

**SAN LORENZO
UNIFIED SCHOOL DISTRICT
ADMINISTRATIVE REGULATIONS**

All Personnel/Students

AR 4032 (a)

**GRIEVANCE PROCEDURE –
SECTION 504 OF THE REHABILITATION ACT OF 1973**

I. PURPOSE

This administrative regulation implements Board Policy by articulating a grievance procedure for both students and employees.

The District does not discriminate on the basis of disability in any of its policies, procedures, programs or practices. This nondiscrimination procedure covers admission and access to District facilities and programs, and employment practices of the District, only to the extent required by federal law.

It is desirable that problems and complaints of alleged discrimination on the basis of disability brought by students, employees, parents, or other members of the community be resolved in a prompt and equitable manner. If possible, such problems and complaints should be resolved informally.

Retaliation in any form for the filing of a grievance, the reporting of instances of discrimination, or participation in the grievance procedure is prohibited. Such participation shall not in any way affect the status, grades, or work assignments of the Complainant.

II. DEFINITIONS

A. Complainant. An individual(s) who brings either a formal or informal complaint of alleged discrimination governed by Section 504 of the Rehabilitation Act of 1973 or its implementing regulations ("Section 504"). A Complainant who brings an informal grievance shall be informed that the grievance must be presented as a written complaint. Those who have difficulty writing a complaint will be assisted by staff as appropriate in preparing a written complaint. A Complainant may be:

1. An employee of the District; an employee group; or an individual or group acting on an employee's behalf with written consent. (This grievance procedure shall not be available to applicants for employment.) (See 34 C.F.R. § 104.7.)
 2. A student; a parent/guardian acting on the student's behalf; a student group; or individuals or groups acting on a student's behalf with written consent.
 3. Any other interested individual or group alleging discrimination under Section 504 in District programs or practices who is entitled by Section 504 to file a grievance.
- B. Grievance. A grievance shall mean the filing of a written complaint with the responsible District official alleging that there has been an act of discrimination on the basis of a disability prohibited by Section 504 in the District's educational programs or activities, or with respect to employment by the District. The grievance shall state the nature of the Section 504 violation with sufficient specificity to allow for a suitable response. The grievance shall not be deemed filed until the date it is received by the District with all required information.
- C. Procedure. Issues pertaining to employee grievances differ fundamentally from issues pertaining to student grievances. Accordingly, the procedural safeguards to be afforded for each type of grievance may differ. It is the intent of the District that the procedural safeguards afforded for both types of grievances satisfy all requirements of Section 504.
- D. Employee Grievance. A grievance filed by a Complainant who is currently employed by the District which grievance pertains to any District employment decision or practice relating to Section 504.
- E. Student Grievance. A grievance filed by any Complainant that pertains to the identification, evaluation, review and/or education of a student.
- F. Section 504 Coordinator. The following persons shall serve as the District's Section 504 Coordinator:
- Director of Special Services (Student Grievances)
(510) 317-4760
 - Administrator In Charge of Personnel Services (Employee Grievances)
(510) 317-4750
- San Lorenzo Unified School District
15510 Usher Street
San Lorenzo, CA 94580

III. EMPLOYEE GRIEVANCES.

When an Employee grievance, as defined above, has been filed with the District, the following procedure will be followed:

A. LEVEL ONE

The Complainant will meet with the Section 504 Coordinator to discuss and attempt to informally resolve the grievance within fourteen (14) calendar days of the date the grievance is filed. If the grievance is resolved at this meeting, the Section 504 Coordinator will memorialize the resolution reached by the parties and provide a copy of such document to the Complainant in writing within seven (7) calendar days of the meeting, unless extended by consent of the Complainant.

B. LEVEL TWO

If the grievance is not resolved at Level One, the Section 504 Coordinator shall conduct any investigation necessary to resolve the grievance, including discussions with the Complainant, the person(s) against whom the grievance was filed, appropriate staff members, students and others, and review all relevant documents.

Within thirty (30) calendar days of the Level I meeting, the Section 504 Coordinator shall provide the Complainant with a copy of Section 504 Coordinator's findings. The Complainant and the Section 504 Coordinator shall meet within thirty-five (35) calendar days of the Level One meeting to discuss the Section 504 Coordinator's findings and to attempt to resolve the grievance.

Within seven (7) calendar days of the Level II meeting, the Section 504 Coordinator will provide the Complainant with either (1) written confirmation of the resolution reached by the parties; or (2), if the grievance was not resolved, notice that the Complainant must request, in writing, that the grievance proceed to Level III.

C. LEVEL THREE

If the grievance cannot be resolved at Level II, the Complainant may request a hearing. The complainant must request a hearing within seven (7) calendar days of receipt of the Level III notice. A request for a hearing to the Section 504 Coordinator shall contain the following:

1. The specific nature of the decision(s) made by the District with which the person disagrees.

2. The specific relief the Complainant seeks.
3. Any other information the Complainant believes will assist in understanding the request.

Any party to the hearing shall be afforded the following rights:

- The right to present evidence, written and oral.
- The right to question and cross-examine witnesses.
- The right to a written decision.
- The right to a written or electronic verbatim record of the hearing prepared at the expense of the individual requesting such record.

The right to prohibit the introduction of evidence at the hearing that has not been disclosed to the other party or parties at least ten (10) calendar days prior to the hearing, except for good cause shown.

- Receipt of notice from the other party or parties at least ten (10) calendar days prior to the hearing that they will utilize the services of an attorney, except for good cause shown.

Upon timely submission of a request for a hearing, the District shall schedule the hearing before the Governing Board or before a District-designated hearing officer.

Unless otherwise specified in writing by the Complainant, the hearing shall be held in closed session. A written decision shall be rendered by the Board or hearing officer within fourteen (14) calendar days of the conclusion of the hearing. The Board or hearing officer's decision shall be final.

IV. STUDENT GRIEVANCES

If a parent disagrees with the identification, evaluation or placement of a student with disabilities under Section 504, he/she may initiate the following procedures. Parents are encouraged to utilize Levels One and Two, but they may proceed directly to Level Three if they so choose.

- A. **LEVEL ONE:** In writing, request a meeting with the 504 Team in an attempt to resolve the disagreement. This meeting shall be held within a reasonable period of time after receiving the parents' request.
- B. **LEVEL TWO:** If disagreement continues, request in writing a meeting with the District Section 504 Coordinator. This meeting shall be held within a reasonable period of time after receiving the parents' request.

At the request of either the District or the parents, and on mutual agreement of the parties, the parties may pursue dispute resolution through mediation. If the parties agree to mediation, a time line will be set for resolution of the matter.

The cost of the mediation, if any, shall be paid for by the District.

- C. **LEVEL THREE:** If the disagreement is not resolved, or upon initial request, a parent/guardian may request an impartial hearing. The steps involved in initiating and implementing a Section 504 impartial hearing follow:
 - 1. The parents shall have the right to an impartial hearing (“Section 504 Due Process Hearing”) with an opportunity for participation by the parents and representation by counsel, as to District decisions concerning the identification, evaluation, or educational placement of the student. In the notice of any District decisions concerning identification, evaluation, or placement of a student, the parents will be advised of: information to include in the request for a hearing; the person to whom they shall make such request, as set forth below; the procedures for conduct of the hearing; and the fact that reimbursement of attorneys' fees, expert witness fees, and other costs is available only as authorized by law.
 - 2. A request in writing for a Section 504 Due Process Hearing must be filed in the office of the District Section 504 Coordinator.
 - 3. A request for a Section 504 Due Process Hearing must be in writing and received by the District within thirty (30) calendar days from the time the parents received written notice of the decision leading to the request for such hearing. This time frame may be extended for good cause or by mutual agreement of the parties. This time frame may also be renewed upon the parents' request for, and participation in a 504 Team meeting. Upon receipt of such a request from the parents, the District may schedule a 504 Team meeting, and make relevant personnel available within a reasonable time period. A parent or student making an oral request may be assisted by the District in making a written request.

A request for a Section 504 Due Process Hearing shall contain the following:

- (a) A statement requesting a hearing.
 - (b) The specific nature of the decision(s) made by the District with which the parent disagrees.
 - (c) The specific relief the parent seeks.
 - (d) Any other information the parent believes will assist in understanding the request.
4. Within a reasonable period of time following receipt of a written request for hearing, the District Section 504 Coordinator will select an impartial hearing officer.
 5. A hearing officer selected by the District must satisfy the following requirements:
 - (b) Not be an employee of, or under contract with, the District or the SELPA of which the District is a member in any capacity other than that of a hearing officer.
 - (c) Not have any professional or personal involvement that would affect his or her impartiality or objectivity in the matter.
 6. Within sixty (60) days of receipt of the parent's/guardian's request, the hearing shall be conducted and a written decision mailed to all parties. This time frame may be extended by mutual agreement of the parties.
 7. A party to the hearing shall be afforded the following rights:
 - (a) The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of students who are disabled within the meaning of Section 504.
 - (b) The right to present evidence, written and oral.

- (c) The right to written findings of fact, conclusions of law, and a decision prepared by the hearing officer.
 - (d) The right to a written or electronic verbatim record of the hearing prepared at the expense of the individual requesting such record.
 - (e) The right to prohibit the introduction of evidence at the hearing that has not been disclosed to the other party or parties at least five (5) calendar days prior to the hearing except for good cause shown.
 - (f) Receipt of notice from the other party or parties, at least ten (10) calendar days prior to the hearing, that they will utilize the services of an attorney, except for good cause shown.
- 8. The hearing officer shall render a decision pursuant to the legal standards set forth in 34 C.F.R., Part 104.
 - 9. Either party may seek review of the hearing officer's decision by timely filing with a court of competent jurisdiction.
 - 10. The cost of the hearing office shall be borne by the District. Reimbursement of attorneys' fees, expert witnesses' fees, and other costs is available only as authorized by law.

V. MISCELLANEOUS

- A. The existence of this grievance procedure does not affect the right of an individual or group to file a federal complaint directly with the Office for Civil Rights.
- B. District Level Complaints. On Section 504 matters other than a child's identification, evaluation, and placement, a complainant may file a complaint with the District's Section 504 Coordinator who will investigate the allegations in an effort to reach a prompt and equitable resolution.
- C. OCR Complaints. Complaints may also be filed with the Office for Civil Rights. The address of the Regional Office that covers California is:
 - Office for Civil Rights
 - U.S. Department of Education, Old Federal Building
 - 50 United Nations Plaza, Room 239
 - San Francisco, California 94102
 - (415) 556-7000

- D. All timelines set forth in this grievance procedure may be extended by mutual consent of the parties.

- E. The procedural safeguards outlined in this procedure apply only to students or their parents/guardians making claims under Section 504. Students or their parents/guardians making claims under the IDEA must follow IDEA procedures.

Board adopted: July 29, 2003