and an appeal of any decisions or actions taken by the school district regarding your child's identification, evaluation, educational program, or placement. You and your child may take part in these proceedings and have an attorney represent you. The following details the procedures:

If you disagree with the identification, evaluation, educational placement, or with the provisions of a free appropriate public education for your child, you may make a request for a hearing to the Section 504 Coordinator, indicating the specific reason(s) for the request. Upon receipt of the request, the Section 504 Coordinator shall designate a "responsible employee" pursuant to 34 C.F.R. 104.7.

The school district may initiate a grievance regarding the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student.

A party with a grievance should report such a grievance in writing immediately to:

Mrs. April Rist
Director of Special Services and Section 504 Coordinator
Agawam Public Schools

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1305 Springfield Street, Suite 1
Feeding Hills, MA 01030

Within 15 calendar days after receipt of the written grievance by Mrs. April Rist, the designated “responsible employee” shall meet with the aggrieved party in an effort to resolve the issue (the hearing).

The hearing shall be open to the public and shall be held in a time and place mutually convenient to both the aggrieved party and the designated “responsible employee”.

The hearing procedure will follow appropriate due process standards including:

1. The opportunity for the aggrieved party to present the grievance in any suitable manner.
2. The right of the aggrieved party to a neutral and unbiased “responsible employee” (hearing officer).
3. The right of the aggrieved party to be represented by counsel.
4. The opportunity for the aggrieved party to be represented by counsel.

The decision shall be issued no later than 30 days after the date of the hearing.

The person in this school district who is responsible for assuring that the school district is in compliance with Section 504 is the Section 504 Coordinator - *April Rist*.

This procedure does not deny the right of the grievant to file a formal complaint. The complainant may file a complaint with the Office for Civil Rights (OCR) or the Bureau of Special Education Appeals (BSEA) at any time before, during, or after the local grievance procedures.

This document is not to be a substitute for legal advice. It contains portions of the Section 504 regulations. For a complete compilation of the law, see 34 C.F.R. Part 104.

Glossary of Terms

The following terms are used in association with Section 504:

504: Refers to Section 504 of the Rehabilitation Act of 1973, as amended by P.L. 100-259 (the Civil Rights Restoration Act of 1987) which is a non-funded broad civil rights federal law. Section 504 prohibits discrimination against persons with a disability including both students and staff members by school districts that receive federal financial assistance. It protects all students or employees defined as having any physical or mental impairment that substantially limits one or more major life activities including learning, but it is not an aspect of special education. The intent is to provide accommodations in order to achieve a free appropriate public education (FAPE). Regular educators are responsible for its implementation within school systems. The Bureau of Special Education Appeals and the Office of Civil Rights (OCR) are the agencies charged with enforcement responsibility.

ADA: The Americans with Disabilities Act is a federal law which directs that no qualified individual with a disability shall, by reasons of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or subject to discrimination by such entity.

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Appropriate Education: An education comparable to the education provided to students without disabilities.

Eligibility: Section 504 and the ADA define disability as 1) a physical or mental impairment that substantially limits a major life activity; 2) a record of such impairment; or 3) being regarded as having such impairment.

Equal access: equal opportunity of a qualified person with a disability to participate in or benefit from educational services.

Evaluation: at the elementary and secondary school level, determining whether a child is a qualified student under Section 504 begins with the evaluation process. Section 504 requires the use of evaluation procedures that ensure that children are not misclassified, unnecessarily labeled as having a disability, or incorrectly placed, based on inappropriate selection, administration, or interpretation of evaluation materials. Tests used for this purpose must be selected and administered so as best to ensure that the test results accurately reflect the student's aptitude or achievement or other factor being measured rather than reflect the student's disability, except where those are the factors being measured. School districts are required to draw information from a variety of sources so that the possibility of error is minimized.

Free appropriate public education (FAPE): a term used in the elementary and secondary school context; for purposes of Section 504, refers to the provision of regular or special education and related aids and services that are designed to meet individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met and is based upon adherence to procedures that satisfy the Section 504 requirements pertaining to educational setting, evaluation and placement, and procedural safeguards.

IDEA: Individuals with Disabilities Act - Federal funding statute that defines as eligible only students who have specified types of disabilities and who because of one of those conditions needs special education (specially designed instruction).

Major Life Activity: these include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. The Americans with Disabilities Amendment Act of 2008 added activities include eating, sleeping, standing, lifting, bending, reading, writing, concentrating, thinking, and communicating. Additionally "major bodily functions" such as functions of the immune system, normal cell growth, digestive, bowel, neurological, brain, respiratory, circulatory, endocrine, and reproductive were added within the 2008 Amendments.

M.G.L. c.71B: A state law that requires every school district in Massachusetts to identify, diagnose, evaluate, and propose or arrange for the provision of a special education program to meet the needs of school age children with disabilities residing within the district.

Mitigating Measures: Congress (in the Section 504 of the Rehabilitation Act of 1973) did not define *mitigating measures* but they provided a non-exhaustive list of *mitigating measures* such as medication, medical supplies, hearing aids or cochlear implants, etc. *intended to reduce the impact of the identified disabling condition*. Within the ADA 2008 Amendments Act, Congress specified that the ameliorative effects of mitigating measures must not be considered in determining if a person is an *individual with a disability*. In determining if a student has a disability, the school district should ensure that it follows the expanded Amendments Act interpretation of disability, including the requirement that the ameliorative effects of mitigating measures not be considered. Once a school district determines that a student has a disability,

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however, that student's use of mitigating measures could still be relevant in determining his or her need for special education or related services. (Questions and Answers on the ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools, Questions 5 & 9) It is possible that a student may be eligible for the non-discrimination protections of Section 504, but would not receive an accommodation plan because the student would not need such a plan due to the ameliorative effects of a mitigating measure.

Mitigating measures and plan development: A student may be determined to have a disabling condition and be considered eligible for the non-discrimination protections of Section 504, but may not necessarily require accommodations or services in order to have equal educational opportunity. Although evaluation teams may not consider mitigating measures (something that eliminates or reduces the effects) in determining the existence of a disability, they may consider the effects of mitigating measures when determining the need for accommodations. Thus, students with disabilities may qualify for the nondiscriminatory protections provided by Section 504 (manifestation determination, procedural safeguards, periodic reevaluation and the nondiscrimination protections) but they may not require a Section 504 accommodation plan if there are mitigating measures which sufficiently lessen or remediate (ameliorate) the effects of the disability. Section 504 Teams should reconvene at least annually to discuss these students. Should the need for an accommodation plan develop, the Section 504 Team would reconvene and develop an appropriate plan at that time.

Physical or Mental Impairment: any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder.

Placement: a term used in the elementary and secondary school context; refers to regular and/or special educational program in which a student receives educational and/or related services.

Reasonable modifications: under a regulatory provision implementing Title II of the ADA, public entities are required to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

Related services: a term used in the elementary and secondary school context to refer to developmental, corrective, and other supportive services, including psychological, counseling and medical diagnostic services and transportation.

RTI: Response to Intervention (**RTI**) is a multi-tier approach to the early identification and support of students with learning and behavior needs within the general education setting. The **RTI** process begins with high-quality instruction and universal screening of all children in the general education classroom. It is “the practice of providing high-quality instruction and interventions matched to student need, monitoring progress frequently to make decisions about changes in instruction or goals, and applying child response data to important educational decisions” (Batsche et al., 2005). Based on a problem-solving model, the RTI approach is designed to provide services/intervention as soon as the student demonstrates a need.

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Significant Change in Placement: OCR considers the following examples as a significant change in placement:

- An exclusion from the educational program of more than 10 school days
- Transferring a student from one type of program to another
- Terminating or significantly reducing a related service.

Substantial Limitation: determined on a case by case basis with respect to each individual student and requires that a group of knowledgeable persons draw upon information from a variety of sources in making this determination.

Enforcement

Section 504 is enforced by the U. S. Department of Education, Office for Civil Rights (OCR). OCR provides technical assistance to school districts, parents, and students upon request. Additionally, regulations and publicly issued policy guidance is available on OCR's website at:

<http://www2.ed.gov/policy/rights/guid/ocr/disability.html>

Additional contact information:

OFFICE FOR CIVIL RIGHTS U.S. DEPARTMENT OF EDUCATION

Headquarters

400 Maryland Avenue, SW, Washington, DC 20202-1100

Customer Service Hotline #: (800) 421-3481 | Facsimile: (202) 453-6012

TTY#: (800) 877-8339 | Email: OCR@ed.gov | Web: <http://www.ed.gov/ocr>

Regional Office - Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Office for Civil Rights,

Boston Office

U.S. Department of Education

8th Floor

5 Post Office Square

Boston, MA 02109-3921

Telephone: (617) 289-0111

Facsimile: (617) 289-0150

[Email: OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

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APS School Committee Policies

File: JI

STUDENT RIGHTS AND RESPONSIBILITIES

The Agawam School Committee has the responsibility to afford students the rights that are theirs by virtue of guarantees offered under the federal and state constitutions and statutes. In connection with rights there are responsibilities that must be assumed by students.

Among these rights and responsibilities are the following:

1. Civil rights-including the rights to equal educational opportunity and freedom from discrimination; the responsibility not to discriminate against others.
2. The right to attend free public schools; the responsibility to attend school regularly and to observe school rules essential for permitting others to learn at school.
3. The right to due process of law with respect to suspension, expulsion, and decisions the student believes injure his rights.
4. The right to free inquiry and expression; responsibility to observe reasonable rules regarding these rights.
5. The right to privacy, which includes privacy in respect to the student's school records.

It is the School Committee's belief that as part of the educational process students should be made aware of their legal rights and of the legal authority of the School Committee to make, and delegate authority to its staff to make, rules regarding the orderly operation of the schools.

Students have the right to know the standards of behavior that are expected of them, and the consequences of misbehavior.

The rights and responsibilities of students, including standards of conduct, will be made available to students and their parents through handbooks distributed annually.

LEGAL REFS.: M.G.L. 71:37H; 71:82 through 71:86

File : JB

EQUAL EDUCATIONAL OPPORTUNITIES

In recognition of the diversified characteristics and needs of our students and with the keen desire to be responsive to them, the School Committee will make every effort to protect the dignity of the students as individuals. It also will offer careful consideration and sympathetic understanding of their personal feelings, particularly with reference to their race, creed, sex, religion, nationality, and physical and intellectual differences.

To accomplish this, the committee and its staff will make every effort to comply with the letter and the spirit of the Massachusetts equal educational opportunities law (known as Chapter 622 of the Acts of 1971), which prohibits discrimination in public school admissions and programs. The law reads as follows:

No child shall be excluded from or discriminated against in admission to a public school of any city, or in obtaining the advantages, privileges and course of study of such public school on account of race, color, sex,

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religion, national origin or sexual orientation.

This will mean that every student will be given equal opportunity in school admission, admissions to courses, course content, guidance, and extracurricular and athletic activities.

All implementing provisions issued by the Board of Education in compliance with this law will be followed.

LEGAL REFS.:

Title VI, Civil Rights Act of 1964

Title VII, Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972

Executive Order 11246, as amended by E.O. 11375

Title IX, Education Amendments of 1972

M.G.L. 76:5; 76:16 (Chapter 622 of the Acts of 1971)

Board of Education Chapter 622 Regulations Pertaining to Access to Equal Educational Opportunity, adopted 6/24/75, amended 10/24/78 Board of Education, Chapter 766 Regulations 10/74 - amended through 3/28/78, 603 CMR 26:00

CROSS REF.: AC, Nondiscrimination

File: JBA

STUDENT-TO-STUDENT HARASSMENT

Harassment of students* by other students will not be tolerated in the Agawam Public Schools. This policy is in effect while students are on school grounds, school district property, or property within the jurisdiction of the school district, school buses, or attending or engaging in school activities.

Harassment prohibited by the district includes, but is not limited to, harassment on the basis of race, sex, creed, color, national origin, sexual orientation, religion, marital status, or disability. Students whose behavior is found to be in violation of this policy will be subject to disciplinary action up to and including suspension or expulsion.

Harassment means conduct of a verbal or physical nature that is designed to: embarrass, distress, agitate, disturb, or trouble students when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of a student's education or of a student's participation in school programs or activities;
- Submission to or rejection of such conduct by a student is used as the basis for decisions affecting the student, or;
- Such conduct has the purpose or effect of unreasonably interfering with a student's performance or creating an intimidating or hostile learning environment.

Harassment as described above may include, but is not limited to:

- Verbal, physical, or written harassment or abuse;
- Repeated remarks of a demeaning nature;
- Implied or explicit threats concerning one's grades, achievements, or other school matter.
- Demeaning jokes, stories, or activities directed at the student.

The district will promptly and reasonably investigate allegations of harassment.

The principal of each building will be responsible for handling all complaints by students alleging harassment. Retaliation against a student, because a student has filed a harassment complaint, or assisted or participated in a harassment investigation or proceeding, is also prohibited. A student who is found to have retaliated against another in violation of this policy will be subject to disciplinary action up to and including suspension and expulsion.

Agawam Public Schools Section 504 Manual

The superintendent will develop administrative guidelines and procedures for the implementation of this policy.

*or students by staff or staff by students

References: *"Words that Hurt,"* American School Board Journal, September 1999

National Education Policy Network, NSBA

Legal Ref.: M.G.L. 151B: 3A

Title VII, Section 703, Civil Rights Act of 1964 as amended

Board of Education 603 CMR 26:00

File: JICFB

BULLYING

Bullying and harassment are major distractions from learning. The grades of victims can suffer. Fear can lead to chronic absenteeism, truancy, or even dropping out of school. Bystanders feel both guilty and helpless for not confronting the bully.

As a rule, bullying behavior starts in elementary school and peaks in the middle school years. However, it attracts more attention from adults when it appears in high school. Because the students are older and physically larger, the behavior is recognized as being less tolerable and more inappropriate. Also, sexual harassment is, in fact, a form of bullying.

Bullying of any type has no place in a school setting. The Agawam Public Schools district will endeavor to maintain a learning and working environment free of bullying.

Bullying is defined as the act of one or more individuals intimidating one or more persons through verbal, physical, mental, or written interactions. Bullying can take many forms and occur in virtually any setting. It can create unnecessary and unwarranted anxiety that will affect attending school, walking in corridors, eating in the cafeteria, playing in the school yard or recreation areas, participating in or attending special and extra-curricular activities, or riding on the bus to and from school each day.

Examples of bullying include but are not exclusive to:

1. Intimidation either physical or psychological
2. Threats of any kind stated or implied
3. Assaults on students including those that are verbal, physical, psychological, and emotional
4. Attacks on student property

The School Committee expects administrators and supervisors to make clear to students and staff that bullying in the school building, on school grounds, on the bus or school-sanctioned transportation, or at school-sponsored functions will not be tolerated and will be grounds for disciplinary action up to and including suspension and expulsion for students, and termination for employees.

The district will promptly and reasonably investigate allegations of harassment including bullying. The principal of each building will be responsible for handling all complaints by students alleging harassment including bullying.

The Superintendent will develop administrative guidelines and procedures for the implementation of this policy.