

## Unionville-Chadds Ford School District Procedural Safeguards

**Dear Parent(s):**

As part of the protections available to you if we cannot agree as to what related aids, services, or accommodations should or should no longer be provided to your child, the **Procedural Safeguard** system may be used to resolve the dispute. Following are some details of the avenues available to you.

### **Parental request for assistance**

Parents may file a written request for assistance with the School District, the Pennsylvania Department of Education or the Office of Civil Rights if the school district is not providing the related aids, services, and accommodations specified in the service agreement and/or the school district has failed to comply with federal regulations or the regulations in Chapter 15 of the State Board.

The Department of Education will investigate and respond to requests for assistance and, unless exceptional circumstances exist, will, within 60 calendar days of receipt of the request, send to the parents and school district written response to the request.

Written requests should be addressed to:

Pennsylvania Department of Education  
Bureau of Special Education  
333 Market Street  
Harrisburg, PA 17126  
717-783-6913

U.S. Department of Education  
Office of Civil Rights  
Wanamaker Building, suite 515  
100 Penn Square East  
Philadelphia, PA 19107

### **Informal Conference**

Parents may file a written request with the school district for an informal conference with respect to the identification or evaluation of a student, or the student's need for related aid, service, or accommodation. Within 10 school days of receipt of the request, the school district shall convene an informal conference. At the conference, every effort shall be made to reach an amicable agreement.

### **Formal due process hearing**

Parents may file a written request with the school district for an impartial due process hearing. The hearing shall be held before an impartial hearing officer. Following are some details about the due process hearing:

The hearing shall be held in the local school district at a place reasonably convenient to the parents. At the request of the parents, the hearing may be held in the evening.

The hearing shall be an oral, personal hearing and shall be open to the public unless the parents request a closed hearing.

If the hearing is open, the decision issued in the case, and only the decision, shall be available to the public.

If the hearing is closed, the decision shall be treated as a record of the student and may not be available to the public.

The decision of the hearing officer shall include findings of fact, a discussion and conclusions of law. The decision shall be based solely upon the substantial evidence presented at the hearing. The hearing officer shall have the authority to order that additional evidence be presented.

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A written transcript of the hearing shall, upon request, be made and provided to parents at no cost.

Parents may be represented by any person, including legal counsel. Requests for payment of reasonable attorney's fees can be made if parents are successful in their claim.

A parent or a parent's representative shall be given reasonable access to all educational records, including any tests or reports upon which the proposed action is based.

Any party may prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least 5 days before the hearing.

A parent or parent's representative has the right to compel the attendance of and question witnesses of the school entity or agency who may have evidence upon which the proposed action might be based.

Any party has the right to present evidence and testimony, including expert medical, psychological or educational testimony.

The Secretary of Education will contract with the Right to Education Office for the services of impartial hearing officers, who preside over initial hearings on behalf of local districts on behalf of the PA Department of Education and may compensate hearing officers for their services. The compensation shall not cause hearing officers to become employees of the Department. The hearing officer may not be an employee or agent of a school entity in which the parents or student resides, or of any agency which is responsible for the education or care of the student.

The following timeline applies to due process hearings:

1. A hearing shall be held within 30 calendar days after a parent's initial request for a hearing.
2. The hearing officer's decision shall be issued within 45 calendar days after the parent's request for a hearing.

### **Judicial appeals**

If the hearing pertains to Chapter 14 and 15 rights, the decision of the impartial hearing officer may be appealed to a panel of 3 appellate hearing officers. The panel's decision may be appealed further to a court of competent jurisdiction. If the hearing pertains to chapter 15 rights, the decision of the impartial hearing officer may be appealed to a court of competent jurisdiction. Under some circumstances, you may raise these claims directly under section 504 without going through the due process hearing.

If, within 60 calendar days of the completion of the administrative due process proceedings, an appeal or original jurisdiction action is filed in State or Federal Court, the administrative order shall be stayed pending the completion of the judicial proceedings, unless the parents and school district agree otherwise.

## Unionville Chadds Ford School District

### Notice of Parents 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 (a) has, (b) has a record of having, (c) is regarded as having, a physical or mental impairment which substantially limits a major life activity. The term "substantially limits" means that the student is:

unable to perform a major life activity that the average student of approximately the same age can perform

or

significantly restricted as to the condition, manner or duration under which a particular life activity is performed as compared with the average student of approximately the same age. The impairment must be substantial and somewhat unique, rather than commonplace, when compared with the average student of approximately the same age. The impairment must be causing or substantially contributing to the student's inability to benefit from instruction.

Some students will be eligible for educational services under both Section 504 and the Individuals with Disabilities Education Act (IDEA). Students who are eligible under IDEA have many specified rights that are not available to students who are eligible solely under Section 504. A copy of the rights of IDEA students can be obtained through the District's Special Education Department. It is the purpose of this Notice to set out the rights assured by Section 504 to those disabled students who do not qualify under IDEA. The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your right if you disagree with a decision made by the District.

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. (The purpose of this Notice is to advise you of those rights).
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.
3. Your child has the right to free educational services except for those fees that are imposed on non-disabled students or their parents.
4. Your child has a right to a free appropriate public education (FAPE) in the least restrictive environment. This includes the right to have the District make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities.
5. Your child has a right to facilities, services, and activities that are comparable to those provided for non-disabled students. This includes an equal opportunity to participate in nonacademic and extracurricular activities offered by the District.
6. Your child has a right to an evaluation prior to an initial Section 504 placement and any subsequent significant change in placement.

7. Testing and other evaluation procedures must conform with the requirements of 34 CFR 104.35 as to validation, administration, and areas of evaluation. The District shall consider information from a variety of sources, including aptitude and achievement tests, teacher observations and recommendations, physical conditions, and comparable facilities.
8. Placement decisions must be made by a group that includes 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.
9. If eligible under Section 504, your child has a right to periodic reevaluations.
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.
11. You have the right to examine relevant records and to request amendment of your child's records if there is reasonable cause to believe that they are inaccurate, misleading or otherwise violating the privacy rights of your child. You can obtain copies of your child's education records at a reasonable cost, unless the fee would effectively deny you to access to the records, and receive a response from the school district to reasonable requests for explanations and interpretations of those records.
12. You have the right to a pre-hearing conference to attempt to resolve disagreements about your child's evaluation, identification, or educational placement. The District will schedule the pre-hearing conference within 10 school days from the date the parent's written request is received.
13. You have the right to an impartial hearing with respect to the District's actions regarding your child's evaluation, identification or educational placement, with opportunity for parental participation in the hearing and representation by an attorney.
14. If you wish to challenge the actions of the District's Section 504 decisions about your child's identification, evaluation, or educational placement, you should file a written Notice of Appeal with the District Section 504 Coordinator within 30 calendar days from the time you received written notice of the Section 504 committee's actions. 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.
15. On Section 504 matters other than your child's identification, evaluation, and placement you have a right to file a complaint with the District's Section 504 Coordinator, who will investigate the allegation to the extent warranted by the nature of the complaint in an effort to reach a prompt and equitable resolution.

Section 504 Coordinator: Lisa Fiorani (610) 347-0970, ext. 3337  
Unionville Chadds Ford School District  
740 Unionville Road  
Kennett Square, PA 19348