

THE FOLK ARTS CULTURAL TREASURES CHARTER SCHOOL

POLICY: SECTION 504

INTRODUCTION:

The Folk Arts Cultural Treasures Charter School (the “School”) and its Board of Trustees (the “Board”) (collectively “FACTS”) recognize that all qualified persons with disabilities in the School are entitled to a free and appropriate public education pursuant to the Rehabilitation Act (the “Act”) of 1973, commonly referred to as “Section 504”. Section 504 is a federal civil rights nondiscrimination statute enacted by the United States Congress. The purpose of the Act is to prohibit discrimination and to assure that disabled students have educational opportunities and benefits equal to those provided to non-disabled students.

All individuals eligible for services under the Individuals with Disabilities Education Act (the “IDEA”) (20 U.S.C. 1400 et seq.) are protected under Section 504. Individuals who are not eligible for services under the IDEA may nonetheless be eligible for services under Section 504.

AUTHORITY

The Board declares it to be the policy of the School to ensure that all School programs and practices are free from discrimination against all qualified students with disabilities. The Board recognizes its responsibility to provide academic and nonacademic services and programs equally to students with and without disabilities.

The School shall provide to each qualified student with a disability enrolled in the School, without cost to the student or parent/guardian, a free and appropriate public education (“FAPE”). This includes provision of education and related aids, services, or accommodations which are needed to afford each qualified student with a disability equal opportunity to participate in and obtain the benefits from educational programs and extracurricular activities without discrimination, to the same extent as each student without a disability, consistent with federal and state laws and regulations.

The Board encourages students and parents/guardians who believe they have been subjected to discrimination or harassment to promptly report such incidents to designated School employees.

The Board directs that any complaints of discrimination or harassment shall be investigated promptly, and corrective action be taken for substantiated allegations. Confidentiality of all parties shall be maintained, consistent with the School’s legal and investigative obligations.

The School shall not intimidate, threaten, coerce, discriminate, or retaliate against any individual for the purpose of interfering with any right or privilege secured by this Policy or related Policies.

DEFINITIONS:

FACTS recognizes that a student is “**disabled**” pursuant to 29 U.S.C. 794, or Section 504 of the Rehabilitation Act of 1973, if he or she:

1. has a physical or mental impairment which **substantially limits** one or more of such person’s **major life activities**,
2. has a record of such an impairment, or
3. is **regarded as** having such impairment.

“**Physical or mental impairment**” may include but is not limited to:

- Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory; including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

“**Substantially limits**” is defined as unable to perform a major life activity that the average person in the general population can perform or significantly restricted to the condition manner, or duration under which an individual can perform a particular major life function as compared to the condition, manner, or duration which the average person in the general population can perform that same major life activity.

“**Major life activities**” include caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. The disabling condition need only substantially limit one major life activity in order for a student to be eligible. 34 C.F.R. § 104.3 (j) (2) (ii)

A student is not “**regarded as**” an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less. However, an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. A student with such an impairment is entitled to a free appropriate public education under Section 504.

“Section 504 Coordinator”: The Section 504 Coordinator is the building Principal or their designee who is responsible for managing the Section 504 Committee (the “504 Committee”) in their building and ensuring implementation of Section 504 plans for students in the building. The Building Coordinator shall be responsible for ensuring that all appropriate staff are informed of the student’s right to accommodations under Section 504 and for ensuring that Section 504 plans are implemented.

“Accommodations” shall mean/include changes in the timing, formatting, setting, scheduling, response and/or presentation of an educational experience, including assistive technology(ies), that allow a student with disabilities to have equal access to the general educational program. Costs of such accommodations shall be borne by the School.

“504 Team” shall include the Building 504 Coordinator and may include a student’s general education teacher(s), a special education teacher, the School principal, the parent(s)/guardian(s) of the student, the student (as appropriate, depending upon age and maturity), and any other person with relevant knowledge of the student and the disability at issue. The staffing of a 504 Team may differ for each student, depending upon the specific accommodations/services required.

“Section 504 Service Agreement (Service Agreement/504 Plan)”: An individualized plan for a qualified student with a disability/protected handicapped student which sets forth the specific related aids, services, or accommodations needed by the student, which shall be implemented in School, in transit to and from School, and in all programs and procedures, so that the student has equal access to the benefits of the School’s educational programs, nonacademic services, and extracurricular activities.

DELEGATION OF AUTHORITY & APPOINTMENT OF SECTION 504 COORDINATOR

In order to maintain a program of nondiscrimination practices that is in compliance with Section 504 and applicable State and Federal laws and regulations, the FACTS designates as the School’s Section 504 Coordinator.

- Establish and monitor Section 504 identification/evaluation and review process for students with disabilities.
- Maintain data on Section 504 referrals.
- Direct and oversee the annual review for each Section 504-eligible student plan.
- Provide awareness and training activities concerning Section 504 requirements.
- Implement Section 504 grievance procedures for complaints of discrimination
- Knowledge of special education and the Response to Intervention process.
- Work in partnership with teachers and administrators involved in providing services to students with disabilities.
- Serve as the School’s liaison with the State Section 504 Coordinator.
- Serve as the School’s liaison with the regional Office for Civil Rights.

FACTS shall publish and disseminate this Policy on or before the first day of each School year by posting it on the School's website.

Guidelines for the Identification and Evaluation for Section 504 Eligibility

In compliance with federal law, the Board directs that students with disabilities pursuant to Section 504 be identified, referred to and evaluated by a 504 Team, and that a determination of eligibility for accommodations of their general educational program be made.

Parents/guardians and School staff may refer a student for evaluation under Section 504 if they know or suspect that, due to a physical or mental impairment, a student requires accommodations to participate in or benefit from the general education program. An initial evaluation for Section 504 eligibility can only take place with the written consent of the student's parent/guardian.

The School shall establish standards and procedures for initial evaluations and periodic re-evaluations of students who need or are believed to need related services because of a disability. The School shall specifically identify the procedures and types of tests used to evaluate a student, and provide the parent/guardian the opportunity to give or withhold consent to the proposed evaluation(s) in writing.

The School shall establish procedures for evaluation and placement that assure tests and other evaluation materials:

1. Have been validated and are administered by trained personnel.
2. Are tailored to assess educational needs and are not based solely on IQ scores.
3. Reflect aptitude or achievement or anything else the tests purport to measure and do not reflect the student's impaired sensory, manual or speaking skills (except where those skills are what is being measured).

In making accommodation, services and placement decisions, the Section 504 Team shall draw upon a variety of sources including aptitude and achievement tests, teacher recommendations, physical condition, and adaptive behavior, and recommendations from medical providers, as appropriate. The Section 504 Coordinator shall establish procedures to ensure that information obtained from all such sources is documented and carefully considered. In the event that parents/guardians disagree with the decision of the Section 504 Team, they may utilize the services of the Section 504 Committee.

Service Agreement

If a student is determined to be a qualified student with a disability/protected handicapped student, the School shall develop a written Service Agreement for the delivery of all appropriate aids, services, or accommodations necessary to provide the student with a FAPE.

The Service Agreement shall set forth the date the services shall begin; the date the services shall be discontinued; when appropriate, the procedure to be followed in the event of a medical emergency; specific related aids, services or accommodations the student shall receive, or if an agreement is being modified, the modified services the student shall receive.

The Service Agreement shall be in writing and signed by the principal or designee and one (1) parent/guardian. Oral agreements may not be relied upon. The School shall not modify or terminate a student's current Service Agreement without the parent's/guardian's written consent.

Educational Programs/Nonacademic Services/Extracurricular Activities

The School shall educate a qualified student with a disability/protected handicapped student with students who are not disabled to the maximum extent appropriate to the needs of the student. A qualified student with a disability/protected handicapped student shall be removed from the regular educational environment only when the School determines that educating the student in the regular educational environment with the use of related aids, services, or accommodations cannot be achieved satisfactorily. Placement in a setting other than the regular educational environment shall take into account the proximity of the alternative setting to the student's home.

The School shall not discriminate against any qualified student with a disability/protected handicapped student in its provision of nonacademic services and extracurricular activities including, but not limited to, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs, and referrals to agencies which provide assistance to individuals with disabilities.

Discipline

When necessary, the School shall discipline qualified students with disabilities/protected handicapped students in accordance with state and federal laws and regulations and School policies and procedures.

Parental Involvement

Parents/Guardians have the right to inspect and review all relevant School records of the student, meet with the appropriate School officials to discuss any and all issues relevant to the evaluation and accommodations of their child, and give or withhold their written consent to the evaluation and/or the provision of services.

Confidentiality of Student Records

All personally identifiable information regarding a qualified student with a disability/protected handicapped student shall be treated as confidential and disclosed only as permitted by the

Family Educational Rights and Privacy Act (the “FERPA”) and its implementing regulations, state regulations, and School policies and procedures.

Referral to Law Enforcement and Reporting Requirements

For reporting purposes, the term incident shall mean an instance involving an act of violence; the possession of a weapon; the possession, use, or sale of a controlled substance or drug paraphernalia as defined in the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act; the possession, use, or sale of alcohol or tobacco; or conduct that constitutes an offense listed under the Safe Schools Act.

The Executive Director or their designee shall immediately report required incidents and may report discretionary incidents committed on School property, at any School- sponsored activity or on a conveyance providing transportation to or from a School or School- sponsored activity by a qualified student with a disability/protected handicapped student, including a student for whom an evaluation is pending, to the local police department that has jurisdiction over the School’s property, in accordance with state and federal laws and regulations, School policies and procedures. The Executive Director or their designee shall respond in a manner that is consistent with the student’s Service Agreement and Behavior Support Plan, if applicable.

In making a determination of whether to notify the local police department of a discretionary incident committed by a qualified student with a disability/protected handicapped student, including a student for whom an evaluation is pending, the Executive Director or their designee shall use the same criteria used for students who do not have a disability

For a qualified student with a disability/protected handicapped student who does not have a Behavior Support Plan as part of the student’s Service Agreement, subsequent to notification to law enforcement, the School, in consultation with the student’s parent/guardian, shall consider whether a Behavior Support Plan should be developed as part of the Service Agreement to address the student’s behavior.

In accordance with state law, the Executive Director shall annually, by July 31, report to the Office for Safe Schools on the required form all new incidents committed by qualified students with disabilities/protected handicapped students, including students for whom an evaluation is pending, which occurred on School property, at any School-sponsored activity or on a conveyance providing transportation to or from a School or School-sponsored activity.

Procedural Safeguards

The School shall establish and implement a system of procedural safeguards that includes notice of rights to the parent/guardian of a student suspected of being a qualified student with a disability/protected handicapped student, an opportunity for the parent/guardian to review relevant records, an impartial hearing with an opportunity for participation by the student’s parent/guardian, and a review procedure.

Section 504 Grievance Procedure

If any person believes that the School or any of the School's staff have discriminated against a student or individual based on disability, they may bring forward a complaint, which shall be referred to as a grievance to the Section 504 Coordinator. A Section 504 Coordinator, on request, will provide a copy of the School's Grievance Procedure and the Grievance Form. The School's Grievance Procedures are to provide for a prompt and equitable resolution of a complaint.

The School's Grievance Procedure is as follows:

STEP 1: The complainant shall complete and sign a grievance form and submit it to the Section 504 Coordinator. The Section 504 Coordinator shall investigate the matters of grievance interviewing the complainant, any respondent, and any witnesses and obtaining any documentation that the Section 504 Coordinator determines will be useful to the investigation. The Section 504 Coordinator shall complete the investigation and issue a written report and decision regarding whether unlawful discrimination has occurred. Barring unusual circumstances, the investigation and written report shall be completed within 15 business days.

STEP 2: If the complainant wishes to appeal the decision of the School Section 504 Coordinator, they may submit a signed statement of appeal to the School's Executive Director within 10 business days after receipt of the Section 504 Coordinator's written decision. The Executive Director shall have the discretion to, but need not, meet with parties or witnesses or review documentation. Barring unusual circumstances, the Executive Director shall issue a written decision on the appeal within 15 business days.

STEP 3: If the complainant remains dissatisfied, they may submit a final appeal through a signed written statement to the Board within 15 business days of their receipt of the Executive Director's written decision on an appeal. In an attempt to resolve the grievance, the Board shall meet with the concerned parties and their representative within 30 days of the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within 15 business days of this meeting. The Board's decision shall be final.

Other Remedies for Section 504 Complainants

A Section 504 Complainant may file a complaint with the United States Department of Education Regional Office for Civil Rights (the "OCR") at any time before or during the School grievance procedure. Information about filing a complaint with the Office of Civil Rights is available on the OCR website located at <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>.

Certain complaints alleging Section 504 discrimination against students may be pursued through mediation or due process proceedings available through the Pennsylvania Office of Dispute Resolution (the "ODR"). Information about filing for mediation or due process is available on the ODR website located at www.odr-pa.org.

Nothing shall prevent a Section 504 Complainant from proceeding before any state and/or federal court of competent jurisdiction.

To the extent that anything in this Policy is in conflict with the laws and/or regulations of the Commonwealth of Pennsylvania and/or Federal laws/regulations and/or any other governing authority, the applicable State and/or Federal laws and/or appropriate governing authority will control.