

Americans with Disabilities Act

The Board of Education recognizes its responsibility to comply with the letter and spirit of federal and state statutes regarding people with disabilities, including the Americans with Disabilities Act (ADA) as amended. Discrimination against individuals with a physical or mental impairment is prohibited even if the impairment doesn't substantially limit a major life activity. It is the policy of the Board of Education to provide a free and appropriate education for students with disabilities, regardless of the nature or severity of the student's disability, including those who are in need of special education and related services.

The term "disability" shall be broadly construed. The question of whether an individual's impairment is a disability under the ADA shall not demand extensive analysis.

Definitions

Disability: An individual is disabled if s/he (1) has a physical or mental impairment that substantially limits a major life activity; (2) has a record of such impairment; and (3) is regarded as having such impairment. An impairment that is episodic or in remission is considered a disability if it would substantially limit a major life activity when active.

Physical or Mental Impairment: This means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine or any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability. This includes, but is not limited to, contagious and non-contagious diseases and conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia, and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection, tuberculosis, drug addiction, and alcoholism. It does not include homosexuality or bisexuality.

Rules of Construction: These are rules to be applied when determining whether an impairment substantially limits a major life activity to school employees and students. They specify that (1) the term "disability" must be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA; (2) the term "major life activity" must not be interpreted strictly to create a demanding standard and that whether an activity is a major life activity is not determined by reference to whether it is of central importance to daily life; and (3) the term "substantially limits" must be construed broadly in favor of expansive coverage and is not meant to be a demanding standard.

Predictable Assessments: These are impairments that in virtually all cases will result in a determination that an individual has an actual disability because they virtually always can be found to impose a substantial limitation on a major life activity. Such impairments include major depressive disorder, bipolar disorder, schizophrenia, deafness, blindness, intellectual disability, partially or completely missing limbs, autism, cancer, cerebral palsy, diabetes, epilepsy, and HIV. With respect to these types of impairments, the necessary individualized assessment should be particularly simple and straightforward. The operation of a major bodily function includes the operation of an individual organ within a body system.

Major Life Activity: A major life activity includes, but is not limited to, basic tasks such as caring for oneself, performing manual tasks, seeing, hearing, thinking, walking, eating, sleeping, reading, writing, standing, lifting, bending, speaking, breathing, learning, concentrating, communicating, interacting with others and working. The operation of a major bodily function is to be considered a major life activity. This includes functions of the immune system, normal cell growth, digestive, brain, respiratory, bowel, bladder, neurological, special sense organs and skin, genitourinary, cardiovascular, hemic, lymphatic, circulatory, endocrine, musculoskeletal, and reproductive functions.

Substantially Limits: A person is considered an individual with a disability when one or more of the individual's important life functions are restricted as to the conditions, manner, or duration under which they can be performed in comparison to most people. Ameliorative effects of mitigating measures will not be considered in the classification of a person with a disability. Mitigating measures include medication, prosthetics, hearing aids, oxygen therapy equipment, assistive technology, reasonable accommodations, mobility devices, and low-vision devices which magnify, enhance, or augment a visual image. Ordinary eyeglasses and contact lenses are exempt.

Being Regarded as Having Such Impairment: This means if the individual establishes that s/he has been subject for an action prohibited under the ADA, as amended, because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This does not apply to conditions that are "transitory and minor," having a duration of less than six months.

The District shall not coerce, intimidate, threaten, retaliate against or interfere with any person who attempts to assert a right protected by the above law and will cooperate with investigating and enforcement proceedings under the ADA as well as Section 504, Title IX and Title VI.

The District shall designate at least one employee to coordinate its efforts to comply with the ADA, in addition to Title IX and Section 504. All students and staff shall be notified annually of the name, address, and telephone number of the designated individual.

The Board directs the Superintendent to develop administrative regulations in order to implement appropriate ADA provisions for students, employees and others who may be affected by this Act.

The District shall adopt and publish grievance procedures for prompt and equitable resolution of student/employee complaints alleging discrimination under these statutes.

(cf. 0521 – Nondiscrimination)

(cf. 4118.11/4218.11 – Nondiscrimination)

(cf. 4118.12/4218.12 – Disabilities)

Legal Reference: Connecticut General Statutes

19-581 through 585 AIDS testing and medical information.

10-209 Records not to be public.

46a-60 Discriminatory employment practices prohibited.

Section 504 and the Federal Vocational Rehabilitation Act of 1973, 20 U.S.C. 706(7)(b).

American Disability Act of 1989 (42 U.S.C. Ch 126 §12112), as amended by ADA Amendments Act of 2008

Amendments of Americans with Disabilities Act, Title II and Title III, Regulation to Implement ADA Amendments Act of 2008. Federal Register, Vol. 81, No. 155 (28 CFR Parts 35 & 36)

Chalk v. The United States District Court of Central California.

Adopted: February 9, 2021

NORTH CANAAN BOARD OF EDUCATION

North Canaan, Connecticut

Nondiscrimination**Grievance Procedures Under Americans with Disabilities Act****Employees**

“Complaint” shall mean a claim based upon an event or condition that affects the education of a qualified employee with a disability, as defined by the Americans with Disabilities Act.

The aggrieved employee shall present the complaint in writing directly to his or her supervisor within 15 school days of the employee’s knowledge of the event or condition affecting the employee. The employee should discuss the issue in an effort to resolve the problem informally within three school days from presentation of the complaint. The Principal shall present a response to the employee within 30 school days from the receipt of the complaint. Such response to the problem shall be in writing and be presented to the employee. If no response is given to the employee within 30 days referred to above, or if the response is unsatisfactory to the employee, the complaint will become a grievance.

Within 5 school days from receipt of the Principal’s written response, the aggrieved employee must submit the complaint and response to the appropriate ADA Coordinator as listed below, as a formal grievance packet.

Employment - Assistant Superintendent
Facilities Accessibility - Business Manager
Program Accessibility - Director of Pupil Personnel Services

Any grievance packet forwarded to the incorrect Coordinator will be forwarded to the appropriate Coordinator by the individual receiving the packet. The Coordinator shall note the date of receipt of the grievance packet and begin an investigation of the grievance and preparation of a written decision. The Coordinator may review any written materials or records and may interview any person the Coordinator feels may be helpful in resolving the grievance. The Coordinator must return the grievance packet along with the Coordinator’s written decision to the aggrieved employee within 30 working days after receipt of the grievance statement. If additional time is needed due to circumstances beyond the power and control of the employer, the Coordinator shall immediately notify the employee of the same and shall have an additional 30 working days to complete the written response. The Coordinator may also notify the employee that a decision cannot be reached.

If the aggrieved employee is not satisfied with the decision of the Coordinator or is notified that no decision could be reached, the aggrieved employee may appeal within 10 working days of receipt of the decision by referring the grievance packet to the Superintendent of Schools.

The Superintendent of Schools may review written materials or records and may interview any person s/he feels may be helpful in resolving the grievance. The Superintendent of Schools must return the grievance packet along with his or her written decision to the aggrieved

employee within 20 working days after receipt of the grievance statement.

If the aggrieved employee is not satisfied with the decision of the Superintendent of Schools, the employee may appeal within 10 working days of receipt of the decision by referring the grievance packet to the Board of Education, who shall refer it to the appropriate Board of Education committee. The committee shall conduct a hearing on behalf of the aggrieved employee within 20 working days after receipt of the appeal. The Committee Chair shall notify the aggrieved employee in writing of the Board's decision, which shall be final.

General Public

"Complaint" shall mean a claim based upon an event or condition that affects the education of a qualified member of the public with a disability, as defined by the Americans with Disabilities Act.

The aggrieved individual shall present the complaint in writing directly to the Building Principal within 15 school days of the individual's knowledge of the event or condition affecting him/her. The individual should discuss the issue in an effort to resolve the problem informally within three (3) school days from presentation of the complaint. The Principal shall present a response to the individual within 30 school days from the receipt of the complaint. Such response to the problem shall be in writing and be presented to the individual. If no response is given to the individual within 30 days referred to above, or if the response is unsatisfactory to the individual, the complaint will become a grievance.

Within 5 school days from receipt of the Principal's written response, the aggrieved individual must submit the complaint and response to the appropriate ADA Coordinator as listed below, as a formal grievance packet.

Employment - Assistant Superintendent
Facilities Accessibility - Business Manager
Program Accessibility - Director of Pupil Personnel Services

Any grievance packet forwarded to the incorrect Coordinator will be forwarded to the appropriate Coordinator by the individual receiving the packet. The Coordinator shall note the date of receipt of the grievance packet and begin investigation of the grievance and preparation of a written decision. The Coordinator may review any written materials or records and may interview any person the Coordinator feels may be helpful in resolving the grievance.

The Coordinator must return the grievance packet along with the Coordinator's written decision to the aggrieved individual within 30 working days after receipt of the grievance statement. If additional time is needed due to circumstances beyond the power and control of the employer, the Coordinator shall immediately notify the employee of the same and shall have an additional 30 working days to complete the written response. The Coordinator may also notify the employee that a decision cannot be reached.

If the aggrieved individual is not satisfied with the decision of the Coordinator or is notified that no decision could be reached, the aggrieved individual may appeal within 10 working days of receipt of the decision by referring the grievance packet to the Superintendent of Schools.

The Superintendent of Schools may review written materials or records and may interview any person s/he feels may be helpful in resolving the grievance. The Superintendent of Schools must return the grievance packet along with his or her written decision to the aggrieved individual within 20 working days after receipt of the grievance statement.

If the aggrieved individual is not satisfied with the decision of the Superintendent of Schools, the employee may appeal within 10 working days of receipt of the decision by referring the grievance packet to the Board of Education, who shall refer it to the appropriate Board of Education committee. The committee shall conduct a hearing on behalf of the aggrieved individual within 20 working days after receipt of the appeal. The Committee Chair shall notify the aggrieved individual in writing of the Board's decision, which shall be final.

Students

“Complaint” shall mean a claim based upon an event or condition which affects the education of a qualified student with a disability, as defined by the Americans with Disabilities Act.

The aggrieved student shall present the complaint in writing directly to the building principal within 15 school days of the student/parent/guardian knowledge of the event or condition affecting him/her. The student/parent/guardian should discuss the issue in an effort to resolve the problem informally within three (3) school days from presentation of the complaint. The principal shall present a response to the student/parent/guardian within 30 school days from the receipt of the complaint. Such response to the problem shall be in writing and be presented to the student/parent/guardian. If no response is given to the individual within 30 days as referred to above, or if the response is unsatisfactory to the student, the complaint will become a grievance.

Within five (5) school days from receipt of the Principal's written response, the aggrieved student/parent/guardian must submit the complaint and response to the appropriate ADA Coordinator as listed below, as a formal grievant packet.

Employment - Assistant Superintendent
Facilities Accessibility - Business Manager
Program Accessibility - Director of Pupil Personnel Services

Any grievance packet forwarded to the incorrect Coordinator will be forwarded to the appropriate Coordinator by the individual receiving the packet. The Coordinator shall note the date of receipt of the grievance packet and begin investigation of the grievance and preparation of a written decision. The Coordinator may review any written materials or records and may interview any person the Coordinator feels may be helpful in resolving the grievance. The Coordinator must return the grievance packet along with the Coordinator's written decision to the aggrieved student/parent/guardian within 30 working days after receipt of the grievance

statement. If additional time is needed due to circumstances beyond the power and control of the employer, the Coordinator shall immediately notify the student/parent/guardian of the same and shall have an additional 30 working days to complete the written response. The Coordinator may also notify the student/parent/guardian that a decision cannot be reached.

If the aggrieved student/parent/guardian is not satisfied with the decision of the Coordinator or is notified that no decision could be reached, the aggrieved student/parent/guardian may appeal within 10 working days of receipt of the decision by referring the grievance packet to the Superintendent of Schools.

The Superintendent of Schools may review written materials or records and may interview any person s/he feels may be helpful in resolving the grievance. The Superintendent of Schools must return the grievance packet along with his or her written decision to the aggrieved student/parent/guardian within 20 working days after receipt of the grievance statement.

If the aggrieved student/parent/guardian is not satisfied with the decision of the Superintendent of Schools, the student/parent/guardian may appeal within 10 working days of receipt of the decision by referring the grievance packet to the Board of Education, who shall refer it to the appropriate Board of Education committee. The committee shall conduct a hearing on behalf of the aggrieved individual within 20 working days after receipt of the appeal. The Committee Chair shall notify the aggrieved student/parent/guardian in writing of the Board's decision, which shall be final.

(cf. 4118.14 - Disabilities)

Legal Reference: Connecticut General Statutes
19-581 through 585 AIDS testing and medical information.
10-209 Records not to be public.
46a-60 Discriminatory employment practices prohibited.
Section 504 and the Federal Vocational Rehabilitation Act of 1973, 20
U.S.C. 706(7)(b).
American Disability Act of 1989. (42 U.S.C. Ch 126 §12112), as amended
by ADA Amendments Act of 2008.
Chalk v. The United States District Court of Central California.

Regulation Adopted: February 9, 2021

NORTH CANAAN BOARD OF EDUCATION

North Canaan, Connecticut