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**ROCHESTER BEACON ACADEMY
POLICY No. 538
EDUCATION OF STUDENTS WITH DISABILITIES UNDER SECTION 504 OF THE
REHABILITATION ACT**

I. PURPOSE

The purpose of this policy is to set forth Rochester Beacon Academy's obligations under Section 504 of the Rehabilitation Act of 1973 and to articulate the school's commitment to prohibit discrimination against students with disabilities and to provide a free appropriate public education to eligible students as required by the Act.

II. POLICY STATEMENT

It is the policy of Rochester Beacon Academy (RBA) to fully comply with the requirements of Section 504 of the Rehabilitation Act of 1973.

Section 504 prohibits discrimination based on an individual's disability in any program receiving federal financial assistance. Section 504 of the Rehabilitation Act of 1973 provides that "no qualified person with a disability shall, on the basis of a disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance". RBA will not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. The school will comply with the provisions of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

IV. DEFINITIONS

- A. A student is "disabled" under the definition of Section 504 if he or she:
1. Has a physical or mental impairment which substantially limits one or more of such person's major life activities (Examples of "major life activities" include, but are not limited to, functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, and thinking. "Major life activities also includes the operation of major bodily functions, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, or reproductive functions.);
 2. Has a record of such an impairment; or
 3. Is regarded as having such an impairment.

V. PROCEDURES

RBA will identify and evaluate students who, within the intent of Section 504, need academic adjustments or program changes to ensure that the student is provided a free appropriate public education. This includes the right to have an equal opportunity to participate in extracurricular and non-academic programs offered by the school.

- A. RBA will provide notice to parents, employees, bargaining organizations, and community members that it does not discriminate on the basis of disability.

- B. RBA will make facilities, programs, and activities accessible, usable, and open to persons with disabilities.
- C. RBA will develop and publish grievance procedures that provide prompt resolution of complaints of discrimination based on disability.
- D. RBA will designate an employee who will have the responsibility to coordinate the school's efforts under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act and to give overall direction in adhering to this Policy.

III. EMPLOYEES TO SUPPORT IMPLEMENTATION

Every employee of RBA must support the implementation of this Policy.

IV. GRIEVANCE PROCEDURE

This grievance procedure is established to meet the requirements of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990. It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits, or in employment practices and policies, by the school.

- A. The grievance should contain information about the alleged discrimination such as name and phone number of the complainant and location, date, and description of the problem. Alternate means of filing complaints, such as personal interviews or a recording of the complaint will be made available for persons with disabilities upon request.
- B. A grievance may be filed in writing with the school 504 Coordinator.
 - 1. Step One: The grievance should be submitted to the 504 Coordinator who will investigate the circumstances of the alleged violation. The 504 Coordinator will provide a written report of his/her findings of fact and conclusions to the grievant and Executive Director.
 - 2. Step Two: If the grievance has not been resolved to the satisfaction of the grievant at Step One, the grievant may appeal to the Executive Director. The Executive Director will conduct or authorize an investigation and will affirm, reverse, or modify the decision of the 504 Coordinator.
 - 3. Step Three: If the grievance has not been resolved in Step Two to the satisfaction of the grievant, s/he may request an impartial due process hearing. RBA will appoint an impartial hearing officer and follow state and federal rules for due process hearings.
 - 4. Step Four: At any point in the process, the grievant has a right to file a complaint with community, State, or Federal agencies.

VI. NOTICE OF PARENT AND STUDENT RIGHTS UNDER SECTION 504

RBA will annually take appropriate steps to notify students with disabilities and their parents of the school's duties and their rights under the Act. The Notice will contain, at a minimum, the following information:

NOTICE

The Rehabilitation Act of 1973, commonly referred to as "Section 504," is a nondiscrimination statute enacted by the United States Congress. The purpose of the Act is to prohibit discrimination and to assure that students with disabilities have educational opportunities and benefits equal to those provided to non-disabled students.

Below is a description of the rights granted by Section 504 to eligible students with disabilities and the parents of those students.

1. You have a right to be informed by the school of your rights under Section 504. (The purpose of this Notice is to advise you of those rights). 34 CFR 104.32.
2. Your child has the right to an appropriate education designed to meet her/his individual educational needs as adequately as the needs of non-disabled students are met. 34 CFR 104.33.
3. Your child has the right to free educational services except for those fees that are imposed on non-disabled students or their parents. Insurers and similar third parties are not relieved from an otherwise valid obligation to provide or pay for services provided to a student with a disability. 34 CFR 104.33.
4. Your child has a right to placement in the least restrictive environment. 34 CFR 104.34.
5. Your child has a right to facilities, services, and activities that are comparable to those provided for non-disabled students. 34 CFR 104.34.
6. Your child has a right to an evaluation prior to an initial Section 504 placement and any subsequent significant change in placement. 34 CFR 104.35.
7. Testing and other evaluation procedures must conform to the requirements of 34 CFR 104.35 as to validation, administration, areas of evaluation, etc. The school will consider information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, adaptive behavior, physical or medical reports, student grades, progress reports, parent observations, and anecdotal reports. 34 CFR 104.35.
8. Placement decisions must be made by a group of persons who are knowledgeable about your child, about the meaning of the evaluation data, the placement options, and the legal requirements for least restrictive environment and comparable facilities. 34 CFR 104.35.
9. If eligible under Section 504, your child has a right to periodic reevaluations, generally every three years. 34 CFR 104.35.
10. You have the right to notice prior to any action by the school in regard to the identification, evaluation, or placement of your child. 34 CFR 104.36.
11. You have the right to examine relevant records. 34 CFR 104.36.
12. You have the right to an impartial hearing with respect to the school's actions regarding your child's identification, evaluation, or educational placement, with opportunity for parental participation in the hearing and representation by an attorney. 34 CFR 104.36.
13. If you disagree with the decision of the impartial hearing officer, you have a right to a review of that decision by a court of competent jurisdiction. 34 CFR 104.36.
14. On Section 504 matters other than your child's identification, evaluation, and placement, you have a right to file a complaint with the school's Section 504 Administrator (or designee), who

will investigate the allegations to the extent warranted by the nature of the complaint in an effort to reach a prompt and equitable resolution.

15. You also have a right to file a complaint with the Office for Civil Rights. The address of the Regional Office that covers Minnesota is:

ATTN: OCR Regional Manager
Office for Civil Rights, *Chicago Office*
U.S. Department of Education
John C. Kluczynski Federal Building
230 S. Dearborn Street, 37th Floor
Chicago, IL 60604

Legal References: Section 504 of the Rehabilitation Act, 29 U.S.C. §794;
34 C.F.R. Part 104
Title II of the Americans with Disabilities Act of 1990
Minn. Stat. § 124E.03 (Charter Schools – Applicable Law)

Sample Documents that follow:

- Notice of Parent/Student Rights and Procedural Safeguards under Section 504
- 504 Plan Information Sheet

**Notice of Parent/Student Rights and Procedural Safeguards under
Section 504 of the Rehabilitation Act of 1973**

Section 504 is a federal law that prohibits discrimination against persons with disabilities. Section 504 applies to the school because it receives federal funds. Under this law, you as the parent or guardian of a student who has or is suspected to have a disability have the following rights.

1. Your child can take part in, and receive benefits from, public education programs without discrimination based on disability.
2. The school must advise you of your rights under federal law and that is the purpose of this form.
3. You have the right to receive notice about the evaluation, identification or placement of your child. Your child is entitled to receive an evaluation prior to an initial placement and any subsequent significant changes in placement. You must provide consent for the initial evaluation or the school may not proceed with an evaluation.
4. Your child has the right to receive a free appropriate public education. This includes the right to be educated with students without disabilities to the maximum extent appropriate. It also includes the right to receive regular and/or special education and related aids and services that are designed to meet the student's individual educational needs as adequately as the needs of students without disabilities are met.
5. Your child has the right to a free education except for those fees which are charged to students without disabilities.
6. Your child has the right to receive services and be educated in facilities which are comparable to those provided to students without disabilities.
7. Your child has the right to have evaluation, educational, and placement decisions made based on a variety of information sources, and by persons who know the student and who are knowledgeable about the evaluation data and placement options.
8. Your child has the right to have an equal opportunity to participate in nonacademic and extracurricular activities offered by the school.
9. You have the right to examine your student's educational records and obtain copies of educational records at a reasonable cost unless the fee would effectively deny you access to the records. You have the right to 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.
10. You have the right to request mediation or an impartial due process hearing related to decisions or actions regarding your child's identification as a student with a disability, evaluation, or educational program and to be represented by an attorney that you hire in the hearing process. The school district may also request a hearing on matters of identification, evaluation, or educational program for your child. You or the school district has the right to appeal an adverse decision to a hearing review officer within 20 school days of the receipt of the written decision by the hearing officer. The school will appoint a hearing officer and a hearing review officer if necessary at the school's expense. It will also provide for the recording of testimony and evidence in the hearing and if applicable, in the review process.
11. You have the right to file a local grievance with the school Section 504 Coordinator/Administrator. Neither the local grievance procedure nor the hearing procedure prevents a student or parent from filing a complaint with the Office for Civil Rights (OCR) or in federal court.

12. Filing a complaint with outside agencies or court. **There may be specific timelines for filing a complaint that may affect your rights.** You should review those timelines immediately to protect your rights. This Notice is not intended to be legal advice or a substitute for legal advice. To file a complaint with the Office for Civil Rights (OCR) your letter or complaint should be addressed:

ATTN: OCR Regional Manager
Office for Civil Rights, *Chicago Office*
U.S. Department of Education
John C. Kluczynski Federal Building
230 S. Dearborn Street, 37th Floor
Chicago, IL 60604

The OCR may be reached at: Voice Phone: (312-730-1560) Fax: (312-730-1576) TDD: (800-877-8339). A complaint may also be filed by e-mail: OCR.Chicago@ed.gov. For more information on filing a complaint, visit www.ed.gov/ocr.

RBA's Section 504 Coordinator is Ms. Denisse Vargas. The Section 504 Coordinator is responsible for ensuring that RBA complies with Section 504 and may be reached by calling (507) 258-5351 or emailing denisse.vargas@rochesterbeaconacademy.org.

504 Plan Information Sheet Rochester Beacon Academy

I. What is the purpose of Section 504?

Section 504 is a part of the Rehabilitation Act of 1973, which is a civil rights law that prohibits discrimination on the basis of disability in programs and activities, public and private, that receive federal financial assistance. It is intended to establish a "level playing field" so that students with disabilities have an equal opportunity to be successful.

II. Definition of Disability

Under 504, a person is considered to have a disability if that person has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment.

- A. A "physical or mental impairment" is defined as:
 - 1. 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; genital-urinary; hemic and lymphatic; skin; and endocrine.
 - 2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- B. A "major life activity" is defined as:
 - 1. Any function such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, and thinking. [34 CFR 104.3(j)(2)(ii)] [42 USCA § 12102]
 - 2. "Major life activities" also includes the operation of major bodily functions, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, or reproductive functions. [42 USCA 12102 sec. 3]
- C. When a condition significantly limits a major life activity, a 504 plan must be developed for that learner. Program changes under Section 504 must be determined by a team of individuals who are knowledgeable about the learner's needs.
- D. Whether an impairment "substantially limits" a major life activity is a common sense assessment based on a comparison of the learner's ability to perform a major life activity with the ability of same age peers. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. An impairment that is expected to last at least 6 months would qualify.
- E. When deciding whether an impairment is a disability under Section 504, the team should ignore the positive effects of mitigating measures such as medicine, medical devices, assistive technology, accommodations, or learned behavioral or adaptive neurological modifications. (However, the team should take into account the positive effects of these mitigating measures when determining whether a learner with a disability actually requires a program change.)

F. **Examples of Impairments that Will Consistently Meet the Meet the Definition of Disability:**

- deafness
- blindness
- intellectual disability (formerly termed mental retardation)
- partially or completely missing limbs
- mobility impairments requiring the use of a wheelchair
- autism
- cancer
- cerebral palsy
- diabetes
- epilepsy
- HIV or AIDS
- multiple sclerosis
- muscular dystrophy
- major depression
- bipolar disorder
- post-traumatic stress disorder
- obsessive compulsive disorder
- schizophrenia
- spina bifida
- tuberculosis
- kidney or liver disease

This list is not exhaustive. Other types of impairments not specifically identified above may also consistently be substantially limiting (and therefore a “disability”), such as some forms of depression other than major depression and seizure disorders other than epilepsy.

G. **Examples of Impairments that May Be Disabling for Some Individuals But Not For Others:**

- Asthma (for example, a learner who is substantially limited in respiratory functions and breathing compared to most learners, as indicated by the effects of exercise, exposure to substances such as cleaning products or perfumes, is an individual with a disability);
- High blood pressure;
- Learning disability (for example, a learner who is substantially limited in reading, learning, thinking, or concentrating compared to most learners, as indicated by the speed or ease with which he can read, the time and effort required for him to learn, or the difficulty he experiences in concentrating or thinking, is an individual with a disability, even if he has achieved a high level of academic success. The determination of whether an individual has a disability does not depend on what an individual is able to do in spite of an impairment.)
- A back or leg impairment (for example, a learner who is substantially limited compared to most people in the length of time she can stand, the distance she can walk, or the weight she can lift, is an individual with a disability.
- A psychiatric impairment such as panic disorder, anxiety disorder, or some forms of depression other than major depression (for example, a learner who

is substantially limited compared to most learners, as indicated by the time and effort required to think or concentrate, the diminished capacity to effectively interact with others, the length or quality of sleep the learner gets, the individual's eating patterns or appetite, or the effect on other major life activities, is an individual with a disability).

- Arthritis or carpal tunnel syndrome (for example, a learner who is substantially limited in performing manual tasks compared to most learners, as indicated by the amount of pain experienced when writing or using a computer keyboard or the length of time for which such manual tasks can be performed, is an individual with a disability).
- Hyperthyroidism;
- Allergy/asthma;
- Attention Deficit Disorder (ADD);
- Attention Deficit Hyperactivity Disorder (ADHD);
- Broken limbs or bones, depending on the nature and severity;
- Alcohol addiction;
- Drug addiction (qualifies only if not currently using drugs).

The list of examples above is merely illustrative, not exhaustive.

H. **Impairments that are Usually Not Disabilities:**

Temporary, non-chronic impairments of short duration with little or no residual effects (such as the common cold, seasonal or common influenza, a sprained joint, minor and non-chronic gastrointestinal disorders) usually will not be a "disability" under Section 504. If the team determines that a learner has a disability, the team should determine what accommodations or modifications the learner needs and prepare a 504 plan.