

**RIGHTS OF STUDENTS WITH DISABILITIES UNDER SECTION 504
- REGULATION**

Section 504/ADA Grievance Procedures and Due Process Hearing

The Massapequa Union Free District prohibits discrimination on the basis of disability in all aspects of its programs and services. A student who believes that they have been subject to discrimination in violation of Section 504 of the Rehabilitation Act of 1973 or Title II of the Americans with Disabilities Act (ADA), by the District, an employee, a student or a third party, may make a complaint under these procedures.

Examples of prohibited discrimination against a student with a disability include denial of equal access to educational programs or activities, facilities or employment; discriminatory harassment (e.g., demeaning jokes, taunting and derogatory remarks or physical acts relating to an individual's disability); and denial of a free appropriate public education under Section 504. Protection from discrimination is also extended to individuals who are perceived to be disabled, regardless of actual disability.

The District prohibits retaliation against any student who files a complaint of disability discrimination or participates in a complaint investigation and will investigate any complaints of retaliation under these procedures. Further, where the District determines that discrimination or harassment has occurred, the District will take all necessary steps to prevent the recurrence of the discrimination or harassment, including any appropriate disciplinary action, and to remedy and correct any discriminatory effects, where appropriate, including through supportive services such as counseling or academic supports.

Employees and other individuals aware of incidents of discrimination, harassment or retaliation on the basis of disability should report such incidents immediately. Employees or students found to have engaged in discrimination, harassment or retaliation may be subject to disciplinary sanctions up to and including termination or suspension/expulsion, subject to the requirements, rights and procedures provided by other applicable District policies, contractual agreements and state and federal law.

These internal grievance procedures do not replace any other rights or protections that employees or students have under other District policies or State or Federal Laws. However, allegations of discrimination or harassment on the basis of disability included in complaints filed under other District policies or procedures (e.g., DASA complaints) may be referred for investigation under these procedures.

HOW TO FILE A COMPLAINT

Complaints should be filed as soon as practicable, but no later than 30 calendar days from the date on which the alleged discrimination occurred or the person filing the complaint learned of the alleged discrimination. The District complaint form may be obtained by visiting

the following website: <https://www.msd.k12.ny.us/Page/4706>. The complaint form may be mailed, emailed or personally delivered to the 504/ADA Coordinator. Information regarding the District's current 504/ADA Compliance Officer can be found at <https://www.msd.k12.ny.us/Page/4706>. The 504/ADA Compliance Officer can be reached at:

504/ADA Compliance Officer
Massapequa Union Free School District
4925 Merrick Road, Massapequa, NY 11758
516-308-5051

If you have questions about the procedure for filing a complaint/report, please call the 504/ADA Compliance Officer at 516-308-5051. If unable to make the complaint in writing, students may contact a teacher, counselor, administrator or the 504/ADA Compliance Officer to assist with putting the complaint in writing. Employees may contact their supervisor or the 504/ADA Compliance Officer.

The written complaint must be signed by the person making the complaint, dated, and include at least the following information:

- Name and contact information of the person making the complaint and the alleged victim of discrimination (if different)
- Date(s), time(s), place(s) of alleged incident(s)
- Alleged perpetrators of the discrimination or harassment (names, identifiers, etc.)
- Description of each incident, by date
- Witnesses, if any (names and identifying information)
- Other relevant information
- Desired resolution – what you would like to see change as a result of the investigation

The written complaint should be forwarded to the 504/ADA Compliance Officer or the administrator or department head assisting the person making the complaint. If forwarded to the principal or other administrator, s/he will forward the complaint form to the 504/ADA Compliance Officer.

Stage 1 – 504/ADA Compliance Officer

1. Upon receipt of a written complaint, the 504/ADA Compliance Officer or his/her designee will begin a fact-finding investigation which will be prompt and equitable to all parties and may involve, as appropriate, gathering evidence and interviewing witnesses. Individuals making complaints, as well as those accused of any type of discrimination, will

have the opportunity to identify and/or present evidence or relevant witnesses. While the nature of an investigation will necessarily vary depending on the facts and circumstances surrounding a given complaint, the 504/ADA Compliance Officer will review evidence and conduct witness interviews as appropriate based on the nature of a given complaint.

2. Where appropriate, the District may also take interim measures pending the completion

of an investigation. Interim measures may include, but are not limited to, making arrangements to minimize contact between a complainant and an individual accused of engaging in discriminatory behavior and identification of support services for the involved individual(s).

3. In general, the 504/ADA Compliance Officer will render a decision within 60 calendar days after receipt of a complaint and provide written notice of the outcome of the investigation to the person making the complaint, Superintendent, and any individual who is the subject of the complaint. If additional time is needed for good cause, (e.g., key witnesses cannot be interviewed in a timely manner), the decision will be made as soon as reasonably possible. If the decision is to be delayed for good cause, the complainant, Superintendent, and other material parties shall so be notified and an estimated date for a decision will be provided.

4. In making a decision, the 504/ADA Compliance Officer will use a preponderance of the evidence standard, meaning he/she will determine whether it is more likely than not that discrimination occurred.

Stage 2 – Appeal to Superintendent or Superintendent’s Designee

If the person making the complaint or a person who is the subject of a complaint is dissatisfied with the 504/ADA Compliance Officer’s decision, he/she may appeal the 504/ADA Compliance Officer’s decision to the Superintendent within 14 calendar days of receipt of the 504/ADA Compliance Officer’s written decision.

Appeals must be made in writing, and should be mailed, emailed or personally delivered to the 504/ADA Compliance Officer. Information regarding the District’s current 504/ADA Compliance Officer can be found at <https://www.msd.k12.ny.us/Page/4706>.

Appeals should, at minimum, identify the decision or part of the decision of the 504/ADA Compliance Officer that is being appealed and a brief description of the reason for the appeal and any additional relevant information.

1. Within five business days of the District’s receipt of an appeal, the 504/ADA Compliance Officer will forward all materials relating to the original complaint and gathered during the investigation to the Superintendent or his/her designee. The Superintendent or his/her designee, who may also be an employee of the District, shall be an impartial decision-maker when considering such appeals.

2. The Superintendent, or designee, shall notify both parties of the appeal and the opportunity to submit a response. The Superintendent or designee shall and conduct a prompt, impartial, equitable and thorough review of the materials, as well as material submitted in support of or against the appeal by either party. S/he shall have the right to re-interview witnesses, e.g., if testimony is unclear or new evidence has been brought to light, or to interview additional witnesses or otherwise review additional evidence if needed to ensure an equitable decision.

3. The Superintendent or designee shall provide written notice of his/her decision to the complainant, the 504/ADA Compliance Officer and the subject of the complaint within 30 calendar days of receiving the appeal, unless additional time is needed for good cause. If additional

time is needed, material parties shall so be notified and provided with an estimated date for the issuance of the appeal decision.

Confidentiality

The District will protect the confidentiality of any individual filing a complaint to the extent possible. However, it may be necessary to reveal the complainant's identity in order to fully investigate the complaint and comply with the District's obligations under state and federal law.

Office for Civil Rights

The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination on the basis of disability with the Office for Civil Rights. The Office for Civil Rights can be contacted at:

Office for Civil Rights
U.S. Department of Education
32 Old Slip, 26th floor
New York, NY 10005-2500
Phone: 646-428-3900 / 800-421-3481 Fax: 646-428-3843
TDD: 877-521-2172
E-mail: OCR.NewYork@ed.gov

Impartial Hearing for Matters Relating to Identification, Evaluation, Placement or the Provision of FAPE under Section 504

Parents of students, or eligible students over age 18, may also request an impartial hearing to address any matter regarding the student's identification, evaluation, educational placement or the provision of a free appropriate public education under Section 504. The proceedings shall be presided over and decided by an impartial hearing officer. An impartial hearing may be requested at any time, including instead of or after using the District's internal grievance procedures.

Requests for a due process hearing must be submitted in writing to the Superintendent.

Parents or persons in parental relationship shall be notified of the hearing at least 10 days prior to the date set for the hearing. The notice shall contain:

- a statement of date, time, place, and nature of the hearing;
- a statement of the legal authority and jurisdiction under which the hearing is being held;
- a statement of the issues as to which there is disagreement;
- a statement of the right to be represented by counsel;
- a statement of the right to examine relevant education records of the student;
- the name, address, and telephone number of the impartial hearing officer.

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The District's notices to the student's parent or person in parental relationship shall be in English or in the native language or mode of communication of the parent or person in parental relationship.

At the hearing, each party shall have an opportunity to present relevant information and outside expert testimony.

A copy of the hearing officer's decision shall be delivered to the school district and the parent or person in parental relationship within 30 days following completion of the hearing.

The decision of the hearing officer is binding on all parties involved, and is subject to review by a Court of competent jurisdiction and such other entities as may be provided by law.