

## SECTION 504 GRIEVANCE PROCEDURE

It is the policy of Artesia Public Schools not to discriminate on the basis of disability. Artesia Public Schools has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) ("Section 504") and its implementation regulations at 34 C.F.R. Part 104). Section 504 prohibits discrimination on the basis of disability in any program or activity receiving Federal financial assistance. The Law and Regulations may be examined in the office of Mitzi McCaleb, Director of Health & Wellness, who has been designated as the 504 Coordinator to coordinate the efforts of Artesia Public Schools to comply with Section 504.

Any person who believes she or he has been subjected to discrimination on the basis of disability may file a grievance under this procedure. It is against the law for Artesia Public Schools to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance. Section 504 and Title II prohibit retaliation and intimidation against any individual who files a complaint under those laws or participates in a complaint investigation or process; and, that the District will investigate all allegations of retaliation and intimidation and take appropriate action against those found to have retaliated.

### **Procedure:**

- Grievances must be submitted to the Section 504 Coordinator within 10 days of the date the person filing the grievance becomes aware of the alleged discriminatory action. The 504 Coordinator can be contacted at:

Mitzi McCaleb  
Director of Health & Wellness  
575-746-3585  
[mmccaleb@bulldogs.org](mailto:mmccaleb@bulldogs.org)

- A complaint must be in writing, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.
- The Section 504 Coordinator (or her/his designee) shall conduct a prompt, adequate, reliable, and impartial investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint, including an opportunity to present witnesses.

- The Section 504 Coordinator will maintain the files and records of Artesia Public Schools relating to such grievances. Confidentiality may only be maintained to the extent it does not compromise the integrity of the adequate and impartial investigation.
- The Section 504 Coordinator will issue a written decision on the grievance no later than 30 days after its filing.
- The person filing the grievance may appeal the decision of the Section 504 Coordinator by writing to the Superintendent within 15 days of receiving the Section 504 Coordinator's decision. The Superintendent shall issue a written decision in response to the appeal no later than 30 days after its filing. The appeal will be conducted in an impartial manner by an impartial decision-maker.
- 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 U. S. Department of Education, Office for Civil Rights.

U.S. Department of Education  
 Office for Civil Rights  
 1244 Speer Blvd., Suite 300  
 Denver, CO 80204  
 303-844-5695  
[OCR.Denver@ed.gov](mailto:OCR.Denver@ed.gov)

- An impartial due process hearing will be utilized to resolve differences involving the education of a Section 504 qualified student with a disability when such differences cannot be resolved by means of a less formal procedure. The proceedings will be presided over and decided by an impartial hearing officer. Impartial hearing officer means a person selected to preside at a due process hearing to assure that proper procedures are followed and to assure the protection of the rights of both parties.

Requests for a due process hearing must be submitted in writing to the Superintendent. Hearing notifications to the parents shall be given at least twenty (20) days prior to the date set for the hearing. The notice shall contain:

- A statement of time, place, and nature of the hearing.
- A reference to the particular section of the statutes and rules involved.
- A statement of the availability of relevant records for examination.
- A short and plain statement of the matters asserted.
- A statement of the right to be represented by counsel.

#### Hearing

- The hearing officer shall preside at the hearing and shall conduct the proceedings in an impartial manner to the end that all parties involved have an opportunity to:
  - Present their evidence.
  - Produce outside expert testimony and be represented by legal counsel and by individuals with knowledge or training with respect to problems of students with disabilities.
  - Parents involved in the hearing will be given the right to:
    - Have the student present at the hearing.
    - Open the hearing to the public.

- In cases where there are language differences, an interpreter shall be provided.
- The hearing officer shall review all relevant facts concerning the education placement.
- The hearing officer shall determine, subject to appeal by judicial review, whether the District has met all procedural aspects of the education accommodation plan.
- The hearing officer shall render a decision, subject to judicial review, that is binding on all parties, except that in all cases any action taken must comply with current New Mexico Revised Statutes and federal court decisions.
- A copy of the hearing officer's decision shall be delivered to the District and the parent, guardian, or surrogate within ten (10) days following completion of the hearing, which in no event shall be later than forty-five (45) days after receipt of the request for a hearing. Notification will include a statement that either party may appeal the decision.
- Confidentiality will be maintained only to the extent it does not compromise the integrity of the investigation.
- The decision of the hearing officer is binding on all parties concerned; it is subject only to judicial review.

Artesia Public Schools will make appropriate arrangements to ensure that disabled persons are provided other accommodations, if needed, to participate in this grievance process. Such arrangements may include, but are not limited to, providing interpreters for the deaf, providing taped cassettes of material for the blind, or assuring a barrier-free location for the proceedings. The Section 504 Coordinators will be responsible for such arrangements.