

## Federal Section 504 Requirements (Prohibition of Discrimination Based on Disability)

- ❖ The district has developed and disseminated a 504 policy that notifies participant, beneficiaries, applicants and employees that it does not discriminate on the basis of disability.
- ❖ The district has developed and disseminated a 504 grievance procedure that incorporates appropriate due process standards and provides for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504.
- ❖ The district has developed and disseminated procedures for impartial hearing and reviews of 504 issues.
- ❖ The district has appointed a 504 coordinator and disseminated his/her name and telephone number.

## ADOPT GRIEVANCE PROCEDURES

### *Federal Regulation*

Section 104.7 (b) Adoption of grievance procedures. A recipient that employs fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to postsecondary educational institutions.

### *OCR Technical Assistance*

- **Establish a two-step review process for appeal.**

### *OCR Decision Guidance*

- **Provide a clear process including who can use the grievance procedures (e.g. students, employees, parents and third parties), and the process for filing a complaint;**
- **Disseminated or publish the grievance procedures;**
- **Indicate that the complaint is not required to be filed in writing so that a qualified person with a disability who is not able to do so will not be discriminated against;**
- **Indicate at what stage an investigation is triggered;**
- **Provide for an adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;**
- **Designate reasonably prompt time frames for major stages of the complaint process;**
- **Provide notice of the outcome of the complaint to all parties;**
- **Designate an alternative Section 504 Coordinator in the event the complaint alleges that the Coordinator or other school official with responsibilities regarding the grievance procedure process is a part of the alleged discrimination;**
- **Include an adoption date on grievance procedures;**
- **Indicate in the grievance procedures that they can be used for discrimination complaints.**

### *OCR Technical Assistance Resource*

- OCR guidance recommends “an alternative procedure if the complaint alleges that the ADA Coordinator or other school officials with responsibilities regarding the grievance procedures process are a part of the alleged

discrimination” as well as “a two-step review process that allows for appeal.” ADA Self-Evaluation and Transition Planning for Public Schools, U.S. Department of Education, Office for Civil Rights, p. 36.

#### *OCR Decisions*

- OCR found that a district did not promptly and adequately respond to a Section 504 complaint of discrimination because of inadequate grievance procedures. *Barnstable (MA) Public Schools*, 108 LRP 63069, (OCR 2008). Docket No. 01-07-1188.
- In New York, OCR determined that a district was not in compliance with Section 504 because of absence of an adoption date for grievance procedures as well as an indication that they were available for use by employees, applicants or other beneficiaries. *Central Islip (NY) Public Schools*, 51 IDELR 112, (OCR 2008). Docket No. 02-07-5001.
- In Alabama, OCR determined that the student grievance procedures published in a school board policy manual failed to provide that the procedures could be used for discrimination complaints. *Jacksonville (AL) City Schs.*, 46 IDELR 139 (OCR 2006). Docket No. 04-06-1083.