

Parent/Staff and Patron Complaint and Request Procedure

Section 1. Section 504/ADA – Grievance Procedures Related to Disability Discrimination. If a person believes that s/he has been discriminated against on the basis of his/her disability, the person may utilize the following grievance procedures as a means of reaching a prompt and equitable resolution of the matter.

In accordance with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations ("Section 504"), and Title I and Title II of the Americans with Disabilities Act of 1990 ("ADA"), individuals will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation or misapplication of Section 504 and the ADA. In addition, individuals will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights.

The following persons are designated as the Corporation's Section 504/ADA Compliance Officer(s) ("Corporation's Compliance Officer(s)"):

Educational Opportunities
 Director of Special Services
 East Allen County Schools
 1240 State Road 930 East
 New Haven, Indiana 46774
 cbrown@eacs.k12.in.us
 260-446-0100

Employment Opportunities
 Director of Human Resources
 East Allen County Schools
 1240 State Road 930 East
 New Haven, Indiana 46774
 tgrady@eacs.k12.in.us
 260-446-0100

Disability discrimination grievances must be put in writing and must identify the specific circumstances or areas of dispute that have given rise to the complaint, and offer possible solutions to the dispute. The grievance must be filed with a Corporation Compliance Officer within the time limits specified below. The Corporation's Compliance Officer is available to assist individuals in filing a grievance.

Section 2. Rights of Individuals with Disabilities under Section 504 and the ADA. It is the policy East Allen County Schools that no otherwise qualified individual shall, by reason of the individual's disability, be excluded or otherwise denied opportunity for

participation in, be denied the benefits of, or be subjected to discrimination under any program or activity sponsored by this Board. It is the further policy of this Board that students with disabilities who are residents of the East Allen County Schools will be provided a free appropriate public education regardless of the nature or severity of the student's disability.

The term "disability" means an individual who has a physical or mental impairment that substantially limits one or more of the individual's major life activities. The term also includes individuals who have a record of such impairment or who are regarded as having such impairment. Major life activities include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Disability discrimination shall include, but not be limited to, refusing to offer a disabled individual a place because they are disabled or offering them a place on less favorable terms than an individual who is not disabled; treating a disabled individual less favorably than an individual who is not disabled in any aspect of the educational setting including trips, excursions, and extracurricular activities, and; excluding a disabled individual from school or work because of their disability. Appropriate consequences and remedial actions for disability discrimination are those that are graded according to the severity of the offenses and include consequences and appropriate remedial action for students that could range from positive behavioral interventions up to and including suspension or expulsion. Consequences and appropriate remedial action for a school employee or contracted service provider could entail discipline in accordance with East Allen County Schools' policies, procedures and agreements. Consequences and appropriate remedial action for a visitor or volunteer could be determined by the school administrator after consideration of the nature, severity, and circumstances of the act, including removal of building or grounds privileges.

Notice of the Board's policy of nondiscrimination on the basis of disability shall be included in the Board policy, posted within the EACS' Corporation, and published in any EACS' corporation statement regarding the availability of employment opportunities, educational services or EACS-sponsored programs.

Section 3. Employment. Neither the Board nor its employees or agents shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, or privileges of employment.

Applicants for employment by the Board shall not be required to undergo a physical examination prior to an offer of employment by the Board. During the application process neither the Board nor its employees or agents shall make inquiries of an applicant as to whether such person is an individual with a disability or as to the nature of severity of his/her disability, unless such inquiry is related to the applicant's ability to perform essential job-related functions.

East Allen County Schools is committed to and will provide reasonable accommodations to a qualified individual with a disability or a qualified individual that has a record of a disability, unless the accommodation would impose an undue hardship on the operations of the East Allen County Schools' programs and/or activities. A qualified individual with a disability means the individual satisfies the requisite skill, experience, education and other job-related requirements of the employment position said individual holds or desires and can perform the essential functions of the job in question, with or without reasonable accommodation.

Section 4. Program Accessibility. The instructional program of East Allen County Schools and the activities sponsored by East Allen County Schools in conjunction with the instructional program shall be operated in such a manner that such programs and activities when viewed in their entirety and to the maximum extent feasible, shall be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. East Allen County Schools will attempt to provide barrier-free access to school facilities with the objective that no individual with a disability is to be denied an opportunity to participate in an East Allen County Schools program that is available to non-disabled persons. In some instances, this may require the individual with a disability to travel to or attend an accessible facility other than the facility closest to the person's residence.

Section 5. Educational Services. In providing educational services to students with identified disabilities, East Allen County Schools will reasonably accommodate the student's individual educational needs. Such accommodation may include, but is not limited to, the provision of regular or special education and/or related aids and services. Students will be placed in the regular education environment unless it is demonstrated that the education of the student in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily. The East Allen County Schools provides nonacademic and extracurricular services and activities that offer students with disabilities the opportunity to participate with nondisabled students in such activities to the maximum extent appropriate to the needs of the student with disabilities.

The filing of a grievance under the procedures described herein shall not limit, extend, replace or delay the right of any person to file a similar complaint or charge with any appropriate local, State, or federal agency or court.

Section 6. Disability Discrimination Grievance Procedure. A parent or student may file a written Disability Discrimination Grievance with the Corporation's Compliance officer at the contact information listed on page one of this Document. The following Disability Discrimination Grievance procedure is available to individuals for the prompt and equitable resolution of complaints alleging discrimination based upon disability. This grievance procedure is not available to unsuccessful applicants. Use of the procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the U.S. Department of Education's Office for Civil Rights.

1. An individual with a grievance based on alleged disability discrimination may first discuss the problem with the Corporation Compliance Officer.
2. If the informal discussion does not resolve the matter, or if the individual skips Step 1, the individual may file a formal written Disability Discrimination Grievance with the Corporation Compliance Officer. The written grievance must contain the name and address of the individual or representative filing the grievance, be signed by the grievant or someone authorized to sign for the grievant, describe the alleged discriminatory action in sufficient detail to inform the Corporation Compliance Officer of the nature and date of the alleged violation, and propose a resolution. The grievance must be filed within thirty (30) calendar days of the circumstances or event giving rise to the grievance, unless the time for filing is extended by the Corporation Compliance Officer for good cause.
3. This Disability Discrimination Grievance procedure contemplates informal, but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to present witnesses and other evidence relevant to the grievance. Upon receipt of a written Disability Discrimination Grievance, the Corporation Compliance Officer will conduct an investigation of the matter as follows:
 - A. Corporation Compliance Officer will contact the Grievant to discuss their concerns within five (5) instructional days of receiving the written Grievance;
 - B. Corporation Compliance Officer complete all interviews and data collection within ten (10) instructional days;
 - C. Corporation Compliance Officer will analyze the data collected and notes from interviews to make a determination of finding regarding disability discrimination and provide the Grievant with a written disposition of the Disability Discrimination Grievance within twenty (20) instructional days of receipt of the written Grievance.
 - D. The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the

filing of a complaint with the Office for Civil Rights, filing a similar complaint or charge with any appropriate local, State or federal agency or the filing of a court case in the appropriate Federal District Court. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

Section 7. Hearings Concerning the Identification, Evaluation or Placement of a Student under Section 504.

1. If an individual disagrees with the determination made by the Section 504 conference concerning identification, evaluation or accommodation, a student or the parent of a student may request an impartial hearing concerning the identification, evaluation or placement of a student under Section 504.
2. The request for an impartial hearing shall be submitted in writing to the Corporation's Compliance Officer by either the parent(s) or guardian(s) of the student or the school. If a parent is unable to write and no designated agent is available, the parent can receive assistance in filing his or her hearing request by contacting the Corporation's Compliance Officer.
3. The Corporation's Compliance Officer shall ensure that the school contracts with an independent hearing officer for the purpose of hearing the case. The individual appointed as hearing officer must be knowledgeable about Section 504 and the ADA, not employed by the school and have no interest in outcome of the dispute. Upon receipt of the written request for a hearing, the Corporation's Compliance Officer shall appoint an independent hearing officer. Notice of this appointment shall be sent to the parent by mail in a timely fashion.
4. The hearing officer shall schedule a prehearing conference shortly after the request of a hearing has been filed for the purpose of defining the issues. East Allen County Schools and the parent(s)/guardian(s) shall have the right to present evidence and testimony relevant to the issue(s) defined at the prehearing conference. The parties shall have the right to be represented at the hearing by legal counsel. The parent(s)/guardian(s) or representative and the district shall have the right to present evidence. Introduction of any evidence at the hearing that has not been disclosed to both parties at least five (5) days before the hearing is prohibited, subject to the discretion of the hearing officer. The hearing officer or the Corporation's Compliance Officer shall ensure that a verbatim record of the hearing is made,

either by tape recording or by a court reporter. This record can be made available at no cost to the parent upon request after the hearing officer renders his/her decision.

5. The hearing officer shall contact the parties to determine the time and location for convening the hearing. The hearing shall be convened within a reasonable time. If parties cannot agree to a mutually convenient time and place for convening the hearing, the hearing officer shall fix such time and place, notify the parties in writing, and proceed to convene and conduct the hearing.
6. The hearing officer shall limit the decision to the issue(s) presented by the parent or EACS corporation in the written request for a hearing. The hearing is to be informal and non-adversarial. The parties' right to cross-examine witnesses is limited. Testimony similarly must be strictly related to the issues and adhere to the nature of the informality of the proceeding. The trial rules of evidence do not apply. Testimony shall not be redundant, cumulative, duplicative, or harassing.
7. The hearing shall be held within 45 days from the request for a hearing unless either party requests a delay in convening the hearing.
8. The parent(s)/guardian(s) involved in the hearing shall be given the right to have the child, who is the subject of the hearing, present and open the hearing to the public.
9. The party requesting the hearing shall bear the burden of proof as to the identification, evaluation, or placement of a student or the denial of the same. At a reasonable time prior to the hearing and during school hours, the parent(s) shall be given access to all school records including all tests and reports upon which the proposed action may be based.
10. The hearing officer's decision shall be made within twenty (20) calendar days following the conclusion of the hearing. The hearing officer's decision must be written and shall include a summary of the evidence, the basis for the decision, an order with respect to the remedial steps or actions, if any, to be taken by the school and the procedures, if any, necessary to ensure compliance with any order to occur within thirty (30) calendar days unless exceptional circumstances exist which, in the hearing officer's judgment, warrant delay in implementation. The hearing officer shall send a copy of the decision by certified mail to the parent and the Corporation's Compliance Officer. The hearing officer must include

in his/her decision instructions on how to pursue an appeal. The hearing officer shall retain jurisdiction of the matter for thirty (30) days after the decision is rendered for purposes of clarifying any orders rendered.

11. The hearing officer's ruling should be considered as final and binding on both parties unless an appeal is pursued. Any party disagreeing with the decision of the hearing officer may appeal to a civil court with jurisdiction within thirty (30) days of receipt of the decision by either the party or the parties' representative, which occurs first.

Section 8. Hearings Concerning Accommodation Requests for Employment and Program Accessibility.

1. If an individual disagrees with the determinations made regarding accommodation, a complaint may be filed with the Corporation's Compliance Officer. The complaint must be a written statement of the specific facts and/or perceived wrongful act to be investigated. If a person who is unable to write wishes to file a complaint, assistance may be obtained by contacting the Corporation's Compliance Officer. All complaints must be submitted within thirty (30) days after the incident or act that gives rise to the complaint, unless the Corporation's Compliance Officer extends the submission time because the grievant has shown good cause for such an extension. The request for an impartial hearing shall be submitted in writing to the Corporation's Compliance Officer.
2. In the event the complaint cannot be resolved informally, the Corporation's Compliance Officer will advise the grievant of his/her right to a hearing and the procedures of the hearing under this policy;
3. The grievant's request for a hearing must be in writing. If a grievant is unable to write and no designated agent is available, the grievant can receive assistance in filing his/her hearing request by contacting the Corporation's Compliance Officer. A copy of the original complaint shall be attached to the hearing request.
4. Within twenty (20) business days (defined as days when the District's Administrative Office is open) of the Corporation's Compliance Officer's receipt of the written request for a hearing, the Corporation's Compliance Officer will convene an informal meeting, at which time both the grievant and the administrator responsible for the disputed action may present an explanation and documents

relevant to the complaint. Third parties may be called and subject to clarifying questions by each party.

5. Detailed minutes of the meeting shall be made and kept; a copy of the minutes shall be made available to each party. Either the grievant or the District may choose to have a court reporter present at their own expense.
6. Within twenty (20) business days of the meeting, the Corporation's Compliance Officer shall provide the grievant and the Superintendent with a written decision setting forth the disposition of the complaint and any corrective action deemed necessary. The decision shall specify the reasons upon which the disposition of the complaint was based.
7. If the grievant is not satisfied with the Corporation's Compliance Officer's disposition of the complaint, or if the Corporation's Compliance Officer fails to provide the grievant with a written decision within the time limits specified above, the grievant may seek a review of the decision.
8. The grievant must forward a letter seeking review of the Corporation's Compliance Officer's decision to the Board of Education within ten (10) business days of the grievant's receipt of the decision. Assistance in filing the written request for review is available by contacting the Corporation's Compliance Officer. Copies of the original complaint, minutes of the meeting, and the Corporation's Compliance Officer's decision shall be attached to the request for review.
9. The Board of Education may, in its discretion, convene a review at which the parties may request the Board accept additional presentations; however, the Board has discretion to deny such requests.
10. Within thirty (30) business days of the filing of the request for review, the Board shall provide the grievant, the Corporation's Compliance Officer, and the Superintendent with a written decision affirming, reversing, or modifying the Corporation's Compliance Officer's decision and specifying the reasons upon which the review decision is based.
11. All complaints regarding East Allen County Schools' compliance with the Title 1 or Title 11 of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973 shall be

received and investigated without reprisal by the Board of Education or the Board's employees or agents.

12. The filing of a complaint, under the grievance procedures described herein shall not limit, extend, replace or delay the right of any person to file a similar complaint or charge with any appropriate local, State, or federal agency or court.

Section 9. OCR Complaint. At any time, if an individual believes that s/he has been subjected to discrimination based upon his/her disability in violation of Section 504 or the Americans with Disabilities Act, as amended ("ADA"), the individual may file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"). The OCR can be reached at:

U.S. Department of Education
Office for Civil Rights
Citigroup Center, 500 W. Madison Street, Suite 1475
Chicago, IL 60661
312-730-1560
Fax: 312-730-1576
TDD: 877-521-2172
E-mail: OCR.Chicago@ed.gov
Web: <http://www.ed.gov/ocr>

Section 10. Prohibition Against Retaliation. The Board will not discriminate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the ADA, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under Section 504 or the ADA, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by Section 504 or the ADA.

Legal Reference:

Americans with Disabilities Act of 1990, 42 U.S.C. §12111 et seq.
Americans with Disabilities Amendment Act of 2008
Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794