



Parent/Student Rights in Identification, Evaluation and Placement Section 504 of the Rehabilitation Act of 1973 & Title II of the American with Disabilities Act of 1990

The following is a description of the rights granted by federal law to students with disabilities. The intent of the law 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.

You have the right to:

- Have your child take part in and receive benefits from public education programs without discrimination because of his/her disabling condition;
- Have the school district advise you of your rights under federal law;
- Receive notice with respect to identification, evaluation, or placement of your child;
- Provide consent prior to your child being evaluated;
- Have your child receive a free appropriate public education. This includes the right to be educated with non-disabled students to the maximum extent appropriate to the needs of the disabled student. It also includes the right to have the school system make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities;
- Have your child educated in facilities and receive services comparable to those provided non-disabled students;
- Have your child receive specially designed education and related services if your child is found to be eligible under the Individuals with Disabilities Education Act;
- Have the interpretation evaluation data and placement decisions based upon a variety of information sources and placement decisions made by persons who know the student, the meaning of the evaluation data, and placement options;
- Have your child provided with an equal opportunity to participate in nonacademic and extracurricular activities offered by the system;
- Examine all relevant records relating to decisions regarding your child's identification, evaluation, education program, and placement;
- Obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records;
- A response from the school to reasonable requests for explanations and interpretations of your child's records;

- Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy rights of your child. If the school system refuses this request for amendment, it shall notify you within a reasonable time and advise you of the right to a hearing;
- Request and participate in a review or an impartial hearing, with counsel if desired, related to decisions or actions regarding your child's identification, evaluation, educational program or placement;
- Request payment of reasonable attorney fees if you are successful on your claim;
- File a local grievance.

The person at the school who is responsible for Section 504/ADA compliance is Dr. Patrick Widhalm, Head of School. Benjamin Franklin High School Section 504 Coordinator is Lori DeFils, 2001 Leon C. Simon Drive, New Orleans, LA 70122, 504-286-2600, ext. 2622.

Grievance and Due Process Procedures for Students and Parents/Guardians (Section 504 of the Rehabilitation Act of 1973 & Title II of the American with Disabilities Act of 1990)

Reason for Procedure:

The purpose of these procedures is to provide an orderly process for the resolution of student and parent/guardian complaints related to the provisions of Section 504 of the Rehabilitation Act of 1973 and Title II of the American with Disabilities Act of 1990, which prohibits discrimination against person with a disability solely on the basis of that disability in programs, activities or employment practices. An equitable resolution of such complaints should be secured at the most immediate administrative level as fairly and expeditiously as possible.

Who Should Read this Procedure:

All Benjamin Franklin High School (BFHS) administrative staff; and

- All persons of the age of majority who desire to obtain public records maintained by **BFHS**; and
- All BFHS students, parents, and employees.

Part 1. Definitions

Board

Board shall mean BFHS's governing board, Advocates for Academic Excellence in Education (AAEE).

Student

Student shall mean any person who is regularly enrolled at BFHS.

Parent/Guardian

Parent/Guardian shall mean any person who is the parent or legal guardian or surrogate parent of a student regularly enrolled in BFHS.

Person with a Disability

A person with a disability is defined as a person who has a physical or mental impairment, which substantially limits one or more major life activities, has a record of such impairments, or is regarded as having such an impairment.

Grievance

Grievance shall mean a claim by a student or parent/guardian of a violation under Section 504 of the Rehabilitation Act of 1973 and Title II of the American with Disabilities Act of 1990, which bans discrimination against a qualified disabled person solely on the basis of a disability in programs, activities or employment policies.

Part 2. Grievance Procedure

A. Every effort should be made to resolve the grievance at the school between the Head of School and the aggrieved.

B. If the grievance is not resolved in step A above, the following procedure applies:

1. The complainant shall notify Lori DeFils, the Section 504 Coordinator for the BFHS in writing of the alleged violation.

Mail to: Benjamin Franklin High School
Lori DeFils
2001 Leon C. Simon Dr.
New Orleans, LA 70122

2. The Section 504 Coordinator will refer the grievance within ten (10) working days to the Head of School for review and resolution. The written decision of the Head of School will be presented to the Section 504 Coordinator within the succeeding ten (10) working days.

3. If the grievance is not resolved in step two, the Section 504 Coordinator will meet within ten (10) working days with the complainant. The Section 504 Coordinator may review all written decisions and transcripts of previous meetings OR may investigate the grievance, conferring with parties involved and other administrative staff. The allegation may be upheld and necessary corrective action taken or the allegation may be dismissed as having no substance as a violation of Section 504 and the matter closed.

4. The complainant may, if not receiving desired satisfaction in steps two and/or three, request in writing an appointment with the Head of School. The request shall be made to the Section 504 Coordinator within ten (10) working days of the meeting in step three and the Section 504 Coordinator will establish the appointment at a date and time mutually agreeable to all parties no later than ten (10) working days.

5. The complainant may, if not receiving desired satisfaction in steps two, three, and/or four, request in writing a hearing before the AAEE Board. The request is to be made by the complainant within ten (10) working days from the date of the decision reached in step 4. The request shall be made to the Section 504 Coordinator, who will notify the president of the AAEE Board within five (5) working days of receipt of the request. The hearing will be scheduled at a date and time mutually agreeable to all parties no later than ten (10) working days.

Note: Using the above grievance procedures is not a prerequisite to the pursuit of other remedies through either Due Process Procedures or filing a formal complaint with the Louisiana State Department of Education or Office of Civil Rights, Region VI in Dallas, Texas.

Part 3. Due Process Hearing Procedures

An impartial due processing hearing can be used to resolve differences involving the education of a Section 504 qualified disabled student when such differences cannot be otherwise resolved. Due process is defined as an opportunity to present objections and reasons for the objections to the decision and/or procedures of the school's Section 504 committee regarding the application of Section 504. A Section 504 due process hearing may be called at the request of the AAEE Board, parent, guardian, or surrogate parent of an affected student. The proceedings will be presided over and decided by an impartial hearing officer. An impartial hearing officer is 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. The Section 504 Coordinator will contract with an independent hearing officer who is not employed by the school system.

Parents or the AAEE Board may initiate a due process hearing on a matter related to:

1. Eligibility and related procedures
2. Procedural safeguards
3. Provision of a free and appropriate public education to the student

Requests for a due process hearing must be submitted in writing to:

Mail to: Benjamin Franklin High School
Lori DeFils
2001 Leon C. Simon Dr.
New Orleans, LA 70122

Hearing notifications to the parents shall be given no more than thirty (30) days from the date the request was received. The notice shall contain:

- A statement of time, place, and nature of the hearing.
- A statement of the legal authority and jurisdiction under which the hearing is being held.
- 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.
- All written correspondence shall be provided in English and/or interpreted in the primary language.

Hearing Procedures

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 disabled students.

Parents involved in the hearing will be given the rights to:

- Have the student present at the hearing.
- Open the hearing to the public.
- Have an interpreter, when language differences are determined to exist.

Hearing Officer Duties

The hearing officer shall:

- Review all relevant facts concerning the education placement.
- Determine, subject to appeal by an appellate process or judicial review, whether the Orleans Parish School Board has met all procedural aspects of the Section 504 Accommodation Plan.
- Render a decision, subject to an appellate process or judicial review that is binding on all parties except that in all cases any action taken must comply with current Louisiana Revised Statutes and federal court decisions.

Further, the hearing officer shall ascertain that:

- The procedures used in determining the student's needs have been appropriate in nature and degree.
- The student's rights have been fully observed.
- The provision of aids, services, or programs to the student may afford a free and appropriate education.
- If the parents' primary language is other than English, then the hearing officer shall appoint an interpreter.

Decision of the Hearing Officer

A copy of the hearing officer's decision shall be delivered to the AAEE Board and the parent, guardian, or surrogate parent within 10 days following completion of the hearing, which in no event shall be later than 45 calendar days after receipt of the request for a hearing. Notification will include a statement that either party may appeal the decision. Extensions of the Due Process Hearing timelines may be granted by the hearing officer only at the written consent of either party to the hearing officer. The decision of the hearing officer is binding on all parties concerned and subject to an appellate process or judicial review.

Appellate Process for Section 504

Upon receipt of the decision in a due process hearing under Section 504 of the Rehabilitation Act of 1973, an aggrieved party may within thirty days of the date of the decision appeal such decision to the Section 504 Coordinator of the school system. If no party files an appeal within the thirty-day time period specified above, the written decision of the Section 504 hearing officer will be regarded as the final decision on the complaint of the expiration of that period.

The Section 504 Coordinator, upon receipt of timely appeal, shall arrange for the establishment of an impartial review panel composed of three impartial reviewers, at least one of whom shall have received training in Section 504. The review panel shall meet and review the decision of the Section 504 due process hearing officer. By majority vote, the review panel shall have the right to affirm, reverse, or modify the decision of the Section 504 due process hearing officer based solely on the merits of the case. The review panel shall have 45 operational days from the date that the request for review is received by the Section 504 Coordinator in which to disseminate its decision to both parties. Any party aggrieved by the decision of the review panel shall have the right to appeal that decision as allowed by law.

Record of Hearing

A written or electronic verbatim recording of the Section 504 due process hearing shall be on file at the Orleans Parish School Board office and will be available for review upon request of the parents and/or any of the involved parties. Parents may have a copy of the proceedings, in English and in the primary language of the home.

Section 504 Grievance Form

Name: _____

Address: _____

Phone: (Home) _____ (Work) _____

Name of Student: _____

Your Relationship to Student: _____

School Student Attends: _____

Nature of your Grievance: (Please describe the reason for your grievance)

Please describe the corrective action you wish to see taken with regard to the grievance.

Signature of Grievant

Date